

SPECTERS OF FREEDOM: FORCED LABOR, SOCIAL STRUGGLE, AND THE  
LOUISIANA STATE PENITENTIARY SYSTEM, 1835-1935

By

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## ABSTRACT

### SPECTERS OF FREEDOM: FORCED LABOR, SOCIAL STRUGGLE, AND THE LOUISIANA STATE PENITENTIARY SYSTEM, 1835-1935

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This dissertation examines the history of the Louisiana State Penitentiary from its founding in 1835 to 1935. Its purpose is to reveal the deep historical forces underlying the state's present-day distinction for incarceration, with rates twice the U.S. national average. In doing so, it contributes to the history of punishment, the history of race and slavery, labor history, Southern history, and histories of the state. It adopts an Atlantic perspective in the *longue duree* in order to preserve the singularity of the penitentiary's development without isolating the institution from its larger transnational context. This investigation challenges the conventional wisdom that all Southern penitentiaries were the preserve of white men and repudiates the use of regional exceptionalism or "backwardness" to explain either the presence or absence of penal reform. It draws on official reports, government documents, newspapers, publications by penal reformers and labor organizations, prisoner narratives, and the *Louisiana State Penitentiary Prisoner Database (LSPPD)*, my own database created from information drawn from the records of nearly 10,000 inmates. Quantitative analysis combined with qualitative sources offer unique insight into life and labor inside the penitentiary. This study demonstrates that convict servitude was a specific species of forced labor, an institution that was historically and structurally distinct from chattel slavery, yet, coexistent with other forms of forced labor in the Atlantic system. My vantage problematizes the literal and figurative use of slavery as a term to depict penal labor and confinement in the penitentiary system during its first one hundred years. I argue that the state of Louisiana, an early leader in the nineteenth century penitentiary movement, established a

rationalized, 'modern,' and state-of-the-art penitentiary by 1835. It instituted a distinctive system of forced labor, which generated a nascent prison industrial complex and supported the slave system in the name of humanitarian reform and civilizational progress. This enduring system powered both Confederacy and Union forces. It survived the Civil War to prop up the New South by providing a cheap captive labor force, which advanced state-building, planter power, and infrastructural development. Yet, the institution was not a functional equivalent to the institution of slavery. A constituent part of the Mississippi Delta's "alluvial empire," Louisiana's penitentiary system was an agent in the making of Jim Crow by 1901 and acted to more closely link associations of blackness and criminality. Penitentiary enterprise and the state's convict population continued to expand and consolidate under 'progressive,' scientific management during the first quarter of the twentieth century. The shift from convict leasing to direct state management of the penitentiary in 1901 led to an even more entrenched, rationalized, and extensive prison industrial complex and system of forced labor, but one that was all the more vulnerable to its own contradictions. This specter of freedom, institutionalized in the penitentiary system, carried within itself a hidden history of resistance, one that signified the depth of working people's enduring struggle to live and labor on their own terms.

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## Introduction

Incarceration in the United States is a colossus without historical or contemporary parallel. The American government incarcerates more prisoners both in terms of absolute numbers and the percentage of its population that is incarcerated than any other nation.<sup>1</sup> But, comparisons of national rates of incarceration conceal the unevenness of imprisonment in America's decentralized prison system. The state of Louisiana towers over its counterparts as the "world's prison capitol."<sup>2</sup> Its penal system generates rates of incarceration nearly twice the U.S. national average, and it has been singled out for cruel and inhuman punishment.<sup>3</sup> Yet, distinction for punishment is not new to Louisiana. A "penal colony" during the early French colonial period, Louisiana captured international attention for commissioning a world renowned penal code after reaching statehood in 1812.<sup>4</sup> An early innovator of the penitentiary and "enlightened" reform, the state is notorious for its use of the convict-lease system, for the penal system's enduring association with enslavement after emancipation, as well as for gross human rights

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<sup>1</sup> The United States incarcerates 1,574,700 adult prisoners in state and federal facilities while the nation subjects 6,899,000 adults to some type of correctional supervision. Its average rate of incarceration for the adult population is 716/100,000 with 2.8 percent of the nation's adults subject to the criminal justice system. E. Ann Carson, "Prisoners in 2013," Bureau of Justice Statistics, 2013, [http://www.prisonstudies.org/sites/prisonstudies.org/files/resources/downloads/wppl\\_10.pdf](http://www.prisonstudies.org/sites/prisonstudies.org/files/resources/downloads/wppl_10.pdf); Lauren E. Glaze, Danielle A. Kaeble, "Correctional Populations in the United States, 2013," Bureau of Justice Statistics, <http://www.bjs.gov/index.cfm?ty=pbdetail&iid=5177>; Roy Walmsley, "World Prisoner Population List," International Center for Prison Studies, 10<sup>th</sup> Edition. [http://www.prisonstudies.org/sites/prisonstudies.org/files/resources/downloads/wppl\\_10.pdf](http://www.prisonstudies.org/sites/prisonstudies.org/files/resources/downloads/wppl_10.pdf).

<sup>2</sup> Cindy Chang, "Louisiana Is the World's Prison Capitol," *Times Picayune*, May 13, 2012; <http://www.amnestyusa.org/research/reports/usa-100-years-in-solitary-the-angola-3-and-their-fight-for-justice>

<sup>3</sup> Louisiana's incarceration rate is 1321/100,000 while the nation's rate of incarceration is 716/100,000. "States of Incarceration: The Global Context," <http://www.prisonpolicy.org/global/#methodology>; Amnesty International, *USA: 100 Years in Solitary: The "Angola 3" and Their Fight for Justice*, June 7, 2011; Robert Hillary King, *From the Bottom of the Heap*

<sup>4</sup> Gwendolyn Midlo Hall, *Africans in Colonial Louisiana: The Development of Afro-Creole Culture in the Eighteenth Century* (Baton Rouge: Louisiana State University Press, 1995); Edward Livingston, *A System of Penal Law for the State of Louisiana: Consisting of a Code of Crimes and Punishments, a Code of Procedure, a Code of Evidence, a Code of Reform and Prison Discipline, a Book of Definitions; Prepared Under the Authority of a Law and of the Said State* (Philadelphia: James Kay, Jun. & Company, 1833).

violations, international condemnation, and scandal.<sup>5</sup> These distinctions demand historical inquiry and attention.

My dissertation is such an inquiry. It examines the development of the Louisiana State Penitentiary as a constituent part of Louisiana's "carceral state."<sup>6</sup> It explores the historical conditions that gave rise to the state's penal institution and its peculiar economy of punishment. This investigation moves in a new direction by taking an "Atlantic turn" in investigating the development of the Louisiana State Penitentiary.<sup>7</sup> A growing number of state-based institutional histories constitute most of the scholarship on imprisonment in America.<sup>8</sup> This study, by contrast, adopts an Atlantic framework as "a logical unit of analysis." It draws on David

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<sup>5</sup> Mark T. Carleton, *Politics and Punishment: The History of the Louisiana State Penal System* (Baton Rouge: Louisiana State University Press, 1971), 3.

<sup>6</sup> I incorporate Foucault's ideas about carceral techniques and the ways in which such technologies invest the body with relations of domination through processes of subjection. But my vantage differs in two significant ways: one, it does not dismiss the role played by state structures authorized by positive law as privileged sites for the operation of power; and two, it revises the productive hypotheses by calling attention to the operation of "repressive" techniques of social control and the persistence of spectacles of bodily punishment that continue to persist. Such practice continues to inform the many economies of power which operate simultaneously, complimenting and contradicting one another with a variety of positive and negative inducements. Michel Foucault, *Discipline and Punish: The Birth of the Prison* (New York: Vintage Books, 1977); Graham Burchill, Colin Gordon, and Peter Miller, *The Foucault Effect: Studies in Governmentality with Two Lectures by and an Interview with Michel Foucault* (London: Harvester Wheatsheaf, 1991); 87-104.

<sup>7</sup> The literature is largely bounded by the State of Louisiana and the South as a region. Carleton, *Politics and Punishment*, Wisner, *Public Welfare Administration in Louisiana*, Wisner, *Social Welfare in the South*.

<sup>8</sup> Shelley Bookspan, *A Germ of Goodness: The California State Prison System, 1851-1944* (Lincoln: University of Nebraska Press, 1991); Charles Bright, *The Powers That Punish: Prison and Politics in the Era of the "Big House," 1920-1955* (Ann Arbor: University of Michigan Press, 1996); Keith Edgerton, *Montana Justice: Power, Punishment, & the Penitentiary* (Seattle: University of Washington Press, 2004); Miller, Vivien M. L. *Hard Labor and Hard Time: Florida's "Sunshine Prison" and Chain Gangs*. Gainesville: University Press of Florida, 2012; Robert Perkinson, *Texas Tough: The Rise of America's Prison Empire* (New York: Metropolitan Books, 2010); Jamie Pamela Rasmussen, *The Missouri State Penitentiary: 170 Years Inside the Walls* (Columbia, Missouri: University of Missouri Press, 2012); William Banks Taylor, *Down on Parchman Farm: The Great Prison in the Mississippi Delta* (Columbus: Ohio State University Press, 1999); Walker, Donald R. *Penology for Profit: A History of the Texas Prison System, 1867-1912* (College Station: Texas A&M University Press, 2000); Robert David Ward and William Warren Rogers, *Alabama's Response to the Penitentiary Movement, 1829-1865* (Gainesville: University Press of Florida, 2003).

Armitage's typology by employing a "cis-Atlantic" approach, or, a perspective which takes a particular location as object of study and frames it within a larger circum-Atlantic field.<sup>9</sup> My purpose is to use this method as a means to effectively transcend nationalist history, escape parochialism, open analysis to new questions, and revisit established lines of inquiry. This study preserves the singularity of Louisiana's penal system and its development without isolating it from its larger transnational context. It aims to capture relationships occluded by more geographically and temporally narrow studies.

In so doing, this study casts convict servitude as a specific species of *direct forced labor* coexistent with other coercive labor forms in the Atlantic system, a type historically and structurally distinct from that of chattel slavery. I define direct forced labor as a condition whereby a worker is unable to personally sell (commodify) his or her own labor and compelled to work without the practical ability to withdraw from such labor.<sup>10</sup> This definition avoids confusing materially-based social relations with subjective attitudinal descriptors such as 'voluntary'/'involuntary' labor. It offers internal complexity by distinguishing between direct forced labor (i.e. conscription, peonage, convict labor, etc.) and indirectly coerced forms such as 'free' labor. By implication, this perspective classes all labor bound to market-based surplus extraction as subject to coercion. In exposing the direct and more veiled means by which labor is coerced for surplus extraction, this definition seeks to destabilize binary conceptualizations of slavery/freedom or free/unfree labor.<sup>11</sup> Thus, this conceptualization aims to overcome the

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<sup>9</sup>Toyin Falola and Kevin D. Roberts, "Introduction," in *The Atlantic World, 1450-2000*, ed. Toyin Falola and Kevin D. Roberts (Bloomington: Indiana University Press, 2008); M. J. Braddick and David Armitage, *The British Atlantic World, 1500-1800* (New York: Palgrave Macmillan, 2002), 11-27.

<sup>10</sup> Tom Brass, *Towards a Comparative Political Economy of Unfree Labour: Case Studies and Debates* (London: Frank Cass, 1999).

<sup>11</sup> Definitional, conceptual, and methodological fragmentation concerning the nature of work and taxonomies of labor continue to frustrate the analysis of race, gender, labor, and power in the Atlantic.

silencing of labor compulsion which, legitimates bourgeois property relations, with an approach focused on exposing how labor is coerced for surplus extraction.<sup>12</sup>

This perspective addresses the persistence and pervasiveness of forced labor systems, not only as colonial manifestations, but also as intrinsic to putatively free societies. Examination of the systematic and sustained deployment of convict labor and captivity in Louisiana aims to overcome the historiographical and disciplinary fragmentation. Such specialization, while certainly not without value, has inadvertently concealed the ubiquity and endurance of forced labor and confinement in the ostensibly “free” world. This study approaches state punishment as an independent category of socio-historical analysis. It portrays state punishment as productive of social relations rather than simply a reflection of them. Analysis of state punishment is also an important repository from which to represent “subaltern” voices in Louisiana since state officials and elite actors documented individuals and groups otherwise silenced by the historical record.<sup>13</sup> Over the last few decades, the study of punishment has become a dynamic point of inquiry in its own right.<sup>14</sup> Scholarly histories of punishment are no exception.<sup>15</sup> Historians contributed to a

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Debate continues to reflect ideological division and little consensus. Politically derived but commonly unacknowledged interpretative frameworks and conceptual schemes are often approached uncritically and left unexamined in historical accounts. See: Brass, *Towards a Comparative Political Economy of Unfree Labour*, 58; Willemina Kloosterboer, *Involuntary Labour Since the Abolition of Slavery: a Survey of Compulsory Labour Throughout the World* (Leiden: E.J. Brill, 1960); Paul E Lovejoy and Nicholas Rogers, eds., *Unfree Labour in the Development of the Atlantic World* (London; Portland, Ore.: Frank Cass, 1994).

<sup>12</sup> On silencing, See: Trouillot, Michel-Rolph. *Silencing the Past: Power and the Production of History* (Boston: Beacon, 1997).

<sup>13</sup> This conceptualization is inspired by the work of the Subaltern Studies Group, which challenges elitist bias found in the field of South Asian studies. Subaltern implies “inferior rank,” and is used as a general attribution for subordination based on conditions of class, caste, age, gender, social condition, or any combination thereof. Ranajit Guha and Gayatri Chakravorty Spivak, eds., *Selected Subaltern Studies* (New York: Oxford University Press, 1988).

<sup>14</sup> While multiple disciplines inform this trend, writing on punishment lacks general synthesis. See: Lorna A. Rhodes, “Toward an Anthropology of Prisons,” *Annual Review of Anthropology* 30 (2001)

<sup>15</sup> Mary Gibson, “Global Perspectives on the Birth of the Prison,” *The American Historical Review* 116, no. 4 (2011): 1040–1063; Pratt, John, “Explaining the History of Punishment,” in *Crime and Empire*,



wave of revisionism during the 1970s. Critiques challenged positivist understandings of the development of punishment and society by demonstrating how material conditions caused penal change.<sup>16</sup>

Michel Foucault's landmark study, *Discipline and Punish*, reframed the revisionism of the 1970s and led to an outpouring of interdisciplinary scholarship on punishment.<sup>17</sup> Foucault departed from other revisionists on the question of the prison's perennial failures to enact reform. One of his most important insights is that the prison works in tandem with other institutions such as the army, the school, the hospital, and the workshop to produce and reproduce deviance rather

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*1840-1940: Criminal Justice in Local and Global Context*, ed. Barry Godfrey and Graeme Dunstall (Portland: Wilian, 2005).

<sup>16</sup> Two sharply contrasting studies laid the groundwork for the field: Leon Radzinowicz, *A History of English Criminal Law and Its Administration from 1750: The Movement for Reform, 1750-1833* (New York: Macmillan Co., 1948); Georg Rusche and Otto Kirchheimer, *Punishment and Social Structure* (New York: Columbia University Press, 1939). While both studies share a North Atlantic focus, they could not be more different. The former represents change in penal practice as a linear process of progressive development while the latter is a full repudiation of the former's positivist paradigm. Rusche and Kirchheimer's economic explanation for punishment was unavailable to English speakers until the 1970's when it was enthusiastically adopted by revisionists. Notable analysts such as David Rothman (1971), Michael Ignatieff (1978), Douglas Hay (1975), and Melossi and Pavarini (1981) extended Rusche and Kirchheimer's critique. See: Radzinowicz, *A History of English Criminal Law and Its Administration from 1750: The Movement for Reform, 1750-1833* (New York: Macmillan Co, 1948); Georg Rusche and Otto Kirchheimer, *Punishment and Social Structure* (New York: Columbia Univ. Press, 1939), David J. Rothman, *The Discovery of the Asylum: Social Order and Disorder in the New Republic*, New Lines in Criminology, Revised Edition (Boston: Little Brown, 2002); Ignatieff, Michael, *A Just Measure of Pain: The Penitentiary in the Industrial Revolution, 1750-1850* (New York: Pantheon Books, 1978); Melossi, Dario, *The Prison and the Factory: Origins of the Penitentiary System*, Critical Criminology Series (London: Macmillan, 1981).

<sup>17</sup> Much like David Rothman and Michael Ignatieff, Foucault argued that the prison exists in a "carceral archipelago," on a "carceral continuum," with the institution positioned as the most extreme example. Foucault concluded that the shift from "sovereign" power to a "disciplinary" regime between 1760 and 1840 led to a new economy of power and authority based on abstract, rational, diffuse, and normalizing tactics. Foucault considered that the "truth effects" of these institutions and their production of authoritative knowledge through the scientific disciplines of criminology, medicine, and psychiatry which act most powerfully to discipline subject populations. For Foucault, then, the eighteenth and nineteenth century bourgeois overthrow of royal absolutism and its reconstructed penal practice, most notably represented in the penitentiary, invented a "micro-physics of power." Thus, modern discipline for Foucault is more odious for the ways in which it engineers its own invisibility and opacity.

than individual or social reform.<sup>18</sup> Revisionism in the history of punishment initiated a secondary wave which importantly challenged the Western orientation of studies focused on the birth of the penitentiary. Critics have since complicated and contested the Foucauldian paradigm and effectively demonstrated that the prison must be understood in contexts outside of the North Atlantic. Specialists have begun to document the global proportions of imprisonment.<sup>19</sup> Analysts of Latin America stand at the forefront of this undertaking and have been particularly effective in upsetting the Western focus of the revisionist paradigm in fundamental ways.<sup>20</sup> They have advanced understandings of the relationship between state formation, colonialism, liberalism, and the penitentiary; brought attention to the relationship between race, gender, sexuality, criminality, and punishment; featured prison sub-culture and prisoner resistance as social forces shaping the institution and society at large; examined how projects of nationalism and modernization effect punishment; identified political economies of punishment and their larger effects; analyzed institutions as functional equivalents or as compliments to the prison; and finally, have documented the persistence of direct forced labor after emancipation.<sup>21</sup>

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<sup>18</sup> Foucault defines “microphysics” as more effective tactics of control associated with the panopticon and its confinement, rationality, regimentation, individuation, abstraction, and continuous surveillance. See: Foucault, *Discipline and Punish*.

<sup>19</sup> Some of the most notable texts are cited here. See: Dani Botsman, *Punishment and Power in the Making of Modern Japan* (Princeton: Princeton University Press, 2005); Nils Christie, *Crime Control as Industry: Towards Gulags, Western Style*, 3rd ed. (London: New York: Routledge, 2000); Frank Dikötter, Ian Brown, and Carlos Aguirre, eds., *Cultures of Confinement: a History of the Prison in Africa, Asia and Latin America* (Ithaca: Cornell University Press, 2007); Peter Zinoman, *The Colonial Bastille: a History of Imprisonment in Vietnam, 1862-1940* (Berkeley: University of California Press, 2001); Frank Dikötter, *Crime, Punishment, and the Prison in Modern China* (New York: Columbia University Press, 2002); Florence Bernault and Janet L. Roitman, eds., *A History of Prison and Confinement in Africa*, Social History of Africa Series (Portsmouth, NH: Heinemann, 2003).

<sup>20</sup> Carlos Aguirre, *The Criminals of Lima and Their Worlds: The Prison Experience* (Durham: Duke University Press, 2005); Peter M. Beattie, *The Tribute of Blood: Army, Honor, Race, and Nation in Brazil, 1864-1945* (Durham: Duke University Press, 2001); Ricardo Donato Salvatore and Carlos Aguirre, eds., *The Birth of the Penitentiary in Latin America: Essays on Criminology, Prison Reform, and Social Control, 1830-1940* (Austin: University of Texas Press, 1996).

<sup>21</sup> Peter M. Beattie, “Born Under the Cruel Rigor of Captivity, the Suppliant Left It Unexpectedly by

U.S. scholarship has been no stranger to the history of punishment. While U.S. historians have begun to document the experience of women in prison, scholarship on Latin America has made important inroads in developing gendered analyses of punishment, which demonstrate how sexuality effects assertions of power and resistance and systems of social control.<sup>22</sup> U.S. historians have been particularly adept in documenting the relationship of race, labor, and punishment in the American South by analyzing systems of convict leasing during the late nineteenth and early twentieth centuries.<sup>23</sup> They have effectively used punishment to explain changing racial and labor regimes in the New South.<sup>24</sup>

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Committing a Crime': Categorizing and Punishing Slave Convicts in Brazil, 1830-1897," *The Americas* 66, no. 1 (2009): 11–55; Peter M. Beattie, "Conflicting Penile Codes: Modern Masculinity and Sodomy in the Brazilian Military, 1860-1916," in *Sex and Sexuality in Latin America*, ed. Daniel Balderston and Donna J. Guy (New York: New York University Press, 1997); Peter M. Beattie, "Conscription Versus Penal Servitude: Army Reform's Influence on the Brazilian State's Management of Social Control, 1870-1930," *Journal of Social History* 32, no. 4 (1999): 847–878; Sueann Caulfield, ed., *In Defense of Honor Sexual Morality, Modernity, and Nation in Early-Twentieth-Century Brazil* (Durham: Duke University Press, 2012); Donna J. Guy, *Sex & Danger in Buenos Aires: Prostitution, Family, and Nation in Argentina* (Lincoln: University of Nebraska Press, 1991); Donna Guy, *White Slavery and Mothers Alive and Dead: The Troubled Meeting of Sex, Gender, Public Health, and Progress in Latin America* (Lincoln: University of Nebraska Press, 2000); Donna J. Guy, *Women Build the Welfare State: Performing Charity and Creating Rights in Argentina, 1880-1955* (Durham: Duke University Press, 2009); Salvatore and Aguirre, *The Birth of the Penitentiary in Latin America*; Ricardo D. Salvatore, Carlos Aguirre, and Gilbert M. Joseph, *Crime and Punishment in Latin America Law and Society Since Late Colonial Times* (Durham: Duke University Press, 2001); Salvatore, Ricardo Donato, *Wandering Paysanos: State Order and Subaltern Experience in Buenos Aires During the Rosas Era* (Durham: Duke University Press, 2003).

<sup>22</sup> Anne M. Butler, *Gendered Justice in the American West: Women Prisoners in Men's Penitentiaries* (Urbana: University of Illinois Press, 1997); Mara L. Dodge, *Whores and Thieves of the Worst Kind: A Study of Women, Crime, and Prisons, 1835-2000* (DeKalb: Northern Illinois University Press, 2002); Estelle B. Freedman, *Their Sisters' Keepers: Women's Prison Reform in America, 1830-1930* (Ann Arbor: University of Michigan Press, 1981); Rafter, Nicole Hahn, *Partial Justice: Women in State Prisons, 1800-1935* (Boston: Northeastern University Press, 1985).

<sup>23</sup> Edward L. Ayers, *Vengeance and Justice: Crime and Punishment in the 19th Century American South* (New York: Oxford University Press, 1984); Mary Ellen Curtin, *Black Prisoners and Their World, Alabama, 1865-1900* (Charlottesville: University Press of Virginia, 2000); Milfred C. Fierce and Brooklyn College, *Slavery Revisited: Blacks and the Southern Convict Lease System, 1865-1933* (Brooklyn: Africana Studies Research Center, 1994); Alexander C. Lichtenstein, *Twice the Work of Free Labor: The Political Economy of Convict Labor in the New South*, The Haymarket Series (New York: Verso, 1996); Matthew J. Mancini, *One Dies, Get Another: Convict Leasing in the American South, 1866-1928* (Columbia, SC: University of South Carolina Press, 1998); Martha A. Myers, *Race, Labor,*

Yet, disciplinary fragmentation and overspecialization have produced historiographical gaps which confound analysis of the social forces shaping patterns of race, labor, gender, and punishment in the United States. Despite the richness of studies on Southern penal labor regimes, analysts largely dismiss or gloss over the antebellum period and end prematurely at the close of the convict lease system in the early twentieth century. This treatment has left what came before and what came after largely unexamined. Writing on “mass incarceration” is voluminous and interdisciplinary in orientation. This social formation has recently captured the attention of historians of the late twentieth century; however, sociologists, political scientists, and popular writers have been much more vocal than have historians. For the most part, these interdisciplinary analysts attribute mass imprisonment to an ascendant “neo-liberalism” and “post-industrialism” of the last thirty or so years.<sup>25</sup> Despite the force of this literature in

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*and Punishment in the New South* (Columbus: Ohio State University Press, 1998); David M. Oshinsky, *Worse Than Slavery: Parchman Farm and the Ordeal of Jim Crow Justice* (New York: Free Press, 1996); Karin A. Shapiro, *A New South Rebellion: The Battle Against Convict Labor in the Tennessee Coalfields, 1871-1896*, The Fred W. Morrison Series in Southern Studies (Chapel Hill: University of North Carolina Press, 1998).

<sup>24</sup> Analysts show generalized patterns of prisoner segregation by race, shifts in the racial proportionality of prisoners from largely white populations in the antebellum period to black majorities after emancipation. They depict the convict lease system as new means of racial control after emancipation and as a lucrative but brutal and misguided system of labor. They reveal opposition to the system by organized labor for its competition with wage workers and its basis for elite, corporate, and state capital formation tied to regional modernization, national development, and not coincidentally, carceral expansion.

<sup>25</sup> Glenn C. Loury et al., *Race, Incarceration, and American Values* (Cambridge, Mass.: MIT Press, 2008); Marc Mauer, *Race to Incarcerate*, Revised Edition (New York: New Press, 2006); Jerome G. Miller, *Search and Destroy: African-American Males in the Criminal Justice System*, 2nd Edition (New York: Cambridge University Press, 2010); Jonathan Simon, *Governing Through Crime: How the War on Crime Transformed American Democracy and Created a Culture of Fear* (Oxford: Oxford University Press, 2009); Loïc J. D. Wacquant, *Punishing the Poor: The Neoliberal Government of Social Insecurity*, Politics, History, and Culture (Durham: Duke University Press, 2009). Loïc J. D. Wacquant, *Prisons of Poverty*, Expanded Edition, Contradictions 23 (Minneapolis: University of Minnesota Press, 2009); Chris Cunneen, *Penal Culture and Hyperincarceration: The Revival of the Prison* (Farnham: Ashgate, 2013); H.A. Thompson, “Why Mass Incarceration Matters: Rethinking Crisis, Decline, and Transformation in Postwar American History,” *Journal of American History* 97, no. 3 (2010): 703–34.

identifying American imprisonment as a pressing social problem, it overlooks its much deeper roots.<sup>26</sup>

Analysts are just beginning to address this breach.<sup>27</sup> Many critics of mass incarceration associate imprisonment with slavery.<sup>28</sup> This study challenges that trend by problematizing the literal and figurative use of slavery to depict penal confinement and convict labor in Louisiana. In this regard, my study is indebted to Rebecca McLennan's, *The Crisis of Imprisonment: Protest, Politics, and the Making of the American Penal State, 1776-1941*. It builds on her basic insight that penal systems in the nineteenth century United States institutionalized a separate and distinct species of involuntary servitude.<sup>29</sup> Despite the vitality of new scholarship on punishment, Louisiana's enduring distinction for penal practice has not been given its due. This inattention is all the more pronounced given the field's growth.<sup>30</sup> Mark T. Carleton's, *Politics and Punishment*

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<sup>26</sup> There are a few notable exceptions to this. See: Robert T. Chase, "Slaves of the State Revolt: Southern Prison Labor and the Prisoners' Rights Movement in Texas," in *Life and Labor in the New South*, ed. Robert H. Zieger (Gainesville: University Press of Florida, 2012); Genevieve LeBaron, "Rethinking Prison Labor: Social Discipline and the State in Historical Perspective," *Working USA* 15, no. 3 (2012): 327-351.

<sup>27</sup> Robert T. Chase, "Civil Rights on the Cell Block: Race, Reform, and Violence in Texas Prisons and the Nation, 1945-1990" (PhD diss.: University of Maryland, 2009); Alex Lichtenstein, "A 'Labor History' of Mass Incarceration," *Labor* 8, no. 3 (September 21, 2011): 5-14.

<sup>28</sup> Alexander, Michelle, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New York: New Press, 2010); Douglas A. Blackmon, *Slavery by Another Name: The Re-Enslavement of Black Americans from the Civil War to World War II* (New York: Anchor, 2009); Carleton, *Politics and Punishment*; Dennis Ray Childs, *Formations of Neoslavery: The Cultures and Politics of the American Carceral State* (Ph.D. diss.: University of California, Berkeley, 2005); Davis, Angela Y., *Are Prisons Obsolete?* New York: Seven Stories Press, 2003.

<sup>29</sup> McLennan's study, based largely on source material from Sing Sing, is the most sweeping account of the evolution of imprisonment in the United States. At once innovative, synthetic, and prescient, McLennan's study places punishment firmly at the center of American history showing the prison as fundamental to state formation, the political economy, capital formation, labor struggle, liberal ideology, social change, shifts in the bases of power and authority, and indicative of new conceptions of human subjectivity. Rebecca M. McLennan, *The Crisis of Imprisonment Protest, Politics, and the Making of the American Penal State, 1776-1941*, Cambridge Historical Studies in American Law and Society (New York: Cambridge University Press, 2008).

<sup>30</sup> Gibson, "Global Perspectives on the Birth of the Prison."

is the only book length study of Louisiana's penal system.<sup>31</sup> Carleton's political history turns on the spurious question of why Louisiana failed to enact penal reform and argues that associations with French and Spanish colonialism, political corruption, and the prejudices of poor whites compromised reform and rendered the penal system "out of date."<sup>32</sup> Carleton's use of Southern regional distinction or "backwardness" to explain the system's failure to implement modern rehabilitative ideals does not stand up to analysis and invites reassessment.

This study combines both qualitative and quantitative sources. It relies on governmental reports, newspaper articles, and prisoner narratives. It also provides quantitative analysis of state prisoner populations from 1927 to 1935, a period for which there are few official reports. Statistical analysis relies on the *Louisiana State Penitentiary Prisoner Database (LSPPD)*, a source designed specifically for this study.<sup>33</sup> This source includes matriculation data from nearly 10,000 prisoners confined to the penitentiary system from 1926 to 1936 and includes almost fifty categories of analysis for each prisoner. These categories include: individual physical markers, categories of social identity, systems of reward and punishment, individual struggle and collective action within this system of confinement, social geographies of crime and punishment, the quantity and quality of crime and punishment during the same period, patterns of labor and industry within the institution, together with sexuality, survival, life, and death.

My argument is based on a number of assumptions. In borrowing from the history of punishment's first wave of revisionism, I repudiate associations between modern punishment and humanitarianism, recognize crime and punishment as social constructs, and consider penal

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<sup>31</sup>Carleton, *Politics and Punishment*, 3.

<sup>32</sup> *Ibid.*, 196-7.

<sup>33</sup> *Louisiana State Penitentiary Database (LSPPD)*.

systems to be productive rather than merely reflective of social relations.<sup>34</sup> I challenge the use of Southern exceptionalism or “backwardness” as a device to explain the presence or absence of penal reform or humanitarian change.<sup>35</sup> Rather, I argue that the state of Louisiana, an early leader in the nineteenth century penitentiary movement, instituted a rationalized, ‘modern,’ and state-of-the-art penitentiary by 1835. This carceral institution established a state-based system of direct forced labor based on penal confinement in the name of prisoner reform. This institution provided the foundation for the state’s own prison industrial complex, one designed to maximize financial profitability and effect prisoner control.<sup>36</sup> I demonstrate that there is no necessary link between penal reform and genuine humanitarian improvement. This case study of Louisiana’s penitentiary system reveals the nature of prisoner reform. By definition and in practice, it meant subjection to physically forced hard labor as punishment.

An enduring and readily adaptable institution, the penitentiary served the slave system, fueled the Confederacy, and advanced Union interests upon military seizure. After the Civil War, the institution and its cheap, captive labor force promoted state-building, planter power, and infrastructural development under civilian control in 1869 and after state officials privatized the

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<sup>34</sup> Foucault, *Discipline and Punish*; Rusche and Kirchheimer, *Punishment and Social Structure*; Michael Ignatieff, *A Just Measure of Pain: The Penitentiary in the Industrial Revolution, 1750-1850* (New York: Pantheon Books, 1978); David J. Rothman, *The Discovery of the Asylum; Social Order and Disorder in the New Republic* (Boston: Little, Brown, 1971).

<sup>35</sup> Such standpoints are problematic since they endorse linear historical models, underwrite Eurocentrism, and deflect attention from the contests giving penal practice form. This caveat is usefully applied to studies of punishment in the U.S. South since many accounts reflect such leaning. Salvatore and Aguirre characterize this perspective in *The Birth of the Penitentiary in Latin America* by representing Latin America and its penitentiaries as imported cultural, political, social, and technological devices. See also: Nancy Leys Stepan, *The Hour of Eugenics: Race, Gender, and Nation in Latin America* (Ithaca: Cornell University Press, 1991); Ayers, *Vengeance and Justice*; Blackmon, *Slavery by Another Name*; Carleton, *Politics and Punishment*; Curtin, *Black Prisoners and Their World in Alabama, 1865-1900*; Lichtenstein, *Twice the Work of Free Labor*; Mancini, *One Dies, Get Another*; Myers, *Race, Labor, and Punishment in the New South*; Oshinsky, *Worse Than Slavery*.

<sup>36</sup> Eric Schlosser coined the term to describe the overlapping interests of government and industry that use surveillance, policing, and imprisonment as solutions to economic, social and political problems. Eric Schlosser, “The Prison-Industrial Complex,” *The Atlantic*, December 1998.

institution in 1844. Louisiana's penal system became a constituent part of "alluvial empire," an economic sector in the Mississippi Delta defined by extractive industries and the production of export-based agricultural goods, which emerged by 1901.<sup>37</sup> State officials attempted to use the penitentiary system to foment racism for prisoner control by drawing a firm color line. Yet, officials were relatively unsuccessful in doing so until the twentieth century when elites and the legal structures they controlled increasingly defined blackness through criminality. Penitentiary enterprise and the state's convict population continued to expand and consolidate under 'progressive,' scientific management during the first quarter of the twentieth century. Prisoner resistance, organized labor, and working people placed constraints on the expansion of prison industry. At the same time, natural forces and the perennial failures of man-made markets compromised the penitentiary's "great and industrial enterprise."<sup>38</sup>

Chapter One contributes new understanding to the birth of the penitentiary in Louisiana in three major ways. First, it identifies the colonial legacies shaping the development of the state's penitentiary project. Second, the chapter recovers the state's early leadership in the transatlantic penitentiary movement during the first quarter of the nineteenth century. Third, it provides new understanding of the institution's ideological foundations and also the penal reformer, Edward Livingston's, relationship to it. I argue that Louisiana's establishment of a penitentiary at Baton Rouge instituted a type of penal reform tied to liberal state-building and the

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<sup>37</sup> Nan Woodruff coined the term. She skillfully demonstrates that as the heavier phase of economic transformation neared a close in the late nineteenth century, the focus of extractive industries shifted southward. Lumbermen penetrated the Delta to exploit the region's rich forests since they had exhausted much of the northern and midwestern timber. These entrepreneurs built large-scale lumber mills and factories for wood products, which followed the extension of railroads, clear-cutting, swamp draining, and levee projects. This process resulted in the opening of new agricultural lands and the development of intensive agriculture. Convict labor and practices associated with peonage formed the basis of these enterprises. Woodruff, *The American Congo*, 8-37.

<sup>38</sup> State of Louisiana, *Official Journal of the Proceedings of the Senate of the State of Louisiana at the Second Regular Session*, (Baton Rouge: Advocate, 1902).



expansion of bourgeois property relations during the 1830s, a type of reform similar to that which proliferated in the nation and across the Atlantic world. The penitentiary's aim to deter crime through physically forced hard labor was not, as analysts have suggested, evidence of the state's 'backwardness.' Thus, the 'progressive' reform associated with Louisiana's penitentiary movement held no necessary association with ideals of genuine humanitarianism, benevolence, or even charity of the day.

Chapter Two surveys life and labor inside Louisiana's penitentiary at Baton Rouge from the institution's founding in 1835 to 1860. It documents the emergent prison industrial complex, its system of forced labor, and early experiments with the privatization of the penitentiary, topics neglected in the literature. This industry resulted in a reliable source of cheap manufactured goods, which benefited large planters in the region. I argue that the penitentiary's profitable enterprise instituted a distinctive system of forced labor and custodial confinement, which inaugurated a profitable prison industrial complex in the name of humanitarian 'reform' and civilizational 'progress.' Chapter Three examines the relationship of race, slavery, and punishment in the making of Louisiana's antebellum carceral state. It reveals two ways in which Louisiana was in fact exceptional: one, for its substantial proportion of slave inmates; And two, for literal instances of state-slavery as Louisiana's government sold children of enslaved convicts born in the penitentiary. Given that slaves comprised approximately one-third of the convict population by 1850, this study challenges the conventional wisdom that penitentiaries were the preserve of white men.<sup>39</sup> I argue that the state utilized the carceral institution as a means of slave control by both confining and punishing subversive slaves. At the same time, the institution's drive to maximize profits undermined the ambitions of state officials to draw a sharp color line

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<sup>39</sup> Ayers, *Vengeance and Justice*, 61.

inside the penitentiary. Thus, economic imperatives often trumped ideological commitments to racial segregation throughout the antebellum period, resulting in a relatively flexible racial hierarchy within the penitentiary.

Chapter Four addresses a gap in the historiography concerning the penitentiary's role during the Civil War. It traces the prison's operation as an arsenal for the Confederacy before Federal forces seized it to fuel their own war efforts. It documents the increasing criminalization of black life in struggles over land and labor during early Reconstruction. I argue that the considerable surpluses extracted by forced convict labor and the penitentiary's usefulness in industrial and state infrastructural production proved particularly instrumental to the prosecution of war. I maintain that development of the convict lease system in Louisiana was not instituted as a functional equivalent to slavery. Rather, it developed unevenly and in response to the penitentiary's perennial labor problems and without the restraints that had hampered the hiring out of prisoners during the antebellum period.

Chapter Five details the resurgence of convict servitude after the abolition of chattel slavery, the penal system's role in state-formation during Reconstruction, and the rise of overwhelming black majorities within the penitentiary system from 1866-1900. I advance a new argument in suggesting that proposals to restrict or abolish contract convict servitude and the convict lease system were longstanding, operated at state and national levels, and originated in the struggles between workers and employers over the terms of labor. I show that the lease ultimately met its demise in the wake of Bourbon Democratic ascendancy with the Party's bid for state consolidation, political legitimacy, and white racial rule.

Chapter Six investigates the end of Louisiana's convict lease system and the return of prisoners to state oversight by 1901. It focuses on Angola, the system's premier prison farm and

traces the development of the operation as a large scale agribusiness in the name of ‘progressive’ penal reform. I argue that the penitentiary system constituted a “great industrial and business enterprise” with substantial financial rewards, organized in a way strikingly similar to that of the convict lease system.<sup>40</sup> I draw on Nan Woodruff’s *American Congo* in order to link Louisiana’s system of convict labor and its penal farms to the forces advancing “alluvial empire” in the Mississippi Delta of the New South. I suggest that the penitentiary system’s proponents used the abolition of convict leasing to legitimate forced labor and captivity in the ‘free’ world as a means of civilizational ‘progress,’ humanitarian ‘reform,’ and as an ostensible benevolent, educational institution especially suited to African Americans.

Chapter Seven focuses on the change in administration of the penitentiary system in 1916 to 1936. This study contributes new understanding to the understudied period by providing prisoner profiles drawn from the *LSPPD*. Quantitative analysis drawn from the database combined with qualitative sources separates myth from reality by showing that life at Angola deviated markedly from public representations of the penal farm as a “model prison.” I suggest that imperatives for profitability and prisoner control culminated in an even more entrenched, rationalized, and efficient prison industry complex and system of direct forced labor by the second decade of the twentieth century, but one that was also more vulnerable to its own contradictions.

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<sup>40</sup> State of Louisiana, *Annual Report of the Louisiana State Penitentiary, Board of Control, Calendar Year 1901* (New Orleans: L. Graham Co., Ltd., 1902).

## Chapter 1

### State Formation, Penal Reform, and the Birth of Louisiana's Penitentiary to 1835

Baton Rouge was the birthplace of Louisiana's state penitentiary. The institution officially opened in 1835 with the transfer of state prisoners from the New Orleans jail.<sup>1</sup> Officials selected the city in the Florida parish region for its more central location and for its distance from New Orleans.<sup>2</sup> The penitentiary's establishment coincided with the region's burgeoning plantation economy, which gave rise to slave majorities and political coalitions between planters of the Mississippi Delta region and large planters in the Florida parishes.<sup>3</sup> Six blocks from the high riverbanks along the city's waterfront, the new institution stood at the western side of "Penitentiary Street" between Florida Street to the south and Laurel Street to the north.<sup>4</sup> An imposing twenty-four foot high wall formed its perimeter and sharply distinguished the institution from other buildings in town. A "brick sentinel box," a guard tower built for the

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<sup>1</sup> John Gibson, *Gibson's Guide and Directory of the State of Louisiana and the Cities of New Orleans and Lafayette* (New Orleans: John Gibson, 1838), 260.

<sup>2</sup> *Biographical and Historical Memoirs of Louisiana: Embracing an Authentic and Comprehensive Account of the Chief Events in the History of the State, a Special Sketch of Every Parish and a Record of the Lives of Many of the Most Worthy and Illustrious Families and Individuals* (Chicago: Goodspeed Pub. Co., 1892); Alcée Fortier, ed., *Louisiana: Comprising Sketches of Parishes, Towns, Events, Institutions, and Persons, Arranged in Cyclopedic Form*, vol. 3 (n.p.: Century Historical Association, 1914), 300.

<sup>3</sup> The region was distinct from the Territory of New Orleans. It was added to the State of Louisiana nearly four months after the territory was admitted to the union on April 12, 1812. Represented as the top of the "toe" of Louisiana, it lies between the Pearl and Mississippi Rivers and above Lakes Maurepas and Pontchartrain. It includes East Baton Rouge, East and West Feliciana, Livingston, St. Helena, St. Tammany, and Washington Parishes and shared the statewide opposition between vast fertile alluvial land dominated by large planters and the poor soil of the piney woods associated with "plain folk." The region was a "volatile melting pot" and said to be marked by rampant criminal activity, and resisted Americanization until the 1830s. As a whole, it remained relatively isolated from New Orleans until the 1850s because of sparsely populated pine forests northward and virtually impenetrable swamps to the south. See: Samuel C. Hyde, *Pistols and Politics: The Dilemma of Democracy in Louisiana's Florida Parishes, 1810-1899* (Baton Rouge: Louisiana State University Press, 1996), 1-16, 22-3, 32, 37, 46-7.

<sup>4</sup> 1837 map of Baton Rouge:

<http://batonrougedigitalarchive.contentdm.oclc.org/cdm/singleitem/collection/p15196coll4/id/14/rec/18>; Bishop Davenport, *A History and New Gazetteer off Geographical Dictionary of North America and the West Indies* (New York: S.W. Benedict and Company, 1843), 191.

comfort of “prison-keepers,” rivaled the height of the walls.<sup>5</sup> Intended to discourage escapes, the walls ran deep, descending five feet underground. The palisade tapered upward, inclining gradually from its five-foot wide base, and rose three stories to form a two-foot crown on top. The irregular slant was said to have given the fortification an especially “foreboding” presence, so much so that it soon won the penitentiary the nickname, “the walls.” The perimeter’s four sides formed a hollow square. Constructed almost entirely of convict-made brick, officials meant it to last.<sup>6</sup> ‘The walls’ figuratively and concretely demarcated boundaries between convict and non-convict and ‘modern’ penal practice from ‘backward’ modes of punishment. The structure meant to impress the public with the power of the state and remind offenders and the “vicious poor” of the heavy hand of the law.

This chapter examines the founding of ‘the walls’ at Baton Rouge. First, it outlines the colonial legacies that shaped the penitentiary beginning with Louisiana’s founding as a penal colony in 1699. Second, it recovers Louisiana’s first attempt to found a penitentiary in 1822, its innovative role in the early penitentiary movement, and the state’s centrality to penal reform in the Atlantic world –topics poorly understood in the literature. This recovery addresses a blind spot in the historiography by providing greater understanding of the ideological foundations of the Louisiana State Penitentiary.<sup>7</sup> It challenges the historian Mark T. Carleton’s assertion that

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<sup>5</sup> Prison Discipline Society, *Annual Report of the Board of Managers of the Prison Discipline Society*, vol. 13 (Boston: Perkins and Marvin, 1838), 64.

<sup>6</sup> “Baton Rouge Penitentiary,” *The Daily Picayune*, October 6, 1840; Fortier, *Louisiana: Comprising Sketches of Parishes, Towns, Events, Institutions, and Persons, Arranged in Cyclopedic Form*, 300.

<sup>7</sup> Kelly Birch and Thomas C. Buchanan, “The Penalty of a Tyrant’s Law: Landscapes of Incarceration during the Second Slavery,” *Slavery & Abolition* 34, no. 1 (2013): 22–38; Mark T. Carleton devotes only ten pages of his book length study to the antebellum period. Discussion relies on two secondary sources: one, Elizabeth Wisner’s study of public welfare institutions, which includes two chapters on Louisiana’s penal system, and two, a dissertation by Hilda Jane Zimmerman. See: Carleton, *Politics and Punishment*; Jane Zimmerman, *Penal Systems and Penal Reforms in the South Since the Civil War* (PhD diss.: University of North Carolina at Chapel Hill, 1947); Elizabeth Wisner, *Public Welfare Administration in*

colonial taint, derived from the state's French and Spanish colonial experience, prevented penal reform in Louisiana.<sup>8</sup> Instead, this chapter demonstrates that Louisiana's penitentiary was a state-of-the-art institution embedded in larger national and transatlantic movements for penal reform. As such, I suggest that it was itself an expression of 'progressive' penal reform as understood by officials and penal reformers rather than, as Carleton has suggested, an example of reform's failings. Thus, I argue Louisiana's penitentiary instituted a type of penal reform tied to liberal state-building and to the expansion and intensification of bourgeois property relations during the first third of the nineteenth century, a type similar to that which proliferated in the nation and across the Atlantic world.

### *Colonial Legacies*

Louisiana gained a reputation for punishment early in its history. The French first settled Louisiana as a 'strategic colony,' or a military garrison, in 1699. It became, for all intents and purposes, a 'penal colony' as private corporate interests supplanted direct French colonial rule by 1717.<sup>9</sup> French courts produced an ample supply of transportable convicts for settlement, but high transportation costs and high mortality rates limited their availability in Louisiana. These factors combined with official complaints about convict's behavior in the colony and the fact that many of them lacked useful skills led locals to forego the systematic use of convict labor in favor of enslaved Africans as a more 'useful' work force. Despite very meager subsistence costs provided

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*Louisiana, Social Problems and Social Policy--the American Experience* (New York: Arno Press, 1976).

<sup>8</sup> Carleton, *Politics and Punishment*, 3-13; Carleton states, "Louisiana, as a colony of absolutist France and Bourbon Spain, had not participated in the progressive events of the eighteenth century and was hostile to them. The social basis was not liberal." For him, this subverted attempts to implement penal reform.

<sup>9</sup> Gwendolyn Midlo Hall, *Africans in Colonial Louisiana: The Development of Afro-Creole Culture in the Eighteenth Century* (Baton Rouge: Louisiana State University Press, 1995), 5-6. Hall demonstrates that after John Law's Company of the West gained the monopoly on Louisiana's trade, French colonization of Louisiana became to a large extent a "penal colonization." Since there were few voluntary settlers, authorities deported prisoners of all types to Louisiana.

for the upkeep of convicts, settlers who sought laborers valued Africans for their ability to work, for their knowledge, and for their ability to survive Louisiana's inhospitable environment.<sup>10</sup>

Thus, Louisiana's first experience with convict servitude was stillborn.

French colonial Louisiana left lasting legacies. Thin metropolitan rule marked the French experience in Louisiana. While officials attempted to exact control, their rule was so weak and supplies so short that only alliances with powerful Indian nations and reliance on Indian war captives, the labor of African slaves, and technology transfers from them allowed the colony a meager survival. Precarious colonial rule in this dangerous frontier outpost, fraught with death, disease, natural disasters, and disorderly subjects, elevated "usefulness" as a principle virtue superseding other considerations.<sup>11</sup> This imperative fostered a legacy of "racial openness" and defiance of authority by the poor. Even systematic racist terror in the wake of the Pointe Coupée Conspiracy in 1795, the rise of plantation agriculture, and incorporation into the United States did not erase Louisiana's tradition of 'racial openness' and defiance of authority by the poor.<sup>12</sup> This inheritance compelled the conflicts that prompted the brutal and calculated repression against blacks as well as whites who challenged the racism that was so elemental to nineteenth and twentieth century forms of exploitation.<sup>13</sup> These clashes would, over the next three decades,

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<sup>10</sup> Officials did not consider deportees "utils" or useful in Louisiana. Hall, *Africans in Colonial Louisiana*, 27, 74, 128, 155. Hall shows that Africans were better adapted to the climate than were Europeans. They were resistant to malaria, skilled in agriculture and in rice cultivation, and valued as medical doctors and surgeons. Colonial records indicate contempt for poor whites, especially soldiers, most of whom had been convicts while Africans were not characterized as such.

<sup>11</sup> Ibid., 6-7. Hall states that "usefulness was the overriding virtue for immigrants, transcending race, nation, humanity, and any other consideration."

<sup>12</sup> Ibid., 144, 158, 240, 345, 380, Hall suggests that "racial openness" and fluidity was a defining feature of Louisiana's colonial experience, one that neither died spontaneously nor was it one that was ever fully extinguished.

<sup>13</sup> Ibid., 6-7, 379-80.

induce the state to establish a penitentiary in order to prop up systems of forced labor, state authority, and planter power.

The end of colonial rule in Louisiana did not terminate Louisiana's legacy of 'racial openness' or the power of its Africanized slave culture and its cohesive and assertive Afro-creole population.<sup>14</sup> France had ceded Louisiana to Spain in 1763.<sup>15</sup> When the United States took possession of Louisiana in 1803, American officials encountered a forceful and self-assured French-speaking free black population that exercised considerable social power, held wealth, occupied skilled trades, and sported arms in organized militias. In New Orleans, free black men and women fraternized with slaves, often marrying and cohabiting with each other. Historians Joseph Logsdon and Caryn Cossé Bell demonstrate that "the consummate linkage of negritude and servility, the dominant feature of race relations in the American Old South, never fully emerged in colonial Louisiana." Louisiana's black creoles presumed that American sovereignty would bring them equal citizenship, a cry made all the more powerful in fervor of the French revolution and the slave rebellion in San Domingue.<sup>16</sup> Officials also encountered an intractable subaltern population. Despite waves of repression unleashed by the growing number of large slave owners, poor whites, slaves and free people of African descent continued to socialize freely.<sup>17</sup>

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<sup>14</sup> Hall, *Africans in Colonial Louisiana*. 380.

<sup>15</sup> Louisiana Library Commission, *Louisiana: A Guide to the State*, American Guide Series (New York: Hastings House, 1941), 695. Spain gained possession of Louisiana with the Treaty of Paris, which terminated the Seven Years' War, while the Florida Parishes went to England and Baton Rouge became New Richmond. In 1801, Louisiana was ceded to France by the treaty of San Ildefonso. The United States purchased Louisiana from France for \$15,000,000 on April 30, 1803. On December, the new American governor, William C. C. Claiborne assumed governance of Louisiana.

<sup>16</sup> Joseph Logsdon and Caryn Cossé Bell, "The Americanization of Black New Orleans, 1850-1900," in *Creole New Orleans: Race and Americanization*, ed. Arnold R. Hirsch and Joseph Logsdon (Baton Rouge: Louisiana State University Press, 1992), 24, 204-05.

<sup>17</sup> Hall, *Africans in Colonial Louisiana*, 379.



Louisiana's colonial experience had created a climate unfavorable to rule. Colonial officials had delivered the territory to the United States without juridical institutions.<sup>18</sup> U.S. administrators swiftly responded by attempting to erect their own legal institutions based on a two-tiered racial hierarchy. In practice, little distinguished the severity of the slave order in rural Louisiana from Anglo-American systems. Yet in New Orleans, American authorities confronted an overwhelming challenge to the imposition of law based on a strict black and white racial hierarchy. American officials made little headway. The American governor, W.C.C. Claiborne, faced with the possibility of slave insurrection non-American residents, avoided conflict. Out of fear, American administrators did not wage an overt campaign against the armed free black population. Thus, native Louisianans, intent on securing the rights, advantages, and immunities of the territory's citizens, succeeded in mitigating American hegemony during the territorial period.<sup>19</sup>

As president of the United States, Thomas Jefferson remarked on the difficulty of imposing American governance in Louisiana. He stated that the Orleans Territory, comprising most of modern-day Louisiana, posed serious risks to American interests. What troubled him about the territory was the "long-settled port and ethnic hodgepodge of historically troublesome residents."<sup>20</sup> Jefferson saw Louisiana's three-tiered multiracial social structure, common to slave

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<sup>18</sup> Fernandez suggests that Pierre Clement de Laussat, the Governor of Louisiana on the eve of the American transfer, dissolved the Spanish cabildo either to pursue his own foreign policy or to engage in a secret Napoleonic plot to cause confusion and revolt in Louisiana when the Americans took possession of the territory. See Mark F. Fernandez, *From Chaos to Continuity: The Evolution of Louisiana's Judicial System, 1712-1862* (Baton Rouge: Louisiana State University Press, 2001), 2-4.

<sup>19</sup> Logsdon and Bell, "The Americanization of Black New Orleans," 205.

<sup>20</sup> Congress enacted a system of conciliar government, with a governor and a thirteen-man legislative council and appointed W.C.C. Claiborne, a cautious politician with experience in frontier government as governor, in the hopes of appeasing the creole opposition to American influence. The territory was divided into two administrative sections: one, the Territory of Orleans (south of 33 degree parallel), governed by W.C.C. Claiborne; and two, District of Louisiana (north of the 33 degrees parallel). See:

societies across the Americas, as anathema to governance.<sup>21</sup> Jefferson and the U.S. Congress disparaged residents of the territory, branding them incapable of self-rule and republican governance because of the absence of a two-tiered color line. These perceived threats to the interests of Americans and some white creoles became all the more pronounced as repercussions of the Haitian revolution brought more French-speaking black settlers to New Orleans. By 1810, the free black population of New Orleans more than tripled, increasing from 1,566 to 4,950 residents in just five years. At the same time, the city's enslaved population rose to 5,961 from 3,105.<sup>22</sup>

Pushed by fears of an increasingly large and even more assertive free black population, American administrators made an attempt to impose restriction on free people of color as the territory approached statehood.<sup>23</sup> Administrators waged this battle on legal grounds since the existing system, which combined French and Spanish elements, worked against establishing entrenched ideological and behavioral norms backed by a uniform force of law.<sup>24</sup> Mindful of this barrier to American imperium, territorial officials pressed for codification as a first order of business after Louisiana entered the Union in 1812. They sought to simplify and modernize the

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Fernandez, *From Chaos to Continuity*, 18-20.

<sup>21</sup> Logsdon and Bell, "The Americanization of Black New Orleans," 189. Logsdon and Hirsch consider North America to be exceptional for its two-tiered racial hierarchy with whites occupying a superior position and blacks relegated to an inferior place. They suggest that almost all of the New World's slave societies ascribed to the three-tiered pattern.

<sup>22</sup> Logsdon and Bell suggest that these new residents, both free and enslaved, were likely better educated, more skilled and at least as assertive as established inhabitants of the city. See: Logsdon and Bell, "The Americanization of Black New Orleans," 205; Fernandez, *From Chaos to Continuity*, 24.

<sup>23</sup> Logsdon and Bell, "The Americanization of Black New Orleans," 205-7. Officials began the assault against free persons of color by thinning the ranks of the free black militia, by imposing white officers, and finally, by allowing the legislature to disband it. They denied the creole's petition for equal citizenship. The territorial legislature stipulated that free people of color should never insult or strike white people nor presume to consider themselves equal. Additionally, the body mandated that racial designation should be applied to all persons of African ancestry in very public document.

<sup>24</sup> Hall, *Africans in Colonial Louisiana*. Peter Linebaugh and Marcus Buford Rediker, *The Many-Headed Hydra: The Hidden History of the Revolutionary Atlantic* (Boston: Beacon Press, 2000).

“bewildering hodgepodge” stemming from the territory’s superimposition of common law on Spanish and French legal codes.<sup>25</sup> But, a slave revolt in 1811 and the British invasion in 1814 convinced American authorities to retreat from the repressive policies aimed at free persons of color as survival depended upon them.<sup>26</sup> Thus, the combination of internal insurrection and external invasion derailed the Americanization of the racial order in New Orleans.

The short-term result was the persistence of Spanish law and a blending of it with English common law.<sup>27</sup> From 1815 to 1830, authorities in Louisiana did not further reduce the rights of free people of color. At the same time, economic growth in New Orleans allowed skilled black workers and merchants to prosper and improve their occupational status.<sup>28</sup> New Orleans remained a creole city. After the war, the plantation boom caused population increases, a flood of immigration, and “immense accumulations of cotton, sugar, and molasses [and] money flooded Louisiana with wealth.” Slave labor was said to have been “profitable almost beyond belief.” New Orleans was the “the toll-gate of the Mississippi Valley,” as money poured into “her till.”<sup>29</sup> But, the dramatic expansion of the agricultural economy and the slave system after American acquisition, as well as large planters’ efforts to regulate commerce, protect property, and effect racial control resulted in an ‘Americanization’ of slave laws that were even more severe than their counterparts elsewhere, especially with respect to slave crime.<sup>30</sup> Colonial inheritances and

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<sup>25</sup> The territorial code was influenced by Corpus Juris Civilis, the Pandects, the Code Justinian, various laws and codes of France and Spain, criminal and commercial laws and the law of evidence from England, the Code Napoleon, and various federal and state laws of the United States. See: Carleton, *Politics and Punishment*, 3.

<sup>26</sup> Logsdon and Bell, “The Americanization of Black New Orleans,” 207. Authorities re-commissioned white-officered black militia units.

<sup>27</sup> Fernandez, *From Chaos to Continuity*, 19.

<sup>28</sup> Logsdon and Bell, “The Americanization of Black New Orleans,” 207.

<sup>29</sup> Maurice Thompson, *The Story of the States: The Story of Louisiana* (Boston: D. Lothrop Company, 1888), 238.

<sup>30</sup> Fernandez, *From Chaos to Continuity*, 19.

the assertiveness of Louisiana's creole population frustrated American imperium during the territorial period and into the early years of statehood. Renewed efforts to enforce American imperium would not emerge until the 1830s, the same decade that saw the birth of the state's penitentiary.<sup>31</sup>

### *The Livingston Code*

The drive to erect American governance after statehood centered on constructing a new legal system.<sup>32</sup> The state commissioned a new system of penal law, one that drew widespread national attention, won international renown, and elevated the former colony to a position of distinction within the Atlantic World.<sup>33</sup> These same forces brought the penitentiary to the fore. The American jurist, statesman, and Louisiana's adopted son, Edward Livingston, played a pivotal role in this project. A member of one of three reigning patrician families in eighteenth-century, Livingston served as a United States representative from New York, as a United States Attorney, and as mayor of New York before moving to Louisiana after he suffered disgrace by scandal.<sup>34</sup> Livingston's move to Louisiana and his political involvement catapulted him and the state to international prominence. State authorities commissioned Livingston to codify the state's jurisprudence in 1822. The code that he produced, *A System of Penal Law*, won him a degree of

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<sup>31</sup> Logsdon and Bell, "The Americanization of Black New Orleans," 207; "Erection of a Penitentiary House," *Baton Rouge Gazette*, May 19, 1832.

<sup>32</sup> Fernandez, *From Chaos to Continuity*, 19.

<sup>33</sup> Gail McKnight Beckman, "Three Penal Codes Compared," *The American Journal of Legal History* 10, no. 2 (1966): 148–73; Philip English MacKey, "Edward Livingston and the Origins of the Movement to Abolish Capital Punishment in America," *Louisiana History: The Journal of the Louisiana Historical Association* 16, no. 2 (April 1, 1975): 145–66; Joseph C. Mouledous, "Pioneers in Criminology: Edward Livingston (1764–1836)," *The Journal of Criminal Law, Criminology, and Police Science* 54, no. 3 (1963): 288–95.

<sup>34</sup> Beckman, "Three Penal Codes Compared," 160; MacKey, "Edward Livingston and the Origins of the Movement to Abolish Capital Punishment," 151. At the age of thirty Livingston positioned himself for a prominent political career aligned with the Republican faction and was named mayor of New York City in 1801. He used this platform to make a first attempt at codifying penal and instituting a "workhouse arrangement" for the employment of immigrants, orphans, widows, and ex-convicts.

celebrity matched only by the extent of his neglect in the present day.<sup>35</sup> The late nineteenth century Chief Justice of the Supreme Court, Hon. Salmon P. Chase, made this evident. Commemorating the fifty-year anniversary of the code, he remarked, “The most advanced thinkers of the age, among who must be mentioned the illustrious names of Bentham and Jefferson, made haste to acknowledge” Livingston’s merits. In calling Livingston one of the “Sages of Antiquity,” Chase considered his civil code for Louisiana equal to the Justinian and the Napoleonic codes. According to the chief justice of the United States, Livingstone’s penal code represented “the highest genius” for its “keenness of insight, a clearness of statement, a force of logic, a beauty of diction, an elevation of sentiment, and a breadth of sympathy.”<sup>36</sup> Despite the fact that the Livingston Code earned such acclaim by legalists both in its time and after, the code has been largely overlooked and misunderstood in histories of Louisiana’s penal system.<sup>37</sup>

Attention to Livingston’s work restores his significance to the development of Louisiana’s penitentiary and its relationship to national and international movements for penal reform. Livingston had pressed for codification of the legal system even before Louisiana achieved statehood to achieve a “higher measure of order to the law.” By 1821, Livingston had persuaded the assembly and the governor, Thomas B. Robertson, that a uniform penal code would foster “a well regulated state,” “public tranquility,” and protect life and property by preventing crime.<sup>38</sup>

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<sup>35</sup> Livingstone’s comprehensive code reflected a four part structure: a Civil Code, a Code of Procedure, a Commercial Code, and its capstone, a *System of Penal Law*. See Mouledous, “Pioneers in Criminology,” 288; Salmon P. Chase, “Introduction,” in *The Complete Works of Edward Livingston on Criminal Jurisprudence: Consisting of Systems of Penal Law for the State of Louisiana and for the United States of America: With the Introductory Reports to the Same*, ed. Salmon Portland Chase, vol. 1 (National Prison Association of the United States of America, 1873), viii.

<sup>36</sup> Chase, “Introduction” in *The Complete Works of Edward Livingston*, v-viii.

<sup>37</sup> Carleton and Wisner confuse the Livingston code’s definition of penal reform. Carleton, *Politics and Punishment*, 3-13; Wisner, *Public Welfare Administration in Louisiana*, 6, 133, 135-37, 202.

<sup>38</sup> Livingston, “Introductory Report to the System of Penal Law” in *The Complete Works of Edward Livingston*, 128; Edward Livingston, “Introductory Report to the Code of Crimes and Punishments,” in

Governor Robertson's inaugural address of 1821 testified to the precariousness of governance in Louisiana when he decried a "state of siege" from crime of epidemic proportions. The General Assembly responded to the governor's alarm when it provided that the state commission a new penal system to counter this threat. Well-poised for the task, Livingston won the commission "to draw and prepare a criminal code."<sup>39</sup> In 1822, members approved Edward Livingston's introductory proposal for a new penal code, which devised a type of statecraft to assure that "idleness and vice [are] repressed," and "crime diminished." The jurist completed the commission and presented it to the Louisiana legislature in 1826.

More than a simple set of proscriptions, *A System of Penal Law*, formulated a comprehensive, and universalizing social system based on scientific authority. The penal code mandated punishment proportionate to crime, explicitly defined rules and procedures, and crafted a centralized administrative structure.<sup>40</sup> The penitentiary was the centerpiece of the code. But, it also included a "House of Detention," a "School of Reform," and a "House of Refuge and Industry." The House of Detention consisted of two departments, one to hold individuals charged with misdemeanors and another to detain individuals charged with more serious offenses. The House of Refuge meant to furnish work for individuals convicted of vagrancy while the School of Reform was intended to operate as a juvenile detention facility.<sup>41</sup> These institutions were to work in concert with the penitentiary. Still, the penitentiary was to serve as the anchor for all other disciplinary institutions, a place for punishment of last resort. In this way, the Livingston

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*The Complete Works of Edward Livingston*, 267; Fernandez, *From Chaos to Continuity*, 77.

<sup>39</sup> Livingston argued for a penal system based on proportionate punishment as well as simple and transparent legal procedure and drafted the legislation providing for the commission. State of Louisiana, "An Act of The General Assembly of Louisiana Relative to the Criminal Laws of That State, Approved 10 February 1820," reproduced in *The Complete Works of Edward Livingston*, 1-2.

<sup>40</sup> Livingston, "Introductory Report to the System of Penal Law," 83.

<sup>41</sup> Livingston, "The Code of Reform and Prison Discipline," 584.

code imagined the penitentiary as the linchpin for the liberal state, a means to discipline labor, and a vehicle to advance civilization. It contributed to the “codification movement” well underway by the 1820s. After the American Revolution, state legislatures struggled to establish republican institutions in newly independent states. These efforts gained momentum by the 1820s in the United States and in the Atlantic world.<sup>42</sup> Thus, Louisiana’s move toward codification fell within national and international folds as state administrators initiated state building enterprises to solidify republican governance. Neither Louisiana’s status as a former colony of France and Spain, nor its location in the Deep South, nor its status as a slave society hindered efforts by American officials to build liberal state structures through legal codification.

However, Louisiana’s codification movement was unique for the prominence it brought to the state from its very beginnings. Livingston began his task by writing to fellow jurists and penologists of the Atlantic world. His intent was to arrive at a code for Louisiana based on “scientific jurisprudence,” one derived from the comparative and historical analysis of crime and punishment.<sup>43</sup> He developed an empirical basis for the work by “sending out questionnaires and compiling statistics and tables,” and expressed his personal desire to devote “a few months” for “personal examination of the different” penal institutions “in the Atlantic states.” Many states and a few countries obliged. Livingston was in “constant correspondence” with Jeremy Bentham, the notable English reformer and leader of the utilitarian school of thought, and partisan of early modern Italian legal reformer Cesare Beccaria, as well as Dr. Benjamin Rush.<sup>44</sup> Upon

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<sup>42</sup> Fernandez, *From Chaos to Continuity*, 61; McLennan, *The Crisis of Imprisonment*, 32.

<sup>43</sup> Other influential penal reformers include Cesare Beccaria, Denis Diderot, Charles de Montesquieu, Francois M. de Voltaire, Jeremy Bentham, and other social reformers of Europe as well as others from America. See: Livingston, *The Complete Works of Edward Livingston*; MacKey, “Edward Livingston”; Mouldous, “Pioneers in Criminology.”

<sup>44</sup> Livingston said he “received returns of the state of the penitentiary...from Massachusetts,” that, “Governor Wollcott and Judge Swift of Connecticut, Chancellor Kent, of New York, Judge Holman, of

completion of the code, Livingston “mailed thousands of copies of his works around the country” and presented an adaption of the penal code for the “use of General Government” as well as reigning monarchs, penal reforms, humanitarian advocates, and other “lumineries.”<sup>45</sup> Livingston did not exaggerate much when he remarked that *A System of Penal Law* “excited an interest abroad which certainly would not have been created by any ordinary change in the jurisprudence of a small and distant state.” Livingston’s remarks suggested that the “hopes of the good...the wise...and the liberal throughout the civilized world” did indeed rest on “the youngest member of the union.”<sup>46</sup>

The penal code was translated into French and Livingston was chosen as a foreign associate of the Institute of France.<sup>47</sup> Even before his untimely death in 1836, Livingston had gained a “reputation as one of America’s greatest jurists,” and won admiration, plaudits, and medals from rulers in Russia, Sweden, and the Netherlands as well as the esteem of jurists at home and abroad as “preeminent codifier and penal reformer.” Jeremy Bentham considered

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Ohio, Mr. Rawle, of Pennsylvania, Mr. Bowen, of Rhode Island, Mr. Brice, of Maryland, and Colonel Johnson, of Kentucky,” and that they, “have communicated to me some useful information.” He added that, “Our minister in England has had the goodness to send to me the reports of the committee of the house of commons.” Livingston also acknowledged the significant contributions of Dr. Benjamin Rush and Jeremy Bentham to his undertaking. See: MacKey, “Edward Livingston,” 162; “Report Made by Edward Livingston to the Honorable The Senate and House of Representatives of the State of Louisiana in General Assembly Convened,” reproduced in *The Complete Works of Edward Livingston*; Livingston, “Preliminary Report on the Plan of a Penal Code,” 73.

<sup>45</sup> There is evidence that Livingston sent copies of his code to every member of Congress and to the governor and all the state senators of at least one state: Maine. Some of the most notable individuals include: John Vaughn, secretary of the American Philosophical Society, Jeremy Bentham, Harry Verney, an English reformer and member of parliament, and Roberts Vaux, the Pennsylvania prison reformer, John Marshall, James Kent, John Jay, Joseph Storey, James Fenimore Cooper, Washington Irving, Story, Kent, Du Ponceau, Jerrerson, Taillandier, Maine, Sellon, Mittelmaier Macauley, and Victor Hugo. See: MacKey, “Edward Livingston,” 151, 161. “Offences Against the Laws of Nations,” or a “System of Penal Law for the United States of America, an Adaptation of the Penal Code Livingston Prepared for the State of Louisiana,” was printed by the United States House of Representatives in 1828 but was not made law. See: Chase, “Introduction,” 73.

<sup>46</sup> Livingston, “Introductory Report to the Code of Crimes and Punishments,” 175.

<sup>47</sup> Beckman, “Three Penal Codes Compared,” 165; MacKey, “Edward Livingston,” 162.



Livingston “fifty years ahead of his day in his theory of punishment” and proposed that legislation be introduced to Parliament to print the whole work for circulation in England.”<sup>48</sup> The National Prison Association recognized Livingston posthumously by publishing an edition of his work to distribute at the International Reform Congress in London.<sup>49</sup> In this way, attempts by American officials to reconstitute Louisiana’s legal system captured the attention of rulers, writers, and reformers across the Atlantic world. The code earned the state high praise for advancing a “new era in the history of penal jurisprudence.”<sup>50</sup>

Louisiana did not, however, formally adopt *A System of Penal Law*.<sup>51</sup> Only abroad did the code win formal acceptance. It became law in Guatemala. But, its impact on penal practice in the Atlantic world is undisputed and outpaced its formal political failings. A nineteenth century critic exemplified this when he stated that the Livingston Code,

Was never adopted in form by any government, except the Republic of Guatemala. But its provisions relating to the abolition of capital punishment, to the humane and separate treatment of prisoners, and to their instruction and reform have become widely known. The code has been translated into many languages, and is the work of Livingston with which his name is most distinctly connected in the minds of men.<sup>52</sup>

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<sup>48</sup> Wisner, *Public Welfare Administration in Louisiana*, 135.

<sup>49</sup> The publication offered an introduction by S. P. Chase, chief justice of the United States Supreme Court where the justice remarked that the American Prison Association “takes great satisfaction in reproducing a work [with] a keenness of insight, a clearness of statement, a force of logic, a beauty of diction, an elevation of sentiment, and a breadth of sympathy, which mark at once the highest genius and largest benevolence.” The edition also included a prefatory note by E.C. Wines, then Corresponding Secretary of the National Prison Association of the United States. Wines commended Livingston stating that the “organization is happy in being made the organ of giving to the country and the world a new edition of the writings of an American Jurist and Philanthropist who has done so much to illustrate and advance his age, in one of the highest and noblest departments of civilization.” See: Wisner, *Public Welfare Administration in Louisiana*, 135; Chase, “Introduction,” viii; E.C. Wines, “Prefatory Note,” in *The Complete Works of Edward Livingston*.

<sup>50</sup> Livingston, “Introductory Report to the System of Penal Law,” 145.

<sup>51</sup> The General Assembly adopted only his Civil Code and Code of Procedure, but did not even take action on the penal code. The state did not enact a Code of Criminal Procedure until 1928, and the criminal law itself remained uncoded until 1942. See: Carleton, *Politics and Punishment*, 4-5; MacKey, “Edward Livingston,” 175.

<sup>52</sup> “Edward Livingston,” *Christian Examiner*, July 1864.

Even though only one nation adopted Livingston's work outright, it "influenced the Russian, the Brazilian, and the Indian codes."<sup>53</sup> The code's rigid, centralized, bureaucratic administrative structures were impractical, especially for weak, decentralized states like Louisiana. But, the code popularized ideas of abstract equality before the law, punishment calibrated to the crime, condemnation of torture, and abolition of the death penalty among officials and penal reformers. These ideas gained currency as a litmus test for Eurocentric ideas of race, nation, and empire. They underwrote nineteenth century imperial hierarchies which elevated the western Atlantic powers over monarchical forms of governance, as well as that of 'barbarous' or 'uncivilized' peoples. Therefore, the Livingston code embodied a type of penal reform bound to teleological notions of social progress and Eurocentric notions of racial and national supremacy. It depicted punishment as a benchmark for state legitimacy and advanced the penitentiary as a hallmark of civilizational 'progress.'

The strong association between humanitarianism, liberal ideology, scientific authority, and penal reform has resulted in a fundamental misrecognition of the penitentiary system. This misrecognition continues to cause misunderstanding about the nature of penal reform, and thus, Louisiana's adoption of the penitentiary. Uncritical examinations of penal practice in Louisiana during the antebellum period have falsely equated Livingston's brand of penal reform with a benevolent humanitarianism, one measured by amelioration of prisoner conditions. Because of this interpretation, analysts have interpreted Louisiana's failure to enact the code in the mid to late 1820s as evidence of the 'backward,' pre-modern, and atavistic disposition of the state and the society.

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<sup>53</sup> Beckman, "Three Penal Codes Compared," 166.

From this standpoint, Louisiana's penitentiary project has been dismissed as inauthentic while Livingston's ideas of penal reform have remained unexamined.<sup>54</sup> Mark T. Carleton, a noted historian of crime and punishment in Louisiana, suggested that Louisiana rejected the code in "the age in humanitarian legislation" because of Louisiana's colonial legacy and the legal system's continued association with the *ancien regime*. He maintained that "Louisiana was not inclined to accept such leadership either in Livingston's own time or subsequently," since, as a colony of absolutist France and Bourbon Spain, the state "had not participated in the progressive events of the eighteenth century and was hostile to them." Echoing the words of Thomas Jefferson, Carleton argued that Louisiana "was not liberal," and therefore, was not receptive to penal reform.<sup>55</sup> Historian Elizabeth Wisner's otherwise useful history of public welfare administration in Louisiana lionized Edward Livingston for the "humanizing influence" of his penal code. Her interpretation relied on false assumptions concerning the major tenants of the code, namely: condemnation of tortures associated with the Spanish and French *ancien regimes*, opposition to the death penalty, and the code's stance that "vengeance is unknown to the law." She maintained that Louisiana's failure to enact the code was evidence for the fact that the legislators did not have "in mind such advanced and humanitarian ideas."<sup>56</sup> Other extant sources convey similar impressions.<sup>57</sup> These standpoints and the assumptions upon which they are based

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<sup>54</sup> Beckman, "Three Penal Codes Compared"; Davis, *Louisiana: A Narrative History*; Fernandez, *From Chaos to Continuity*; Carleton, *Politics and Punishment*; Chase, "Introduction"; MacKey, "Edward Livingston"; Mouldous, "Pioneers in Criminology"; Wisner, *Public Welfare Administration in Louisiana*, "The Life of Edward Livingston," "Edward Livingston," *Christian Examiner*, July 1864; Carleton, *Politics and Punishment*, 4-5; Wisner, *Public Welfare Administration in Louisiana*, 135.

<sup>55</sup> Carleton, *Politics and Punishment*, 4-5.

<sup>56</sup> In *Public Welfare Administration in Louisiana*, Wisner demonstrates that the penal laws of Spain were not repealed in Louisiana and that many of them were reminiscent of the Middle Ages, wholly inapplicable, barbarous and cruel. See also: "Edward Livingston," *Christian Examiner*, July 1864.

<sup>57</sup> For example, see: Beckman, "Three Penal Codes Compared"; Davis, *Louisiana: A Narrative History*; Fernandez, *From Chaos to Continuity*; Carleton, *Politics and Punishment*; Chase, "Introduction";

have misrecognized the substance of the Livingston code, the type of penal reform it advanced, and also the nature of Louisiana's penitentiary.

Careful examination of the Livingston code reveals the actual type of reform it promoted. Understanding of the exact nature of penal reform recovers the spirit of Louisiana's early penitentiary movement. The primary objective of the code was to perfect a system of social control in order to instill "public tranquility" and a "well regulated state" based on liberal property rights, labor coercion, and bourgeois values.<sup>58</sup> It meant to mitigate Louisiana's colonial legacies that had limited American governance in Louisiana. Livingston's work declared, "Spanish laws must be abrogated," "incongruities" in Louisiana's penal law must be corrected, "rules must be provided for defining, prosecuting, and trying offenses...and a penitentiary must be provided and laws must be made for regulating its discipline." It stated that to do otherwise would compromise Louisiana status as an "intelligent, great, enlightened, and free" state.<sup>59</sup> Livingston did, in fact, draft a system of law "without vengeance," by providing for proportionate punishment and for abolition of the death penalty. However, analysts have mistaken these tenants as advocacy for more humane treatment of offenders.

Contrary to what critics said, the code was opposed to humanitarian sentiment or empathy of any kind. First and foremost, Livingston meant to operate on the principle of utility. This fully rationalized model dictated punishment solely on the basis of effectiveness or deterrent effect, not humanitarian impulse. For example, the code dispassionately rejected the death penalty for two functional reasons. Capital punishment, according to this logic,

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MacKey, "Edward Livingston"; Mouledous, "Pioneers in Criminology"; Wisner, *Public Welfare Administration in Louisiana*; "Edward Livingston," *Christian Examiner*, July 1864.

<sup>58</sup> Livingston, "Introductory Report to the System of Penal Law," 128; Livingston, "Introductory Report to the Code of Crimes and Punishments," 267.

<sup>59</sup> Livingston, "Introductory Report to the System of Penal Law," 165.

contradicted the state's duty to preserve life and to prevent crime. The code presented historical evidence to prove that capital punishment was perfectly useless as a deterrent and was illogical since it contradicted the preservation of life. Livingston maintained that the death penalty was doomed to failure because it impassioned "fear" and "vengeance." Consequently, the fact that the death penalty might be cruel, unjust, or immoral was immaterial. According to this logic, the fact that this type of punishment occasioned passion rendered it useless.<sup>60</sup> Therefore, the type of penal reform proposed by Livingston had no necessary relationship to the 'humane' treatment of prisoners, as it was divorced from such a goal. Any gestures in this regard would have been merely incidental.

Without the death penalty, cellular confinement and the penitentiary ideal became the mainstays of *A System of Penal Law*. It featured the penitentiary as the pillar "on which depends the whole system of penal law."<sup>61</sup> This was no coincidence since Livingston saw the carceral institution as the bedrock of the liberal state. Instead of threats of death, ordeals, and the tortures associated with colonial rule which might impassion the public, Livingston's penitentiary model promised certainty of cellular confinement to deter malefactors. He claimed that his model was more "perfect" than any system previously devised since it was "divisible almost to infinity; that there [was] no offence however slight for which it [did] not afford an appropriate corrective; and none, however atrocious, for which, by cumulating its different degrees, an adequate punishment [could not] be found."<sup>62</sup> Ironically, his model of punishment did not dispense altogether with the use of fear as a deterrent. Although Livingston castigated the *ancien regime's* use of fear as such, he made no effort to ameliorate the dread of imprisonment by citizens and subjects. To the

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<sup>60</sup> Livingston, "Preliminary Report on the Plan of a Penal Code," 58.

<sup>61</sup> Ibid.

<sup>62</sup> Ibid., 60.

contrary, the penitentiary model catalyzed it. But, there was no contradiction. Livingston objected to fear as a vengeful, arbitrary, and discretionary impulse, not as a calculated device to inflict terror for maximum effect. The penal system's *Code of Procedure* demonstrated this. It stated,

When sentence is pronounced for murder, the seat and table of the court shall be hung black, and the prisoner shall, immediately after the sentence is pronounced, be enveloped in a black mantle that shall cover his whole body, with a cowl or veil drawn over his head; and shall immediately after the sentence is pronounced, be drawn over his and shall be thus conveyed in a cart, hung with black to the place of confinement.<sup>63</sup>

This festival of civil death was only a prelude.

The code had much more in store for prisoners. It dictated that "atrocious offenders," individuals formerly sentenced to death, "incurables," recidivists or prisoners resistant to the carceral model must inhabit a solitary cell painted black with an inscription in white bearing the convict's name, offense, and circumstance. Deemed "dead to the world," their property was to be "divided and their epitaph...included in the inscription that records their crime." Livingston's brand of humanitarianism provided lurid description of the fate that awaited this class of prisoners. Bereft of any moral suggestion, empathy, or feeling, the code insisted that, for such a soul,

His food is bread of the coarsest kind, his drink is water mingled with his tears; he is dead to the world; this cell is his grave; his existence is prolonged that he may remember his crime, and repent it, and that the continuance of his punishment may deter others.<sup>64</sup>

Obligated to economy in the strictest sense, Livingston's model for Louisiana's penitentiary wasted neither vengeance, nor charity, nor goodwill on such prisoners. Sentiment of any kind was prohibited. This type of penal reform required only simple, predictable, 'blind' justice of the

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<sup>63</sup> MacKey, "Edward Livingston," 154.

<sup>64</sup> Mouledous, "Pioneers in Criminology," 295.

most unforgiving kind. In finding fear to be a most useful force when applied dispassionately and systematically, Livingston argued that it must be retained. He stated that the penitentiary would “soon lose its terrors,” or deterrent effect if,

The depraved inhabitants were suffered to enjoy the society within, which they had always preferred when at large; and that instead of a place of reformation, it must become the best institution that could be devised for instruction in all the mysteries of vice and crime.<sup>65</sup>

Thus, this model required a firm boundary between convict and civilian life, but one that broadcasted the punitive nature of penal reform so as to prevent crime.

Imprisonment in Livingston’s code was not a single type. It appeared in four grades: simple imprisonment, simple imprisonment in close custody, imprisonment with labor, and finally, imprisonment in solitude.<sup>66</sup> Livingston’s most “noble experiment” concerned “imprisonment in solitude,” the penitentiary’s ultimate sanction and was, in his view, the backbone of any “well-regulated” state. This punishment had only two purposes: first, it was meant “to secure society against a repetition of the crime,” and second, “to deter others...by the severity of the punishment.”<sup>67</sup> This type of punishment underpinned the model. The code imagined an “arched cell for each prisoner, of small dimensions, communicating with a small court, and surrounded by a high wall. Offenders were to be “supported by wholesome but coarse food, in sufficient quantity to satisfy hunger, but without occupation, and with no other society

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<sup>65</sup> Livingston, “Introductory Report to the Code of Reform and Prison Discipline,” 514.

<sup>66</sup> Simple imprisonment represented the least amount of privation and imposed the “lowest grade of corporal punishment. Imprisonment was the next grade and came under the same rules as the former, which meant every “indulgence” was to be “restricted or enlarged” by the judge not the jailor. It reserved both types for misdemeanors and did not impose the “degradation of penitentiary confinement in solitude.” While Livingston did not explicitly define the difference between imprisonment with labor and imprisonment in solitude, his work clearly states that in the penitentiary system, labor operates as a reward rather than a punishment. *Ibid.*, 544-69.

<sup>67</sup> *Ibid.*, 568.

than the attendance of those officers who minister to the physical wants of the prisoner, and to his religious instruction.”<sup>68</sup>

Livingston’s type of penal reform was unique for combining solitary confinement with “privation of employment.” Establishing the prisoner’s desire to labor under compulsion was the aim of reform. Therefore, the model aimed to change the “habits of men...already corrupted, [for] whom labour was necessary for support, and who resorted to crime in order to avoid it.” When an offender accepted the rigors of coercive labor *voluntarily*, the individual was by Livingston’s definition “reformed.” Reform, then, equated to the “voluntary” acceptance of forced labor. Essentially, Livingston’s penitentiary system deprived prisoners the opportunity to labor in the hope that they would come to embrace it as a privilege after the period of privation. Livingston speculated that, “occupation being denied,” would cause an inmate to desire work with, “an intensity proportioned to the strictness and length of the privation.”<sup>69</sup> Thus, Livingston sought to implement a type of penal reform which would render resistance to labor compulsion futile.

### ***The Birth of the Louisiana State Penitentiary***

As Livingston drafted his landmark penal code, Louisiana lawmakers and governance mobilized to erect a penitentiary. It is well understood that Louisiana founded a penitentiary in 1835. But, less known is the fact that this venture was not the state’s first undertaking. Louisiana’s first attempt to establish a penitentiary occurred fifteen years earlier when the government made a bid for a new penal code.<sup>70</sup> All of Louisiana’s governors had advocated for a

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<sup>68</sup> Ibid., 560.

<sup>69</sup> Ibid., 556, 560-1.

<sup>70</sup> Mark T. Carleton’s book-length study on the history of Louisiana’s penal system, *Politics and Punishment*, makes no mention of this fact.



penitentiary system during the first quarter of the nineteenth century.<sup>71</sup> Governor Robertson took concrete steps to found a penitentiary in 1820. He did so in alliance with Edward Livingston, who won election to the legislature the same year and drafted legislation to commission a new civil code.<sup>72</sup>

The penal reform that culminated in the building of the penitentiary at Baton Rouge addressed inadequacies in the state's existing "carceral network" and responded to their perceptions of a "crime wave."<sup>73</sup> Administrators reported epidemic rates of crime in Louisiana and across the nation during the 1820s. This was particularly true of larceny and robbery. Livingston spoke to this fact. He stated, "Of all the crimes in the catalogue of human depravity, four fifths are, in different forms, invasions of private property, and the motive for obtaining, without labour, the enjoyments which property brings."<sup>74</sup> Lawmakers and the press reinforced this view convinced, as they were, of a crime wave that rivaled the "corrupt and corrupting cities of Europe."<sup>75</sup> Officialdom and the press blamed existing penal institutions for this upsurge. It became a commonplace to say that the existing prisons cultivated crime instead of arresting or preventing it. Thus, Louisiana's penitentiary project responded to increasing alarm over threats to property and the perceived weaknesses of the state's carceral institutions during the first quarter of the nineteenth century.

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<sup>71</sup> Included are William Charles Cole Claiborne territorial and state governor (1803-1816); Jacque Philippe Villere (1816-1820); Thomas Bolling Robertson (1820-1824); Jacque Philippe Villere (1816-1820). See: Walter Greaves Cowan and Jack B. McGuire, *Louisiana Governors: Rulers, Rascals, and Reformers* (Jackson: University Press of Mississippi, 2009), 57-69.

<sup>72</sup> State of Louisiana, *Acts Passed at the Second Session of the Fourth Legislature of the State of Louisiana* (New Orleans: J. C. de St. Romes, 1820), 126, 128.

<sup>73</sup> Birch and Buchanan suggested the fundamental relationship between slavery and imprisonment by identifying a "carceral network" or the loose, uneven, but no less important linkage of plantation jails, county and city jails, workhouses, state penitentiaries, and slave pens that supported the institution of slavery in the American South. Birch and Buchanan, "The Penalty of a Tyrant's Law," 1, 22.

<sup>74</sup> Livingston, "The Code of Reform and Prison Discipline," 513.

<sup>75</sup> McLennan, 49-50.

This wave of crime against property occurred during the dramatic expansion of the slave system and plantation production. By the first quarter of the nineteenth century there were more than seven hundred sugar establishments in Louisiana. The planters had built “spacious mansions and were living in almost royal style.” In the midst of this economic boom, “slaves increased rapidly in number, and apace with all this accumulation of wealth.” Observers said that the commercial traffic at New Orleans was enormous. One testified, “The river was almost blocked up with ships from every country, and every wharf was packed with lines of steamboats, one behind another.” Added to concerns over the increase in property were anxieties directly related to the instability of the slave system. During the years of Louisiana’s early statehood, the legislature echoed this threat to planter interests when they passed a statute, which fixed “the penalty of death to the crime of inciting servile insurrection, whether by parol [sic] expression on the rostrum or in the pulpit or by uttering printed matter charged with the virus of abolitionism.” At the same time, the legislature forbade, “under pain of long imprisonment, the teaching of any slave to read.” It was argued that “secret emissaries were supposed to be at work sowing the seeds of discontent among the plantation negroes.”<sup>76</sup>

In order to provide the means by which the law might be enforced, the assembly ratified a measure on March 18, 1820, stating that it was in the “highest degree expedient that a Penitentiary and State Prison be-established, for the reception of persons condemned to hard labor or to solitary confinement.” It mandated that Governor Robertson solicit architectural plans and cost estimates.” On February 17, 1821, the legislature made their wishes more explicit when they passed a measure requiring the governor to “publish in the *National Intelligencer*, at Washington, and in one paper in each of the cities of New York, Boston, Philadelphia, and New

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<sup>76</sup> Thompson, *The Story of the States*, 244-5.

Orleans,” an advertisement offering payment of five hundred dollars for a penitentiary designer. The act outlined the ambitious scale of the state’s vision for the penitentiary when it stated that “the plan shall be calculated for the confinement and employment of two hundred convicts.”<sup>77</sup> But, it also required that the architect allow for expansion.

The plan was to “be capable of enlargement...so as to contain four hundred” inmates. It included “a dwelling house for the keeper, a guard house for the prison guard, cells for solitary confinement, separate apartments for prisoners with a capacity of four.” It also included a separate ward for female convicts, an infirmary, pharmacy, a chapel, kitchens, eating rooms, and other necessary offices, and as many separate yards, and shops for works and labor as could be “conveniently brought into the plan.” The assembly demanded that all elements were to be arranged in a way allowing for the institution to be “under the eye of the keeper.” The same act mandated the governor to appoint a five-member commission whose duty it was to purchase “a parcel of ground within one league of the city hall of the city of New Orleans, and on same side of the river for the purpose of erecting thereon a penitentiary prison.”<sup>78</sup> Livingston was appointed as a commissioner and played a leading role.<sup>79</sup>

Robert Mills of South Carolina won the bid to design the penitentiary planned for New Orleans. While Livingston won the commission to draft Louisiana’s new civil code, legislators agreed to spend lavishly on the penitentiary in order to secure the liberal state and the slave system. They appropriated a sum not to exceed \$250,000 for the project and called for the

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<sup>77</sup> The assembly ratified the act on March 18<sup>th</sup>, 1820. State of Louisiana, *Acts* (1820), 126, 128.

<sup>78</sup> State of Louisiana, *Acts Passed at the First Session of the Fifth Legislature of the State of Louisiana* (New Orleans: J. C. de St. Romes, 1821), 98-102; “Advertisement,” *National Advocate*, July 7, 1821.

<sup>79</sup> Ginger Roberts, “Edward Livingston and American Penology,” *Louisiana Law Review* 37 (1977), 1047.

appointment by the Board of Commissioners for a penitentiary superintendent.<sup>80</sup> By 1822, the Board selected the land for the penitentiary about two miles “below the city of New Orleans,” seated directly on the Mississippi River. After securing an appropriation from the state legislature, the Board paid over \$21,000 for the land and began preparations for construction.<sup>81</sup> In the spring of 1822, the Board began advertising in newspapers across the nation to solicit proposals from firms that would construct the planned penitentiary and its auxiliary buildings.<sup>82</sup>

Meanwhile, Livingston continued to compose his code and upon presenting some preliminary drafts, he was authorized by the state legislature to print hundreds of copies for review in 1823. Governor Robertson continued to make the penitentiary a top priority in his administration in early 1824. In his annual message to the General Assembly, Robertson applauded the progress made towards creating a penal code and penitentiary. Speaking to the legislature, the governor reassured, “You, gentlemen, agree with me in the opinion, that a great change is necessary –policy, economy and philanthropy- the successful experiments of our sister States, the commencement of the establishment by your predecessors, the expense already incurred, all forbid that the penitentiary system should now be abandoned.”<sup>83</sup> Later in the year, the governor’s confidence would be proven wrong as both he and the penitentiary suffered political defeat.

As Livingston worked to complete the penal code, the penitentiary project stalled. Little progress was made and the Governor’s term was cut short.<sup>84</sup> The penal project failed to

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<sup>80</sup> State of Louisiana, *Acts* (1821), 98-102; Fortier, *Louisiana: Comprising Sketches*, 300.

<sup>81</sup> “Journal of the House of Representatives, January 24, 1823,” *Courrier de La Louisiane*, February 17, 1823.

<sup>82</sup> “Advertisement,” *Evening Post*, August 29, 1822.

<sup>83</sup> “Journal of the House of Representatives, January 5, 1824,” *Courrier de La Louisiane*, January 9, 1824.

<sup>84</sup> The act scaled back Robert Mills’ proposal with expenses capped at \$250,000. Fortier, *Louisiana: Comprising Sketches*, 300; Wisner, *Public Welfare Administration in Louisiana*, 142.

materialize after the governor resigned in the face of budgetary problems and general unrest.<sup>85</sup> In 1826, Livingston presented his proposals to the legislature two years later than originally agreed and, by that time, was without support in the governor's office.<sup>86</sup> Robertson's replacement, Governor Henry S. Johnson, who served a full four-year term, opposed all penitentiary proposals, deeming them to be too extravagant and too comprehensive.<sup>87</sup> His administration struggled to meet challenges posed by factions, merchant and planter interests, and by fears of slave rebellion and "crime waves." Louisiana officially aborted its first drive to establish a penitentiary in 1826, when the assembly authorized the governor to sell the "portion of ground...belonging to the state...which was acquired for the purpose of erecting a penitentiary prison."<sup>88</sup> As a result, the Johnson administration substituted changes to the prison in New Orleans and redoubled efforts to force employment of the convicts at hard labor for a house of penitence.<sup>89</sup>

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<sup>85</sup> Cowan and McGuire, *Louisiana Governors*, 66; Wisner, *Public Welfare Administration in Louisiana*, 142.

<sup>86</sup> Misfortune revisited Livingston in 1824. He was prepare to submit his proposal to the assembly, but his only draft of the code perished in the flames that reduced his apartments to ashes. One source indicates that as he readied the draft for the printer at his residence, fire engulfed the home. "By 2 O'clock [A.M.], the whole was a heap of ashes—after witnessing the destruction of his highest hopes, he returne[d] to his apartments, where he [found] his family plunged into a deep despair." Undaunted, Livingston reportedly grinned and directed his family to, "weep not...you will see [the code] like the Phoenix, rise from its ashes, fairer than ever." Livingston is said to have returned to the task the very next day. Livingston himself remarked that "the task of recomposition, always irksome," had to be done, "entirely from recollection, for not a written vestige of [it] remained." Livingston, *A System of Penal Law for the State of Louisiana*, 81; Fernandez, *From Chaos to Continuity*, 77; Davis, *Louisiana: A Narrative History*, 197; Beckman, "Three Penal Codes Compared," 160-1; Mouldous, "Pioneers in Criminology," 290.

<sup>87</sup> Governor Johnson succeeded Robertson serving from 1824 to 1828. A native Virginian, he became a congressman and senator after serving as governor. See: Cowan and McGuire, *Louisiana Governors*, 66.

<sup>88</sup> State of Louisiana, *Acts Passed at the Second Session of the Seventh Legislature of the State of Louisiana* (New Orleans: James M. Bradford, 1826), 232.

<sup>89</sup> The committee from the following legislature added to the proposal by recommending the purchase of three lots contiguous to the prison and an enlargement of the building not to cost in excess of \$25,000. Wisner, *Public Welfare Administration in Louisiana*, 142; State of Louisiana, *Official Journal* (1826), 9-10, 37.

Any changes made by the Johnson administration to the prison in New Orleans were not sufficient enough to impress two esteemed guests who reported on the lock-up's inhuman conditions. Gustave de Beaumont and Alexis de Tocqueville visited in 1831 to conduct a nine-month long study of prisons in the United States for the French government, which included the state of Louisiana. Their governmental report was published and distributed widely by 1833. The reformers testified that they "were unable to describe the painful impression" experienced when examining the prison of New Orleans. They found "men together with hogs, in the midst of all odours and nuisances." They observed that this kind of punishment was entirely ineffective since "in locking up the criminals...they are put in chains like ferocious beasts." They were of the opinion that instead of "being corrected, they are rendered brutal." The two men concluded, "The place for convicted criminals in New Orleans cannot be called a prison." Rather, they referred to it as a "horrid sink," a place "fit only for those dirty animals" confined together with the convicts. But, the two men were not discouraged since Louisiana's governor had assured them that "he would not cease to ask the legislature for funds" to institute a penitentiary in order to rid the new American state of the pest-house of New Orleans.<sup>90</sup>

On the third of January of 1832, Governor Andre B. Roman made good on his promise to the French visitors when the governor appointed five commissioners to purchase a suitable site for a penitentiary in Baton Rouge. Authorities aimed to locate the institution to a less populous district and at a remove from New Orleans.<sup>91</sup> The state's legislative assembly appropriated

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<sup>90</sup> Gustave de Beaumont and Alexis de Tocqueville, *On the Penitentiary System in the United States and Its Application in France* (Philadelphia: Carey, Lea & Blanchard, 1833), 13.

<sup>91</sup> The sum, however, was \$200,000 less than had been appropriated during Robertson's tenure as governor and proposed an initial cellular capacity of one-hundred cells, half the amount proposed on the eve of the Livingston code in 1822. There is ambiguity over the outcome of the proposed facility in New Orleans. *Biographical and Historical Memoirs of Louisiana*, 135, 149; Fortier, *Louisiana: Comprising Sketches*, 300.

\$50,000 to launch the venture, a sum markedly less than what had been appropriated for the state's aborted penitentiary project in New Orleans.<sup>92</sup> Additional appropriation in the same year allowed for the expansion of the cell house, reflecting enthusiasm for the project.<sup>93</sup> It provided for the employment and accommodation of one hundred convicts, assigned to cells measuring six feet long and three and one-half feet wide. Inmate capacity of this facility was half that planned for its forerunner in New Orleans.<sup>94</sup> By late 1933, the legislature showed its zeal again when it released another \$20,000 from the treasury so that each cell would be appointed with one extra foot in length and that living quarters be provided for the "prison keeper and his family."<sup>95</sup>

Governor Roman had another reason to make good on his word to the French 'reformers.' The New Orleans jail was not only seen as "barbaric" and a "nursery for vice," it had also cost the state dearly. The penitentiary project took on greater urgency in 1832 when officials were confronted with a bill of \$20,809 for the support of state prisoners in the New Orleans jail. State officials were aware that a penitentiary in Connecticut had succeeded in profiting from imprisonment.<sup>96</sup> Connecticut's Wethersfield's plan was a penitentiary model that combined cellular confinement at night with physically forced congregate labor by day—an arrangement explicitly opposed by the Livingston code.<sup>97</sup> Motivated to cut costs, Louisiana's officials decided to pursue such an enterprise. In doing so, state administrators chose to pursue

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<sup>92</sup> John Gibson, *Gibson's Guide and Directory of the State of Louisiana and the Cities of New Orleans and Lafayette*, 260. State of Louisiana, *Acts* (1821), 300; Wisner, *Public Welfare Administration in Louisiana*, 144.

<sup>93</sup> *Biographical and Historical Memoirs of Louisiana*, 149.

<sup>94</sup> State of Louisiana, *Acts* (1821), 98-102.

<sup>95</sup> Final cell dimensions were 7 by 3.5 feet. See: Thurston H. G. Hahn and Susan Wurtzburg, *Hard Labor: History and Archaeology at the Old Louisiana State Penitentiary, Baton Rouge, Louisiana* (Baton Rouge: General Services Administration, 1991), 3; Wisner, *Public Welfare Administration in Louisiana*, 144; Fortier, *Louisiana: Comprising Sketches*, 300; *Biographical and Historical Memoirs of Louisiana*, 149.

<sup>96</sup> Wisner indicates that legislatures produced evidence that prisoners under the Wethersfield model realized a surplus to the state of \$8,713.13. Wisner, *Public Welfare Administration in Louisiana*, 144.

<sup>97</sup> McLennan, *The Crisis of Imprisonment*, 67.

their own penitentiary project without the rigid, bureaucratic strictures imposed by the Livingston code.<sup>98</sup> But, they did adapt it to their own preferences and in a way that resonated with the code when they insisted on the option of recourse to solitary confinement. The assembly dictated that the penitentiary system should not be entirely bound to “Weathersfield, in the state of Connecticut, but may make such alterations in said plans they may seem necessary and proper. *Provided*, such alterations be not inconsistent with solitary imprisonment.”<sup>99</sup>

Connecticut’s Wethersfield plan was based on the Auburn penitentiary system. The Livingston code provided vivid description of this system. It recalled that a prison at “Auburn, a village in the interior of New York State,” became an important model for penal reform, one that officials and reformers said “ought to serve as a pattern for all others.” At its most basic, Livingston described the system as one that demanded “absolute solitude during the night, group labor during the day, and no communication among prisoners “by word or sign.” The code of silence was supposed to be so strict that it did not even allow prisoners to make eye contact when taking meals in a dining room or at bedtime. There was to be no community, even in Christian worship. The same unyielding prohibition applied to interactions between prisoners and visitors. Livingston noted that these codes were to be so strictly enforced that “among thirty or fifty working together for years in the same shop, no two of them know each other’s names.” The imposition of silence in the congregate labor system was an attempt to exact work discipline in prison industry and to effect complete control in their custodial confinement. But, the strictness of the rule pointed to the dangers implicit in its contravention. Livingston’s description of the Auburn model fully acknowledged its overwhelming economy and efficiency over the short-

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<sup>98</sup> Livingston, “Preliminary Report on the Plan of a Penal Code,” 58

<sup>99</sup> State of Louisiana, *Acts Passed at the First Session of the Eleventh Legislature of the State of Louisiana* (New Orleans: Jerome Bayon, 1833), 105-7.



term. However, he rejected it for its political instability caused by the institutionalization of “involuntary” convict servitude driven by the lash.<sup>100</sup>

Louisiana politicians’ embrace to the Auburn system for its own penitentiary system fell well within the national fold by the early 1830s. Maryland budgeted exactly the same amount for its own Auburn-styled penitentiary.<sup>101</sup> State governments in the United States, like their Latin American counterparts, lacked the administrative and fiscal means and the political will to institute and administer humanitarian penal institutions based on solitary penal confinement, with or without hard labor.<sup>102</sup> Louisiana, well-attuned to the favorable cost-benefit ratio associated with the ‘Auburn system’ and aware of its own administrative limitations, instituted penal ‘reform’ based on forced, productive labor by day and cellular confinement by night. Without regional exception, this type of penitentiary practice became the rule both in the United States and in Latin America by the 1830s.<sup>103</sup> Cheaper to build and to administrate, estimates put costs of the ‘Auburn system’ at one-eighth the price of punishment by solitary cellular confinement as Livingston had proposed.<sup>104</sup> Well-adapted to prevailing economic conditions, the Auburn system worked to satisfy the expanding market’s appetite for forced labor. Its rise paralleled the decline

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<sup>100</sup> Livingston, “The Code of Reform and Prison Discipline,” 517-19, 520, 574.

<sup>101</sup> Ruth Todd McInnis, “The Story Behind Victory,” *The Morning Advocate Magazine*, October 1950; McLennan, *The Crisis of Imprisonment*, 64. In August of 1832, the state purchased approximately 8 acres from Raphael Legendre and John Buhler in the Devall Town area of Baton Rouge for \$800.00.

<sup>102</sup> McLennan, *The Crisis of Imprisonment*, 64. See also: Frank Dikötter, Ian Brown, and Carlos Aguirre, eds., *Cultures of Confinement: A History of the Prison in Africa, Asia and Latin America* (Ithaca: Cornell University Press, 2007).

<sup>103</sup> Cowan and McGuire, *Louisiana Governors*, 70-72. Backed by Henry Clay, Roman served Louisiana as governor for two terms, the first from 1831 to 1835 and another from 1839 to 1843. He won creole support since he was perceived as checking the influence of the Virginia immigrants who had won the governorship in 1820 and 1824. His early tenure was marked by a cholera and yellow fever epidemics which devastated the area in 1831 and another in 1833.

<sup>104</sup> The cost of building a Pennsylvania-styled cell block was eight times that of an Auburn block (\$1,200 to \$150 per cell); another estimated the difference to be even greater (\$1624 to \$80 per cell). See: De Tocqueville, *Alexis de Tocqueville and Gustave de Beaumont in America*; McLennan, *The Crisis of Imprisonment*, 64.

of the handicraft system and propelled its downward spiral. The spread of the penitentiary by the first quarter of the nineteenth century contributed to the emergence of industrial forms of production and provided a basis for state capital formation and infrastructure development. Thus, legislators were anything but backward-looking in their execution of Louisiana's penitentiary at Baton Rouge since they employed a state-of-the art political technology in the name of penal 'reform' with the aim of reaping significant returns.<sup>105</sup>

State officials in Louisiana were so eager to experiment with Connecticut's system of penal 'reform' that they began trials even before the foundations for the penitentiary had been laid. Construction of the facility was planned in 1833 and was conspicuous for its convict workforce.<sup>106</sup> In order to defray construction costs, Louisiana resolved to send one hundred prisoners sentenced to hard labor in the New Orleans Parish Prison and other prisons in the state to a work camp to the construction site.<sup>107</sup> These convicts were to be housed in temporary structures on the penitentiary grounds. Much thought had also gone into prison administration well before the facility was complete. The assembly created a loose administrative structure for the penitentiary. In 1833, the body made appropriations for a superintendent to oversee the

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<sup>105</sup> McLennan, *The Crisis of Imprisonment*, 64-5. McLennan demonstrates that by the 1830s, a sentence to confinement at hard labor increasingly became an experience of forced productive labor for private contractors and lessees. She emphasizes that in the South, too, the pattern predominated even though the antebellum prison population was as little as one-tenth the size of the North's and the penal arm of state government was much weaker. They nevertheless implemented penitentiaries along the lines of the 'Auburn system.'

<sup>106</sup> State of Louisiana, *Acts* (1833), 106; McLennan, *The Crisis of Imprisonment*, 64; McLennan writes that convicts from Auburn penitentiary were forced to build Sing Sing penitentiary in New York. See also: *Biographical and Historical Memoirs of Louisiana*, 149.

<sup>107</sup> *Biographical and Historical Memoirs of Louisiana*, 149; State of Louisiana, *Acts* (1833), 105-07. The assembly appropriated a sum not to exceed \$6,000 to transfer state convicts condemned to hard labor to Baton Rouge from other prisons so that the prisoners could assist in the construction of the penitentiary house. It specified that it was the duty of the keeper of the public prison in the city of New Orleans to deliver over such convicts.

“erection of the...Penitentiary-house.”<sup>108</sup> The first superintendent was Hon. Guy Duplantier. It was said that “no more efficient or competent or human gentleman could be found to acquit himself of the arduous labors devolving upon him.”<sup>109</sup> Lawmakers provided the penitentiary at Baton Rouge with a loose administrative structure. They funded employment of a guard which was to consist of one captain and nine men “to watch over the convicts.”<sup>110</sup> The first captain was Paul Choppin, the son of a distinguished surgeon in New Orleans.<sup>111</sup> Assemblymen gave commissioners the leeway to “appoint such officers, and employ such assistants and servants, as they deem[ed] necessarily.” They also gave them license to “adopt such rules and regulations for the government and discipline of the convicts as from time to time, they may deem expedient.” They did not neglect to arm them. Legislators called for the “adjutant and inspector general to deliver to the commissioners on their requisition ten musquets [sic], with cartridge boxes and bayonet belts complete and also ten swords and belts, for the use of said guard.”<sup>112</sup>

In 1834, the first group of prisoners arrived at the penitentiary site. Recollections indicated that “the first name on the roll of the present penitentiary being a white man of this batch, convicted of manslaughter, while the last man upon the roll today is a black man, convicted of murder. This batch, entered in October, 1834 comprised twenty-one names, all males.”<sup>113</sup> These convicts worked under threat of force in raising a permanent house for their own confinement and in building the workspaces where they were to be reformed by hard labor

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<sup>108</sup> This officer was to offer security to the commissioners in the sum of five thousand dollars. The official was to receive \$2,000 annually and paid quarterly from the state treasurer and from the general fund. State of Louisiana, *Acts* (1833), 105-07.

<sup>109</sup> Fortier, *Louisiana: Comprising Sketches*, 300; *Biographical and Historical Memoirs of Louisiana*, 149.

<sup>110</sup> The captain was to receive \$50 annually while the privates were to earn \$30. The board of commissioners maintained administrative oversight. State of Louisiana, *Acts* (1833), 105-07.

<sup>111</sup> Fortier, *Louisiana*, 300; *Biographical and Historical Memoirs of Louisiana*, 149.

<sup>112</sup> State of Louisiana, *Acts* (1833), 105-07.

<sup>113</sup> *Biographical and Historical Memoirs of Louisiana*, 149.

and, for some, solitary confinement. Even as the first building to be completed was the three-story brick structure fronting on St. Anthony Street, lawmakers planned for expansion when they appropriated \$800 “for the purchase of two squares of ground adjoining the prison.”<sup>114</sup> By 1835, the Louisiana State Penitentiary was partially completed, much to the satisfaction of Governor Roman. He remarked, “Louisiana was at last free from the reproach which had been attributed to her” in Beaumont and de Tocqueville’s book. The state could now claim to be advancing industry and progress through penal reform, although not quite as Livingston had intended.<sup>115</sup>

### *The Penitentiary in the Atlantic World*

As Louisiana established a state penitentiary on the Auburn model at Baton Rouge, governments across the Atlantic experimented with penitentiary projects. By 1826, fourteen out of twenty-four states had instituted penal regimes based on cellular confinement and physically forced convict labor. Early experiments with the penitentiary began in the wake of the American Revolution as the fledgling states struggled to assert sovereignty and establish political legitimacy in opposition to monarchical rule.<sup>116</sup> As early as 1776, the Commonwealth of Pennsylvania’s first constitution directed the state to reform penal law making punishment “less sanguinary, and in general more proportionate to the crimes.” In doing so, it directed that “houses ought to be provided for punishment by hard labour” for non-capital crimes and that “criminals shall be employed for the benefit of the public or for reparation of injuries to private persons.” By 1790, Philadelphia began to experiment with the “Pennsylvania system” in order to

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<sup>114</sup> Fortier, *Louisiana: Comprising*, 300.

<sup>115</sup> State of Louisiana, *Official Journal of the Proceedings of the House of Representatives of the State of Louisiana* (n.p., 1835), 6. Conditions in the New Orleans jail had not been altered.

<sup>116</sup> Livingston, “Preliminary Report on the Plan of a Penal Code,” 58; Mouldous, “Pioneers in Criminology,” 290; Thorsten Sellin, *Slavery and the Penal System* (New York: Elsevier Science Ltd., 1976), 138-9.

“deter more effectually” the commission of crime.<sup>117</sup> This system substituted strict solitary confinement with forced labor for the death penalty and inspired similar policies in other states.<sup>118</sup> The political elites who supported these projects did so within the decentralized federal system of the United States and took a pragmatic approach, one most useful to their own interests.<sup>119</sup> The penitentiary proceeded in Kentucky with the opening of an institution at Frankfort as the state established its own basis for sovereignty after separating from Virginia. In 1812, Maryland instituted a penitentiary at Baltimore. Ventures in Pennsylvania and Kentucky, much to Livingston’s dismay, pursued systems of punishment based on cellular confinement coupled with congregate labor rather than strict solitary isolation. The penitentiary movement made its way further south when Georgia opened a prison on the principle of cellular isolation joined to congregate convict labor at Milledgeville.<sup>120</sup>

Four years after Louisiana’s legislature turned away from the Livingston code, nearly every Northern state and many Southern states had initiated their own penitentiary ventures to extend governance and constitute state-run systems of forced labor in the name of convict reform. By the 1830s, convict servitude or physically coerced convict labor had become the gold standard for state punishment throughout the United States and remained so until the end of the nineteenth century. The Auburn system became the dominant mode of state punishment after 1825. The South was no exception to this rule. Tennessee built a penitentiary at Nashville on the

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<sup>117</sup> Sellin, *Slavery and the Penal System*, 138-9.

<sup>118</sup> In 1796, the New York legislature abolished corporal punishment, reduced capital crimes to only three, and called for the construction of the Newgate penitentiary.<sup>118</sup> New Jersey opened a penitentiary on the Pennsylvania model the next year while the United States Congress also began to replace corporal and public chastisements with solitary confinement and forced labor. Substitution in the federal system began with the counterfeit coin law of 1806. See: McLennan, *The Crisis of Imprisonment*, 32-5; Livingston, “Introductory Report to the Code of Reform and Prison Discipline,” 508.

<sup>119</sup> McLennan, *The Crisis of Imprisonment*, 32. Pennsylvania was the first American state to undertake systematic reform.

<sup>120</sup> Sellin, *Slavery and the Penal System*, 138-9.

Auburn model in 1831. Northern states increased their number when Vermont inaugurated its own in 1831 and New Hampshire in 1832.<sup>121</sup> Even though Mississippi did not institute a state prison until 1840, the state's governor lobbied the Mississippi legislature in 1827 to build a state penitentiary because he believed that "punishment through a spirit of revenge for the infraction of penal laws...ought to be unknown in a civilized community."<sup>122</sup> In sum, Maine, Maryland, New Hampshire, Vermont, Massachusetts, Connecticut, New York, the District of Columbia, Virginia, Tennessee, Illinois, Missouri, Ohio, and Louisiana instituted penal reform to "prevent crime." But, these regimes extracted labor surpluses from a physically forced convict workforce to deter resistance to labor compulsion in the name of penal reform.<sup>123</sup>

As the Auburn model gained traction in the United States in the mid-1820s, the Livingston code –much more like the Pennsylvania system, contributed to impassioned debate across the Atlantic world about how best to use the penitentiary to combat crime and reform offenders. This "well-publicized" and "bitterly fought pamphlet war" pitted partisans of the Pennsylvania model against advocates of the Auburn system of imprisonment by night and congregate work by day. Many of the older American states and many European nations prepared to improve existing prisons while younger American states, like Louisiana, planned for their own experiments. So significant were these trials that a number of European governments sent experts to observe penal experimentation and liberal statecraft in America. France sent Gustave August de Beaumont and Alexis de Tocqueville. Five years later, Frederick August Demtz and two associates were sent to verify Beaumont and De Tocqueville's report. In 1832,

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<sup>121</sup> Ayers, *Vengeance and Justice*, 34.

<sup>122</sup> Sellin, *Slavery and the Penal System*, 138-9.

<sup>123</sup> McLennan, *The Crisis of Imprisonment*, 63. Rhode Island and New Jersey initially built Pennsylvania-style prisons but soon abandoned or radically changed that mode of incarceration. Maine also experimented with a solitary system. Georgia and Kentucky combined contract penal labor with non-cellular confinement practiced at the Walnut Street jail.

England delegated William Crawford while Prussia sent Dr. Nicholas Heinrich Julius two years later. Unofficial visitors also participated in these investigations and gave unanimous praise to the Pennsylvania system which instilled prisoner reform through solitary confinement with labor.<sup>124</sup> De Tocqueville and Beaumont, like Livingston, preferred the strict isolation of the Pennsylvania system to the Auburn model. They claimed that “perfect isolation secures the prisoners from all fatal contamination.”<sup>125</sup> Motivated by these reports as well as the fiscal and administrative utility which they promised Western European nations moved toward partial adoption of the Pennsylvania system –England in 1835, Belgium in 1838, Sweden in 1840, and Norway and Holland in 1851. These North Atlantic states preferred the added security associated with imposed solitary carceral segregation and forced labor.<sup>126</sup> Yet, not all foreign visitors favored the penitentiary. Charles Dickens, for one, indicted the Pennsylvania system for inflicting torture at a “depth of terrible endurance” which was “immeasurably worse than any torture of the body.”<sup>127</sup> However vocal, critics of America’s penitentiary movement did not deter North Atlantic European states from erecting such edifices of their own.

Latin American officials participated fully in the transatlantic penitentiary movement. Newly-minted Latin American republics struggled to impose liberal governance and reinforce hierarchies of caste and color after independence. Elites from these nations contributed to the new ideas about political liberalism, state punishment, and movements for penal reform. Nations from this region sent their own representatives to report on liberal experimentation with custodial confinement well underway in the United States. These Latin American reformers, swayed by

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<sup>124</sup> Blake McKelvey, *American Prisons: A History of Good Intentions* (Montclair, NJ: P. Smith, 1977), 63.

<sup>125</sup> Beaumont and de Tocqueville, *On the Penitentiary System in the United States and Its Application in France*, 75; Rothman, *The Discovery of the Asylum*, 97.

<sup>126</sup> McKelvey, *American Prisons*, 26.

<sup>127</sup> Charles Dickens, *American Notes* (New York: St. Martin’s Press, 1985), 146.

the potential of the penitentiary to ‘civilize’ their own ‘unruly’ populations, toured prisons in the United States before promoting such regimes in their own countries. Contemporaries of Livingston and de Tocqueville, such as Mariano Felipe Paz Soldan from Peru, Francisco Solano Astaburuaga from Chile, and Mucio Valdovinos from Mexico, witnessed first-hand the American systems. They saw the ways in which liberal political regimes institutionalized convict servitude through custodial confinement for profit and also as a means of race, class, and labor control.<sup>128</sup>

By the middle of the nineteenth century, several penitentiaries in Latin America had been built. Historian Carlos Aguirre demonstrates that their development was a means to meet a number of objectives: first, to expand state intervention in social control efforts; second, to showcase civilizational advance by the same metrics assumed by penal reformers such as Livingston; third, to provide urban elites with a greater sense of security; and lastly, to “reform” wayward subjects.<sup>129</sup> The earliest penitentiary project in Latin America was the “House of Correction” in Rio de Janeiro. Construction began in 1834, but it was not completed until 1850. Chile started its own venture in 1844, modeled on the Pennsylvania system. It opened to inmates in 1847 but did not begin full operations until 1856. That same year, the Peruvian government began construction of a penitentiary in Lima, based on the Auburn model. It opened in 1862. On the heels of Lima’s venture were similar undertakings in Ecuador and Buenos Aires.<sup>130</sup> Like most of their American counterparts in the 1830s, Latin American penitentiaries were designed to impose physically forced, productive convict labor. Despite initial attraction to the Pennsylvania system, congregate labor became the principle component of “prison therapy.”

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<sup>128</sup> Carlos Aguirre, “Prisons and Prisoners in Modernizing Latin America, 1800-1940,” in *Cultures of Confinement*, 18, 20.

<sup>129</sup> Aguirre, “Prisons and Prisoners,” 16-20.

<sup>130</sup> Ecuador in 1874, and Buenos Aires, and Argentina in 1877. *Ibid.*, 20.



State officials, administrators, and private business interests in the region saw utility in this type of forced labor in trades such as shoemaking, carpentry, printing, among many others. Latin American elites and government officials, like their American counterparts, wielded state punishment in their attempt to ‘civilize’ citizen and subject and inure them to ‘voluntary’ contract labor in the name of reform.<sup>131</sup>

Africa did not evade imprisonment’s grip. Although penal incarceration was unknown to sub-Saharan societies prior to colonial penetration, colonial regimes raised prisons on a “massive scale” to deter political opposition and compel African labor.<sup>132</sup> This occurred gradually and in three stages. First, European imperial states established jails in coastal forts and garrisons in the sixteenth century and developed restraining devices and places of confinement instrumental to the transatlantic slave trade. Secondly, colonial powers, in the late nineteenth century, erected military lockups in their bid to colonize the continent. And finally, by the 1910s European colonial powers began to invest systematically in custodial institutions of punishment.<sup>133</sup> Over most of the nineteenth century, the few prisons that existed were found in settlement colonies. The Africanist historian, Florence Bernault shows that jails imprisoned “military personnel or delinquent traders, and occasionally, a marginal fraction of the racially mixed inhabitants of the colony.”<sup>134</sup> If most regions of nineteenth century Africa resisted direct colonization, North Atlantic liberal statecraft and its signature institution -the penitentiary, they were nevertheless profoundly linked in circuits of exchange, systems of forced migration and bondage, and colonial

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<sup>131</sup> Ibid., 46.

<sup>132</sup> Florence Bernault, “The Politics of Enclosure in Colonial and Post-Colonial Africa,” in *A History of Prison and Confinement in Africa*, 46-9.

<sup>133</sup> Florence Bernault, “The Shadow of Rule: Colonial Power and Modern Punishment in Africa,” in *Cultures of Confinement*, 47-8.

<sup>134</sup> Bernault, “The Shadow of Rule,” 58.

struggles for power which propelled the penitentiary and its economy of state punishment throughout the Atlantic world.

As this type of penal reform swept through the Atlantic world, the effects of the transatlantic slave trade and the violence it entailed had not abated. Historian Florence Bernault, demonstrated that “by the second half of the nineteenth century, therefore, far from benefiting from any claim to reform, penal economies in Africa had experienced a dramatic inflation of sentences, enforcing [slavery] as a more frequent punishment, and encouraging a deflation in the value of the person.”<sup>135</sup> The proliferation of jails hastily erected during early colonial penetration (1880s-1910) targeted local leaders with imprisonment unless they submitted to foreign occupation. By the turn of the twentieth century, projects for colonial imprisonment appropriated the institutional and mechanical instruments of physical restraint so crucial to the slave trade and combined them selectively with techniques of custodial confinement in an effort fortify precarious rule. The European military and administrative presence had remained superficial until 1920, when a tighter network of “permanent administrative posts” backed by custodial prisons aided colonial officials’ efforts to impose taxes, censuses, portage, and systems of forced labor. Punitive custodial imprisonment materialized later in Africa than it did in the North Atlantic and Latin America. But, once it arrived to the continent, imprisonment in Africa quickly outpaced its rivals. Between the 1930s and the 1950s, punitive custodial imprisonment in Africa set the pace with rates of incarceration three to six times higher than its counterparts in the United States, Latin America, and Western Europe.<sup>136</sup> That colonizing powers wielded the prison to subjugate Africans was fully consistent with the forces advancing the penitentiary and its ‘civilizing mission’ for home country and abroad. This was the same point that prompted

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<sup>135</sup> Ibid., 59.

<sup>136</sup> Ibid., 63.

Louisiana's legislature to enact a new penal code in 1822 and then again to build a state penitentiary after a visit by Beaumont and de Tocqueville.

The Livingston code had launched Louisiana into the international stage. The state's failure to formally pass the code did not detract from the legitimacy associated with Louisiana's first experiment with a state penitentiary. But, Louisiana's legislators were less concerned with international reputation or high-minded philosophies. In planning the penitentiary at Baton Rouge, the assembly occupied itself with more tangible concerns. Consumed with more pressing affairs, it focused on local struggles for power and authority. Elite actors and government officials in Louisiana arrived at their own conclusions about what type of legal system and penal law would be most advantageous in advancing the systems of production to drive the expansion of cash cropping which fed the Atlantic economy, planter profits, and the power of the master class. The penitentiary movement and the drive for legal codification in Louisiana were not entirely different in this regard from the process of state consolidation initiated in the Latin American republics after their independence. There were number of general similarities between them. In most instances, republican legislators made efforts to abandon or at least to modify Spanish law where it was regarded as "anachronistic, barbarous, unjust, or arbitrary."<sup>137</sup> Thus, in both Louisiana and post-independence Latin America, legislators enacted a host of new laws, codes, and constitutions. Many of them had been influenced by Livingston's code and the penitentiary experiments of a number of U.S. states. Ultimately, Louisiana's movement for legal codification represented in the Livingston code and its institution of a state penitentiary at Baton Rouge demonstrate that the state was at the forefront of penal reform even though it did not ratify the Livingston code.

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<sup>137</sup> Ricardo D. Salvatore and Carlos Aguirre, "Introduction," in *Crime and Punishment in Latin America*, 3.

## *Conclusion*

Anachronism has clouded understanding of the birth of the penitentiary in Louisiana and its place in the larger transatlantic movement. A major source of confusion concerns unchallenged assumptions about the nature of penal reform as represented in the Livingston code. This type of penal reform was strictly dispassionate, impersonal, and most of all, dedicated to the concept of utility. This kind of reform aimed to transform society by disciplining individuals and making examples of them. Offender's "voluntary" acceptance of labor coercion was the definition of reform. The means to produce this outcome was complete solitary confinement without labor—a punishment intended to be worse than death. The penal system aimed to prevent crime, especially offenses against property, by more efficient deterrence. In this way, it aimed to render resistance to labor coercion futile. In doing so, it also sought to defend a slave society stratified by gender, color and caste, and to discipline 'free' workers. This ideology likely influenced Louisiana's first attempt at instituting a penitentiary in 1821 and was the backdrop against which the state built an Auburn-styled penitentiary at Baton Rouge in 1835. Therefore, Louisiana's initial attempt to found a penitentiary in New Orleans and its establishment of one at Baton Rouge over a decade later were, in fact, manifestations of penal reform rather than contradictions of it. Louisiana's penitentiary at Baton Rouge was not 'backward,' atavistic, nor was it the result of colonial taint by a colonial legacy or regional exceptionalism. Such spatial reckonings and teleological narratives have occluded Louisiana's leadership in the penitentiary movement by the first quarter of the nineteenth century. The custodial confinement and system of direct forced labor instituted at Louisiana's penitentiary at Baton Rouge contributed to state consolidation, economic expansion, and the intensification of bourgeois property relations and labor coercion, much like penitentiary systems in other parts of

the nation, in Latin America, and in Europe's North Atlantic states. In this regard, the Louisiana State Penitentiary was no exception.

## Chapter 2

### Life and Labor and the Antebellum Penitentiary, 1835 to 1860

Not long after the Louisiana penitentiary at Baton Rouge opened its doors to new prisoners, penitentiary officials hosted distinguished guests in order to exhibit the state's new monument to state power and civilizational progress.<sup>1</sup> State officials were the first to visit. Upon examination, they found everything to their liking. The chairman of the penitentiary committee stated that "a striking feature of the establishment is the order and neatness which everywhere meets the eye." After touring the penitentiary, officials said that such a sight "can be productive of no other than feelings of the most gratifying character." State investigators concluded that prisoners lived in "safety and comfort" and were not victims of "savage and cruel treatment."<sup>2</sup> Discipline of the "strictest order," in their view, achieved "harmony and perfect order" through "constant and unceasing surveillance."<sup>3</sup>

Visitors from the state's leading newspaper expressed the same opinion a few years later. On a Monday visit, journalists from *The Daily Picayune* observed "a perfect system of criminal discipline," one "worthy of general imitation," where "everyone seems in their place." But, their statements also implied that the rigid boundaries between prison life and the outside world configured by 'the walls' were often illusory. Visitation was routine and commercialized. In order to enter the penitentiary, journalists, like other visitors, went to the penitentiary's "large store" across the street from the main building where "a person desirous of entering the institution" paid twenty-five cents for "a card, which [was] his carte blanche for a full review of the premises." From there, the journalists, like the visiting public, went to the main entrance

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<sup>1</sup>"Baton Rouge Penitentiary," *The Daily Picayune*, October 8, 1840; *Charleston Mercury*, October 17, 1840; Prison Discipline Society, *Annual Report* (1838), 64.

<sup>2</sup> Prison Discipline Society, *Annual Report* (1838), 64.

<sup>3</sup> *Ibid.*, 253.

across the street from the prison story and entered “into a kind of centry [sic] box, which move[ed] round on a pivot, and [was] immediately whirled round to the inside of the penitentiary.” Once inside, visitors immediately confronted one of the guards. The reporters described one as “very Cerberus in appearance, with a slouched hat, a surtout coat, and a large leathern belt round his waist, to which [was] attached a brace of pistols of the true bull-dog order, and a sword” of great dimension. After giving the guard their cards, the visitors walked past the “very formidable looking personage.” Then, they saw “none other than kindred spirits, who ke[pt] watch over the different squads of convicts, the convicts themselves, and casual visitors,” who had been prompted out of sense of curiosity “to see the fallen state to which passion, vice, and infamy may reduce poor human nature.”<sup>4</sup>

Journalists, like state officials, meant to convey the success of Louisiana’s first experiment with the penitentiary system. Yet, their observations inadvertently exposed that penitentiary practice often did not conform to ideals. Everywhere implementation of these penal institutions deviated from abstract archetypes.<sup>5</sup> In this regard, Louisiana’s penitentiary was not exceptional. The state’s deviation from penitentiary ideals, or its neglect of the Livingston code, was not the result of colonial taint, regional exceptionalism, civilizational ‘backwardness,’ or evidence of the failings of penal reform. Rather, officials’ experimentation with the institution

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<sup>4</sup> “Baton Rouge Penitentiary,” *The Daily Picayune*, October 8, 1840.

<sup>5</sup> Extant interpretations mirror such a perspective. A recent contribution by Jeff Forret also leaves unexamined the meaning of penitentiary reform and therefore reinstates uncritical assessments of the “reformist” impulses of the penitentiary movement authorized by David Rothman, Blake McKelvey, and Edward Ayers and their “rehabilitative” commitments to white inmates. Such culturalist explanations for the penitentiary system and its brand of reform do not take account of the institution as a state-directed forced labor system supportive of the slave system and tied to capitalist expansion through infrastructural development and nascent industrialization. See: Jeff Forret, “Before Angola: Enslaved Prisoners in the Louisiana State Penitentiary,” *Louisiana History* 54, no. 2 (2013): 133–71. Ayers, *Vengeance and Justice*; Carleton, *Politics and Punishment*; Wisner, *Public Welfare Administration in Louisiana*; Forret, “Before Angola,” 134-38, 170-71; McKelvey, *American Prisoners*; Rothman, *The Discovery of the Asylum*.

showed that pragmatism rather than principle guided action. This chapter contributes new understanding of life and labor in Louisiana's penitentiary at Baton Rouge from 1835 to 1860, a topic little explored in the existing historiography.<sup>6</sup> In doing so, it documents an emergent prison industrial complex and the institution of contract convict servitude—a distinct social condition and system of forced labor directed by the state. This chapter outlines the state's early endeavors, the privatization of prison industry by 1844, and the penitentiary's course until the Civil War. I suggest that the institution's unique economy of punishment was shaped not only by local political and economic forces and elite interests but also by prisoner resistance, labor organizations, local interest and "plain folk."<sup>7</sup> Such experiments prompted continuous reinvention as authorities attempted to meet the challenges posed by those it sought to control. These early penitentiary ventures resulted in a manufacturing base for the state that served the interests of large planters in the region. Thus, I argue in this chapter that Louisiana's profitable prison enterprises instituted a distinctive system of forced labor and custodial confinement, inaugurating a profitable prison industrial complex in the name of humanitarian reform and civilizational progress.

### ***Profit and Punishment***

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<sup>6</sup> This account differs by presenting a larger narrative of the development and expansion of the penitentiary, its labor system, and its regime of production. Carleton only briefly references the antebellum period while Wisner's concise discussion is restricted to one chapter. Three recent articles touch on the penitentiary during the antebellum period, but focus more specifically on themes of race, slavery, and gender. See: Carleton, *Politics and Punishment*; Wisner, *Public Welfare Administration in Louisiana*; Brett J. Derbes, "'Secret Horrors': Enslaved Women And Children In The Louisiana State Penitentiary, 1833–1862," *The Journal of African American History* 98 (2013): 277–91; Connie H. Nobles, "Gazing Upon the Invisible: Women and Children at the Baton Rouge Penitentiary," *American Antiquity* 65, no. 1 (2000): 5–14; Forret, "Before Angola."

<sup>7</sup> Hyde uses the term to refer to the small farmers in the West Florida parishes. They were hostile to extension of government control, higher taxation, and not closely aligned with large planters during the 1830s and 1840s. See: Hyde, *Pistols and Politics*, 14–5.



From the beginning, Louisiana attempted to drive its convicts at hard labor most profitably. The state pushed the prisoners who had been transferred to the site to complete their new house of confinement as quickly as possible. They finished the job in 1834. Their new residence consisted of the “Upper Cell House,” a three-story brick structure on Penitentiary Street, which spanned the west end of the block between Florida and Laurel streets. Later called “crypts,” the cells measured seven feet by three and one-half feet, which reflected the extra square foot allocated to each cell by the legislature’s revised and more generous plan.<sup>8</sup> Soon after opening its doors of the penitentiary, the state moved to expand the institution from one hundred cells to two hundred and forty cells.<sup>9</sup> In March of 1837, the legislature outlawed the hiring out of prisoners by prison officials. With plenty of work for convicts to do in-house, lawmakers provided that, “The convicts shall not be employed without the actual and direct service of the institution, in taking or employing materials for the use of the institution.”<sup>10</sup> While the proper employment of prisoners became a primary principle in the founding of the Louisiana State Penitentiary, the state government had struggled with this problem as early as 1814. At that time, legislators arranged for state prisoners sentenced to hard labor to be hired out to the Mayor and city council of New Orleans, or they could be allocated according to “other” arrangements as “circumstances required.”<sup>11</sup> Authorities had desired a more systematic, secure, and profitable enterprise. The penitentiary at Baton Rouge addressed this dilemma.

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<sup>8</sup> “Changes in the Convict System,” *The Daily Picayune*, January 9, 1901.

<sup>9</sup> Gibson, *Gibson’s Guide and Directory of the State of Louisiana* (1838), 64.

<sup>10</sup> The Directory stated that the penitentiary earned \$3,000 from the labor of convicts. They worked: cleaning ditches, mending fences, yards, and avenues, attending bricklayers, furnishing vegetables from the garden. The institution also earned revenue from cooks, waiters, bakers, and a hospital steward. Gibson, *Gibson’s Guide and Directory of the State of Louisiana*, 262; State of Louisiana, *Acts Passed at the First Session of the Thirteenth Legislature of the State of Louisiana* (New Orleans: Jerome Bayon, 1837), 100.

<sup>11</sup> Wisner, *Public Welfare Administration in Louisiana*, 144; The Mayor was authorized to hire

Upon the penitentiary's opening in 1835, administrators lost no time imposing a systematic approach to prisoner employment. With this cheap, captive labor force of ninety-one convicts at hand, legislators authorized purchase of an additional lot and the construction of a building to serve as a store and as a residence for the penitentiary's clerk and his family.<sup>12</sup> They specified that the clerk would not only keep penitentiary accounts but also act as a "general salesman" of penitentiary goods, which were to be sold for cash.<sup>13</sup> With the advice and consent of the Senate, Governor Edward Douglass White appointed a principal warden and seven inspectors.<sup>14</sup>

Two years after the penitentiary opened its doors, officials credited the use of convict labor and the substantial capital improvements which had been made to the prison complex at Baton Rouge. These economic gains had occurred in the midst of a financial crisis that gripped Louisiana and the country as a whole, precipitating "distress, and in a degree ruin, upon the sugar-planters," and "a panic which for a time threatened destruction to the agricultural staple of the state."<sup>15</sup> Inmates were still mostly employed in constructing buildings and making materials used to that end. Convicts built residences for the warden, the captain, and for guards. They also built a hospital, a kitchen, a store for provisions, and a one-story structure that housed workshops

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superintendents at \$30.00 a month. Clothing, meaning a pantaloons, a red jacket, cap, a pair of shoes every two months, and a tin plate was to be provided to each prisoner along with summer dress, a linen shirt and pantaloons.

<sup>12</sup> Lawmakers appropriated \$15,000 for complete the main building of the penitentiary and to erect and complete a store on the newly required lot. See: Prison Discipline Society, *Annual Report* (1838), 64; Derbes, *Prison Productions*, 28.

<sup>13</sup> Act 105 of 1837 stated that "articles manufactured in the Penitentiary shall be delivered to the clerk who shall give in a book kept for that purpose and in which such articles shall be entered, receipt for the same...it shall be the duty of said clerk to furnish the list of the articles so sold, and account for the proceeds thereof at the end of every week, and pay over at the same time to the principal warden the said proceeds, for which his latter shall give receipts for the form; the said principal warden shall submit at every subsequent meeting of the board his accounts current with the clerk, for examination and approval." Prison Discipline Society, *Annual Report* (1838), 64, 101.

<sup>14</sup> Hypolite Lanoue was the Principal Warden. State of Louisiana, *Acts* (1837), 100.

<sup>15</sup> Thompson, *The Story of the States*, 246.

on the south side of the property. Prisoner's hard labor at bricklaying, which cast long shadows on the prison year, climaxed when they set the crown on the penitentiary's notorious walls. Anticipating more convicts and an expanded labor pool, officials forced resident convicts to assist in the construction of a second cell house, pouring a foundation for an additional 112 cells. By the end of 1837, convicts had completed the workshops and laid brickwork in fifty-six more cells.

Convicts also put up a structure to accommodate a blacksmith and gunsmith shop, a foundry and a number of other workshops. Also added were a brick stable while the conspicuous "brick sentinel, box," the eye of the penitentiary, would come to tower over the walls. The clerk noted the economic benefit prisoners brought to the state when he concluded that "the sum of \$18,079 [had] been saved to the state by the labor of the convicts."<sup>16</sup> Even before completion, the Auburn-styled penitentiary showed profits exceeded expenses. The penitentiary's report to the Prison Discipline Society, a national organization, indicated that forced labor at the state institution had already achieved significant revenues and capital improvements.<sup>17</sup> Profit accrued despite raises received by penitentiary officials. It was not long after incarcerated workers broke ground for the penitentiary store that it opened for business. Already in 1837, the penitentiary produced a profit of \$8,577.44 on "work made and sold, after deducting for materials."<sup>18</sup>

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<sup>16</sup> Reports during 1837 stated that that the "appropriation by the legislature for the building department, for the year 1837, was \$15,000: thus far, the sum of \$7500 only has been drawn from the state treasury, and it is believed, that the remaining balance of the appropriation will be amply sufficient to compete all the buildings at present designed and pertaining to the institution." See: Prison Discipline Society, *Annual Report* (1838), 64.

<sup>17</sup> Revenues for 1837 were reported to be \$3,424.16. Gibson, *Gibson's Guide and Directory of the State of Louisiana*, 261; Prison Discipline Society, *Annual Report* (1838), 64.

<sup>18</sup> Salaries of the following officers were increased as follows: the physician, one thousand dollars per year, the clerk, to fifteen hundred dollars per year, the second wardens, to seven hundred dollars per year,

Well-satisfied with the penitentiary's performance, administrators congratulated themselves on the achievement and accounted for departures from penitentiary ideals. In so doing, they reported, "The superiority of this model of punishment, no longer depends for authority upon the abstract opinions of the philosopher or statesman, but receives its highest sanction from fair experiment." Penitentiary practice had produced incontrovertible evidence, for authorities, that individual reform demanded a strict regime of forced labor since "idleness ought under no circumstances to be tolerated."<sup>19</sup> The successful experiment to which they referred included 106 prisoners in 1836 and 112 by the end of 1837. In 1837, the incarcerated population was on the rise, as the institution took on forty-four prisoners during the year while only twenty-six left by expiration of term. Seven did not make it out of the walls alive, two escaped, and three earned a pardon.<sup>20</sup> By 1838, 158 of the penitentiary's cells were filled with inmates.<sup>21</sup> The overwhelming majority of convicts who remained earned their keep by forced hard labor.

In his annual state directory publication, John Gibson did not comment on the racial or gender composition of the penitentiary population. However, he did highlight that more than one-third of the newly admitted prisoners were foreign-born and more than half were not native to Louisiana.<sup>22</sup> The focus of the penitentiary report was the employment record of convicts who resided in the prison on December 31, 1837. The majority of convicts labored in the brickyard

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and the guards to thirty-five dollars per month. Act 105 of 1837 also required the governor to appoint under the advice and consent of the Senate, the principal warden and seven inspectors. Lawmakers looked to the future in inquiring into the costs associated with the manufacture of coarse woolen fabric. See: Prison Discipline Society, *Annual Report* (1838), 64, 101.

<sup>19</sup> *Ibid.*, 253.

<sup>20</sup> Reports indicated a convict population of 106 for December 31<sup>st</sup> of 1836 and 112 on December 31<sup>st</sup> of 1837. See: *The American Almanac and Repository of Useful Knowledge for the Year 1839*, vol. 23 (Boston: Charles Bowen, 1839), 182; Gibson, *Gibson's Guide and Directory of the State of Louisiana* (1838), 261.

<sup>21</sup> *The American Almanac* (1839), 182.

<sup>22</sup> Statistics revealed that of the forty-four convicts newly admitted, seventeen were foreigners, twenty-four from different States of the Union, and three were from Louisiana. Gibson, *Gibson's Guide and Directory of the State of Louisiana* (1838), 261.

and in “garden work.” There was also a disproportionately large number of carpenters, wheelwrights, shoemakers, and bricklayers. The system employed a lesser number of prisoners in the blacksmith and gun shops, as coopers and turners, tailors, segar makers and weavers, as well as in the kitchen and the hospital [see Table 2.1]. The only reference to women concerned the occupation of five women employed in washing. Overall, the convict workforce at Baton Rouge was an industrious one, as only five of the 112 inmates laid idle in the hospital ward.<sup>23</sup>

Fruits of convict labor appeared on the shelves of the penitentiary store. The *Daily Picayune* publicized these convict-made goods when they reported that opposite to the prison’s main entrance stood a “large store” open to the public “where the fabrics and manufactures which are the work of the convicts exposed for sale and inspection.”<sup>24</sup> By 1838, authorities made it more convenient for individuals of means to do business at the prison store. Lawmakers provided for the extension of credit for large orders when they amended the law so that “the clerk shall be authorized to sell the articles manufactured...on credit when the amount purchased exceed[ed] the sum of fifty dollars, and [was] secured by an endorsed note.”<sup>25</sup> Presumably, convict-made goods and the newly devised credit arrangements reflected the mutuality of interests between large planters and the penitentiary, a topic not acknowledged in the existing secondary literature.<sup>26</sup> Lawmakers produced evidence for this in 1838 when they allowed “those planters who shall furnish the penitentiary with said materials at the prices fixed by the board

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<sup>23</sup> Ibid., 261-2. Textiles yielded 180 cotton pantaloons, 73 shirts, 86 woolen pantaloons, 29 jackets, 30 capots, jackets and pantaloons for discharged convicts, 266 pairs of shoes.

<sup>24</sup> “Baton Rouge Penitentiary,” *The Daily Picayune*, October 8, 1840.

<sup>25</sup> Act No. 107 also stated that the note was “payable in one of the branch banks in the town of Baton Rouge; provided that the credit shall not extend beyond the first of March in each and every year hereafter.” State of Louisiana, *Acts Passed at the Second Session of the Thirteenth Legislature of the State of Louisiana* (New Orleans: Jerome Bayon, 1838), 109.

<sup>26</sup> Carleton, *Politics and Punishment*; Wisner, *Public Welfare Administration*.

**Table 2.1**  
Employment of Prisoners at Baton Rouge, 1838,  
Louisiana State Penitentiary

	<u>Number of Inmates</u>
Brickyard and Gardens	25
Carpenters and Wheelwrights	19
Shoemakers	13
Bricklayers and Attendants	10
Coopers and Turners	7
Blacksmith and Gun Shops	6
Kitchen, Cooks, and Bakers	6
Sege Makers and Weavers	6
Hospital and Prison Waiters	5
Tailors	5
Women Employed in Washing	5

*Source:* Gibson, *Gibson's Guide and Directory of the State of Louisiana* (1838), 261. Reproduced directly from the text.

shall have preference in being supplied with...clothing required for their use.”<sup>27</sup> Profits from prisoner-made goods in 1838 were four times greater than from the year before.<sup>28</sup>

Three years after opening for business, the penitentiary's core complex was complete. With twice the number of new criminal recruits in 1838 as the previous year, administrators shifted the allocation of convict labor from infrastructural development to the state's nascent industrial program.<sup>29</sup> With more investment in prison industry, officials had even more reason to take full advantage of its growing convict labor pool. In the same moment, authorities abolished routine use of solitary confinement. The state's first industrial venture was a textile mill for the

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<sup>27</sup> State of Louisiana, *Acts* (1838), 109.

<sup>28</sup> *Ibid.*, 109.

<sup>29</sup> A prisoner head count on December 31, 1837 recorded 158 prisoners and 94 new commitments. See: *The American Almanac and Repository of Useful Knowledge for the Year 1840*, vol. 24 (Boston: David H. Williams, 1840), 256.

manufacture of coarse woolen and cotton cloth.<sup>30</sup> Although industrial enterprise at the penitentiary was at first limited to “jobs as simple mechanics,” by 1840, it expanded to include cloth manufacturing, tailoring, tanning, manufacturing of side-saddles, carpentry, cabinet making, joinery, painting, forge work, and gun and watch repairs. Planners saw great opportunity in “the manufacture of shoes for negroes” and undertook such production on an extensive scale by adding a tannery.<sup>31</sup> By 1841, this penitentiary venture had measured up to the “high hopes of its directors,” and had again proven the rule that “fair experiment” in penal practice was superior to high-minded enlightenment ideas expressed by philosophers and statesmen. The clerk’s accounting book proved the ‘utility’ of Louisiana’s experiment. This benchmark branded penitentiary reform a success, reporting a higher revenue, generated from prison labor, than expenditures necessary to maintain inmates.<sup>32</sup> Projections for that year anticipated continued progress, which to prison administrators and government officials meant financial profitability.<sup>33</sup> In response, Louisiana lawmakers passed an act in January of 1841 to appropriate \$10,000 “for the purpose of purchasing for the Penitentiary a steam engine of a thirty-horse power” and for the purchase of raw materials for manufacturing “coarse cotton and woolen cloths.”<sup>34</sup> Penitentiary

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<sup>30</sup> Act No. 107 prohibited solitary confinement except for “enforcing obedience to the regulations in the police thereof.” The legislative committee on the penitentiary recommended that “the abolition of solitary confinement in the Penitentiary of Louisiana, and the substitution of confinement at labor, as a punishment better adapted to the accomplishment of the objects of criminal justice, and more in accordance with the dictates of humanity.” In 1838, the state appropriated \$12,000, and by 1839, the assembly voted in favor of an additional \$2,500 for the same purpose. See: State of Louisiana, *Acts* (1838), 109.

<sup>31</sup> State of Louisiana, *Official Journal of the Proceedings of the House of Representatives of the State of Louisiana* (n.p., 1840).

<sup>32</sup> Thirty-five convicts employed made 53,548 yards of goods, valued at \$11,023.23 at a profit of \$5,123.23. See: Wisner, *Public Welfare Administration in Louisiana*, 144; State of Louisiana, *Official Journal of the Proceedings of the House of Representatives of the State of Louisiana* (n.p., 1841).

<sup>33</sup> State of Louisiana, *Official Journal of the Proceedings of the House of Representatives of the State of Louisiana* (n.p., 1842).

<sup>34</sup> State of Louisiana, *Acts Passed at the First Session of the Fifteenth Legislature of the State of Louisiana* (New Orleans: A.C. Bullitt, 1841), 76-7.

administrators sought to not only expand Louisiana's prison industry but also to draw on the state treasury for investment in greater mechanization to increase prisoner productivity.

The financial returns on the state's investment in prison manufacturing had unintended but not unpredictable consequences. The use of convict labor for market production raised the ire of local merchants. As industry expanded at the penitentiary, detractors became even more strident in protesting the states use of an unpaid labor force, which produced goods under market value. "Citizens of Baton Rouge" demanded that the practice be stopped since it devalued "honest labor" in the community. While these protests did not immediately bring about a stop to penitentiary's engines of industry and 'progress,' a legislative committee responded to the demands of merchants and mechanics by eventually closing the penitentiary's popular retail store. Their objections also motivated officials' decision to expand the manufacture of "shoes for negroes" since this commodity was not thought to compete with local producers and was welcomed by planters who enthusiastically supported low-cost, locally produced shoes fit for slaves. Legislators reasoned that these two steps would forestall further complaint. They argued that the production of low-cost shoes would compete with Northern capital and labor rather than with local producers.<sup>35</sup> In working to satisfy this market and provide a subsidy of sorts to the state's large planters, legislators also expanded the number of hours prisoners could be worked. They increased the convict workday from eight hours in a twenty-four hour period to a routine dictated by the sun, not the clock. As such, the state redoubled its efforts to extract labor surpluses from convicts by putting them to hard labor at the penitentiary from sunrise to sunset with two hours off for meals.<sup>36</sup>

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<sup>35</sup> State of Louisiana, *Journal of the House* (1840), 5.

<sup>36</sup> State of Louisiana, *Journal of the House* (1841), 5.; Wisner, *Public Welfare Administration in Louisiana*, 145-6.



### *Life, Labor, and Subversion Within “The Walls”*

If local mechanics, artisans, and merchants protested production in Louisiana’s state-of-the-art workshops, prisoners launched their own dissent. The *Baltimore Sun* reported an eruption of a different kind, conspicuously absent from official state penitentiary reports. The headline, “Revolt at the Louisiana Penitentiary,” announced that on May 14<sup>th</sup> of 1839, “A revolt broke out among the convicts in the penitentiary.” Not coincidentally, three ringleaders –inmates Monroe, Murray, and Pierce- led the revolt which broke out in the wheelwright and saddlers’ shop. They “suddenly seized on two of the guards.” The report credited the guards for resisting the attack “manfully” even though the prisoners “knocked them down” and “succeeded in wresting their pistols from them.” The captain of the guards and the clerk did not escape the bloody strike unscathed. Sympathizing with the guard, the report indicated that the captain, Mr. Cheppin, and the clerk, Mr. Isett, “were fired at by the villains and narrowly escaped being killed.” The article indicated that with his own six shooter, Mr. Isett fired on Monroe, wounding him “in the leg” while the captain and some of the guards, armed in like fashion, “succeeded in shooting down” Murray. The prison guard, not confident in his ability to put down “insurrection,” felt it necessary to “call up the local militia.” It was not long before “a numerous concourse of citizens under command of a colonel appeared under arms at the penitentiary.”

The article reported that convicts “were brought out and ranged opposite the armed citizens,” while guards dragged two of the three ringleaders in the middle of these two groups to “make a spectacle for all to see.” Staged in this way, Monroe and Pierce received summary justice described as “a severe whipping.” The *Baltimore Sun* passed its own judgment and served to sway public opinion when it stated that the malefactors received “the punishment which they deserved.” The report took solace in the outcome, noting that Murray “was so severely injured

by the shots that he received that his recovery [was] considered doubtful.”<sup>37</sup> While no further mention was made of the fate of Murray or Pierce, James Monroe, a twenty-five-year-old white man from Virginia was undaunted. Convicted of robbery on May 29<sup>th</sup> of 1838 and sentenced to a term of fourteen years, Monroe inflicted mayhem on the penitentiary yet again when he successfully escaped on a winter day four years later.<sup>38</sup>

The restoration of order reported by the press was a chimera.<sup>39</sup> Two prisoners waged their own protest against forced labor and confinement less than a year later. Their action relied on concealment. On November 19, 1840, the *Scioto Gazette* reported on another escape from Louisiana’s penitentiary. James H. Cooper and Gardner W. Harrington proved the vulnerability of ‘the walls’ when they liberated themselves from their cells. The two had plotted together and prepared for the escape by using “a very fine saw” to make “an opening in the floor in the darkest part of their cells, the joints of which would deceive the most experience eye.” While little was recorded about Cooper, Harrington was reported to be a native of Maryland. Harrington was twenty-seven years old at the time of the escape. The white man had been convicted of forgery and sentenced in New Orleans for a term of four years.<sup>40</sup> Convicted on July 10<sup>th</sup> of 1840, he did not endure such bondage for long before emancipating himself. The two men worked in tandem by first “cutting through a brick wall, three feet thick, which separated their cells; then through the wall communicating to another cell.” While the member of the third cell was unnamed, the reporter indicated that Cooper and Harrington had “excavated” through the hole in the floor a tunnel about fourteen feet in length at a depth of four and a half feet.” On the

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<sup>37</sup> “Revolt at the Louisiana Penitentiary,” *The Baltimore Sun*, May 15, 1839.

<sup>38</sup> James C. Monroe escaped on January 10, 1843. State of Louisiana, *Report of the Standing Committee on the State Penitentiary, Made at the Second Session of the Sixteenth Legislature* (n.p., 1844), 6.

<sup>39</sup> “Revolt at the Louisiana Penitentiary,” *The Baltimore Sun*, May 15, 1839.

<sup>40</sup> State of Louisiana, *Report of the Standing Committee on The State Penitentiary* (1844), 6.

night of the escape, they traveled along the hidden tunnel which carried them “through a wall two feet thick, then through the foundation of an outside wall six and a half feet thick,” before opening into the penitentiary yard. From there, they emerged from the cell house into the garden by the roof of a work shed. Authorities estimated that this labor must have required at least six months of hard labor as tools found in the excavation “consisted of three small pieces of iron, two of which [were] old morticing chisels, three quarters of an inch broad.” The report, published in an Ohio newspaper, did not directly disparage their actions, but credited their ingenuity in a wry tone when it called the break, “One of the most remarkable instances on record of determination, energy, and perseverance.”<sup>41</sup>

Left out of the newspaper account and of the escape itself was one of the penitentiary’s most notorious prisoners, Dr. David T. Hines –also known by the alias of “James Walker.” Dr. Hines had acted together with Cooper and Harrington but had been left behind.<sup>42</sup> Born in Georgia, Hines gained infamy for intrigue, for theatrical impersonations, for satirizing the authorities and the upper classes, and for ‘dishonest’ labor.<sup>43</sup> When he was twenty-nine years old, the courts sentenced Hines to fourteen years hard labor in New Orleans for aiding the escape of a slave.<sup>44</sup> Hines’ detailed narrative of penitentiary life spoke to the events that led to the Cooper and Harrington’s escape. It also provides important insight into the general patterns of life, labor, and prisoner resistance in Louisiana’s penitentiary silenced by the “official

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<sup>41</sup> “Extraordinary Enterprise and Perseverance,” *Scioto Gazette*, November 19, 1840.

<sup>42</sup> David T. Hines, *The Life and Adventures of Dr. David T. Hines: A Narrative of Thrilling Interest and Most Striking Scenes of His Eventful Life* (Charleston: J. B. Nixon, 1852), 145-6.

<sup>43</sup> Newspaper and penitentiary records confirm much of Hines’ account regarding his imprisonment in Louisiana’s penitentiary. For example, see: *The Charleston Mercury*, August 7, 1840; “Story of Dr. Hines,” *The Daily Picayune*, February 18, 1841; “Extraordinary Enterprise and Perseverance,” *Scioto Gazette*, November 19, 1840; “Dr. Hine’s Lecture,” *The Daily Picayune*, January 5, 1855; “Another Talented Swindler,” *The Daily Picayune*, April 7, 1852.

<sup>44</sup> Hines was sentenced on August 22, 1840 under the pseudonym, “J. Walker.” State of Louisiana, *Report of the Standing Committee on The State Penitentiary* (1844), 6.

transcript.”<sup>45</sup> Hines documented penitentiary life from 1840, when he first entered ‘the walls,’ until Governor Joseph Walker pardoned him in 1852.<sup>46</sup> The unrepentant Hines resolved to make an escape from the very beginning of his confinement.<sup>47</sup> This fact was not unknown to his keepers. The doctor claimed to have been subject to exceptional and unceasing surveillance upon arrival after being singled out as an escape artist. Sheriff Boulogny of New Orleans had notified Mr. Lanoue, the principal Warden at Baton Rouge, of the doctor’s talents and warned him that Hines “would not remain in the penitentiary three months, if he did not guard every means of escape.” Hines said that guards had been ordered to shoot him down if he made any attempt to escape.<sup>48</sup>

The ill-famed doctor took credit for Cooper and Harrington’s successful escape. Hines recounted, “I made a survey of the architectural construction of the prison, and discovered a cavity under the cells, of about eight feet deep, and that by cutting through the floor, into this cavity, I could excavate under the foundation, and into the daylight of sweet liberty.”<sup>49</sup> The gazette reported that the cavity to which the doctor referred was a “counter arch of bricks under the plank floor.” It had been constructed to “prevent the effects of humidity, in the cells in the lower story.”<sup>50</sup> An improvement over the dirt floors of the New Orleans jailhouse cells, most penitentiary cells had brick flooring but no beds or cots. They were secured with a solid iron door with a barred opening of less than twelve square inches. Louisiana’s *Daily Picayune*

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<sup>45</sup> On official transcript, See: James C. Scott, *Domination and the Arts of Resistance: Hidden Transcripts* (New Haven: Yale University Press, 1990).

<sup>46</sup> “Another Talented Swindler,” *The Daily Picayune*, April 7, 1852; Hines, *The Life and Adventures of Dr. David T. Hines*, 154.

<sup>47</sup> Hines entered the penitentiary in August of 1840. Hines, *The Life and Adventures of Dr. David T. Hines*, 154; State of Louisiana, *Report of the Standing Committee on The State Penitentiary* (1844), 11.

<sup>48</sup> Hines, *The Life and Adventures of Dr. David T. Hines*, 145-6.

<sup>49</sup> *Ibid.*, 146.

<sup>50</sup> “Extraordinary Enterprise and Perseverance,” *Scioto Gazette*, November 19, 1840.

reported that these poorly ventilated cells were virtually unheated in the winter. Ironically, their design led to the abolition of solitary confinement by 1838. Some lawmakers testified, “Experience has shown, that very few constitutions can stand solitary confinement,” in Louisiana’s climate.<sup>51</sup> Held in such quarters at night, Himes conspired with his neighbors, Cooper and Harrington, who were housed on either side. Hines claimed that the three swore an enduring oath to each other “through the contest of life and liberty.”<sup>52</sup> The purported alliance worked to Hines’ advantage since the wardens held Cooper and Harrington in considerable confidence. This admission reveals that the penitentiary gaze did not extend to all inmates equally. It also suggests that, in 1840, the three men’s confinement conformed to the Auburn pattern of individual confinement at night and congregate work by day.<sup>53</sup>

The institution’s strict rule of silence did frustrate the trio but did not prevent their collusion. They “had to steal the word of liberty,” bending the code of silence since they were “not allowed to speak to each other.” They aborted an initial attempt at escape on a Sunday when an officer interrupted their activities. The next Sunday, they revived efforts to exit through the holes cut into the cell-room’s plank flooring, descend into the hollow, crawl through the burrow to their hidden egress in the cell-house wall. But, Hines confronted an additional obstacle. His reputation for escape had prevented him from cutting through his own floor in advance since “the Captain of the guard examined it every day.” For that reason, he had to wait until just the moment of escape. Cooper and Harrington, had prepared their own cells before excavating the tunnel while Hines stood watch, surveying the hall with a “concave glass.” They had conspired in this fashion for weeks while confined at night to common end.

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<sup>51</sup> Prison Discipline Society, *Annual Report* (1838), 64.

<sup>52</sup> Hines, *The Life and Adventures of Dr. David T. Hines*, 146.

<sup>53</sup> Livingston, “Introductory Report to the Code of Reform and Prison Discipline,” 517-18, 520, 574.

Much to the doctor's disappointment, on the fatal Sunday, he discovered that Harrington and Cooper "took their departure on Saturday night," leaving him behind and with no saw to cut through the cell room floor." Lamentably, he recalled, the "next morning, when I arose and found they were gone, the very wreck of my disappointed soul seemed ready to dissolve itself into the darkest gloom." But, the trickster was undeterred and noncompliant to reform. The foiled plot was neither his first nor his last.<sup>54</sup> Even before he was transferred to the penitentiary, Hines had evaded authorities. Prior to his arrest in New Orleans, Hines had masqueraded as a distinguished lawyer in New Orleans under the pseudonym, James Walker.<sup>55</sup> Word of his fall from grace spread rapidly. Hines said, like "an electric shock, the report sounded through the city on every tongue, Jas Walker, Esq., the eminent lawyer had been arrested for negro stealing, and had attempted to kill the officer who attempted to arrested him." Habitually sarcastic, Hines reflected, "The whole force—judges, lawyers, citizens, and very nervous females, were furnished with material for gossip sufficient to last them one year, free from all charge." The doctor said that the reason for his conviction was the exposure of his three-year charade as a well-heeled lawyer and his true identity as an unrepentant rascal. Hines remarked that upon this find, "The police boasted, editors penned long articles upon the rascality of my movements, and the populace rushed to see me, as the most notorious man extant."<sup>56</sup>

After the revelation, *The Daily Picayune* dedicated an investigative report to the affected imposter. The article disclosed that Hines was also a "seducer." As far away as Cincinnati, the doctor "enjoyed a bad reputation." With no patience for law and order, a mob charged and

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<sup>54</sup> Hines had escaped from the New Orleans prison with six other inmates even before entering "the walls." His infamy was not limited to Louisiana but well-known in the North as well as the South. See: "Another Talented Swindler," *The Daily Picayune*, April 7, 1852.

<sup>55</sup> He built a lucrative law practice "to live among the first people in the city." Hines, *The Life and Adventures of Dr. David T. Hines*, 139.

<sup>56</sup> *Ibid.*, 142.

convicted him of the seduction of a “beautiful girl named Allen” who went missing. Her discovery at Hine’s residence proved to them that an “abortion had been produced through the instrumentality of Dr. Hines.” This crime against public morality raised a “public clamor” so great “that a party provided with tar, feathers, and the implements necessary for the application of them, gathered about his house and made a formal demand of his person.” Yet, they found no trace of the elusive doctor until he was defrocked in New Orleans.<sup>57</sup> The doctor admitted the error of his ways when he explained,

My discharge would have been inevitable but for an unfortunate hat which I had imported from France to complete a fashionable opera dress. This had ‘D. T. Hines’ stamped in the inner top-piece, and as soon as I was committed, the officers searched me, and espied the name, so rank in all that was criminal.

Punctuating the point with an analogy, he claimed that his arrest was so scandalous that “if the Tower of London had exploded, it could not have afforded a greater impetus to the excitement in New Orleans.”<sup>58</sup>

Beyond offering a detailed account of his own life, this pretender’s recollections provide intimate details about induction into ‘the walls.’ Bound with a heavy chain in the New Orleans prison, Hines awaited removal to the penitentiary after his sentencing. With characteristic sentimentality, the doctor recalled, “The morning of my removal arrived, and with it, the burden of my suffering seemed like a mountain defile over which was a journey of hope barricaded with the terrors of human wretchedness.” Two “huge officers of the law” came into his cell in New Orleans “with massive shackles and chains to bind” his hands and feet. Hines described, “With these, I was bound like a wild beast whose savage ferocity had spread terror throughout the land.” Adorned as such, the officers put him on board “the Baton Rouge packet, where [his]

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<sup>57</sup> “Story of Dr. Hines,” *The Daily Picayune*, February, 18, 1841.

<sup>58</sup> Hines, *The Life and Adventures of Dr. David T. Hines*, 139-145.

chained condition enlisted the sympathy of every passenger on board.” This revelation confirmed that the public often sympathized with the plight of prisoners.<sup>59</sup> After traveling upriver, Hines entered the penitentiary. But, his reputation had preceded him. Still posing as “James Walker,” Hines reported that prison officials greeted him with “constrained deference.” He remarked that even Mr. Lanoue, the principle warden and previously a colonel in Napoleon’s army, “extended a measured courtesy.”

Once inside, his first destination was the blacksmith’s shop. The visit identified the workshop’s dual function, one not indicated in official reports or the press. The same forge that employed prisoners at hard labor for profit also welded the chains that bound them. There, the doctor’s “irons were taken off.” He proceeded to the barber where his hair was shorn close to the scalp with scissors. Wearing the close-cut style characteristic of convicts, the guard stripped him naked and washed him in cold water. Hines recounted, “Just as I was waiting to be anointed, a certain jack ketch came to search my clothes.” Guards dressed him in a new costume. Arrayed in full prison garb, they led him to cell No. 40, his sleeping-room for the next twelve years. Hines reflected, “I shall never forget the number as the massive gratings closed, the dull sepulchral sound that came forth, vibrated the horrors of confinement of my very soul.” The next morning after his arrival his real introduction to penitentiary life began. The guard, “Freeman Guidery” brought the new recruit to meet Mr. Lanoue who counseled him on penitentiary reform. The warden ordered, “You must observe silence unless spoken to by the wardens or officers; you shall not laugh, sing, dance, or make a noise; you shall not look at the visitors, unless by permission of the wardens; you shall not speak to the officers, unless about your work.”<sup>60</sup>

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<sup>59</sup>Michel Foucault, *Discipline and Punish: The Birth of the Prison* (New York: Vintage Books, 1977).

<sup>60</sup> Hines, *The Life and Adventures of Dr. David T. Hines*, 145-6.



The rule of silence, to which the principle warden referred, impressed journalists from *The Daily Picayune*. The newspaper reported that “a universal silence of tongue seemed to prevail among the unhappy tenants of the place –whether from their own inclination or by rule we did not inquire, but its effect was dreary and singular in the extreme.”<sup>61</sup> The principal warden also acquainted Hines with the meaning of forced hard labor inside ‘the walls.’ Lanoue said to him, “At four o’clock, in the morning the guard bell rings—at its tap, you will get ready to march in line at daylight: when you will answer to the call, and proceed directly to your work—which you will not leave without permission of a guard or warden.” Dr. Hines took on a new occupation as shoemaker under the direction of “James Parry, an unfeeling tyrant.” Mocking the penitentiary’s method of reform Hines recalled, “I was sent to the shoe shop to do penance over men’s soles.”<sup>62</sup> In 1840 and again in 1843, reporters from *The Daily Picayune* visited the penitentiary and featured stories on the well-known doctor. The paper stated, “Our trusty and well-beloved Doctor Hines was the first we visited.” Reporters found him “pegging away at red brogans in the shoemaker’s shop...condemned to hammer and to rub and to ball off, day after day, red brogans, without uttering a sentence or a syllable to his next door neighbor, unless it were, ‘give me the wax,’ ‘pincers,’ rasp’ or such like.” Reporters mused over his fall from grace when they exclaimed, “What a falling off was there! The cambric ruffles had vanished the watch-chains had disappeared, the soap locks had cut him or had been cut from him, the diamond rings were not to be seen on his fingers!” Instead, they reported Hines to be dressed in a “uniform of the penitentiary, a coarse cotton jacket and trousers, a coarsely plaited straw hat, and a pair of brogans.” They noted another change in his attire. Hines, like his fellow prisoners, carried an iron ring around his right leg, which had been fixed in the prison’s blacksmith’s shop.

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<sup>61</sup> “The State Penitentiary,” *The Daily Picayune*, January 15, 1843.

<sup>62</sup> Hines, *The Life and Adventures of Dr. David T. Hines*, 145-6.

The ring attached to an iron chain that reached to the waist, fastened to a belt extending around the mid-section.

Reporters noted that the only vestige of the doctor's former aristocratic privilege was a small plain gold ring on the third finger of the left hand.<sup>63</sup> Three years later in 1843, reporters found Hines employed in the same capacity.<sup>64</sup> Their report acknowledged once again his strict adherence to the code of silence. They found that "the expert and famous Dr. Hines was plying his employment as if he felt the most propound interest in it, never lifting his eye from the shoe he was making" while under their watch.<sup>65</sup> The public's routine presence at the penitentiary, evident in the press report, did not break the wall of silence. Reporters said that "the unhappy felons" were not at all interested by the passing about among them of various visitors who were strangers in the town." In front of these spectators, "Prisoners hung their heads over the their various occupations, many of them with their caps pulled low over their eyes, yet with a sort of dull indifference marked upon their features, more perhaps, indicative of violent passion under curb than of anything like shame."<sup>66</sup> The report took this appearance as evidence of the guards' complete command over convicts and as proof of the new penal experiment's success.

To satisfy the public's curiosity about life and labor within 'the walls,' *The Daily Picayune* featured three other convicts, all of whom were white. Two of them were men and the third was a woman. The first was named Arnold, who had worked as a merchant but received a sentence of "five years imprisonment for stealing two pipes of brandy." McLaughlin, the second, had picked a man's pocket in a public square and was reputed to be a "Northern swindler." The

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<sup>63</sup> "Baton Rouge Penitentiary," *The Daily Picayune*, October 8, 1840; *Charleston Mercury*, October 17, 1840; "The State Penitentiary," *The Daily Picayune*, January 15, 1843.

<sup>64</sup> "The State Penitentiary," *The Daily Picayune*, January 15, 1843.

<sup>65</sup> Hines, *The Life and Adventures of Dr. David T. Hines*, 145-6; "The State Penitentiary," *The Daily Picayune*, January 15, 1843.

<sup>66</sup> "The State Penitentiary," *The Daily Picayune*, January 15, 1843.

visitors saw him making furniture and stated that he was finishing “off a large claw-foot for a sofa.” While an official penitentiary report in 1844 made no mention of Arnold or McLaughlin, the third convict mentioned in the article, Ann Jane Doyle, appeared on the penitentiary clerk’s register.<sup>67</sup> Born in Ireland, Ann Doyle, or “Mrs. Doyle,” was convicted of murder in New Orleans in 1839 when she was twenty-five years old.<sup>68</sup> Although the press reported her to be the “only white women” in the penitentiary in 1840, records suggested that “Mrs. Doyle” was in the company of at least nine other women held captive within ‘the walls,’ a mix of enslaved black women and free white women.<sup>69</sup> Allison Baxter, presumably white, was present in the penitentiary at the same time as Ann Doyle. Allison Baxter was from Massachusetts. She had been convicted of robbery in New Orleans in 1836 when she was twenty-six years old and sentenced to fourteen years. By contrast, all of the enslaved women served life sentences and over half of them had been convicted of poisoning. Silvia and Eliza, both enslaved women who were under twenty-one years of age when convicted, were sentenced at the same time in St. James parish for poisoning. Azeline, another incarcerated enslaved woman, was sentenced for attempted poisoning in St. Landry parish in 1839 when she was eighteen years old.<sup>70</sup>

Two of the enslaved women had been convicted of arson. One of the two was Rhoda who was born in Maryland and convicted of the offense in New Orleans when she was seventeen years old. The other was Carmalite, an enslaved woman who was born in Louisiana and

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<sup>67</sup> Ibid.

<sup>68</sup> State of Louisiana, *Report of the Standing Committee on The State Penitentiary* (1844), 10.

<sup>69</sup> Derbes, *Prison Productions*, 28. Reports during the period identified slaves and free men and women of color as such but did not attached a racial identity to prisoners considered white, thus, normalizing white racial identity by leaving it unexamined. See: State of Louisiana, *Report of the Standing Committee on The State Penitentiary* (1844), 10-11; “The State Penitentiary,” *The Daily Picayune*, January 15, 1843.

<sup>70</sup> Silvia and Eliza were sentenced in St. James parish on January 4, 1833. Azeline’s sentence was “attempted poisoning.” State of Louisiana, *Report of the Standing Committee on The State Penitentiary* (1844), 10-11

convicted of the crime in Lafayette parish in 1840 when she was twenty-one years old. Nancy, an enslaved woman, entered the penitentiary in 1843. She was convicted of attempted poisoning 1835, but illness cut short her stay at the penitentiary. She served less than ten days before death pardoned her sentence. The physician's report for that year suggests that the Virginia native died from influenza, which was epidemic at the time of her arrival.<sup>71</sup> The only female slave sentenced for murder was Celeste. Born in Louisiana, the thirty-year-old woman was convicted in St. Mary parish of the crime when she was twenty-three years old. A gendered division of labor marked the lives of these women. While there is no indication that prisoners were segregated systematically by sex in 1843, reports indicated that the women worked collectively in the laundry and the press confirmed that "a man ke[pt] watch over them."<sup>72</sup> Yet, "Mrs. Doyle" worked only one more year with her sister convicts. She received a pardon without remark, a privilege ascribed by her social condition.<sup>73</sup>

### ***Penitentiary Discipline and Convict Subversiveness***

*The Daily Picayune* had not been persuaded by the penitentiary's promise of reform, but it did endorse the institution's practice of forced hard labor and custodial confinement over punishment by death for state prisoners. In 1850 the paper reported, "On the whole, we have no hesitation in saying that the system of punishment which prevails in the Baton Rouge Penitentiary, is as humanely mild as circumstances will permit of, and we look upon it as one,

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<sup>71</sup> Ibid., 7. It is unclear what circumstances led to her transfer to the penitentiary since she was convicted in 1835. The physician, "Cor's R. French," indicated that between July and the beginning of September, influenza became "quite epidemic, so much so, that most of the convicts were more or less afflicted by it; and some days in August, upwards of fifty were daily on the sick list, and between August and November, a number of cases of congestive fever occurred, of which only two proved fatal."

<sup>72</sup> State of Louisiana, *Report of the Standing Committee on The Estate Penitentiary Made at the Second Session of the Sixteenth Legislature*, 1844, 10, 11; "The State Penitentiary," *The Daily Picayune*, January 15, 1843.

<sup>73</sup> State of Louisiana, *Report on the Penitentiary by a Joint Committee of the Senate and House of Representatives* (New Orleans: Magne & Weisse, State Printers, 1845).

which almost in every instance is better calculated to subserve the ends of public justice than capital punishment.”<sup>74</sup> Yet, included in the measure of penitentiary reform was its manufacturing base and its business success. On this account, it also gained a great deal of acclaim. On January 16, 1841, *The Charleston Courier* publicized the accomplishments of Louisiana’s penitentiary and featured it not only as a model for other states but also for private producers. The newspaper reported that the institution employed thirty-five convicts out of a population of about two hundred, producing profits of approximately \$11,023 in less than one year.<sup>75</sup> The paper credited the factory for its efficiency as “the labor of each convict produced 55 cents a day, being a small profit expended on the 51 cents expended by the state during the same time for food, keeping, and clothing.”<sup>76</sup>

Yet, what is even more telling was the suggestion that this type of production might be profitably applied to other modes of labor organization. The news report proposed that slave owners might approach full employment, as did administrators of convict servants at the penitentiary, generating added revenue and independence from Northern manufacturers. The newspaper stated,

The result of this experiment, it is to be hoped, will induce some of our fellow citizens to employ in the same manner of the year on their plantations. A small expense will enable them to drive machinery for the making of coarse cotton and woolen clothes, the materials of which are the product of the state, and women and children can for that purpose be employed to better advantage than the men.

Furthermore, the report indicated that such application of captive plantation labor would drive steam engines totaling 12,000 of horsepower, largely idled by application to seasonal agricultural

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<sup>74</sup> *Charleston Mercury*, October 17, 1840; “Baton Rouge Penitentiary,” *The Daily Picayune*, October 8, 1840.

<sup>75</sup> Recorded were 58, 548 yards of woolen or cotton cloth. Materials cost \$5,900 and realized a profit of \$5,122.83. “Louisiana,” *Charleston Courier*, January 16, 1841.

<sup>76</sup> *Ibid.*

industry. This statement demonstrates that Louisiana's experiment with the penitentiary was about much more than individual reform. The system instituted convict servitude as a fully rationalized and flexible system of forced captive labor, one so efficient that it attracted the interests of planters who desired to maximize labor extraction of their own cheap, captive labor force.<sup>77</sup>

Both convict and slave labor systems were capable of enormous profits, but worker resistance routinely dashed the aspirations of prison administrators and the master class in attempting to hold them captive and extract maximum labor surplus. The revolt in the penitentiary wheelwright and saddler shop made authorities pay at a high personal cost. The testimony of Dr. David T. Hines reveals the lengths to which prisoners went to subvert penitentiary practice and liberate themselves from direct forced labor and confinement even when it meant risking life and limb. Soon after Cooper and Harrington escaped, Hines joined forces with "Adams," a white man serving a five-year sentence from South Carolina, who was "extremely anxious to effect his escape." The two inmates made a "mutual agreement to remain firm friends through life." Once again, Hines claimed to have hatched the plot and profited from strategic alliance. As a mechanic, Adams agreed to manufacture mechanical items to open their cells. Ten days later, Adams produced a key, but it was impossible for the two to insert it in the exterior lock because the cell door was made of "massive iron with a small opening at the top, one foot square, and grated with iron bars so close that you could scarcely get a finger through." Adams went back to work and produced a device with lever and pulley to allow the lock to be opened with the key from the interior of the cell. So ingenious was this device in Hines' opinion

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<sup>77</sup> Ibid.

that he claimed it should be “put it in the patent office, as a specimen of an invention to unlock the iron confines of a penitentiary.”<sup>78</sup>

On January 17, 1841, the night appointed for the escape, the doctor gave his accomplice “the signal,” unlocked his partner’s cell with the device and then freed Adams from his own cell. The two men took to the step with “three flights to ascend.” When topping the second flight, Adams “struck his toe and fell headforemost, making a noise loud enough to disturb war-camp.” The slip-up went undetected, but as the pair reached the third flight they encountered “a perfect dilemma” –a door secured with nails. Yet, Hines felt buoyed. He recalled, the “night was dark and the rain poured in torrents, as if the elements had concerted to favor [the] escape.” Hines called out to Adams, “Cut it through...for you have tools.” The duo “labored from nine o’clock until daylight the next morning.” Only then did they breach ‘the walls.’ At a distance from the “prison house,” the pair paused in the rain and wind, turning to “take a last fond look of that place” which to them was “a prison-house of death.” Hines and Adams left Baton Rouge in “prison dresses and manacles” with head’s shorn on the back of a stolen “starved wreck of horse-flesh,” which barely approached “four knots an hour.” They dismounted and “dismissed the old mare about eight miles from the penitentiary,” believing that they were safe from their former captors. Hines and Adams broke from ‘the walls,’ but they escaped neither recapture nor unforgiving punishment. The law reclaimed Adams first. Hines lasted a few more days before a posse caught him. “Ironed from hand to foot,” Hines wrote, a “Kentucky monster in human form” guarded him until the morning when he was “trundled back to the penitentiary” and

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<sup>78</sup> Hines, *The Life and Adventures of Dr. David T. Hines*, 148.

handed over once more. When inside, prison “dignitaries” greeted him and were pleased about his return. They “exchanged prison courtesies” before guards took him to cell No. 4.<sup>79</sup>

Hines’ account of the pair’s reintegration into prison life provides a rare glimpse into the penitentiary’s regime of punishment and the basis for state authority. Not long after Hines arrived, authorities subjected him to penal reform with renewed vigor. The ordeal began when the doctor was ordered to strip and stretch himself on a ladder laid upon the brick pavement of the cell and then “Freeman Guidry” tied his legs to the crossbars. Hines recounted, “I was drawn by both extremes until I cried out, lest they should part my body.” His skin was as “tight as a drum,” but the doctor asserted it was not enough “to appease their savage thirst for blood.” Next, guards passed a strap with a buckle around his waist to secure him so that he could not move. Then, Hines saw “the cat,” a whip with many “tails,” designed to multiply the punishment. He was to receive fifty lashes with the whip “tarred and steeped in pickle.” Hines recalled, as “severe as was the order, I resigned myself to it like a philosopher.” Yet, despite his best efforts to resist, he “sank into a paroxysm of insensibility” after thirty blows. At that point, the dutiful surgeon stopped the exercise, guards threw cold water on Hines and he was removed him to his cell with his “back cut to pieces.” His punishment for escape also included solitary confinement, a practice outlawed after 1838 except when “enforcing obedience to regulations.”<sup>80</sup>

The doctor’s first brush with the “the cat” and “imprisonment in solitude” at the penitentiary was not enough, in the warden’s opinion, to effect his reform. The next morning, officials forced Hines back to the rack. This time, “scarcely able to walk,” guards secured him as before “to receive the balance of human cruelty.” The second dose was to be “upwards of thirty more lashes.” The warden had given Hines too much credit. The doctor’s stamina gave way after

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<sup>79</sup> Ibid., 147-8, 150.

<sup>80</sup> Ibid., 150-1. It was made of nine knotted cords of rawhide and used to inflict severe punishment.



only eleven lashes. Six weeks later and marginally better, Lanoue ordered Hines to revisit the blacksmith's shop. His re-induction into the penitentiary demanded an additional fitting and attire. The escape earned him "a ball and chain weighing thirty-two pounds," which he wore one full year. Hines wrote less about Adams. The doctor noted that Adams "was delicate" even before the escape. The man's condition combined with his own welcome by the warden sealed Adam's fate. Hines recalled that his co-conspirator did not survive the penitentiary's protocol for punishing escapees. Hines saw Adams "a few days before he died—he realized that his final end was near." The acquaintance expressed his last wishes to Hines. Adams said, "If you ever reach South Carolina, tell my friends that I never did anything to place me in a penitentiary, nor to warrant the cruelty which has produced my death." Hines took from this experience a calling to write of his experience in order to "unfold [this] tale that would stain the fair name for civilization, and make Christianity a mere mockery for refined cruelty."<sup>81</sup>

If protest had been isolated to Hines and Adams, Cooper and Harrington, or even the unreported strike which broke out in the wheelwright and saddler shops, penitentiary officials and government authorities might have rested more easily. What ultimately brought prison industry to a halt was a fire in the institution's north wing.<sup>82</sup> The damage was so complete that the section had to be demolished.<sup>83</sup> Hines' account documented this fact. He recounted that "a short time" after the escape, one wing of the penitentiary was burned, and the shoe department suffered among the rest.<sup>84</sup> *The Daily Picayune* corroborated the doctor's account but provided more detail. The newspaper stated that at "about half past 10 o'clock on a Thursday night, a fire

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<sup>81</sup> Ibid., 151.

<sup>82</sup> "Message of Governor Roman," in *Hazard's United States Commercial and Statistical Register*, vol. 6, 1842, 3; "Fire at Baton Rouge Penitentiary," *The Daily Picayune*, November 9, 1841.

<sup>83</sup> State of Louisiana, *Report of the Standing Committee on the State Penitentiary* (1844), 1-14.

<sup>84</sup> Hines, *The Life and Adventures of Dr. David T. Hines*, 152.

was discovered in the north wing of the penitentiary. The alarm was immediately given, but notwithstanding the extraordinary exertions made, the flames had so far progressed that the northern wing was completely consumed.” The flames originated in the shoemakers’ shop and were eventually extinguished by “the fire companies and citizens,” which “preserved the whole penitentiary.”<sup>85</sup>

For Hines, the blaze was unwelcome. Authorities reassigned him to the brickyard, an occupation requiring hard physical labor—one to which he was not well adapted. With a shovel on one shoulder and the “ball and chain on the other,” Hines worked for two weeks before succumbing to exhaustion and spent a few days in the hospital. Still, he was not relieved of either work in the brickyard or his ball and chain.<sup>86</sup> To make matters worse, Hines claimed that when administrators investigated the cause of the fire, “Suspicion directed itself to some infernal plan of mine.” But, this time, Hines did not play the mastermind. Neither did he delight in its destruction since he asserted, “The loss was alike severe to me, for by it, I lost the few diamonds and valuables which I had secreted in my neck handkerchief and left in the drawer of my shoe bench.”<sup>87</sup> The toll on the state was greater. A month after the incident, Governor Roman stated that the damage caused by the fire would require “ten thousand dollars in repairs.”<sup>88</sup> Hines said that authorities eventually dropped him as a suspect after they “settled that it was the work of an

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<sup>85</sup> The north wing included hospital workshops for shoemakers, tailors, and carpenters, and the provision rooms. “Fire at Baton Rouge Penitentiary,” *The Daily Picayune*, November 9, 1841.

<sup>86</sup> Dr. French did in fact served as the penitentiary physician during the period. See: Hines, *The Life and Adventures of Dr. David T. Hines*, 152; State of Louisiana, *Report of the Standing Committee on the State Penitentiary* (1844), 7.

<sup>87</sup> Hines, *The Life and Adventures of Dr. David T. Hines*, 152.

<sup>88</sup> “Message of Governor Roman,” 3; “Fire at Baton Rouge Penitentiary,” *The Daily Picayune*, November 9, 1841.

incendiary.”<sup>89</sup> *The Daily Picayune* did not disagree. No act of God, the blaze was “supposed to have been the work of an incendiary.”<sup>90</sup>

The fire’s aftermath brought changes to the penitentiary. After the first penitentiary fire, the legislature retooled prison protocol in an effort to gain more leverage and control. Echoing the Livingston code, a legislative committee urged that there be no exceptions to the code of strict silence in 1842. They argued that the principle of silence [was] a great and leading one which promotes the great end of criminal punishment.” Once again, innovation in the arts of punishment were measured against the backdrop of the New Orleans jail. The committee concluded that the imposition of silence constituted “one of the chief advantages of the penitentiary over the old jail system.”<sup>91</sup> Yet, these lawmakers understood that to impose such a rule was no easy task. Prisoners, skilled in what authorities called “the arts of mischief,” adapted their talents to the new technology of social control. Even when authorities demanded silence, workers commonly “talked and whispered under the cacophony of heavy machinery and the din of the weekly scrubbing of cells.” They confided, collaborated, and plotted using “intricate sign languages” and communicated “between cells by tapping on the hollow pipes that connected them.” The rule also failed to prevent subversive fraternity between keepers and the kept.

Officials who administered systems of congregate labor found it practically impossible to enforce the rule of silence. Proponents of the prison measured its accomplishments against the former jails of the colonial era and existing network of parish jails “which occupied the bottom rung of Louisiana’s prison system.”<sup>92</sup> Antebellum parish jails were notoriously insecure and

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<sup>89</sup> Hines, *The Life and Adventures of Dr. David T. Hines*, 152.

<sup>90</sup> “Fire at Baton Rouge Penitentiary,” *The Daily Picayune*, November 9, 1841.

<sup>91</sup> Wisner, *Public Welfare Administration in Louisiana*, 151.

<sup>92</sup> Gilles Vandal, “Regulating Louisiana’s Rural Areas: The Functions of Parish Jails, 1840-1885,” *Louisiana History: The Journal of the Louisiana Historical Association* 42, no. 1 (2001): 59–92, 74.

reported to be “universally in deplorable condition.”<sup>93</sup> By this measure, the state penitentiary compared favorably. It was not unusual for administrators to conclude that “Auburn-styled prisons,” in spite of their many “imperfections,” were “considerably more orderly, better financed, and more politically secure” than these local lock-ups. State officials, particularly governors, valued penitentiaries not only for their degree of financial profitability but also for their success in prisoner control. Forced industrial labor, according to state officials, “proved to be the best form of convict labor” since “discipline was more easily enforced, fewer guards, [were] necessary, and the product compete[d] with no interest outside the wall.”

Although ‘the walls’ may have been more secure than parish jails where prisoner escapes, mob action, summary justice, and extra-legal violence contradicted the rule of law, the penitentiary did not escape prisoner subversion. Louisiana’s penitentiary, like its counterparts throughout the United States, was not as orderly as it was reported to be. Official reports exaggerated the stability of penitentiaries based on productive congregate labor.<sup>94</sup> In reality, the system created unique opportunities that convicts utilized to subvert administrative control. In witnessing this pattern, Charles Dickens wrote that the Auburn-style labor system, “Greatly favors those opportunities of intercourse—hurried and brief no doubt, but opportunities still...by rendering it necessary for them to be employed very near to each other, side by side, without any barrier or partition between them, in their very nature present.”<sup>95</sup> Dickens’ statement spoke to the fundamental contradiction of the Auburn system—a contradiction Edward Livingston had astutely anticipated. Large-scale prison industry demanded that the penitentiary’s principles of

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<sup>93</sup> Vandal, “Regulating Louisiana’s Rural Areas,” 86.

<sup>94</sup> McLennan importantly notes that penal historians have made the mistake of accepting official reports at face value even though reformers, prison administrators, and state officials tended to underreport or fail to acknowledge conflict and discord within the systems. See: McLennan, *The Crisis of Imprisonment*, 68.

<sup>95</sup> Dickens, *American Notes*, 252.

silence and perpetual surveillance be broken since the forces of industrial production required communication and autonomous action. Prison workshops provided inmates with the materials and opportunity to discretely convene in order to subvert administrative control. It was common for prisoners to fashion makeshift writing materials for passing notes between cells.<sup>96</sup> As such, penal factory work fostered a vigorous commerce in contraband. Tobacco often became the primary medium of exchange while alcohol served as a close second. Contractors, unable to offer wages or incentives to maximize worker productivity, often allowed or encouraged contraband such as fruit, alcohol, tobacco, and other consumer goods and privileges as rewards for productive workers since repressive measures proved to be less effective. The penitentiary's system of forced congregate convict labor and its application to the industrial arts that fueled prison production invited the use of "the weapons of the weak" or acts of sabotage, strikes, and revolts.<sup>97</sup>

The fire of 1841 also brought administrative change to the penitentiary. In the summer of 1843, the Board of Inspectors removed "the administration of Hip. Lanoue, the former Chief Warden, and Paul Choppin, Captain of the Guard...after careful examination." Blamed for "dereliction of duty," the Board was convinced that the "institution had been very unprofitably and negligently managed" on their watch. The Board appointed Daniel Barbee as Chief Warden and Frederick M. Kent as Captain of the Guard." Hines agreed that "Mr. Barbee" was an improvement over Lanoue. He testified that "the barbarous cruelties which had been practiced by Lanoue were stricken out." The new warden allowed the doctor the leisure to read and study two hours a day, and provided "all the prisoners a sufficient time to eat their meals with the comfort of human beings." Hines also thought highly of "Father Harmon," the "good old man" who

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<sup>96</sup> McLennan, *The Crisis of Imprisonment Protest*, 68.

<sup>97</sup> Scott, *Domination and the Arts of Resistance*.

“through his self-sacrificing perseverance, and amicable qualities, instructed me in the ways that were good in the world.” Hines advanced his own model of reform when he asserted that the Father’s example “did more *real* good for the unfortunate prisoners than all the laws and confinement that the state of Louisiana could inflict.”<sup>98</sup>

Even before the new guard had been installed, Governor Roman outlined prison industry’s way forward. Focused on its industrial capacity, he stated that “an attentive examination” led him to the conclusion that the way for the state to profit from imprisonment was “to employ all the prisoners in the manufacture of coarse cotton and woolen goods, which has been put in operation there within the last two years.”<sup>99</sup> The fire had taken a toll, but the reconstruction of the north wing cost taxpayers little because of the state’s ability to both physically coerce prisoners to labor and also to provide them with, at best, a bare subsistence. As before, penitentiary inmates built the new structure from the ground up and with bricks made of their own hands.<sup>100</sup> Authorities and the press reported the new building and the renovated and expanded factory to be a great achievement. *The Daily Picayune* reported, “There are now about two hundred prisoners in the penitentiary at Baton Rouge, all of whom we witnessed at work...in various factories of the prison.”<sup>101</sup> It praised “the manner in which the hands of the prisoners are turned to usefulness.” Apparent observers from the newspaper were impressed with the recovery of the “mechanical arts.” They stated, “Vast machines for turning, carding, spinning, working the circular saw, etc., are put in motion by steam and tended by the prisoners. The factories are very extensive, and are well managed by the overseers, producing constantly a great amount of

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<sup>98</sup> Hines, *Life and Adventures of Dr. David T. Hines*, 152.

<sup>99</sup> “Message of Governor Roman, 3.

<sup>100</sup> State of Louisiana, *Report of the Standing Committee on the State Penitentiary*, (1844), 1-14; Wisner, *Public Welfare Administration in Louisiana*, 145-6. Hahn and Wurtzburg, *Hard Labor*, 4-5.

<sup>101</sup> “The State Penitentiary,” *The Daily Picayune*, January, 15, 1843. By the end of 1841 there were 195 inmates recorded, and in 1842 there were 206. See: Derbes, *Prison Productions*, 28.

work.”<sup>102</sup> Many prisoners worked in the penitentiary in a skilled capacity by 1843 [see Table 2.2]. Most prisoners worked as weavers, spinners, or at nondescript roles in the textile factory. The next most common assignment was work in the shoe or tailor shop. The brickyard also employed a large number of convicts. A number of inmates work as cooks, waiters, and bakers, as well as carters for the gardeners and corn-grinders. A minority worked as firemen, engineers, founders, pattern-makers, and launderers.<sup>103</sup> Convicts were forced to work as carpenters, painters, and blacksmiths while a “dozen different classes of artisans worked in various departments.” The idle remained a small minority, as only nine inmates were reportedly “sick in hospital” at the close of 1843.<sup>104</sup>

Despite the act of sabotage, officials reported that the penitentiary would fulfill its pledge to imprison for profit as long as the legislature continued to keep faith and extend capital investment. Inspectors observed that “the various workshops and their mechanics...[worked] prosperously in their various occupations.” They found “machinery, tools, and everything apparently in good working order.” Manufactured articles, particularly cotton and woolen goods were, in their view, “very substantial and finished off in good order.” They projected that a minor appropriation of between twelve and fifteen thousand dollars would allow for additional expansion of “factory work as to employ an thirty additional hands in the manufacture of cotton and woolen fabric, and by adding machinery for manufacturing bagging and rope, and sinking a tan yard,” and that the institution from that point forward would be able to “defray all its expenses, and be a source of considerable revenue to the state.” Inspectors detailed that in about six months, the operation made “a clear gain of \$2,956.18” despite the fact that “many of the

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<sup>102</sup> “The State Penitentiary,” *The Daily Picayune*, January, 15, 1843.

<sup>103</sup> State of Louisiana, *Report of the Standing Committee on the State Penitentiary* (1844), 8.

<sup>104</sup> “The State Penitentiary,” *The Daily Picayune*, January 15, 1843.

**Table 2.2**  
Employment of Prisoners at Baton Rouge, 1843,  
Louisiana State Penitentiary

	<u>Number of Inmates</u>
Weavers, Spinners, and etc. in Factory	56
Shoemakers' and Tailors' Shop	32
Lumpers and Brick Yard	28
Prison Waiters, Cooks, and Bakers	11
Blacksmiths' and Gunsmith's Shop	10
Carpenters' and Cabinet Shop	10
Coopers' and Turners' Shop	7
Women Employed in Washing, etc.	7
Saddle and Harness Shop	5
Wheelwrights' and Painters' Shop	4
Gardeners, Carters, and Corn-grinders	4
Engineers and Firemen	3
Founders and Pattern-makers	3

Source: State of Louisiana, *Report of the Standing Committee on the State Penitentiary* (1844), 8. Reproduced directly from the text.

convicts...had been employed in raising the north wing and erecting an additional story on their workshops.”<sup>105</sup>

### ***Antebellum Experiments with Convict Leasing***

Louisiana completed administrative changes after the fire consumed the north wing. It privatized its burgeoning prison industry by 1844 and did not resume complete state administration of its prisoners until 1901, with a few notable exceptions.<sup>106</sup> Local circumstances drove the impetus for this change. But, Louisiana’s shift to private administration of its penitentiary was not symptomatic of a regional exception, but rather, fell well within the national fold. In almost all new state prisons during the first quarter of the nineteenth century, “convicts

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<sup>105</sup> State of Louisiana, *Report of the Standing Committee, 1844*, 1-14

<sup>106</sup> State of Louisiana, *Report of the Standing Committee, 1844*, 1-14, United States Bureau of Labor Statistics, *Second Annual Report of the Commissioner of Labor*, Second Edition (Washington: Government Printing Office, 1887), 307.



went to work for private manufacturers under one or other variant of the of the contract system of the sort in operation at Auburn.” So much was this the case that it could generally be said that a “sentence to confinement at hard labor increasingly became an experience of forced, productive labor for private contractors and lessees.”<sup>107</sup> By the mid-nineteenth century, the overwhelming majority of American prisons appeared to conform so closely to the emergent “American system” of industrial manufacture that Charles Dickens found it hard to distinguish the two. When visiting an Auburn-style prison, he found it “difficult at first to persuade” himself that he “was really in jail...a place of ignominious punishment and endurance” given the apparent congruence between prison and civilian industrial facilities.<sup>108</sup> Exceptions were few. In the North, Pennsylvania was the only state to reject state-managed congregate convict labor or state leasing of convicts. In the American South, only South Carolina and Florida resisted experimentation with imprisonment at hard labor, remaining committed to public floggings and executions.<sup>109</sup>

Inspired by Kentucky’s privatized penal system, Louisiana sought its own.<sup>110</sup> In 1844, the legislature broke completely from the principles of the Livingston code when it surrendered administration of its urban, industrial penitentiary at Baton Rouge and its convict population to

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<sup>107</sup> McLennan, *The Crisis of Imprisonment*, 64. McLennan shows that the South conformed to prevailing national patterns albeit on a smaller scale since the antebellum Southern prison population was as little as one-tenth the size of the North’s and the penal arm of state government was considerably weaker. Institution in the region, nevertheless, followed the Auburn model together with its contract labor system.

<sup>108</sup> Dickens, *American Notes*, 252. Dickens found the Pennsylvanian system practiced at Eastern penitentiary much crueller and more punitive than any prisons in England.

<sup>109</sup> Ayers, *Vengeance and Justice*, 59-72; see chapters 17 and 19 in Orlando Faulkland Lewis, *The Development of American Prisons and Prison Customs, 1776-1845: with Special Reference to Early Institutions in the State of New York* (Albany: Prison Association of New York, 1922), 20; McLennan, *The Crisis of Imprisonment*, 67; Sellin, *Slavery and the Penal System*, 141-2.

<sup>110</sup> Act No. 79 specified that the governor was to “take for his guide the plan in operation in Kentucky.” State of Louisiana, *Acts Passed at the Second Session of the Sixteenth Legislature of the State of Louisiana* (New Orleans: Alexander C. Bullitt, State Printer, 1844), 4.

the discretion of private interest.<sup>111</sup> On March 25, 1844, authorized “An Act to Provide for the Better Administration of the Louisiana Penitentiary.” The measure required the governor to invite proposals to firms interested in leasing the penitentiary and its prisoners for a period of five years.<sup>112</sup> It required the lessees to post a bond of \$25,000 and pledge to provision prisoners in the manner to which they were accustomed.<sup>113</sup> The terms of the lease dictated that for the first two years, the lessee was to receive all profits arising from the penitentiary, and for every other year payments would ensue according to the contract.<sup>114</sup> Labor was to be allocated principally in the manufacture of coarse woolen and cotton cloth, “negro shoes,” cotton bagging, and rope from hemp products that would not challenge local craft and merchant interests. Generous provision was made for a foundry and other mechanical enterprises. The law established an administrative structure that retained a great deal of state oversight. A board staffed by five directors, selected by the governor, were to hold monthly meetings, maintain unrestricted access to the penitentiary for careful oversight, and appoint a physician and a chaplain annually while the governor appointed a clerk. The statute gave the governor, together with the Board of Directors, powers of enforcement should the lessee violate terms of the lease.<sup>115</sup>

On October, 2, 1844, McHatton, Pratt, and Company assumed control of the state penitentiary, its 176 prisoners, and all materials, implements, and manufactured goods on

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<sup>111</sup> Livingston, “Introductory Report to the Code of Reform and Prison Discipline”; State of Louisiana, *Acts* (1844), 44.

<sup>112</sup> The governor was to give notice in the “State gazette” or in such other newspapers in the United States as he may select for that purpose, provided that no contract be concluded until after three months from the first notice advertised in the State gazette. State of Louisiana, *Acts* (1844), 41.

<sup>113</sup> The lessee was to provide the prisoners with the same rations, clothing, and rest, and to change nothing in the treatment they had been receiving. *Ibid.*, 42.

<sup>114</sup> *Ibid.*, 44.

<sup>115</sup> *Ibid.*, 42-4. The act specified that “no business shall be pursued for profit, which may come in competition with the citizen mechanics of Baton Rouge, and no carpenter’s work, blacksmith’s or any other mechanical work which is pursued by the citizens of Baton Rouge, shall be sold from said Penitentiary at Baton Rouge.”

hand.<sup>116</sup> The “gentlemen of Kentucky” retained Daniel Barbee, Esq. and Captain Frederick M. Kent to administrate operations.<sup>117</sup> Nearly two months after the transfer, the chairman of the joint legislative committee on the penitentiary assured the body that lessees treated the convicts “with proper kindness and humanity...in every respect.”<sup>118</sup> The incarcerated Dr. Hines did not agree. He noted that under the lessees Mr. Barbee and his subordinates became cruel. Hines claimed that soon after the “the penitentiary was leased by McHatton, Pratt, and Ward, these men laid aside all objects of reformation...and re-instated the most cruel tyranny, to eke out the dollars and cents of human misery.”<sup>119</sup> The doctor’s account produced substantial evidence. Judge McHenry, a forty-two-year-old white man serving seven years for robbery and horse stealing, received brutal punishment for a “very trivial offense.”<sup>120</sup> Hines recalled that he was brought out “into the Court yard, stretched upon the ladders, and ordered *one hundred lashes* with ‘the cat.’” The judge did not cry out. But, after forty-seven lashes, he fainted. With carefree disregard, the guards continued to assail him several times before noticing his condition. McHenry’s stay in the hospital was short. The next day, the ordeal resumed. The lessee McHatton explained that such discipline was “to afford an example for others.”<sup>121</sup>

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<sup>116</sup> “The Louisiana Penitentiary,” *New-Orleans Commercial Bulletin*, October 21, 1844; “The Penitentiary,” *The Daily Picayune*, October 18, 1844; State of Louisiana, “List of Convicts in the Louisiana Penitentiary Transferred to the Lessees the 12th, Oct. 1844,” in *Report on the Penitentiary by a Joint Committee* (1845).

<sup>117</sup> “The Louisiana State Penitentiary,” *Mississippian*, November 26, 1845; “The Louisiana Penitentiary,” *New-Orleans Commercial Bulletin*, October 21, 1844; “The Penitentiary,” *The Daily Picayune*, October 18, 1844.

<sup>118</sup> State of Louisiana, “Report of the Committee on the Penitentiary,” in *Report on the Penitentiary by a Joint Committee of the Senate and House of Representatives* (New Orleans: Magne & Weisse, State Printers, 1845).

<sup>119</sup> Hines, *Life and Adventures of Dr. David T. Hines*, 152

<sup>120</sup> State of Louisiana, *Report of the Standing Committee on the State Penitentiary* (1844), 11; Hines, *Life and Adventures of Dr. David T. Hines*, 152.

<sup>121</sup> Hines, *Life and Adventures of Dr. David T. Hines*, 152-3.

Hines also described the administration's harsh conduct towards two insane men, one black and the other white. The doctor testified that they were "literally cut to pieces, and died at the hospital for their wounds." Hines recalled, "The negro was shot by Capt. Kent, in his cell. These men were buried in potter's field, but no tablet marked their cruel fate, or told the world how petty tyrants might murder men by law." The other man, Dr. James Palmer, was "evidently insane." Palmer worked in the factory "carrying bobbin," but one day "gave up under the burden." The guards, "Kent & Blanchard," took him to a cell and beat him "with sticks, paddles, ropes, and kicks. After that, every time Palmer he looked up from his work, they struck him. Hines recounted that "at length, he became a laughing manic." The doctor admitted that this type of penitentiary reform caused him to "become perfectly hardened to the cruelties of life" since "prison was the prisoner's world, and the few things that were within it were loathsome to life."<sup>122</sup>

More improvisation with the new experiment began from the start.<sup>123</sup> Lawmakers empowered the lessees with more tools to exact prisoner control. The same act that authorized the lease also resurrected unrestricted use of solitary confinement by 1844. Legislators mandated solitary confinement with labor, or the Pennsylvania system, for prisoners whose sentences had been commuted from death to life imprisonment.<sup>124</sup> This first legal mandate to segregate prisoners by criminal offense was likely a means to harden prison discipline, enforce lessee control after transfer, and give the lessees the ability to enact even more rigid command over

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<sup>122</sup> Ibid., 152-4.

<sup>123</sup> Section 8 of *An Act to Provide for the Better Administration of the Louisiana Penitentiary*, mandated that convicts whose sentences had been commuted from death to imprisonment. See: State of Louisiana, *Acts* (1844).

<sup>124</sup> Ibid., 42. The act mandated that such prisoners "shall be confined and made to labor alone, on the plan in force in the Eastern State Penitentiary of Pennsylvania. Yet, it is unclear how many prisoner "would have been required to labor inside their cells since commutation information was not provided on published prisoner inventories."

labor. Officials had abolished solitary confinement in 1838 purportedly because it had proven injurious to health since few constitutions could withstand such punishment in Louisiana's climate.<sup>125</sup> Return to solitary confinement under the lessee control placed even greater strains on prisoners confined in such ways since McHatton, Pratt, and Co. had erected a "wooden shed" in the prison yard. A joint legislative investigating committee reported that the new structure presented "danger and inconvenience" since it occupied "a portion of the space formerly allowed to be vacant, and immediately in front of the cells, obstructing in a great measure the circulation of air, so essential in the summer months to the health and comfort of convicts, and liable at all times...to be set on fire."<sup>126</sup>

If privatized state punishment worked to check prisoner threats to profits, it also aimed to sidestep other forces which had limited the ability of prison industry to generate surpluses. Nonetheless, protests by workingmen's associations and merchants succeeded in circumscribing prison industry."<sup>127</sup> Under fire, the legislature passed an act prohibiting the sale of convict-made items that competed directly with local manufactures. Such protest had limited the state's ability to expand production and thereby increase profitability early on. This fact, combined with losses sustained in the fire of 1841, led the legislature to condemn the warden and his staff for mismanagement and to seek a new and more profitable industry and administrative structure for prison production. Convict leasing, a type of contract convict servitude, aimed to prevent such competition and thereby redeem the penitentiary's reputation. The *Mississippian* acknowledged this when it reported that under the old system "articles manufactured, which produced some

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<sup>125</sup> Prison Discipline Society, *Annual Report* (1838), 64.

<sup>126</sup> State of Louisiana, "Report of the Committee on the Penitentiary," in *Report on the Penitentiary* (1845).

<sup>127</sup> Protests not only limited production of goods but also shuttered the penitentiary's retail store. See: State of Louisiana, *Acts* (1844); State of Louisiana, *Journal of the House* (1840), 5.

profit, came in collision with those of the mechanics and artisans of the state, making the Penitentiary an evil rather than an advantage to domestic industry.” The report indicated that by 1845, the textiles, rope, and bagging produced in Louisiana’s penitentiary resulted in a public good, since “the articles manufactured are such as we consume in large quantities, and get from abroad.” It was well understood that such enterprise was “quite profitable to the lessees.” The newspaper stated that Alabama planned to institute such a joint venture by 1846. So successful was the arrangement in place in Louisiana thought to be that the paper recommended, “Every southern state should adopt the manufacturing system.”<sup>128</sup>

The mechanics of Baton Rouge who protested labor competition posed by the nascent prison industrial complex in their hometown were not alone. As the lessees set up shop in 1844, workingmen’s associations laid siege to Auburn-styled penitentiaries in the North and in the South irrespective of whether or not they had been contracted out to private firms. Opposition mounted as vocal critics pointed out that in spite of maintenance costs associated with incarceration, ‘free’ journeymen were not able to compete with convict-made goods. Movements coalesced to combat this state-induced race to the bottom. The *Workingman’s Advocate* lived up to its namesake in warning journeymen that “by such competition...many workmen will soon be thrown out of employment or [be] compelled to work for low wages, and unless they can by other means obtain a livelihood, be reduced to a state of want and misery.” Statements by Charles Dickens were even more pointed. He asserted that subjecting convicts to forced productive labor would result in “corruption and immorality...and utter ruin” for both the republic and its citizens.<sup>129</sup> Such organizations expressed the opinion that to permit mechanical labor under such terms risked branding productive work itself as a punishment. After the first

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<sup>128</sup>“Louisiana State Penitentiary,” *Mississippian*, November 26, 1845.

<sup>129</sup> Dickens, *American Notes*; McLennan, *The Crisis of Imprisonment*, 72.

quarter of the nineteenth century in the United States, these debates intensified. Discussions over Auburn-styled manufacturing enterprises initiated penetrating political economic and moral questions, which resulted in a class-oriented critique of American society. A critic in *The Man* blamed the state for the ignorance and impoverishment since government officials in league with the elite monopolized large tracts of land no longer available to ‘free’ workers who were increasingly forced into resorting to crime in order to subsist. Accordingly, these workers, who were reduced to crime to avoid starvation, were then arrested, convicted, and sentenced to “confinement at hard labor.” In defending republican notions of free labor, the writer noted how the workingman was aggrieved in a double capacity: first, the fruits of his own labor had been stolen from him, and secondly, his own involuntary labor and descent into convict servitude, in turn, displaced one of his brethren formerly employed.<sup>130</sup>

Southern voices contributed to the wave of protest against prison industry in a similar vernacular. Workers fought bitterly against prison labor in the production of simple goods, particularly in industries with a predictable demand such as slave shoes, wagons, pails, and bricks –goods most local free workers produced and relied upon for their livelihoods. These Southern workingmen who attacked the system of contract convict servitude and the emergent prison industrial complex expressed their grievances in the familiar language of republicanism. This rhetoric sounded little different from that of their Northern counterparts who fought pitched battles against the institution for decades. Tennessee Governor Andrew Johnson exemplified this affinity. A former tailor who maintained his identification with artisans throughout his political career vilified the institution, calling it the “State Mechanic Institute.” Johnson parodied the system with the following anecdote: “Since the admission standards for the Institute were so

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<sup>130</sup> “The State Prison Monopoly,” *The Man*, June 7, 1834; McLennan, *The Crisis of Imprisonment*, 72.

high, a successful candidate must commit a worthy crime, gain a certificate of its veracity from a judge, and then gain ceremonial escort from the sheriff.” He concluded that the mass of spectators would observe that, “The prisoner had done well in obtaining a traveling trip of pleasure and a money making business for the sheriff and his escort, and he in the end to be made of the mechanics of the country.”<sup>131</sup>

Protests by workingmen pressured lawmakers to readjust their liberal experiments with forced convict labor and penal confinement. Lawmakers across the country responded by retooling industry without altering the base of production as they did in Louisiana. The uneasy compromise between local artisans and the barons of Louisiana’s prison industry found striking likeness in the accommodations made by Southern states. When artisans demanded that Mississippi’s prison workshops stop producing handcrafted goods, the state shifted to cotton production in 1849. The industry increased throughout the following decade boasting 2,304 spindles, twenty-four cotton-carding machines, seventy-six looms, and four mills. Its convict-made industrial goods found markets in St. Louis, Mobile, and New Orleans and produced net profits of \$20,000. Mirroring Louisiana’s lucrative textile industry, the cotton bagging and coarse cloth made in Mississippi’s penitentiary benefited local commerce by reducing state dependence on such goods for which planters had paid “an annual tribute of thousands of dollars.” Alabama followed suit with its own hedge against dependence on Northern manufactures and an undeclared subsidy for the master class. In 1851, Alabama’s state legislature pronounced that penitentiary industry enabled the state to become “independent of all other sections, and particularly of that section that are waring upon” the peculiarity of Southern institutions. The leadership reasoned that “because of the large steam engines” within the

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<sup>131</sup> Ayers, *Vengeance and Justice*, 66-7.; Robert H. White, *Messages of the Governors of Tennessee*, vol. 4 (Nashville: Tennessee Historical Commission, 1952), 550-52.



penitentiary's walls, the factory could easily become "one of the most extensive cotton factories...in the Southern economy."<sup>132</sup> These factories did just that as sectional tensions flared into open warfare. Southern convict servitude played its own part in fueling the Confederate war machine and its unremitting demand for manufactured textile goods.<sup>133</sup>

Artisanal protests during the second quarter of the nineteenth century in the North and in the South occurred in a context where chattel slavery had come to define meanings of republican 'freedom.' The small producers who railed against Louisiana's penitentiary and its prison workshops expressed their outrage by utilizing metaphors of slavery. In equating 'freedom' with economic independence, they saw the normalization of waged labor, worker's dependence on employers, and the increasingly concentration of capital class as akin to 'slavery.' Chattel slavery, especially for Southern workers, was not a remote symbol but an immediate and visceral reality. Increasingly subject to the strains of industrialization, these workers saw the state's systematic mobilization of convict labor with even greater alarm. These embattled 'free' workers saw in the penitentiary shades of their own bondage. They were embittered by this system of direct and physically forced industrial labor which outpaced the work of their own hands, undercut their ability to subsist, and amassed profits and power for the few. Prison factories, for them, embodied outright abjection as 'industrial slavery.' Unionists warned that if allowed to proceed, forced industrial penitentiary labor "shall have amalgamated the convict with the

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<sup>132</sup> Ayers suggests that claims about the profitability of prison enterprise were misleading. He argues that most antebellum penitentiaries, North and South, seldom turned consistent profits and pleaded for appropriations after appropriation. Moreover, he argues the costs associated with prison industry were responsible for recourse to convict leasing. See: White, *Messages of the Governors of Tennessee*, 550-52; Ayers, *Vengeance and Justice*, 66-7; *Southern Recorder*, December 14, 1858; John Hebron Moore, "Mississippi's Antebellum Textile Industry," *Journal of Mississippi History* (1954), 91-94; State of Alabama, *Annual Report of the Inspectors of the Alabama Penitentiary* (n.p., 1851), 19-20.

<sup>133</sup> Derbes demonstrates that prison industry in Louisiana, Arkansas, and Texas produced essential goods vital to the Confederacy. See: Derbes, *Prison Productions*, 1.

citizen.”<sup>134</sup> So pernicious was prison industry thought to be by mid-nineteenth century producers, mechanics across the country joined in the struggle against these specters of ‘freedom.’

Protests threatened industrializing states across sectional lines. In Boston, mechanics demanding the outright abolition of Massachusetts’ Auburn system of convict labor in 1845. Producers inundated Ohio’s state legislature, petitioning them to halt prison production in saddlery, carpeting, tailoring, and carpentry trades. Similar action had already taken place in Connecticut and Kentucky in the early 1840s. Weavers in Baltimore together with mechanics threatened the Maryland House of Delegates in 1836 and 1837 when they demanded an immediate stop to “injurious competition” from state prison industry.” As they had in Louisiana, workers in the towns and cities of Tennessee, Georgia, and Alabama, rallied against prison industry and its competition with independent tradespeople.<sup>135</sup> By 1850, nearly all Northern and most Southern states institutionalized a distinctively new system of involuntary servitude. Contract convict servitude was a type of physically forced penal labor that emerged with the Auburn system beginning in the 1820s and became institutionalized by most states during the 1830s. This labor system, operating within monumental cellular prisons and their congregate workshops acted as the handmaiden to state-building, the displacement of merchant capitalism in favor of industrial forms, the marginalization of the craft system and artisanal production, and increasing concentrations of capital. Nevertheless, prison industry and the penitentiaries that made it possible remained subject to their own contradictions. Antebellum penitentiaries in the North and in the South had been effectively circumscribed by the protests of artisans and tradespeople. They were destabilized from within by prisoners themselves who proved strict Auburn-styled prisoner discipline to be a fiction.

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<sup>134</sup>“Remarks of J. Haskell,” *Workingman’s Advocate*, May 9, 1835.

<sup>135</sup> McLennan, *The Crisis of Imprisonment*, 74-5.

By 1845, lawmakers in Louisiana branded their experiment with the lease a success. They authorized the governor to loan \$15,000 from the state treasury to the lessee in order to purchase “necessary machinery for the manufacture of cotton bagging and rope from hemp,” and thus, increase industrial capacity. The state-of-the art bagging and rope facility was said “never to have been before attempted” and to be “equal in quality to the best article of the kind.” The committee informed the body that the lessee would soon be producing “one thousand yards of bagging per day.”<sup>136</sup> The operation included a steam engine of ninety horsepower, and an “ample quantity of the best labor-saving machinery in full operation by which they are enable to earn double as much per hand as is usual in prisons.” But, the added industrial base and the firm’s more efficient, if not more brutal, management led to calls for more convicts. Accounting for the usual ebb and flow of prisoners, the penitentiary held an average of 194 penitentiary inmates each day in 1844. This number was not sufficient to satisfy the firm’s scale of production. The lessees, McHatton, Pratt, and Co., made great complaint made against the courts, for imprisoning persons in jails and thereby depriving the lessees of labor “to which they entitled under the contract and the attention of the Legislature was called to the subject.”<sup>137</sup> Nonetheless, the firm generated \$47,194 in earnings above the cost of raw materials, which resulted in first year profits after accounting for past debt of over \$20,000. Taken as a whole, each prisoner, on average, earned \$243.27 annually.<sup>138</sup> These gains occurred despite the fact that the expanded cotton and

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<sup>136</sup> State of Louisiana, *Acts Passed at the First Session of the Seventeenth Legislature of the State of Louisiana* (New Orleans: Magne & Weisse, State Printers, 1845), 43; Capital was extended for the manufacture of bagging and rope as well as coarse cotton and woolen cloths to be refunded at six percent interest. As of January 1, 1845, the additional machinery for cotton and woolen production had not yet been installed but assurances were given that it would be in place by February of 1846. See: State of Louisiana, *Report on the Penitentiary by a Joint Committee* (1845).

<sup>137</sup> State of New York, “Louisiana Penitentiary for 1845,” in *Documents of the Assembly of the State of New York* (Albany: E. Crosswell, Printer to the State, 1847), 347.

<sup>138</sup> Louisiana’s population in 1840 consisted of 158,457 whites; 25,502 free persons of color, 168,452

woolen factory was incomplete and much labor had been allocated to infrastructural improvements.<sup>139</sup>

Such profits, for the firm, were not easily earned. Escapes more than doubled on lessee watch.<sup>140</sup> Only months after the firm took charge, three white male prisoners escaped together. They all entered the institution in 1842, and left at the same time on February 10, 1844. The men ranged in age from twenty-seven to thirty-eight years old. James Joiner, from Ohio, convicted of “inveighing a slave,” was sentenced to six years hard labor. G.W. Bothwell of New York, convicted of “uttering,” was sentenced to a term of three years one month and one day while William Callote, born in Canada, received a six-year sentence to hard labor for burglary. Another inmate, W. Smith, escaped four days later. From New York, Smith had been sentenced to five years for horse stealing. The fifth man to escape during 1844 was Russell Warner, a twenty-year-old white man from Tennessee who was sentenced to seven years for robbery on November 23, 1844. It was little coincidence that the lessees took the initiative to ‘improve’ the notorious walls. Experience soon taught them that industrial output required greater innovations in penitentiary’s architecture of prisoner control. Consequently, the lessees arranged for the raising the east wall of the prison six feet higher in an effort to “render the yard more secure against the escape of the convicts.” Although this renovation did in fact enlarge the penitentiary, its purpose was to secure its captive workforce and guard against escapes.<sup>141</sup>

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slaves for a total population of 352,411. The number of persons to each convict received during was 8,408:1 See: State of New York, “Louisiana Penitentiary for 1845,” 347-8.

<sup>139</sup> See: State of Louisiana, *Report on the Penitentiary by a Joint Committee* (1845).

<sup>140</sup> There were two recorded escapes in both 1837 and 1843. See: Prison Discipline Society, *Annual Report* (1838), 64; State of Louisiana, *Report of the Standing Committee on the State Penitentiary* (1844), 6; State of Louisiana, *Report on the Penitentiary by a Joint Committee* (1845).

<sup>141</sup> A two story brick building was planned, the whole length of the east wall of the prison, one hundred and twenty feet in the rear the upper story to be “used for the purpose of spinning warps and filling for bagging and the lower for a rope walk.” See: State of Louisiana, *Report of the Standing Committee on the*

Mandates for solitary confinement, unforgiving discipline, and the raising of the walls did not arrest prisoner revolts. While reports indicated that there were no “incendiaries” during in the second half of the 1840s, The *New York Herald* publicized an event disconcerting to officials. On a Tuesday evening in July of 1847, in darkness with no gas lights, a guard “handed a convict a candle, ordering him to light it.” Upon this request, “the convict was obliged to approach a table, on which stood a light.” There, the prisoner spotted a loaded pistol. “Seizing it,” he “presented its muzzle to the head of the guard” and declared, “You are now in my power.” If that had been the end, authorities would have been more assured. But, “at the same instant, some twenty convicts suddenly appeared, all intent upon [a] hostile purpose.” However, the guard still held a “heavy Roman sword, and cut down the conspirator with pistol, almost severing his arm from his body, cutting open his head, and otherwise injuring him.” This time prisoners would not make it beyond the walls of the penitentiary. The report stated that the “rest of the convicts seeing this fled to their cell and the mutiny ended.”<sup>142</sup> However profitable prison industries may have been, everyday acts of sabotage, escape, collective strikes and mutinies, and everyday resistance, cut deeply into the venture’s bottom line. Thus, state government had resorted to convict leasing, not out of simple economic necessity, but under strain from local merchants and tradespeople as well as the economic burden imposed by ‘incendiary’ action and prisoner resistance.

Although enthusiasm for this new experiment ran high after the first year, support for it ebbed and flowed in direct proportion to the efficiency, productivity, and profitability of the convict labor regime. The Democratic governor, Isaac Johnson, was committed to competence in governance and had initially opposed privatizing Louisiana’s penitentiary. But, impressed by the

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*State Penitentiary* (1844), 6; State of Louisiana, *Report on the Penitentiary by a Joint Committee* (1845).

<sup>142</sup> “Attempted Rising of the Convicts,” *New York Herald*, July 9, 1847.

penitentiary's performance in 1847, he changed his opinion because of its capacity to generate surpluses sufficient to expand state governance and underwrite one of his projects, the construction of an insane asylum.<sup>143</sup> Louisiana's antebellum convict lease system also catered to the federal government by 1846 when the penitentiary won a federal contract to produce goods to sustain the nation's Mexican War effort. Writing to Lieutenant Colonel Thomas F. Hunt, Quartermaster General Thomas S. Jesup conveyed the difficulty he had in supplying the military's one hundred teams of mules with "sufficient horse-shoes." However, the Quartermaster General received a tip that the blacksmith's shop at the Louisiana penitentiary could manufacture "any number of horse-shoes," a volume beyond any typical operation.<sup>144</sup> In late September of 1846, Quartermaster General Jesup ordered that Hunt acquire "at least ten thousand sets of four" horseshoes from the penal complex. This request did not compete with 'honest' labor. A supply firm under contract with the Quartermaster General, by the name of Layton & Co., had exhausted all options to provision the army since 'free' workers refused to "stand at their fires" in the summer's heat. "Few or none" of the blacksmiths would "undertake to make them" even though they were allowed "to make their own price." Layton & Co. decided to sub-contract out to meet their orders and sent "some 10,000 lbs. of iron to the Louisiana penitentiary." Unable to refuse work, penitentiary inmates filled the quartermaster's requisition

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<sup>143</sup> Since Governor Johnson (1846-1850) appointed individuals based on perceived competence instead of party affiliation, he provoked the wrath of his own party by appointing Whigs. See: Cowan and McGuire, *Louisiana Governors*, 148-49; State of Louisiana, *Official Journal of the Proceedings of the House of Representatives of the State of Louisiana* (n.p., 1848).

<sup>144</sup> Letter to Lieutenant Colonel Thomas F. Hunt from Quartermaster General Thomas S. Jesup, September 27, 1846, in *Correspondence with General Taylor with Message from the President of the United States*, vol. 4, 500 (Washington: Government Printing Office, 1847), 633.

for “12,000 horseshoes and the same number of mule shoes, with a suitable proportion of nails.”<sup>145</sup>

As the first lease came to a close, debate over its future ensued. The legislature issued a majority report in its favor. Their glowing report credited the lessees for meeting their custodial responsibilities. Supporters were of the opinion that the firm’s paternalism resulted in a convict population that was humanely treated and well provisioned in sickness and in health. Governor Johnson noted this when he said that, the majority “report is particularly interesting in the flattering testimony it bears to the good temper and kindness of the lessees in their control and management of the unhappy convicts and their indefatigable exertion to render general satisfaction.” But, the report also underscored gains made by the state despite their initial expenditures. As predicted, Louisiana saved on annual expenditures for prisoner upkeep and benefited from capital improvements made by the lessees. The inventory of “tools, machines, and manufactured articles and materials showed an increase in their value of \$8,985.20” over the short period.<sup>146</sup>

Enthusiasm for Louisiana’s first trial with a privately administered penitentiary was not unanimous. Dissenting legislators simultaneously issued their own opinion in a minority report challenging aspects of the majority view. This criticism called attention to inadequate prison conditions and the lessees’ lack of attention to prisoner welfare. But, they did not object to the sizable profits received by the state from the venture. What legislators could agree on was that if

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<sup>145</sup> Letter to Major General Thomas S. Jesup from Layton and Company, October 6, 1846, in *Correspondence with General Taylor*, 451-2; Letter to Major Quartermaster General Thomas S. Jesup from Deputy Quartermaster General Thomas F. Hunt, November 20, 1846, in *Correspondence with General Taylor with Message from the President of the United States*, 450-1.

<sup>146</sup> Wisner suggests that the tenor of the majority report relied to a great extent, on the testimony of the physician and the chaplain who testified to the positive effects of the system. See: Wisner, *Public Welfare Administration in Louisiana*, 148-9; State of Louisiana, *Journal of the House* (1848).

the penitentiary was to generate surplus for the state, then the only “solution was to offer the lease to the highest bidder.” Such consensus was the backdrop for the consideration of proposals.<sup>147</sup> In 1850, officials negotiated a new five-year lease with McHatton, Ward, and Company, which obligated the firm to pay the state an annual rent of one-quarter of all profits and guarantee minimum annual rental payments of \$1,000.<sup>148</sup> Minority objections did not begin to capture the public indignation in Baton Rouge. The *Baton Rouge Gazette* published a number of articles attacking the administration of the prison. Journalists contradicted the official record when they publicized the “unwise, barbaric, and unpolitic” treatment of a prisoner to exemplify “the gross violation of decency, perpetrated in the cruel treatment” of convicts. Criticism in the popular press registered the opinion that the penitentiary under lessee control was “a growing outrage upon the community” by a “questionable power.”<sup>149</sup> In 1852, minority voices in the legislature again questioned the basis of the lease. The same legislator who called into question convict treatment, suggested termination of the lease and the resumption of state control on different grounds. Senator G.W. Watterson of Baton Rouge remarked, “if this profit” estimated at \$15,000 annually, “can be made by [the lessees]...why should so considerable a sum be withdrawn...from the public treasury, which needs it so much?” Historian Mark T. Carleton accurately surmised that what the senator failed to realize was that it was the lessees’ methods, which he so ardently opposed, that made such returns possible and that “if the state was unwilling to adopt the lessees’ methods, it should not expect to make the lessees’ profits.”<sup>150</sup>

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<sup>147</sup>The state accepted \$4,000 in annual payments. State of Louisiana, *Journal of the House* (1848).

<sup>148</sup>Carleton, *Politics and Punishment*, 8-11; State of Louisiana, *Official Journal of the Proceedings of the Senate of the State of Louisiana* (n.p., 1850), 10.

<sup>149</sup> *Baton Rouge Gazette*, July 3, 1852.

<sup>150</sup> Carleton, *Politics and Punishment*, 10; State of Louisiana, *Official Journal of the Proceedings of the Senate of the State of Louisiana* (n.p., 1852), 125.



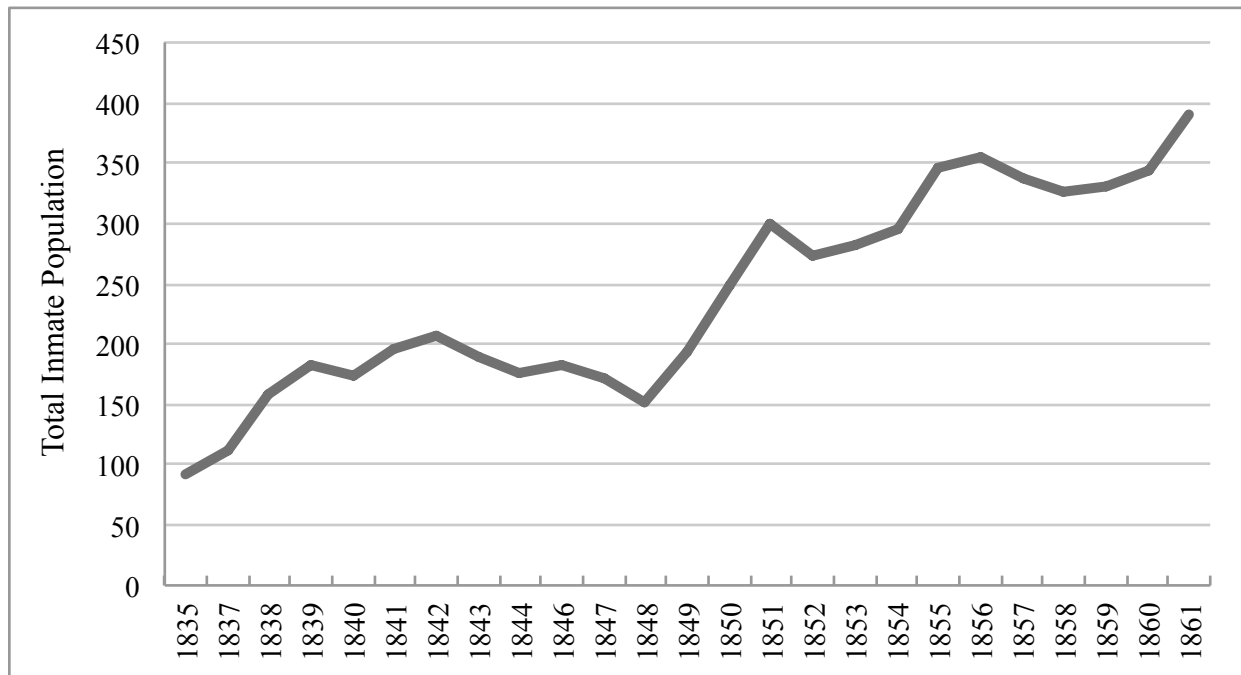
There is no evidence to suggest that most legislators shared a genuine concern for prisoner well-being aside from their obvious value as workers. Senator J.W. Butler of Natchitoches reminded the assembly that lease or no lease, “Without some means to make the prisoners stand in fear, it would be utterly impossible to maintain any discipline or subordination.” He stood firm that there was “no mode of punishment less cruel, and more effective, than a proper amount of flogging.”<sup>151</sup> The government’s lack of concern for prisoner well-being was evident in the support for that very type of punishment. In addition to the ordeal of textile production behind penitentiary walls, lawmakers did not object to prison industry in other ‘useful’ applications. Lessee command coincided with increases in prisoner population and decreases in the proportion of prisoners trained in skilled occupations. Convicts constructed an additional 200 cells by the end of 1853.<sup>152</sup> Following the completion of the new addition, the prison population steadily increased to fill the new chambers [see Figure 2.1 and Table 2.3]. As pressure mounted on the state to improve infrastructural support for plantation production, the firm began to experiment with applying convict labor to levee construction. This approach satisfied the lessees’ imperative to maximize prisoner employment and to generate generous financial returns. Meanwhile, it offered the lessees a bonus in terms of prisoner control since it was thought that the spectacle of putting convicts to work at backbreaking labor on Louisiana’s levees would instill a healthy fear among non-convicts and thereby effect deterrence. Even before the lessees began to factor levee contracts into their bottom line, the levee work had proven so arduous that many died on the job from overwork and exposure. For this reason, many Louisiana planters prohibited their slaves from such work and hired immigrants for wages

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<sup>151</sup> Ibid.

<sup>152</sup> State of Louisiana, *Report of the Board of Directors of the Louisiana Penitentiary* (New Orleans: Emile La Sere, State Printer, 1854), 4.

**Figure 2.1**  
Inmate Population, 1835-1861,  
Louisiana State Penitentiary



*Sources:* 1835: Derbes, *Prison Productions*, 28; 1836: Gibson, *Gibson's Guide* (1838), 260; 1837-8: *The American Almanac* (1839), 182; 1839: Gibson, *Gibson's Guide* (1838), 260; 1840-2: Derbes, *Prison Productions*, 28; 1843: State of Louisiana, *Report of the Standing Committee* (1844), 8, 10-12; 1844: State of Louisiana, *Report on the Penitentiary* (1845); 1846-8: Derbes, *Prison Productions*, 28; 1849: *The American Almanac and Repository of Useful Knowledge for the Year 1852*, vol. 23 (Boston: Charles C. Little and James Brown, 1852), 284; 1850-1: *Annual Report of the Board of Directors* (1852) 6; 1852: State of Louisiana, *Report of the Board of Directors* (1853), 4; 1853: *The American Almanac* (1855), 282; 1854: State of Louisiana, *Annual Report of the Board* (1855), 9-14; 1855: State of Louisiana, *Annual Report of the Board* (1856), 5, 17-18; *The American Almanac and Repository of Useful Knowledge for the Year 1859*, vol. 30 (Boston: Crosby, Nichols, and Company, 1859), 299; 1857: *The American Almanac and Repository of Useful Knowledge for the Year 1860*, vol. 31 (Boston: Crosby, Nichols, and Company, 1860), 268; 1858: State of Louisiana, "Report of the Committee on the Penitentiary," in *Documents of the Second Session of the Fourth Legislature of the State of Louisiana* (Baton Rouge: J. M. Taylor, State Printer, 1859), 61, 45-57; 1859: *The American Almanac and Repository of Useful Knowledge for the Year 1861*, vol. 32 (Boston: Crosby, Nichols, and Company, 1861), 285; 1860: Derbes, *Prison Productions*, 28; 1861: Forret, "Before Angola," 149.

instead. Thus, penitentiary labor applied to levee construction satisfied competing interests, set a precedent that would continue into the twentieth century, and spoke to the lack of any genuine regard for prisoner well-being.

The legislature eventually achieved consensus on the remunerative potential of the lease, ratifying it for another five years. As the second term was set to expire in 1855, the executive

**Table 2.3**  
Inmate Population, 1835-1861,  
Louisiana State Penitentiary

<u>Year</u>	<u>Population</u>
1835	91
1837	112
1838	158
1839	182
1840	174
1841	195
1842	206
1843	189
1844	176
1846	183
1847	172
1848	152
1849	194
1850	249
1851	300
1852	273
1853	283
1854	295
1855	347
1856	356
1857	337
1858	326
1859	330
1860	343
1861	390

*Source:* See citations for Figure 2.1.

branch suspended the state's run with imprisonment for private profits. At that time, Governor Paul Octave Hebert, a "maverick" and an opponent of the lease, re-imposed state control over the lease but without the legislature's blessings. In May of 1855, the management of the penitentiary reverted to the state and remained so until 1857.<sup>153</sup> Without the assembly's support, the governor

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<sup>153</sup> *Biographical and Historical Memoirs of Louisiana*, 149.

acted alone to secure an emergency loan to finance operating costs since lawmakers made no appropriations for maintenance or raw materials. The Board reported in 1856 that “convicts had not been profitably employed during the eight months since the state took charge.” Governor Hebert at once indicted the legislative branch when he insisted, “If instead of resorting to loans, the state had appropriated \$20,000, the affairs of the institution could have been kept running without a sacrifice.”<sup>154</sup> The stalemate endured until the end of Hebert’s term, the same year the penitentiary burned once again.

The “cry of fire” raised alarms at the penitentiary before twelve o’clock on June 13, 1856. A “rush of citizens” saw the penitentiary buildings in a blaze. Nearly 350 convicts were “engaged in their labors” outside of their cells.” As fire crews marshaled, guards rushed to lock them in their cells. The fire started in the “pickery,” a large enclosure where loose cotton was stored before it was spun into thread. Within minutes, the fire “passed to the entire extremity of the building three hundred feet in length.” The press reported that the building was “soon in ruins, and it was with the greatest difficulty that the balance of the state property was saved.”<sup>155</sup> The destruction of the east wing of the penitentiary represented a loss of \$200,000, as well as a loss of nine prisoners who escaped ‘the walls’ during the conflagration.<sup>156</sup>

Robert C. Wickliffe, Governor Hebert’s successor, ended the impasse when he recruited a private firm to administer the penitentiary. J.M. Hart and W.S. Pike agreed to fill this vacuum,

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<sup>154</sup> By 1856, convicts “numbered between 300 and 333, and the machinery and space for the manufacture of cotton and woolen goods had been planned for the employment of fewer hands.” See: Wisner, *Public Welfare Administration in Louisiana*, 150-1; State of Louisiana, *Annual Report of the Board of Directors of the Louisiana Penitentiary to the Governor of the State of Louisiana, January, 1856* (New Orleans: John Claiborne, State Printer, 1856), 3-5.

<sup>155</sup> “The Fire at the Penitentiary,” *The Cincinnati Daily Enquirer*, June 14, 1856.

<sup>156</sup> “New Orleans Probably American -Louisiana Prison Burnt,” *The Daily Cleveland Herald*, June 3, 1856; “From New Orleans: The Municipal Election—Riots and Bloodshed—Great Fire,” *The New York Times*, June 4, 1856; “From New Orleans: The Municipal Election-Riots and Bloodshed-Great Fire in the Louisiana Penitentiary,” *The New York Times*, June 4, 1856.

undertaking the venture without a formal contract.<sup>157</sup> The firm renewed production with state-backed loans and agreed to divide profits evenly with the state every year. So provided, the state's second joint venture netted profits of \$3,000 to the treasury from the system of forced labor and penal confinement in less than three months. Out of the wreckage emerged an even more productive prison industry and a more efficient economy of punishment in the opinion of officials and their elite supporters. They saw these trials as positive proof that convict servitude thrived in the state penitentiary. It held great advantage for state-building and for advancing regional interests in the transatlantic circuits of exchange of which they were a part.

State officials again handed this refurbished industry back to the lessees, but with new strings attached.<sup>158</sup> After the resumption of the lease in 1857, these parties agreed that the Louisiana State Penitentiary's prison industry was mutually beneficial. Lawmakers reinvested payment back into the penitentiary to increase capacity even further.<sup>159</sup> On the eve of the Civil War, officials were not the only boosters of Louisiana's penitentiary and its renters. By the end of the 1850s, even the popular press showed support for Louisiana's prison industrial complex and its system of physically forced convict labor. Local newspapers published articles extolling

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<sup>157</sup> The governor negotiated with Citizens' Bank and obtained \$11,000 to purchase food and raw materials for manufacture. See: Wisner, *Public Welfare Administration in Louisiana*, 150-1; State of Louisiana, *Annual Report of the Board of Directors* (1856), 3-5.

<sup>158</sup> The legislative Act of 1857 set forth the most stringent requirements of the lessees to date. This fourth lease increased bond to \$60,000, prohibited convicts from working outside of the penitentiary, required that all discharged convicts receive \$10 and a suit of "citizen's clothes," a clerk was to be hired so that a register would record the names of convicts, the date of their admission, the term of their imprisonment, the parish from which sentenced, their age, sex, color, place of birth, date of discharge, and incidence of death. The act also created a Board of Control consisting of five members appointed by the governor who had power to superintend the penitentiary and salary was set at \$100. The physician (\$600) and five clergymen representing five denominations (\$100) were to be appointed and paid for by the lessees, but approved and directed by the Board of Control. See: State of Louisiana, *Digest of the Statutes of the State of Louisiana*, vol. 2 (New Orleans: The Republican Office, 1870), 361-5.

<sup>159</sup> Profits for the first year totaled \$43,664.90. The state spent its share on additional machinery. See: State of Louisiana, *Digest of the Statutes of the State of Louisiana*, 361-4.

prison efficiency and the value of its products.<sup>160</sup> The noted prison reformer, Dorothea Lynde Dix, who inspected Louisiana's privately run penitentiary in 1859 was similarly impressed. She spoke highly of its keepers and was reported to have said that it was the best ordered institution of its kind in the union. Penal reformers praised the attention given to improvement in prison conditions, which included a new building that provided segregated housing for female prisoners as well as an addition of a large dining room that allowed prisoners to eat together instead of taking their meals in their cells with food served in a single dish, as had been the custom.

### *Administrative Amelioration*

If fires and revolts arrested production at Louisiana's penitentiary, illness among inmates also impeded the state's industrial progress. A smallpox outbreak hindered output from the early to mid-1850s. The attending physician, G.W. Christine stated that almost one-fourth of the inmates were stricken with the affliction in 1854. The next year, Thomas J. Buffington reported that inmates slept on mattresses laid directly on damp and dirty floors. He recommended that cots or elevated folding beds would add to prison sanitation and prisoner well-being, and arguably, increased production and the profits accruing from it. Another prison physician, F.M. Hereford, added that investment in cisterns would forestall outbreaks of disease, especially during summer months.<sup>161</sup> So critical was the health of the prisoners to the well-being of prison enterprise that in 1856 the warden, E. Hiriart, requested investment in their housing. He stated that "as a means of securing better health" investments in "small bedsteads for their use, which while rendering them more comfortable, would serve to elevate them out of the filth that necessarily accumulates in their cells, and which is more or less productive of disease."

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<sup>160</sup> *Baton Rouge Daily Gazette and Comet*, August 5, 1859.

<sup>161</sup> F. M. Hereford, "Report of the Physician," in *Report of the Board of Directors of the Louisiana Penitentiary to the Governor of Louisiana* (New Orleans: Bee Printers, 1852), 5.

Furthermore, the warden highlighted the “advantage of a convenient place for summer bathing.” He suggested that this would be no luxury when he said, that it would “be provided at an expense, which, when compared to the better health” of the prisoner would be “insignificant indeed.”<sup>162</sup>

The penitentiary’s chaplains reiterated the warden’s requests in their own reports. M.H. Slossom, one of the chaplains, attempted to impress upon the state the necessity of “improvement in the cells by substituting doors adapted to the purposes of better light and freer ventilation.” While, in his view, these changes would improve sanitation, they would also promote prisoner reform and penitentiary security. He argued that new cell doors were “indispensable where improvement is desired” since the existing doors did “not admit ample light into the cell at night.” In suggesting that a new door with a different design “would admit ample light into the cell at night, by placing lamps at suitable distances in the open court before the cells,” it would effect “a two-fold object—light for the convict, if disposed to read or write, and convenience to the guard on duty.”<sup>163</sup> Similarly, the chaplain recommended a refurnishing of the cell houses, but differed in what appointments were most important. He urged the governor to reappoint each cell with “a chair, small table, and hanging book shelves, supplied with the Bible, hymn book, and such other books as might be adapted to the degree of cultivation of the convict, together with slate, pencils, and stationary.”<sup>164</sup> The chaplain explicitly stated that he did not concern himself with physical comforts or the health of convicts. His overriding goal was to

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<sup>162</sup> Hiriart, “Warden’s Report,” in *Annual Report of the Board of Directors* (1856), 11-12.

<sup>163</sup> M.H. Slossom, “Chaplains’ Reports” in *Annual Report of the Board of Directors* (1856), 48.

<sup>164</sup> *Ibid.*, 48-9.

furnish them with “simply the most obvious and indispensable” requirements.<sup>165</sup> Members of the Board of Control gave even greater urgency to the Chaplin’s request in stating that,

To those who have been incarcerated for life, the reflection upon their horrid crimes, and the dismal prospect of a whole life of bitter and unvarying servitude, this world sheds upon them no one ray of hope or consolation. But the teachings of the Christian religion open to them a hope for another world which is denied them in this, and the State should furnish them all the means for moral and religious instruction which their conditions admits of, and all the influences which are calculated to lead their minds from the hopeless misery to a better state of existence.<sup>166</sup>

In noting that such souls were doomed to the misery and punishment of unrelenting hard labor and confinement in their earthly existence, these administrators hoped to enliven such captives with moral reform by entreating them with a new chapel and instilling within them Christian charity and hope for the afterlife. The chaplain’s report remonstrated the state in suggesting, “If, the State, would maintain the dignity of her laws, and secure the ostensible objects of disciplinary and coercive restraint, these recommendations, or others of a similar character cannot be omitted.” In the rector’s view, the “majesty of the law” depended on the erection of “a suitable place for public worship” since the only “place of worship in the dining-room” was a “dismal, gloomy, cold uncomfortable place, and on rainy days absolutely intolerable.”<sup>167</sup>

Another chaplain, Thomas Castleton, echoed Slossom’s complaints, admitting that twice he had himself “taken chills, while preaching to them in this terrible place, while prisoners sat shivering with cold.”<sup>168</sup> As Livingston had done, the Presbyterian minister, Thomas Castleton, appealed to the state’s sense of honor and propriety. He claimed that outside of Louisiana, “every state prison with which” he had been acquainted supplied “a comfortable place of worship.” The

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<sup>165</sup> Ibid., 50.

<sup>166</sup> State of Louisiana, *Annual Report of the Board of Directors* (1856), 4.

<sup>167</sup> Slossom, “Chaplains’ Reports,” 49.

<sup>168</sup> Thomas Castleton, “Chaplains’ Reports,” in *Annual Report of the Board of Directors* (1856), 53-4.



chaplain challenged officials when he questioned, “Why not in Louisiana? Are men to be considered less human and less worthy of efforts for their good in our noble State than in others?” In the event that officials might not attend to this lesson, he advanced another. The chaplain reminded them about the spread of moral contagion if more healthful measures were not respected. In no uncertain terms, Thomas Castleton concluded with the terse statement: “But be assured if Louisiana cannot afford suitable means for the reformation of her vicious ones, she soon will not be able to afford room enough her multiplied criminals.”<sup>169</sup> Fortunately for the Presbyterian chaplain, if not for prisoners condemned by Louisiana to convict servitude, the officials estimated that the costs of retrofitting a chapel would be negligible. The Board reminded the state that any cost associated the chapel was not appreciable since it “could be erected at little expense” because of the surplus pool of convict labor and extra material readily available at the “in the institution.”<sup>170</sup>

Yet, the humanitarian appeals made by the warden, the chaplains, and the Board of Directors to improve conditions were, first and foremost, practical solutions to the problem of prison discipline and investment in human capital rather than strictly measures indicative of a type of reform associated with benevolent or humane treatment. The warden’s request for better ventilated cell doors was intended to intensify surveillance by projecting more light into the dimly lit interiors. The context in which officials argued for better sanitation demonstrated that poor health was one of the “many and unavoidable difficulties” with which they had to contend. By soliciting investments in convict capital, they showed that this was but one condition that diminished “very materially profits and revenues which otherwise would have been

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<sup>169</sup> Castleton, “Chaplains’ Reports,” 54.

<sup>170</sup> State of Louisiana, *Annual Report of the Board of Directors* (1856), 5.

incalculably” greater.<sup>171</sup> Demands by chaplains, couching economic rationales in moral persuasion, expressed a moral economy of social control. They maintained that small investment in a chapel, a library, bibles assigned to all prisoners, access to writing, and greater affiliation with chaplains would inculcate prisoners with “those principles of truth and justice with the observance of which man’s temporal and eternal well-being is so intimately blended.”<sup>172</sup>

Reforms such as better ventilated, better illuminated, and more sanitary cells, as well as investment in Christian teaching were intended to facilitate practical considerations. They were ordained as a means to foster a more ‘useful’ and reliable convict labor force. Analysts of Louisiana’s penitentiary system have interpreted these requests in strictly moral terms and thereby overlooked the more calculate, immediate and self-serving advantages that ‘improving’ living conditions for convicts offered to prison administrators. As a result, they have neglected to examine the disciplinary or ameliorative function of such conditions and the utilitarian impulse attached to penal reform.<sup>173</sup> The tremendous investments made by authorities to control prisoners, their redoubled efforts to impose silence, and their willingness to reconsider the use of solitary confinement indicated the frailty and instability rather than strength of the state penitentiary. The perennial requests made by the penitentiary’s “keepers” to improve conditions at the facility also spoke to the institution’s imperfections, internal contradictions, and chronic instability.

### ***Conclusion***

Louisiana’s antebellum experiments with the penitentiary system marked the emergence of a distinct system of direct forced labor and custodial confinement which gave rise to a nascent

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<sup>171</sup> Hiriart, “Warden’s Report,” in *Annual Report of the Board of Directors* (1856), 12.

<sup>172</sup> Elijah Guion, “Chaplains’ Reports,” in *Annual Report of the Board of Directors* (1856), 51.

<sup>173</sup> Carleton, *Politics and Punishment*; Wisner, *Public Welfare Administration in Louisiana*.

prison industrial complex. The Auburn-styled penitentiary imposed physically forced labor and cellular confinement as punishment for profit in the name of ‘reform.’ With this model, state and elite interests gained a reliable supply of low-cost goods made possible by this state-engineered system of forced labor and penal confinement. Like the goods they produced, Louisiana’s inmates increased gradually between 1835 and 1860, from just ninety-one to a high of 343 on the eve of the Civil War.<sup>174</sup> Yet, from its beginnings, prisoners, mechanics, artisans, merchants, and “plain folk,” worked to limit or undermine it. These forces succeeded in restricting the penitentiary’s internal drive for expansion during the first two decades of its existence. Merchants, workingmen’s associations, artisans, and many citizens of Baton Rouge, succeeded in closing the penitentiary’s retail outlet that catered to large planters. They also forced state and prison officials to arrest the manufacture of goods that would compete with local manufacturers and, with a few exceptions, forestalled the hiring out of convicts in direct competition with ‘honest’ labor.

Actions by prisoners exacted a heavy price on penitentiary practice. Fires, sabotage, revolts, strikes, escapes, and, undoubtedly more discrete forms of resistance worked powerfully to subvert the penitentiary system. Complaints about diminishing financial returns after the fire of 1841 led to the installation of state managers, and ultimately, initialized experiments with convict leasing in 1844. The institution of convict leasing coincided with more stringent prison discipline and a drive to enact greater labor command. While the circumstances of such ‘reform’ was unique to Louisiana, the state’s embrace of the system was part of a national trend. The industrial expansion realized under lessee management pursued industries that would only compete with Northern manufactures, rather than local producers, and even procured a federal

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<sup>174</sup> Derbes, *Prison Productions*, 20.

contract. Penitentiary goods, such as coarse cotton and woolen cloth, 'negro shoes,' and bagging and roping catered to large planters in the region, and therefore, provided them with a subsidy derived from convicts forced to hard labor. Thus, the birth of the penitentiary in Louisiana created a distinct social condition and species of direct forced labor that, in turn, reinforced the slave system.

### Chapter 3

#### **‘Indiscriminate Confinement,’ the Penitentiary, and the Antebellum Carceral State to 1860**

Authorities made imprisonment pay despite the ravages of fire, convict subversiveness, and opposition by labor organizations, local merchants, and “plain folk.” Yet, prison and state officials struggled against another contradiction. Louisiana’s American governors had meant for the institution to accomplish an objective that threatened to offset its balance sheet. The institution had been deployed to institutionalize anti-black racism by imposing strict racial segregation of prisoners. This strategy was linked to a larger drive for the “Americanization” of the former colony.<sup>1</sup> In addition to an Africanized slave culture and assertive creole establishment, American authorities faced a growing black majority with immigration of French-speaking West Indian immigrants from revolutionary San Domingue during the first part of the nineteenth century.<sup>2</sup> American-styled racial rule had faltered in confrontations with the forcefulness of free persons of color in New Orleans and entrenched cultures of resistance among subaltern populations.<sup>3</sup> Thus, even after the birth of the state’s penitentiary during the antebellum period, authorities did not succeed in systematically producing strict racial boundaries based on a two-tiered racial hierarchy.<sup>4</sup>

This chapter examines the relationship of race, slavery, and punishment in the making of Louisiana’s antebellum carceral state. It examines resistance to the state’s racial repression and

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<sup>1</sup> On Americanization, See: Logsdon and Bell, “The Americanization of Black New Orleans,” 189-90.

<sup>2</sup> By 1810, the free Negro population of New Orleans rose to 4,950 from 1,566 and the slave population rose from 5,961 to 3,105. Ibid., 204.

<sup>3</sup> Many of Louisiana’s black creoles were armed and trained in the art of war. They also controlled significant wealth and occupied skilled occupations reserved for whites only in the Anglo-American states. Hall, *Africans in Colonial Louisiana*, 380; Logsdon and Bell, “The Americanization of Black New Orleans,” 204-5.

<sup>4</sup> Gwendolyn Midlo Hall, *Social Control in Slave Plantation Societies: a Comparison of St. Domingue and Cuba* (Baton Rouge: Louisiana State University Press, 1996), 87, 154-5.

its attempts to cement a color line. It exposes Louisiana's penitentiary practice as exceptional for the state's incarceration of slaves throughout the antebellum period. In doing so, it reveals Louisiana's peculiar practice of *state-slavery*—the state's trafficking in children and its profiteering from the reproductive labor of slave convicts held in the penitentiary.<sup>5</sup> It highlights the state's substantial proportion of slave inmates and documented sale of slave children by the state. Until very recently, this topic was largely undocumented.<sup>6</sup> This chapter contributes new insight into the life and labor of enslaved convicts housed in the state penitentiary. It calls into question the conventional wisdom that southern penitentiaries were the preserve of white male inmates subject to rehabilitative reform.<sup>7</sup> I suggest that Louisiana's antebellum penitentiary was part of a larger carceral network and was in no way inconsistent with the institution of slavery. Rather, I argue that the institution provided a second line of defense for the slave system. As a means of slave control, the penitentiary together with other carceral institutions furnished custodial care and punishment of slaves that complimented the private punishment meted out by masters. Lastly, I suggest that the penitentiary's drive for profitability contradicted the enforcement of strict racial boundaries. Thus, penal practice within 'the walls' remained quite flexible throughout the antebellum period.

### ***Race, Slavery, and Punishment in the Early Nineteenth Century***

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<sup>5</sup> State-slavery here is not used metaphorically but literally. It refers to Louisiana's practice of commodifying the persons of slaves held in the penitentiary. It does not refer to the state's commodification of the labor of convicts or their custodial confinement in the penitentiary.

<sup>6</sup> See: Derbes, *Prison Productions*; Derbes, "'Secret Horrors'"; Nobles, "'Gazing Upon the Invisible'"; Forret, "Before Angola."

<sup>7</sup> Enslaved people comprised as much as thirty percent of the total penitentiary population of Louisiana and even higher proportions in parish prisons. See: *The American Almanac and Repository of Useful Knowledge for the Year 1856*, vol. 27 (Boston: Crosby, Nichols, and Company, 1855), 304; "Louisiana Penitentiary," *Memphis Daily Appeal*, February 16, 1854; Vandal, "Regulating Louisiana's Rural Areas," 59–92.

After 1818, Louisiana was the only state to consistently admit slaves to its prisons.<sup>8</sup> Lawmakers and state administrators had struggled to define and reinforce racial hierarchy in Louisiana even before its state formation. The legal system paired with a network of prisons, jails, and workhouses were fundamental to the state's attempts to impose racial hierarchy. One of the first orders of business for the territorial government was to reenact the "Black Code" in 1806.<sup>9</sup> In addition to regulating relations between masters and slaves, it set forth a legal process of conviction and punishment for slave crime.<sup>10</sup> Louisiana's legal system, like those of other slave societies, reserved special crimes and punishments for chattel and non-white persons. This differential construction of crime and punishment gave teeth to the racial hierarchies which supported the institution of slavery. Slaves accused of capital offenses were tried before a tribunal composed of a county judge, two justices of the peace, and from three to five freeholders. Offenses committed by slaves punishable by death included: assault on the master which resulted in concussion or the shedding of blood, rebellion against the overseer, and killing another person unless by accident or in defense of the master. The state paid an indemnity for executed slaves. Half of the appraised value of the slave went to the owner while the other half went to the person injured.<sup>11</sup> By 1813, Louisiana's code addressed the intractable problem of slave control. Lawmakers amended the code and provided that slaves killed while running away or in actual rebellion were not subject to indemnification. But, owners would continue to be

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<sup>8</sup> Ayers, *Vengeance and Justice*, 66-7.

<sup>9</sup> The territorial government also enacted stringent laws against "vagabonds" and "debtors." See: Wisner, *Public Welfare Administration in Louisiana*, 151; State of Louisiana, *Journal of the House* (1842), 136-138.

<sup>10</sup> Wisner, *Public Welfare Administration in Louisiana*, 137.

<sup>11</sup> Ibid. Lawmakers amended the code many times with laws authorizing the payment to individuals for the loss of slaves. In 1810, "an act to authorize the payment to Bradford and Anderson for a slave killed while running away." The code was amended again in 1813 with a provision providing that slaves so killed or in actual rebellion were the loss of the owners only.

reimbursed by the state treasury up to \$300 in the event that their property might be convicted of a capital crime or sentenced to perpetual punishment.<sup>12</sup> These measures not only represented the state's interest in the governance of slaves but also in the development of a penal system which would act as a safety net to protect the larger society from 'ungovernable' slaves.

Even though slaves were subject to 'private' punishment by their masters as a first line of defense, the state's penal system played an underrated but no less fundamental role in stabilizing the institution of slavery.<sup>13</sup> A highly flexible, decentralized patch-work of parish jails and town workhouses underpinned the plantation prisons and private pens of slave traders that littered Louisiana's landscape as planter power expanded.<sup>14</sup> An uneven carceral network pervaded the region and became increasingly prevalent in planters' drive to rationalize plantation management and counter slave mobility, intransigence, subversion, outright rebellion and fraternity with the freeborn of all colors.<sup>15</sup> Slaves were incarcerated in these places of confinement according to three general conditions: first, when masters contracted with jailers to house insubordinate slaves; second, as a place of detention for captured fugitive slaves; and third, when criminal courts formally charged slaves with breaking the law.

Runaways constituted a large and growing proportion of slave inmates held in state custody. John Brown, a fugitive slave who penned an account of his experience, remembered a

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<sup>12</sup> Wisner, *Public Welfare Administration in Louisiana*, 138. Persons guilty of killing a slave were to be tried according to the laws of the territory. It specified that the infliction of cruel punishment was penalized by forfeiture and the payment of a fine not exceeding \$500 and not less than \$200. Exception was made for flogging or striking with a whip, leather thong, switch or small stick, putting in irons or confining slaves.

<sup>13</sup> Birch and Buchanan, "The Penalty of a Tyrant's Law," 22-29.

<sup>14</sup> Jails were common on large plantations throughout the period. Works Progress Administration accounts suggested that plantation jails were central institutions of rural punishment. They were described as crude, makeshift structures including logs huts, the basement of outbuildings, stockades, and occasionally, more elaborate stock buildings. It was not unusual for masters to punish slaves through sensory deprivation in windowless lockups, often without food, and sometimes in the company of livestock. *Ibid.*, 24.

<sup>15</sup> *Ibid.*, 23.



warning about the capture of runaways in Louisiana. He was told that if caught, he would be “taken up before night and put into the calaboose or prison” where he would be “flogged every morning until [he] told the name of [his] master.”<sup>16</sup> While the recapture of runaway slaves was welcomed by some, many slaveholders attempted to avoid incarceration of their runaway slaves. In 1839, the master of Susanne, an enslaved woman, offered ten dollars to anyone willing to capture the fugitive and return her to a residence in New Orleans rather than involve the authorities.<sup>17</sup> In the event that fugitive slaves were incarcerated, some masters were slow to reclaim them.<sup>18</sup> In many cases, it was costly for a master to redeem a slave who stole him or herself. Before redeeming their chattels, owners were required to pay all expenses incurred by the holding prison. Aware of this predicament, state lawmakers authorized police juries to determine if such slaves could more profitably be used on public works. As a result, the labor of confiscated slaves became a public benefit for parishes across Louisiana. In New Orleans, if a slave was not claimed within three days of arriving at the jail or three days after a master was supposed to reclaim the enslaved person, the slave was “put to the chain” and employed “in the works of the city.” This arrangement held some benefit for owners as well. Slaves who toiled on public works during their confinement worked off some of their prison fees, making it easier for owners to retrieve them. Conversely, less industrious enslaved inmates created a debt, rather than a credit, for their masters.<sup>19</sup>

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<sup>16</sup> John Brown, *Slave Life in Georgia: a Narrative of the Life of John Brown*, Black Heritage Library Collection (Freeport, NY: Books for Libraries Press, 1971); 104-5; Birch and Buchanan, “The Penalty of a Tyrant’s Law,” 23.

<sup>17</sup> *Courrier de La Louisiane*, October 21, 1843.

<sup>18</sup> This was particularly the case with aged or infirmed slaves since masters avoided payment of their custodial costs.

<sup>19</sup> *General Digest of the Ordinances of the Corporation of New Orleans* (New Orleans: Jerome Bayon, 1831), 127. When slaves were so employed, the depot’s keeper was required to publish notice of their detention for up to three months. See: Vandal, “Regulating Louisiana’s Rural Areas,” 75-6. Planter

In addition to punishing slaves who challenged their masters, the state of Louisiana also indicted, imprisoned, and punished free persons who defied the slave system. Although the infamous Dr. David T. Hines had broken a multitude of laws during his stay in Louisiana, he was only formally charged with one: aiding a slave to escape. This offense was very serious, carrying a hefty sentence of fourteen years –almost three times longer than terms assigned for horse stealing or stabbing and two times longer than manslaughter.<sup>20</sup> Notoriety distinguished Dr. Hines. But, the crime for which he was convicted and the lengthy sentence ascribed to it were not uncommon. By 1843, thirteen other inmates had been sent to the penitentiary for “aiding slaves.” All of these prisoners were white men. Their sentences ranged from two to thirteen years and their aid took many forms, including “furnishing free papers,” aiding a slave to escape, or the most common, “inveigling a slave.”<sup>21</sup> Madison J. Mullen, a white man, received a particularly long sentence for his efforts. He was convicted in Louisiana’s Union parish in 1844 for “using language to slaves calculated to excite insubordination among them.” As punishment for his crime, Mullen was sentenced to twenty-one years of hard labor at Baton Rouge.<sup>22</sup> Those who dared to defy the institution of slavery by aiding slaves were, in turn, sentenced and put to physically forced hard labor in Louisiana’s penitentiary.

Carceral institutions also provided a valuable service to the master class. Slaveholders relied on state-administered confinement to suit their convenience. Slaves were frequently

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abandonment of incarcerated slaves should not necessarily be confused with apathy, neglect, or punishment. In many cases, for a master to redeem a runaway slave subject to imprisonment required payment of all expenses incurred by the keeper unless the chattel had been employed on a public works project. The fees were set as follows in 1831: one dollar for any inmate to enter or exit the prison, twelve and a half cents per day to board prisoners, and in the case of insubordinate slaves requiring corporal punishment in jail, authorities required masters to pay twelve and a half cents per incident. See *Digest of the Ordinances of New Orleans* (1831), 131, 143.

<sup>20</sup> Hines, *The Life and Adventures of Dr. David T. Hines*, 143-5.

<sup>21</sup> See: State of Louisiana, *Report of the Standing Committee* (1844), 10-12.

<sup>22</sup> “News Items,” *Universalist Watchmen*, December 14, 1844.

incarcerated at their master's wish to assure control of their human property while traveling, in advance of trade, or often in the midst of a property dispute. As long as owners notified officials before disposing of their slaves in the New Orleans prison, enslaved inmates fit to labor on the public works earned their masters twenty-five cents per day.<sup>23</sup> Often, jailed slaves were those who had been judged to be the most "turbulent and unruly," "vicious" and "ungovernable," and jailors were not only authorized but required to whip jailed slaves that refused to work or exhibited any insubordination during their stay. For a fee of twelve and a half cents, the jailors at the New Orleans prison would punish slaves that owners sent for that purpose alone, not for confinement. Yet, there were restrictions to this service. A master might only send "one or more" of his slaves "to be corrected" twice per week, leaving an interval of at least three days between "each time." A maximum of twenty-five lashes was set for each whipping, and regardless of the lash count, the price was fixed at twelve and a half cents for each "correction."<sup>24</sup> Thus, state incarceration provided an essential safety net for the breakdown of planter control of human property. Not only did penal institutions reinforce planters' power by punishing unlawful slaves, they also provided a service to planters as surrogate masters -since slaves could be incarcerated at the whim of their owner and did not require court approval. These practices reveal the intimate, symbiotic associations between Louisiana's penal institutions and the slave system.

### ***Creole Racial Politics and "Indiscriminate Confinement"***

So routinely did slaves frequent Louisiana's parish jails that fraternity between slave and non-slave became a perennial concern for American administrators. Officials also expressed

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<sup>23</sup> *Digest of the Ordinances of New Orleans* (1831), 143.

<sup>24</sup> *Ibid.*, 129. Article 13 of the Laws of Louisiana mandated that "Every slave detained in the police jail, who shall not execute the orders of the jailor, or who shall refuse to work, when required, at the works of the city; or who shall cause any disturbance, by any quarrel, battery, or unbecoming or insolent language, or in any other way, shall be whipped in any of the said cases, on complaint thereof being made to the Mayor by the jailor, or by the driver of the galley-slaves."

concern over the mixing of persons of color and white inmates. Early on, Louisiana's governors lobbied for a penitentiary system in order to racially segregate prisoners who had otherwise enjoyed close fraternity in local jails. In 1806, and again in 1809, Governor Claiborne called to the attention of the legislature the need "for the erection of a penitentiary house" in order to prevent the "herding of all classes in the jail of New Orleans." These appeals did not translate into action. Still, in 1816, the legislature gave authority to police juries to develop regulations for local jails so as to systematically enforce the Black Code.<sup>25</sup> Yet, in 1818 a legislative committee observed that among the white offenders, there were also "several slaves who were under imprisonment for life." The committee raised stern objections not only regarding the jail's lack of racial segregation but also more pointedly over the nature of slave punishment. Not only did members believe that only corporal punishment or hard labor for life befit a slave but that to punish persons of such condition otherwise would destabilize the entire system by incentivizing slave crime.<sup>26</sup>

The "indiscriminate confinement" of Louisiana's prisoners that reformers sought to prevent was pervasive and longstanding. Lawmakers reported "dangerous" associations in the New Orleans Parish prison in 1822. State inspectors registered their horror upon finding "the

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<sup>25</sup> Police regulation of the parish of West Baton Rouge exemplifies this point. It dictated that "the sheriff or his deputy will be obliged to receive and keep in the jail the slaves brought to him by an order of the judge or of one of the justices of the peace of the parish; and, the jailer will be obliged to advance the amount of the indemnity allowed by the Black Code for the taking of a slave and will receive for each slave half a dollar for the expense of entrance, half a dollar for the expense of going out, and thirty cents a day for the expense of keeping and feeding. In the event that a slave detained in jail was grievously sick, the jailor was to have him attended by a doctor or a surgeon and the amount of the expense was to be fixed by the judge. The jailor was to advance a woolen blanket to the slaves detained in the jail during the winter if the slave had not clothing to keep warm. It provided that the jailor did not have the right to punish the slaves committed to his custody except in two cases: one, if the owner agreed to it or if the justice of peace commanded it. See: Wisner, *Public Welfare Administration in Louisiana*, 138.

<sup>26</sup> *Ibid.*, 140-1. Records indicate that in 1820, 185 prisoners were reported to be in the New Orleans prison.

slave and the white man...huddled together [with] women of every complexion.”<sup>27</sup> The presence of free people of color within Louisiana’s prisons vexed state officials who were committed to imposing racial segregation modeled on an American-styled, two-tiered racial hierarchy. State authorities attempted to sharpen racism as an instrument of social control by physically separating white and black inmates. In New Orleans, the law mandated that all “free coloured criminals” were “to work separately from white criminals” by 1831. Additionally, these incarcerated free people of color were “to be dressed in a different colour,” and thus, wore blue clothing rather than the red flannel shirt, cap and jackets provided to white prisoners. But, irrespective of different attire, all criminals--white and black, as well as ‘free’ and enslaved--were subject to physically forced hard labor to maximize surpluses and prisoner control.<sup>28</sup> Extracting productive labor from Louisiana’s criminal offenders took precedence over establishing a more rigid racial order.

As convicts broke ground for the penitentiary at Baton Rouge in the early 1830s, efforts to integrate Louisiana’s population into an Anglo-American racial structure took on renewed force. State officials had retreated from reducing the rights of free blacks from 1815 to 1830 as a means of political survival. But, by the third decade of the nineteenth century, American authorities regrouped. This occurred at the same moment the penitentiary materialized. The “repressive mood” gained force following the resurgence of abolitionism, the Nat Turner insurrection, and the expansion of slave-based agricultural production. Yet, creole lawmakers held enough power to protect free black creoles from new legal restrictions by granting special status to longtime black residents of Louisiana. Free persons of color also escaped increasing

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<sup>27</sup> *Official Proceedings of the Journal of the Senate During the Second Session of the Fifth Legislature of the State of Louisiana* (New Orleans: n.p., 1822), 29.

<sup>28</sup> *Digest of the Ordinances of New Orleans* (New Orleans: Jerome Bayon, 1831), 171.

restrictions and heightened criminalization by residing within the nearly autonomous creole municipal districts created in 1836 where law enforcement was lax. Consequently, slaves and free people of color continued close association and frequently gathered for festivities at saloons and dance halls, and cohabited in violation of the law. Immigration to the Crescent City also played a role tempering racial segregation between 1830 and 1850. Thus, Louisiana's racial formation remained relatively fluid during the period as European immigrants, who flocked to New Orleans before the Civil War, concentrated and resided in creole districts.<sup>29</sup>

The 'racial openness' observable among the people of New Orleans, continued to trouble lawmakers and penal administrators as a diverse population of free blacks, whites, and slaves entered the penitentiary at Baton Rouge. Just before Louisiana opened its penitentiary, a legislative committee expressed concern over the "indiscriminate confinement of white and negro convicts sentenced at hard labor." They concluded that "detention in an establishment of this kind was hardly of the nature to deter a slave from crime." In collapsing distinctions between 'free' and slave, they recommended that black convicts might be more 'usefully' employed in New Orleans on public works; however, these appeals did not result in action.<sup>30</sup> Racial anxieties among officials were not powerful enough to override the financial profitability of forced congregate convict labor inside the penitentiary that neglected to segregate prisoners with respect to color, condition, or crime.

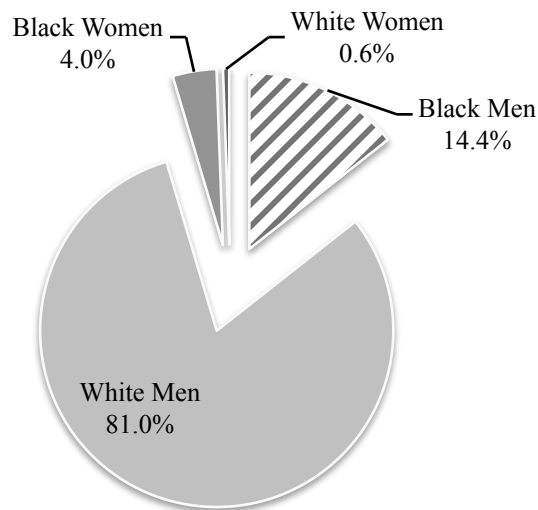
By 1840, nearly five years after Louisiana erected its modern penitentiary at Baton Rouge, the state's inmate population was quite diverse as black inmates comprised almost a fifth of the prison body [see Figure 3.1]. Even though most inmates were white males, black men and

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<sup>29</sup> Logsdon and Bell, "The Americanization of Black New Orleans," 207-8.

<sup>30</sup> State of Louisiana, *Official Journal of the Proceedings of the House of Representatives of the State of Louisiana* (n.p., 1831); Wisner, *Public Welfare Administration in Louisiana*, 146.

**Figure 3.1**  
Inmate Population by Race and Sex, 1840,  
Louisiana State Penitentiary



*Source: Derbes, Prison Productions, 28.*

women were a visible contingent. Racial segregation was enforced unevenly. Dr. David Hines' account of penitentiary life reveals the flexibility of the penitentiary's racial policies and particularly so with respect to convict work. When Hines entered the penitentiary in late August of 1840, he was trained at shoemaking, one of the more 'skilled' occupations. After fire consumed the shoe workshop, administrators transferred Hines to the penitentiary brickyard "to work with the negroes in a claybed." The doctor complained that such work was "a little below" his "dignity." Yet, it remains unclear whether this judgment regarded the work itself, his workmates in the brickyard, or both. Subsequently, Hines tried his hand at "wheeling dirt," which he described as an "Irishman's change." Dr. Hines disliked this job so much that he requested to be removed from it and return to work alongside black inmates in the clay bed. By explicitly referencing brickmaking and dirt-wheeling as work associated with blacks and foreign-born whites, Hines' account seems to suggest that there was a general racialized division of labor

inside the penitentiary. However, his own experience clearly indicates that racial segregation was not absolute within ‘the walls.’<sup>31</sup>

In 1842, Louisiana legislators finally took legal action to segregate black and white male inmates from one another. Lawmakers passed Act 171 in March, a law which mandated “that all the colored male convicts now in the penitentiary, sentenced to hard labor, shall be transferred to the possession and placed under the control of the president and board of public works.” This new policy grouped male convicts by race rather than social condition. “Colored male convicts” included both free men of color and also slaves who had been convicted of a capital crime and sentenced to hard labor.<sup>32</sup> Thus, the act effectively removed black men from the state penitentiary and put them to work in the parishes in order to prevent the “mixing” of black and white convicts, that contradicted the penitentiary system’s ideological commitment to racial segregation. Reflected in this proposal was the double-bind of racism as an instrument of social control. State officials brandished it to stem the subversion of state authority by the subaltern and to naturalize the racial ideologies that promoted capitalism’s advance. These actions sought to subject convicts sentenced to hard labor to caste specific types of work, and thereby, produce a type of captivity that, in the view of authorities, was more accursed than mere slave status. While ideological commitments to racial segregation may have acted as a driving force in the law’s

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<sup>31</sup> Hines, *The Life and Adventures of Dr. David T. Hines*, 152.

<sup>32</sup> State of Louisiana, *Acts Passed at the Second Session of the Fifteenth Legislature of the State of Louisiana Begun and Held in the City of New Orleans, December 13, 1841* (New Orleans: J. C. de St. Romes, State Printer, 1842), 518, 520. Prior to this act, slaves were convicted to hard labor for a variety of more minor offenses. This act specifically reserved punishment at hard labor, mandating that “in future the punishment of slaves for crimes or offenses which are not capital shall not consist in imprisonment at hard labor or otherwise, but that after any slave convicted of any crime not capital shall have undergone any other legal punishment to which he may have been sentenced by a competent court, he shall be returned to his master. The act was amended so “as to embrace free persons of color sentenced to the Penitentiary,” clarifying that free people of color were meant to be part of the “colored convicts” transferred to public works. See also: State of Louisiana, *Acts Passed at the First Session of the Sixteenth Legislature of the State of Louisiana Begun and Held in the City of New Orleans, On the 2nd Day of January, 1843* (New Orleans: Alexander C. Bullitt, State Printer, 1843), 68-9.



passage, practical considerations also bore weight. At the close of 1841, the prison cell house was approaching its capacity.<sup>33</sup> The same act that authorized employing black inmates outside the penitentiary included a provision requiring that arrangements be made to house state convicts in the old New Orleans parish jail “whenever it shall happen that there are not a sufficient number of cells in the penitentiary.”<sup>34</sup> The employment of Louisiana’s black male convicts outside of the penitentiary not only relieved concerns over indiscriminate confinement, such practice also eased overcrowding inside the penitentiary and provided a labor force for undertaking costly public works.

At the same time, imposing strict racial segregation, in the view of some administrators, posed significant drawbacks. State prison administrators and convict guards understood that segregating prisoners violated the principles of the Auburn system –an arrangement that organized imprisonment for profit. Administrators warned that the transfer of prisoners to the Board of Public Works would not align with such a system. They cautioned the governor that if indeed black convicts, including slaves, were put to hard labor in boats on the bayous, they would necessarily need to be freed of their chains. Consequently, they would require a “strong guard” that would likely exceed the profit of their labor. Rebuttal sparked a new line of inquiry. Lawmakers speculated that if authorities put black convicts to work on roads and levees, they would require a lighter guard and incur less expense since they would labor in the presence of ‘free’ populations. Critics, however, objected. They remarked that unshackled prisoners would cause fear among citizens. In the end, lawmakers reached a compromise. After consulting with

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<sup>33</sup> Of the 240 cells that the upper cell house contained, 195 were occupied Hahn and Wurtzburg, *Hard Labor*, 4-5; State of Louisiana, *Annual Report of the Board of Directors of the Louisiana Penitentiary to the Governor of the State of Louisiana* (New Orleans: Emile La Sere, State Printer, 1855), 6.

<sup>34</sup> State of Louisiana, *Acts Passed at the Second Session of the Fifteenth Legislature of the State of Louisiana Begun and Held in the City of New Orleans, December 13, 1841* (New Orleans: J. C. de St. Romes, State Printer, 1842), 520.

an engineer, they agreed to experiment by employing black convicts on roads and levees since they would otherwise be “such an expense to the state.”<sup>35</sup>

Despite attempts by authorities to harden the color line, a flexible, fluid racial order persisted in Louisiana’s penitentiary. The act of 1842 had effectively emptied black men from the cells of the penitentiary. But, it neglected to remove black women from ‘the walls.’ As incarcerated slaves and free men of color were shipped off to labor on public works, enslaved female convicts remained at Baton Rouge in the company of incarcerated white men and white women.<sup>36</sup> If separating white and black inmates was a primary objective for Louisiana’s legislator’s, they failed to reach their goal. Employment of “colored convicts” on public works was not the solution for which they had hoped. Guarding and compelling labor from such a workforce, one comprised of enslaved men and free men of color, proved to be difficult. Attempts to maintain order and control these inmates were so ineffective that guards had to resort to heavy force. Only a week after arriving at the public works camp at the upper mouth of the Faussee River in October of 1843, an enslaved man named Frank of Pointe Coupee took advantage of a “very heavy fog” to escape. He fled to a nearby “negro quarter” and successfully evaded his captors for a month before his whereabouts were revealed to authorities. Four agents armed with gun found him out. They confronted Frank and demanded that he surrender. Weaponless and caught by surprise, the prisoner steadfastly refused to surrender. Frank “knocked the man down, and ran from the cabin.” In the end, Frank did not return to the levee camp. Unable to force him back to camp, guards shot him in the back and killed him. Another

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<sup>35</sup> State of Louisiana, *Journal of the House* (1842), 40; Wisner, *Public Welfare Administration in Louisiana*, 146.

<sup>36</sup> In 1840 there were seven black female convicts. There were also seven black females in the penitentiary in 1843 all of whom were enslaved. See: State of Louisiana, *Report of the Standing Committee* (1844), 10-12; Derbes, *Prison Productions*, 28.

enslaved convict, Phil from “the Attakapas,” became another casualty of the penitentiary system and the public works camp on the Faussee River. He too was shot and killed by a guard. In less than a month after the levee project began, Phil started a mutiny among the black convicts and attempted to kill a guard. Misfortune for the state continued as the public works project lost another two men weeks later after they escaped together.<sup>37</sup>

By 1845, the Joint Committee of the House and Senate reported, “The experiment of working the colored convicts, on the public roads, seems entirely to have disappointed public expectation.” The committee came to this conclusion after hearing the testimony of the supervising state engineer, who suggested that “some other disposition be made of them, as the cost of the present system exceeds the value of their labor.” Such dysfunction came at a fortuitous time for the lessees of the penitentiary, James A. McHatton and William Pratt. After constructing an additional forty cells and investing in a new rope and bagging factory, Pratt and McHatton solicited more convict workers.<sup>38</sup> In order to reunite prisoners with former their keepers, the Louisiana state legislature passed Act 55. The act mandated that “all the colored male convicts, sentenced to hard labor, and now under the charge of the State Engineer...be returned to the Penitentiary, and put in charge of the lessees.”<sup>39</sup> Racial distinctions remained a priority. The act stipulated that all black convicts should work separately and apart from white convicts; however, it simultaneously put black convicts on an “equal footing” with white

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<sup>37</sup> State of Louisiana, *Annual Report of the State Engineer to the Legislature of the State of Louisiana, January, 1843* (New Orleans: Commercial Bulletin Office, 1843), 16-7.

<sup>38</sup> The lessees called on the legislature on at least two occasions. They requested additional convict labor. It was reported that “Great complaint” was made “for imprisoning persons in the common jails, and thereby depriving the lessees of labor to which they are entitled under the contract.” In the 1845 report, the Joint Committee on the Penitentiary was “fully convinced, that by extending the Factory, so as to employ thirty additional hands” their labor would be a source of revenue to the State. See: State of New York, “Louisiana Penitentiary for 1845,” 347; State of Louisiana, *Report of the Standing Committee* (1844), 13.

<sup>39</sup> State of Louisiana, *Acts* (1845), 28.

convicts.<sup>40</sup> Black inmates would only be returned to the penitentiary, “*provided*, the lessees of the Penitentiary...receive[d] said colored convicts on the same terms they [had] agreed to receive the white convicts.”<sup>41</sup> In passing the statute, the legislature elevated both incarcerated free men of color and also incarcerated male slaves to the status of their white male counterparts.

After lawmakers transferred the labor of incarcerated slaves and free blacks from the public works to the privatized penitentiary, the modern prison became a conspicuous center for “indiscriminate confinement.” The intimacy of white criminals with slaves was perceived to be so grave a threat to state and to planter interests that officials intervened in 1846 by proposing a “separate detention center for [slave] runaways.” Just such a facility was completed by the state in 1846 in Baton Rouge. This house of confinement, called “the Depot,” housed the increasing number of jailed runaway slaves who remained unclaimed by their owners. These fugitive slaves, worked by the city of Baton Rouge, lived in the shadow of ‘the walls.’<sup>42</sup> The depot also functioned a place to dispose of slaves –either by sale or execution. Between 1853 and 1854, the state generated \$3,651 from the sale of slaves.<sup>43</sup> Executed slaves, on the other hand, represented a loss for the state of Louisiana. In just one year, the state had to pay over \$7,000 to owners of slaves sentenced to death.<sup>44</sup> As the government’s custodial role in slave keeping expanded, a Supreme Court decision absolved the state of financial responsibility to owners in the event of an

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<sup>40</sup> *Biographical and Historical Memoirs of Louisiana*, 149.

<sup>41</sup> State of Louisiana, *Acts* (1845), 28.

<sup>42</sup> Vandal, “Regulating Louisiana’s Rural Areas,” 75-7. Slaves were considered to be unclaimed sixty days after notice had been published in a local newspaper. All runaway slaves housed at the depot for over twelve months were to be sold. Lawmakers authorized the city of Baton Rouge to work the inmates. During their employment, the depot’s keeper was required to publish notice of their detention for up to three months.

<sup>43</sup> *The American Almanac and Repository of Useful Knowledge for the Year 1855*, vol. 26 (Boston: Phillips, Nichols, and Company, 1855), 282; *The American Almanac and Repository of Useful Knowledge for the Year 1857*, vol. 28 (Boston: Crosby, Nichols, and Company, 1857), 301.

<sup>44</sup> *The American Almanac and Repository of Useful Knowledge for the Year 1859*, vol. 30 (Boston: Crosby, Nichols, and Company, 1859), 298.

incarcerated slave's unforeseen death. At the same time, however, the court held that the state liable for the loss of a slave who "ran away" or escaped.<sup>45</sup> This innovation in state punishment exposed the interlocking nature of imprisonment and the carceral disposition of Louisiana's antebellum state.

### *State-slavery and 'the Walls'*

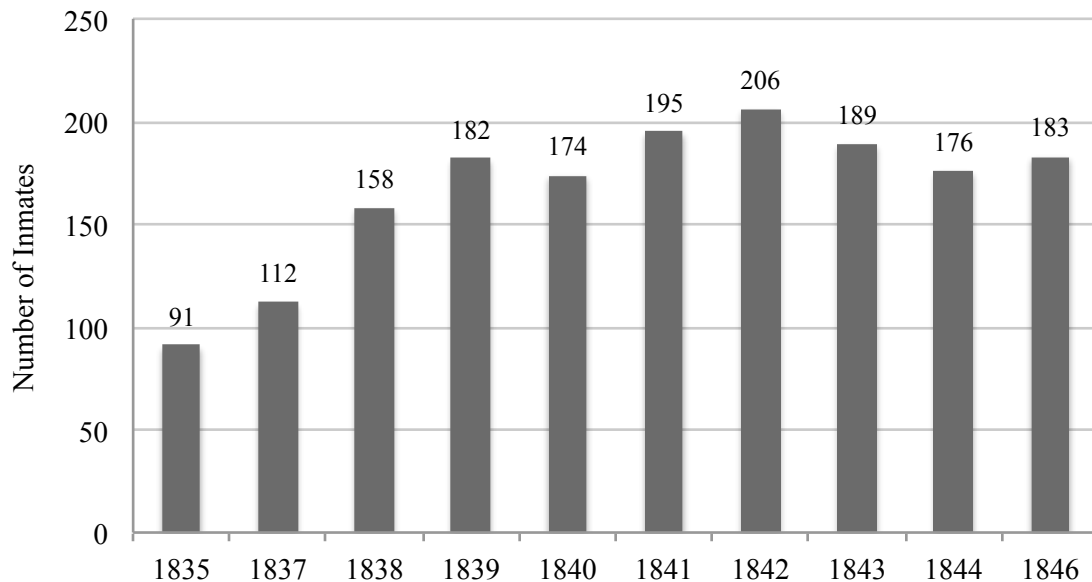
Even with the addition of "the Depot," the state's attempt to separate slaves from freeborn convict populations was largely ineffective and complicated by growing numbers of prisoners in rural and urban jails, the New Orleans parish prison, and convicts sentenced to 'the walls' at Baton Rouge. Five years after its opening, Louisiana's penitentiary had nearly doubled its inmate population, and after ten years of operation it had tripled capacity [see Figure 3.2].<sup>46</sup> Slave convicts represented a particularly conspicuous element of the convict class, one that commanded much controversy and exposed the contradictions of the liberal society and its competing racial hierarchies. While many enslaved people were incarcerated at the depot, the penitentiary still remained the repository for slaves convicted of more serious crimes. Male and female slaves entered the penitentiary in much the same way as they did parish jails and formed as much as one-third of the total prison population. This fairly sizable group has largely escaped the attention of analysts who often associate penitentiaries in the United States prior to the Civil War with a culture of northern 'dignity', modernity, and republicanism, and also as the preserve

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<sup>45</sup> Wisner, *Public Welfare Administration in Louisiana*, 138-9.

<sup>46</sup> The penitentiary was originally designed for 100 convicts. With added capacity, by 1840, it reported 174 inmates, and by 1850, the convict population was 300. See: State of Louisiana, *Report of Standing Committee* (1844); State of Louisiana, *Report of the Board of Directors* (1852); State of Louisiana, *Report of the Board of Directors*, (1854); State of Louisiana, *Annual Report of the Board of Directors* (1856); *Message of Robert C. Wickliffe, Governor of the State of Louisiana, January, 1858* (Baton Rouge: The Daily Advocate, 1858); Burk Foster, Wilbert Rideau, and Douglas A. Dennis, eds., *The Wall Is Strong: Corrections in Louisiana* (Lafayette: University of Southwestern Louisiana, 1991), 18.

**Figure 3.2**  
Inmate Population, 1835-1846,  
Louisiana State Penitentiary



Sources: 1835: Derbes, *Prison Productions*, 28; 1836: Gibson, *Gibson's Guide* (1838), 260; 1837-8: *The American Almanac* (1839), 182; 1839: Gibson, *Gibson's Guide* (1838), 260; 1840-2: Derbes, *Prison Productions*, 28; 1843: State of Louisiana, *Report of the Standing Committee* (1844), 8, 10-12; 1844: State of Louisiana, *Report on the Penitentiary* (1845); 1846: Derbes, *Prison Productions*, 28.

of white males.<sup>47</sup> In so doing, they have overlooked the penitentiary's operation as important means of slave control and as a guarantor of the slave system. Consequently, less attention has been paid to the symbiosis between state punishment, carceral systems, and more specifically, the penitentiary. Louisiana's practice of state-slavery represents an important counterpoint and serves as a setting for a unique type of subaltern resistance where individuals of all colors found common association with some of the most 'ungovernable' slaves.<sup>48</sup> This unique history of resistance, hidden within carceral institutions, has been masked by inattention to convict

<sup>47</sup> Birch and Buchanan, "The Penalty of a Tyrant's Law," 30. Between 1852 and 1859, enslaved people formed a large minority in the penitentiary, comprising almost a third of the total inmate population. See Table 3.3 pg.155.

<sup>48</sup> Ayers suggests that penitentiaries in republican societies were not for slaves since they were reserved mainly for whites while virtually all black prisoners had been free men before they were incarcerated. See: Ayers, *Vengeance and Justice*, 40-1, 60.

servitude as a distinct social condition and type of forced labor which bound slave and non-slave alike.<sup>49</sup>

Without a doubt, Louisiana stands out for its sizable convict-slave population. But, the state is also distinguished for its commodification of the reproductive and childbearing labor of enslaved women held in the penitentiary and its trafficking in their children.<sup>50</sup> From the very beginning of Louisiana's penitentiary system, enslaved women were conspicuous; there were never fewer than five enslaved women in the antebellum penitentiary. The lessees, McHatton, Pratt, and Company, reportedly held six enslaved female inmates and worked them at domestic chores such as washing and ironing clothes.<sup>51</sup> Four years later, the number of female convicts increased to thirteen out of a total population of 172 inmates. Silvia, an enslaved woman born in Virginia, was the first woman admitted to Louisiana's penitentiary. When she was twenty years old, she was convicted of "attempted poisoning" and was subsequently sentenced in 1833 to spend the rest of her life in prison. Silvia, like most incarcerated black women, became a permanent resident while white women came and went. By 1855, fourteen other female slaves were similarly confined.

Enslaved women received much harsher sentences than white women or free women of color. They were most commonly convicted of crimes such as arson, attempted poisoning, poisoning, murder, manslaughter, robbery, and striking and wounding mistresses, overseers, or any white person [see Table 3.1]. When she was just seventeen years old, an enslaved woman

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<sup>49</sup> As long as masters chose to bear custodial fees, publically funded confinement was at their disposal. See: Birch and Buchanan, "The Penalty of a Tyrant's Law," 28.

<sup>50</sup> In "The Penalty of a Tyrant's Law," Birch and Buchanan indicate that Maryland, Virginia, and Kentucky possessed significant numbers of slave inmates, 30.

<sup>51</sup> *Daily Picayune*, September 6, 1844; State of Louisiana, *Report of the Standing Committee* (1844), 8.

**Table 3.1**  
Crimes and Sentences of Enslaved Women, 1840-1858,  
Louisiana State Penitentiary

<u>Name</u>	<u>Crime</u>	<u>Term of Punishment</u>	<u>Year of Sentencing</u>
Carmelite	Arson	Life	1840
Cornelia	Arson	Life	1857
Eurenne	Arson	Life	1851
Rhoda	Arson	Life	1839
Euvenie	Arson	Life	1851
Sophie	Assaulting White	8 months	1857
Marceline	Assaulting White	5 years	1850
Helvise	Assaulting White	Life	1853
Celeste	Assaulting White	Life	1852
Azaline	Attempt to Poison	Life	1839
Elie	Attempt to Poison	Life	1855
Lucinda	Attempt to Poison	Life	1855
Nancy	Attempt to Poison	Life	1835
Adeline	Manslaughter	25 years	1857
Hannah	Manslaughter	Life	1855
Celeste	Murder	Life	1836
Celestin	Murder	Life	1854
Jacinthe	Murder	Life	1858
Isadore	Murder	Life	1836
Henrietta	Murder	Life	1852
Claiborne	Murder	Life	1850
Sally	Murder and Arson	Life	1858
Kitty	Poison and Murder	Life	1858
Eliza	Poisoning	Life	1833
Susan	Poisoning	Life	1851
Phoebe	Wounding	Life	1847

*Sources:* State of Louisiana, *Report of the Standing Committee* (1844); State of Louisiana, *Report on the Penitentiary* (1845); State of Louisiana, *Report of the Board of Directors* (1854); State of Louisiana, *Annual Report of the Board of Directors* (1855); State of Louisiana, *Annual Report of the Board of Directors* (1856); State of Louisiana, "Report of the Committee on the Penitentiary," in *Documents* (1859). Note: this table represents the crimes and sentences for enslaved women mentioned only in those reports listed.



named Rhoda was convicted of arson in 1839 and sentenced to life.<sup>52</sup> In contrast, Margaret Diamond, a white woman, was sentenced to four years at the penitentiary for “attempting to set fire.”<sup>53</sup> While Mary Cull, a white woman, was sentenced to ten years for committing manslaughter, the enslaved women Adeline and Hannah were sentenced to twenty-five years and life, respectively, for committing the same crime.<sup>54</sup> Free women of color were treated in a manner similar to their white counterparts. Celestin, a free woman of color, was convicted of burglary in 1851. Rather than serving her life at the penitentiary like most black women who resided at ‘the walls,’ Celestin was only sentenced to serve four years –an average term for white burglars.<sup>55</sup> Between 1835 and 1862, a total of sixty-one women entered the penitentiary. Of these, at least thirty-three of the women were enslaved, most of whom had no expectation of ever leaving ‘the walls.’<sup>56</sup>

The penal arm of the state profited not only from enslaved women’s productive labor but also from their reproductive capacity. The legislature, seeking rights to property in persons, sought authority to seize these women’s children as chattels in 1848. According to the law, the state was to sell them at the slave market and, ironically, use the proceeds of their sales to fund schools for the state’s ‘free’ children. With, “An Act Providing for the Disposal of Such Slaves as are or may be Born in the Penitentiary,” the state penitentiary doubled as a slave pen. The first

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<sup>52</sup> State of Louisiana, *Official Journal of the Proceedings of the House of Representatives of the State of Louisiana* (n.p., 1844), 10.

<sup>53</sup> State of Louisiana, *Annual Report of the Board of Directors* (1855), 10.

<sup>54</sup> State of Louisiana, “Report of the Committee on the Penitentiary” in *Documents* (1859).

<sup>55</sup> State of Louisiana, *Annual Report of the Board of Directors* (1855), 10.

<sup>56</sup> Calculations indicate that the proportion of imprisoned women constituted at least five percent of the total penitentiary population, which is considerably higher than traditionally believed. Non-slave female inmates consisted of five free women of color and twenty-three white women. Nobles suggests that the proportion of female inmates housed at Louisiana’s penitentiary at Baton Rouge is comparable to the proportion of women imprisoned in the United States during the 1980s when female imprisonment was considered to have reached historic highs. See: Nobles, “Gazing Upon the Invisible,” 5-14, 10.

section of the act clarified the state's right to property in persons. It mandated that "any issue of any slave confined in the Penitentiary for life, born during and said confinement, shall belong to the State, and become property therefore." The second section of the act regarded the tracking and dispensation of these children. In addition to demanding that officials maintain a register of births, the law dictated that when a slave child attained "the age of ten years," the auction of these captive souls was to be advertised in the state newspaper and delivered to the courthouse door for thirty days in advance of the sale. The ten-year-old child was then sold "for cash" with the "proceeds of the said slave" going to "the State treasurer, to become part of the free school fund."<sup>57</sup>

The many slave children who entered 'the walls' with their mothers or who were born inside the fortification were not included in official tallies of inmates, but were nevertheless continuously part of the inmate population.<sup>58</sup> Not segregated by race, condition, or conviction, female inmates and their children shared "two unfinished rooms" that were purportedly "impossible" to keep clean. Though the terms of punishment were distinct, an official prison report indicates that enslaved women found company with free women of all colors. Reports show that at least ten enslaved women bore children inside 'the walls.' The state seized the eleven children born to these women and traded them as slaves of the state when they reached legal age. The paternity of slave children was of no concern to state officials because of their condition. But, it was likely known by convicts and their keepers, since the majority of children

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<sup>57</sup> Gov. Isacc Johnson signed the act into law on December 11, 1848. State of Louisiana, *Acts Passed at the Extra Session of the Second Legislature of the State of Louisiana Held and Begun in the City of New Orleans on the 4th Day of December* (New Orleans: The Office of the Louisiana Courier, 1848), 3-4; Derbes, "'Secret Horrors,'" 277-291.

<sup>58</sup> Birch and Buchanan, "The Penalty of a Tyrant's Law," 30. See also: State of Louisiana, *Report of Standing Committee*, (1844); State of Louisiana, *Report of the Board of Directors* (1852); State of Louisiana, *Report of the Board of Directors*, (1854); State of Louisiana, *Annual Report of the Board of Directors* (1856); *Message of Robert C. Wickliffe*; Foster, Rideau, and Dennis, *The Wall Is Strong*, 18.

recorded by prison officials were conceived within penitentiary walls. Nevertheless, penitentiary paternalism reportedly netted \$7,591 from the sale of these women's children.<sup>59</sup> Selling the progeny of enslaved convicts, like that of the state's sale of confiscated slaves, represents an actual practice of state-slavery rather than a mere metaphoric expression depicting forced labor or captivity.

It is noteworthy that these children, who were reared by their mothers under the lessee's lash, had no choice but to be removed upon reaching the age of ten. These children were put on the auction block and purchased by their jailors, their jailors' relatives and the general public. Thirteen-year-old Celeste and ten-year-old Frederick went home with the lessee, Charles G. McHatton of Kentucky after he paid nearly \$700 for the two youths.<sup>60</sup> Another child inmate, Alfred, joined Celeste and Frederick three years later after his tenth birthday when McHatton paid \$580 for the boy. James A. McHatton, brother to Charles McHatton and a co-lessee, did likewise. He took advantage of the state's sale of slave children but paid a higher price. James A. McHatton purchased the child for \$800. While the two brothers co-owned the Gartness and Arlington plantations in East Baton Rouge, James A. McHatton listed Alfred as one of his own assets when he reported himself to be a farmer with 107 slaves. The lessee took Joseph at ten years of age in 1853 from his mother, Azaline.<sup>61</sup> Louisiana's child slaves also attracted William S. Pike, the lessee who succeeded the McHatton brothers. Pike, a merchant from Kentucky who owned three slaves in 1860, found ten-year-old Clara Williams to his liking –so much so that he

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<sup>59</sup> A separate building for female inmates was not added until the late 1850s. Derbes, "“Secret Horrors,”” 283.

<sup>60</sup> Ibid. Charles G. McHatton was part owner of two plantations on the Mississippi River, Gartness and Arlington. This sale occurred on December 1, 1849. McHatton paid \$470 for Celeste and \$226 for Frederick. The identity of their mothers was not specified, but there were at least seven enslaved women in the penitentiary at the time.

<sup>61</sup> Ibid., 283-86. In 1860, James A McHatton reported \$230,000 in assets. Azaline entered the penitentiary on March 27, 1839 and was from St. Landry Parish.

paid the state \$1,025 for her person. Her mother, Frances Williams, had been sentenced to life imprisonment for arson in New Orleans Parish. Like her playmate, Joseph, Clara was conceived in the penitentiary.<sup>62</sup>

Penitentiary employees were also partial to the purchase of the state's child slaves. The Pennsylvanian penitentiary clerk, Samuel Isett, who worked at 'the walls' during the 1850s, spent \$600 on the ten-year-old Henrietta. The slave girl was the daughter of Marceline, an enslaved woman who was convicted of assaulting a white person.<sup>63</sup> Timothy Fay, a prison board member from Massachusetts, took advantage of the state's liquidation of William when he came of age. Fay paid \$605 for the ten-year-old slave boy whose mother, Rhoda, like her roommate Francis Williams, was sentenced to life imprisonment for arson in New Orleans Parish.<sup>64</sup> While such practices were common, not all of the child slaves left the penitentiary with convict-keepers. Between 1859 and 1861, seven more of the penitentiary's slave children came of saleable age. These children left the only home that they had known to serve masters wholly disconnected to world of the penitentiary.<sup>65</sup> At least five of the state's child slaves were classified as "mulatto," whereas the others were designated as "colored." While at least four of the enslaved children were sent to plantations owned by the men who ran the penitentiary for profit,

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<sup>62</sup> Ibid., 284-5. The sale of Clara Williams occurred on June 18, 1859. Pike, the purchaser, later served as a Confederate pay master general for the state of Louisiana during the Civil War.

<sup>63</sup> State of Louisiana, *Annual Report of the Board of Directors* (1855), 6. The child's mother entered the penitentiary on April 7, 1853. It is unclear whether Henrietta was conceived in the penitentiary or not.

<sup>64</sup> Derbes, "'Secret Horrors,'" 284. In 1860, Fay identified himself as a dentist with \$7,000 in property, which included two enslaved workers. William's paternity and place of conception is unclear. His mother was transferred to the penitentiary on March 11, 1839.

<sup>65</sup> Ibid., 285. Peter, son of Marelito sold to E.W. Willis of Louisiana on November 12, 1859 for \$1,000. Willis, a master builder, held \$8,400 in assets which included ten slaves; Priscilla, daughter of a woman of "yellow complexion", sold to John Hill of Scotland for \$1,010 on April 7, 1860. Hill reported to be a foundry master with \$30,600 in property, which included eleven slaves; Emilene, daughter of Azaline and sister to Joseph, sold to William Greennalt for \$575 on May 4, 1861; Washington, son of Susan, who was born in Virginia and convicted of poisoning in St. Landry Parish, sold to H.F. Walworth of New York. Census records identified Walworth as a farmer with \$25,700 in assets, which included fourteen slaves.

another four of the state's child slaves were still with their mothers when Union forces sacked Louisiana's penitentiary.<sup>66</sup>

### ***Convict Servitude, Slave Subversion, and Social Control***

Whereas the lessees took liberty by directly purchasing these state slaves, incarcerated slaves posed a problem to penal administrators when they became aged or infirmed. Life sentences, common punishments for criminal slaves, meant that these convicts would grow old and die within the confines of 'the walls.' In this event, prison administrators grudgingly became caretakers rather than employers. James Redpath, a Scottish-American journalist and abolitionist, had the privilege of interviewing an aged, incarcerated slave and described the man's fate. Beginning in 1854, Redpath toured the South and published his interviews with slaves in *The Roving Editor: Or, Talks with Slaves in the Southern States*. While in Louisiana, Redpath met an elderly enslaved man, confined to a "revolting" cell. The journalist recounted, "I never before saw so very frail and venerable a negro." After speaking with the old man, Redpath recounted the prisoner's past. The enslaved man had originally belonged to a lawyer and lived on a plantation but was sold to another man who hired him out to a Mississippi steamer as a deck hand. The aged enslaved man became sick and could no longer work. As a result, he was sold at public auction as part of a "lot." The purchaser refused to take him as part of the group and sent the man back to the auctioneer. The "agent of the great body-selling firm" turned away the elderly slave and "threatened to cut his bowels out if he dared to return." Without family, legal status, or money, the old man "applied" to the police and was taken in and confined to the cell from which he told his tale.<sup>67</sup>

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<sup>66</sup> Ibid., 286-288.

<sup>67</sup> James Redpath, *The Roving Editor: Or, Talks with Slaves in the Southern States* (New York: A.B. Burdick, 1859), 178-9.

Providing for elderly enslaved people was not the intent of the penitentiary. In their annual statement to the legislature in 1853, the penitentiary Board of Directors spoke out about a newly admitted enslaved convict named Celeste. Formerly the slave of Louis Charhere of St. Landry, Celeste was convicted of “assault and wounding” a white woman by two Justices of the Peace and a body of ten slave owners.<sup>68</sup> The Board of Directors conceded that the conviction papers were “doubtless in proper form.” But, they also stated, “It appears to this Board, as a thing almost past belief, that the said slave Celeste could be a proper subject for judicial action or for imprisonment in the Penitentiary since, she appeared to be at least one hundred years of age, scarcely able to sit or stand, and must have been a charge upon the Estate for many years.” Regardless of the woman’s guilt or innocence, the Board explained that the penitentiary was not intended to punish unfit workers:

She, of course, can be of no value, and under the circumstances, the Board recommends the pardon of said slave, and that she be returned to the owners, and that, if the State has paid the owners of said slave Celeste, that they be required to return it, and if they have not yet received anything from the State, that the Auditor be instructed not to audit any claim for the said slave.<sup>69</sup>

Ultimately, Celeste did not receive a pardon nor did she return to her owner. The aged enslaved woman died within ‘the walls’ of Baton Rouge in late September of 1853. Her death was a routine note that absolved the state of her charge.<sup>70</sup>

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<sup>68</sup> The elderly enslaved woman, “Celeste” of St. Landry parish should not be confused with “Celeste” of St. Mary parish, another enslaved woman incarcerated at the Louisiana Penitentiary. Celeste of St. Mary parish was convicted and sentenced for the crime of murder on January 13, 1836 at the age of 30 and died on September 22, 1854 at the age of 48. See State of Louisiana, *Report of the Standing Committee* (1844); State of Louisiana, *Annual Report of the Board of Directors* (1855).

<sup>69</sup> The elderly enslaved woman, “Celeste” should not be confused with another incarcerated enslaved woman of St. Mary parish who shared the same name, and was convicted and sentenced in 1836 for the crime of murder. State of Louisiana, *Report of the Board of Directors of the Penitentiary of the State of Louisiana* (New Orleans: Emile La Sere, State Printer, 1853), 4.

<sup>70</sup> State of Louisiana, *Report of the Board of Directors* (1854), 16.

In addition to providing for less industrious convicts, the firm suffered from the self-determination of its enslaved inmates who sought to end their days outside the penitentiary walls. In a number of cases, the lessees were charged for the expenses related to the recapture of fugitive inmates. In this way, the state's leasing of slaves confined as convicts carried with it a financial price to the firm in the event that such a prisoner might breach 'the walls.' In one instance, Powell, a male slave who was convicted of assault with intent to kill and sentenced for life, escaped from the penitentiary. After breaking out with William Clifton, a white Canadian man convicted of robbery on July 21, 1858, Powell traveled ninety-five miles before he was apprehended and confined to a county jail. Much to their discontent, the lessees were billed for charges totaling \$126.80, which included \$113.30 in jail fees. Not more than twelve months later, "P.R. Braud captured an escaped negro convict woman on Sunday the 1<sup>st</sup> of April [1860] and delivered her to the proper officer of the Louisiana Penitentiary," in return for the "usual fees."<sup>71</sup>

Another incarcerated enslaved man, Abraham, perplexed the penitentiary's administrators and was a nuisance to the lessees. The penitentiary clerk, Sam Isett, described the situation and requested council in his annual report to the state's Board of Directors in 1859,

I beg leave to call your particular attention to the case of convict, "Abraham," (No. 22 on the list of convicts remaining in confinement.) Abraham was tried as a slave, and convicted of the crime of larceny before a Justice Court in the parish of Rapides, and sentenced to imprisonment at hard labor for two years, which time he has served, and is now held in confinement for the want of a claimant. His former master or guardian—he claiming to be free—refuses to have anything to do with him.

Essentially, the predicament centered on rightful ownership of the incarcerated slave. Abraham claimed himself to be free, having served his sentence and having been discarded by his

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<sup>71</sup> State of Louisiana, "Report of the Committee on the Penitentiary," in *Documents* (1859), 42.

“former” master. The lessees, certainly unwilling to authorize such a liberation, kept Abraham in confinement a year beyond the terms of his sentence.<sup>72</sup> However, at the end of 1858, the lessees no longer wished to continue to confine him. While it might seem strange that the penitentiary administrators would not welcome an extra hand on their cotton works or brickyards, Abraham was not a complacent prisoner. Abraham was determined to set himself free and escaped “several times.” This, in turn, put the state “to some expense.” In their own annual statement to the state’s legislative body, the Board thought it important enough to mention the case of Abraham. They explained, “In the case of slaves, it is usual to discharge them upon application of their master. This case is, however, anomalous, and we think demands legislative action.”<sup>73</sup> It is unclear whether any specific action was taken to resolve Abraham’s status; however, as more slaves continued to enter the penitentiary in the 1850s and early 1860s, legislators began to take action to address ‘ungovernable’ inmates.

While the state’s confinement and possession of slaves created controversy, it also created its own contradictions. Slave convicts were considered to be a particularly subversive force. Records reveal that female slaves subject to life imprisonment in the penitentiary were considered “ungovernable” and represented a clear threat to the slave society, as the majority of them had been convicted of crimes such as arson, poisoning, and assaulting whites. Their male counterparts were thought to be equally subversive and a clear threat not only to slave society but also to the penitentiary order. Even though state officials, the lessees, and their appointed managers were reluctant to report inmate acts of disorder, prisoner rebellion spilled onto the pages of newspapers. More often than not, incidents appeared in official reports or ‘public

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<sup>72</sup> Ibid., 25, 45.

<sup>73</sup> Ibid., 4.



transcripts' only when they became too severe to either ignore or cover up.<sup>74</sup> Slaves featured prominently in recorded acts of open acts of violence against prison authorities. The *Baton Rouge Gazette* signified this in 1848 when the newspaper reported on a conflict that broke out in the penitentiary. A writer reported that prison officers shot an unidentified convict slave who was said to have refused his work assignment over a number of days. The papers described the escalating conflict that resulted in the enslaved man's death. When confronted, the slave struck the captain of the guard with a wooden stick and was summarily remanded to his cell. On Thursday, August 24, according to the *Baton Rouge Gazette*, guards, once again, demanded that the man perform his prison duties. The convict, in turn, brandished a large knife and sank it into the flesh of one of the wardens. A guard on stand-by, witnessing the strike on his chief commander, cocked his pistol, took aim, and shot dead the slave. It is worth remarking on the fact that the local newspapers featured only the death of one slave when an official report by the lessees indicated that the open attack and strike action was not isolated to a single individual. In their annual report to the governor, the penitentiary's Board of Directors cited the death of two convict slaves. Lewis Obry and Harrison met their death, liberating themselves, when they were "killed resisting officers."<sup>75</sup>

'Ungovernable' convict slaves and their congregation with free-born convicts of all colors, skilled in the subversive arts of the subaltern classes, posed additional problems for the penitentiary, the state, and the master class. Edward Livingston had anticipated this fact. For such reason, Livingston had proposed "imprisonment in solitude," or, recourse to a system of totalizing prisoner isolation as not only a fate worse than slavery but also a state worse than

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<sup>74</sup> See Scott, *Domination and the Arts of Resistance*.

<sup>75</sup> *Baton Rouge Gazette*, August 26, 1848; Birch and Buchanan, "The Penalty of a Tyrant's Law," 33.

death. State punishment of ‘intractable,’ ‘vicious,’ and ‘mutinous’ slaves with imprisonment for life vexed jailors, keepers of parish prisons, and city workhouses. To ward off such a threat, an American-styled racial repression based on a two-tiered racial hierarchy separating black from white gained traction in the 1850s. It was no accident that in 1852 the state consolidated the municipality of New Orleans where free persons of color, creoles, slaves, immigrants, and fugitives had found safer harbor into a single citywide administrative district. This change meant to by-pass creole governance and address the lax policing which had protected residents from laws meant to effect an anti-black racial caste system. The creole leadership remembered 1852 as the year when the barriers against racial repression broke down and when state authorities began an assault bent on fomenting anti-black racism in order to produce an ‘Americanized’ white racial order and a ‘well-regulated’ state. Correspondingly, questions over race and slavery in the state’s administration of punishment took on urgency during the decade as lawmakers enacted more stringent regulations concerning slaves and free blacks.<sup>76</sup>

It was in this context that legislative committees protested even more strongly than before against the “indiscriminate confinement” of white and black convicts sentenced to hard labor. A reporter for the *Daily Picayune* characterized the threat to state and planter power that such interracial associations posed:

The motley crowd of petty offenders formed a solid phalanx behind the wooden grating in the court room this morning. Niggers black, women white and red, men with bluish looks, stood up together, offering to the gaze of the curious the faded variegated colors of a beggar’s tattered cloak. On the same day, a colored gent was sentenced for six months for having cohabited with a white woman. A white woman also received six months because she cohabit[ed] with a negro man.<sup>77</sup>

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<sup>76</sup> New laws were enacted in 1855 which made even forming religious charitable or educational societies illegal under the new code. See: Vandal, “Regulating Louisiana’s Rural Areas,” 42, 86.

<sup>77</sup> *Daily Picayune*, February 20, 1859.

While the author was unclear about whether or not the man and women referred to above had been involved with one another, the report's message was unambiguous. Officials had utterly failed to deliver a 'well-regulated' state since persons of all colors and conditions found such intimate association. The report's directive was also clear. The state must redouble its efforts to police racial boundaries by both honing racism as a system of social control and also by delivering a heavy-handed repression to blacks and the whites who opposed it.<sup>78</sup>

The New Orleans parish prison contributed attempts to solidify a racial order by imposing segregated cellular confinement on the eve of the Civil War. But, an observer admitted that officials still allowed comingling of blacks and whites by day. Writing in a letter to Charles Sumner, abolitionist Dr. Samuel Gridley Howe revealed that "white men and women were detained in separate wings within the multi-story complex while [black] men and women were confined together elsewhere." While they were to be chained in segregated cells during the evening, "most were released into a common courtyard during the daytime," where Howe saw "a slave girl who, stripped of all her clothing, was forced to lay flat across a board crudely positioned in the center of this courtyard suffering under the lash of her jailor before a mixed audience of prisoners."<sup>79</sup> Parish jails, the backbone of the penal system, were reported to be equally deplorable for inmates irrespective of race. Jail conditions for "whites and blacks alike" were "extremely unhealthy." They were "uniformly unheated, damp, filthy, vermin-infested, unsanitary, and cramped" and "some jailers kept prisoners in stocks."<sup>80</sup> Since parish jails

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<sup>78</sup> Logsdon and Bell, "The Americanization of Black New Orleans," 207. In New Orleans, police officers arrested people daily for disorderly conduct, public drunkenness or other misdemeanors. The prisoners were taken to police stations where they were held.

<sup>79</sup> Letter from Samuel Gridley Howe to Charles Sumner, in Redpath, *The Roving Editor*, 296-298.

<sup>80</sup> Judith Kelleher Schafer, *Slavery, the Civil Law and the Supreme Court of Louisiana* (Baton Rouge: Louisiana State University Press, 1994), 72.

**Table 3.2**  
Race, Sex, and Legal Status of Inmates, 1852-1858,  
Louisiana State Penitentiary

	<u>White Men</u>	<u>Free Men of Color</u>	<u>Male Slaves</u>	<u>White Women</u>	<u>Free Women of Color</u>	<u>Female Slaves</u>
1852	186	9	63	0	1	14
1853	186	12	70	0	1	14
1854	191	8	77	4	1	14
1855	236	8	80	7	0	16
1858	222	8	78	2	0	16

*Sources:* 1852: State of Louisiana, *Report of the Board of Directors* (1853), 4; *The American Almanac* (1855), 282; 1853: *The American* (1855), 282; State of Louisiana, *Message of Governor Paul O. Herbert*, 6; State of Louisiana, *Report of the Board of Directors* (1854), 9-14; 1854: State of Louisiana, *Annual Report of the Board of Directors* (1855), 9-14; *The American Almanac* (1855), 304; 1855: State of Louisiana, *Annual Report of the Board of Directors* (1856), 5, 17-18; 1858: State of Louisiana, "Report of the Committee on the Penitentiary," in *Documents* (1859), 61, 45-57.

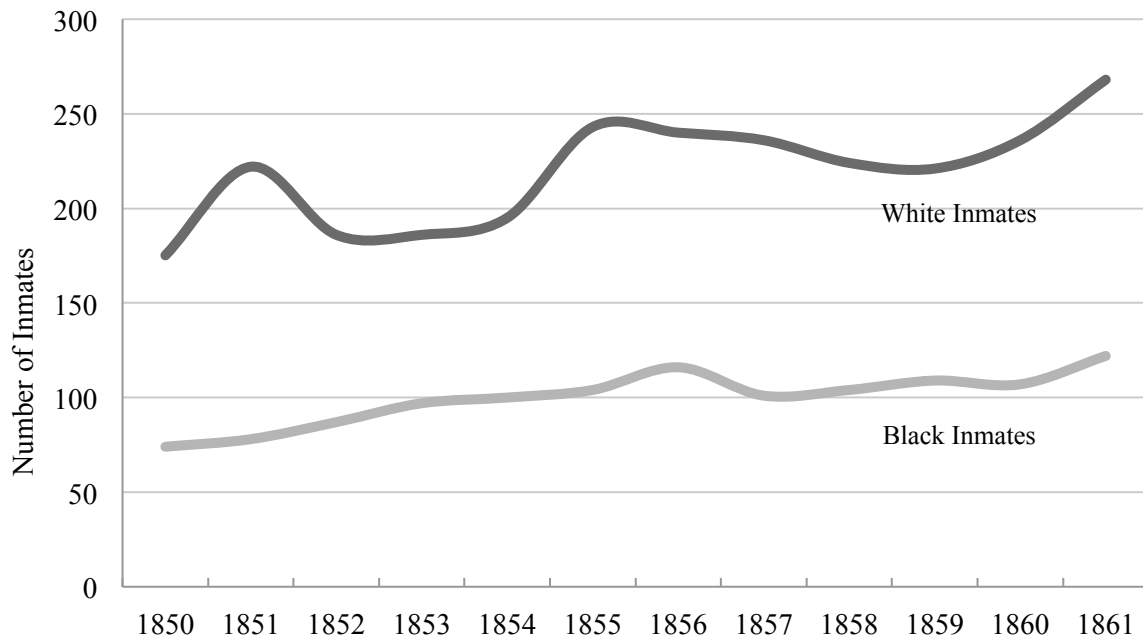
frequently housed runaway slaves and their numbers increased over the first part of the nineteenth century, it was impractical to segregate inmates without dramatic institutional change.<sup>81</sup>

Penitentiary administrators faced similar problems. After welcoming incarcerated male slaves and free men of color back to the Penitentiary, administrators were forced to manage a very diverse inmate population [see Table 3.2]. By 1852, the cellblock of the penitentiary was overcapacity at 273 inmates. Of these, white men still formed the majority, comprising about sixty-eight percent of the inmate population; however, black inmates remained a large minority [see Figure 3.3]. The sixty-three enslaved men were the next largest inmate group, followed by the fourteen enslaved women. Free men and women of color made up a small minority, yet even in small numbers, their presence vexed administrators who sought to impose a rigid racial

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<sup>81</sup> During the first five months of 1817, no less than twenty-four former fugitives were jailed in St. Mary's Parish. See: Vandal, "Regulating Louisiana's Rural Areas," 75.

**Figure 3.3**  
Inmate Population by Race, 1852-1858,  
Louisiana State Penitentiary



*Sources:* 1850-1: State of Louisiana, *Annual Report of the Board of Directors* (1852), 6; 1852: State of Louisiana, *Report of the Board of Directors* (1853), 4; 1853: *The American Almanac* (1855), 282; 1854: State of Louisiana, *Annual Report of the Board* (1855), 9-14; 1855: State of Louisiana, *Annual Report of the Board* (1856), 5, 17-18; 1856: *The American Almanac* (1859), 299; 1857: *The American Almanac* (1860), 268; 1858: State of Louisiana, "Report of the Committee on the Penitentiary," in *Documents* (1859), 61, 45-57; 1859: *The American Almanac* (1861), 285; 1860: Derbes, *Prison Productions*, 28; 1861: Forret, "Before Angola," 149.

hierarchy.<sup>82</sup> With a mixed body of incarcerated native and foreign-born white men and women, free men and women of color, as well as enslaved criminal offenders, authorities once again faced the dilemma of segregating prisoners. The revised statutes of the penitentiary in 1852 mandated that the lessees impose strict segregation in the employment of convict labor—the assumption being that such had not been the practice. Segregation was to be of two types. First, prisoners of any race serving a life sentence were not to be worked alongside other inmates. Secondly, the law demanded that all black convicts, whether slave or free, must be worked

<sup>82</sup> *The American Almanac* (1855), 282.

separately and apart from white prisoners. Objections to this mandate by the lessees were even more forceful than had been opposition from state prison administrators prior to the leasing of the penitentiary. The lessees responded categorically and in no uncertain terms that segregation of prisoners by crime, color, or condition was impractical, disruptive to productivity, and inimical to profits.

In 1854, state lawmakers lodged a formal complaint against the Board of Directors and the lessees. In response, members of the House and Senate visited the penitentiary to investigate. In general, the Joint Committee was not displeased with the management; however, they were struck with the “large number of slaves confined in the Penitentiary.” They reported back to the legislature, “After a careful consideration of the matter, your committee is satisfied that the slaves convicted of crimes committed by them, ought to be removed from it, because confinement is to them no adequate punishment, but in many cases is actually preferred to their former condition.” When the legislative committee visited, they would have witnessed the presence of a “large number of slaves” indeed. In 1854, there were no less than ninety-one enslaved people within the walls of the penitentiary, comprising thirty-one percent of the total prison population. These proportions were not uncommon at ‘the walls.’<sup>83</sup> Between 1852 and 1859, enslaved men and women made up between twenty-eight and thirty-three percent of the total inmate population [see Table 3.3 and Figure 3.4]. There were at least 108 enslaved inmates at the Louisiana penitentiary in 1859, and no less than seventy-seven incarcerated slaves seven years earlier.<sup>84</sup>

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<sup>83</sup> Ayers, *Vengeance and Justice*, 60.

<sup>84</sup> State of Louisiana, *Report of the Board of Directors* (1853), 4; *The American Almanac* (1855), 282; *The American Almanac and Repository of Useful Knowledge for the Year 1861*, vol. 32 (Boston: Crosby, Nichols, and Company, 1861), 285.

**Table 3.3**  
Incarcerated Slaves by Number and Percentage of Inmate Population, 1852-1859,  
Louisiana State Penitentiary

	<u>Total Inmate Population</u>	<u>Incarcerated Slaves</u>	<u>Incarcerated Slaves as Percent of all Inmates</u>
1852	273	77	28%
1853	283	84	30%
1854	295	91	31%
1855	347	96	28%
1856	356	106	30%
1858	326	94	29%
1859	330	108	33%

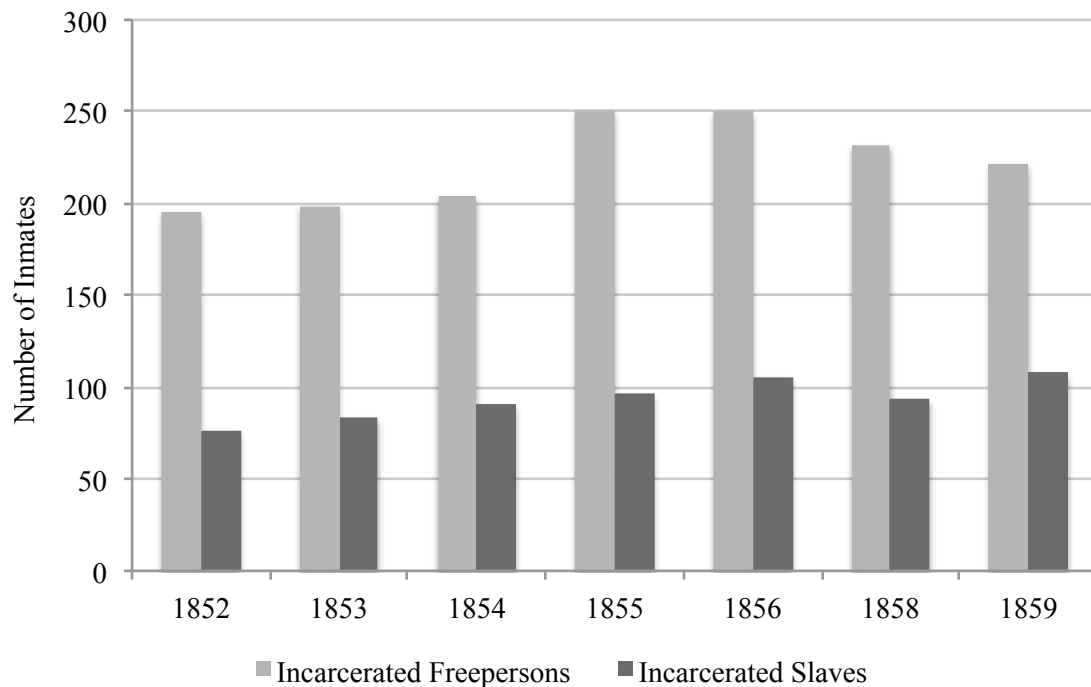
*Sources:* 1852: State of Louisiana, *Report of the Board of Directors* (1853), 4; 1853: *The American Almanac* (1855), 282; 1854: State of Louisiana, *Annual Report of the Board* (1855), 9-14; 1855: State of Louisiana, *Annual Report of the Board* (1856), 5, 17-18; 1856: *The American Almanac* (1859), 299; 1857: *The American Almanac* (1860), 268; 1858: State of Louisiana, "Report of the Committee on the Penitentiary," in *Documents* (1859), 61, 45-57; 1859: *The American Almanac* (1861), 285.

Following their visit, the Joint Committee proposed a solution intended to reduce the enslaved population at Baton Rouge, albeit one that had been tried and failed only a decade earlier. The committee suggested that incarcerated slaves "might be employed to advantage on the public works of the State, if properly guarded and confined so as to prevent them from having any intercourse whatever with other slaves." Anticipating that the lessees may not wish to release their enslaved convicts, the legislative committee noted that a provision could be made into law to "provide some punishment for slaves as a substitute for imprisonment in the Penitentiary," though incarcerated slaves already at Baton Rouge could not be removed without consent of the lessees.<sup>85</sup> Ultimately, the proposal gained no traction and the penitentiary remained a repository of whites, free blacks, and enslaved inmates. However, in 1860, the governor of Louisiana, Robert C. Wickliffe attempted to revive the committee's efforts to

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<sup>85</sup> State of Louisiana, *Report of the Joint Committee on the Penitentiary* (New Orleans: Emile La Sere, State Printer, 1854), 4.

**Figure 3.4**  
Incarcerated Freepersons vs. Incarcerated Slaves by Number, 1852-1859,  
Louisiana State Penitentiary



*Sources:* 1852: State of Louisiana, *Report of the Board of Directors* (1853), 4; 1853: *The American Almanac* (1855), 282; 1854: State of Louisiana, *Annual Report of the Board* (1855), 9-14; 1855: State of Louisiana, *Annual Report of the Board* (1856), 5, 17-18; 1856: *The American Almanac* (1859), 299; 1857: *The American Almanac* (1860), 268; 1858: State of Louisiana, “Report of the Committee on the Penitentiary,” in *Documents* (1859), 61, 45-57; 1859: *The American Almanac* (1861), 285.

prevent slaves from entering the penitentiary. Speaking to the legislature, Wickliffe called to their attention the practice of sending slaves to the penitentiary for petty offenses:

This subject, which I deem of great importance, has failed to attract the attention of your predecessors. It now earnestly demands and should receive your attention. The manner in which slaves are now tried, by a special tribunal established for that purpose, results in sending many of them to the State Prison for offenses slight and trivial, whereas if the administration of justices was in these cases, confined to the District Courts and juries, punishment would be as certain.

What Governor Wickliffe proposed was to try slaves in courts alongside whites and free people of color. He even went as far as to “recommend the repeal of the law which inflicts upon a slave



the punishment of confinement in the State Penitentiary.”<sup>86</sup> Ironically, Wickliffe’s proposal, intended to diminish the presence of enslaved people at the penitentiary among white men and women and free people of color, did so by trying slaves in courts alongside free whites and blacks. But, by 1859 the Board of Directors advocated for compromise. They registered their support when they sought modification for the act that prohibited the employment of prisoners beyond penitentiary walls. They recommended to allow black prisoners to cut wood in a neighboring forest in order to supply the penitentiary. The governing body stated,

Another year’s experiences has confirmed us in the opinion that the laws on the Penitentiary should be so modified as to allow the negro convicts to do the hauling of the Prison. We are convinced that prison discipline suffers less by so doing, than by allowing outside negroes to mix with the prisoners. It is impossible, with the strictest vigilance, to prevent improper intercourse.”<sup>1</sup>

Thus, prison administrators who advocated for a racialized division of labor were not driven necessarily by ideological zeal but, rather, by practical considerations to maintain segregation of prisoners from civilians or preventing “outside negroes” from entering ‘the walls.’

### ***Vagrancy, Workhouses, and the Antebellum Carceral State***

Workhouses were another means of addressing the persistent problem of “proper employment” of convicts in Louisiana. The tide of racial repression of the 1850s had created the “Depot” for the proper employment of runaway slaves and the decision to transfer black convicts from the penitentiary to the Board of Public Works to undertake levee and road works. The development and expansion of workhouses in the state coincided with increasing racial repression in the 1830s and its intensification in the 1850s.<sup>87</sup> The institution targeted “vagrants”

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<sup>86</sup> State of Louisiana, *Official Proceedings of the Journal of the House of Representatives* (New Orleans: n.p., 1860), 7-8.

<sup>87</sup> The law was introduced on January 29, 1841. See: State of Louisiana, *Journal of the House* (1841), 48, 54; *Daily Picayune*, January 30, 1841; Nathaniel P. Weston, “Frecher Versuch Das Arbeitshaus Zu

-the unemployed, homeless persons, loiterers, ‘alcoholics,’ petty offenders, individuals convicted of disturbing the peace, without property, or of “questionable” moral character. In casting a wide net, lawmakers formalized a definition for vagrancy as a criminal act with painstaking detail and with much exposition. According to the act, a vagrant was,

Any person being able to work, and having neither profession, nor trade, nor any dwelling place, nor any visible property wherewith to maintain themselves, shall live idle, those who habitually frequent grog shops or gaming houses, or other disorderly places, or found wandering about at an unseasonable hour of the night, who are unable to show what resources they possess, or unable to produce credible testimony of their good conduct and morals; or those who lodge in out-houses, market places, sheds or barns, or in the open air, and...all persons apprehended with any picklock or other instrument with probable intention feloniously to break and enter any dwelling house or other house, or with any offensive weapon with probable intent feloniously to assault any person, or who shall be found in any dwelling house, out-house, store, yard or garden, with probable intent to steal, or who shall give a false account of themselves after warning of the consequence shall be deem vagrants.<sup>88</sup>

This measure, meant to enact more effective governance, class control, protections for private property, and compel ‘free’ labor, demonstrated the carceral disposition of Louisiana’s decentralized state system in spite of its rejection of the Livingston code and its totalizing carceral state.

Vagrancy, defined as such, was meant to effect greater social control in New Orleans after the Panic of 1837 and the associated dislocations and economic hardships of the early 1840s. The flexibility of Louisiana’s laws against vagrancy and its swelling ranks prompted construction of a workhouse in 1842 and two more by 1844 –the same year the state began

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Zerstören’: An Introduction to Vagrancy and Workhouses in New Orleans,” *Louisiana History: The Journal of the Louisiana Historical Association* 41, no. 4 (2000): 467–481, 469.

<sup>88</sup> “An Act to Establish Work Houses and Houses of Refuge by Several Municipalities of the City of New Orleans, and for Other Purposes,” in *A New Digest of the Statute Laws of the State of Louisiana from the Change of Government to the Year 1841, Inclusive*, vol. 1 (New Orleans: E. Johns & Co., Stationer’s Hall, 1842), 823–26; Weston, “Frecher Versuch Das Arbeitshaus Zu Zerstören,” 469.

convict leasing at the penitentiary.<sup>89</sup> The *Daily Picayune* reported enthusiastically that “the new establishment” was “swiftly rising into importance.” It stated that “poor vagrants, who used to be confined in mischievous and destructive idleness” were subject to rehabilitation since they had been “furnished with wholesome occupation.” According to the newspaper, the experiment in penal practice promised overwhelming success since vagrants were “restored to a more healthful state of existence by salutary rule and employment, so as when released, to feel incentive to more useful and honorable conduct.” The workhouses did not discriminate against women. It coerced labor of both sexes and was reported to impose a gendered division of labor based on the social norms of the day. The article concluded that the workhouses in New Orleans, much like the state penitentiary, represented “a vast stride in advance of the old system of imprisonment.” Yet, it was the peculiar economy of punishment that was responsible for making it “one of the most useful institutions of the kind in the South.” Like the penitentiary, it was meant to maximize state profit, prisoner control, and work discipline for slave and freeborn alike. All indications suggested that “the organization of the workhouse” would “clear the whole expense of the building” in “but a very few years.”<sup>90</sup>

Reality diverged markedly from the fanciful projections of the press on the performance of the workhouse. The antebellum political economy of punishment was not independent of the Atlantic-based economic circuits of which Louisiana was a part. The very scarcity of work which pushed the state to regulate vagrancy in the 1840s hindered the ability of authorities to profitably

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<sup>89</sup> Weston, “Frecher Versuch Das Arbeitshaus Zu Zerstören,” 469. The First Municipality and Second Municipality of New Orleans opened their own workhouses in 1842 while the Third Municipality opened its own in 1844. The administration of the workhouses was conducted by a board of inspectors, which included the mayor, recorder, and police committee members. The jailer also worked as the workhouse warden who secured prisoners and supervised their labor, inventoried their tools, and maintained a register of their activities.

<sup>90</sup> *Daily Picayune*, February 8, 1846.

and “properly” employ vagrants, effect prisoner control, and diminish the threat of the army of the unemployed. Without a high demand of labor, the institutions functioned as jails.

“Recidivism was rampant,” and the numbers of ‘vagrants’ continued to increase.<sup>91</sup> Workhouses did not refrain from disciplining inmates with means associated with the *ancien regime*. In 1846, a report issued by the Grand Jury on the condition of the workhouses, voiced optimism that gains in the administration of rehabilitation through forced labor had ‘advanced’ in the Second Municipality. In detailing gains made, it also exposed the institution’s previous transgressions. With optimism, inspectors recorded “a manifest change for the better” since the administrators reported to have recently abandoned “the cat,” or the whip nicknamed the “cat-of-nine-tails,” as a means for punishment as it was, in the eyes of the jury, to be “barely reconcilable with even naval usages.” The jury pledged to its audience that “the naked backs of white men and women shall no more be excoriated by the officers of that house of correction, nor by their negro assistants, clothed with their authority.”<sup>92</sup> Complaints about the use of “the cat” on white male and female prisoners at the workhouse expressed the jury’s anxiety over racial transgression at the New Orleans workhouse. It showed the difficulties faced by authorities in enacting racial boundaries in the penal system. In contradiction to the racial hierarchy, which assumed property in whiteness, white men and white women were not only subject to the strap but lashed at the hand of black men. Workhouses in New Orleans also confined convicts of all colors and conditions. So adaptable was the institution that an owner hired out his slave to the Second Municipality Workhouse “under wages.” Influenced by the state’s experimentation with imprisonment for profit, officials consolidated the municipal workhouses into a carceral institution in 1852, which accepted ‘vagrants’ from “Jefferson Parish at a cost of twenty-five

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<sup>91</sup> Weston, “Frecher Versuch Das Arbeitshaus Zu Zerstören,” 473.

<sup>92</sup> *Daily Picayune*, February 8, 1846

cents a day.”<sup>93</sup> In 1855, ten years after the state leased its penitentiary, the council undertook its own trials by leasing its workhouse in an economy of punishment driven to yield profits even at the expense of prisoner control and racial hierarchy.

### *The Limits of Louisiana's Antebellum Carceral State*

Scientific jurisprudence, investments in racism as an instrument of social control, and state safety-nets for the slave system failed to achieve a ‘well-regulated’ state despite the best efforts of state officials, lawmakers, planters, and the merchant elite to ‘discipline’ Louisiana’s disorderly subjects. As the sectional crisis gripped the nation, New Orleans was considered to be “the most dangerous metropolis in America.” In the 1850s, the homicide rate in New Orleans was estimated at eight times that of Philadelphia –a large, ethnically heterogeneous port city like “the Crescent City.” Between 1857 and 1859, reports indicated that at least 149 murders were committed in the city of New Orleans. The statistic represented a homicide rate of thirty per 100,000 people.<sup>94</sup> Residents were well-armed. They brandished the most advanced repeating revolvers of the day but did not dispense with the reliability of single-shot and double-barreled percussion and flintlock pistols, as well as more conspicuous rifles, muskets, and shotguns. In addition to firearms, citizens and subjects commonly carried bowie knives, stilettoes, sword canes, and other edged and pointed weapons such as the “slug shot.”<sup>95</sup>

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<sup>93</sup> “Persons Committed to the Third Municipality Workhouse,” *Times Picayune*, February 6, 1850; Weston, “Frecher Versuch Das Arbeitshaus Zu Zerstören,” 474.

<sup>94</sup> By comparison, New Orleans, the murder capital of the United States during the last quarter of the twentieth century, registered a homicide rate of approximately one-third of what was reported on the eve of the Civil War. Homicide Rates in New Orleans between 1989 and 2000 ranged between 10 and 13.2 persons per 100,000. See: Dennis C. Rousey, “Cops and Guns: Police Use of Deadly Force in Nineteenth-Century New Orleans,” *The American Journal of Legal History* 28, no. 1 (1984): 41–66, 46-7; FBI, Uniform Crime Reports <http://www.fbi.gov/about-us/cjis/ucr/ucr>

<sup>95</sup> *Ibid.*, 48. Slugshots describe a lead ball attached by a cord of wire to a short wooden handle, a pocket sized unspiked version of the deadly medieval Morningstar.

Travel narratives vividly recorded this fact. Edward Sullivan, an Englishman touring the United States at midcentury, attended a “quadroon ball.” Much to his dismay, he observed that “these balls take place...in a large saloon, at the entrance, where you pay half a dollar, you are requested to leave your implements, by which is meant your bowie-knife and revolvers.” So pedestrian was the practice of checking weapons at the door, he remarked, “You leave them as you would your overcoat on going into the opera, and get a ticket with their number, and on the way out they are returned to you.” As the ball wound down and patrons readied to depart, the traveler recounted that revelers listened for the “pistol and bowie knife keeper in the arms room” who called them to claim their arms and identified them by ticket number and by description. The traveler was dismayed that as the “keeper” yelled to the crowd, “No. 46—a six barreled repeater, no. 100—one eight barreled revolver and bowie knife with a death’s head and crossbones cut on the handle,” and “No. 95—brace of double barrels...you see fellows fasten on their knives and pistols as coolly as if they were...putting on a coat.” The traveler’s account shows that the personal possession of lethal weapons was so commonplace in New Orleans that guards at the ball were incredulous when the Englishman stated that he was unarmed. Sullivan recalled that as he went upstairs after getting a ticket, he was asked to leave his arms. He replied “that [he] had none to leave.” Because of the seeming implausibility of this response, he “was stopped and searched from head to foot by a policeman...who fancied it impossible that [he] would be altogether without arms.” The foreigner saw that efforts to disarm the crowd were largely in vain since “notwithstanding all this care, murders and duels” were “of weekly occurrence at these balls, and during [his] stay at New Orleans there were three.” He concluded with the categorical statement, “There are more murders here than in any other city in the

Union.”<sup>96</sup> Ten years later, another English traveler, William Howard Russell, learned the same lesson. He grasped that in New Orleans justice came from the muzzle of a gun. When touring the city’s jail and police court, the sheriff explained to him that the city was “a perfect hell on earth, and that nothing would put an end to murders, manslaughters, and deadly assaults, till it was made penal to carry arms...since every American citizen may walk with an armory around his waist.”<sup>97</sup>

These examples show the limits of state-sponsored carceral institutions like the penitentiary, workhouses, poor houses, and asylums in a decentralized, weak administrative state tied to networks of planter patronage with a heterogeneous, mobile, well-armed populace. Despite the state’s adoption of the Auburn-styled penitentiary and its conversion to convict leasing, American imperium and planter rule was ‘thin’ and disorderly subjects predominated. The proliferation of firearms and their accessibility to individuals of all stations in a city fraught with tensions between workers and employers, slaves and masters, planters and “plain folk,” coupled with ethnic rivalries, religious differences, and the urban masses, migrants, transients, and runaways, frustrated attempts by American authorities to impose a bifurcated racial order. But, by mid-nineteenth century, state-sponsored initiatives to draw the color line intensified with new assaults on free people of color. As migrant workers swelled the ranks of the subaltern in New Orleans, police enforcement in the newly centralized administrative district dramatically increased. At midcentury, police arrested fewer than ten free black residents per month, but by 1859, the total arrests captured at least one hundred free black migrants per month.<sup>98</sup> Yet, as

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<sup>96</sup> Edward Robert Sullivan, *Rambles and Scrambles in North and South America* (London: R. Bentley, 1852), 23-25.

<sup>97</sup> William Howard Russell, *My Diary, North and South* (New York: Harper & Bros., 1863), 244; Rousey, “Cops and Guns,” 46-7.

<sup>98</sup> Logsdon and Bell, “The Americanization of Black New Orleans,” 210.

state officials worked to cement a color line war came, and with it the makings of social revolution.

### ***Conclusion***

Louisiana's penitentiary was exceptional, but not in the ways commonly attributed to the system. Its distinction for incarcerating slaves in sizable numbers throughout the antebellum period offers a valuable counterpoint for analysts to expose the relationship of race, slavery, labor and punishment.<sup>99</sup> That slaves constituted approximately one-third of all prisoners in Louisiana by the 1850s challenges the conventional wisdom that penitentiaries were uniformly republican institutions devoted to the rehabilitation of white males.<sup>100</sup> Louisiana's experience with the penitentiary system shows that the institution was fundamentally a state-building project meant to generate revenue and greater control over 'unruly subjects' in an expanding agricultural economy linked to international markets. As one of the foremost slave societies during the antebellum period, Louisiana's efforts at state-building by definition entailed attempts to secure the institution of slavery. In this way, the penitentiary, like other carceral institutions, served as handmaiden to the slave system. Louisiana's Auburn-styled penitentiary found a new use for 'ungovernable' slaves. Commutations to life imprisonment for slaves meant subjection to penal labor and captivity as lifelong convicts for state profit. Yet, the very 'usefulness' of the many convicts put to hard labor as perpetual punishment posed predicaments for state officials who aimed to 'Americanize' the penitentiary with a two-tiered racial hierarchy by segregating black and white prisoners.

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<sup>99</sup> Extant treatments importantly document this fact but offer little explanation. For example, see: Ayers, *Vengeance and Justice*, Derbes, *Secret Horrors*, Forret, "Before Angola"; Nobles, "Gazing Upon the Invisible."

<sup>100</sup> Ayers, *Vengeance and Justice*, 40-1, 60-1.



While lawmakers of such persuasion succeeded in passing measures to legally mandate racial segregation in 1843, practical considerations of profit and industry overrode any ideological commitments to racial segregation. Persistent complaints about “indiscriminate confinement” by the state officials and the standard press were not enough to dislodge the practice of working white and black convicts side-by-side. Instances of “indiscriminate confinement” may have declined during the 1850s but did not disappear. Louisiana’s incarceration of slaves created another anomaly. It put the state directly in the business of slavery, even if unintentionally so. Louisiana trafficked in the children born to enslaved women held captive in the penitentiary as convicts. Yet, the state’s antebellum penitentiary ventures and its incarceration of slaves is indicative of actual rather than metaphoric instances of state-slavery as authorities commodified the persons children born to enslaved convicts. This practice provides evidence that the social conditions of slaves and convicts, however proximate, were distinct. Thus, Louisiana’s antebellum penitentiary institutionalized convict servitude as a distinctive system of forced labor and particular social condition. This carceral institution supported the slave system and ironically gave rise to a literal system of state-slavery.

## Chapter 4

### Slave Emancipation, Convict Servitude, and the Penitentiary, 1861 to 1869

The American Civil War unleashed a “general strike” when Union forces invaded New Orleans in April of 1862.<sup>1</sup> General Benjamin Butler, commander of Federal forces, had come to restore the Union, not to abolish the institution of slavery. Yet, Butler confronted in New Orleans as assertive and self-confident free black population and a flood of slaves who had ‘voted with their feet’ against the slave system. In Louisiana and across the South, slaves threw down their yoke. This refusal, which involved nearly 500,000 men and women in the Mississippi valley, overwhelmed Union commanders whose initial disposition was to send them back to their masters.<sup>2</sup> W.E.B. Du Bois said that perhaps the greatest and most systematic organizing of fugitives took place in New Orleans.<sup>3</sup> Penitentiary inmates, both enslaved and free, found their own emancipation from the captivity as slaves defined the system which had bound them.<sup>4</sup> The liberation of approximately four million slaves and countless subaltern peoples had taken the elite off guard. Large planters and elites had taken solace in the expansion, intensification, and rationalization of the slave system and the increasing efficiency of the state’s carceral network as well as the hardening of the color line by 1850s in Louisiana. But, they had been forewarned. The planter class, which stood at mid-century as “one of the most imposing landed elites in the Western world,” heard slavery’s réquiem.<sup>5</sup>

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<sup>1</sup> I draw on the term to denote Du Bois’s apt characterization of how slaves exploited the Federal invasion and occupation of Louisiana to withdraw their labor from planters, and in so doing, transformed a war to preserve the Union into a conflict which destroyed the slave system. See: W. E. B Du Bois, *Black Reconstruction in America, 1860-1880* (New York: Touchstone, 1995); 64, 67.

<sup>2</sup> Du Bois, *Black Reconstruction* 55-83.

<sup>3</sup> *Ibid.*, 68.

<sup>4</sup> *The Louisville Daily Journal*, December 13, 1864.

<sup>5</sup> Steven Hahn, “Class and State in Post-emancipation Societies: Southern Planters in Comparative Perspective,” *The American Historical Review* 95, no. 1 (1990): 75–98.

It resounded in movements for the transatlantic slave trade's prohibition. French colonial emancipation, the creation of a revolutionary black republic, gradual abolition in the British Caribbean, Latin American independence movements, and nineteenth century transatlantic abolitionism also forecast the fragility the institution of slavery. These instances of both gradual and immediate emancipation excited the slave quarters, houses of worship, and prison cells and animated relations between workers and employers. Slavery fell under the weight of its own contradictions in the United States and gradually was exhausted in Cuba and Brazil by slave trade prohibitions, free womb laws, wars of resistance, and the subversions of slaves. The tide of emancipation that swept the American South, like the surges that carried away slavery in the Caribbean and Latin America, left the means of production and its appetite for cheap, captive labor unfulfilled.<sup>6</sup>

This chapter examines the expansion of convict servitude after the abolition of chattel slavery. It contributes new understanding to the role of the Louisiana's penitentiary in defense of the Confederacy and the slave system. It also documents the penitentiary's shifting allegiances during the American Civil War and its resurrection during the shift from military rule to civilian governance, topics largely neglected by analysts.<sup>7</sup> It examines the increasing criminalization of blackness by situating these institutional changes in the context of struggles over land and labor during Louisiana's early reconstruction. This chapter shows the response by penal institutions to

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<sup>6</sup> Hahn, "Class and State in Post-emancipation Societies," 78. See also: Robin Blackburn, *The Overthrow of Colonial Slavery: 1776-1848* (New York: Verso, 2011); Frederick Cooper, *Beyond Slavery: Explorations of Race, Labor, and Citizenship in Post-emancipation Societies* (Chapel Hill: University of North Carolina Press, 2000); Seymour Drescher, *Abolition: a History of Slavery and Antislavery* (New York: Cambridge University Press, 2009); Du Bois, *Black Reconstruction in America*, 581-636.

<sup>7</sup> There is virtually no discussion of the Louisiana's penitentiary during the Civil War period with one exception. Derbes provides an interesting but brief discussion of penitentiary production in Louisiana, Arkansas, and Texas as it relates to the Trans-Mississippi Theater during the war. See: Carleton, *Politics and Punishment*, Derbes, *Prison Productions*; Wisner, *Public Welfare Administration in Louisiana*.

the increasing criminalization of black life resulting from planter's desire for a cheap, captive labor force. In this chapter, I suggest that Confederate mobilization brought unprecedented political economic centralization to the South and harnessed the productive power of its penitentiaries to the war effort. The considerable surpluses extracted by forced convict labor, and the system's usefulness in industrial and state infrastructural production, proved to be particularly instrumental in prosecuting war. And finally, I argue that the development of the convict lease system in Louisiana was not instituted as a functional equivalent to slavery. Rather, it developed unevenly and in response to the penitentiary's perennial labor problem and without the restraints that had limited the hiring out of prisoners during the antebellum period.

### *Arsenal for the Confederacy and the Sacking of the Penitentiary*

If Louisiana's penitentiary did not produce the 'well-regulated' state that reformers like Livingston had envisioned, its industrial engines and cheap, captive labor force empowered the South and the slave system. It provided a manufacturing base fundamental to South's capacity to wage war. On January 26, 1861, Louisiana voted overwhelmingly to separate from the United States.<sup>8</sup> After secession, Louisiana's formerly weak and decentralized state integrated into the Trans-Mississippi District of the Confederate States of America.<sup>9</sup> As the industrial might of the South shifted to wartime production, the penitentiary's lessees earned even more profit by pressing their captive workforce.<sup>10</sup> The pressure of wartime demand, exacerbated by shortages resulting from the U.S. Navy's blockade of the Confederate coastline, pushed penitentiary

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<sup>8</sup> Hyde, *Politics and Pistols*, 91

<sup>9</sup> The military district extended over 600,000 square miles, including Arkansas, Louisiana, Missouri, and Texas, as well as the territories of Arizona and New Mexico. See: Derbes, *Prison Productions*, 14.

<sup>10</sup> By 1860, the state reported annual sales of \$117,624. See: *The Daily Picayune*, May 2, 1859; *The Daily Picayune*, August 10, 1859; *The Daily Picayune*, September 11, 1859. For financial statements and increased production, See: State of Louisiana, *Report of the Committee on the Penitentiary to the Senate of the State of Louisiana* (Baton Rouge: J. M. Taylor, State Printer, 1861).

production to new heights. Almost 350 inmates, of whom more than 100 were slaves, worked rapidly to outfit the Confederacy for war.<sup>11</sup> As the state institution transformed into a Confederate war machine, prison production quadrupled in 1860 and generated compounding profits for the lessees and the state treasury.<sup>12</sup> The penitentiary operated as the largest single producer in the state and leading supplier to the Quartermaster Department in Louisiana, provisioning most of the cloth made for soldiers, civilians, and slaves in 1861 and 1862. All in all, Confederate quartermasters bought two-thirds of all goods made by Louisiana's state prisoners.<sup>13</sup> *The Daily Picayune* did not neglect the penitentiary's importance in outfitting Louisiana's military forces when it reported that, "Each man is provided one red flannel shirt, one cotton shirt, one plaid linsy shirt, to be worn over the cotton shirt, and the materials were all of very good quality, brand new, and manufactured at the Baton Rouge Penitentiary."<sup>14</sup> According to Confederate Sergeant W.H. Tunnard, blue and brown jean uniforms made in the Louisiana State Penitentiary and delivered to the Third Louisianan Infantry Regiment by state contractors, were well made and of "a substantial material." Tunnard claimed that the outfits "infused a new feeling and spirit amongst the men."<sup>15</sup> The lessees, themselves, also boosted production of other prison-made goods. They reported that the shoe shop produced a minimum

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<sup>11</sup> *The American Almanac* (1861), 285.

<sup>12</sup> In 1860, the penitentiary sold at least \$474,841.27 in goods for a net profit of \$36,401.89. The value of unmanufactured stock was \$158,909.68, which reportedly held considerable value in finished goods. Production expanded from emphasis on course cotton and wool to several types of finished cloth such as shirting, burlaps, twill, and linsey. It sold 1,757,315 yards of cotton cloth and 3,276 blazes of osnaburg, twills, linsey, and jean fabric. See: State of Louisiana, *Report of the Committee* (1861), 5-8.

<sup>13</sup> Derbes, *Prison Productions*, 16.

<sup>14</sup> *The Daily Picayune*, September 11, 1861.

<sup>15</sup> During the first year of the war, coats issued were lined in plaid linsey and padded in the shoulders. An early uniform worn by the Louisiana Crescent Regiment was a seven-button, single-breasted frock coat constructed of a light grey jean cloth with pale yellow lining on the collar and chevron-style cuffs. The trousers were pale blue jean with pale yellow lining down the seams and dark metal buttons. In late 1861 Louisiana began to issue shell jackets of brown or light-blue grey penitentiary cloth. See: William H. Tunnard, *A Southern Record: The History of the Third Regiment, Louisiana Infantry* (Baton Rouge: Printed for the Author, 1866), 92.

of sixty pairs of “brogans” per month, while the wheelwright’s shop saw an increase in carriages, wagons, and wheelbarrows. The blacksmith shop and the foundry manufactured pig iron, bar iron, sheet iron, brass, sheet copper, and castings essential for war. Inventories indicate that even without resupply, the penitentiary stockpiled significant reserves important to the Confederacy’s ability to prosecute and sustain the war.<sup>16</sup>

The penitentiary’s lessees, beneficiaries of the windfall in profits from wartime production, even went as far as to gift convict handiwork to the Confederate cause. A supplier expressed appreciation to the lessees for their charity when the organization’s secretary offered “tender [and] hearty thanks to Messrs. Pike and Hart and the many merchants of the place who so generously” gave “material for the outfit of four companies.” They graciously remarked that the gifts were enough “to supply them with every necessary article, and have yet on hand nearly enough to fit another company.” In 1861, the lessees gave a bale of spun yarn to family members of Confederate soldiers from Baton Rouge. Not only did the lessees, McHatton, Pike and Company, offer personal gifts to the war effort, they also instituted a charitable dispensary that operated out of the penitentiary. The penal facility supplied considerable amounts of yarn to local aid societies for home manufacture, which played an important role in clothing Confederate

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<sup>16</sup> Derbes shows that in April of 1862, the textile factory produced 891 bales of cotton and a minimum of \$44,293.51 in fabricated cotton and wool. The tailor shop stocked twice for tents, tent polls, enameled cloth, 74 tents, 51 pairs of linsey pants, 36 linsey shirts while the brickyard fired 853,864 bricks. The blacksmith shop and the foundry stockpiled scrap iron and stored castings, iron ties, wrought iron, brass sheeting, and copper sheeting. The carpenter and cooper were equipped with a turning lathe, one circular saw, seven workbenches, two iron vices, four molding planes two joining planes and numerous other tools. The two shops manufactured 449 buckets and dippers, 54 wheelbarrows, and at least 1,500 cart bodies and wheelbarrow wheels. The machine shop and foundry were also well-equipped with three forges, two work benches, three vices, a grindstone, a gear-cutting engine, one upright drilling machine, one planing machine, three turning engines, and one brass furnace. See: Derbes, *Prison Productions*, 16-7, 19.

soldiers, civilians, and their slaves during the war.<sup>17</sup> Thus, war and crime together spelled prosperity for the lessees at the Louisiana State Penitentiary.

The boom in prison industry at Baton Rouge sparked by the outbreak of the American Civil War in the United States was short-lived. Gripped by the fear of potential slave rebellion and the increasingly likelihood of occupation by Federal troops, six full companies of more than 600 men had been outfitted to defend the city and its prison industry in 1861. The Florida parishes held considerable strategic importance to the Confederacy as home to Baton Rouge, the state's capitol. The capture of the city was part of the Union's grand strategy for control. The region held more than tactical and political importance. The West Florida parishes supported a concentration of industry vital to the South's war effort. Despite acts of philanthropy, the penitentiary's lessees did not stand by the Confederacy. Anticipating the invasion of Union forces weeks before they would arrive, the lessees, J.M. Hart and W.S. Pike, abandoned 'the walls' at Baton Rouge on April 1, 1862. Their breach of contract resulted in an unintended return of the penitentiary to state control. Initially, the state acted to secure its investment, but its negligence left its property, inventory, and human capital at risk.

Union and Confederate tactical planners set their sites on the penitentiary. Each combatant had their own plan for the institution and its labor system. Both sides sought to maximize production to serve their respective war aims. When Federal forces struck, it gave truth to the lessee's fears of invasion. While Confederate forces stationed at Baton Rouge stood watch, they were undermanned and ill-equipped to fend off Federal onslaught.<sup>18</sup> The fall of New Orleans to Union forces on April 25, 1862 foreshadowed the loss of Baton Rouge, and with it, the state penitentiary. The Federal fleet that captured New Orleans wasted little time in

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<sup>17</sup> Ibid., *Prison Productions*, 18-20.

<sup>18</sup> Hyde, *Pistols and Politics*, 108-9.

overrunning the vulnerable capitol city. When the fleet dropped anchor at Baton Rouge, a somber crowd encountered the might of the hardened invader. In a show of force and without warning, Federal forces bombarded the town with overwhelming firepower as women and children ran screaming through the streets. Operations focused on strategic targets. General Benjamin Butler, commander of Federal forces, organized the demolition of a Confederate training camp, the New Orleans-Jackson railroad, plantations owned by Confederate sympathizers, and organized a brutal pacification campaign to ensure garrisons at Baton Rouge. The general also led a campaign to take another key target: Louisiana's state penitentiary.<sup>19</sup>

Federal forces took the capitol city and 'the walls.' During this occupation, the Union army converted this base for the Southern war machine to serve a new cause [see Figure 4.1]. Despite the change in administration, textile production did not stop nor did the inmates cease to work. Soon after the Union forces took control of Baton Rouge, General Butler appointed Moses Bates to be the superintendent of the penitentiary and ordered, "Have all the cotton brought possible" to the penitentiary.<sup>20</sup> Moses Bates, upon taking control of the 'the walls,' set at once to put the convicts and the machinery to the task of manufacturing tents and clothing for the war. In order to assure that the cotton requisitioned by him would reach the prison factory, General Butler issued another order, one requiring that "all cotton purchased by any officer, soldier, or person connected with U.S. forces at Baton Rouge, whatsoever, offer it first to the Penitentiary at the price for which it was purchased."<sup>21</sup> Despite this mandate, operations did not run smoothly.

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<sup>19</sup> *Private and Official Correspondence of Gen. Benjamin F. Butler During the Period of the Civil War, April 1860-June 1862*, vol. 1 (Norwood, MA: The Plimpton Press, 1917); Hyde, *Pistols and Politics*, 108-111.

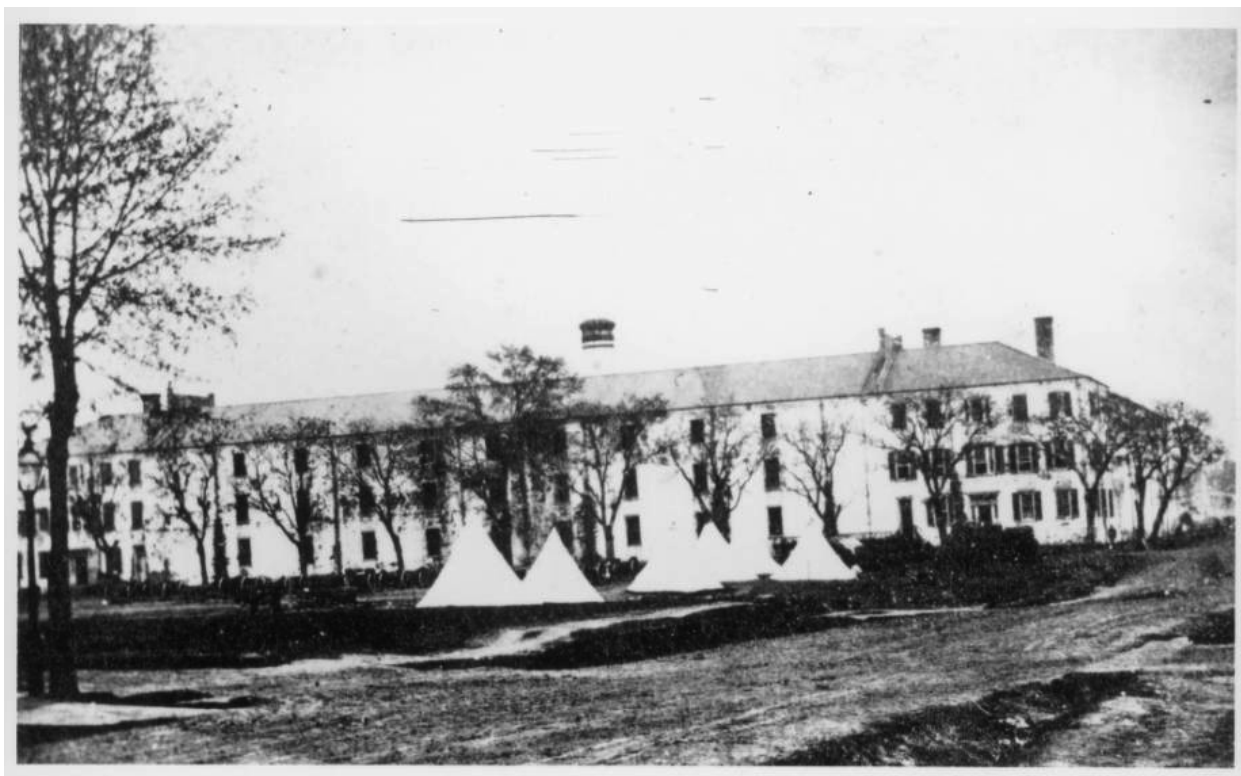
<sup>20</sup> Letter from General Benjamin F. Butler to General Williams, June 12, 1862, in *Correspondence of Gen. Benjamin F. Butler*, 585-6.

<sup>21</sup> Special Order No. 146, in *Correspondence of Gen. Benjamin F. Butler*, 9.



**Figure 4.1**

Photograph of U.S. Army Encampment on Louisiana State Penitentiary Grounds



*Source:* Andrew D. Lytle Album Photograph Collection, Mss. 3708, Louisiana and Lower Mississippi Valley Collections, Baton Rouge, Louisiana (Image ID 3708\_205). Courtesy of Special Collections, Louisiana State University Library.

By July 24, 1862, the “wheels of the Factory” were “stopped for want of cotton.”<sup>22</sup> Local *guerillas* loyal to the Confederate cause had taken to burning cotton fields near Baton Rouge and across the region.<sup>23</sup> Nonetheless, Superintendent Bates, resolved to meet quota, devised a creative solution to that end. Since the penitentiary was not able to purchase enough cotton to resume textile production, Bates wrote to Butler, requesting, “May I not now ask that a steamer and guard of soldiers be placed at my disposal for a single week, with the privilege of *taking*

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<sup>22</sup> Letter from Superintendent Moses Bates to General Benjamin F. Butler, July 24, 1862, in *Correspondence of Gen. Benjamin F. Butler*, 106.

<sup>23</sup> Letter from Superintendent Moses Bates to General Benjamin F. Butler, July 11, 1862, in *Correspondence of Gen. Benjamin F. Butler*, 58.

cotton known to belong to disloyal men.”<sup>24</sup> Four days later, after securing permission, Bates wrote back to General Butler to inform him of his success. After departing from the penitentiary with a military escort, Bates seized 175 bales of cotton from local “disloyal men.” Resupplied at little cost, Bates “set the machinery of the Penitentiary in motion.” The superintendent was pleased with the efficacy of this type of procurement. Writing again, Bates informed General Butler of his “discovery of other cotton which may be obtained” in the same way from “disloyal men” in the surrounding area. Accordingly, Bates requested a permanent military detail and transportation so that he might continue seizing cotton.<sup>25</sup>

Yet, just three days after penning the letter to Benjamin Butler, the penitentiary superintendent’s efforts to outfit the Union army became irrelevant. The Confederate forces that had been caught off guard in April amassed to reclaim the capitol city on August 5, 1862.<sup>26</sup> Laying siege, the rebels formed a tight picket around the capitol city with orders to “harass the enemy relentlessly” and avenge “Union aggression.” The battle caught the Union forces by surprise, and Confederate troops managed to gain ground, pushing Northern troops across central Baton Rouge, towards the penitentiary. Commodore William Porter, commander of the warships *Essex* and the *Sumpter*, recalled,

It is well known to all who know anything of the attack on Baton Rouge that the left wing of our force gave way—that the Rebels advanced, and at one time had part possession of the Penitentiary, at the head of the town, until the fire from the “Essex,” over our own men, drove them from that building and forced them beyond their original lines.<sup>27</sup>

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<sup>24</sup> Letter from Superintendent Moses Bates to General Benjamin F. Butler, July 27, 1862, in *Correspondence of Gen. Benjamin F. Butler*, 113.

<sup>25</sup> Letter from Superintendent Moses Bates to General Benjamin F. Butler, August 1, 1862, in *Correspondence of Gen. Benjamin F. Butler*, 139.

<sup>26</sup> “Fight at Baton Rouge,” *Times Picayune*, August 8, 1862.

<sup>27</sup> Letter from Commodore Porter to General Benjamin F. Butler, August 11, 1862, in *Correspondence of Gen. Benjamin F. Butler*, 178.

In the end, Confederate tactics failed. They were unable to dislodge Federal forces and the battle left a third of the state's capitol ablaze and in ruins. Confederates forces retreated but were resolved to oust Federal troops. Consequently, General Butler decided to concentrate Union forces around New Orleans and evacuate his forces from Baton Rouge. However, his conditions for departure demanded destruction of what was left of the town. Writing to Colonel Paine from New Orleans on behalf of General Butler on August 16<sup>th</sup>, Captain R.S. Davis ordered,

You will therefore begin the movement quietly and rapidly, get everything off except your men, and see to it that the town is destroyed. After mature deliberation, I deem this is a military necessity of the highest order, much more than the burning of Hampton by Magruder...In regard to the poor prisoners, they will be between two fires. Use in regard to them your best judgment.

At second thought, Capt. Davis added a postscript qualifying his orders concerning the prisoners. He specified, "With regard to the prisoners in the penitentiary, whatever disposition you make of them, do not bring them down here."<sup>28</sup> This meant that under no circumstances should Union officials transfer or allow prisoners to follow them to New Orleans.

Over the next five days, Union troops acted on General Butler's orders and extricated themselves from the city that they had managed for nearly four months. In this context, the prisoners of the penitentiary posed a conundrum for the administration. Despite the earlier promise of utilizing inmates' labor for war production, abandonment of the penitentiary's cotton factory risked leaving an unemployed, convict workforce without supervision. A small proportion of penitentiary inmates were particularly vexing to Superintendent Bates. As Federal forces withdrew from Baton Rouge, surrounded by Confederate pickets, at least four children born to enslaved mothers remained sheltered in the penitentiary's ruins. The practice of keeping and selling the children of convicted slaves, seemingly peculiar to Louisiana, created a dilemma

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<sup>28</sup> Letter from General Benjamin F. Butler to Colonel H. E. Paine, August 16, 1862, in *Correspondence of Gen. Benjamin F. Butler*, 193.

for the retreating administrators. Two days before the evacuation, Bates wrote to Butler for advice:

My Dear Sir: There are in this institution several children, born in the prison of female convicts, between the ages of one and ten years. By the laws of the State of Louisiana these children are *State property*, and the custom has been to sell them into slavery at the age of ten years, and appropriate the proceeds to the purposes of State expenditure. In view of the evacuation of the city, and possibly the abandonment of this institution, it has become a serious matter. What shall be done with these children? Knowing your sentiments too well to believe you will order these prisoners, who have never yet gone beyond the confines of the Penitentiary, sent into slavery, and not caring to take a responsibility which you would so willingly assume, I ask to be directed with regard to these children of incarcerated parents.

*Very Respectfully, Your obedient Servant,*  
Moses Bates, Supt. La. State Penitentiary<sup>29</sup>

General Butler responded, respecting the law of slavery but denied the state the right to property in persons:

Sir: I certainly cannot sanction any law of the State of Louisiana which enslaves any children of female convicts born in the State Prison. Their place of birth is certainly not their fault. You are therefore to take such care of them as would be done with other destitute children. If these children were born of female convict slaves, possibly the master might have some claim, but I do not see how the State should have any. I am,

*Very Respectfully Your obedient servant,*  
Benj. F. Butler, M.G. C.<sup>30</sup>

The *New York Times* was more opinionated than the Federal commander had been. After learning about the state's custom of keeping and selling the children of incarcerated slave women, an incredulous reporter wrote about the "dark dens and secret horrors" taking place in the South. Suspicions having been aroused, the critic expressed his desire to "see the statistics" on the revenue from slave children in Louisiana, "and to know just how many children have been

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<sup>29</sup> Letter from Superintendent Moses Bates to General Benjamin F. Butler, August 19, 1862, in *Correspondence of Gen. Benjamin F. Butler*, 240-1.

<sup>30</sup> Letter from Superintendent Moses Bates to General F. Benjamin Butler, August 30, 1862, in *Correspondence of Gen. Benjamin F. Butler*, 241.

sold into Slavery because, they happened to be born within the walls of a prison.” For the author of the article, the custom of selling the children of convict slave women held in the penitentiary at Baton Rouge epitomized an “obvious connection” between the treatment of these children “and that curse of Heaven which Slavery has been declared to bring upon a country, and which it has brought upon ours, if civil war, with all its horrors, is any sign of such a crime.”<sup>31</sup> Ultimately, the reporter argued that Louisiana’s practice of state slavery and trafficking in children most clearly exposed the accursed nature of slavery.

For the Union leadership in Louisiana, the hundreds of adult prisoners in ‘the walls’ posed a much more immediate crisis. It is unclear exactly how many prisoners remained within the walls during Union occupation. However, at the point of seizure, there were upwards of 300 prisoners confined in the penitentiary, and surely most of these must have remained in order to operate textile machinery and prison workshops during Union possession. In the days just before the Union retreated from Baton Rouge, Provost-Marshal C. W. Killborn reached out to the former lessees, J.M. Hart and W.S. Pike, to strike a deal. Killborn offered to “deliver up to Messrs. Pike and Hart, as agents of the State, the penitentiary” provided that the Union force would “be permitted to remove a certain number of the prisoners and what machinery they wish; that is the machinery which would prevent the manufacture of goods for the Southern Army.” Hart and Pike refused the offer. In response, Provost-Marshal Killborn then informed the former lessees that the Union planned to “leave all the negroes not in their possession in the town.”<sup>32</sup>

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<sup>31</sup> “An Illustration of the Patriarchal System,” *The New York Times*, October 4, 1862.

<sup>32</sup> Letter from B. W. Clark to Captain Hooe, August 20, 1862, in *The War of the Rebellion: A Compilation of the Official Records of the Union and Confederate Armies*, vol. 5, 1 (Washington: Government Printing Office, 1886), 802. B. W. Clark, the author of the letter, advised Capt. Hooe that given the Union’s plan, “your own judgment will suggest the necessity of immediately occupying this place with a body of troops.”

Northern forces made good on their threat. Before setting fire and laying waste to Baton Rouge they set free hundreds of the state's convicted criminals. Reporting from out of state, the *Louisville Daily Journal* explained that of the Louisiana convict population, "Some three hundred—were set at liberty."<sup>33</sup> The storming of the Louisiana's penitentiary and release of its captives was much more than a symbolic attack on Southern society and its ability to make war. As Federal forces released convicts from the penitentiary, the Union allowed them to trade in their stripes for Union blue. These seasoned enemies of the state took up arms supplied by Northern forces to make war on their former indicters. A Confederate officer, Major J. De Baun reported the day after the evacuation that, indeed, "The Federals have released all the convicts from penitentiary. All the negroes that were in the penitentiary have been uniformed and armed."<sup>34</sup> Major De Baun's intelligence stemmed from a released convict who joined forces with the Confederate army, showing that not all convicts took up with the Union military. However, it is reasonable to assume that a great many did. The last year of penitentiary records published before the war indicates that black men and women formed one-third of the prison population, most of whom were slaves.<sup>35</sup>

After Federal forces turned the social order of Baton Rouge upside down, the army of the Confederacy returned to Baton Rouge. Aware of the emancipation of state prisoner's from the penitentiary, rebel troops acted quickly to impose governance on the ravaged city. Upon arrival,

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<sup>33</sup> *The Louisville Daily Journal*, December 13, 1864. It is unclear exactly how many inmates were present at the sacking of Baton Rouge, but in 1861, there were 390 inmates counted at one point. See: Forret, "Before Angola," 149.

<sup>34</sup> Report No. 2 from Major J. De Baun, August 21, 1862, in *The War of the Rebellion*, 130. According to the state, not all prisoners were released. At least five inmates were transferred to the workhouses of New Orleans until 1864, at which time they were removed to the parish prison. Although reports did not indicate the number of convicts classified as white who took up arms against the South, they specified that these new recruits to the Northern army included slaves. See also: State of Louisiana, *Official Proceedings of the Journal of the House of Representatives of the State of Louisiana* (n.p., 1864), 99, 182.

<sup>35</sup> *The American Almanac* (1861), 285.

troops witnessed the cost of the Louisiana's neglect in securing 'the walls.' The penitentiary, so instrumental to war production for the Confederate army earlier in the year, was useless by the end of 1862. Appraised at \$216, 590 on the eve of Federal invasion in April of 1862, by late summer, the penitentiary was virtually worthless. It lacked the material, tools, machinery, and workers that made it such a valuable institution.<sup>36</sup> Newspaper reporters indicated that "the extensive machinery for the manufacture of cotton and woolen goods was so damaged as to render its use impossible." Attempts by the Confederacy to redeem the broken shards of its industrial might were futile. The rebels, taking possession of the town immediately after the evacuation under order of Governor Moore, set up camp at the penitentiary and removed "the remnant of the machinery...to Clinton, La.," where it was reportedly "destroyed by fire." The news report conceded that even "at a very low estimate, the loss to the State in this property, together with the large stock of cotton destroyed by the Confederates previous to the first occupation by the Federals, cannot be much short of a million dollars."<sup>37</sup> Union sacking of the penitentiary signified a major loss to the Trans-Mississippi District of the Confederacy. However devastating the loss was to the Confederates, their responsibility over it ended when Union troops again returned to Baton Rouge in December of 1862 and resumed control of the penitentiary's remains.<sup>38</sup>

### ***Self-emancipation and the Dismantling of Slavery***

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<sup>36</sup> "Inventory and Appraisement of Materials and Provisions on Hand at the Louisiana Penitentiary, April 1, 1862, Delivered to S. M. Hart & Co., Agents for the State of Louisiana" (*n.p.*, 1862).

<sup>37</sup> *The Louisville Daily Journal*, December 13, 1864. Before Baton Rouge was reclaimed by Union forces, Confederate soldiers set up an encampment inside the penitentiary grounds. See: "The Condition of Baton Rouge," *The New York Times*, December 29, 1862.

<sup>38</sup> Federals used whatever buildings they could "principally, as a depot for contrabands" and retained control for the rest of the war. See: Hart, S.M., "Report of the Committee of Examination on the Damage to Public Buildings at Baton Rouge," in *Documents of the Second Session of the Second Legislature of the State of Louisiana* (New Orleans: J. O. Nixon, State Printer, 1867), 3.

While the occupation of Baton Rouge resulted in the liberation of many enslaved people, Federal forces came to Louisiana first and foremost to restore the Union, not to destroy slavery. They had not counted on the actions of slaves who quickly took matters into their own hands without regard for legal niceties.<sup>39</sup> As Union gunboats passed along the Mississippi slaves fled plantations, stealing themselves to Federal lines well before passage of the Thirteenth Amendment.<sup>40</sup> They witnessed first-hand Union attacks on the power of the master class. At plantations near Baton Rouge Northern forces burned all buildings and fences, except the slave quarters, stole the livestock and cut down ornamental trees. This exodus caused Federal authorities in Louisiana to confront the precocious dismantling of slavery. Although Butler initially sanctioned the return of runaway slaves to their masters, by the fall of 1862 military authorities were overwhelmed by the general strike and the approximately 10,000 slaves who left fled plantations for New Orleans.

As Baton Rouge and the state penitentiary burned and groups of runaway slaves fought pitched street battles with New Orleans police, Federal officials, motivated to restore the Union, began to enlist black soldiers by the end of the summer of 1862.<sup>41</sup> They did so out of fear of slave insurrection as well as pressure from creole leadership. Congress responded in 1862 by passing the second Confiscation Act and the Militia Act, which marked a significant departure in

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<sup>39</sup> Du Bois, *Black Reconstruction*, 55-83.

<sup>40</sup> Rodrigue, *Reconstruction in the Cane Fields*, 33-4; Vandal, Gilles, *The New Orleans Riot of 1866: Anatomy of a Tragedy* (Lafayette: Center for Louisiana Studies, University of Southwestern Louisiana, 1983), 1-12.

<sup>41</sup> Logsdon and Bell show that black militias organized by creole leaders forced the issue of black troops on Butler and the federal government. While Butler initially attempted to block the Union's use of black troops, he changed his position after the Lincoln administration supported the use of black soldiers. Butler then contacted the "Native Guards" and the creole organized militia. He persuaded them to raise the first black regiment for the Union. Black activists obliged filling, one regiment with free black volunteers and raising two more with recruits of all stations, free and enslaved, creole and American. The units achieved solidarity with relatively no ethnic divisions. See: Logsdon and Bell, "The Americanization of Black New Orleans," 220-21; Vandal, *The New Orleans Riot of 1866*, 1-12.



the Union's position on slavery as they accumulated "contrabands." Federal officers continued to side-step the issue of slavery and occupy a middle ground between planters and black Republicans. General Butler attempted to walk a middle ground at first. He affirmed the desires of loyal slaveholders while also seeking minimum rights for slaves. In so doing, he authorized a labor policy to restore and revitalize the plantation economy. Yet, this policy, which imposed Federal authority between slave owners and their slaves, considerably weakened the slave system.<sup>42</sup> Ultimately, Butler failed to placate slave owners. Unable to manage slave labor on their own terms and demanding full rights to the lash, planters considered the Butler administration to be disastrous.

When General Butler conceded to Louisiana's creole leadership by agreeing to raise the first black regiment for the Union, people of color of all conditions filled Union ranks. They were led by bilingual officers who promoted unity among Louisiana's Union recruits across old ethnic and status lines in order to defeat the Confederacy and end slavery. This southern flank of the Federal army reflected few antagonisms based on color, class, or previous condition. One of the officers celebrated this achievement when he wrote, "Come visit our camp...in parade, you will see a thousand wide bayonets gleaming in the sun, held by black, yellow, or white hands. Be informed that we have not prejudice; that we receive everyone into the camp."<sup>43</sup> The mobilization of the prison's black convicts into the Northern army's ranks gave added impetus to liberation struggles and evidence to the enslaved and freeborn alike that the slave system would not prevail.

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<sup>42</sup> Planters agreed to pay male laborers monthly wages of \$10, less \$3 for clothing, the standard pay of military laborers while women received an unspecified but lower amount. Laborers and their dependents were to be provided with rations, housing, and medical care. In return, they were to work for ten hours a day, twenty-six days per month. Slaves of planters rejecting such agreements were put to work for loyal planters. See: Rodrigue, *Reconstruction in the Cane Fields*, 34-5.

<sup>43</sup> Quoted in Logsdon and Bell, "The Americanization of Black New Orleans," 220-21.

In 1862, General Nathaniel P. Banks, former governor of Massachusetts and speaker of the U.S. House of Representatives, replaced Butler as departmental commander. The new military dictator sought to appease conservative white Unionists and white racists within Union ranks who had become agitated over the self-confidence and assertiveness of black officers. Consequently, Banks purged black commissioned officers from Union ranks and rejected political rights for persons of color. Black leaders or “ultra radicals” did not relent. They drafted a petition demanding black suffrage that included the signatures of a thousand free black property owners in New Orleans, twenty-seven black veterans of the War of 1812, and twenty-two white radicals, and sent two delegates to deliver it to Lincoln and the Republican leadership in Congress. Like his predecessor, Banks was unable to win over the planter class under fire from a coalition of creole and American blacks in New Orleans. Accordingly, he suspended all slavery provisions of Louisiana’s antebellum constitution and laws in January of 1864.<sup>44</sup> While this act signaled a different day, new experiments with convict servitude did not disappear.

### ***The Consecration of Convict Servitude and the Resurrection of the Penitentiary***

The peculiar nature of contract convict servitude surfaced in the wake of slave emancipation. It had already become entrenched after the 1830s with the implementation of the Auburn-styled system of cellular confinement and forced congregate labor. But, at the precise moment that the Federal government stamped out chattel slavery it sanctified convict servitude. Like a Trojan horse, the Thirteenth Amendment to the *U.S. Constitution* contradicted the slave-made revolution that had provoked emancipation in the United States. The amendment, ratified in 1865, has been celebrated for its revolutionary character since it brought about the immediate

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<sup>44</sup> Abolitionists and Radical Republicans criticized army labor policy as a reinvention of slavery while free persons of color in New Orleans complained bitterly about the policy. See: Rodrigue, *Reconstruction in the Cane Fields*, 35.

emancipation of approximately four million men, women, and children who had been enslaved. It also represented the ruin of the master class. The physical destruction wrought by war, Federal occupation, lack of access to credit and capital, loss of property in persons, and the inability of planters to command labor reversed the fortunes of planters in the American South. The immediacy and radicalism of slave emancipation in the United States had only been outpaced by the slave rebellion in San Domingue and the formation of Haiti as the first black republic. Yet, the very acts of Reconstruction that formalized the immediate abolition of chattel slavery consecrated convict servitude. The Thirteenth Amendment both outlawed chattel slavery and authorized captivity and forced labor for convicts.<sup>45</sup> Thus, the Thirteenth Amendment at once sanctioned and silenced the presence of bondage and forced labor as the pre-condition for the making of liberal freedom in the United States after emancipation. In doing so, it also set precedent for the international norms which constructed a new imperial hierarchy whereby nations of the North Atlantic nations claimed superiority over other states for their distance from the institution of slavery, all the while maintaining forced labor in conditions of liberal ‘freedom.’

At the same time, Federal actions laid the groundwork for the post-emancipation political economy of punishment that would propel convict servitude as a distinct species of labor and compel ‘free’ labor. General Banks designated work a “public duty” and “idleness a crime,” consequently forcing laborers to contract and perform labor or face criminal penalty.<sup>46</sup> Labor on

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<sup>45</sup> Thirteenth Amendment, *U.S. Constitution* (1865).

<sup>46</sup> Provisions created a captive labor force since workers were not able to leave plantations except under protocol established by the provost marshal of each parish. One-half of workers monthly pay was to be withheld until the year during the entire crop cycle. See: Rodrigue, *Reconstruction in the Cane Fields*, 45.

public roads without pay was the penalty for violation of these strictures.<sup>47</sup> On most estates, a mix of waged and semi-waged labor relations developed. These arrangements followed the pattern established by General Banks. Military guards enforced these labor regimes. They forced contracts and punished violators by returning such workers who resisted to their employers or subjecting them to military discipline.<sup>48</sup> A traveler, Thomas Knox, observed that “the spirit of slavery seemed very much alive” as planters struggled to command black agricultural labor and ex-slaves worked against the Union’s backing of planter power and plantation production.<sup>49</sup>

Despite this appearance, the South’s caste system had been significantly transformed. By 1865, Louisiana’s sugar industry dwindled as production slumped to a degree not realized before the 1790s. Less than two hundred plantations remained in operation while the overall value of the industry decreased sevenfold. Property confiscation by Federal authorities deprived planters of capital and the means of production. Planters who maintained landholdings had little access to capital, little ability to command labor, and were subject to higher rates of taxation. The Mississippi River also conspired. It undercut the landed elite when poorly maintained levees broke. It flooded some of the region’s richest agricultural lands in 1865, 1867, 1868, and again in 1871.<sup>50</sup> The general strike had delivered a crippling blow to planter hegemony and continued to deflate it in the ensuing years.<sup>51</sup> Louisiana was the site of some of the most pitched struggles between workers and employers over the terms of ‘freedom’ and represented a proving ground

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<sup>47</sup> Rodrigue, *Reconstruction in the Cane Fields*, 45.

<sup>48</sup> Richard Follett, “Legacies of Enslavement: Plantation Identities and the Problem of Freedom,” in *Slavery’s Ghost: The Problem of Freedom in the Age of Emancipation*, ed. Richard Follett, Eric Foner, and Walter Johnson (Baltimore: Johns Hopkins University Press, 2011), 57.

<sup>49</sup> Follett, “Legacies of Enslavement,” 57; Thomas Wallace Knox, *Camp-Fire and Cotton-Field: Southern Adventure in Time of War, Life with the Union Armies, and Residence on a Louisiana Plantation* (New York: Blelock and Co., 1865), 205.

<sup>50</sup> Follett, “Legacies of Enslavement,” 61.

<sup>51</sup> *Ibid.*, 62.

for the federal administration of occupied states. The contests that broke out in New Orleans and spread throughout the state anticipated the conflicts that flared as slave emancipation transformed the South. Nowhere did Reconstruction begin so early or press for revolutionary change so forcefully as it did in Louisiana. Union occupation resulted in a general pattern of production that laid the groundwork for social relations in the post-emancipation period. The state's sugar industry depended largely on wage labor while cotton production relied on systems of tenancy and sharecropping. These labor systems represented concessions made to ex-slaves by owners of property but produced highly restrictive systems of contract labor backed by the coercive power of the military command.<sup>52</sup>

With the termination of war in Louisiana, the Republican legislature sought to reinvest in the penitentiary system, which had proven its utility before the war. Bolstered by the Thirteenth Amendment, lawmakers took on the difficult task of reconstructing the state penitentiary with the ambition of returning it to profitability, reforming “demoralized labor,” and constituting a ‘well-regulated’ state.<sup>53</sup> After the Union sacking of Baton Rouge, a small number of prisoners from ‘the walls’ were transferred and subsequently confined in the workhouses in New Orleans. They were consolidated in the New Orleans parish prison on August 16<sup>th</sup>, 1864 under the control of the Sheriff, J.U. Bofill. At that time, the number of state prisoners had diminished to eighty-seven inmates, and by 1865, had declined further to fifty-three with only a slight “colored” majority.<sup>54</sup>

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<sup>52</sup> Ex-slaves suffered many constraints. They held little leverage in negotiating contracts, and in many cases, were forced to work for their former owners. With one-half of their wages withheld for an entire year together with vagrancy laws enforced by military authority, their mobility was diminished. See: Rodrigue, *Reconstruction in the Cane Fields*, 52-58.

<sup>53</sup> Wisner, *Public Welfare Administration in Louisiana*, 154.

<sup>54</sup> In 1865, of the fifty-three recorded prisoners held in the New Orleans Parish Prison, twenty-three were white and thirty were black. It is difficult to ascertain how many prisoners remained under guard throughout the war, though it was most likely a small number. At least one inmate, A. H. Crenshaw, was not freed in the course of the Union's abandonment to New Orleans. Crenshaw was sentenced on

The war had not only taken a toll on the state's criminal workforce but also the penitentiary buildings and grounds. In addition to the destruction incurred by Union and Confederate troops, the 'contrabands' held in confinement by the Federal forces added their own. During the night of November 25, 1864 a fire broke out in the east wing of the Louisiana State Penitentiary "utterly destroying the building, the walls cracking and tumbling in on all sides." A report in *The Louisville Daily Journal* described that on the bitter cold night, "It was impossible to control or check the flames...even though the fire department did all that could be done, and after getting inside the square, succeeded in saving the end of the building." An investigation concluded that the fire began on the upper floors of the penitentiary's east wing, an area "used by negroes" and it was "among them the fire originated."<sup>55</sup>

When they took possession of the penitentiary grounds, state authorities confronted the ruinous conditions of the cellblocks, staff residences, congregate rooms and prison factories. The state's monument to humanitarian 'reform,' civilizational advance, industrial capitalism, and planter power had been desecrated. Demolition of the state's industrial complex was nearly perfect. State inspectors found the cotton factory "entirely destroyed...having been burned, the walls torn down, and the greater proportion of the bricks removed." Next to the cotton factory was the engine house and sizing rooms, which "lost all of the sashes, doors, and partitions, and also a good portion of the joist and flooring." Nothing remained "but the walls and roof" of the carpenter's shop and the three-story press-room. The pickery, two stories high, survived better than most but its stocks were looted even though it had been "secured with iron doors and shutters," only a few of which were "to be found fit for use." The slates from about one half of

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September 30, 1861 and served out his sentence until his death in 1864. See; State of Louisiana, *Journal of the House* (1864), 182.

<sup>55</sup> "Destruction of the Penitentiary at Baton Rouge," *The Louisville Daily Journal*, December 13, 1864.

the roof on the foundry and finishing shops had been “stripped off and carried away, as well as most of the window shutters and doors.” Less remained of the roof on the brick-drying shed which had “entirely disappeared.” Conspicuously absent were the large boilers and “extensive” cooking range in the kitchen, while the bake ovens were present but destroyed.<sup>56</sup>

However charred, non-industrial sectors of the penitentiary survived more intact, but were useless nonetheless. The captain’s residence, which housed the kitchen, storeroom, guards’ and prisoners’ dining rooms, library, chapel, and hospital, had been stripped of “all the doors, sashes, frames, and partitions, and the outside and inside stairways” while the flooring in many places had been “burned and otherwise injured.” The “female prison” one of the most recent additions and one of the four guard houses suffered greater destruction since nothing was left but the walls and roofs. The two family residences, designed for the chief warden and the captain of the guard, as well as the clerk’s office and residence were all reported to have been at one time “substantially built and well-finished.” However, upon inspection, they were completely defaced and denuded, “without doors, window-sashes and blinds, the staircases greatly damaged, the hand-railings broken off, the fire grates, taken out, the floors in many places burnt, and other portions of joist and flooring cut out and taken up.” Additional accessories, such as chandeliers and other illuminating fixtures, within the residences and elsewhere were “carried away or otherwise destroyed.”<sup>57</sup>

The cellblock did not escape unscathed. The “two extensive buildings, each two hundred feet long by forty-five feet wide, and equal to three stories high” were stripped as the residences of the prison administrators had been. For the first time, the outside world penetrated the

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<sup>56</sup> Hart, “Report of the Committee of Examination on the Damage to Public Buildings,” in *Documents* (1867), 3-4.

<sup>57</sup> *Ibid.*, 3-5.

penitentiary's inner chambers that housed the 440 prisoner cell rooms, "suitably secured" against liberation "with (grated) iron doors." The brick jambs and walls of the lower tier of cells had been removed, as well as many of those on the second tier. Even the ceiling over the upper tier of cells had been "taken down," as well as the brick pavements around the cells. It was by no coincidence that more than half of the locks and fastenings on the cell doors had been "greatly damaged." Only the ominous "brick wall" surrounding the penitentiary complex had withstood Federal forces. Although it was "found in good condition" the striking fortification, peculiarly inclined, manifested telltale signs of the jail-break. Similar to the cell-house, the door jambs of the palisade had been broken away and "the heavy gates and doors torn loose from their hangings."<sup>58</sup>

The inspectors' prognosis for the revival of the penitentiary was dire. Even excluding the cost to furnish the penitentiary buildings, purchase tools, or raw materials, rebuilding the penal institution was extremely expensive. The cost to repair the penitentiary buildings and construct a new cotton factory amounted to \$74, 219 for building materials alone.<sup>59</sup> Commentary in a local newspaper questioned the penitentiary project itself and casted doubt on its practicality. After reviewing the dilapidated condition of the penitentiary, the writer asked, "What are its uses hence-forth?" Answering his own question, the author declared,

We cannot say that we should fancy seeing it again appropriated to the purposes of a prison-house for criminals...In some of the states, there is no penitentiary, the punishments applied to criminals being the pillory, the whipping post, running the gauntlet, the stocks, etc. These are more effective. Where the penitentiary system has been in vogue they are discussing the propriety of abandoning it.<sup>60</sup>

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<sup>58</sup> Ibid., 3.

<sup>59</sup> Ibid., 5.

<sup>60</sup> *Baton Rouge Gazette and Comet*, November 14, 1865.



The author's opinion did not indicate whether his objection stemmed from the prison's expense to taxpayers, prison industry's competition with 'free' labor, or its poor record of preventing crime, reforming criminals, safeguarding the state, or cementing the color-line. Nevertheless, the writer's statement indicates that Louisiana's experiments with the penitentiary were not considered to be a universal success.

All opposition to the penitentiary's reconstruction aside, state administrators "set to work...restoring the prison to its former condition." The new Louisiana State Penitentiary Board of Control, under legislative authority, proceeded with the reconstruction of the state penitentiary. Immediately after the Board had been organized "demand was made upon the military authorities...for the delivery of the prison buildings."<sup>61</sup> Without objection, General Eggleston "acquiesced cheerfully" but temporarily reserved for his men "the main cell room wherein military prisoners were confined and the brickyard, which at the time was occupied as the Quartermaster's wagon yard." On February 1, 1866, state officials took possession of all the prison buildings and grounds that were not temporarily reserved. Thirteen days later, the penitentiary received the first shipment of all fifty-three state prisoners from the Parish Prison of New Orleans.<sup>62</sup>

Hurdles arose early on over the availability of skilled labor, the small number of prisoners transferred from New Orleans, and inadequate capital to fund the penitentiary's restoration. Prison managers explained that "many delays occurred for want of means to purchase necessary material." In justifying unanticipated expenses, they explained that they "had no mechanics among the convicts that were worthy of name." Consequently, the Board had to

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<sup>61</sup> The order came from Major General Canby. See: State of Louisiana, "Annual Report of the Board of Control of the Louisiana State Penitentiary: January 1867," in *Documents* (1867).

<sup>62</sup> State of Louisiana, "Annual Report of the Board of Control," 1; State of Louisiana, *Journal of the House* (1864), 182.

recruit labor beyond the state's captive workforce, and "a large and expensive portion of the repairs" were made "by mechanics employed from the outside."<sup>63</sup> Penitentiary administrators claimed to have worked diligently to overcome these setbacks. They reported that "as rapidly as possible the two cell rooms were thoroughly cleansed and white-washed, the floors and fastenings, replaced, and the cells made tenable."<sup>64</sup> Similarly, residences for officers, guards, and clerks were restored.<sup>65</sup> Security demanded that gates, doors, and broken brickwork be repaired, and necessity dictated that the kitchen be refurbished. With housing units and administrative residences in place and the kitchen secured, administrators set to reviving the penitentiary's capacity for productive forced labor late in 1866.

Just as the penitentiary's prospects began to increase, the incarcerated population also multiplied. The escalation in criminal convictions quickly filled the ranks of the state's direct forced labor regime. Three hundred and sixty-four inmates entered 'the walls' in 1866. By the end of the year, after twenty-seven escapes, four deaths, and routine discharges, a workforce of 228 inmates remained to help rebuild the penitentiary. Like their predecessors, prison-keepers faced the predicament of the 'proper' employment of prisoners. They took liberty and devised their own system to maximize the utility of convict labor and prison control. With the influx of more prisoners, administrators confronted recurring contradictions. They faced the predicament of surplus labor and prisoner underemployment. The "labor of clearing away the ruins and repairing" workshops was deemed "insufficient to employ the entire force." This circumstance presented them with the practical problem of prisoner control without recourse to punitive labor. Their solution was to place "a portion [of prisoners] under the superintendence of Mr. Lois

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<sup>63</sup> State of Louisiana, "Annual Report of the Board of Control," 2.

<sup>64</sup> *Ibid.*, 3-4.

<sup>65</sup> *Ibid.*, 4-5.

Kondert” who taught them to make shoes. A penitentiary report indicated that race factored into the selection of who was to be trained for these skilled positions but was not overdetermined by it. Racism on the part of prison administrators assigned greater value to white prisoners as they acted on the presumption that white prisoners had greater aptitude for skilled tasks. The racial composition of Louisiana’s convict shoemakers in 1866 reflected this bias. According to the official penitentiary report, the “number of men employed in the shoe shop average[ed] twenty-five,” and “the majority [were] white.” But, the very presence of non-white shoemakers revealed that even though prison officials espoused beliefs in white racial superiority, in practice they resisted drawing a firm color-line as they worked to revive industry at the prison for maximum profit.<sup>66</sup>

The Board considered its improvised and somewhat integrated shoemaking industry a success. Discussed at length in the official report, the manufacture of shoes represented a promising future for prison industry. With ample surpluses, the shoe shop produced enough so that “convicts were shod, and the large surplus was packed in neat boxes made in the prison and sold to the merchants.” All together, the inmates at Baton Rouge manufactured 6,188 pairs of shoes in 1866, worthy of a wholesale price of \$12,375. The quality was reported to be so great that orders were “in excess of supply.” Convict-made shoes were described as “a common kind” but “much superior to those of Northern manufacture, and a credit to the prisoner’s proficiency and their instruction by Mr. Kondert.” Since board members saw this liberal experiment as a great success, they recommended a plan for its expansion. They called for vertical integration of prison shoemaking when they asked the legislature to add a tannery so that material costs could be “greatly reduced by the manufacture of the leather within the prison walls.” They also stressed

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<sup>66</sup> Ibid., 5-6.

that “by the establishment of a tannery, a large force could be placed in the shoe shop...for greater profit” until completion of the textile factory.<sup>67</sup>

As they did before the Civil War, prison officials treated their wards as a “large force of unskilled labor” to be employed for maximum profit. Put to hard labor for this purpose, “a number of convicts were placed in the brick yard” to manufacture “the necessary articles.” Administrators attempted to organize production on antebellum models when they reinstituted the “old process of hand molding...clay...obtained from a piece of land nearly adjoining the prison grounds.”<sup>68</sup> They used the clay bed to produce “a large quantity of the brick” that was “used in repairs and in rebuilding the first story of the Factory.” Thus, penal administrators forced convicts to manufacture bricks in order to repair and rebuild their own house of confinement. It did not take long for the punishing work routine to outpace demand for bricks at the penitentiary. Consequently, nearly one-half million bricks were sold on the free market.<sup>69</sup> The Board considered this industry so promising that it proposed a plan for its expansion. Members recommended that the penitentiary’s cheap, captive labor force could “furnish the requisite quantity of brick” for the reconstruction of the “Asylum of the Deaf, Dumb, and Blind” and the State Capitol “for a nominal cost to the State,” and thus, reduce expenses paid to a contractor. The report emphasized that administrators could provide “a large proportion of other labor necessary” to the “prompt reconstruction” of state institutions, “thus still further reducing” costs.

Administrators showed a great deal of imagination and flexibility in addressing how best to employ convicts. They satisfied a request for prisoners from the Board of Directors of the

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<sup>67</sup> Ibid., 6. The cost of the material for these shoes averaged one dollar and ninety cents per pair.

<sup>68</sup> Ibid. The Board of Control purchased the land for \$900.

<sup>69</sup> Ibid., 5. There were 459,520 sold at eight dollars per thousand and a few thousand of re-pressed for pavements at twelve dollars per thousands.

Baton Rouge, Grosse Tete, and Opelousas Railroad Company to “aid in the work of restoring the road of that company to its former condition.” In anticipating criticism of working convicts outside of the penitentiary, the Board justified its actions on two counts. First, they maintained that the state’s substantial stockholdings in the railroad company meant that convicts would remain in the service of public interests rather than serve the interests of privately held capital. Their second rationale addressed a more basic contradiction. Officials stated that they “had no work for that number of prisoners to do at that time.” The state profited handsomely from the enterprise with each prisoner earning his keepers fifty cents per day.<sup>70</sup> These actions represented the first overt, large-scale mobilization of contract convict labor outside of the ‘the walls’ since its opening.

Convict labor also became handmaiden to the state’s “agricultural interests.” The penitentiary’s reserve labor force was put to work outside of the prison walls in order to mitigate labor scarcity in the region. The penal institution’s reservoir of convict labor became even more valuable since its employment diminished the price of labor in free markets. Additionally, railroad contractors with access to convict labor were not forced to “compete with the planters of West Baton Rouge and Iberville for the limited supply of freed labor in their midst.”<sup>71</sup> Similarly, reliance on convict workers at the Chin, Morganza, and Grand Levees accomplished the same result. The penitentiary’s economy of punishment was attuned to larger state, national, and global circuits of exchange. As the supply of “freed labor” increased on “the 1<sup>st</sup> of January...convicts were returned” to ‘the walls’ where officials again faced the predicament of employing prisoners for profit as punishment in periods of economic hardship and

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<sup>70</sup> Ibid., 7.

<sup>71</sup> Ibid., 5. Prison officials sent forty-five convicts with the prison furnishing food and guards while the railroad company paid the latter.

overproduction.<sup>72</sup> Thus, convict servitude yoked to a liberal political economy was a highly flexible and dynamic system of forced labor. It was at once responsive to capital's desire for cheap, captive, and docile labor but also reactive to working people's objections to the looming threat it posed to their own interests.

Notwithstanding the halt to repairs, prison-keepers announced that the resurrection of prison industry was well underway by the end of 1866. The penitentiary Board explained that the engine room was ready to "receive the motive power, which would have been replaced had not the want of means warned [them] to cease all work that required outside material and labor." Prison managers stressed that they made every effort to retrieve the textile machinery, consisting of boilers, engines, looms, cards, shafting and hangers, which had survived the war from its place of storage in Clinton, Louisiana. While reports indicated that most of the machinery sent to Clinton by the Confederacy during wartime had been destroyed, penitentiary administrators bought "mules and wagons" and supplied "convict laborers under guard to retrieve what remained." No easy task, transport of the 125,426 pounds of machinery required a "strong force of convicts (always under guard) just to keep the road and bridges open because of winter rains, heavy traffic on the soft road, and the destruction of the Clinton and port Hudson Railroad during the war." As the roads softened "so as to render hauling very difficult," the cost of feeding the teams of mules until the spring or summer of 1867 was estimated to pose a "useless cost to the State." As such, the penitentiary's shrewd administrators sold the teams of mules, providing a cash flow "of great relief" since prison funds had been "completely exhausted."<sup>73</sup>

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<sup>72</sup> Ibid., 7.

<sup>73</sup> Ibid., 5-7. Officials inventoried machinery removed which included: boilers, engines, looms, cards, shafting, and hangers. They notified the legislature that a portion of what was left behind was "not worth the price that would have to be paid to haul it" and consisted of spinning frames, looms, and drawing heads. They reasoned that the remaining portion being looms, and parts of the machinery in good order

### *Daily Life and the Restoration of 'the Walls'*

As the Board of Control worked to restore the penitentiary to its pre-war configuration, officials modeled the regimen of prison life on pre-established patterns. Prison officers admitted that they improvised little since “experience” had “taught members the best system.” Consequently, “little change was made.” From the start, sanitation at the penitentiary was a priority, using departure from the New Orleans Parish Prison as a benchmark. They reported that, “The first prisoners received were from the Parish Prison of Orleans, where a number had accumulated. These were covered with vermin and some afflicted with loathsome diseases.” Upon arrival, “prisoners were cleansed, shaved, and their hair cut off close.” Indoctrination meant that they were rationalized and atomized into the penitentiary regime. Subordinated to this system, prisoners were “clothed in a clean suit of numbered clothing.” Assimilated as such, “each man [was] then assigned to a cell, the number of which correspond[ed] to that on his clothing.” The cellular housing had been cleaned and secured, but not reconfigured. The housing units had not been remodeled at all. The cells remained “seven feet long, seven feet high, and four feet wide.” Although officials admitted that the cells were “rather small,” they reported that a “moss mattress, covered with cotton or ticking, and...one pair of blankets” had been added for comfort.<sup>74</sup>

Convict-keepers seasoned prisoners to the rigid routine of penitentiary life. For prisoners inside ‘the walls,’ a typical day began at “four o’clock in the morning in summer and six o’clock in the winter months.” Penitentiary guards or “turn-keys” turned out inmates to wash and “proceed to the labor assigned to them.” Administrators in 1866 incorporated congregate dining

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could be handled by the prison teams during the spring and the summer.

<sup>74</sup> Ibid., 7.

which represented a ‘reform’ from earlier protocol whereby prisoners received their rations in a single bowl inside their cell. But, congregate dining was not without structure. Prisoners “sat in regular places according to their ‘numbers.’” Neither was it without prejudice. Repasts at this house of confinement entailed enforcement of a two-tiered racial hierarchy as “whites and negroes [were] kept separate.” However, the Board did not admit practicing racial discrimination when distributing rations or in providing mealtime amenities. They indicated that “every man [was] furnished with a plate, knife, fork, and cup.” Their breakfast rations consisted of “rye coffee, fresh beef, and corn bread.” Reports claimed that dinner rations also included “fresh beef” but supplemented it with “wheat bread, soup three times a week and at irregular periods pork, vegetables, and potatoes,” while “for supper, they receive[d] rye coffee, bread and molasses, and occasionally meat.” Even water intake, a habit elemental to sustaining life, was subordinated to the penitentiary routine. Protocol dictated that “each man fills his cup with water at half past five in winter and seven in summer, and they are then locked up for the night.”<sup>75</sup>

The report also revealed disciplinary practices enforced within the ‘the walls.’ Hard work alone was not sufficient to reform Louisiana’s convicts. Regulations demanded that inmates “promptly and cheerfully obey all orders...in unbroken silence.”<sup>76</sup> Rules concerning silence indicated prisoners were in proximity to civilians since inmates were not permitted to “address any person not attached to the Prison without permission of a proper officer.” Interaction between inmates and civilians was considered to be so threatening that formal rules even prohibited eye contact. They specified that prisoners “shall not at any time gaze at visitors.” A final rule was meant to prevent one of the most popular ‘weapons of the weak.’ It mandated that convicts “shall not injure or destroy anything belonging to the Prison.” Thus, the prison rules and

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<sup>75</sup> Ibid., 7-8. Prison officials reported that “their food is placed upon tables” in the dining facility.

<sup>76</sup> Ibid., 15.



regulations formally issued in 1866 by the newly established Board of Control constituted prohibitions intended to isolate prisoners outside of their cells and to thwart individual or collective acts of sabotage, arson, or theft that had vexed prison administrators before the war.<sup>77</sup>

While official reports did not elaborate on the penitentiary's prescriptions for female inmates, it did indicate that they were "confined and worked separate from the men." The institution's gendered division of labor was reported to have charged women with sewing, washing, and ironing, yet segregation by gender failed to appear in the penitentiary's official "Rules and Regulations."<sup>78</sup> Conspicuously absent from the Board's formal "Rules and Regulations" was any detailed mandate for prisoner segregation. No mention was made of separation by sex, age, prior condition, race, class, ethnicity, religion, or severity of conviction. With regard to working convicts, the 1867 penitentiary report to the legislature merely stated, "Convicts shall labor diligently...six days in the week" while Sundays were reserved for rest.<sup>79</sup> The resurrected penitentiary, like its antebellum counterpart, deviated markedly from the Livingston code for its practice of congregate labor, its failure to systematically segregate prisoners by type of conviction, and its failure to impose solitary confinement as a fate worse than death.<sup>80</sup> Additionally, the Board's "Rules and Regulations" demonstrated that officials relied on the exercise of discretionary or personal power, anathema to Livingston's vision for the penitentiary, the "prevention of crime," or a 'well-regulated' state.<sup>81</sup> In casting a wide net, the

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<sup>77</sup> See: James C. Scott, *Weapons of the Weak: Everyday Forms of Peasant Resistance* (New Haven: Yale University Press, 1985); James C. Scott, *Domination and the Arts of Resistance: Hidden Transcripts* (New Haven: Yale University Press, 1990).

<sup>78</sup> State of Louisiana, "Annual Report of the Board of Control," 8.

<sup>79</sup> State of Louisiana, "Rules and Regulations of the Board of Control of the Louisiana Penitentiary," in *Documents* (1867), 15.

<sup>80</sup> Livingston, "Introductory Report to the Code of Reform and Prison Discipline," in *The Complete Works of Edward Livingston*, 568.

<sup>81</sup> A central tenant of the Livingston code is the proscription of personal autonomy within the system.

Board determined that punishment for the violation of rules and “for other misconduct not mentioned,” fell to the discretion of the captain of the guard. The Captain’s duties included maintaining custody of the convicts, overseeing their deportment, and administering discipline and punishment. The Board gave the officer wide latitude. The Captain had a number of types of punishment at his disposal, most of which had been associated with colonial penal practice. The Board authorized the captain to punish prisoners with “solitary confinement, confinement in stocks, wearing ball and chain, bucking and gagging, and other modes of punishment that are not cruel or barbarous.”<sup>82</sup>

The general administrative structure of the reconstructed penitentiary at Baton Rouge imitated its antebellum incarnation. Descriptions of the Captain of the Guard’s official duties spoke to the threats prisoners posed to the penitentiary’s physical infrastructure and to its daily regimen.<sup>83</sup> He was under orders to secure “all doors and entrances...and in every possible way of egress to be guarded day and night.” Additionally, the Captain was required to “make frequent inspection of all fire-places, furnaces, and stoves, and be watchful over all the premises of the Penitentiary in order to prevent alarms and losses by fire.” The Captain of the Guard, the embodiment of the panopticon, was to be ever-on-guard since, in the words of the Board,

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This view also frames his ideas about governance, adjudication of law, and systems of labor. In regard to the penitentiary, he maintained that the law should be so framed as to restrict as much as possible the discretionary power of the keeper; it must designate the punishment due to the offence either by an invariable rule or by a discretion left to the judge to make one within certain limits. The judge must apply this rule by declaring the punishment to be fixed and by apportioning it to the degree of the offense. See: Livingston, “Introductory Report to the Code of Reform and Prison Discipline,” 553-4; State of Louisiana, “Rules and Regulations of the Board of Control,” 13-6.

<sup>82</sup> State of Louisiana, “Rules and Regulations of the Board of Control,” 14.

<sup>83</sup> Ibid., 13-5. Like its pre-war predecessors, the administration included a chief warden, a captain of the guard, lieutenants of the guard, guards and watchmen, chaplains, and a physician. Their respective salaries had been increased to the following: the clerk, chief warden, and the captain of the guard received twenty-five hundred dollars per annum; two lieutenants at fifteen hundred dollars each per annum; a physician receiving twelve hundred dollars; three chaplains at a salary of three hundred and thirty-three dollars each, and a custodian of the machinery at Clinton, receiving fifteen hundred dollars per year.

“Convicts shall be considered to be always under his surveillance, at their work, during their means, during all hours of relaxation, and rest, in the hospital, chapel, and cells.”<sup>84</sup>

Despite the efforts of the Captain of the Guard and the vigilance of his subordinates, the penitentiary recorded, by its own admission, “a comparatively large” number of escapes in 1866. Out of the 364 prisoners received in 1866, “of twenty-seven who had escaped up to date [only] four were re-captured.” It was noted that one state prisoner “after escaping twice, was returned from the parish of Orleans, having been sentenced anew for a fresh offense.” Reports indicate that leasing prisoners contributed to the high rate of escapes since most convicts “escaped from the custody of the guards upon the outside.” Officials did not blame the Captain of the Guard or his legions for breaks made from inside ‘the walls.’ Instead, the Board explained that “the prison buildings were in so dilapidated a condition, that the escapes from the inside could not have been prevented.” Despite the poor record of the penitentiary guard, officials applauded their performance by comparing it with the military guard’s even higher rate of escape when they had commanded the penitentiary. Official reports maintained that “the number of escapes made by the military prisoners previously confined within the same walls, was comparatively greater” and that the channels of escape of these enterprising personages “were availed of by the convicts under charge of our officers before they were discovered.” Prison authorities also excused guards for failing to recapture more of the fugitives. The Board suggested that the lapse could not have been prevented because of the race of the escapees. They explained, “The comparatively few that were re-captured [were] due to the fact that every one that got away was colored, and the present condition and characteristics of that race, wandering in their habits, and their labor in great

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<sup>84</sup> Ibid., 14.

demand for agricultural purposes, prevented the majority from being re-taken.”<sup>85</sup> Given the number of recent escapes, security improvements were a priority. With gas pipes in repair and light posts placed in the courtyard, administrators confirmed, “This court yard is lighted up, so that no one can cross it without being seen by the guard.” Officials claimed that much had been achieved upon transfer of the facility to civilian control, but by December of 1866, reconstruction of the prison factory “was brought to a close by want of funds.”<sup>86</sup>

### ***Penitentiary Discipline, ‘Deranged Labor,’ and Black Criminalization***

As the criminal populace of Louisiana rebuilt the penitentiary at Baton Rouge brick by brick, a debate arose among the state’s administrators regarding the future of the institution. The Republican officials that rose to lead Louisiana during Reconstruction did not question the utility of convict servitude. What divided them was the same issue that had troubled their antebellum counterparts. They debated how convict labor could be most profitably employed. With no consensus in 1866, the “proper employment of convict labor” became a source of political contention. Most lawmakers were of the opinion that the full industrial capacity of the penitentiary should be rebuilt. Based on practices during the 1850s, they authorized retooling of the workshops and then, resumption of the manufacture of brick, cotton, and woolen goods.<sup>87</sup> This plan demonstrated lawmakers’ satisfaction with the prison industry’s pre-Civil War record and registered their faith in the promise it held out for the state’s future.

The Board of Levee Commissioners strongly disagreed and petitioned for the employment of convicts in the construction and repair of levees. In their report to the state’s General Assembly in 1867, commissioners unveiled the peculiar circumstances warranting the

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<sup>85</sup> State of Louisiana, “Annual Report of the Board of Control,” 8.

<sup>86</sup> Ibid., 5. The gas pipes were repaired, and posts placed in the court-yard upon which the two cell rooms faced.

<sup>87</sup> Ibid., 2-9.

employment of prisoners outside of the penitentiary walls, a practice that had been largely prohibited for state prisoners prior to the war. The committee explained that the “great change” in the labor system had precipitated a crisis resulting in a shattered infrastructure, an inability to command labor, and the collapse of the racialized caste system that had supported the institution of slavery. Members reflected, “The revolution...devastated our lands, and crippled...industry, and...effected a violent and sudden change in the status of a portion of our population.” They explained that de facto slave emancipation which led to formal abolition of the institution demoralized “a large number of those whose previous habits and associations unfitted them for the sudden removal of the restraints which contributed so materially to their good conduct and well-being.”<sup>88</sup> Commissioners’ recommendations to employ state prisoners at hard labor on levees represented a significant departure from antebellum penitentiary practice, one justified by freed people’s supposed incapacity for self-governance and presumed descent into lawlessness, villainy, and turpitude. From this patronizing position, commissioners could congratulate themselves for ‘reforming’ ex-slaves who resisted labor contracts, liberal definitions of property, and bourgeois morality. It gave them reason to subject such persons to ruthless and unrelenting punitive labor rebuilding levees under depraved living conditions.

The committee offered a single remedy to what they outlined as the four-fold problem distressing the state’s “agricultural interests.” For them, convict servitude solved the problem caused by the abolition of slavery. It satisfied the state’s desire for infrastructural development, secured an alternative system of forced labor, furnished ‘proper’ employment for the state’s growing prisoner population and rising numbers of ex-slaves, provided a means to enforce bourgeois values, and reinforced a system of racialized, class-based, and gender specific control.

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<sup>88</sup> “Memorial to the Legislature by the Board of Levee Commissioners on the Employment of Convict Labor,” in *Documents* (1867), 4.

Members placed particular value on the penitentiary system's ability to mobilize and command cheap captive labor. They wagered that it "would furnish an efficient number of laborers for all public works, under that thorough and complete control which would be invaluable at all times, but particularly so in the event of a crevasse."<sup>89</sup> Thus, for policy makers and large planters, convict servitude promised much for the New South.

The levee commissioners anticipated challenges to their plan to boost the state's agricultural interests and the state's financial, and commercial prosperity in the shift from slavery to 'freedom.' In rebutting arguments favoring reconstruction of the penitentiary's pre-war manufacturing ventures, members of the commission maintained that since "the penitentiary no longer possesse[d] the machinery necessary for the employment of a large force in manufacturing cotton goods," money would be better spent in the "purchase of barges of sufficient capacity to accommodate one hundred and twenty-five men each with their guards." So prudent would the system be, according to the commission, that "the expense of closing one large crevasse would nearly or quite defray the extra cost attending the employment of convict labor."<sup>90</sup> Next, members tackled the argument that convict labor on public works might "demoralize" "honest" labor, the "honorable" poor, and citizens of standing. With reassurance, they argued forcefully that "the employment of convicts outside of the prison walls...would favorably affect the morals of those who" were "likely to fall into evil ways." From their perspective, convict servitude promised to solve 'the labor problem' created by slavery's

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<sup>89</sup> State of Louisiana, "Memorial to the Legislature by the Board of Levee Commissioners on the Employment of Convict Labor," 4.

<sup>90</sup> Ibid., 3-4. Commissioners requested state investment in a barge for the purpose of towing and for the transfer of lumber and materials for closing crevasses at a cost of \$10,000 and twenty repeating rifles and ammunition for securing prisoners at a cost of \$600. For every 125 prisoners there was to be one captain, one lieutenant, two sergeants, sixteen guards totaling \$14, 220 in expenses per year. A boat for confining prisoners, medical services and medicines, fuel, lights, contingencies, and other costs contributed to cost estimate for the first year totaling \$48,295.

abolition. Thus, the Board of Levee Commissioners implored the General Assembly to retool convict servitude and forced hard labor during Reconstruction to rebuild the New South with a political economy of punishment able to “secure the necessary labor at the lowest price.”<sup>91</sup> Simultaneously, the employment of Louisiana’s criminal offenders would further the promotion of planter power and serve the state’s agricultural interests, the treasury, investors, and employers of all kinds.

The Board of Levee Commissioners found support in high places. The governor, James Madison Wells, or “mad Wells” as his critics called him, advanced the levee board’s recommendations and added to them.<sup>92</sup> On January 28, 1867, he lectured on “the expediency of putting the convicts to labor on the state works, both as a measure of economy and discipline.” He widened the net to include all carceral facilities when he argued that, “A considerable and additional expense could be saved for the State if the jails could be emptied and the prisoners put to the same employment.”<sup>93</sup> In light of the statewide destruction incurred by war, the empty state treasury, and the ravaged condition of ‘the walls,’ the governor maintained that the proper employment of this human capital could reverse the flagging fortunes of the state. He said that, “a large extent” of the state’s “most fertile lands [were] submerged by the breaking of the levees; families [had] been driven from their homes; horses, cattle, and crops [had] been destroyed and

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<sup>91</sup>Ibid., 4.

<sup>92</sup>James Madison Wells became governor of the southern part of occupied Louisiana. He had a questionable political past which stretched back to 1839-1840, when as sheriff of Rapides Parish, he had defaulted over \$12,000 in tax revenue. Although a Unionist during the Civil War, he opposed black voting rights. After Wells began to implement President Andrew Johnson’s lenient program to reinstate rights of citizenship to Confederates, conflict with General Philip H. Sheridan, the military commander, relieved him as governor under stipulations created in 1867 specifying that army orders overrode those of state officials. Sheridan referred to him as “sinuous as the mark left in the dust by the movement of a snake.” Despite this reputation, he attached himself to the Grant Administration and reemerged from eclipse. See: Hair, *Bourbonism and Agrarian Protest*; 7.

<sup>93</sup> State of Louisiana, “Governor’s Message,” in *Documents* (1867), 10.

the liberality of the National Government had to be invoked to supply food for the starving.” Complicating this man-made disaster were “the excessive rains and the army worm, which cut off more than one-third of the cotton crop, so that few, if any, of those engaged in planting have cleared expenses, while the large majority....lost heavily.” All in all, the governor concluded, the past year “was not fruitful...despite the blessings of peace.”<sup>94</sup>

In addition to these catastrophes, the governor mentioned another, which in his view, had pushed the state over the brink. For Governor Wells, “the derangement of labor” after emancipation had dealt the agricultural interests of the State a nearly fatal blow. But, the governor said that as “gloomy as the prospects may appear,” it was “no cause for despair.” Forced convict labor was fundamental to the Republican governor’s vision for Louisiana’s future. His reasoning mirrored arguments made by the Board of Levee Commissioners. Governor Wells thought it inexpedient to rebuild the state penitentiary “in view of the destruction of the machinery formerly attached to the building...and it being impractical to replace it.”<sup>95</sup> Thus, the mobilization of convict labor was a solution to the “derangement of labor” which was demoralizing the state’s agricultural interests.

By 1867, the mounting effort to discipline ‘deranged labor’ took on a particular complexion as authorities and large planters sought to gain leverage over black workers. In spite of any accommodation represented in wage, tenant, and sharecropping systems, ex-slaves saw landownership as the linchpin to liberation from race and class control and as the key to self-determination, dignity, meaningful work, and enjoyment. Urban free people of color in Louisiana also called for land distribution among the freedmen.<sup>96</sup> President Andrew Johnson’s refusal to

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<sup>94</sup> Ibid., 3-4.

<sup>95</sup> Ibid., 10.

<sup>96</sup> Some of these delegates to Louisiana’s constitutional convention in 1868 had advocated the break-up of



grant federally held abandoned or confiscated lands to ex-slaves derailed social revolution in the American South.<sup>97</sup> Obstruction over land grants to former slaves provoked, rather than dampened, demands as the “spirit of discontent” found heightened expression in labor mobilization, political organization, martial displays, and assertions at the ballot box during Radical Reconstruction.<sup>98</sup> Similarly, efforts by General Banks and his partisans to divide and conquer the highly organized black community in New Orleans only stiffened their resistance. Radicals withstood some of the most repressive political violence in the South.<sup>99</sup> Movements for black suffrage took on particular salience in southern Louisiana where, in 1860, the black

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large estates by enforcing a limit on the maximum size of parcels that could be purchased at distressed rates so that these lands might be accessible to ex-slaves. See: Rebecca J. Scott, “Fault Lines, Color Lines, and Party Lines: Race, Labor, and Collective Action in Louisiana and Cuba, 1862-1912,” in *Beyond Slavery: Explorations of Race, Labor, and Citizenship in Post-emancipation Societies*, ed. Frederick Cooper, Thomas C. Holt, and Rebecca J. Scott (Chapel Hill: University of North Carolina Press, 2000), 70.

<sup>97</sup> Congress created the Bureau of Refugees, Freedmen, and Abandoned Lands, or as it came to be known, the “Freedman’s Bureau,” in March of 1865, which was to redistribute the 96,000 acres of abandoned and confiscated land into forty acre parcels for distribution among freedmen. While re-distribution would have allotted land to nearly 2,400 families, President Andrew Johnson undermined the plan. In May 1865, he delivered an amnesty proclamation, which offered pardon and restoration of property rights, excepting slaves, to former Confederates who swore allegiance to the Union and recognized slavery’s abolition. A second act by President Johnson in September of 1865 eroded freedpeoples’ claims to federally controlled land. He ordered bureau-controlled property be returned to pardoned owners. After one year, Louisiana’s bureau returned virtually all federally held land to original owners. See: Rodrigue, *Reconstruction in the Cane Fields*, 62.

<sup>98</sup> *Ibid.*, 60-1. Former slaves saw land grants as compensation for theft of the fruits of their labor. Expectations peaked when General O.O. Howard, the Freedman’s Bureau Commissioner, defined Johnson’s proclamation and began parceling out abandoned property in the summer of 1865. Following Howard’s lead, Tomas W. Conway who had overseen wartime free labor and who now headed the bureau in Louisiana invited freed families and ‘associations’ of freedmen to apply for land. Within weeks, hundreds of applications—representing thousands of Louisiana freedmen—flooded bureau headquarters, as word spread that the federal government intended to make good on its pledge to distribute land. When the administration removed sympathetic officials and replaced them with individuals aligned with the administration, freed people expressed “a spirit of discontent” by defying legal property qualifications and mobilizing political organizations, economic cooperatives, and militias throughout the state.

<sup>99</sup> Logsdon and Bell, “The Americanization of Black New Orleans,” 232-61. Logsdon and Bell state that despite the devious plots used to divide the New Orleans black community, calls for radical change did not abate. They remark that the only notable exception was in response to the Riots of 1866, when John T Monroe, Mayor of New Orleans returned to power and discharged the police to repress a pro-black suffrage convention in July, 1866.

population had outnumbered the white by approximately 90,000 to 60,000.<sup>100</sup> Best efforts to thwart the exercise of political rights of Louisiana's people of color lagged as black majorities ratified the Constitution of 1868. Blacks in Louisiana not only won universal male suffrage but also exceeded gains in other states when it came to prohibitions against racial segregation.<sup>101</sup> The state's new constitution "desegregated the schools, adopted the bill of rights, rejected a literacy test, and prohibited discrimination in public conveyances and places of public accommodation." Republicans predominated in Louisiana largely because of the resolve of the black electorate.<sup>102</sup> Despite significant ethnic, class, and religious differences among black creoles, black Americans, and ex-slaves in New Orleans, black Louisianans forged alliances in the early years of Reconstruction with each other and also with white radicals to realize significant gains in political and civil rights.<sup>103</sup>

These palpable gains and the legal untethering of white supremacy aroused the ire of the planter class. According to planters, black political power and Republican governance in Louisiana resulted in a particularly vexing problem. It "demoralized labor." Similar to debates over how to coerce convict labor and exact prisoner control, planters argued that recourse to corporal punishment was necessary to discipline black labor and maximize plantation profits.

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<sup>100</sup> Radical Republicans overrode the Johnson administration in passing the Reconstruction Acts, which determined a process by which Confederate states would be returned to the Union. Superseding all previous mandates, congressional action imposed military rule in the South and divided it into five military districts with Louisiana and Texas making up the Fifth Military District. Commanders were to organize elections to select delegates for a state constitutional convention which included black men but excluded many antebellum political leaders. After new state governments were thusly formed, the state could approve the Fourteenth Amendment and seek readmission to the Union. The statewide population of Louisiana was split roughly in half by race: 357, 556 whites to 345,273 blacks –of whom 331,226 were enslaved in 1860. See: "Classified Population of the States and Territories, by Counties on the First Day of June, 1860," in *Population of the United States in 1860; Compiled from the Original Returns of the Eighth Census* (Washington: Government Printing Office, 1864), 193.

<sup>101</sup> Logsdon and Bell, "The Americanization of Black New Orleans," 241.

<sup>102</sup> Statewide voting records listed 45,189 white and 84,527 black registrants in 1867. See: Scott, "Fault Lines, Color Lines, and Party Lines," 68.

<sup>103</sup> Logsdon and Bell, "The Americanization of Black New Orleans," 245.

Against the strenuous objections of Louisiana's planters at the end of the war, the Freedmen's Bureau took over the military's task of feeding many of the former slaves and impoverished whites.<sup>104</sup> Planters increasingly resorted to extralegal coercion in their attempts to redeem command over freed people and their labor.<sup>105</sup> By 1869, just ten percent of Louisiana's planters succeeded in recruiting a labor force and only three-eighths of the enslaved antebellum labor force stayed in the fields.<sup>106</sup> The dearth of workers and its 'demoralized' character, encouraged planters to experiment with European and "coolie" migrant contract workers. These trials similarly failed to satisfy the desire of planters for a captive, cheap, and docile labor force. Migrant workers were not nearly as "tractable, or as slavish" as planter's imagined them to be and the conflict they provoked on plantations interfered with operations.<sup>107</sup> Ultimately, planter discouragement with migrant labor redoubled their demand for black labor, reinforced their sense of entitlement in commanding it, and laid the groundwork for a counterrevolution of property. This counteroffensive linked Northern capital to the emergent New South and attempted to break the power of black labor with brute force, reducing it to conditions analogous to slavery.

Agents of counterrevolution in Louisiana fomented a racism tied to American imperium in order to legitimate efforts to command black labor and state power. Proslavery ideology gave way to a virulent anti-black racism backed by claims to scientific objectivity. In striving to cement the color-line, they vilified black men and women who resisted planter demands for

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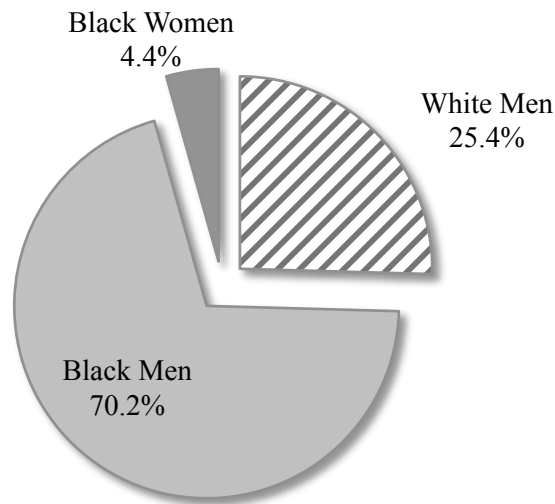
<sup>104</sup> Elizabeth Wisner, *Social Welfare in the South from Colonial Times to World War I* (Baton Rouge: Louisiana State University Press, 1970), 96.

<sup>105</sup> Rodrigue, *Reconstruction in the Cane Fields*, 79, 84.

<sup>106</sup> Women were notably absent from field labor. See: Follett, "Legacies of Enslavement," 73.

<sup>107</sup> Ibid. Planters compensated migrants with monthly wages with half reserved until completion of the contract or for a share of the crop. Migrants were German, Dutch, Scandinavian, Italian, Portuguese, Irish, French Canadian and Chinese.

**Figure 4.2**  
Inmate Population by Race and Sex, 1866,  
Louisiana State Penitentiary



*Sources:* State of Louisiana, *Annual Report of the Board of Control* (1867), 60.

cheap, captive, and docile agricultural workers through the idioms of deviance and criminality. Planters and industrial capitalists propagated narratives of “black degeneracy” to justify their sponsorship of black disfranchisement, segregation as a system of racial control, the peonage of wage labor, sharecropping, tenancy, the persistence of convict servitude, and anti-black vigilante attacks. Backed by the weight of science, these narratives contrasted an idyllic slave plantation with the ostensible horrors of emancipation. They portrayed freed people as prey to their passions. According to these representations, blacks, unable to govern themselves, developed habits of indolence and promiscuity. This supposed lack of restraint led them to the use of whisky, cocaine, and other drugs which contributed to their overall decline. This ideology justified the re-subjugation of ex-slaves as convicts bound to direct forced labor, civil death, and state fiat.

In this context, the Louisiana penal system became one of the most potent means to

**Figure 4.3**  
Inmate Population by Race, 1857-1867,  
Louisiana State Penitentiary



Sources: 1857: *The American Almanac* (1860), 268; 1858: State of Louisiana, "Report of the Committee on the Penitentiary," in *Documents* (1859), 61, 45-57; 1859: *The American Almanac* (1861), 285; 1860: Derbes, *Prison Productions*, 28; 1861: Forret, "Before Angola," 149; 1866: State of Louisiana, *Annual Report of the Board of Control* (1867), 60; 1867: State of Louisiana, *Annual Report of the Board of Control of the Louisiana State Penitentiary: November 17, 1868* (New Orleans: n.p., 1868).

mobilize and command labor.<sup>108</sup> There had been 228 convicts confined to the penitentiary on January 1, 1867. In the following year, 229 more convicts were added to 'the walls.'<sup>109</sup> As the numbers of inmates rose dramatically after the Civil War, a new trend became apparent. Unlike the antebellum penitentiary that confined a white majority, the Louisiana state penitentiary that followed in the wake of slave emancipation contained mostly black inmates [see Figure 4.2]. Only eighty-five white men were incarcerated with 203 black males and 9 black females in the penitentiary on June 14, 1868. These patterns of incarceration show the postwar complexion of state punishment that would continue to manifest [see Figure 4.3]. The majority subjected to

<sup>108</sup> Du Bois, *Black Reconstruction in America*, 506.

<sup>109</sup> State of Louisiana, *Annual Report of the Board of Control of the Louisiana State Penitentiary: January 1, 1868* (New Orleans: n.p., 1868); 3, 32, 111; Carleton, *Politics and Punishment*, 14-5.

convict servitude were black laborers who committed property crimes averaging sentences of four months to one year. Foreshadowing “a new departure,” this new pattern did not escape the attention of prison officials who queried the legislature about the fact that these prisoners of the New South were so commonly sentenced to trivial charges for sentences ranging from three months to one year. A disproportionate share of penitentiary inmates in 1868 were under the age of twenty-five.<sup>110</sup>

### ***Reconstituting the Lease System***

As the social revolution faded, opportunity for land reform closed, and white leagues massed, black Republican lawmakers and their white counterparts passed Louisiana’s historic Constitution of 1868.<sup>111</sup> Against planter’s best efforts to thwart black political power, the associations of freed people intensified during the summer of 1867 as the prisoners held in a condition of state involuntary servitude were put to hard labor rebuilding state infrastructure for “agricultural interests,” Republican governance, and race and class control.<sup>112</sup> Governor Joshua Baker, a military governor with a four-month term, took the bold step of reauthorizing the convict lease system in Louisiana in the midst of political factionalism and strife.<sup>113</sup> While he agreed to lease the penitentiary to John M. Huger and Colonel Charles Jones, a formal contract had to be ratified by the legislature. In an ironic turn of events, by 1869 it was the legislature that

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<sup>110</sup>Of the 116 prisoners under the age of twenty-five, seventy-three were between twenty and twenty-five while forty were between fifteen and twenty, and 3 were between ten and fifteen years old. See: Carleton, *Politics and Punishment*, 14-5.

<sup>111</sup> The Constitution of 1868 included a bill of civil rights which prohibited racial discrimination in public places and provided for desegregated schools and adult universal suffrage. See: *Baton Rouge Weekly Advocate*, December 23, 1882; Joe Gray Taylor, *Louisiana Reconstructed, 1863-1877* (Baton Rouge: Louisiana State University Press, 1974); Rodrigue, *Reconstruction in the Cane Fields*, 82.

<sup>112</sup> Rodrigue, *Reconstruction in the Cane Fields*, 82.

<sup>113</sup> Joshua Baker won appointment to the governorship through his support of President Andrew Johnson’s policy of lenience toward the South during Reconstruction but found himself among competing factions. His service represented a repudiation of the policies of General Philip H. Sheridan. He was replaced by the popularly elected Republican, Henry Clay Warmoth. See: Cowan, *Louisiana Governors*, 101.

supported the lease while the newly elected governor, Henry Clay Warmoth, vetoed the bill.<sup>114</sup>

The governor's arguments against the lease recalled Edward Livingston's caveats about the threat of discretionary power in building a 'well-regulated' state. Warmoth's disapproval did not concern the penitentiary as such, but rather, the allocation of power to private interests. He stressed that, "There is too much power given to the lessees over the institution and the Board of Control is ignored." He emphasized that, "The discipline of the prisoners should be under the charge of disinterested officers of the Government." In projecting the state as a benevolent paternal force, he remarked, "Where the lessees have absolute power over the prisoners the tendency is to work them too much and feed them too little and give no attention to their comforts and instruction."<sup>115</sup> While the governor rightly observed that the objective of the convict lease system contradicted "human standards" or humane treatment, he did so by romanticizing the penitentiary's antebellum record.<sup>116</sup>

Notwithstanding the governor's remonstrance, he signed Act 55 on March 5, 1869, which authorized convict leasing in Louisiana. The political compromise formalized the deal Governor Baker had made with Huger and Jones and set a precedent for the production of criminality, racialization of crime, and the embrace of state punishment to manage the "problem of

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<sup>114</sup> Ibid., 102-106. Warmoth succeeded Joshua Baker as the first elected governor under the Constitution of 1868. Born in Illinois, he took office at the age of twenty-six. He received a dishonorable discharge for circulating false battle reports but successfully appealed to Lincoln for reinstatement. He was appointed by General Nathaniel P. Banks as judge of the provost court in New Orleans and by the end of 1864, he was practicing law in New Orleans. When the midterm congressional elections of 1867 moved against President Johnson who advocated appeasement of former Confederates, Warmoth stepped forward, supported by black citizens, and gained the favor of most Radical Republicans. In the election of 1868, Warmoth and his black lieutenant governor Oscar J. Dunn, swept the election. The executive branch gained a Republican legislature. While the House counted fifty percent of its membership as black, the Senate tallied 20 percent. He was succeeded by B.B.S. Pinchback.

<sup>115</sup> Carleton, *Politics and Punishment*, 16.

<sup>116</sup> Ibid., 17.

freedom.”<sup>117</sup> Warmoth and the legislature bent to private interests and the state’s drive to profit from imprisonment when they granted a five-year lease to the Huger and Jones. Louisiana’s Republican officials sacrificed state control of Louisiana’s penitentiary and its prisoners for half of the surplus reaped by Huger and Jones.<sup>118</sup> The return to private administration of the penitentiary began less as a departure and more as an eagerness to return to an organization of production based on the prison industry of the 1850s. The legislature’s call to issue the substantial sum of \$500,000 in bonds as a capital investment to offset wartime damage of the penitentiary’s industrial base signaled strong support for rebuilding the penitentiary as a productive and profitable business operation.<sup>119</sup>

The first annual penitentiary report after the formalization of a new lease commended the lessees for efficiency in management.<sup>120</sup> In detailing the firm’s accomplishments, it indicated that there were 358 prisoners housed in the penitentiary by 1869.<sup>121</sup> In addition to repairing the hospital, the firm’s renovation of the factory included the installation of 200 looms for the manufacture of cotton and woolen goods. Frustrated by the lack of skilled convict workers, the firm recruited machinists and mechanics from the North to supervise all departments. Much as lawmakers advocated for redevelopment of the prison textile factory and its workshops, the firm had other designs. Despite the state’s heavy investment in the prison industrial complex and its manufacturing capacity, proportionately few convicts were put to hard labor in the factory. With

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<sup>117</sup> See: Holt, *The Problem of Freedom*, 23, 175.

<sup>118</sup> Although the Board of Control was to oversee the health and religious well-being of prisoners, final authority remained in the hands of the lessees. See: Carleton, *Politics and Punishment*, 17.

<sup>119</sup> Ibid.

<sup>120</sup> They reported that the general discipline and treatment steadily improved since “the supply of provisions and manner of feeding the convicts are of the best and we do not think that any prison in the country better provides for the prisoners.” See: Wisner, *Public Welfare Administration in Louisiana*, 157.

<sup>121</sup> State of Louisiana, “Message from the Governor,” in *Official Journal of the Proceedings of the House of Representatives of the State of Louisiana* (New Orleans: A. L. Lee, State Printer, 1870); 15.



little supervision by either the legislature or the Board of Control, the lessees improvised their own system of convict servitude. From the outset, the firm disregarded proscriptions against the employment of prisoners outside the penitentiary and found great advantage in pressing the majority of an increasingly non-white convict population at levee construction. Direct state management of the penitentiary in 1866 had unlocked the door to the contract convict servitude outside of the penitentiary. But, management by Huger and Johnson threw it open, setting precedent for the type of labor contracting that would come to define state punishment in the American South from the end of Reconstruction to the beginning of the twentieth century.<sup>122</sup>

While Reconstruction saw the return of contract convict servitude in Louisiana, its organization and administration underwent a permanent transformation. From 1866 to 1870, the lease system gradually liberated itself from the penitentiary. At the same time, a companion institution, the state's network of workhouses, fell to ruin. Both the penitentiary and the workhouse had imposed imprisonment and forced hard labor for state profit, prisoner control, labor discipline for freeborn and enslaved alike, and served the interests of the planter class and merchant capital. Both institutions had also been continually beset by problems associated with shifts in the market economy and concomitant fluctuations in the demand for labor and goods. While these two carceral institutions had both adopted lease arrangements for cost-savings and the promise of heavy returns on investment, they had worked in tandem to support the slave system, and by the 1850s, both had begun to impose prisoner segregation by race and offense.

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<sup>122</sup> Ayers, *Vengeance and Justice*; Blackmon, *Slavery by Another Name*; Carleton, *Politics and Punishment*; Du Bois, *Black Reconstruction in America*; Lichtenstein, *Twice the Work of Free Labor*; Oshinsky, "Worse Than Slavery."

Workhouses, like the penitentiary, supplied the Confederacy prior to Union invasion.<sup>123</sup> After occupation, Federal forces appropriated the workhouses for their own advantage. While they served the wartime exigencies, their original purpose of “solving the problem of vagrancy” remained unchanged.<sup>124</sup> If the workhouses were designed to segregate prisoners according to an ‘Americanized,’ two-tiered racial hierarchy and to employ convicts at hard labor, the system had not achieved its objective before the war or by 1864. Despite a gradual rise in the proportion of black prisoners, an integrated convict population filled its ranks. Of the 277 inmates reported in the summer of 1865, there were 169 black prisoners and 108 individuals identified as white. Of the 277 prisoners, “there were only five employed in any kind of labor” while the remainder “were all left to idleness.”<sup>125</sup> In 1865, the state’s “agricultural interests,” backed by the Union, exploited laws against ‘vagrancy’ as a device to tie freed people to plantation labor, enforce gender-specific bourgeois codes of morality, and fix the labor market.<sup>126</sup> Workhouses facilitated this effort.

Henry C. Warmoth was the first governor to be elected with the support of freedmen. He pressured the state legislature to stiffen laws against vagrancy in 1869 and to create pre-conditions for the coercion of ‘free’ workers.<sup>127</sup> He remarked, “The streets of the capital are filled with idlers, who are too lazy or proud to work, and constitute a fungus on society, which

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<sup>123</sup> The network of workhouses had targeted “vagrants” or property-less individuals or people from the subaltern classes who resisted contract labor or offended bourgeois morality. See: Roger W. Shugg, *Origins of Class Struggle in Louisiana: a Social History of White Farmers and Laborers During Slavery and After, 1840-1875*, (Baton Rouge: Louisiana State University Press, 1968), 170-1; Weston, “Frecher Versuch Das Arbeitshaus Zu Zerstören,” 476.

<sup>124</sup> Weston, “Frecher Versuch Das Arbeitshaus Zu Zerstören,” 476.

<sup>125</sup> *Daily Picayune*, July 7, 1865; Weston, “Frecher Versuch Das Arbeitshaus Zu Zerstören,” 477.

<sup>126</sup> State of Louisiana, *Acts Passed by the General Assembly of the State of Louisiana* (1870); Weston, “Frecher Versuch Das Arbeitshaus Zu Zerstören,” 476-7.

<sup>127</sup> State of Louisiana, *Official Journal of the Proceedings of the House of Representatives of the State of Louisiana* (n.p., 1869).

needs legislative surgery.” Included in this lot were not only freedmen and women, the landless poor, unemployed artisans, mechanics, seamen and dockworkers, but also rising numbers of migrants from “many of the nationalities of the world.”<sup>128</sup> As of January 1868, the New Orleans City Council reported that the population in the city’s workhouse had increased to 489 inmates.<sup>129</sup> Despite the fact that the ranks of Louisiana’s workhouses swelled during military occupation and the onset of Reconstruction, after 1869 references to commitments ceased and by 1876 vagrants reappeared in city precinct jails. As the enforcement of vagrancy laws intensified, as the poor of all colors were increasingly caught in the dragnet, as the state penitentiary began to experiment with contract convict servitude on an unprecedented scale outside of the ‘the walls,’ and as officials renewed efforts to segregate prisoners with an ‘Americanized’ racial logic, the New Orleans workhouse imploded in the shockwaves of its own general strike. The combustion which dealt a lethal blow to the New Orleans workhouse was not publicized in the city’s leading newspaper. But, memory of the incident was preserved in a German language newspaper that served the immigrant community in New Orleans.<sup>130</sup>

The pages of paper, *Deutschen Zeitung* recorded the demise of the New Orleans workhouse. Translated into English, the headline read, “Brazen Attempt to Destroy Workhouse” when “Prisoners Try to Escape.” The report called attention to an epic but largely unreported strike among convicts in New Orleans. The newspaper observed that at eleven o’clock in the evening on May 22, 1870, a “partially successful attempt was made to burn the workhouse.” Not merely an act of sabotage, the blaze was a bold attempt to liberate “67 prisoners, 47 men and 20

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<sup>128</sup> *Daily Picayune*, July 7, 1865; Weston, “Frecher Versuch Das Arbeitshaus Zu Zerstören,” 477.

<sup>129</sup> The report indicated 81 white male natives, 121 white male foreigners, 138 colored male natives, 28 colored female natives, 32 white female natives, and 39 white female foreigners. See: *Daily Picayune*, February 4, 1867; Weston, “Frecher Versuch Das Arbeitshaus Zu Zerstören,” 477.

<sup>130</sup> Weston, “Frecher Versuch Das Arbeitshaus Zu Zerstören,” 477.

women.”<sup>131</sup> A handmade bomb set off the blaze. Authorities relied on the testimony of J. Brown, “a colored watchman,” to explain the circumstances that enflamed the workhouse. The watchman, who had been sitting on a woodpile, said that he saw “the bomb fly over the wall.” He declared that the bomb landed on the “roof of the carpenter’s shop and exploded there.”<sup>132</sup> The article indicated that the reporter and a crew of firemen arrived at the workhouse at the same time and found the “building...engulfed in flames.” The fire was on the left side, which “rendered the heat in the courtyard unbearable.” On the right side were the men’s cells. The report recounted that “in cells No. 1 and No. 2, Negroes begged to be released in order to help put out the fire [and] none fled upon release.” Less cooperative was “Jack Killeen and other notorious characters who were in cell No.3.” The report detailed that when Killeen tried to break the bars with a wooden bench, a policeman subdued him pointing a revolver to his head.” The reporter emphasized that workhouse officials, “Superintendent Badger and Captain Shreiber, as well as a number of policemen occupied the men’s cells and prevented any attempt to escape.” Authorities seized the female inmates, twenty in number and one infant, and pushed them to the courtyard on the right side. Once there, they watched as fire companies “worked...with their fire extinguishers while the steam-driven fire hoses did their part on the outside.” The report added that “both Black Marias,” police vans used to transport prisoners, “were driven into the courtyard” while fire crews positioned themselves behind to protect against the terrible heat and to be able to work.” The blaze was not easily extinguished since firemen had to “twice put out the fire.” But, they were able “to rescue the bell tower.” Sympathetic to authorities, the report praised the actions of workhouse officers, firemen, and the police, emphasizing that the prison break “failed...due to the cool-headed response by Capt. Noble, the police, and firemen.” While

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<sup>131</sup> Ibid., 480.

<sup>132</sup> Ibid., 481.

authorities complimented themselves for preventing a jailbreak, they did not succeed in rescuing the many occupants of the courtyard who did not survive the inferno. The report observed that “a wagon and 500 coffins” were required for the “burial of the poor burned in the courtyard.” Investigators estimated that the fire caused \$25,000 worth of property damage since the carpenter shop, the wagon-maker shop, the picking room, oatmeal room, and the women’s cells were completely destroyed, but did not comment further on the loss of human life.<sup>133</sup> The charred remains of the New Orleans workhouse testified to the prisoner resistance that authorities were unable to conquer. Yet, the institution’s imperative to discipline ‘free’ labor, hearten ‘demoralized labor’ with contract convict servitude, and to cement a two-tiered racial order as an instrument of social control to boost planter power, merchant interests, Northern capital, state power, and employers of all kinds did not perish. Inmate subversion and transformations in Louisiana’s carceral institutions foreclosed on Louisiana’s overtaxed workhouses during Reconstruction but found apotheosis in new experiments with convict servitude.

### ***Parish Jails, Congregate Confinement, and Political Imprisonment***

Louisiana’s local jails did not suffer the same peculiar fate as the workhouse. But, these decentralized lock-ups did share some of the same predicaments that vexed the workhouse.<sup>134</sup> Parish jails became an important political technology to coerce the labor of freed men, women, and children after emancipation. In many parts of the state, blacks who refused to sign labor contracts or who joined the Republican Party were often arrested and jailed on spurious charges such as rioting, vagrancy, or disturbing the peace. After passage of the more forceful Vagrancy

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<sup>133</sup> Ibid., 480-1.

<sup>134</sup> Vandal shows that during the nineteenth century, the Louisiana government lacked centralized administrative control over rural parish jails. Local grand juries maintained supervision of rural jails. They were, however, required to file reports on occasion to police juries when information was solicited about the conditions of public institutions in each parish. See: Vandal, “Regulating Louisiana’s Rural Areas,” 71.

Act of 1865, jails held captive a swelling population of prisoners who quickly overwhelmed the existing jail capacity.<sup>135</sup> Republican administrations supported dramatic increases in the numbers of prisoners, spent lavishly on new jails, and thus pushed costs to unprecedented heights.<sup>136</sup> This liberal experiment, occurring under the historic Constitution of 1868 and Louisiana's Republican administration during Reconstruction, raised the number of rural inmates to new heights as rates of incarceration increased by more than one-hundred and fifty percent.<sup>137</sup> In 1868, as a response to the overwhelming number of prisoners crowding local jails, the legislature created a system of parish courts in all criminal cases except for those where the penalty was imprisonment at hard labor or death. Whereas criminal prosecutions cost the state \$25,000 during the early in the 1850s, they skyrocketed to more than \$300,000 after the Civil War with New Orleans absorbing half of the appropriations.<sup>138</sup> Thus, the exponential growth of convicts confined to parochial and urban jails confronted officials with restive populations and, in their view, created dangerous associations.

It was well known that parish jails did not systematically segregate prisoners. For the dominant classes, the very basis for the penitentiary system had been predicated on the insecurity, impropriety, and dangerous fraternities associated with such detention facilities, and they measured the achievements of the penitentiary in opposition to 'unreformed' jails. These

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<sup>135</sup> Ibid., 80. In November of 1865, the state legislature enacted vagrancy law as an element of a new black code which legitimated the arrest of all freedmen who had not signed labor contracts during the first ten days of January 1866.

<sup>136</sup> Ibid., 70. Vandal demonstrates that in 1865 Bossier and De Soto parishes respectively spent \$11,000 and \$7,190 for construction of larger parish jails while the police jury of Red River Parish spent \$33,000 for prison expansion. Significant retrenchment occurred during the Bourbon administrations after 1876.

<sup>137</sup> Ibid., 65.

<sup>138</sup> Ibid., 66-7. Lawmakers took such action at the prompting of the police juries of Concordia, Pointe Coupee, St. Helena, and Terrebonne parishes. In 1866, they petitioned the court to establish the court system in order to relieve the mounting pressure on district courts which met only twice a year. Such accommodation, however, did not solve the problem of overcapacity and cost of maintaining prisoners since parishes were responsible for bearing the costs incurred by arrest, confinement, and prosecution of persons charged with crimes.

lock-ups remained relatively unchanged and operated primarily as detention facilities for prisoners throughout the nineteenth century.<sup>139</sup> Not only did these holding facilities confine prisoners without respect to age, severity of crime, and often gender, it also housed the mentally ill who awaited transfer to the state asylum in Jackson. Authorities often left wards in the jails for lengthy terms because of similar problems of overcrowding at the hospital.<sup>140</sup> Even after the Civil War, parish jails did not systematically segregate prisoners by race. Jailors indiscriminately confined prisoners in universally deplorable conditions that did not improve after the war.<sup>141</sup> Both black and white prisoners were “subjected to hard conditions of imprisonment.” Given that Louisiana’s jails were designed for congregate confinement rather than cellular isolation, prisoners were typically handcuffed and chained to the floor for the duration of their stay.<sup>142</sup> Despite the dedication of penal reformers such as Edward Livingston, Louisiana’s decentralized jail system survived the Civil War as Republican administrations outfitted it to accommodate the shift from slavery to ‘freedom.’

During Reconstruction, parish newspapers reported that Louisiana’s lock-ups were filled beyond capacity with black prisoners charged with petty crimes. Anxiety expressed in the press over this trend did not often indicate that whites also found themselves ensnared by the law and imprisoned in local jails. Yet, as authorities stiffened legal restrictions on people of color, they used the law to target white opponents of racial exclusion, white leagues, and racist terror. White Republicans, like their black comrades, suffered political imprisonment. Three examples reveal the overt political nature of imprisonment in Louisiana during 1866: first, R.W. Bennie, a

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<sup>139</sup> Ibid., 74-5.

<sup>140</sup> Wisner, *Public Welfare Administration in Louisiana*, 93.

<sup>141</sup> Vandal, “Regulating Louisiana’s Rural Areas,” 89.

<sup>142</sup> Ibid., 90. Gilles Vandal demonstrates that white racism and bourgeois social norms did not protect white or female inmates from abuse and dehumanization on the part of their keepers.

Radical Republican leader and former sheriff of Terrebonne, was jailed because of his criticism of Governor James Madison Wells; second, a number of Republican officials were arrested in Iberia Parish for refusing to turn over parish court records in a contested election; and third, a Democratic judge took sweeping action ordering the arrest of all Republican leaders a few days before the presidential election of 1884.<sup>143</sup> These examples show that the white hegemony and racist terror that gripped Louisiana after the Civil War was neither spontaneous nor natural but strategic, opportunistic, and advanced through the state's penal system. This pattern continued well beyond the end of formal Reconstruction in Louisiana.

### ***Conclusion***

Reflecting back on the previous century, W.E.B. Du Bois remarked on the scale of the criminalization of black life when he wrote, "In no part of the modern world has there been so open and conscious a traffic in crime for deliberate social degradation and private profit as in the South since slavery." He observed that for the last quarter of the nineteenth century, "Negroes [were] arrested on the slightest provocation and given long sentences or fines which they were compelled to work out."<sup>144</sup> He labeled this transformation in crime and state punishment as "crime peonage" as a constitutionally ordained system of bondage, forced labor, and dehumanization that served plantation profits, class rule, state infrastructural development, funded public services, underwrote state expansion, and strengthened racism as an instrument of social control.<sup>145</sup> Thus, he spoke of a system of bondage resonate with chattel slavery but one that was structurally and historically different and functionally inequivalent. Yet, as authorities

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<sup>143</sup> Ibid., 83. Gilles Vandal shows that parish jails were used opportunistically to confine white Republican leaders who opposed conservative policies. Vandal's evidence spans nearly twenty years from 1866 to 1884.

<sup>144</sup> Du Bois, *Black Reconstruction in America*, 698.

<sup>145</sup> W. E. B. Du Bois, *The Negro* (Millwood, NY: Kraus-Thomson, 1975), 67-8.



snared freedmen and women without labor contracts, seized individuals who broke them, rounded up persons for violating increasingly stringent racial restrictions, vilified individuals promoting social revolution, and apprehended transgressors of bourgeois morality, the penal system came under increasing scrutiny.

Support for prison ‘reform’ based on penitentiary ideals declined among prison officials, the legislature, the governor, and also in the popular press. The confluence of planter demand for black agricultural workers, private and public capital scarcity, diminished access to credit, a shattered state infrastructure, heavier tax burdens, competition in world markets, workingmen’s opposition to competition from prison industry, taxpayer hostility to underwriting the costs of housing prisoners, natural disasters and epidemic disease, the racism that had given force to the slave system, and most of all, the assertiveness of ex-slaves in pursuing their own interests, resulted in bitter complaints about custodial confinement in local jails and the state penitentiary. For state officials, planters, and employers, attention remained focused on the question of deterrence. State newspapers weighed into the debate by advocating a type of penal reform that would compel judges to sentence all people convicted of minor crimes such as larceny and disorderly conduct, to hard labor on public works.<sup>146</sup> The *Baton Rouge Advocate* was even more specific when it implored the state legislature to authorize the employment of parish felons on public works as a means of reducing the cost of housing and guarding prisoners and effecting greater deterrence.<sup>147</sup>

Although this predicament was anything but novel, its urgency was new. Strategies to effect deterrence or to ‘prevent crime’ had animated the Livingston Code, activated the transatlantic penitentiary movement and fueled Louisiana’s experiments with contract convict

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<sup>146</sup> Vandal, “Regulating Louisiana’s Rural Areas,” 67, 90.

<sup>147</sup> *Baton Rouge Advocate*, May 3, 1886.

servitude and imprisonment for profit. The penitentiary and Louisiana's workhouses had boasted financial returns on investment but did little to hearten labor, 'prevent crime,' or fix a color-line. But, slave emancipation provoked reassessment of both the means and ends of state punishment. The abolition of slavery permanently destroyed a constituent element of Louisiana's carceral state and the main pillar of its labor system. It undermined the ability of capital to impose social restrictions, command labor, extract surplus, and amass wealth and power by rights to property in persons. In the absence of chattel slavery, faith in the penal system's ability to protect private property, impose labor discipline, enforce contracts, police racial boundaries, defend bourgeois norms, entrench state power, and advance "agricultural interests" took on added value. Investment in the penal arm of the state and the resulting criminalization of black life meant to repress legacies of racial openness and dealt a heavy-handed blow to blacks and the whites who resisted race and class-based repression.<sup>148</sup>

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<sup>148</sup> Hall, *Africans in Colonial Louisiana*, 380.

## Chapter 5

### The Convict Lease System and its Abolition, 1869-1900

Southern planters, Northern capitalists, and state officials, who drove the “counter-revolution of property” in Louisiana found utility in the penal arm of the state. Both Republicans and Democrats enacted stringent laws on vagrancy, guardianship, and labor contracts during the second half of the nineteenth century.<sup>1</sup> The penal system served to enforce these restrictions on workers and to rollback hard-won gains in civil rights for ex-slaves and black creoles, and the interracial coalitions which they led.<sup>2</sup> These laws subjected many black workers and some poor whites to spurious charges and to long sentences for the slightest of offenses. No longer in the business of safeguarding the slave system, Louisiana’s post-emancipation penal system catered to planters’ demands for cheap captive labor. Their demands, however, resulted from the resolve of blacks of all prior conditions and many poor whites to live and labor on their own terms.<sup>3</sup> These circumstances produced Louisiana’s notorious convict lease system, a penal practice whereby a private company gained full responsibility for the custodial care, discipline, and employment of state prisoners outside of ‘the walls.’<sup>4</sup> This system came to define the South from the beginning of Reconstruction until its decline in the last decade of the nineteenth century and ultimate demise in 1933.<sup>5</sup> Heavily concentrated in the ‘modernizing’ sectors of the South,

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<sup>1</sup> On the “counter-revolution of property,” see: Du Bois, *The Negro*; Du Bois, *Black Reconstruction in America*, 580-636.

<sup>2</sup> Logsdon and Bell, “The Americanization of Black New Orleans,” 251.

<sup>3</sup> Du Bois, *The Negro*; Du Bois, *Black Reconstruction in America*.

<sup>4</sup> United States Bureau of Labor, *Second Special Report of the Commissioner of Labor: Labor Laws of the United States*, Second Edition (Washington: Government Printing Office, 1896), 4, 372. The United States Commissioner of Labor issued a definitive report on convict labor in 1887. It described this practice of employing convicts as one in which the state leases “all convicts or a certain number to a lessee or a contractor for a round sum to be paid, the lessee meeting all expenses of management, care, protection, guarding, etc., connected with the employment of the prisoners.”

<sup>5</sup> Du Bois, *The Negro*, 221.

convict leasing together with the criminal surety system was the fulcrum against which sharecropping, tenancy, the monopolistic company store, and wage labor took form.

This chapter examines the resurrection, development, and abolition of Louisiana's convict lease system. It offers new insight into these processes and is novel for approaching convict leasing in Louisiana as a distinctive labor system. This examination challenges existing accounts of Louisiana's post-emancipation convict lease system by demonstrating that the institution was not symptomatic of regional 'backwardness' or marked deviance from national norms.<sup>6</sup> Rather, I suggest that the penal practice was an economically rationalized system dedicated to state-building. It was also a governmental response, driven by the interests of employers, to combat the assertions of ex-slaves, black creoles, and poor whites to labor on their own terms. I argue that Louisiana's practice of convict leasing was a variant of the antebellum contract convict labor system that survived slave emancipation and came to define state punishment in the nineteenth century American South.<sup>7</sup> As such, I seek to correct prevailing interpretations of the abolition of convict leasing by demonstrating that movements to restrict the system were not confined to the mid-1880s and 1890s or to the field of formal politics. I argue that proposals to restrict or abolish convict leasing and convict contract servitude were longstanding, operated at state and national levels, and originated in the struggles between workers and employers over the terms of labor. Yet, Louisiana's lease system ultimately met its demise in the wake of Bourbon Democratic ascendancy with the Party's bid for state consolidation, political legitimacy, and white racial rule.

### ***The Convict Lease System of the New South***

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<sup>6</sup> Carleton, *Politics and Punishment*, 4-5, 7-8

<sup>7</sup> Existing accounts neglect penitentiary practice as a means of commanding direct forced labor, and therefore, confine analysis of the institution largely to the field of formal politics or movements for penal reform. See: Carleton, *Politics and Punishment*; Wisner, *Public Welfare Administration in Louisiana*.

Louisiana lawmaker's first efforts to rebuild the state's penitentiary during Reconstruction gestured to the past. The state's effort to reproduce its pre-war political economy of punishment was not unique. Southern penitentiaries had been decimated by Federal forces throughout the South. But, the cessation of formal war and the return to civilian governance prompted pointed debate over how best to manage state punishment given the "problem of freedom."<sup>8</sup> Historian Edward Ayers explained that "the officials charged with creating a new penal system naturally looked to the past for their model." As the war drew to a close, legislators throughout the South "made plans to resurrect bigger and better penitentiaries on the foundations of the old."<sup>9</sup> So popular was the resurrection of the penitentiary that even those states that had previously rejected the model reversed course and made sustained efforts to institute their own enterprises after the Civil War.<sup>10</sup> Experimentation with contract convict labor outside of the penitentiary during late 1860s and early 1870s reflected a generalized pattern across the North and South whereby state officials contracted convicts to private firms and individuals for relatively short durations. The system subjected prisoners to direct and physically forced labor in railroad construction, mining industries, lumbering, turpentine extraction, swamp drainage, levee construction, fertilizer production, and plantation labor meant to promote regional development and surplus labor extraction.<sup>11</sup> Ordinarily, administrators sent able-bodied prisoners to reside in work camps, in stockades, or in rolling prison cars.<sup>12</sup> Convicts commonly labored on plantations and on railroad projects, often wearing chains. Such lease arrangements reflected the political

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<sup>8</sup> See: Ayers, *Vengeance and Justice*, 185-88; Holt, *The Problem of Freedom*.

<sup>9</sup> Quoted in: Ayers, *Vengeance and Justice*, 188.

<sup>10</sup> Ibid., 188-9. Ayers shows North and South Carolina pursued sustained efforts to build penitentiaries.

<sup>11</sup> See: Ayers, *Vengeance and Justice*; Du Bois, *Black Reconstruction in America*; Lichtenstein, *Twice the Work of Free Labor*; Oshinsky, *Worse than Slavery*; Steven Hahn, *A Nation Under Our Feet: Black Political Struggles in the Rural South, From Slavery to the Great Migration* (Cambridge: Belknap Press of Harvard University Press, 2003), 441.

<sup>12</sup> McLennan, *The Crisis of Imprisonment*, 104.

and economic uncertainty of the period and severe shortages in labor markets. These systems resulted from worker's resistance to undesirable terms of labor.<sup>13</sup> This system was custom-made to maximize profit and exact prisoner control. This type of forced labor frequently drove work at a pace wage-workers would not readily tolerate. In many of the convict labor camps throughout the South, prisoners awoke at 4:30 a.m. and began work one-half hour later. While they broke for forty-five minutes to eat dinner, they returned to hard labor until after sundown or for as long as a guard could see to shoot. Lessees typically forced prisoners to work every day, "rain or shine, cold or wet." Convict servitude was especially useful for employers who confronted organized labor agitation. Experiments with convict leasing, based primarily within state penitentiaries, had proven to be lucrative. Despite costs associated with guards and prisoner maintenance, forced convict labor had paid for itself and more. For the New South, convict labor held like promise for enterprising planters, industrialists, and state officials to reinstitute bourgeois property relations, discipline contract labor, and extract labor surpluses from state-mandated direct forced labor.<sup>14</sup>

### ***Louisiana's Reorganization of Contract Convict Labor***

Louisiana's officials sought to reconstruct the state penitentiary and to employ prisoners in industrial textile production. On March 18, 1868, Governor Joshua Baker authorized the lease approved by Major General W. S. Hancock between the state and John M. Huger and Charles Jones. On March 5, 1869, nearly a year later, the legislature ratified the contract.<sup>15</sup> Governor

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<sup>13</sup> Ayers, *Vengeance and Justice*, 190-192.

<sup>14</sup> Ibid., 193. Ayers notes that on balance convict leasing produced sizable profits in spite of fixed costs during slack times and during economic depressions. He cites the warden of the Alabama penitentiary who said in 1877 that, "considering the depression in business throughout the country, the frightful upheavals of labor against capital of some of our sister States, its consequent injury and derangement of the general business of the country, we have cause to congratulate ourselves as to our financial success."

<sup>15</sup> State of Louisiana, *Official Journal of the Proceedings of the Senate of the State of Louisiana at the*

Baker supported the measure out of economic necessity. He wrote, “I recommend this lease to be made as soon as possible, on account of the state of the treasury.”<sup>16</sup> A second endorsement represented another viewpoint. An assistant to Major General Hancock wrote, “The within lease is approved, provided the able-bodied convicts of the penitentiary are employed in working upon the levees until the season for such work is past.”<sup>17</sup> Thus, the record reveals that financial and infrastructural interests motivated passage of the lease.

Legislative Act 55 of 1869 bound the firm to the original terms of the lease and to its modifications. The five-year lease required the firm to pay the state one-half of “net profits.” It represented the state’s heavy investment in rebuilding the penitentiary’s industrial capacity but also allowed for limited work outside of ‘the walls.’ The lease allowed the firm to employ the state’s 358 convicts “in all such manufacturing, mechanical, and other labor as the lessees may deem proper.” It also gave them the flexibility to employ convicts in “brickyards, and tanneries outside...the [penitentiary’s] enclosure and [in] hauling the material wood and other advantageous or useful labor within the immediate vicinity of Baton Rouge.” The lease stipulated that the firm could “work a portion of the able-bodied convicts on the public levees or railroads” with the governor’s consent.<sup>18</sup> Legislators wanted the lessees to reestablish large scale prison industry as they directed the firm to “establish as soon as it is practicable, a cotton and woolen factory” putting it into “immediate operation.” Changes made to the original lease of 1869 did not alter this direction. It enjoined Jones and Huger to “complete the cotton and woolen factory buildings already commenced” but also to “rebuild the foundry...and construct it with

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*Regular Session* (Baton Rouge: Leon Jastremski, State Printer, 1886), 149-50.

<sup>16</sup> It was directed to General W. S. Hancock. See: State of Louisiana, *Journal of the Senate* (1886), 152.

<sup>17</sup> *Ibid.*

<sup>18</sup> State of Louisiana, *Official Journal of the Proceedings of the House of Representatives of the State of Louisiana, At the Session Begun and Held on January 3, 1870* (New Orleans: A. L. Lee, State Printer, 1870); State of Louisiana, *Journal of the Senate* (1886), 152.

the view of using it as a machine shop for the manufacture of agricultural implements.”

Legislators also directed the firm to install “two hundred looms, with all the necessary machinery for preparing and finishing cotton cloths, and such machinery as may be thought advisable by the lessees for preparing woolen cloths.”<sup>19</sup>

According to the lease, the Board of Control would oversee the contract’s fulfillment. The governor appointed the five-member board and decreed their right to “have access at all times to the convicts and to every other part of the establishment.”<sup>20</sup> Their responsibilities included: meeting monthly, superintendence of the penitentiary, and reporting annually to the governor. Act 55 added a more specific set of prescriptions for the governing board. It stated that the “Board of Control [had] control of the health and religious regulation of convicts.” It also mandated that the “rations of convicts shall not be less than those prescribed by the United States army regulations for soldiers, and that the clothing of the convicts shall be comfortable, suitable and adapted to their employment.” But, Act 55 also included an injunction for the Board of Control. It obligated them to prohibit “excessive punishment.” The act put lessees on notice that if they “persist in violating the provisions...the president of said board shall prosecute the lessees, and on conviction, they shall be subject to a fine of not less than one hundred dollars nor more than one thousand dollars, at the discretion of the court.”<sup>21</sup> The Board’s first report gave the firm high marks. It stated that repairs to the factory and hospital were underway and 200 looms for the production of cotton and woolen goods had been installed. They praised the firm for recruiting skilled machinists and mechanics from the North to supervise every department and for instituting the manufacture of shoes and barrels. The report showed that strong precedent had

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<sup>19</sup> State of Louisiana, *Journal of the Senate* (1886), 151-2.

<sup>20</sup> *Ibid.*, 151.

<sup>21</sup> *Ibid.*, 152-3.



been set for the hiring out of state prisoners since only a relatively small number of the state's 358 inmates were employed in the penitentiary by 1870. The larger share of them worked in levee construction. The Board reported approvingly, "We do not think that any prison in the country better provides for the prisoners."<sup>22</sup>

Management by Jones and Huger did not endure. In less than a year after signing the contract with the state, they sold out their interests in Louisiana's penitentiary and the state's prisoners to S. L. James, C. B. Buckner, and T. Bynum, who worked prisoners without legislative sanction.<sup>23</sup> The legislature accommodated the illegal transfer and passed another act in 1870, which provided, "Samuel L. James, C. B. Buckner, and T. Bynum, having already purchased the lease from Huger and Jones, are substituted into the lease ratified in 1869."<sup>24</sup> The new lease modified the former in two major ways. First, it altered the terms of payment. Rather than split the profits it provided that the "lessees shall...pay into the treasury of the State of Louisiana the sum of five thousand for the first year, six thousand dollars for the second year, seven thousand dollars for the third year, and so on, increasing one thousand dollars per year, over each preceding year, to the expiration of the lease." Second, the lease was extended for twenty-one years from the date of substitution, the longest lease commitment the state ever endorsed.<sup>25</sup>

Speaking on their behalf, James McCullen, a Democrat representing East Baton Rouge, cautioned the membership. He stated, "There is no guarantee...that at the expiration of the lease,

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<sup>22</sup> State of Louisiana, *Journal of the House* (1870), 152; Wisner, *Public Welfare Administration in Louisiana*, 157.

<sup>23</sup> State of Louisiana, *Journal of the Senate* (1886), 152-3.

<sup>24</sup> The act was made law on April 8, 1870. See: Act No. 56 in State of Louisiana, *Acts Passed by the General Assembly of the State of Louisiana at the Third Session of the First Legislature* (New Orleans: A. L. Lee, State Printer, 1870); 84.

<sup>25</sup> State of Louisiana, *Journal of the House* (1870); 15, 84.

the machinery would be returned to the State in good order and condition, or, in fact, at all.” The dissenting minority also “reported unfavorably” because, they feared that with a majority vote from the Board of Control, the state would be left vulnerable to lessee malfeasance since the firm could “make, and keep making improvements or imaginary improvements, all through the term of the lease and charge the state with the same.” In the minority’s view, this would allow the lessees to pay “no rent” and “at the end of the lease bring the state out in debt to them in any amount they please.” They reasoned that this risk, combined with the good condition of the penitentiary, called for a lease not to exceed ten years and recommended that “proposals be received [for] a term of five years, and that it be given to the highest responsible bidder.”<sup>26</sup> The opinion of the representatives who voted with the minority proved, to a great degree, prophetic.

Despite dissent within the legislature, the Republican governor, Henry Clay Warmoth, supported the lease. General W.S. Scott, commander of the Fifth Military District, also gave his approval. White Democrats joined white and black Republicans to pass the lease substitution. The lower house saw Republican and Democratic support with all but one of the black members voting for passage. Similarly, the bill passed with overwhelming support from black members of the upper house. Although the action was not without controversy, a peculiar coalition had emerged to pass the bill.<sup>27</sup>

While the minority opinion registered objections to leasing out the penitentiary on the basis of faith, there were suspicions about the trustworthiness of the penitentiary’s renters. Skepticism was strong enough to warrant passage of a joint resolution requiring investigation into charges of corruption and bribery over the passage of the lease substitution. Legislators were

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<sup>26</sup> Ibid., 118.

<sup>27</sup> An opponent of the lease on the House penitentiary committee expressed dissatisfaction with the length of the lease and recommended instead that it should be reduced to a term of ten years or less and that it should be subject to a process of competitive bidding. See: Carleton, *Politics and Punishment*, 18.

concerned that the money appropriated by the state for new machinery had not been applied, “but used for corrupt and improper purposes.” One of these “improper purposes” was, allegedly, using the funds to persuade state representatives to ratify the substituted lease. Although the joint committee found no evidence to support these claims, historian Mark T. Carleton suggested that graft swayed representatives to support transfer of the lease from Huger and Jones to James and his partners. Carleton suggested that “other inducements” motivated passage of the measure as James, Buckner, and Bynam “won approval” because of “a colossal bribe.”<sup>28</sup>

Privatization of the penitentiary did not mean that state officials had abandoned their expectation that the penitentiary would return to large-scale manufacturing. The language of the lease explicitly obliged the contractors to continue rebuilding the penitentiary’s manufacturing plants and commence production inside the penitentiary.<sup>29</sup> Initially, the newly sanctioned lessees fulfilled the state’s charge by setting the machinery of the penitentiary into motion once more. By April 1871, *The Georgia Weekly Telegraph* reported that, “The cotton factory of the Louisiana Penitentiary is now running day and night.” Without enough convicts to man the machines at night, and with no specific attachment to convict labor, the penitentiary lessees recruited outside labor. “The night hands” were “Chinamen recently discharged from Stanton’s Railroad in Alabama.” These workers, coerced by contract, kept the mills running during the night shift. The lessees found them “apt and faithful...and considered to be as cheap as convict

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<sup>28</sup> Carleton suggested that the state was a “financial victim of the clandestine ‘switch’ from one set of lessees to the other.” There were charges that while the James bill was being debated, bonds issued the previous year had in fact been obtained and used by James as a bribe: \$100,000 worth had gone to Huger and Jones while the remainder went to members of the General Assembly with the understanding that all necessary transactions and endorsements would be legalized. See: P. Winfred, “The Penitentiary Bill,” *New Orleans Times*, January 19, 1870.

<sup>29</sup> State of Louisiana, *Journal of the Senate* (1886), 152-3.

labor.”<sup>30</sup> Yet, it is unclear whether the use of ‘coolie’ labor or other migrant workers was an isolated practice or one more routine. Contractors continued to experiment with Louisiana’s penitentiary and its prisoners. In so doing, they found new ways to maximize surplus labor extraction and prisoner control under the greater flexibility of the post-emancipation lease contract.<sup>31</sup> Their actions, combined with weak governance after a return to civilian authority and demands for cheap captive labor, set the stage for private interests to dictate penal practice in Louisiana for over three decades.<sup>32</sup>

### ***The Rise of “the Major” in Louisiana’s Penitentiary***

Samuel L. James emerged as the driving force behind the firm that held Louisiana’s penitentiary lease: James, Buckner, and Bynum. His personal background provides clues as to how the Tennessee native came to control Louisiana’s state prisoners. Born in Clarksville, Tennessee in 1834, James moved to New Orleans in 1854. Trained as a civil engineer, he found contract employment organizing state reconstruction projects.<sup>33</sup> He married into a newly arrived merchant family living in New Orleans.<sup>34</sup> Active in the Confederacy during the American Civil War, he rose to the rank of Major, a title he used until his death. Although he was reputed to have served “valiantly” throughout the war, official records show that he resigned from the

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<sup>30</sup> “Cotton Manufacturing in Louisiana,” *Georgia Weekly Telegraph*, April 25, 1871.

<sup>31</sup> State of Louisiana, *Journal of the Senate* (1886).

<sup>32</sup> Hair, *Bourbonism and Agrarian Protest*; Vandal, *The New Orleans Riot of 1866*; Rodrigue, *Reconstruction in the Cane Fields*; Taylor, *Louisiana Reconstructed*.

<sup>33</sup> James became associated with P.G.T. and contributed to the construction of the United States Custom House, a hospital, and the city’s first streetcar lines. See: *Daily Picayune*, July 28, 1894.

<sup>34</sup> James married Emma D. Hart, daughter of Henry Hart of Canada and Emily Hart of Missouri. Emma was the first of five children. She was born in Missouri in 1840 while her siblings, Henry D., Emily A., Augustina, Camille, and Cora M., were born in Louisiana. Henry Hart was a large cotton dealer who owned \$20,000 worth of property in Louisiana and \$200,000 worth of personal effects. The family lived in New Orleans’ tenth ward and employed Cattie Reid, a fourteen-year-old black maid from Louisiana and Anne Smith, a 22-year-old domestic from Ireland. See: David B. Kelley et al., *Archaeological Data Recovery at Angola Plantation, Sites 16WF121 and 16WF122 West Feliciana Parish, Louisiana* (Coastal Environments, Inc., 2006).

Confederate army before Union occupation of Louisiana.<sup>35</sup> But, James did not turn his back on the Confederacy or wartime financial dealing. Major James advanced the interests of the Confederacy in a number of ways. After quitting the army, he served as “Volunteer Aide-de-Camp” under the commander of the Confederate-occupied New Orleans.<sup>36</sup> On February 26, 1862, a couple of months before Union invasion of New Orleans, James formed the “Committee of Safety” with “gentlemen of standing and influence” in the Crescent City. The committee petitioned Jefferson Davis to address the deplorable condition of the Confederate Naval Department and the desperate circumstances resulting from the war department’s failure to pay workers and suppliers in their city.<sup>37</sup> In anticipation of a Union attack, James worked to fortify the city.<sup>38</sup> After the Federal fleet moved on New Orleans on April 20, 1862, he accepted responsibility for removing all government and state property prior to the city’s surrender.<sup>39</sup> He also sold provisions to the Confederate Army from his own plantations and from those of his relatives. In the immediate aftermath of the war, James travelled extensively in Europe and by

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<sup>35</sup> As war began, James raised an Irish brigade from New Orleans and received the commission of captain in the Sixth Louisiana Infantry Regiment. After leading troops in the battle at First Manassas, he rose to the position of major. Although he was reputed to have served “valiantly” throughout the war, official records show that he resigned from the Confederate army on December, 1861. See Kelley, et al., *Archaeological Data Recovery at Angola Plantation*, 95.

<sup>36</sup> Ibid., 92. James began service on April 24, 1862, working for General Mansfield Lovell, commander of Confederate-occupied New Orleans.

<sup>37</sup> Ibid. The department was reportedly \$600,000 to \$800,000 in debt and had not paid foundries, workmen, and other suppliers for several months. Accordingly, many businesses, declined government orders.

<sup>38</sup> Ibid. In the spring of 1862, James bought 7,500 gunny bags to sand bags, south of New Orleans, to protect against Union assault. James also asked Commodore Whittle to position the ironclad gunboat Louisiana below Forts Jackson and St. Philip to relieve the forts from bombardment long enough to make repairs. Whittle’s superior, Commander Mitchell refused the Major’s request.

<sup>39</sup> Ibid. During the evacuation, he was ordered to detain all steamboats to load with government stores to be sent upriver. He arranged cotton bales to protect the boats and put molasses barrels in their hulls to keep them afloat in case of penetration by Union fire. He hired drays and wagons to transfer government property to a railroad station with funds from the “Committee of Public Safety.” Many heavily loaded trains left with artillery, ordinance, medical stores, clothing, blankets, shoes, wagons, harnesses, saddles, and commissary stores.

that time he had amassed considerable riches from undisclosed sources, but rumored to be related to wartime profiteering.<sup>40</sup>

Upon return to New Orleans, James partnered with Buckner and Bynum to undertake levee construction.<sup>41</sup> Buckner and Bynum allowed James to take the lead in business affairs.<sup>42</sup> Aware the potential profitability in employing forced labor, James made the lessees, Huger and Jones, an offer too good to refuse. James' reputation for bribery raised suspicions that he bought off the General Assembly when they substituted his firm's rights to the penitentiary lease over Huger and Jones.<sup>43</sup> When James, Buckner, and Bynum gained full custody of Louisiana's state prisoners, employers complained about 'demoralized' workers, the 'derangement' of the labor system, and as a consequence, and a general dearth of labor. Consequently, when James and his partners secured the penitentiary lease, they acquired a low cost and expendable source of labor from which to extend their own empire. Offering clear advantages, they seized this peculiar opportunity as the planter class struggled to rebuild their own fortunes with a mix of wage labor, tenancy and sharecropping, and often, outright peonage.<sup>44</sup> Early on, the firm put convicts to hard labor on Louisiana's levees because it was more profitable for them than organizing penal labor

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<sup>40</sup> Ibid., 92-3. Presumably, goods came from plantations that he or his relatives owned in Tensas Parish. Five "beeves" were sold to the army for \$552.08 on October 24, 1863, and nine more on November 12, 1863 for \$270. In May of 1864, James provided the army with one mule and 1,519 pounds of bacon as his "exemption fee from military duty" but later petitioned to be reimbursed for the cost.

<sup>41</sup> Carleton, *Politics and Punishment*, 20.

<sup>42</sup> C.B. Buckner appears to have had little more than a financial interest in the penitentiary. During the war he was a captain of the 28<sup>th</sup> Mississippi volunteers, and like James, sold the army supplies from his medical supply and stationary business in Vicksburg, Mississippi. Thomas Bynum was also a captain in the Confederate Army. He served in the Fourth Louisiana Brigade during the war and also sold stationary to the Confederacy. It has been suggested that he had business ties with C.B. Buckner. See: Kelley et al., *Archaeological Data Recovery at Angola Plantation*, 93.

<sup>43</sup> Upon his return, James joined the Pickwick Club, one of the city's most elite private social clubs. See: Kelley et al., *Archaeological Data Recovery at Angola Plantation*, 93; Carleton, *Politics and Punishment*, 20.

<sup>44</sup> Follett, "Legacies of Enslavement," 61-77.

for penitentiary production.<sup>45</sup> “As a singularly sagacious man of business,” James, nonetheless, did not limit employment simply to levee construction. In maximizing personal gain at prisoner expense, James learned that to hire or sub-contract “experienced” black convicts at hard labor on farms or plantations was also lucrative and that any able-bodied convict could be sub-contracted for railroad construction. With this growing awareness, the civil engineer tried his hand in agriculture as he acquired land and applied convict labor on his own private plantations. James produced substantial returns with all three of these means of employment over the tenure of the twenty-one year lease. During his regime, most of Louisiana’s state convicts served hard time in camps concentrated in the Mississippi Delta on levee works or on railroad projects.<sup>46</sup> Other convicts were hired out to third parties and dispersed across the state. An assistant warden of the Louisiana State Penitentiary, who traced the history of the institution, remarked that “every dollar paid for convict labor went into Samuel James’s pocket.” In attesting to the Major’s dictatorial power, he asserted that “convicts were under his complete control...inmates, no matter how old or infirm [sic], were put to work shoveling dirt to build levees.” And in exemplifying the lessee’s calculus and business acumen, the former assistant warden suggested that “if a convict died, he just became part of the levee, and a short notation was made in the convict register.”<sup>47</sup>

In violation of the lease, James and his partners began large-scale convict leasing and thereby detached convicts from the state penitentiary. But, legislative opposition to the practice did not take long to materialize. Only three years after the substitution of the lease, concern over

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<sup>45</sup> Between March and November, 1869, James had already made nearly \$100,000 from working convicts on the state’s Mississippi River levees even before the lease had been ratified. See: Carleton, *Politics and Punishment*, 20.

<sup>46</sup> A captain directed each camp. Ibid, 23.

<sup>47</sup> Quoted in Kelley et al., *Archaeological Data Recovery at Angola Plantation*, 94.

the new lessees' conduct prompted a joint committee to inspect the penitentiary. Investigators found the institution largely uninhabited, with most of the state's 409 convicts removed elsewhere by 1873.<sup>48</sup> Some of the prisoners left behind were infirmed, handicapped, or otherwise unfit for levee work. Besides state convicts, the penitentiary confined U.S. military prisoners, held on behalf of the federal government "under sentence of Courts Martial." The lessees profited from their confinement at Baton Rouge since the federal government paid the state rent, regardless of the industriousness or idleness of the military prisoners.<sup>49</sup>

Conspicuously absent from the penitentiary was the warden. The official's deputy, Captain F. Guidry, outlined for the investigators the lessee's chain of command. He stated that "the warden had the authority to punish convicts for misconduct without special directions from the board." When questioned further, the deputy suggested that, "The board of control knows the character of punishments used by the warden and his deputies." He charged that, if they did not, "they ought to know" since it was their responsibility to provide oversight.<sup>50</sup> Thus, state officials found that their delegation of authority to a private firm paired with lax oversight by a governing board resulted in an unfettered prison industry.

Information on the administration, employment, and custodial care of state prisoners was difficult to come by. The National Prison Association of the United States did not disagree. In 1874, the organization reported that it was not possible to glean any information about penal

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<sup>48</sup> Of the 409 inmates, 395 were men and fourteen were women. See: Correctional Association of New York, *Annual Report of the Prison Association of New York and Accompanying Documents* (Albany: Argus Co., 1874), 94.

<sup>49</sup> Between 1872 and 1873, the U.S. Department of the Treasury paid \$22,054 to the lessees for housing military prisoners. See: "General Orders No. 13, July 26, 1871," in *General Orders from the Headquarters, Department of Texas*, 1871; United States Department of the Treasury, *Receipts and Expenditures for the Fiscal Year Ending June 30, 1873* (Washington: Government Printing Office, 1873), 366.

<sup>50</sup> State of Louisiana, *Official Journal of the Proceedings of the House of Representatives of the State of Louisiana* (n.p., 1873), 121-23; Carleton, *Politics and Punishment*, 22-23.



practice in Louisiana despite repeated attempts. They stated, “It has been impossible to obtain a syllable for Louisiana in relation to the prisons of that state.” The report specified that Samuel L. James was not the only party to blame since repeated letters had been “addressed both to the warden of state penitentiary and the executive of the state.” They complained, “Nothing, either printed or written, had been elicited in reply.” With no word from Louisiana, the Association speculated, albeit somewhat sarcastically, “Possibly the mails were at fault. Let us hope so.”<sup>51</sup> While James “closed his books,” he also scattered prisoners across the state in order to leverage the highest price on their labor.<sup>52</sup>

Senator Thomas Cage, a black senator from Terrebonne Parish and chairman of the Committee on Parks and Public Buildings, submitted his own report on penitentiary conditions. It confirmed earlier observations that “almost all the convicts [were] constantly farmed out.” In noting that they were “sent promiscuously” without regard to racial segregation “to different portions of the State,” he criticized the firm for putting convict labor in direct “competition with freed labor.” He warned that if no action was taken to redeem the penitentiary system from private interests, state investment would be lost as “there would be scarcely any use any more for the Penitentiary buildings at all.” Predicting the worst, Cage warned that if “matters go on for a few more years as they have been going on...we shall have none, except as a den or hiding place for owl, bats, and reptiles.” The president of the Board of Control contributed to the growing opposition to the lessees during the legislative session of 1874 when he confirmed that “the walls and buildings...have been but little used since the last report.” He admitted that the contractors

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<sup>51</sup> E. C. Wines, ed., *Transactions of the Third National Prison Reform Congress, Held at Saint Louis, Missouri, May 13-16, 1874; Being the Third Annual Report of the National Prison Association of the United States* (New York: Office of the Association, 1874), 327.

<sup>52</sup> James and his rogue administration of the penitentiary created a void in the historical record. Penitentiary records during the lease period are very thin, as James and the Board of Control resisted submitting reports to the state.

continued to put most of the state's wards to hard labor "outside the walls working on the levees, railroads, plantations, etc."<sup>53</sup> While Senator Cage expressed no objections to cost savings or revenue generated from convict labor, he strongly opposed any circumstance that would bring convict labor "in competition with free labor."<sup>54</sup> The senator's opinion was representative of most of the assembly's black members whose constituents suffered from it.

In 1875 the legislature acted decisively to restrict the lessee's unlawful employment of state convicts outside 'the walls.' The assembly's committee on the penitentiary justified action when they stated that, "The same subject was under consideration by this committee during the session of 1873-1874, and the law bearing on it thoroughly examined." They informed the body that "the lessees of the Penitentiary were summoned before the committee and their authority to work the prisoners on the outside of the walls of the Penitentiary inquired into." They recommended that "the legislature think into the matter of prohibiting convicts working outside the walls."<sup>55</sup> In response, the legislature did more than that. They ratified Act 22 in 1875, which explicitly prohibited James, Buckner, and Bynum from "employ[ing] its convicts outside the walls of the State Penitentiary on any public or contract work outside the walls of the State Penitentiary."<sup>56</sup> It resolved that "all convicts shall be detained and kept at hard labor, if so sentenced, within the walls of the State Penitentiary." In imposing strict limits on the employment of state prisoners, lawmakers simultaneously added teeth to the prohibition by writing specific enforcement provisions into the letter of the law. Act 22 dictated that anyone

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<sup>53</sup> Quoted in Carleton, *Politics and Punishment*, 21-2.

<sup>54</sup> State of Louisiana, *Acts Passed by the General Assembly of the State of Louisiana at the First Session of the Fourth Legislature, Begun and Held in New Orleans, January 4, 1875 and at the Extra Session, Convened April 14, 1875* (New Orleans: The Republican Office, 1875).

<sup>55</sup> The Committee on Penitentiary reported to the Senate on February 16, 1875. See: State of Louisiana, *Official Journal of the Proceedings of the Senate of the State of Louisiana* (New Orleans: The Republican Office, 1875), 85-6.

<sup>56</sup> Governor William Pitt Kellogg signed it on March 31, 1875. See: State of Louisiana, *Acts* (1875), 54.

convicted of taking convicts out of the “walls of the penitentiary for the purpose of performing any labor of any kind whatsoever...shall be fined a sum not exceeding one thousand dollars, and imprisonment not exceeding two years; and the lessee or lessees permitting the same to be done shall, *ipso facto* forfeit their lease and pay a fine of not less than five thousand dollars.”<sup>57</sup> The same contradiction that limited the expansion of Louisiana’s nascent prison industry resurfaced as protest developed over the lessee’s illegal actions which placed state prisoners in competition with ‘free’ workers.

### ***Lessee License and the Labor Problem***

By the mid-1870s, conflict between legislators and the firm expanded to include two fronts. The first occurred when a majority of legislators ratified Act 22 as a stopgap measure to forestall the “the labor problem” or stymie direct competition between convict and civilian contract workers.<sup>58</sup> Charges of illegality and threats to cancel the lease, however, were not enough to persuade James and his associates to cease hiring out state prisoners.<sup>59</sup> When an “attempt was made to enforce the law” it became clear that the state had no means to follow through.<sup>60</sup> The act provided for cancellation of the lease for non-compliance, but it included no appropriations for state governance of prisoners in the event of lessee eviction.<sup>61</sup> Therefore, the measure proved hollow. In 1876, Governor William Pitt Kellogg signaled legislative retreat in the confrontation with the lessees over their employment of state prisoners outside the penitentiary. In his address to the assembly, Governor Kellogg emphasized that since no

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<sup>57</sup> Ibid., 54.

<sup>58</sup> Ibid.

<sup>59</sup> Carleton, *Politics and Punishment*, 25, 35, 67; Wisner, *Public Welfare Administration in Louisiana*, 158; State of Louisiana, *Official Journal of the Proceedings of the Senate of the State of Louisiana* (n.p., 1876), 12-13; State of Louisiana, *Acts* (1875).

<sup>60</sup> State of Louisiana, *Message of the Governor of Louisiana, Delivered at the Regular Session of the General Assembly, New Orleans, January 3, 1876* (New Orleans: The Republican Office, 1876), 20-1.

<sup>61</sup> State of Louisiana, *Acts* (1875), 25-6.

appropriation had been made to employ convicts within ‘the walls,’ out of necessity, “nearly all [were] working on a line of the New Orleans Pacific railroad, a work of great importance to the state.”<sup>62</sup> For the state, this illegal arrangement was preferable to the “danger of five or six hundred convicts being thrown upon its hands without any provision for their maintenance or custody.”<sup>63</sup> The Republican governor, who had signed Act 22, employed his own power of discretion to forgive the firm for its illegalities. In granting the lessees license, he announced that “unless the State should make some arrangements otherwise to utilize their labor and ma[ke] it self-sustaining,...it is better to permit the present lessees to continue working the convicts under their existing lease.” Demonstrating the peripheral nature of the state’s concern over the firm’s low standards of custodial care, Governor Kellogg stated that complaints against the “discipline and treatment” were secondary to concerns of the convicts being “thrown” on the state. He assured the assembly that prisoners under the lessee’s control were “well provided for and as humanely treated as is practicable under the circumstances.”<sup>64</sup>

Legislators confronted James on a second front but soon disengaged as they had in prior encounters. Not only had James failed to measure up to acceptable standards of custodial care spelled out in the lease, he failed to pay his rent. By 1875, the state had filed suit against the James and his partners for delinquency and threatened to foreclose.<sup>65</sup> Two administrations, one Republican and the other Democratic, refused to enforce the law and hold the lessees to account.

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<sup>62</sup> State of Louisiana, *Message of the Governor of Louisiana* (1876), 21.

<sup>63</sup> Ibid., 20-1. According to the governor, the penitentiary posed an annual cost of \$200,000 per year for the “maintenance of prisoners.” At the time, there were not enough cells, machinery, or funds to support keeping the convicts within the walls of the penitentiary at Baton Rouge, according to the governor.

<sup>64</sup> Ironically, the governor’s contingency plan, should the lease be dissolved, centered on employing every able-bodied convict – 500 out of 584, outside of the walls of the penitentiary on the state’s levee projects – the most strenuous of all of the jobs that the lessees put the convicts to. See: State of Louisiana, *Message of the Governor of Louisiana* (1876), 17-9, 20-1; State of Louisiana, *Journal of the Senate* (1876), 12-13.

<sup>65</sup> Filed on March 20, 1875. See State of Louisiana, *Report of the Senate Committee on Penitentiary to the Senate* (New Orleans: The Office of the Democrat, 1878), 8-9.

Both William Pitt Kellogg and Francis T. Nicholls instructed the attorney to drop the suit. One of the attorneys testified that, “At another time, [he] received instructions from the Governor, written, and from the Auditor not to press the suit, which was to recover the rent due under the contract from 1870, with interest, and also to rescind the contract.”<sup>66</sup> Distracted by the turbulence of Reconstruction, lured by the promise of sizable profits –possibly influenced by graft, and wary of assuming full responsibility for the administration of state prisoners, officials allowed James and his partners to gain the upper hand.<sup>67</sup>

The state Senate investigating committee explored this predicament in 1878. By that time, James owed back rent totaling \$56,000. Members exposed the leverage that the lessees lorded over the state of Louisiana and the men, women, and children it held captive. The state, having sold out its prisoners, no longer had the capacity to punish its increasing convict population independently. Cellular capacity, penitentiary workshops, and other prison facilities had not kept pace with the dramatic rise in the number of state convicts. Penitentiary books “show[ed] an increase in the number of convicts [by] 176 at the close of the past year, as compared with the number at the close of the year 1874.”<sup>68</sup> By the end of 1878, the lessees were in charge of 693 state convicts while ‘the walls’ at Baton Rouge contained only 498 cells.<sup>69</sup> H.C. Mitchell, chairman of the investigative committee, warned his peers that if the state abrogated the contract and “withdrew into the walls,” they would find “accommodations in the Penitentiary” to be “so limited that to work the convicts inside the walls” would be “utterly impossible.” He elaborated by suggesting that, “The state, then would be compelled to build

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<sup>66</sup> State of Louisiana, *Report of the Senate Committee on Penitentiary* (1878), 9.

<sup>67</sup> *Ibid.*, 8.

<sup>68</sup> *Ibid.*, 9, 12.

<sup>69</sup> State of Louisiana, *Report of the Senate Committee on Penitentiary* (1878), 12; Correctional Association of New York, *Annual Report of the Prison Association of New York and Accompanying Documents* (Albany: Argus Co., 1874), 94.

additional cell room, workshops, employ a number of guards, purchase a considerable amount of supplies...requiring an appropriation of at least \$50,000 to \$100,000 and an expenditure of more than double that amount before the convict labor can be made self-sustaining inside the walls.”<sup>70</sup> This opinion impressed the assembly. Admittedly beholden to the lessees, lawmakers passed “An act to provide for the amicable composition and settlement of the accounts existing between the State and the lessees of the Louisiana Penitentiary, and to secure the rents and to become due.”<sup>71</sup> It had been so named to describe its purpose.<sup>72</sup> An arbitration agreement sealed this “amicable...settlement” and discounted the firm’s debt, totaling over \$10,000.<sup>73</sup>

### ***‘Redemption’ and the Major’s Convict Empire***

Rapprochement led to greater impunity after 1878. As James expanded his personal empire with a convict workforce, “Bourbon Democrats” attempted to seize the state by the power of the purse and the barrel of a gun. They perpetrated election fraud, bribery, and corruption. They also incited political violence, anti-black racism and legal means to repress blacks and the whites who opposed them. After buying out the interests of his associates, Samuel L. James took full command of Louisiana’s state prisoners and subjected them to increasingly inhumane conditions. After paying back rent to the state, and with a friend in governor’s office,

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<sup>70</sup> State of Louisiana, *Report of the Senate Committee on Penitentiary* (1878), 13.

<sup>71</sup> State of Louisiana. *Acts Passed by the General Assembly of the State of Louisiana at the Second Session of the Fifth Legislature, Begun and Held in the City of New Orleans, January 7, 1878 and at the Extra Session, Convened at the City of New Orleans, March 8, 1878* (New Orleans: The Office of the Democrat, 1878), 222-24.

<sup>72</sup> State of Louisiana, *Report of the Senate Committee on Penitentiary* (1878), 13.

<sup>73</sup> State of Louisiana. *Official Journal of the Proceedings of the Senate of the State of Louisiana at the Regular Session Begun and Held in New Orleans, January 7, 1878* (New Orleans: The Office of the Democrat, 1878), 220-1. In order to secure payment, the act required that the lessees “furnish their promissory note, and a certificate of pledge to the New Orleans Pacific Railroad” and transfer it to the state. See also: State of Louisiana, *Acts* (1878), 222-24.

James employed prisoners during most of the 1880s with little to no restriction.<sup>74</sup> The intimacy of penitentiary management and legislative members, necessary to “prevent the enforcement of the law, which they violate in their method of money-making,” became so visible that those deeply involved were dubbed members of “The Penitentiary Ring.”<sup>75</sup> Yet, the liberties that James took with the lease during the decade did not go unchallenged. In the 1880s, legislative calls to restrict or revoke the lease ran up against the same kind of resistance encountered during the previous decade. In 1884, lawmakers sponsored yet another investigation. Lawmakers appointed a joint committee to report “at its earliest convenience the sanitary condition of the Penitentiary, the mode of punishment inflicted on the prisoners, and whether the convicts could be more profitably and humanely employed by the state than under the present lease system.”<sup>76</sup> The committee was also specifically directed to examine “the working of convicts outside of the walls of the Penitentiary, and if the lessees had complied with his lease.” Additionally, they called on the lessees themselves to “report to the House of Representatives within...five days, a list of the convicts who...died within the last two years.” The committee also demanded that the lessees show “the cause of such deaths, whether by violent overwork, or otherwise.”<sup>77</sup>

Governor, Samuel D. McEnery’s address to the Assembly in 1884 resonated with messages by previous administrations in 1875 and 1878. McEnery expressed the state’s impotence when faced with the threat of “having the prisoners thrown back on the state.” The governor stated,

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<sup>74</sup> James was known to be one of several prominent individuals who manipulated the governor, Samuel McEnery. See: Hair, *Bourbonism and Agrarian Protest*, 109.

<sup>75</sup> “Louisiana: The Congressional Contests,” *Chicago Daily Tribune*, September 22, 1882.

<sup>76</sup> State of Louisiana, *Official Journal of the Proceedings of the House of Representatives of the State of Louisiana at the Regular Session, Begun and Held in the City of Baton Rouge, May 12th, 1884* (Baton Rouge: Capitolian Advocate Printer, 1884), 216.

<sup>77</sup> State of Louisiana, *Journal of House* (1884), 203.

Caring for the convicts is a matter of serious consideration, and many embarrassing questions will arise. To place them in solitary confinement will require the building of two hundred and fifty additional cells and their safekeeping and maintenance will require one hundred and sixty thousand dollars per annum.

The governor also suggested that retooling prison industry presented more than just financial risk. He asserted that it carried with it its own contradictions. He said, “There will be an objection raised to this system by a large and influential class of citizens, who will recognize the fact that their skilled labor is brought into competition with convict labor.” The governor entertained an alternative to convict leasing intended to forestall capital outlays for penitentiary manufacturing, limit forced labor’s competition with free labor, and in so doing, return convicts to state custody. He said that,

It is a popular demand in the alluvial portions of the State to confine them to levee work, under the immediate authority of the State. This will require the convict force to be distributed along the line of levees at different points, and will require additional funds and means of transportation. The convicts can be employed in levee work only about five months of the year, and some means must be provided for their employment during the season when they are not on the levees.

The governor made it clear that this accommodation was also not without cost. He concluded that since the state was then just emerging from financial embarrassment and was “in no condition to experiment.”<sup>78</sup>

So strong was opposition to the lease in 1884, that some lawmakers were no longer satisfied with investigations and restrictions alone. Republican Senator Benjamin Ewell introduced the Parlange Bill to abolish the lease outright, return state prisoners to state administration, and employ the able-bodied on public works.<sup>79</sup> The bill failed to pass. The

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<sup>78</sup> State of Louisiana, “Message of the Governor,” in *Journal of the House* (1884), 13, 203.

<sup>79</sup> State of Louisiana, *Journal of House* (1884), 203.



Downing Bill of 1886 took up the cause again but with no more success.<sup>80</sup> Rumor and innuendo offered alternative explanations for the fecklessness of the McEnery administration in enforcing Louisiana law on the lessees. Critics called McEnery a “weak” governor. An unnamed individual said, “I hear it from one end of the state to the other that this poor weakling of a governor...is under the control and domination of Burke and some others.” Edward A. Burke, the state treasurer, entered into the exchange to clarify. He remarked publicly that “the ‘others’ included three powerful businessmen,” one of whom was “S. L. James, chief lessee of the state penitentiary convicts and a former large slaveholder.”<sup>81</sup>

With access to the increasing numbers of state convicts, James set up additional work camps for the growing number of prisoners. The Illinois Bureau of Statistics reported that Louisiana held 864 prisoners in 1885, more than double the number of inmates when James bought out the state contract [see Figure 5.1 and Table 5.1].<sup>82</sup> James strategically located them near towns, railroad lines, or plantations. But, expansion of this empire had unintended consequences. Common people witnessed the raw brutality of his regime and protest continued over convict labor competition. Newspaper reports channeled this opposition, magnified it, and reflected

the infamy associated with James and the post-emancipation lease system. In 1886, a newspaper in Clinton, Louisiana reported that under the care of the lessees, “men on works are brutally

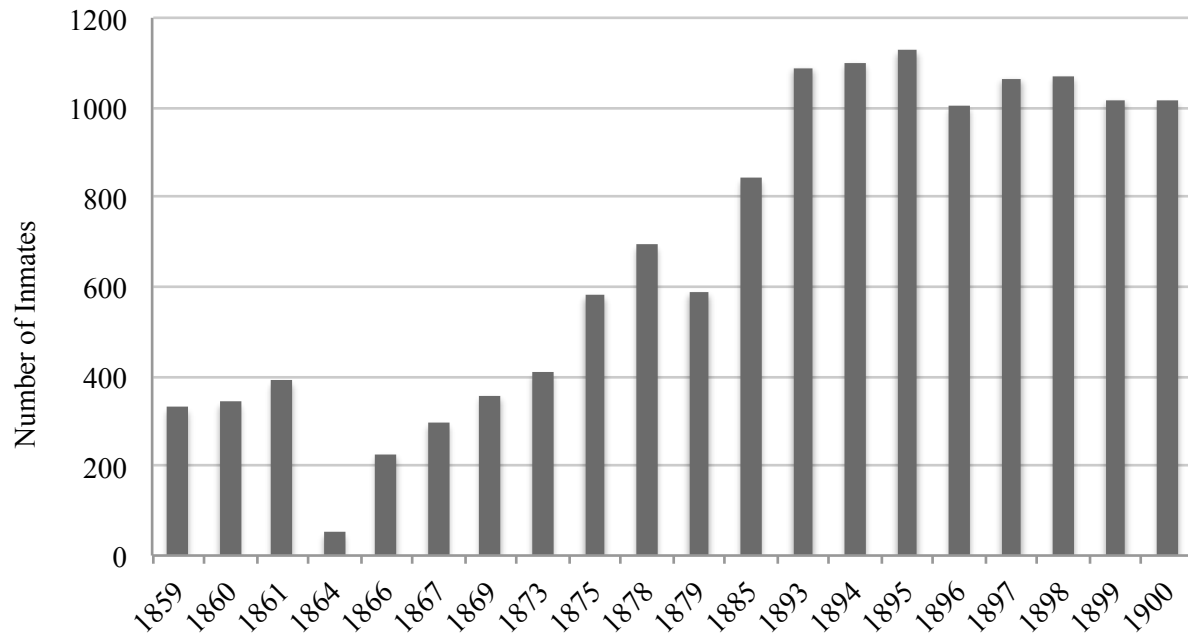
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<sup>80</sup> Carleton, *Politics and Punishment*, 52.

<sup>81</sup> Cowan and McGuire, *Louisiana Governors*, 124-5.

<sup>82</sup> State of Illinois, *Statistics of Convict Labor, Advanced Chapters from the 4th Biennial Report of the Bureau of Labor Statistics of the State of Illinois* (Springfield, Ill.: H.W. Rokker, 1886). As shown in Figure 5.1, the state increasingly sentenced more and more prisoners to Louisiana’s penitentiary; however, they failed to make appropriations for the growing convict populace and invest in the machinery or grounds at Baton Rouge.

**Figure 5.1**  
Inmate Population, 1859-1900,  
Louisiana State Penitentiary



Sources: 1859-1860: Derbes, *Prison Productions*, 28; 1864: State of Louisiana, *Journal of the House* (1864);182; 1866: State of Louisiana, *Report of the Board of Control* (1867), 60; 1867: State of Louisiana, *Report of the Board of Control* (1868), 111; 1869: State of Louisiana, "Message from the Governor," in *Journal of the House* (1870), 15; 1875: State of Louisiana, *Message of the Governor of Louisiana* (1876), 17; 1878: State of Louisiana, *Report of the Senate Committee on Penitentiary* (1878), 12; 1885: State of Illinois, *Statistics of Convict Labor*, (1886), 58; 1893-1895: State of Louisiana, *Report of the Board of Control* (1902), 10.

treated and everybody knows it." Pushed at a punishing pace, "They are worked, mostly in the swamps and plantations, from daylight to dark." It was understood that Major James did not spare the lash. The article stated, "Corporeal [sic] punishment is inflicted on the slightest provocation." In highlighting the degree to which these realities were commonly understood, the report stated that, "Anyone who has traveled along the lines of railroads that run through Louisiana's swamps...in which the levees are built, has seen these poor devils almost to their waists, delving in the black and noxious mud." Reflecting on the state's convicts, the article

**Table 5.1**  
Prison Population During Post-emancipation Lease Period, 1869-1900,  
Louisiana State Penitentiary

	Number of <u>Inmates</u>
1869	358
1873	409
1875	582
1878	693
1879	589
1885	841
1893	1090
1894	1100
1895	1127
1896	1001
1897	1066
1898	1070
1899	1017
1900	1014

*Sources:* 1869: State of Louisiana, *Journal of the House* (1870); 1873: Correctional Association of New York, *Annual Report* (1874), 94; 1875: State of Louisiana, *Message of the Governor of Louisiana* (1876), 17; 1878: State of Louisiana, *Report of the Senate Committee on Penitentiary to the Senate* (1878), 12; 1879: U.S. Bureau of Labor, *Eleventh Annual Report* (1880), 84; 1885: U.S. Bureau of Labor Statistics, "Convict Labor," (1896), 458; 1893-1894: State of Louisiana, *Report of the Board of Control*, (1902), 10; 1895: U.S. Bureau of Labor Statistics, "Convict Labor," (1896) 457; 1896-1900: State of Louisiana, *Report of the Board of Control*, (1902), 10.

concluded, "Theirs is a grievous lot a thousand times more grievous than the law ever contemplated [that] they should endure in the expiation of their sins."<sup>83</sup>

The *Daily Picayune*, a powerful New Orleans paper, reported these abuses and did its part to mold public opinion against the lease system. It frequently reported on the system's extreme brutality and exposed the extraordinarily high number of deaths and escapes that occurred under the command of Major James [see Table 5.2]<sup>84</sup> Public pressure and the power of the press led the House Committee on the Penitentiary to investigate charges of "brutality and

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<sup>83</sup> *Daily Picayune*, March 22, 1886; Hair, *Bourbonism and Agrarian Protest*, 129-33.

<sup>84</sup> *Daily Picayune*, June 11, 1882.

**Table 5.2**  
Number of Prisoner Escapes, 1866-1900,  
Louisiana State Penitentiary

	<u>Prison Population</u>	<u>Escapes</u>
1866	228	27
1885	841	39
1886	N/A	70
1893	1090	47
1894	1100	37
1895	1127	23
1896	1001	32
1897	1066	45
1898	1070	42
1899	1017	37
1900	1014	33

*Sources:* 1866: State of Louisiana, *Report of the Board of Control* (1867); 49, 60; 1885-6: "Louisiana Convicts." *St. Louis Globe-Democrat*, September 23, 1887; Louisiana State Penitentiary, *Report of the Board of Control* (1902); 10; 1893-1900: Louisiana State Penitentiary, *Report Made by HY L. Fuqua* (1918), 42. Note: this table only provides information for years in which information was available, it does not indicate that escapes did not mention during years that are not listed.

inhumanity against the lessees of the state prison.”<sup>85</sup> Conditions were found to be so atrocious that Louisiana’s experiments with convict leasing outside the penitentiary made national headlines. The *New York Times* reported in 1886 that “Theophile Chevalier, a negro convict” suffered exposure so extreme during the winter of 1884 and 1885 that his feet had to be cut off. Chevalier, who spoke “partly in French and partly in English,” had been sentenced to five years hard labor for stealing five dollars. He testified to conditions under the Major’s command as investigators interviewed him “at the hospital of the penitentiary.” Chevalier explained that, “some weeks after arriving at the penitentiary,” guards removed him to “the railroad camp at Crew Lake.” “His duties,” he testified, “were to wash clothes for the convicts working on the railroad.” The inmate stated that “the washing was done in the open air.” He complained to the

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<sup>85</sup> *New York Times*, May 22, 1886.

captain one day when “it was very cold” that “his feet felt chilly” and “he was too cold to wash” since he had no shoes. Although Chevalier wore “some old shoes” of his own when he went to the penitentiary, they “wore out” and the “penitentiary lessees never furnished him shoes.” In this regard, Chevalier indicated that he was not singled out but “treated like the other convicts.”<sup>86</sup>

The Captain responded to the inmate’s plea by commanding the man to “wash or be whipped.” Under threat, Chevalier said he returned to work but “soon fell down, and was taken” to the hospital “by some men.” He explained that “during the two days he was in the hospital before seeing the physician...one of his feet dropped off.” The other, hard and darkened, “was hanging by a muscle.” At that time, “a physician was sent from the penitentiary to the camp” as the county physicians nearby said “they did not have the tools to operate on his feet.” The penitentiary physician, with only rudimentary tools himself, “cut off that foot with his penknife.” Nothing remained of his foot since “it came off at the ankle joint.” Guards transported Chevalier back “to the penitentiary where both of his legs were amputated.” No longer useful at camp, he was kept within ‘the walls.’ There, he suffered insult, if not more injury, when keepers put him to work making boots.<sup>87</sup>

The *Daily Picayune* frequently aired prisoner abuse under the Major’s command during the 1880s. A man native to the South tried to make sense of these brutal conditions by comparing convict servitude to chattel slavery in 1883 at the National Conference of Charities. His statement captured the dehumanization associated with Louisiana’s convict lease system after the Civil War. The “Southern man” stated, “Before the war, we owned the negroes.” He hypothesized that “if a man had a good negro, he could afford to take care of him: if he was sick, get a doctor. He might even get gold plugs in his teeth.” He understood value in terms of

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<sup>86</sup> Ibid.

<sup>87</sup> *New York Times*, May 22, 1886; State of Louisiana, *Journal of the Senate* (1886), 399-400.

property when he said that with “these convicts: we don’t own ’em. One dies, get another.”<sup>88</sup> This comparison identified important structural differences between chattel slavery and convict servitude as it spoke to the greater dehumanization associated with the latter. It also diagnosed the peculiar relationship between Samuel L. James and Louisiana’s convicts.

In 1880, the Louisiana based *Southwestern Christian Advocate* published a critical report of the “inhuman slavery” practiced by the lessees of the state penitentiary. Ben Berkery, a convict in a work camp near St. Joseph was the subject of the article. After falling sick on the camp, Berkery was still ordered to work at clearing land while shackled to a ball and chain. He stopped working and laid down by a ditch, which prompted the penitentiary guards to “get a strap to punish him.” In response, Berkery mustered the strength to run towards a cornfield, at which point “the guards fired at him and he fell pierced through the back with a buckshot.” This particular case generated attention since the governor ordered an investigation of the convict’s death; however, the author of the article claimed that the majority of frequent reports of brutality were silenced as it was “not often the friends of a prisoner have sufficient influence to gain a public hearing.”<sup>89</sup> Press exposes did not arrest lessee abuses nor the profits amassed by them. For James and his partners, convict labor did not require capital investment, access to credit, or vast wealth, and provided little economic incentive to furnish subsistence beyond bare life.<sup>90</sup> This was compounded by the fact that Louisiana’s courts and magistrates provided James with a steady

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<sup>88</sup> Dan T. Carter, *Prisons, Politics and Business: The Convict Lease System in the Post-Civil War South* (MA Thesis: University of Wisconsin, Madison, 1964), 54-55; Jane Zimmerman, *Penal Systems and Penal Reforms in the South Since the Civil War* (PhD diss.: University of North Carolina at Chapel Hill, 1947), 93.

<sup>89</sup> “Brutality in Prison Camps,” *Southwestern Christian Advocate*, September 30, 1880.

<sup>90</sup> Wisner notes that previous regimes provided prisoners with three meals of good, plain, coarse fare. By comparison, she notes that James provided convicts under his charge with only two meals a day despite the fact that they were subject to backbreaking labor. See: Wisner, *Public Welfare Administration in Louisiana*, 157.

<sup>90</sup> Quoted in Carleton, *Politics and Punishment*, 21-2.

stream of new recruits at no additional cost. This convict empire demanded no apparent expense in recruitment, and required minimal administrative costs and low infrastructural investment since most prisoners were sub-contracted to third parties, worked as migrants lodged in rolling cages, at camps under guard, or at the Major's plantation lands. The fact that James closed his books to the state and was not subject to any systematic oversight further reduced his administrative costs and responsibilities. The scale of convict leasing under the command of Major James was largely unconstrained by cost since price was fixed by contract. Lessee monopoly on convict labor altered the delicate balance of power between the state, the prison's governing body, and private interests, resulting in an interdependency that undermined the state's ability to manage state convicts without Samuel L. James.

Lack of systematic financial reports makes it difficult to surmise the profitability of Louisiana's convict lease system. Yet, the perception of many contractors, state officials, and journalists during the 1870s and 1880s that the overall price of this system of forced labor was dramatically less than the cost of wageworkers was well founded. A sweeping report of convict labor issued by the United States Commissioner of Labor confirmed this insight in 1887. It stated that the *per diem* price of a prison worker was regionally variable but ranged from one-fifth to one-third the daily wage of a 'free' worker in the same industry, while the relative price of convict labor in the South was often even lower. According to the report, the price of convict labor for railroad and levee work in Louisiana cost one-twentieth the cost of wageworkers.<sup>91</sup> Thus, this system of forced labor extracted labor surpluses, and often, life and limb from the men, women, and children subject to the lease. Between 1870 and 1901, it is estimated that at least three thousand souls perished under lessee control. Few planters in the American South

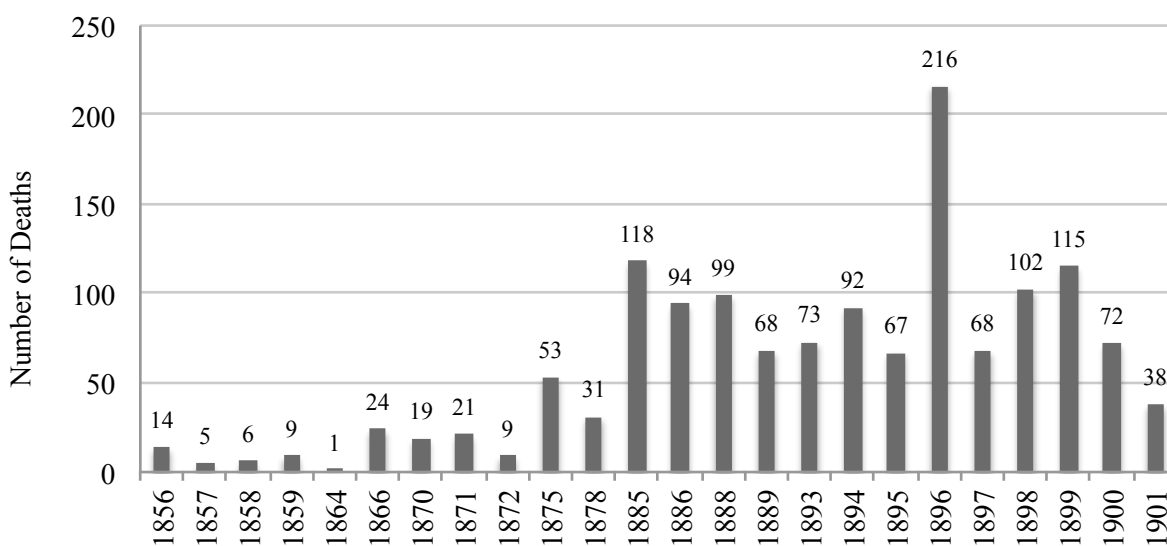
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<sup>91</sup> United States Bureau of Labor Statistics, *Second Annual Report of the Commissioner of Labor*, Second Edition (Washington: Government Printing Office, 1887), 200-2.

ever owned more than a thousand slaves and there is no record death rates that approach those which occurred under Samuel L. James's convict enterprise.

The degraded status of convicts, as a class, certainly contributed to the license extended to James in dispensing with his charges as he saw fit. In 1881, at least fourteen percent of prisoners died, and the death rate climbed higher to twenty percent the following year.<sup>92</sup> Between January and December of 1896, the convict death toll reached an all-time high of 216 inmates, and close to 800 inmates died in James' custody during last seven years of the lease [see Figure 5.2].<sup>93</sup> The death rate rose from six percent of the total population in 1895, peaked to just below

**Figure 5.2**  
Number of Recorded Inmate Deaths, 1856-1901,  
Louisiana State Penitentiary



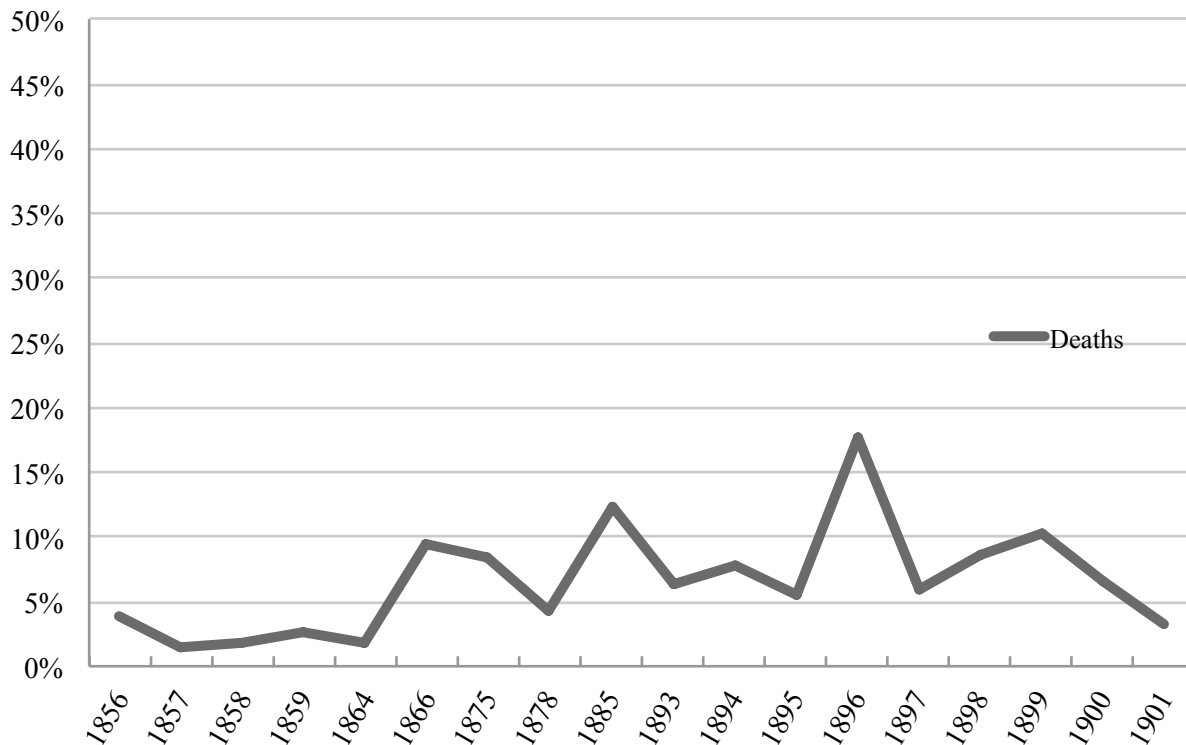
Sources: 1856: *The American Almanac* (1859), 299; 1857: "Cotton Manufacturers in the Louisiana Penitentiary." *New York Herald*, February 28, 1858; 1858: State of Louisiana, "Report of the Committee on the Penitentiary" (1859), 41; 1859: *The American Almanac* (1861), 285; 1864: State of Louisiana, *Journal of the House* (1864), 182; 1866: State of Louisiana, *Report of the Board of Control* (1867), 62; 1870-72, 1875, 1878, 1888-1901: State of Louisiana, *Report of the Board of Control* (1902), 10. Note: this table only provides information for years in which information was available, it does not indicate that deaths did not mention during years that are not listed.

<sup>92</sup> In 1882, the 149 of 700 prisoners died under the custody of James. See: Carleton, *Politics and Punishment*, 131.

<sup>93</sup> State of Louisiana, *Annual Report of the Louisiana State Penitentiary, Board of Control, Calendar Year 1901* (New Orleans: L. Graham Co., Ltd., 1902), 10.



**Figure 5.3**  
Inmate Deaths as a Percentage of Prison Population, 1856-1901,  
Louisiana State Penitentiary



*Sources:* 1856: *The American Almanac* (1859), 299; 1857: “Cotton Manufacturers in the Louisiana Penitentiary.” *New York Herald*, February 28, 1858; 1858: State of Louisiana, “Report of the Committee on the Penitentiary” (1859), 41; 1859: *The American Almanac* (1861), 285; 1864: State of Louisiana, *Journal of the House* (1864), 182; 1866: State of Louisiana, *Report of the Board of Control* (1867), 62; 1875: State of Louisiana, *Message of the Governor of Louisiana* (1876), 17; 1878: State of Louisiana, *Report of the Senate Committee on Penitentiary* (1878); 12; State of Louisiana, *Report of the Board of Control* (1902), 10; 1885: U.S. Bureau of Labor Statistics, “Convict Labor” (1896), 458; State of Louisiana, *Report of the Board of Control* (1902), 10; 1893-1901: State of Louisiana, *Report of the Board of Control* (1902), 10. Note: this table only provides information for years in which information was available, it does not indicate that deaths did not mention during years that are not listed.

twenty percent in 1896, and then fell back to a rate of at least ten percent during the remaining years of the lease [see Figure 5.3]. These statistics indicate that a seven-year sentence for an able-bodied man under the Major’s command was often equivalent to a death sentence.<sup>94</sup> This

<sup>94</sup> George W. Cable, “The Convict Lease System in the Southern States,” *Century Illustrated Monthly Magazine*, February 1884, 596-97; Hair, *Bourbonism and Agrarian Protest*, 131.

lethal penal system had strong but not uncontested support among state authorities from the beginning of Reconstruction to 1883.<sup>95</sup> The broad discretionary power that James held was not an example of ‘backwardness,’ a vestige of the *ancien régime* or colonial rule, or a legacy of slavery. Rather it was a fully ‘modern’ system, economically rationalized and calculated for maximal surpluses, convict control, and paradoxically, individual interest.

### *Angola in America*

As large planters in Louisiana struggled to rebuild their plantations during the 1880s, James extended his personal holdings to more effectively employ the steady stream of convicts supplied to him by Louisiana’s justice system. James and his partner purchased seven plantations in West Feliciana parish in 1880, located on the eastern bank of the Mississippi River about sixty miles north of the penitentiary.<sup>96</sup> James gained sole ownership of three of the plantations when his partnership dissolved in 1882. His purchase consolidated the three holdings under the name, “Angola,” the largest and most valuable of the three plantations. Located in the northwest corner of West Feliciana Parish, between the Mississippi River at the confluence of the Red River, the plantation “could only be reached by steamboat.” The river’s oxbow bend enclosed Angola on three sides while the snake infested, Tunica Hills closed in its backside. No walls or gothic fortifications marked the internment of convicts at Angola. Natural and man-made levee banks, the flow of the Mississippi, and the steep and rugged terrain which was uninhabited and densely forested, encircled the land.<sup>97</sup> These natural features did not invite escape.<sup>98</sup> Directly across from

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<sup>95</sup> Carleton, *Politics and Punishment*, 83-4.

<sup>96</sup> Court records show that Adelia Hayes sold Angola plantation to James on December 22, 1880 for \$100,000 payable in a series of notes. The other neighboring plantations were: Bellevue, Panola, Monrovia, Lake Killarney, Lochloman, and Loango. See: Foster, Rideau, and Dennis, *The Wall Is Strong*, 2. Another source indicates that he purchased lands with a partner named Louis Trager. See also: Kelley, et al., *Archaeological Data Recovery at Angola Plantation*, 88.

<sup>97</sup> Kelley, et al., *Archaeological Data Recovery at Angola Plantation*, 11, 95.

the mouth of the Red River, the property boasted over nine miles of riverfront, which curved back upon itself in the shape of a “horseshoe.” A reminder of the river’s old path, an ox-bow lake of considerable depth and one-half mile in width added to the value of the operation [see Figure 5.4].<sup>99</sup>

Even before James purchased the land, it had been a place confinement for some of Louisiana’s prisoners.<sup>100</sup> James and an associate had leased 8,500 acres of the alluvial plain and moved convicts there by steamboat.<sup>101</sup> Some of the convicts stayed on the plantation while the lessees staged others on the estate awaiting transfer to other work sites in the area.<sup>102</sup> James moved himself, his family, and also the some of the inmates in his custody into existing buildings. The Major employed convict labor and tenant farming simultaneously but put convicts to tasks that renters refused to do. Remnants of the Old South punctuated the landscape. The big house, the overseer’s house, and other buildings were still standing in 1882 and 1883 and spoke to the enormous wealth generated from the rich bottomland, the sweat of slaves, and the international demand for cotton.<sup>103</sup> James did not segregate himself or his family from those he employed on the plantation. The family moved into the plantation’s big house while state prisoners were housed at the sugarhouse nearby as well as in quarters built for tenants. Convict leasing was a family affair. The Major’s son, and future holder of the lease, Law James, occupied

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<sup>98</sup> “Convict System Changed in the South: Negro Prisoners No Longer Leased Out to Work for Levee Contractors,” *Chicago Daily Tribune*, August 3, 1901.

<sup>99</sup> Louisiana State Penitentiary, *Annual Report* (1902), 18-24.

<sup>100</sup> James obtained ownership of Angola, Bellevue, and Loango Plantations as his partnership of Trager and James dissolved in 1882. Trager kept Panola, Monrovia, Lake Killarney, and Lochlomand plantations. His former partner Trager maintained certain rights of use and the stock was divided between the two parties. See: Carleton, *Politics and Punishment*, 109; Kelley et al., *Archaeological Data Recovery at Angola Plantation*, 95.

<sup>101</sup> Kelley et al., *Archaeological Data Recovery at Angola Plantation*, 95

<sup>102</sup> Major James leased Angola from Adelia Hayes Franklin, Acklen. Foster suggests that James purchased the plantation from Adelia Hayes on December 22, 1880 for \$100,000, payable in a series of notes. See: Foster, Rideau, and Dennis, *The Wall Is Strong*, 7.

<sup>103</sup> Kelley et al., *Archaeological Data Recovery at Angola Plantation*, 95.

**Figure 5.4**  
Photograph of Lake Killarney,  
Angola Plantation



State Library of Louisiana, Baton Rouge, La. (file no. [hp009053](#)) Courtesy of Special Collections, State Library of Louisiana.

the overseer's house with his wife and worked for his father as the plantation's manager.<sup>104</sup>

While the James family spent hot months in the North and travelled frequently to Europe, they also maintained a residence in New Orleans.<sup>105</sup> Regular travel along the Mississippi was easy since James owned a steamship, the *T.J. Sparks*. The family was comfortably appointed in the steamer's upper cabin. But, the craft served a dual purpose. It was routinely used to transport state prisoners to and from levee construction work sites as well as to and from other plantation land owned or rented by James.<sup>106</sup>

The levee contractor's success in agriculture was exceptional. Most planters in the West Feliciana Parishes after the war were "Northern carpetbaggers," who were, in many cases, the only planters with the means to run plantations. Louisiana planters who had suffered enormous financial loss, infrastructure collapse, and lack of access to credit and capital, relied on the sharecropping system, whereby tenants were typically provided with tools, work, animals, seed, and makeshift outbuildings associated with each tenant house. While the system that emerged during Reconstruction represented accommodation between ex-slaves and planters, overtime, white sharecroppers outnumbered black tenants in the South. West Feliciana Parish, however, did not experience increases in the number of small farms which exemplified the post-emancipation South. Instead, plantations in the parish, backed by Northern capital, experienced

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<sup>104</sup> Samuel L. James and his wife Emma James had three children. Samuel L. James, Jr. who was known as "Law James," Ella Marie, later Mrs. George T. Ivy of New Orleans, and a second daughter, later Mrs. William T. Howard of St. Paul, Minnesota. See: Kelley et al., *Archaeological Data Recovery at Angola Plantation*, 97.

<sup>105</sup> Their residence was at Prytania and first Streets in the garden District. When the house was eventually sold, they retained an apartment in the Penn Flats on Lafayette Square and South Street. See: Kelley et al., *Archaeological Data Recovery at Angola Plantation*, 95.

<sup>106</sup> By 1886, "S.L. James, Contractor," was the name for the Major's various business enterprises. In addition to his the plantation lands he acquired in West Feliciana Parish, he owned a cotton plantation in Tensas Parish and operated a sugar plantation called Lagona in St. Mary Parish. See: Kelley et al., *Archaeological Data Recovery at Angola Plantation*, 95.

increasing concentration after Reconstruction.<sup>107</sup> Cotton remained the primary cash crop while sugar declined after 1871 as prices were high and investment and transportation costs were comparatively lower. Planters frequently opted for cotton cultivation over sugar cane agriculture when labor was scarce and expensive.<sup>108</sup> Reliance on cotton as a staple in the Felicianas, however, resulted in overproduction, dramatic drops in cotton prices, and the degradation and erosion of soils.<sup>109</sup> Yet, the growing number of convicts at the Major's disposal allowed him to maximize investments in land and in implements in ways not available to his peers and competitors.

The muddy waters of the Mississippi did not wash away signs of the prison farm's turbulent past. It retained vestiges of the slave system and the patrician class. But, the plantation also marked Africa's strong presence in America. Angola or "Angora" as it was "called in the early days," took its name from the enslaved men, women, and children who generated vast fortunes for slaveholders. Angola was a general ethnic designation for peoples and a region located in West Central Africa, one marked by a "fundamental unity amid diversity."<sup>110</sup> The place-name marked the presence of a specific African regional culture and ethnic group which indelibly shaped life in Louisiana, especially during the late eighteenth and nineteenth centuries.

The transatlantic slave trade brought Angolans in force as slaves to Louisiana as the sugar

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<sup>107</sup> Taylor, *Louisiana Reconstructed*, 375-377.

<sup>108</sup> In 1875, the Felicianas produced 5.6 percent of the state's cotton on less than three percent of the state's area. Production per acre was lower than some of the alluvial parishes along the Mississippi River north of the Red River, since Feliciana lands, long used for such cultivation, had been depleted. Concordia Parish produced 365 pounds per acre in 1875 while the Felicianas produced only a little over 200 pounds per acre. See: Kelley et al., *Archaeological Data Recovery at Angola Plantation*, 40; Taylor, *Louisiana Reconstructed*, 375-377.

<sup>109</sup> Kelley et al., *Archaeological Data Recovery at Angola Plantation*, 40; Taylor, *Louisiana Reconstructed*, 40.

<sup>110</sup> British Traders in Africa referred to all of West Central Africa as "Angola" and English documents in the Americas tended to list all West Central Africans by the same designation. Gwendolyn Midlo Hall, *Slavery and African Ethnicities in the Americas: Restoring the Links* (Chapel Hill: University of North Carolina Press, 2005), 172.

industry experienced dramatic growth during the first part of the nineteenth century. Slaves from this identity group were concentrated in the sugar industry in Orleans and St. Charles parishes, but the African place-name for the state's penal farm suggests that they were also clustered in the Lower Mississippi Alluvial Valley.<sup>111</sup>

The African name was not exceptional in the region. A sister plantation consolidated by James into Angola, called "Loango," also linked West Central Africa to the Delta region.<sup>112</sup>

Although Loango as a place-name fell out of usage, its association endured. These names were suggestive of the presence of an Africanized slave culture in the area, and likely, a "clustering" of West Central Africans in the vicinity during the nineteenth century.<sup>113</sup> Historian Gwendolyn Midlo Hall has demonstrated that such ethnic descriptors are not superfluous since the use of African ethnic markers of identity "provide key evidence linking Africans in Africa with

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<sup>111</sup> Hall, *Slavery and African Ethnicities in the Americas*, 168; Kelley et al., *Archaeological Data Recovery at Angola Plantation*, 11-20.

<sup>112</sup> The plantation was a parcel of land which had been disaggregated from Angola. It consisted of 117.36 acres adjacent to Angola but positioned to its south and west. An inventory of the property made in the mid-1800s includes buildings, farm implements, cattle, and slaves. Angola was the term for a coastal region in West Central Africa and a primary source of slaves by the eighteenth century. The shipment of enslaved Africans from this coast escalated during the late eighteenth and the first half of the nineteenth century. See: Kelley et al., *Archaeological Data Recovery at Angola Plantation*, 68; Hall, *Slavery and African Ethnicities in the Americas*, 65.

<sup>113</sup> This imprinting of Angola's presence in America signaled a dynamic process of culture formation in the region, one where slaves from Greater Senegambia and from the Bight of Benin predominated through the 1820s. There are a number of general characteristics that can be deduced regarding the presence of Angolans in this part of America. Many were smuggled, disproportionately male, with fewer family ties was the case with other ethnic groups. Many of the men were ruptured from heavy lifting after intense gang labor in the sugar industry. West Central Africans were accustomed to matrilineal patterns of descent and patrilocal residence patterns while marriage was typically exogamous which extended the influence of kinship networks or lineages far and wide. Central authority was limited by social structures but also by the country. They lived in a region marked by high cultivable plains watered by streams that cut deep ridgelines into the steep mountains and hill tops as they descended down ravines to Africa's central Atlantic coast. Angolans brought the Americas many skills developed in their homelands. There were largely agriculturalists but also were skilled in mining, metallurgy, ceramic and textile production, as well as hunting and fishing. See: Hall, *Slavery and African Ethnicities in the Americas*, 65.

Africans in the Americas.”<sup>114</sup> The historical record reflects usage of these place-names since the 1840s. These lands were treated as “absentee properties” and reflected overwhelming black majorities during the rest of the nineteenth century.<sup>115</sup> Adelia Franklin Acklen controlled the property during the second and third quarters of the nineteenth century. Her husband, Isaac, who expanded the cotton plantation, earned distinction as one of the Delta region’s greatest slave traders and managed a network of slave pens, which traversed the Atlantic coast to the Mississippi river. The mistress and her second husband tripled her wealth by working slaves at Angola.<sup>116</sup> By 1860, Adelia Franklin Acklen distinguished herself as the wealthiest women in the South. Yet, the wealthy planters who dominated the official transcript did not completely repress Angola’s presence in the northwest corner of West Feliciana parish. The place-name invoked a dynamic, Africanized culture formation inflected by West Central African life-ways and transatlantic circuits of exchange.

The lessees benefited from Angola’s strategic position on the Mississippi river. The estate gave them ready access to regional and international markets, to the penitentiary at Baton Rouge, and to convict levee camps. Upon state acquisition, it was well equipped to serve as a prison farm. Authorities counted at least forty-five two-room cabins, three three-room cabins, twenty-three four-room cabins, and thirty other buildings, including three manor houses at Angola [see Figures 5.5-5.7]. Structures were available for housing seed cotton and corn. There were four large barns and stables, the old sugar house dating back to the early 1840s, and what appeared to be an old gin house that had been converted into a barn. There was also a warehouse at the plantation’s landing on the river [see Figure 5.8]. The estate included a state-of-the-art

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<sup>114</sup> Ibid., 166.

<sup>115</sup> Notary and estate records show the place-names. See: Kelley et al., *Archaeological Data Recovery at Angola Plantation*, 38, 66.

<sup>116</sup> Foster, et al., *The Wall Is Strong*, 7.



**Figure 5.5**  
Photograph of Brick Barn,  
Angola Plantation



Henry L. Fuqua, Jr. Lytle Photograph Collection and Papers, Mss. 1898, Louisiana and Lower Mississippi Valley Collections, LSU Libraries, Baton Rouge, La. (Image ID 1898\_020). Courtesy of Special Collections, Louisiana State University Library.

**Figure 5.6**  
Photograph of Cotton Gin,  
Angola Plantation



*Source:* Henry L. Fuqua, Jr. Lytle Photograph Collection and Papers, Mss. 1898, Louisiana and Lower Mississippi Valley Collections, LSU Libraries, Baton Rouge, La. (Image ID1898\_019). Courtesy of Special Collections, Louisiana State University Library.

**Figure 5.7**  
Photograph of Blacksmith Shop,  
Angola Plantation



State Library of Louisiana Historic Photograph Collection, State Library of Louisiana, Baton Rouge, La. (file no. [hp009062](#)). Courtesy of Special Collections, State Library of Louisiana.

**Figure 5.8**  
Photograph of Warehouse and River Landing,  
Angola Plantation



State Library of Louisiana Historic Photograph Collection, State Library of Louisiana, Baton Rouge, La. (file no. hp009060). Courtesy of Special Collections, State Library of Louisiana.

steam plant, which was one of the largest in the state. Fencing, levees, and drainage systems also indicated the enormity of agricultural enterprise at Angola. Fencing spanned about seventeen miles of the vast floodplain. Levee construction and continuous maintenance was fundamental to production as well as survival, and its costs were substantial. Access to forced labor encouraged development of the floodplain for intensive cash cropping under the slave system, the lease, and would persist under different management throughout the twentieth century.<sup>117</sup>

Most of the slave quarters at Angola had disappeared by 1882. New housing with a different spatial configuration punctuated Angola's landscape and testified to the ascendancy of the New South's cotton economy, structured by tenancy and the crop-lien system. Shifts in settlement patterns at the plantation resulted from the reorganization of plantation labor, rather than one related to a different crop regime. Surveys indicate that by 1882, the northern most complex of structures had been wholly altered. Most obviously, the slave quarters that had been situated in double rows were removed by 1883 and replaced with a single row of cabins east of the big house. Archaeologists who studied the plantation have suggested that these structures represented housing for tenant farmers. The big house and its grounds recalled the affluence of the patrician class of the Old South. The residence was humble compared to the fifty-room estate Adelia Franklin Acklen had planned for Angola. It reflected Angola's status as an "absentee property" but, nevertheless, conformed to the standards of a prosperous Southern cotton plantation home.<sup>118</sup> The residence commanded the alluvial plain facing the river atop the highest

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<sup>117</sup> Prior to levee construction, drainage was sluggish, but when it flooded almost the entire alluvial valley was immersed in backwater. State of Louisiana, *Annual Report of the Board of Control* (1902), 18-24.

<sup>118</sup> The main residence was constructed by Adelia and Isaac Franklin in the 1840s. They were extremely wealthy. Their principal residence was 'Fairview' in Galatin, Tennessee. To them, Angola was an investment enterprise. Kelley, et al., *Archaeological Data Recovery at Angola Plantation*, 98, 330, 328; John Michael Vlach, *Back of the Big House: The Architecture of Plantation Slavery* (Chapel Hill: University of North Carolina Press, 1993).

and best-drained levee land and stood conspicuously for anyone traveling along the river to see. The manor's grand-styling, spatial orientation, and symmetry meant to convey the stature and control of the planter class.<sup>119</sup> Angola's big house was a two-and-a-half story wood-framed structure, double-decked with galleries on three sides and on both stories. Brick piers elevated the nine-bedroom manor which supported one central and two gable end brick chimneys. The main house stood in the middle of a large yard shaded by oak trees with pecan and fig trees in the backyard [see Figure 5.9]. The oaks were remnants of the vast hardwood forest that had been cleared from bottomland during the eighteenth and nineteenth centuries.<sup>120</sup>

The many outbuildings were arranged with an uncanny symmetry. They were physical expressions of the plantation's wealth, and conformed to a "plantation ideal" to which most nineteenth century large-scale agricultural enterprises subscribed.<sup>121</sup> The placement of outlying structures accentuated the position of the big house, conveying a sense of order and control, which signified planter power and concentrated activity around the big house under the surveillance of the planter. The nucleated plantation ideal had materialized at Angola as early as the 1840s as a carceral space tailor-made for the slave-system.<sup>122</sup> Under slavery, the plantation's spatial regime, its absentee owners, its overwhelming black majority, the collective nature of slave life, and the likely "clustering" of this pattern in the region signified the Africanization of

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<sup>119</sup> The big house complex was unique since outbuildings were in perfect alignment with the main house, as were the cisterns. See: Kelley, et al., *Archaeological Data Recovery at Angola Plantation*, 98, 328; Vlach, *Back of the Big House*, 44.

<sup>120</sup> Kelley, et al., *Archaeological Data Recovery at Angola Plantation*, 328.

<sup>121</sup> All structures in the complex of the Big House, including the underground cisterns, were so carefully arranged that they were in complete alignment with one another. See: Kelley, et al., *Archaeological Data Recovery at Angola Plantation*, 328; Vlach, *Back of the Big House*, 43.

<sup>122</sup> Vlach discusses variations in the built landscapes of antebellum plantations according to particular geographies and crop emphasis, but maintains that general similarities prevailed like the clustering of buildings around the big house. See: Kelley, et al., *Archaeological Data Recovery at Angola Plantation*, 328; Vlach, *Back of the Big House*; 46.

**Figure 5.9**  
Big House on the Plantation Grounds,  
Angola Plantation



State Library of Louisiana Historic Photograph Collection, State Library of Louisiana, Baton Rouge, La. (file no. [hp009056](#)). Courtesy of Special Collections, State Library of Louisiana.

life on this alluvial plain. The fragment of a cowrie shell found over one-hundred years later similarly suggested the play of non-European values and practices, means of exchange, and social power that likely remained as the lessees transformed the former slave plantation into a prison farm. The post-Civil War employee settlement patterns at Angola represented a shift away from the nucleated, planter-dominated, panopticon-like configuration associated with the residences of the planter and overseer.

The new pattern likely emerged under the command of Samuel L. James and reflected the greater autonomy sharecroppers demanded. The new terms of labor, however, provided employers, like James, with means to compel rents from tenants who had likely been slaves. Enforcement of contract, economic penalties, the crop-lien system, the plantation store, and even criminalization, allowed planters to reduce overt supervision since they could resort to civil and criminal penalties to enforce prerogatives. Employers, nevertheless, continued to rely on illegal measures like intimidation, assault, rape, and even lethal violence to assert power over ex-slaves and other agricultural workers in the skirmishes that continued to inflame the countryside even after the political defeat of Populism.<sup>123</sup> Yet, changes in settlement patterns, the shift to extensive farming and decentralized tenant settlements, the presence of overwhelming black majorities, and the employment of convicts at tasks sharecroppers refused to undertake were expressions of the forcefulness of plantation workers at Angola in their struggle to survive despite their lack of access to land, capital, and the surplus of their own labor.

Cecile Shilstone, a granddaughter of Samuel L. James who grew up at Angola, knew most of the plantation's agricultural workers to be sharecroppers who paid rent for their land and

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<sup>123</sup> Hair, *Bourbonism and Agrarian Protest*; LeeAnna Keith, *The Colfax Massacre: The Untold Story of Black Power, White Terror, and the Death of Reconstruction* (New York: Oxford University Press, 2009); Vandal, *The New Orleans Riot of 1866*; Gilles Vandal, *Rethinking Southern Violence: Homicides in Post-Civil War Louisiana, 1866-1884* (Columbus: Ohio State University Press, 2000).



homes with a share of the crop. She indicated that tenant families who resided on the plantation owned two mules, typically purchased goods on time from the James family, and had a cow, pigs, chickens, and a garden plot. She remarked that some tenants owned their own wagons. They were valued for their production and for their consumption since they bought groceries, clothes, and other supplies at the two plantation stores on credit to be deducted from their share of the crop. Shilstone credited her family with establishing churches for the tenants. She also acknowledged the operation of a unique labor system on the estate, recalling that convicts lived and worked in proximity to her residence at the big house. Convicts served as agricultural laborers, as house servants, and they fraternized with Angola's sharecroppers. She noted that there was a convict camp for a few men and women near her family's residence and disclosed that most of the prisoners housed there were women who worked as field hands or as servants for her family. Shilstone explained that "convict men and women at Angola were worked in gangs in the field with always a guard watching."

Yet, some of the female prisoners served the household. Shilstone remembered that her parents entrusted the care of her younger sister to a female prisoner convicted of murder. With irony, she recounted that the family viewed the nurse's criminal condition as an asset rather than a liability. Shilstone wrote that her father, Law James –the Major's son, "always chose the murderer in preference to thieves to act as servants." Her father reasoned that, "A thief is a sneak and not to be trusted in one's house...whereas, a murder is hot-headed, commit[s] a crime which he is usually sorry for later and will not do so again." In her father's view, the "thief," unlike the murder, "is apt to steal again." She cautioned that convicts "were trustees, and had to be handled with diplomacy." Although Shilstone did not elaborate on what this delicacy in management

actually meant, she did suggest that, “When a servant was not competent, she was not scolded—only another was sent from camp to fill her place the next day.”<sup>124</sup>

Shilstone did not indicate the scale of the convict labor system at Angola; however, a large contingent of convicts lived and worked at on the plantation. A legislative investigation triggered by the movement to abolish the lease in 1894 provided a rare but brief glimpse into prisoner conditions at Angola before the state transfer. Investigators counted 125 prisoners at Angola, comprised of eighty-four men and forty women. Not all prisoners were in good health. They found “two seriously sick and two convalescent,” while “two had died the last month, two in March” and two more since then. In their view, cell rooms and the hospital were inadequate. Investigators asserted, “The cell room is too small and uncomfortable, and the hospital which is annexed to the cell room, ought to be removed to some other location—even from the yard.” Investigators identified prisoners by a two-tiered racial scheme. From this viewpoint, they determined that “the colored convicts seem to be thoroughly contented, but the white men apparently dejected.” They also reported favorably that the “convicts [spoke] in terms of affection of Capt., J.Z. Row,” and determined that “treatment was good.” Given this evaluation, they recommended only that the lessee improve the hospital and the cell rooms at Angola.<sup>125</sup> Official investigators may not have seen beyond the ‘public transcript’ or performances of deference commonly enacted in conditions of such domination.<sup>126</sup>

Despite periodic challenges by legislators, the Confederate war major commanded state prisoners autonomously and under increasingly dehumanized conditions until his death in 1894.

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<sup>124</sup> Kelley, et al., *Archaeological Data Recovery at Angola Plantation*, 98, 330, 328.

<sup>125</sup> State of Louisiana, *Official Journal of the Proceedings of the House of Representatives of the State of Louisiana* (Baton Rouge: n.p., 1894), 826.

<sup>126</sup> Scott, *Domination and the Arts of Resistance*.

The Major's rule over them came to an end on July 26, 1894.<sup>127</sup> His death was sudden and unexpected. Newspapers reported on his passing with little sympathy and in lurid detail. They reported that James "was sitting on the gallery" of the big house at Angola "conversing with his family when he was taken with a smothering sensation." The journalist left little to the imagination in writing that the family witnessed him step to the railing and "attempt to vomit." But instead, "blood gushed from his mouth and nose." He was dead within twenty minutes. While the Major's death was attributed to "Bright's Disease," his physician felt that James's "heart was affected by sympathy."<sup>128</sup> James was praised in death by family, friends, and ministers. His body was laid out in the big house in a ritual of death where sharecroppers paid their respects before James took a last trip downriver on the family steamboat to New Orleans where he was honored by New Orleans's elite.<sup>129</sup>

The *Daily Picayune* printed an effusive memorial in his honor. The romantic portrait created a mythic image of James as a paragon of paternalism. It made known that, "Thursday evening...a life, resplendent with all that was noble, good, and true, passed away into the shadows of death." Absent the shocking realism and dispassionate tone of the article describing the Major's last moments, the memorial announced that "Samuel Lawrence James is no more." Emphasizing the suddenness of his death, the passage stated that so "quick came the call of the dark angel" that it "scarce [left] time to speak the word 'farewell.'" It verified the location of his demise when it reported that James met his maker "amidst the scenes he had loved best of earth." The "scenes" were of "'Angola,' his plantation home, where the skies are so blue and nature so

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<sup>127</sup> James was reported to be sixty years old upon death. See: *Daily Picayune*, July 29, 1894.

<sup>128</sup> *Times-Democrat*, July 28, 1894.

<sup>129</sup> Upon his death, James was president of the prestigious Pickwick Club of New Orleans and a member of the Patriotic Sons and Daughters of the Revolution. See: Carleton, *Politics and Punishment*; Kelley, et al., *Archaeological Data Recovery at Angola Plantation*, 98.

beautiful.” While the memorial asserted the African imprint on the lands to which James staked claim, it did not reconcile his relationship to it. The details of his private enterprise remained elusive. It was said that with the passing of this “singularly sagacious man of business” the “poor have lost their friend; the humble and needy, the orphan, the widow, all weep for the help and sympathy which he shall give no more; cold, in thy icy clasp, is the hand that has wiped out so much of human misery.”<sup>130</sup> Even these vainglorious depictions which informed the official archive implied that “the hand” had not extended to the civilly dead.

The convict empire did not immediately fall after the Major’s death. Succession had been preordained. Samuel L. James, Jr., known as “Law James,” had been groomed to exercise Louisiana’s lease and employ its captive souls.<sup>131</sup> He inherited his father’s estate, which was valued at 2.3 million dollars, a colossal sum in his own day.<sup>132</sup> The Major’s son continued the super-exploitation facilitated by the lease, which had allowed his father to launch himself into a position of status among the planter elite over a relatively short period of time. Well-trained in the family enterprise, Law James had worked under his father as the plantation manager of Angola since 1866. Succession was complete when he and his family moved from the overseer’s residence to the big house at Angola. After 1894, the Major’s son took personal control of the lease and command of state prisoners.

### ***The Dissolution of Louisiana’s Convict Lease System***

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<sup>130</sup> *Daily Picayune*, July 29, 1894.

<sup>131</sup> By 1900, Law and his sister Ella Marie owned all the stock in an entity called the West Feliciana Land Company, Ltd. while Law served as president of the firm. See: Kelley, et al., *Archaeological Data Recovery at Angola Plantation*, 98.

<sup>132</sup> Probate records included by Kelley, et al. demonstrate that James left personal property which included hundreds of shares of stock, 154 horses and mules, household and kitchen furniture, three buggies, plantation implements, and the steamboat *T.G. Sparks*. Also inventoried but not appraised was the ten-year lease for the state penitentiary due to expire. His property, however, was heavily mortgaged. See: Carleton, *Politics and Punishment*, 109; Kelley, et al., *Archaeological Data Recovery at Angola Plantation*, 98.

Louisiana's post-emancipation convict lease system persisted for over three decades but did not last for a fourth. Before it perished, the system came under increasing fire. The national and local press contributed to the downfall of Louisiana's experiment with contract convict servitude. An article that appeared in the *New York Times* recapped its evolution and underscored the dangers it posed. It recalled two problems: first, that "the penitentiary lessees became a power in the land molding legislation at their will;" and second, that "once outside the walls [convicts] were never put back."<sup>133</sup> Thus, the article indicated that the private leasing of the growing convict population outside of the penitentiary led state officials into a cul-de-sac from which there was no easy exit. Dependent on the lessee, the state lost the practical ability to provide custodial confinement for its own wards. This crisis of imprisonment led to the state's unwillingness to hold the lessees to the letter of the law.

The article also reported on allowances extended to the lessees to work prisoners when it asserted that, "The legislature gave them exclusive privilege to fill levee contracts at figures higher than the market price of free labor and when times are dull the convicts have been sold to planters for work in the cotton fields." The reporter noted that the lessees had not been held to a process of competitive bidding for federally funded projects when they secured a contract to build the Morganza levee. It reported, "Convicts are now at work rebuilding the Morganza levee, although the contractors were not the lowest bidders." The article revealed that, the lessees were "to receive the \$40,000 set apart by the River Commission under the act of Congress for this work." The newspaper was of the opinion that "this [was] perhaps the first case on record of [an] open violation of the established sentiment of the army against employing convicts in competition with free labor." The news report also indicted the lessees for "formulating a scheme

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<sup>133</sup> "Convict Labor in Louisiana," *The New York Times*, October 31, 1886.

to turn over his lease to a syndicate of New-York capitalists, with a view to cheapening the production of cotton by a systematic rivalry of slave [convict] against free labor on Louisiana plantations.” On this account, however, the article reported that Louisiana’s Governor Samuel McEnery took a stand. It reported that the governor, wearied of scandal and fearful of the arrangement’s political ramifications, “served notice” on “Col. James that his plan [would not] be carried out,” that the governor “[would] not allow the transfer of the penitentiary and other convicts under a sublease to New-York capitalists, and that if any attempt [was] made to consummate the lease he [would] at once take charge of the penitentiary in the name of the State.” It was the opinion of the paper that “Governor McEnery’s action “was sagacious, as the competition of convict labor with free labor on Louisiana plantations promised to enter very largely into the next campaign in this State.”<sup>134</sup>

The *New York Times* report was prescient. The abrogation of the lease became a flashpoint for debate in subsequent elections.<sup>135</sup> From 1884 until 1890, legislators introduced bills to abolish the convict lease system in every biennial session of the General Assembly.<sup>136</sup> With the lease set to expire in 1891, the legislature considered two courses of action: first, to let the lease run out and resume control of state prisoners; and second, to continue the system and entertain competing offers.<sup>137</sup> When lawmakers opted for the latter, a bidding war ensued and the Senate became a virtual “auction mart.” James established the floor with a bid of \$25,000 for a term of ten years.<sup>138</sup> Senator William Robson, an “extensive levee contractor” from Caddo parish

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<sup>134</sup> *The New York Times*, November 1, 1886.

<sup>135</sup> Wisner, *Public Welfare Administration in Louisiana*, 160; State of Louisiana, *Journal of the Senate* (1886), 299-400.

<sup>136</sup> Carleton, *Politics and Punishment*, 39.

<sup>137</sup> State of Louisiana, *Official Journal of the Proceedings of the Senate of the State of Louisiana* (Baton Rouge: *n.p.*, 1890), 5-6.

<sup>138</sup> State of Louisiana, *Official Journal of the Senate* (1890), 357, 293; *Times-Democrat*, July 2, 1890.

who “may well have been one of the lessee’s sub-contractors,” represented James’s interests in the Senate.<sup>139</sup> James’s opponent in the bidding process was C. G. Ellis, who had gained experience with the system as a former associate of the Texas lessee. Senator K.A. Cross of East Baton Rouge, who represented Ellis’s interest in the lease, introduced a bill to match James’s offer. James countered with an offer of \$35,000.<sup>140</sup> As bidding proceeded Senator Lloyd Posey of New Orleans, supportive of renewing James’s lease, provided a grim reminder to the assembly that as the price of the lease climbed, “The lash...would have to be applied all the more vigorously.”<sup>141</sup> But, the price rose anyway. The Senate adopted James’s final proposal of \$50,000 for the ten-year period. Legislators who supported Ellis offered a last inducement of \$55,000, which exceeded that of James’s best offer. Despite the fact that Ellis was willing to pay \$5,000 more, James’s bid prevailed.<sup>142</sup>

Governor Francis T. Nicholls signed the legislation but claimed to have done so not by choice, but of necessity.<sup>143</sup> In addressing the assembly, Governor Nicholls explained,

I attach my signature to this bill solely for the reason that the subject matter of the disposition of the convicts was acted upon so late that I am either forced to approve this bill or find myself at the close of the present lease of the Penitentiary between the sessions of the Legislature without direction or instructions as to how to deal with the convicts, and without means at my command to provide for them in the interim.<sup>144</sup>

While the Democratic governor expressed his indignation over his inability to act otherwise, his address to the assembly emphatically registered his misgivings. The governor said that he was

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<sup>139</sup> *Biographical and Historical Memoirs of Louisiana*, 498; State of Louisiana, *Official Journal of the Senate* (1890), 5-6, 357, 293; *Times-Democrat*, July 2, 1890.

<sup>140</sup> State of Louisiana, *Official Journal of the Senate* (1890), 5-6, 357, 293; *Times-Democrat*, July 2, 1890.

<sup>141</sup> *Times-Democrat*, July 3, 1890.

<sup>142</sup> State of Louisiana, *Official Journal of the Senate* (1890), 5-6, 357, 293; *Times-Democrat*, July 3, 1890.

<sup>143</sup> State of Louisiana, *Official Journal of the Proceedings of the House of Representatives of the State of Louisiana* (Baton Rouge: n.p., 1890), 594.

<sup>144</sup> State of Louisiana, *Journal of the House* (1890), 594.

“strongly opposed to the granting by legislative act a contract to a particular individual,” which he left unnamed. But, his inference was clear. Not only did Governor Nicholls object to the concession granted to James, he also disapproved of the manner in which the lease had been adopted –meaning that the concession had not gone to the highest bidder.<sup>145</sup>

Notwithstanding the governor’s reservations, the state both renewed the concession and also allowed James to work prisoners outside the walls of the penitentiary. Passed in 1890, Act 114 provided in its very first section that “The lessee be and is authorized to employ the convicts in working on levees, railroads, and other works of public improvement.” However, it did reserve some limitations for convict labor. The act mandated that the lessee could “at no time or manner...sublease or hire to any other person any convict or gang of convicts for the purpose of plantation or farm work.” It also provided that “under no circumstances shall [convicts] be hired, sublet, or rented out, or used by the lessee himself...in agricultural pursuits,” with notable exceptions. The act allowed James the personal use of “ten male convicts in the cultivation, gathering, and shipping vegetables, and butchering, herding and shipping beef to the other convicts.” Yet, this prohibitory clause did not apply to the female convicts, who could be “hired for or used in agricultural purposes, and to young and disabled convicts.” But, the act did limit the employment of female convicts, specifying that in “no case shall they be sublet or hired to third parties” since the exemption applied only to the lessee.<sup>146</sup>

Renewal of the lease during the Democratic administration of Governor Francis T. Nicholls did not signal an end to the controversy over the lease. Louisiana voters elected Murphy

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<sup>145</sup> Ibid.

<sup>146</sup> U.S. Bureau of Labor, *Labor Laws of the United States* (1896), 382. The act also consolidated enforcement powers in the hands of the governor.



J. Foster to the governorship in 1892 and led a successful assault against the institution.<sup>147</sup> This concerted attack on the institution in the 1890s coincided with the rise of Populism, efforts to consolidate Bourbon Democracy, “bulldozing,” the mobilization of white supremacy, and the disfranchisement that came with the Constitution of 1898.<sup>148</sup> Populism or “The People’s Party” came forth in Louisiana in the summers of 1890 and 1891.<sup>149</sup> It was born out of farmer’s frustration and crystalized the agrarian protest that had never been fully extinguished.<sup>150</sup> Conservative Democrats rallied as Populism spread and aligned with the Republican Party of Louisiana in the fall of 1892 out of mutual self-interest.<sup>151</sup>

Even though the Populist Party was politically weak, Democrats, like Foster, viewed the movement as “potentially dangerous.”<sup>152</sup> A local newspaper expressed this sentiment when it printed that the Populists were, “political hermaphrodites,” and their party “a bastard organization.” It appealed to the “patriots of Louisiana to shun [the] monstrous political gangrene

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<sup>147</sup>From St. Mary Parish, Foster was elected to the governorship in 1892 and served until 1900. Barred by the Constitution of 1898 to seek a third term as governor, the conservative Democrat was elected by the legislature to serve in the United States Senate and served until 1906. In 1912, he was appointed collector of customs in New Orleans and served until his death in 1921. See: Cowan and McGuire, *Louisiana Governors*, 126-28; Hair, *Bourbonism and Agrarian Protest*, 5; Carleton, *Politics and Punishment*, 70.

<sup>148</sup> Hair defines the term to denote political violence. He says that the exact source and meaning of the slang expression is unclear but that it became attached to political vigilantism in Louisiana during the 1876 campaign. See: Hair, *Bourbonism and Agrarian Protest*, 5.

<sup>149</sup> Hair, *Bourbonism and Agrarian Protest*, 199.

<sup>150</sup> Hair demonstrates that during the 1880s, “hill country” whites frequently demonstrated their anger against Democratic officeholders by either voting Republican or backing “independent candidates for local posts. Additionally, they sought a federal treasury plat to set up warehouses to provide low-cost loans for storage of farm products so that they could be sold at favorable prices. See: Cowan and McGuire, *Louisiana Governors*, 126-27; Hair, *Bourbonism and Agrarian Protest*, 199.

<sup>151</sup> The Populist-Republican fusion of 1892 was not unprecedented. During the late 1870s, The National Party movement brought yeoman white and black Republicans together, but fragmented under the leadership of conservative white Republicans such as Henry Warmoth and William Pitt Kellogg. See: Hair, *Bourbonism and Agrarian Protest*, 230.

<sup>152</sup> Hair indicates that support in the congressional races of 1890 was largely nonexistent outside of the Northern Hill parishes. Nevertheless, the Democrats were uneasy. See: Hair, *Bourbonism and Agrarian Protest*, 227.

as they would a leper at the gates.”<sup>153</sup> One factor that incited the Democrats and the *Daily Advocate* was the movement’s racial and class composition.<sup>154</sup> Its ranks included rural whites who had broken ranks with the Democrats, and the Party’s platform made strong bids for black support. They declared, “Emphatically...that the interests of the white and colored races of the south are identical...Equal justice and fairness must be accorded to each.” The movement succeeded in attracting black delegates.<sup>155</sup> This was not to say that the Party’s assertion of bi-racial class interests was a panacea to prejudices that ran deep within its ranks. Yet, as Historian William Ivy Hair suggested, “Louisiana Populism, for all its limitations, represented a brave and essentially sincere effort to break down some of the awful barriers which lay between ordinary whites and blacks.”<sup>156</sup>

Democratic Governor Murphy J. Foster and an increasingly unified Democratic front confronted this new force as it fused with the Republican Party in 1892. Governor Foster’s ultimate mission was the unification of Louisiana’s Democratic Party. But, James and the lease as well as the black vote stood in the way. Foster was the chief architect for the attack on both and he saw the two issues as interrelated. Only the support of black assemblymen maintained James’ control over the penitentiary and its prisoners.<sup>157</sup> Confronted with a bi-racial grassroots rebellion and a “mongrel ticket,” Foster and his supporters sought to purge the racial divisions within their own ranks that the issue of James and the lease had created.<sup>158</sup> The Foster administration accomplished their first objective in 1894 when they abolished the lease. They

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<sup>153</sup> *Baton Rouge Daily Advocate*, October 5, 1892; *Baton Rouge Daily Advocate*, October 6, 1892.

<sup>154</sup> Hair, *Bourbonism and Agrarian Protest*, 209.

<sup>155</sup> Quoted in Hair, *Bourbonism and Agrarian Protest*, 222.

<sup>156</sup> Hair, *Bourbonism and Agrarian Protest*, 227.

<sup>157</sup> While James gained black support in all legislative challenges to the lease, black assemblymen proved decisive in voting down the Parlange and Downing Bills in 1884 and 1886. See: Carleton, *Politics and Punishment*, 105.

<sup>158</sup> Hair, *Bourbonism and Agrarian Protest*, 257.

acted in the wake of a deepening national economic depression and in the context of Populism's increasing appeal among blacks in Louisiana.<sup>159</sup> A joint resolution initiated the abolition of contract convict servitude in Louisiana.

With unanimous support from both of the houses, the measure required that “no penitentiary convict shall ever be leased or hired to any private or public, or quasi-public, or board.” But, abolition was not immediate.<sup>160</sup> The act left the lease intact and dictated that “the law shall take effect upon the extinguishment of the lease,” which expired in 1901.<sup>161</sup> No ordinary bill, it included a provision to perfect the lease's abolition. It resolved that the bill “be amended as part of the Constitution of the State of Louisiana.”<sup>162</sup> The bill to amend the constitution charted a future direction for state punishment but invited a number of different experiments. It allowed the legislature to authorize state employment of “convicts on public roads or other public works, or on convict farms or in manufactories owned or controlled by the State or by any levee board or any public levee.” It did not, however, rescue state prisoners from the yoke of forced labor.

The gradual emancipation of state prisoners from the personal power of Samuel L. James represented the dissolution of the convict empire that he had held for over three decades. It also signaled an historic shift away from the state's fifty-six-year experiment with contract convict servitude and signified state consolidation in a unified “lily white” Democratic Party. Additional legislative action passed in 1894 granted the governor broad discretionary powers in the

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<sup>159</sup> Carleton, *Politics and Punishment*, 237.

<sup>160</sup> State of Louisiana, *Journal of the House* (1894), 844.

<sup>161</sup> Carleton, *Politics and Punishment*, 74

<sup>162</sup> The *House Journal* identifies the measure as Bill No. 15. See: State of Louisiana, *Journal of the House* (1894), 844.

employment of state prisoners. Act 132 revised the 1890 concession to James.<sup>163</sup> The revised lease allowed the governor to exempt the lessee from restrictions imposed on the employment of prisoners, and thus, concentrated power in the executive branch. The only restriction that the governor could not override concerned maximum working hours. The provision specified that “nothing in [the] act shall be construed as authorizing the working of convicts under any circumstances beyond the hours of labor usually devoted to farm work.”<sup>164</sup> Additionally, the Fosterite legislature attempted to increase the authority and independence of the Board of Control. They eliminated the lessee’s longstanding financial leverage over supervisors, provided for the appointment of a warden who would inspect all sites where prisoners were located on a monthly basis, and by 1897, “required members to reside in the vicinity of the penitentiary” in order to “personally oversee operations.”<sup>165</sup>

As lawmakers worked to reestablish control over the lessee and prepare for abolition of the concession, they confronted the collateral damage caused by state neglect and illegalities on the part of the lessee. An investigative report on the penitentiary issued on July 4, 1894, indicated that “an enormous quantity of machinery [was] rusting away.” Investigators called attention to the fact that “whatever value it may have is constantly depreciating and unless it is shortly disposed of or, means provided for its preservation, it will ultimately become perfectly

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<sup>163</sup> State of Louisiana, *Journal of the House* (1894), 844; U.S. Bureau of Labor, *Labor Laws of the United States* (1896), 386.

<sup>164</sup> U.S. Bureau of Labor, *Labor Laws of the United States* (1896), 386.

<sup>165</sup> House Bill No. 199 passed which provided “against the maltreatment of convicts and render more efficient the Board of Control of the Louisianan State Penitentiary and providing for the expenses thereof.” This act was motivated by the newly constituted board’s call to receive their pay from the state so as to assure independence from lessee control. See: *House Journal* (1894), 13-4, 454, 596-7; State of Louisiana, *Acts Passed by the General Assembly of the State of Louisiana at the Regular Session, Begun and Held in the City of Baton Rouge on the Eleventh Day of May, 1896* (Baton Rouge: The Advocate, Official Journal of Louisiana, 1896); Charles Richmond Henderson, *Modern Prison Systems: Their Organization and Regulation in Various Countries of Europe and America*, International Prison Commission Reports (Washington: Government Printing Office, 1903), 178.

worthless.” They recommended, therefore, that “the machinery be carefully appraised and then sold at public auction after proper advertisement.”<sup>166</sup> In 1896, the legislature took action by authorizing the sale of “of all machinery and parts of machinery belonging to the state and in the Penitentiary.”<sup>167</sup> According to the legislative committee, two parties were culpable for the rusting machinery and its depreciated value. First and foremost, the lessees clearly exercised a dereliction of duty. Less obvious, but just as responsible, were the “large and influential class of citizens, who...recognize[d] the fact that their skilled labor is brought into competition with convict labor.”<sup>168</sup>

After overcoming James and the lease, the Foster administration focused on achieving their second objective. As the great depression of the 1890s dropped the value of cotton and of sugar ever lower, sugar planters and Populists drew together during Foster’s re-election bid in 1896. Democrats railed against the growing fusion.<sup>169</sup> The *Iberville South* of Louisiana exclaimed, “To think that any number of Southern planters...should now go over...to the coons and to a small body of communists in the northern corner of the state is more than astounding!”<sup>170</sup> The Democratic press acknowledged the threat Populism posed in the election of 1896 when they indicated that even in the most “bulldozed” cotton parishes, landlords reported great difficulty in deterring black participation in the election. A local daily reported that even if John Pharr, the fusion candidate, prevailed over Foster the “better element” of Louisiana would not oppose a “bloody revolution” to prevent him from accepting the office. Others, so inclined, did not wait for the Party’s loss of the governorship. The escalation of racially minded political

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<sup>166</sup> State of Louisiana, *Journal of the House* (1894), 826.

<sup>167</sup> State of Louisiana, *Acts* (1896) .

<sup>168</sup> State of Louisiana, *Journal of the House* (1884), 13.

<sup>169</sup> Hair, *Bourbonism and Agrarian Protest*, 198-267.

<sup>170</sup> Quoted in Hair, *Bourbonism and Agrarian Protest*, 257.

violence that had inflamed the South since the Civil War reached a fevered pitch in Louisiana in 1896. Thus, it was no coincidence that the fusion's candidate for governor ran on an anti-lynching plank. Recorded lynchings in Louisiana that year exceeded the combined totals of every other state and territory west of the Mississippi River and represented one-fifth of all such executions in the United States.<sup>171</sup>

The election of 1896 provoked a crisis not seen since Reconstruction as the Fosterite Democrats stole the election.<sup>172</sup> Fusion protest massed as hundreds of armed and enraged white Populists threatened to unseat the parish government in Natchitoches because officials refused to count votes from black precincts. Black voters in St. John parish seized a ballot box and organized forces to put down the challenge by militia that confronted them. Nine thousand Populists from North Louisiana's hills were said to be assembling to descend on the capitol in a call for justice. The Populist Party chairman, Hardy Brian, called on the Party faithful to assemble in Baton Rouge in order to back their candidate with violence if legal remedy failed. A Democratic supporter expressed the Party's fears when he claimed that the fusion party would empower "the great horde of ignorant blacks who yearn for social equality." The speaker then shifted his intended audience when he rhetorically addressed whites possibly swayed by Pharr. He said, "Woe betide" anyone who might stand in the way of Foster's second term, for "this land shall not be a Hayti [sic] or a Domingue."<sup>173</sup> The *Daily Advocate* of Baton Rouge reported "a boat load of sugar-teats" with stockpiles of arms "sufficient to accomplish the successful bombardment of and siege of Baton Rouge" laid in wait on the Mississippi. Fosterites had

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<sup>171</sup> Hair, *Bourbonism and Agrarian Protest*, 260

<sup>172</sup> Official votes showed Foster as the victor over Pharr, the former with 166,116 and the latter with 87,698 votes.

<sup>173</sup> Quoted in Hair, *Bourbonism and Agrarian Protest*, 265; "Address of the Democratic State Central Committee," *Shreveport Evening Judge*, May 6, 1896; *Natchitoches Louisiana Populist*, May 8, 1896.

organized paramilitary units in the Florida parishes to defend the administration. Fusionist hopes faded when the state legislature refused to investigate returns.<sup>174</sup> The Party's chairman had the last word when he remarked that the Party ultimately "refused to take up gun [and] so...lost." Yet, he ended with a wry note of optimism, adding, "The fight will be won some day, but by [unchristian] methods."<sup>175</sup>

Galvanized after breaking the back of Populism in the election 1896, the Foster administration redoubled its efforts to prevent the likelihood of a resurgence and resumed legislative attacks on the black vote that he had initiated in 1892. The General Assembly passed complex voter restriction laws designed to "reduce the votes of the uneducated of both races" and placed before this diminished electorate a call for a Constitutional Convention to be held in 1898.<sup>176</sup> The *Baton Rouge Daily Advocate* confirmed the new law's deleterious effect on black political participation when they enthusiastically noted that the new registration was "death on niggers and the kind of Pops who will be inclined to vote [with blacks]."<sup>177</sup> The convention that met to abolish the lease and forestall any Populist traction announced itself as "little more than a family meeting of the Democratic Party of Louisiana."<sup>178</sup> At the gathering, the Foster administration accomplished its agenda of abolishing the lease and suppressing the black vote. In so doing, it demonstrated that the former had been an instrument to the latter rather than a

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<sup>174</sup> *Baton Rouge Daily Advocate*, May 5, 1896; Quoted in Hair, *Bourbonism and Agrarian Protest*, 265.

<sup>175</sup> *Natchitoches Louisiana Populist*, March 10, 1899; Quoted in Hair, *Bourbonism and Agrarian Protest*, 279.

<sup>176</sup> It was thought that the restrictions would shrink the black electorate by at least ninety percent and remove tens of thousands of poor whites from eligibility. See: Hair, *Bourbonism and Agrarian Protest*, 268.

<sup>177</sup> Quoted in Hair, *Bourbonism and Agrarian Protest*, 272; *Baton Rouge Daily Advocate*, December 12, 1897.

<sup>178</sup> The president of the convention was responsible for the characterization. See: State of Louisiana, *Official Journal of the Proceedings of the Constitutional Convention of the State of Louisiana, Held in New Orleans, Tuesday, February 8, 1898* (New Orleans: H. J. Hearsey, Convention Printer, 1898), 8-9.

genuine effort to produce humanitarian reform. Out of the convention came a new constitution nearly identical to the Constitution of 1879 except for the suffrage restriction and the abolition of the lease. Similar to Mississippi's Constitution of 1890 and South Carolina's Constitution of 1895, Louisiana's Constitution of 1898 disfranchised black voters with literacy qualifications and property requirements.<sup>179</sup> Yet, Louisiana's new constitution included a "grandfather clause" as a "loophole for whites."<sup>180</sup>

The concluding remarks of Hon. Thomas J. Semmes, Chairman of the Committee of the Judiciary revealed its purpose at the Constitutional Convention. He congratulated representatives on their accomplishments and offered high praise for the passage of Article 196, the amendment to the new constitution abolishing the lease.<sup>181</sup> At the same time, he admitted that the law was not perfect since "convicts confined with the walls of [the] State prison are farmed out, as it

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<sup>179</sup> The law proscribed that any voter, "shall be able to read and write...if he be not able to read and write....then he shall be entitled to register and vote if he, at the time he offers to register, be the bona fide owner of property assessed to him in this State at a valuation of not less than three hundred dollars. The 'grandfather' clause, indicated that, no male person who was on January 1<sup>st</sup> 1867, or at any date prior thereto, entitled to vote under the Constitution or statutes of any State of the United States, wherein he then resided and no son or grandson of any such person not less than twenty-one years of age at the date of the adoption of the Constitution, and no male person of foreign birth, who was naturalized prior to the first day of January, 1898; shall be denied the right to register and vote in this State by reason of his failure to possess the educational or property qualifications prescribed by this Constitution; provided, he shall have applied for registration and have registered in accordance with the terms of this article prior to September 1, 1898 and no person shall be entitled to register under this section after said date." See: Article 197 in State of Louisiana, *Constitution of Louisiana, Adopted in Convention at the City of New Orleans, May 12, 1898* (New Orleans: H. J. Hearsey, Convention Printer, 1898).

<sup>180</sup> The "grandfather clause" allowed only three and one-half months for seeking its protection to apply. About forty thousand people registered under the provision. One hundred and eleven of them were black. See: Hair, *Bourbonism and Agrarian Protest*, 267.

<sup>181</sup> Article 196 stated: "The General Assembly may authorize the employment under State supervision and the proper officers and employees of the State, of convicts on public roads or other public works, or convict farms, or in manufactories owned or controlled by the State, under such provisions and restrictions as may be imposed by law, and shall enact laws necessary to carry these provisions into effect; and no convict sentenced to the State penitentiary shall ever be leased or hired to any person, or persons, or corporation, private or public, or quasi-public, or board, save as herein authorized. This article shall take effect upon the expiration of the penitentiary lease, made pursuant to Act No. 144, approved July 10<sup>th</sup>, 1890." See: State of Louisiana, *Constitution of Louisiana, Adopted in Convention at the City of New Orleans, May 12, 1898* (New Orleans: H. J. Hearsey, Convention Printer, 1898), 377; State of Louisiana, *Journal of the Constitutional Convention* (1898), 374.



were, treated harshly and often made to suffer many unnecessary ills.” He did not say why convicts suffering so would have to wait for relief. “But,” he said, “we are determined to change all that, and hereafter there will be no leasing out of convicts, who, from [1901], will be under the care of the State itself.” The chairman assured his audience that the creation of a new institution, “a board of control over all charitable and correctional institutions,” would satisfy oversight of convicts and that it was done “in the interests of humanity.” He added that “heretofore we have been compelled to rely solely [sic] on the reports of grand juries who have investigated these institutions and their reports and recommendations were scarcely ever heeded. But, this new board will have authority to make investigations and report to the Governor, who in turn, will submit such reports to the legislature for action by that body.”<sup>182</sup>

The closing remarks of the judiciary chairman exposed that abolition of the lease carried a higher purpose. The judiciary committee chairman made this end clear in his memorialization of the Constitution of 1898 when he spoke triumphantly about it. Chairman Semmes broadcasted that the constitution, the “work of a Democratic Convention,” was the “work of the Democratic party.” As a rejoinder to critics, Semmes said that “some quarters” charged that the convention had been “actuated...by party spirit.” Semmes exclaimed, “Grant it. What of it? What is the State?” Applause punctuated his address before he continued, “The state...it is the Democratic Party.” After more applause, he called out, “What are the people of the State?” Without pause, he answered, “They are the Democracy of the State, what is there left but that which we came here to suppress? I don’t allude to the to the fragments of what is called the Republican party.” Semmes then exposed the purpose of the convention. He explained, “We met here to establish the supremacy of the white race, and the white race constitutes the Democratic party of this

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<sup>182</sup> State of Louisiana, *Journal of the Constitutional Convention* (1898), 374, 378.

State. There is therefore, in my judgment, no separation whatever between the interests of the State and those of the Democratic party.” This perfect unity between the Democratic Party, Louisiana’s government, and white supremacy, according to the chairman, had been achieved with the Constitution of 1898. With this deed done, Semmes claimed that there was “nothing to regret, nothing to change, nothing to recall.”<sup>183</sup>

The Chairman made no apologies for suffrage restrictions to advance Democratic hegemony. He invoked the same wisdom that the Populist leader, Hardy Brian, had voiced after the election of 1896. Semmes exclaimed, “Whoever heard of a political party being in the ascendancy, and in power, and undertaking to do any act to remove that ascendancy or to impair their power?” The honorable chairman candidly acknowledged that men like himself “who are in power seek to maintain it.” If, as the chairman had said, “the end crowns the work,” then that end was not only the abolition of the lease. It foreshadowed a new constitution dedicated to the Democratic Party’s monopoly on the state and the fomenting of white racial rule.<sup>184</sup>

The Foster administration and Chairman Semmes were not alone in celebrating the accomplishments of the convention and the abolition of the lease. A year later, the National Prison Reform Association held its annual convention in New Orleans to commemorate the constitution’s abolition of the lease.<sup>185</sup> Michael Heymann, of New Orleans, led the organization. He had established contacts with the National Prison Association in 1893 and the International Prison Congress in 1895 in Paris.<sup>186</sup> Foster sent “Lieutenant Governor Schneider [to] welcome

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<sup>183</sup> Ibid., 374-8.

<sup>184</sup> Ibid., 374.

<sup>185</sup> The Prison Reform Association was founded in 1866 and opposed the convict lease system. Activists founded the Louisiana Prison Reform Association in 1897. American Prison Association, *Proceedings of the Annual Congress of the American Prison Association, New Orleans, Louisiana, November 19 to 23* (Indianapolis: WM B. Burford, 1917), 13.

<sup>186</sup> A.M.A., *Annual Congress of the National Prison Association* (1899), 63.

the delegates on behalf of the State, describing prison reform progress in the state, the abolition of the penitentiary lease after 1901, and the revision of the criminal code in progress, and hoping that the convention's influence would help" and improve "the penal and reformatory institutions." In 1899, at the opening of the National Prison Association's meeting in New Orleans, Heymann "referred to the fact that a Louisiana jurist, Edward Livingston, seventy-five years [earlier] created a revised criminal code which had taken root everywhere," but not in his home state. The organization's President, "R. W. McGlaughery read his annual address" and "summarized the work of the association." Its mission included three major objectives: first, the "betterment of laws" and procedural enforcement; second, the "improvement of the penal correctional, and reformatory institutions" and prison discipline, including forced labor; and third, to encourage movements to prevent vice and crime.<sup>187</sup>

Louisiana's amendment to abolish the lease was the focal point of the National Prison Association's meeting. Frederick Howard Wines, son of the noted penal reformer E.C. Wines and vice president of the organization, addressed the gathering and credited the Louisiana chapter of the organization for its passage.<sup>188</sup> He said that "a great deal of the inspiration" for penal reform was due to Michael Heymann and his role in the Conference of Charities and Correction held the preceding winter. Wines withdrew credit from the Foster Administration in achieving the measure when he said that it was the prison reform meeting that "resulted...in the overthrow of the lessee system by the constitutional convention, in the organization of a prison commission of an official character," as well as the "legislature to establish a board of state charities." Wines moved at once beyond laudatory rhetoric to confront post-emancipation

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<sup>187</sup> *Louisville Courier Journal*, January 22, 1899.

<sup>188</sup> Son of Enoch Cobb Wines was vice president of the National Prison Association. See: A.M.A., *Annual Congress of the National Prison Association* (1899), iii.

challenges in penal administration. He confessed that abolition “throws the prison matter of that state into absolute confusion so far as the regulation and the discipline of convicts –two thirds of who are negroes- is in question.”<sup>189</sup>

Michael Heymann, chairman of the Prison Reform Commission in New Orleans, also addressed the national body. He spoke to his own contributions but with less romanticism and more irony than had Wines. Heymann explained, “In 1893 I went to the world’s fair...[and] met there Mr. [Enoch] Wines, who was the Chairman of the International Prison Committee...home I went full of fire, and I told everybody we must have these improvements...prison reform and everything.” Recounting what happened shortly after, he recalled,

The leasing of convicts they could understand, but when they began to understand what was meant further, when they heard that the agents of the state board were going into the penitentiaries to see what was going on there, they said they would have no such thing as that. No such thing for us. Go home.

Still, Heymann gained the governor’s support as a delegate from Louisiana to a conference sponsored by the International Prison Association and thought “things were booming” on the heels of the National Conference of Charities held in New Orleans in 1897. Heymann admitted that he thought they “would succeed.” But, Heymann’s narrative reveals the limits of the Louisiana’s commitment to altering penal practice in the 1890s. It also exposes the anticlimactic effect the Constitutional Convention of 1898 had on penal reform, evident in Heymann’s speech:

This year we thought our opportunity had come. A new constitution was to be framed. The Constitutional Convention was to meet in New Orleans... We got introduced into that constitutional convention a bill abolishing the convict laws, a bill creating a state board of charities, and I said, ‘Stop there; don’t be too greedy, the balance we will get in the legislature; let the convicts be governed like everybody else; and we framed a bill for the indeterminate sentence, like that of Ohio; we framed a bill for the regulation of public charity. Oh, it was a beautiful bill...and one of our reform senators at New Orleans, a wealthy young lawyer said, ‘I will take them, they will pass; have you got any more?’ I said, ‘no take

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<sup>189</sup> A.M.A., *Annual Congress of the National Prison Association* (1899), 185.

them and pass them; that is enough for the present.' And do you know how many of them passed? None. That is the history of prison reform in Louisiana. That is what we have not done.<sup>190</sup>

Not coincidentally, gains made by the organization were done “without legislation.” Heymann credited Walter C. Flower, “a fine man; an honest and intelligent man” who “helped” the organization “to the extent that from now on no child will be confined with the criminal classes.” Heymann’s own account demonstrates that changes to Louisiana’s penal system during the Foster administration were largely limited to the abolition of the lease, consolidation of state authority, and greater executive control.

### *Origins of the Opposition to the Convict Lease*

While the abolition of the lease in Louisiana was a complicated affair, analysts have provided two competing explanations for convict leasing’s dissolution in Louisiana. One view inferred that the Louisiana Prison Reform Association played an important role.<sup>191</sup> Yet, if Michael Heymann’s statements are any indication of the organization’s effectiveness, it is unlikely that the actions of the Louisiana Prison Reform Association were decisive in its termination. Historian Mark T. Carleton offered a competing view inspired by historian William Ivy Hair’s penetrating analysis of Bourbon Democracy in Louisiana during the 1890s.<sup>192</sup> Carleton contributed crucial insight into the Foster administration’s drive to abolish the lease. He traced the movement towards abolition from the beginning of Foster’s first administration in

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<sup>190</sup> A.M.A., *Annual Congress of the National Prison Association* (1899), 63-4.

<sup>191</sup> Elizabeth Wisner offers this explanation. See: Wisner, *Public Welfare Administration in Louisiana*, 162-3.

<sup>192</sup> Carleton took exception to Wisner’s assertion that the termination of the convict lease system in Louisiana resulted from efforts of the Prison Reform Association. He mentioned that this interpretative stance coalesced as the Wisner-Shields thesis, which is based only on the word of F.S. Shields, an official of the organization. Carleton suggested that all subsequent studies accepted the thesis including his own first publication on the topic. See: Mark T. Carleton, “The Politics of the Convict Lease System in Louisiana: 1868-1901,” *Louisiana History: The Journal of the Louisiana Historical Association*, 8 (1967); Carleton, *Politics and Punishment*, 80; Wisner, *Public Welfare Administration in Louisiana*.

1892 to the advancement of a bill calling for a constitutional referendum in 1894, and finally to the ratification of Article 196 in the landmark Constitution of 1898. Thus, Carleton located its debut in the mid-1880s and its arrival with the Foster administration in the 1890s.

The abolition of convict leasing in Louisiana, however, has deeper roots and a more complex pattern that critics have acknowledged.<sup>193</sup> The movement to abolish the convict lease was limited neither to Louisiana, nor to the South, nor to formal political affairs. Opposition to the lease in Louisiana did not begin in the last quarter of the nineteenth century, but originated during its early trials even before the Civil War. Antebellum officials registered strong opposition to contract convict labor shortly after it was first instituted in Louisiana during 1844. The state actually resumed control during the mid-1850s under the governorship of Octave Hebert, but rescinded again in 1857 despite the admonitions of minority voices. Protest by everyday people and their organizations, however, played a decisive role in keeping state prisoners within ‘the walls’ before and after the Civil War in the nineteenth century. Pressure exercised by working people and local merchants contributed to decisions made by state officials to manufacture goods such as cotton and wool, since such products did not compete with ‘honest’ labor or deflate the costs of locally produced goods. The same imperative also encouraged administrators to create laws limiting or prohibiting the employment of prisoners outside of the penitentiary. Planters had an interest in keeping prisoners in ‘the walls’ as the prison industry provided a state-subsidized market for plantation goods and reduced planters’ dependence on Northern manufactures.

Official opposition was not long in coming after state officials formally contracted the penitentiary and its prisoners to Jones and Huger in 1869. Not more than four years later,

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<sup>193</sup> Carleton, *Politics and Punishment*; Wisner, *Public Welfare Administration in Louisiana*.

legislative action challenged the emerging convict lease system. Act 22 of 1875 explicitly outlawed the employment of state prisoners outside of the penitentiary in any capacity. If followed, it would have meant a de facto end to the convict lease system since lessees were prohibited from hiring out convicts. But, it was never enforced. Ironically, legislative action in the 1890's was Janus faced. In 1890, the Nicholls administration renewed the lease held by James's private stock company for another ten years and gave him wide discretion in employing prisoners except in agricultural work. That restriction, if it was followed, was lifted in the same moment that the Foster administration prepared for abolition of the lease and an end to the Major's command of a convict empire. The landmark Constitution of 1898 achieved de jure abolition of convict leasing in Louisiana but also deep entrenchment of the color line and stranglehold of Jim Crow.

In addition to ignoring the early origins of Louisiana's movement to abolish the lease, analysts have failed to address the national and international context in which abolition of the institution took place.<sup>194</sup> Examination shows that movements to abolish contract convict labor, which included the lease system, operated throughout the nation and were at least as deeply rooted in other states as they were in Louisiana. The efforts were widespread and longstanding. The most definitive report issued by the federal government in 1887 stated that American investigations into convict labor "have all been made since 1867, although in 1835 a petition was presented to the legislature of New York asking for an investigation, and in 1840 another petition to the same legislature prayed that all labor in prisons be abolished."<sup>195</sup> Historian Rebecca McLennan shows that the movement to abolish contract convict labor in New York in 1884

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<sup>194</sup>Carleton, *Politics and Punishment*; Wisner, *Public Welfare Administration in Louisiana*.

<sup>195</sup> U.S. Bureau of Labor Statistics, *Second Annual Report of the Commissioner of Labor* (1887), 307.

initiated “some of the most heated and impassioned debates in American penological history.”<sup>196</sup> The effort initiated an abolition movement that swept the nation during the 1880s as the Knights of Labor and the AFL gained strength.<sup>197</sup> As Louisiana’s Populist movement gained traction in the 1890s, state after state abolished or severely restricted the contracting system while officials and reformers searched for substitutes.<sup>198</sup> Although abolition of the lease system in Louisiana conformed to a national pattern in the 1880s and 1890s, the state distinguished itself as the fourth state in the South to abolish the system. Mississippi was the first in 1890; Tennessee was the second in 1893; and South Carolina was the third when it replaced the lease with a prison farm [see Table 5.3].<sup>199</sup> These states abolished the lease comparatively early since the convict lease system did not disappear altogether until 1933.<sup>200</sup>

Yet, another type of abolition also became subject to debate. In 1879, almost ten years after the passage of the Thirteenth Amendment, Louis D. Pilsbury, superintendent of state prisoners, reported to the United States Senate that “the only practicable way I know of preventing the so-called ‘encroachments of convict labor’ is to prohibit its employment.” He touched on a predicament posed by the nation’s political economy and its decentralized federal system. He stated that abolition would “accomplish the desired result, but, ...would furnish little relief to ‘honest labor’ in the absence of concurrent legislation of like character by other states,” since without it “prohibitory legislation by New York alone would resulted in driving contractors to other states whence the product of their convict labor could be brought as directly into

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<sup>196</sup> McLennan, *The Crisis of Imprisonment Protest*: 174.

<sup>197</sup> John H. Bracey, *Black Workers and Organized Labor* (Belmont, CA: Wadsworth Publishing Co., 1971), 1-5.

<sup>198</sup> McLennan, *The Crisis of Imprisonment Protest*, 199.

<sup>199</sup> Carleton, *Politics and Punishment*, 83.

<sup>200</sup> *Ibid.*, 80.



**Table 5.3**

Employment of State Prisoners in the United States by Type of Convict Labor System, 1886

	Contracted			Idle	Non-Contracted		Total
	Lease	Contract	Piece Price		Public Account	Prison Duties	
Alabama	863	.....	.....	.....	.....	36	899
Arkansas	597	.....	.....	.....	.....	.....	597
California	.....	.....	769	60	407	385	1,621
Colorado	.....	.....	.....	.....	287	147	455
Conneticut	.....	200	60	80	348	242	930
Florida	197	.....	.....	.....	.....	.....	197
Georgia	1,659	.....	.....	.....	.....	.....	1,659
Illinois	.....	1,873	110	502	340	496	3,321
Indiana	.....	1,172	.....	23	436	106	1,737
Iowa	.....	318	.....	106	350	237	1,011
Kansas	.....	245	.....	18	932	181	1,376
Kentucky	1,142	.....	.....	.....	169	73	1,384
Louisiana	864	.....	.....	.....	.....	.....	864
Maine	.....	.....	.....	6	168	9	183
Maryland	.....	431	.....	692	.....	83	1,214
Massachussetts	.....	649	898	421	876	975	3,819
Michigan	.....	900	.....	1	1,195	532	2,628
Minnesota	.....	330	.....	24	130	65	549
Mississippi	741	.....	.....	.....	.....	71	812
Missouri	.....	869	.....	263	543	325	2,000
Nebraska	278	.....	.....	.....	56	42	376
Nevada	.....	.....	.....	4	105	23	132
New Hampshire	.....	99	.....	4	93	28	224
New Jersey	.....	.....	625	194	511	249	1,579
New York	.....	4,350	.....	888	2,255	1,539	9,032
North Carolina	1,085	.....	.....	.....	.....	.....	1,085
Ohio	.....	1,199	463	129	992	441	3,224
Oregon	.....	170	.....	8	50	63	291
Pennsylvania	.....	402	45	785	2,698	1,603	5,533
Rhode Island	.....	122	10	4	465	143	744
South Carolina	526	.....	.....	.....	398	21	945
Tennessee	1,339	.....	.....	.....	.....	.....	1,339
Texas	.....	109	.....	147	2,128	155	2,539
Vermont	.....	70	.....	.....	84	16	170
Virginia	.....	808	.....	.....	.....	216	1,024
West Virginia	.....	215	.....	.....	.....	60	275
Wisconsin	.....	340	.....	30	456	226	1,052
Territories	.....	60	.....	93	207	62	422

Source: State of Illinois, *Statistics of Convict Labor, Advanced Chapters from the 4th Biennial Report of the Bureau of Labor Statistics of the State of Illinois* (Springfield, Ill.: H.W. Rokker, 1886), 58.

competition.”<sup>201</sup> Thus, the superintendent made it clear that effective remedies to contract convict labor required coordinated national efforts since states existed within a larger national economic structure.

Critics such as John P. Altgeld, a leading Progressive reformer, expressed his objections to the convict lease system using metaphors of slavery to depict its dehumanizing effects.<sup>202</sup> In his book, *Our Penal Machinery*, published in 1886, he outlined four methods of punishment then “in vogue.” One of these four methods was the convict lease system, which he found to be “the most objectionable of all.”<sup>203</sup> Altgeld emphasized that “under it, there is scarcely a possibility of the reformation of a prisoners. The lessee wants to make as much money and give as little in return as possible; and in some cases, the condition of the prisoners is said to be far worse than that of the most cruelly treated slaves.”<sup>204</sup> The metaphoric use of slavery was common before abolition and remained so in its aftermath. Slavery was frequently used as an iconic form, as a signifier for the most extreme types of exploitation, debasement, and dehumanization. Trade unionists and wage earners of all kinds harnessed the power of this signifier to protest “wage slavery” and “industrial slavery.” The metaphor was also frequently used to protest conditions of dependency experienced by women and child labor, as well as circumstances typical of peonage, industrial labor, military service, class hierarchies, merchant power, colonial rule, large planter domination of the yeomanry, and abuses of federal authority. But, it worked powerfully

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<sup>201</sup> U.S. Bureau of Labor Statistics, *Second Annual Report of the Commissioner of Labor* (1887), 307.

<sup>202</sup> Altgeld served as the first Democratic governor in Illinois from 1893 to 1897. See: John Peter Altgeld, *Our Penal Machinery and Its Victims*, New and Revised Edition (Chicago: A. C. McClurg, 1886).

<sup>203</sup> Other systems outlined were: the “contract system,” the “piece-price” system; and the “public account system.” See: U.S. Bureau of Labor Statistics, *Second Annual Report of the Commissioner of Labor* (1887), 1.

<sup>204</sup> Altgeld, *Our Penal Machinery and Its Victims*, 96.

to protest the labor and confinement to which convicts were subjected in the second half of the nineteenth century.

Understanding convict labor and the abolition of the lease system cannot be dissected from the actions of labor organizations, protest movements, and resistance to it by prisoners themselves. Workingmen's associations and artisans protested contract convict labor during the antebellum period while the National Labor Union played a powerful role in prison reform during Reconstruction.<sup>205</sup> Everyday resistance, skirmishes between employers and workers, and strikes, riots, and rebellions by civilians and convicts animated the crusade against convict labor that gripped the nation in the 1880s and 1890s. The Knights of Labor became a driving force in the 1880s.<sup>206</sup> The organization's platform called for the "abolishment of the system of convict labor in our prisons and penitentiaries."<sup>207</sup>

The American Federation of Labor (A.F.L.) also acted forcefully against the lease.<sup>208</sup> The organization resolved to "condemn in unmeasured terms any system of leasing convicts as a

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<sup>205</sup> The National Labor Union that emerged from the Baltimore conference initiated a nationwide campaign against contract convict labor and relentlessly petitioned Congress and state governments for action. See: Philip S. Foner, *History of the Labor Movement in the United States, Vol. 1: From Colonial Times to the Founding of the American Federation of Labor* (New York: International Publishers, 1979), 371-73; McLennan, *The Crisis of Imprisonment Protest*, 92.

<sup>206</sup> Founded as a "secret brotherhood" in 1869, it emerged as a major national organization after revealing itself in 1878. The union attempted to "unite all classes of workers—skilled, semiskilled, and unskilled, black and white—and seriously sought to recruit Negro members even in the South...the Knights counted 60,000 Negroes out of a total membership of 700,000." They formed mixed, all black, and a few fully integrated assemblies in all sections of the country. "In Southern cities, craft unions had Negro locals; in Savannah, New Orleans, and Galveston, Negroes were integrated in longshoremen's units; and in New Orleans organized labor called a sympathy strike in support of a union of black draymen, who thereby won their demands." They also represented agricultural workers and led a landmark strike in Louisiana. In the fall of 1887, nine thousand blacks and one thousand whites in a mixed union struck against the Louisiana sugar planters for higher wages. They were represented in craft unions in New Orleans and integrated longshoreman's units. See: Bracey, *Black Workers and Organized Labor*, 1-2.

<sup>207</sup> Terence Vincent Powderly, *Thirty Years of Labor, 1859-1889, In Which the History of the Attempts to Form Organizations of Workingmen for the Discussion of Political, Social, and Economic Questions Is Traced* (Columbus: Excelsior Publishing House, 1889), 90.

<sup>208</sup> The organization began as an offshoot of the Knights of Labor in 1886 when a group of skilled craft

means of profit to either private individuals, companies, or corporations.”<sup>209</sup> One of their reports diagnosed the forces accelerating the abolition movement in the 1880s and the 1890s. The organization’s proceedings in 1891 explained, “Within the past few months the question of convict labor been conspicuously brought before the attention of the American people by the action of the miners of Tennessee in forcibly refusing to allow the convicts in that State to work in the mines.” It then described the particular circumstances motivating miners to take a stand. The report explained, “The miners have gradually seen the convicts brought into the mining regions, their already scant wages reduced, and their work taken from them and given to the convicts to perform.” Reflecting the national scope of such circumstance, the report’s author asserted, “To a greater or lesser degree the same evil prevails in all of our States,” verifying that,

The policy of the States seems to be to provide work for the convict; the free man may be flung out of employment, pauperized and demoralized, in too many instances beyond the hope of redemption, for the mere sake that a few paltry dollars may be “saved” to the State, that it and its corporate favorites may make fortunes at the expense and of honor of the people. Vulture-like, the fallen and degraded are their prey.<sup>210</sup>

The proceedings revealed that the wellspring of abolition during the 1880s and 1890s came alive in workers’ confrontation with employers over their use of convicts to reduce labor’s ability to leverage their work at a fair wage. The report recommended a specific solution. It suggested, “Under the constitution a provision giving Congress the right to regulate the commerce between

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unions withdrew. It represented the triumph of “craft” or “business” unionism over the “industrial unionism” represented in the Knights of Labor. It developed a reputation for barring blacks from membership although a few AFL unions such as the cigar makers, the coal miners, the garment workers, and the longshoremen did accept blacks without discrimination. Also, several building-trades unions in the South included them. See: Bracey, *Black Workers and Organized Labor*, 2.

<sup>209</sup> American Federation of Labor, “Report of the Proceedings of the Eleventh Annual Convention of the American Federation of Labor Held at Birmingham, ALA., December 14, 15, 16, 17, 18, and 19, 1891,” in *Proceedings of the American Federation of Labor: 1889, 1890, 1891, 1892* (Bloomington, IL: Pantagraph Printing and Stationary Co., 1905), 51.

<sup>210</sup> *Ibid.*, 14.

the States, the labor of convicts could be prevented from being permitted to enter any other State.” The report’s author then asserted, “I would recommend that...this unfair system can be abated or abolished.”<sup>211</sup> Thus, the A.F.L.’s report called for “immediate reform” by abolition of contract convict labor.

The proceedings also reflected understanding of the plight of many “criminals.” The A.F.L. declared that,

The number of...criminals is very largely increased as a result of present social and industrial conditions. Over work on the one hand, with inadequate recompense to meet human needs, and enforced idleness, on the other, and the fact that in many instances trickery and corruption are applauded because the successful, have a baneful impression on the minds of the young of the great army of the disinherited.<sup>212</sup>

This view of criminality as a by-product of industrial society, of individualistic material values, and of liberal market structures was one voice that denied either strictly moral or biological explanations of crime that predominated among scientists, social reformers, the white professional class, and many government officials. Thus, the A.F.L. challenged the predominant understanding of criminality among reformers, state officials, planters and industrialists, and the growing professional class and the assumptions attached to the pseudo-science that legitimated notions of inherent black deviance.<sup>213</sup>

On the other hand, the A.F.L.’s plank was far from a panacea to the plight of convicts in the United States. The organization did not object to the principle that convicts should be subjected to forced productive labor as a mean of reform. These organizations were primarily concerned with protecting the interests of wage earners from competition with low cost convict labor. This position was evident when the organization recommended that

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<sup>211</sup> Ibid, 14.

<sup>212</sup> Ibid., 14.

<sup>213</sup> Nicole Hahn Rafter, *Creating Born Criminals* (Urbana: University of Illinois Press, 1997).

to lessen present evils...the employment of convicts on such public works as the Nicaragua Canal, the improvement of our water ways, the reclaiming of waste lands, or any other public improvements –country, State, or Nations; work that would not be done by free labor- and especially recommended that our State and National Legislatures be required to devise such reform as will place convict labor in such relations to the free labor as will release it from the competition and degradation that now prevail.<sup>214</sup>

The adoption of these opinions by the organization in 1891 did demonstrate the federation's commitment to terminate forced labor's competition with free labor. Yet, this brand of abolition fell far short of ending this pervasive system of forced labor in the 'free' world during the second half of the nineteenth century and did little to ameliorate the conditions of convicts subjected to it.

### ***Conclusion***

Louisiana's post-Civil War lease system was not preordained. When civilian authorities took charge of the penitentiary in 1866, state officials sought to resume large-scale textile production and smaller scale manufacturing. Even the state's first lease in 1869 did not represent a significant departure from prior practice since the lessees, Huger and Jones, were to employ convicts in manufacturing within 'the walls.' It was only when the firm, headed by the civil engineer and levee contractor Samuel L. James, bought out the lease did large-scale convict leasing outside of the penitentiary walls begin. Legislative opposition resurfaced in 1875 when lawmakers passed measures to outlaw such practice. By 1876, however, Governor Francis T. Nicholls, revealed the state's shortcomings, admitting that to hold the lessee accountable risked "having prisoners thrown back on the state." Enforcement of the lease also risked the loss of a cheap, captive labor force that could undertake and maintain infrastructural development and serve as a proxy for contract agricultural labor. State officials signaled retreat when they

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<sup>214</sup> *Proceedings of the American Federation of Labor* (1905), 51.

dismissed lessee illegalities by hiring out state convicts, reasoning that convicts so employed on the New Orleans Pacific Railroad served the commonweal at no cost to the state.

Organized labor and agrarian protest movements pressured lawmakers to end convict leasing during the decade of the 1880s for its competition with contract labor, while the practice became a flashpoint in Louisiana politics by 1891. Paradoxically, it was the conservative Democrats who instituted gradual abolition of the lease in 1892 and by state constitutional amendment in 1898 in their bid to consolidate a unified Democratic Party and a white racial state. The Democratic Party claimed the mantle of civilizational progress in merchandising race and class based one-party rule, all in the name of humanitarian reform through the abolition of convict leasing. The newly minted racial state stood to inherit a distinctive system of captivity and forced labor. With this system, Louisiana embarked upon a new state agricultural enterprise by expanding manufacturing capacity, infrastructural development, and reinforcing white supremacy based on even closer associations between race and crime.

## Chapter 6

### **“Alluvial Empire,” Convict Enterprise, and the State Penitentiary, 1901-1916**

Louisiana’s 1898 Constitution consummated the ascendancy of Bourbon Democrats in state politics and resulted in the disfranchisement and loss of economic rights for ex-slaves and their descendants, black creoles, and many poor whites. The new constitution structured a white supremacist social order that would endure for the next half century. It established segregation in the state’s public schools, supplementing earlier statutes that wrote racial discrimination into law.<sup>1</sup> It also abolished Louisiana’s system of convict leasing. This new brand of justice, which left political administration and the exercise of property rights to whites of economic means, worked powerfully to produce anti-black racism through the criminalization of black life. The state’s restructuring of its penitentiary system was part of this project. The *Chicago Daily Tribune* reported that, “Now all is changed...the constitutional convention of 1898 made provision for the abolition of the lease system...the revolution is complete.”<sup>2</sup> But, the rhetoric that praised Louisiana’s abolition of the convict lease system neglected to note the new constitution’s repression of blacks of all classes and poor whites. It couched the constitution’s restructuring of race and class-based rule as humanitarian change. It reported that after abolition “the application of a scientific and intelligent system has brought the convict negroes out of a thralldom worse than slavery into a condition of moral and physical well-being that had never been known in the history of Southern States.” The article concluded, “The negroes receive kindlier treatment and better food and care than when they were at liberty.” In legitimating imprisonment as benevolent institution appropriate for blacks, this account signaled the

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<sup>1</sup> De Jong, *A Different Day*, 18.

<sup>2</sup> “Convict System Changed in the South: Negro Prisoners No Longer Leased Out to Work for Levee Contractors,” *Chicago Daily Tribune*, August 3, 1901.



conflation of black racial identity and convict status by 1900. The report did more than inform the public about changes in Louisiana's penal system. Its celebration of the abolition of the lease system in Louisiana overwrote the explicit race and class-based repression of the Constitution of 1898. It also suppressed the constitution's virulent expressions of white supremacy with claims of progressive penal reform. The "revolution" to which the article alluded not only fixed the color-line, it also justified white supremacy by conflating black subject status and criminality, vice, and immorality. In this way, "the Negro criminal" became a proxy for white nationalist assertions of innate black deviance, inferiority, and social danger, thereby silencing the criminality of non-black subjects.<sup>3</sup>

This chapter begins with the penitentiary's return to direct state management in 1901 and traces the system's development to 1916, when the penitentiary's administrative structure changed once again. This examination places particular focus on Angola, the penitentiary's premier prison farm, an enduring element of Louisiana's penal system. This chapter contributes new understanding to the penitentiary system during this period in four primary ways.<sup>4</sup> First, it suggests that the penitentiary constituted a "great industrial and business enterprise," one which responded to the contradictions associated with its reliance on contract convict labor.<sup>5</sup> Second, it argues that system was a constituent part of the Mississippi Delta's alluvial empire, one

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<sup>3</sup> "Convict System Changed in the South," *Chicago Daily Tribune*, August 3, 1901.

<sup>4</sup> This account diverges from existing scholarship in fundamental ways. It approaches the penitentiary as a carceral institution and as a labor system, which first and foremost, worked to command labor for surplus production. It locates the institution within larger circuits of exchange, identifies marked structural similarities between the convict lease system and state administered punishment of the early twentieth century. It also delineates the penitentiary's system of forced labor in the early twentieth century as an extension of convict servitude from the nineteenth century rather than as a literal or metaphoric type of slavery. It offers correction by dispelling naïve understandings of penal reform as either a benchmark of social 'progress' or as genuine expressions of greater benevolence. See: Carleton, *Politics and Punishment*; Wisner, *Public Welfare Administration*.

<sup>5</sup> State of Louisiana, *Official Journal of the Proceedings of the Senate of the State of Louisiana at the Second Regular Session Begun and Held in the City of Baton Rouge, May 12, 1902* (Baton Rouge: The Advocate, Official Journal of Louisiana, 1902), 22.

responsive to international markets driving development of large-scale capitalist agriculture in the region.<sup>6</sup> Third, it maintains that abolition of the lease system was anything but a revolution. The penitentiary system retained striking structural similarity to that of the lease system despite reports of ameliorative change. And fourth, it details the expansion of convict servitude and physically forced penal labor under state control. Thus, abolition of the lease system did not emancipate convicts from physically forced labor and captivity. Rather, the many proponents of this new penal regime used the abolition of convict leasing to legitimate forced labor and captivity in the ‘free’ world as a means of civilizational progress, humanitarian reform, and as a benevolent educational institution especially suited to blacks.

### ***Transition from Lessee to State Control***

There is little doubt that the Constitutional Convention of 1898 occasioned celebration for Bourbon Democrats. But, when *The Chicago Tribune* commented that the event consummated revolution, they misspoke. Talk at the Democratic Party’s “family gathering” concerned counterrevolution. This reaction accomplished Democratic unity, the Party’s monopoly on the state, the newly minted mandates of white supremacy, and in the same moment, abolition of the convict lease system.<sup>7</sup> Article 196, the state’s constitutional amendment that outlawed the lease system, confronted officials with the very predicament their predecessors had eluded for over three decades. Officials could no longer avoid “having the prisoners thrown back on the state.”<sup>8</sup> But still, reluctance and uncertainty defined their actions. Statements by Governor

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<sup>6</sup> Nan Elizabeth Woodruff, *American Congo: The African American Freedom Struggle in the Delta* (Cambridge: Harvard University Press, 2003), 8.

<sup>7</sup> On family gathering, See: State of Louisiana, *Journal of the Constitutional Convention* (1898), 3-6.

<sup>8</sup> State of Louisiana, “Annual Message of Governor Francis T. Nicholls to the General Assembly of the State of Louisiana,” in *Official Journal of the Proceedings of the Senate of the State of Louisiana at the Regular Session Begun and Held in New Orleans, January 7, 1878* (New Orleans: The Office of the Democrat, 1878), 11, 13.

William W. Heard reflected this posture.<sup>9</sup> Speaking to the state legislators, he said, “The most difficult problem with which my administration has had to deal has been the establishment of a Penitentiary system under the absolute control of the state.”<sup>10</sup> Despite the fact that lawmakers had instituted gradual abolition in 1894, on the eve of the lease’s expiration, no provision had been made for the return of prisoners to state control.

Governor Heard outlined how ill-prepared the state was for the return of its prisoners. He remarked that, there were no adequate facilities to house the state’s 989 prisoners since, “The State owns no farm on which they could be employed, no manufactories in which their labor could be made available, nor buildings outside of the penitentiary.” Underscoring the continued dependency of the state on the lessees and the gravity of the problem, he said that even “the clothing of the convicts and the implements used by them” were almost, if not entirely, owned by the firm. Despite the boastful proclamations of lawmakers, the press, or state administrators, there was nothing revolutionary about the impending abolition. Governor Heard announced only one certitude: state convicts would not be emancipated from physically forced productive labor. He claimed, “It is not expected that they should be a charge upon the tax payers.” With timidity, the new governor, a protégé of Murphy J. Foster, implored the General Assembly to form a commission to study how best to employ convicts and to act on the findings. The governor

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<sup>9</sup> William Wright Heard served as Louisiana’s governor from 1900 to 1904. Born in Union parish on April 28, 1853, he held a number of public offices before working for the Foster administration as the state auditor. An opponent of the lease system, he was a close personal friend and political ally of Foster. Viewed as the “outgoing administration’s crowned prince.” Nominated for governor at the Party’s convention controlled by Foster, Heard won easily with 78 percent of the vote within a dramatically restricted electorate. Immediately after the election, Heard endorsed Foster’s election as U.S. senator by the legislature. His major accomplishment as governor was the transition to state administration of the penal system and management of it. See: Cowan and McGuire, *Louisiana Governors*, 129-131.

<sup>10</sup> State of Louisiana, *Official Journal of the Proceedings of the House of Representatives of the State of Louisiana at the First Regular Session of the Fifth General Assembly, Begun and Held in the City of Baton Rouge, May 14, 1900* (Baton Rouge: The Advocate, Official Journal of Louisiana, 1900), 27.

stated, “I hesitate to offer any special suggestions or recommendations on the subject, but after conferring with my predecessor in office, he joins me in presenting to you...a bill including appropriations.”<sup>11</sup> Heard’s statements reveal that the former governor, Murphy J. Foster, maintained influence over the state executive’s office well into the twentieth century and indirectly, if not less powerfully, shaped penitentiary policy.

After nearly thirty-three years of continuous convict leasing, the Louisiana state legislature passed a measure in to meet the new constitutional mandate. Act 70 of 1900 carried out the constitutional amendment by constituting a Board of Control to govern the state-controlled penitentiary system, specifying that the “control and management of the penitentiary and convicts shall be vested in the board.”<sup>12</sup> It also allowed the Board to purchase or lease tracts of land for “for the establishment of one or more State convict farms to be cultivated by the State, or for the establishment of manufactories.” Not only did this landmark measure abolish convict leasing in Louisiana, it also advanced the cause of white supremacy by mandating the separation of “blacks and whites” inside the penitentiary system.<sup>13</sup> The act represented the first formal iteration of racial segregation in the state’s penal practice since 1842.<sup>14</sup> This measure meant significant investment towards separate accommodations for convicts, and therefore, bolstered the strength of the new regime’s ideological commitment in a two-tiered racial

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<sup>11</sup> State of Louisiana, *Journal of the House* (1900), 27.

<sup>12</sup> Section 2 also named the body, “The Board of Control of the State Penitentiary,” and specified that it “be composed of three commissioners, citizens of the State, who shall be appointed by the governor, by and with the consent and advice of the senate.” Section 3 anticipated conflict of interest when it mandated that “no member of the board of control, warden, sub warden, officer, guard, or other employee, shall be personally interested directly or indirectly in any contract of purchase or sale or lease of lands, materials or of supplies of any kind whatever or in any contract for work to be done.” See: United States Department of Commerce and Labor, *Convict Labor: Twelfth Annual Report of the Commissioner of Labor, 1905* (Washington: Government Printing Office, 1906), 680.

<sup>13</sup> U.S. Department of Commerce and Labor, *Convict Labor* (1906), 680.

<sup>14</sup> State of Louisiana, *Acts* (1842).

hierarchy as the foundation for the new penitentiary system. State control of the penal system, then, contributed to the fixing of the color-line that followed the political defeat of the Populist movement, Democratic rule, and the Constitution of 1898. Thus, racial segregation in penal practice transpired under state control early in the twentieth century. It occurred with the consolidation of Democratic rule and coincided with state-imposed mandates for segregation authorized by recent United States Supreme Court decisions.

State officials did not act alone. The Prison Reform Association of Louisiana sought to instill the animus of white racism into the new penal system. The organization lent assistance to the state. In a memorial addressed to the state House and Senate, the organization summarized the dilemma facing the state of Louisiana when it declared,

The State Constitution prohibits the leasing of State convicts after March 31, 1901, and provides they may be employed in manufacturing, cultivating State farms, or on public works. This Legislature, with a limited treasury and over a thousand convicts to take charge of, has to meet the difficult question and to reach a solution, that it not only compatible with our finances, but with our position and fair names as a civilized State. The racial, climatic, and financial, questions involved confront us with difficulties on all sides, and at the same time, we cannot afford for humanities sake, or for self-preservation, to go backwards.<sup>15</sup>

The Prison Reform Association of Louisiana's statement to the legislature indicated that economy alone could not be the sole consideration. Their recommendations were couched in imperialist assumptions about civilizational progress and hierarchies of race and nation. The organization advised the state to organize its penitentiary in a manner consistent with Eurocentric projections of inferiority onto black subject populations and colonial peoples throughout the world.

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<sup>15</sup> Prison Reform Association of Louisiana, "Memorial of the Prison Reform Association of Louisiana to the Senate and House of Representatives on Prison Reform and the Necessity of a State Reformatory with the Opinions of Judges, District Attorneys and Sheriffs" (*n.p.*, 1900), 1.

Calling attention to a conspicuous minority presence among prisoners, the Prison Reform Association of Louisiana did not make the mistake of conflating black racial identity with convict status. They understood that even though black inmates comprised about eighty-six percent of the total prison population, there were still 158 white prisoners in 1901 –the year that the state took control [see Figure 6.1].<sup>16</sup> The presence of whites among a majority black inmate populace, according to the organization, called for action. The organization stated, “The white population of our State is increasing, and especially that of our towns and cities, and therefore, some provision should be made for the increased number of white criminals, and while following out the spirit of our civilization “WHITES AND BLACKS IN OUR PRISONS SHOULD BE SEPARATED.” It was the hope of the prison reform organization that, “At the dawn of the new century, the state will write on the statue Books...laws that will put her on an advanced plane of civilization.”<sup>17</sup> Thus, at the turn of the century, penal reformers took the lead in instituting racial hierarchy and caste formation among convicts in keeping with imperialist projects tied to notions of social advance.

Organized on October 1, 1900, the Louisiana penitentiary’s Board of Control worked against time to put ideals into practice, as members had only three months to determine the fate of nearly one thousand state prisoners.<sup>18</sup> In their first report to Governor Heard after reclaiming

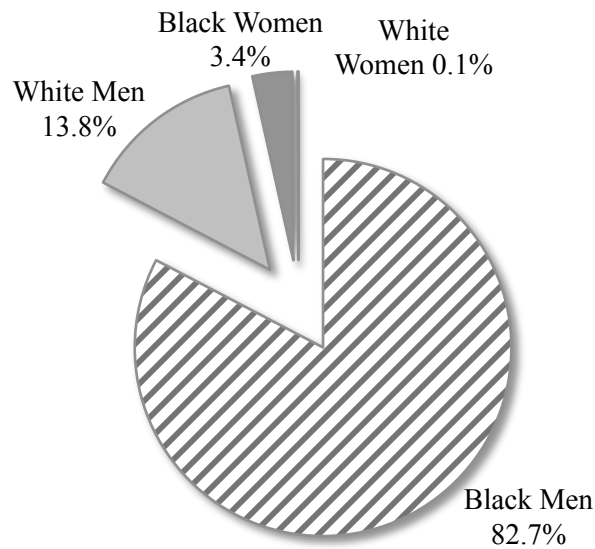
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<sup>16</sup> Louisiana State Penitentiary, *Report of the Board of Control* (1902), 10.

<sup>17</sup> The Prison Reform Association of Louisiana also recommended segregation by gender, by age, that convict labor not compete with ‘free’ labor, and that prisoners be treated with “humanity.” Prison Reform Association of Louisiana, “Memorial of the Prison Reform Association of Louisiana on Prison Reform and the Necessity of a State Reformatory,” 1-2.

<sup>18</sup> The Board was established by Act 70 of 1900 which carried into effect Article 196 of the Constitution of 1898 which prohibited the convict lease system. The first Board constituted under this provision consisted of C. Harrison Parker, president; G.A. Killgore, secretary and treasurer, and E. P. White. The latter resigned and R.N. Sims was appointed in his stead. Colonel C. Harrison Parker was notified August 13 of his appointment as president of the Board of Control of the Louisiana penitentiary, and set to work at once to organize the penitentiary as a state institution. See: “End of the Louisiana Convict Lease

**Figure 6.1**  
Prisoners by Race and Sex, 1901,  
Louisiana State Penitentiary



Source: Louisiana State Penitentiary, *Report of the Board of Control* (1902), 10.

the state's 1,142 convicts, the Board of Control boasted of their victory over the "herculean task" that they faced.<sup>19</sup> They were "forced for weeks and months to move on with a speed that permitted little deliberation, issues had to be met and settled at once and problems worked out always in haste and sometimes in confusion." Despite these time constraints, the Board's actions were calculated. They examined a number of different options before deciding on the most useful system that would comply with the conditions set forth by Act 70 of 1900—a statute that limited their choices to state farms, levees, roads, other public works, manufactories and reformatories. C. Harrison Parker, president of the Board, investigated penal farms in

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System," *Public Opinion*, August 30, 1900, 271; *Report of the Secretary of State to His Excellency, W. W. Heard, Governor of the State of Louisiana, May 12th, 1900* (Baton Rouge: Baton Rouge News Pub. Co., 1902), 492. The governor noted that even though prisoners did not technically return to the state until March 3, 1901, "if agricultural work was to be undertaken, every day's delay after January 1<sup>st</sup> imperiled the chances for a crop." State of Louisiana, *Report of the Board of Control* (1902), 3.

<sup>19</sup>Ibid., 57-60.

neighboring states that had significantly more prisoners to maintain.<sup>20</sup> The Board's investigation revealed that other Southern states had invested heavily in state punishment. Tennessee had spent \$626,926 on a new penitentiary for 950 prisoners. The state had also invested \$250,000 over and above working capital into coalmines for convict employment. Maryland spent \$1,154,660 on a new prison for the punishment of 972 prisoners while Texas spent \$2,665,000 for a new institution despite the fact that over sixty percent of the state's 4,600 prisoners were hired out as agricultural workers."<sup>21</sup> Louisiana's Board of Control estimated that "the cost of the State prison system of the country" varied from \$500 to \$1,200 per capita of the prison population.<sup>22</sup> They determined that "in agriculture, the purchase of 10 acres of good alluvial land per hand, mules, farming implements, gear, and buildings, etc. [could] not be done for less than \$500 to \$600" per capita of the prison population. By contrast, "manufacturing lines required nearly half a million dollars of invested capital, [and] the prisons of the country where convicts are employed within walls, cost from \$500 to \$1,000 per capita of the prison force."<sup>23</sup> Or, in other words, convicts employed within prisons that invested in costly indoor manufacturing enterprises posed about the same 'cost' to states as prisoners working outdoors.

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<sup>20</sup> It is unclear whether or not the Board followed recommendations of the Prison Reform Association of Louisiana when they advised officials to solicit the "ideas of the wardens of some penitentiaries of the North and of the West who have great experience in prisons and have five times the number of convicts in their charge." See: State of Louisiana, *Report of the Board of Control* (1902), 4; Prison Reform Association of Louisiana, "Memorial of the Prison Reform Association of Louisiana on Prison Reform and the Necessity of a State Reformatory," 1.

<sup>21</sup> State of Louisiana, *Official Journal of the Proceedings of the Senate of the State of Louisiana at the Second Regular Session Begun and Held in the City of Baton Rouge, May 12, 1902* (Baton Rouge: The Advocate, Official Journal of Louisiana, 1902), 23.

<sup>22</sup> State of Louisiana, *Journal of the Senate* (1902), 23.

<sup>23</sup> State of Louisiana, *Report of the Board of Control* (1902), 3.



All options considered by the Louisiana penitentiary administrators, however, included the reliance on forced productive convict labor in order to create a penitentiary system that paid for itself. The Board emphasized that economic rationale underlay their decisions:

Every line of the law creating the Board breathes the spirit of reform in prison management, and in this it voices the wishes of the people of the state [which] directs the establishment of an industrial system by which the labor of these prisoners can be made so productive as to defray all costs of their maintenance and surplus if possible. Both of these objects must be constantly kept in mind, and the management which disregards either one or the other will fail to find approval of its course.<sup>24</sup>

In order to assure success in their “course,” the Board looked beyond abstract penitentiary ideals to adapt state punishment to local circumstances. Unlike the Prison Reform Association of Louisiana, the Board’s rationales reflected neither explicit racial references nor appeals to imperial chauvinisms. Instead, motivations were particular, pragmatic, and spoke to ‘the labor problem,’ or, the dilemma of providing full employment for prisoners. This was not a new dilemma. Nineteenth century penal manufacturing enterprises under both state and lessee control consistently failed to achieve full prisoner employment even after prison officials added large-scale textile production to artisanal production. Determined to avoid mistakes of the past, the Board decided that, “The class of prisoners must dictate to a large extent the method of employment.”<sup>25</sup>

Prisoners transferred from the lessees to the state were largely an unskilled force. Only fourteen percent of the convicts could claim to possess a trade, and over half of these 168 skilled inmates were farmers [see Table 6.1]. The majority of prisoners not only lacked a skilled trade but also a formal education. Almost two thirds of the prisoners at the Louisiana State

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<sup>24</sup> State of Louisiana, *Journal of the Senate* (1902), 22-3. This statements alludes to the fact that the forced labor of prisoners could indeed defray and exceed the ‘costs’ of their confinement.

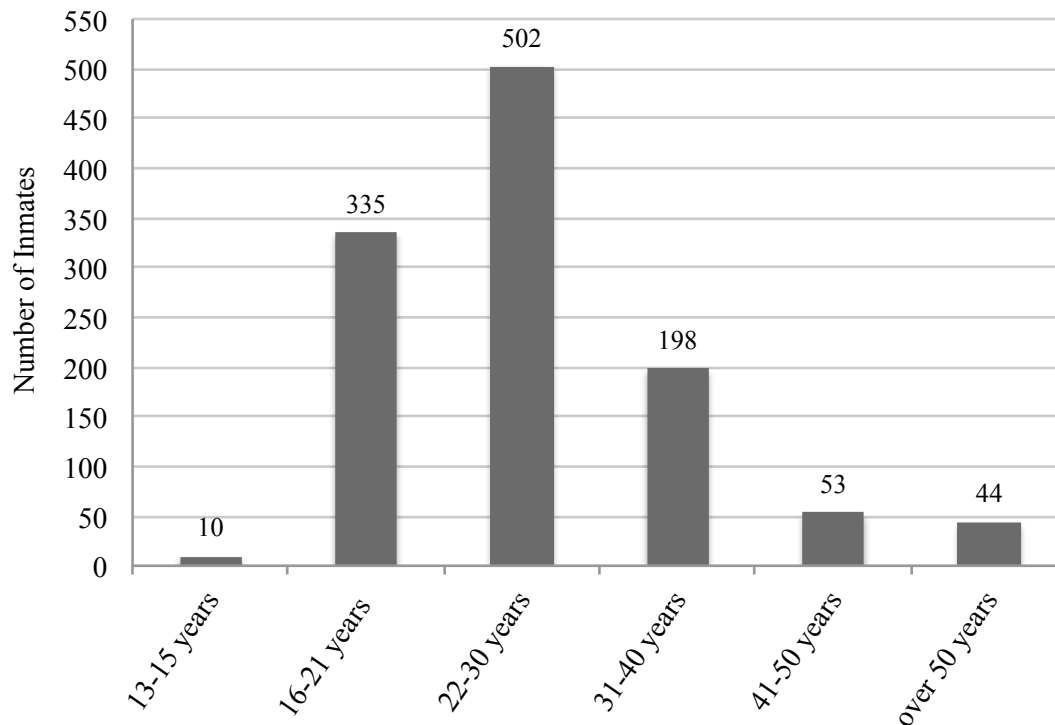
<sup>25</sup> Ibid., 4.

**Table 6.1**  
Occupation of Inmates, 1901,  
Louisiana State Penitentiary

<b><u>Occupation</u></b>	
Baker	2
Barber	2
Blacksmith	10
Boiler Maker	1
Bookkeeper	3
Bricklayer	4
Butcher	1
Carpenter	4
Clerk	6
Cook	19
Cooper	3
Cotton Sampler	1
Decorator	1
Druggist	1
Electrician	1
Engineer	1
Farmer	92
Gas Fitter	1
Hostler	3
Machinist	4
Mattress Maker	1
No Occupation or Trade	922
Painter	5
Paper Hanger	1
Police Officer	1
School Teacher	3
Screwman	1
Seamen	2
Service Worker	31
Shoemaker	4
Stone Cutter	1
Tailor	1
Teamster	2
Washerwoman	6
Wheelwright	1
<b>Total</b>	<b>1142</b>

*Source:* Louisiana State Penitentiary, *Report of the Board of Control* (1902), 53.

**Figure 6.2**  
Inmate Population By Age, 1901,  
Louisiana State Penitentiary



*Source:* Louisiana State Penitentiary, *Report of the Board of Control* (1902), 53.

Penitentiary could neither read nor write. The great majority of these unskilled, uneducated offenders were also young. Almost seventy-five percent of the prisoners in 1901 were between fifteen and thirty years of age [see Figure 6.2].<sup>26</sup> After surveying their wards, the Board of Control decided that Louisiana's "class of prisoners" was best suited for agriculture. Providing a more detailed explanation of their decision, the Board reported with confidence that:

There could be no doubt about the general policy to be pursued. Only a portion of this labor was physically able to endure levee work. To have kept them all here would have been to perpetuate a great wrong... That this conclusion was correct has been demonstrated...since only one-third of the men grade sufficiently high to go on the levees. The class of labor to be handled debarred manufacturing enterprises on any large scale. Agriculture had been tried in our neighboring States and had proven successful...The prisoners can be well cared

<sup>26</sup> Ibid., 53-4.

for in every way and treated in the most humane manner and more than maintain themselves. They can furnish a fund to go on building up the system.<sup>27</sup>

Thus, in order to develop a “great industrial and business” enterprise that would employ all of its convicts in productive labor, the Board decided to pursue agricultural industry. They found its lower rates of capitalization favorable given that authorities held reserves in labor power. Members understood that with full command of its convict population, the state would gain competitive advantage by employing an unpaid, captive labor force in plantation production for subsistence and for market.

While the plan outlined by the Board of Control was crafted to seem both strategic and progressive, neither the ethos nor the practice differed markedly from that of the lessees. The same issue which frustrated James and his partners came to vex state officials. Louisiana’s new penal administrators learned that not all convicts were physically capable of hard productive labor. The lessees had not approached this dilemma with the same sensitivity that the state professed. James and his associates employed convicts on levees without much regard to their physical capabilities. This practice was said to have led to the unprecedented mortality rates, particularly during the 1890s. At the same time, the lessees used convicts for agricultural labor on their own lands or sub-contracted them to other parties. Thus, the state’s early twentieth century experiment, much like nineteenth century trials, struggled to overcome the predicament of prisoner ‘idleness,’ which, for authorities, undercut revenues and undermined prisoner control.

Yet, with great optimism and confidence, the Board made arrangements to retake possession of its wards three months early.<sup>28</sup> This eagerness was rationalized, in the words of the

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<sup>27</sup> Ibid., 4-5.

<sup>28</sup> The lease agreement of 1890 terminated on March 3, 1901. The Board paid the lessees a rebate of the lease price for the prisoners’ early return to the state. State of Louisiana, *Report of the Board of Control* (1902), 5; “End of the Louisiana Convict Lease System,” *Public Opinion*, August 30, 1900, 271.

Board: “If any agricultural work was to be undertaken, every day’s delay after January 1<sup>st</sup> imperiled the chances for a crop.” In keeping with legislation outlawing the lease, members of the Board advertised for property and toured the state to secure land on which to develop a penal farm.<sup>29</sup> Their objectives were to first buy “outright” rather than lease land in order “to scatter the risk” by undertaking both cotton and sugar cane production, and second, to purchase property suitable for large-scale cultivation that would produce revenue as soon as possible.<sup>30</sup> After careful consideration, the Board purchased two properties on behalf of the state: “Hope,” a sugar plantation in Iberia Parish that situated on the Bayou Teche, and “Angola,” the cotton plantation seated in West Feliciana parish on a floodplain surrounded by the Mississippi River.<sup>31</sup> The state acquired Hope, the smaller and less costly of the two plantations at only 2,800 acres, at a value of \$78,000.<sup>32</sup>

Angola was, essentially, a ready-made prison farm. It was by no coincidence, however, that state prisoners already resided at Angola plantation, as they had been growing and picking cotton for over two decades under the command of Samuel L. James and his son. In 1901, the state purchased the 8,000-acre “penitentiary farm” for a value of \$200,000 at a rate of \$25.00 per acre.<sup>33</sup> Authorities announced that “it was best suited in every way for a State Penal farm.” The

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<sup>29</sup> State of Louisiana, *Report of the Board of Control* (1902), 3-4.

<sup>30</sup> The governor justified purchasing rather than renting lands based on poor results with leasing. It determined that rent payments in three or four years would exceed the value of the property. *Ibid.*, 4.

<sup>31</sup> *Ibid.*, 4-5, 31.

<sup>32</sup> Reports stated that for Hope Plantation annual appropriations covered the cash payment of \$26,000, and the balance made payable in three equal annual installments at 6 percent interest with the privilege of taking them up at any time. *Ibid.*, 5.

<sup>33</sup> At this time, the property and the lease nominally belonged to a joint stock company entrusted to the children of Samuel L. James. Since the firm was indebted to the state for a sum of \$46,535.00 in back rent, the two parties agreed to a settlement whereby the debt offset the \$50,000 cash portion of the purchase price of the plantation. The purchase price was \$25.00 per acre and the survey made by the State Board of Engineers. The balance after the offset was \$25,000 made payable annually, with the right to take up all the notes at the end of three years. State of Louisiana, *Report of the Board of Control* (1902), 5-7.; State of Louisiana, *Official Journal of the Senate* (1902), 22-4.

Board indicated that “its size gave ample scope for development...embracing as it does 8,000 acres of land, of which some 3,000 acres were cleared and in cultivation.”<sup>34</sup> Board members did not overlook an added value. Its “isolated position” according to authorities, “rendered it very desirable.” Like Hope Plantation, Angola came “partially equipped” with livestock, farming implements, vehicles, housing, feed, and even furniture for residences.<sup>35</sup> But, the lessee’s convict plantation yielded another advantage associated with its peculiar past. A state inventory showed that it included at least one cell building.<sup>36</sup> The quality of the estate, its resident state prisoner population, and its unusual amenities made it an ideal location from which to launch the state’s first directly administered penal experiment in over thirty years. These features motivated the Board to waste no time in moving state prisoners held at other locations to the site. Authorities placed convicts in “temporary quarters and farming operations beg[a]n early in January, 1901, and large crops [were] pitched without delay.”<sup>37</sup>

While the Board of Control pinned the penitentiary’s future on industrial farming and appropriated one of the lessee’s convict plantations, authorities did not turn away from other proven opportunities. Despite so much rhetoric about the inhumanity of the convict lease system, the state actively pursued what had been Samuel L. James’s most notorious and lucrative prison enterprise. The Board pursued levee contracting much like the lessees had done. Members maintained that “it was necessary to carry forward this work, from the very day” of the transfer

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<sup>34</sup> State of Louisiana, *Report of the Board of Control* (1902), 17.

<sup>35</sup> *Ibid.*, 17, 33.

<sup>36</sup> The personal property was inventoried immediately after the state took possession but not officially appraised. Approximate valuation was as follows: machinery, guns, etc., \$3,000; 154 mules and 11 horses, \$11,250; cattle, hogs, and sheep, \$474; house vehicles, \$142; implements, agricultural tools, etc., \$1,666; furniture and manager’s house, \$470; hay and corn, \$2,248, for a total value in movable property of \$19,250. An official inventory taken of the plantation buildings submitted on October, 30, 1901, listed “old cell building” and valued it at \$175. *Ibid.*, 25.

<sup>37</sup> *Ibid.*, 17.

“in order to avoid losses resulting from the men standing idle.” Consequently, they bought more property and materials from the lessees. Authorities “made arrangements with the lessees for the purchase and the outfit of the equipment of ...levee camps...at a price to be determined afterwards by appraisalment.” This purchase even included “clothing, cooking utensils, etc.”<sup>38</sup> Authorities indicated that in the past ten years preceding state transfer, the lessees had employed the majority of Louisiana’s prisoners on levees. In the Board’s opinion it was “unfortunate” since, in their estimation, more than half of the prisoners had been unfit for such work. Members blamed the lessees for indiscriminate assignment to levee work since “for the weaklings, it meant a speedy death.” As a result, officials promised to institute a physical classification scheme that would reward only the most robust prisoners with assignment to levee works.<sup>39</sup> It was this course of action that, according to authorities, would ameliorate prisoner conditions and diminish the mortality rates.

Because of a lack of investment capital, the Board decided to purchase only two of the lessee’s levee camps. Administrators consolidated the “able-bodied” and relocated other prisoners to either the state penal farms or to ‘the walls’ at Baton Rouge. At the same time, authorities winnowed new recruits held at the penitentiary, segregating the “best physical specimens” from the physically weak.” Officials added these “new men” fit for heavy work, to

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<sup>38</sup> The Board defended the decision to purchase supplies stating that it would have been impossible to do otherwise since prison goods were not held in stock but made by mills on contract requiring two to three months for delivery.” Officials found equipment purchased to be “old and a great deal of it almost worthless.” The subject led to legal action. The Attorney General advised that the “lessee having received the prisoners with clothing, bedding, etc., they were obligated to return them in like condition, and that the state, therefore, could owe nothing for these articles. The board made a claim on the lessees stating that they were indebted to the state for property received at the time of the original lease. Yet, the state was unable to find the inventory with the appraisalment. In 1901, the dispute remained before the Attorney General who was in the process of reaching an “amicable adjustment” with the attorney of the lessees. Ibid., 29

<sup>39</sup> Ibid.

the newly acquired work camps. In a matter of a few months, the state took up where the lessees had left off. It was not without irony that the Board signed a levee contract under the same terms as had the lessees. Outfitted with two levee camps, the state commanded a convict workforce of only the most “able-bodied,” which did distinguish state employment of convicts on levees from that of the previous management. This “improved” operation immediately set to work on the Atchafalaya River on the same price basis as had the lessees [see Figures 6.3 and 6.4]. The initial warrant total was \$60,000.<sup>40</sup>

Adoption of lessee’s convict farm and its levee operations did not stop the state from reviving the state prison at Baton Rouge. Under lessee control ‘the walls,’ once a beacon of civilization and ‘social progress,’ had become a “relic of the past,” according to officials. Left largely derelict under lessee control, officials first turned their attention to the factory building and found that the once state-of-the-art installation was “filled with rusting and decaying machinery, spindles and looms,” of a type that had not been “operated for over a quarter of a century.” The Board reported that, “It was absolutely worthless except for junk.”<sup>41</sup> The *Daily Picayune* did not disagree. Upon transfer, the newspaper reported, “All that remains to show for the expenditure of hundreds and thousands of dollars, [the] looms, spindles, carding machines, bolts, rods, bars, shafting...[were] piled up on the damp floor in a heterogeneous mass, unfit for any use except to melt the metal over again and manufacture modern machinery out of it.”<sup>42</sup> Authorities advertised it as such and sold it to the highest bidder.<sup>43</sup>

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<sup>40</sup> The 1901 contract with the Atchafalaya Basin Levee Board warranted \$59,279.86 to the state. Total income received amounted to \$63,781, which included extra work on Latinache Dyke and Bayou Lafourche and included interest at five percent on the warrant. Ibid., 4-5, 27.

<sup>41</sup> Ibid., 37.

<sup>42</sup> “Changes in the Convict System,” *The Daily Picayune*, January 9, 1901.

<sup>43</sup> State of Louisiana, *Report of the Board of Control* (1902), 37.



**Figure 6.3**  
Photograph of Kleinpeter Levee Camp,  
Louisiana State Penitentiary



Henry L. Fuqua, Jr. Lytle Photograph Collection and Papers, Mss. 1898, Louisiana and Lower Mississippi Valley Collections, LSU Libraries, Baton Rouge, La. (Image ID 1898\_047). Courtesy of Special Collections, Louisiana State University Library.

**Figure 6.4**  
Photograph of Convicts Building a Levee on Atchafalaya River,  
Louisiana State Penitentiary



Henry L. Fuqua, Jr. Lytle Photograph Collection and Papers, Mss. 1898, Louisiana and Lower Mississippi Valley Collections, LSU Libraries, Baton Rouge, La. (Image ID 1898\_030). Courtesy of Special Collections, Louisiana State University Library.

The lessees had not neglected the taxpayers' "large and valuable" power plant in the same way. Under their watch, it "had disappeared" entirely.<sup>44</sup> Inspection of the penitentiary building itself revealed some of the lessee enterprises, which had not been acknowledged in official reports. The *Daily Picayune* recounted that "after failing to make cotton spinners of the convicts," the lessees tried to make shoemakers of them, but this was also unsuccessful. Then, "they tried to make carpenters...of them and built a factory of the building of refrigerators." When this fell through, lessees reportedly tried to make tailors of the prisoners. Evidence of the last venture was best preserved. The newspaper reported that, "A hundred sewing machines were laid in, and the third floor of the old cotton mill was cleared of the machinery, which was thrown into piles on the lower floor. The sewing machines were run by steam power, and cutting tables, as there are in a regular...factory in town." The report indicated that convicts made clothing until "the outside manufacturers objected and the product of the state penitentiary was boycotted, and they had to quit this also." Louisiana's most reputable newspaper concluded that for this reason, "nothing remained but to send the convicts out to work on the levees, for this was work that did not enter into competition with honest labor to any appreciable extent." But, in a memorial to unnamed persons subject to such work, the article concluded that "the result was that many sickened, some died, and some became invalids for life."<sup>45</sup> Thus, what remained of prison industry at 'the walls' demonstrated the power organized labor and manufacturing interests held over the development of Louisiana's system of state punishment under both state and lessee control.

Officials found cell buildings "antiquated" and unfit for occupancy. Press reports and the government's own investigators found that the cells or "crypts" were not "sufficiently ventilated

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<sup>44</sup> Ibid.

<sup>45</sup> "Changes in the Convict System," *The Daily Picayune*, January 9, 1901.

for the summer and have no proper faculties for heating in the winter.”<sup>46</sup> Administrators estimated that one of the cell buildings had not been used in “about thirty years and had become dilapidated.”<sup>47</sup> The *Daily Picayune* reported that there were 850 cells at the time of transfer, “One just like the other as far as discomfort was concerned.” The account confirmed the Board’s opinion that one of the buildings, which contained half the number of cells, had not been in use of a long time. The newspaper detailed that “the bats and immense number of pigeons [had] quartered themselves within, and there they [laid] their eggs and hatch[ed] young birds in security, for rarely does any one visit either of the used buildings.”<sup>48</sup> For this reason, the state demolished it. Yet, the penitentiary’s new management approached the wreckage with economy unfamiliar to the lessees. Authorities repurposed the convict-made bricks from the razed cell to expand prisoner housing at Angola. Managers arranged for the transport of the material to the rural cotton plantation in order to build new quarters and expand convict operations at the lessee’s former prison plantation.<sup>49</sup>

The *Daily Picayune* forecasted the future when it printed, “The penitentiary will be such only in name.” Yet, its demise was not imminent. The newspaper indicated that not all buildings were in complete ruin. There was enough room in them to “shelter an army.” While it was true that the structures were in bad repair, they were built to last. The prison walls were still “solid and firm, the roofs of slate and watertight, and the flooring in the upper stories in fairly good condition” [see Figures 6.5-6.8]. The writer speculated that the buildings “which are all of brick, could be placed in repair, but that there was no need for them as a prison.” It indicated that

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<sup>46</sup> State of Louisiana, *Report of the Board of Control* (1902), 37; “Changes in the Convict System,” *The Daily Picayune*, January 9, 1901.

<sup>47</sup> “Changes in the Convict System,” *The Daily Picayune*, January 9, 1901.

<sup>48</sup> *Ibid.*

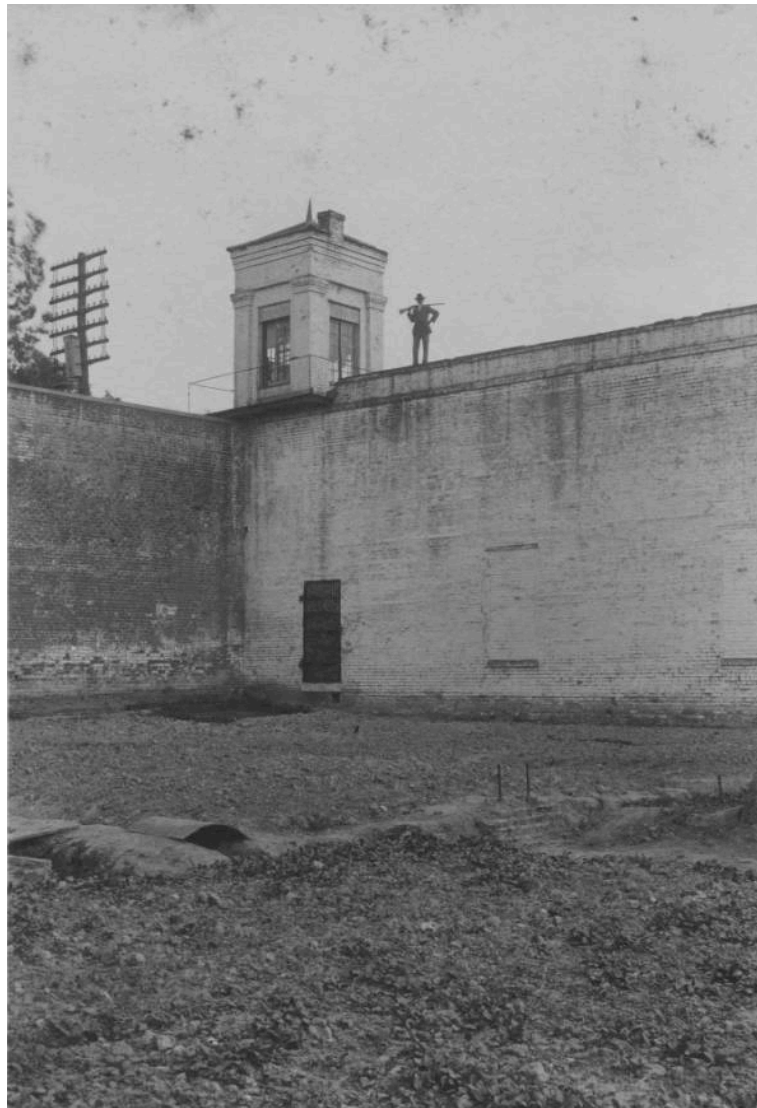
<sup>49</sup> State of Louisiana, *Report of the Board of Control* (1902), 37.

**Figure 6.5**  
Photograph of Baton Rouge Penitentiary,  
Louisiana State Penitentiary



State Library of Louisiana Historic Photograph Collection, State Library of Louisiana, Baton Rouge, La. (file no. hp009074). Courtesy of Special Collections, State Library of Louisiana.

**Figure 6.6**  
Photograph of Interior Yard and Guard Tower at Baton Rouge,  
Louisiana State Penitentiary



Henry L. Fuqua, Jr. Lytle Photograph Collection and Papers, Mss. 1898, Louisiana and Lower Mississippi Valley Collections, LSU Libraries, Baton Rouge, La. (Image ID 1898\_005). Courtesy of Special Collections, Louisiana State University Library.

**Figure 6.7**  
Photograph of Interior of Baton Rouge Penitentiary Complex,  
Louisiana State Penitentiary



Andrew D. Lytle Collection, Mss. 893, 1254, Louisiana and Lower Mississippi Valley Collections, LSU Libraries, Baton Rouge, La. (Image ID 1254\_C-114). Courtesy of Special Collections, Louisiana State University Library.

**Figure 6.8**  
Photograph of Cell Room at Baton Rouge,  
Louisiana State Penitentiary



State Library of Louisiana Historic Photograph Collection, State Library of Louisiana, Baton Rouge, La. (file no. hp009075). Courtesy of Special Collections, State Library of Louisiana.



only “two of the buildings were in use, “the cells where the prisoners are continued at night, and the hospital.”<sup>50</sup> The kitchen was found to be “disorderly” as the “the ceiling formerly plastered was almost bare because of the frequent recurrence of falling plaster, and was completely clouded with cobwebs.”<sup>51</sup> Despite the condition of ‘the walls,’ the penitentiary buildings remained useful for some convicts. Whereas all “able-bodied” convicts consigned to the institution were “to be sent away,” others were “physically incapacitated from doing manual labor” were to remain. It was to be a home for “the old, the weak, the sick, and the cripples...provided there can be found no employment of kind suitable to them elsewhere in the property which the state has recently acquired with a view to employing them to better advantage.”<sup>52</sup>

In 1902, administrators maintained that ‘the walls’ were indispensable for other reasons.<sup>53</sup> Its unique apartments, however uncomfortable, were deemed a necessity . Officials had taken the view that approximately two-thirds of the convicts were ineligible for levee work. Also, the newly acquired plantations lacked sufficient houses of confinement for such a number of prisoners.<sup>54</sup> Besides these two factors, there was another issue that made ‘the walls’ indispensable. Penal administrators understood that, “there is a class of prisoners that should not be sent to either the farms or levee camps because, they cannot be kept there. They belong inside of a secure prison, and have to be closely watched even there.” Officials emphasized that only within ‘the walls’ could such prisoners be controlled. They claimed that forced hard labor at the

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<sup>50</sup> “Changes in the Convict System,” *The Daily Picayune*, January 9, 1901.

<sup>51</sup> State of Louisiana, *Biennial Report of the Louisiana State Penitentiary, Board of Control, Calendar Years 1906-1907* (Baton Rouge: The Daily State Publishing Company, 1908), 12.

<sup>52</sup> “Changes in the Convict System,” *The Daily Picayune*, January 9, 1901.

<sup>53</sup> State of Louisiana, *Report of the Board of Control* (1902), 37.

<sup>54</sup> State of Louisiana, *Report of the Board of Control* (1902), 6; “Changes in the Convict System,” *The Daily Picayune*, January 9, 1901.

facility would prevent, “Such prisoners from being drones in the hive.”<sup>55</sup> In doing so, they alluded to a class of ‘incurrigibles’ who could only be controlled by isolation. Officials also acknowledged that ‘the walls’ could be useful “in cases of emergency, when it might be necessary to withdraw all the convicts outside ‘the walls’ and bring them in.”<sup>56</sup> Yet, the aged penitentiary complex at Baton Rouge would become more than an idle fortress. Administrators took steps early on to revive the old penitentiary’s manufacturing base and expand it to add value to the raw materials produced on its penal farms. The Board established a factory at Baton Rouge to supply clothing, bedding, and shoes, for “the entire force.” They used an electric motor to drive the machines so that “the cost of operation [was] trifling.” Board members indicated that they intended “in the not so distant future” to add looms and spindles in order to fabricate the cloth itself from cotton produced on the newly acquired convict farm.<sup>57</sup>

Prison administrators’ first declared objective was to achieve self-sufficiency for the penitentiary system. The *Daily Times* reported that immediately after transfer, the main object of the Board of Control was “to make the convicts self-sustaining, and if possible, profitable to the state instead of a burden.” The first order given to the captain of the penitentiary, L. B. Duncan was “to inspect the prisoners and find out how many of them were able-bodied men, and how many would be incapacitated from heavy work by reason of delicate health,” and to determine “how many of the prisoners within the walls could operate sewing machines or were cutters.” The captain found seventy men capable of levee work as well as “one cutter and about ten or twelve machine operators.”<sup>58</sup> The goal was to put these men to work as effectively as possible.

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<sup>55</sup> State of Louisiana, *Report of the Board of Control* (1902), 6.

<sup>56</sup> “Changes in the Convict System,” *Daily Picayune*, January 9, 1901; State of Louisiana, *Report of the Board of Control* (1902), 6.

<sup>57</sup> State of Louisiana, *Report of the Board of Control* (1902), 36.

<sup>58</sup> “Changes in the Convict System,” *Daily Picayune*, January 9, 1901.

Men slated for levee work were transferred out while those selected for clothing manufacture were to be put to work in the clothing factory producing suits of clothing and shoes for fellow convicts [see Figures 6.9-6.11]. The newspaper confirmed that the officer in charge, Captain Duncan, showed “great zeal” and by all measures exceeded expectations in profitably employing convicts.”<sup>59</sup> Surpluses beyond the needs of Louisiana’s state prisoner population did not compete with ‘honest labor’ since the added output was to outfit inmates at the insane asylum.<sup>60</sup>

Upon transfer, the Board did act to ameliorate prisoner conditions even though this ambition was not its most explicit priority. The *Daily Picayune* vouched for the new management’s efforts to improve conditions, observing that administrators sought to impose “a strict watch and ward over” the prisoners. The report also indicated that officials committed themselves to “keep[ing] an accurate record of all their movements and their condition.” The governing board hired a stenographer, a bookkeeper, and a clerk to carry out these tasks. The press reported on the good faith of these employees who “devoted all their time, energy, and talents to bringing about the reforms they intend to institute.” The Board claimed that, “the status of every prisoner turned over” to them had been examined, and “new numbers commencing at No. 1” were assigned to them.<sup>61</sup> Even though improvement of prisoner conditions was not a first priority, authorities had little choice but to make good on their promises. The president of the Board of Control travelled to Bayou Lafourche, just above Donaldsonville, on January 1 of 1901 to receive prisoners stationed there. Upon arrival, he encountered grave circumstances. Smallpox

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<sup>59</sup> During 1901, prisoners at the penitentiary produced prison coats, winter pants, summer pants, shirts, and jumpers, night shirts, drawers, aprons, sheets, bed ticks, pillow slips, pillow cases, cooks’ caps, trusty pants, towels, suspenders, discharge coats, discharge pants, and shoes. State of Louisiana, *Report of the Board of Control* (1902), 36; “Changes in the Convict System,” *Daily Picayune*, January 9, 1901.

<sup>60</sup> “Changes in the Convict System,” *Daily Picayune*, January 9, 1901.

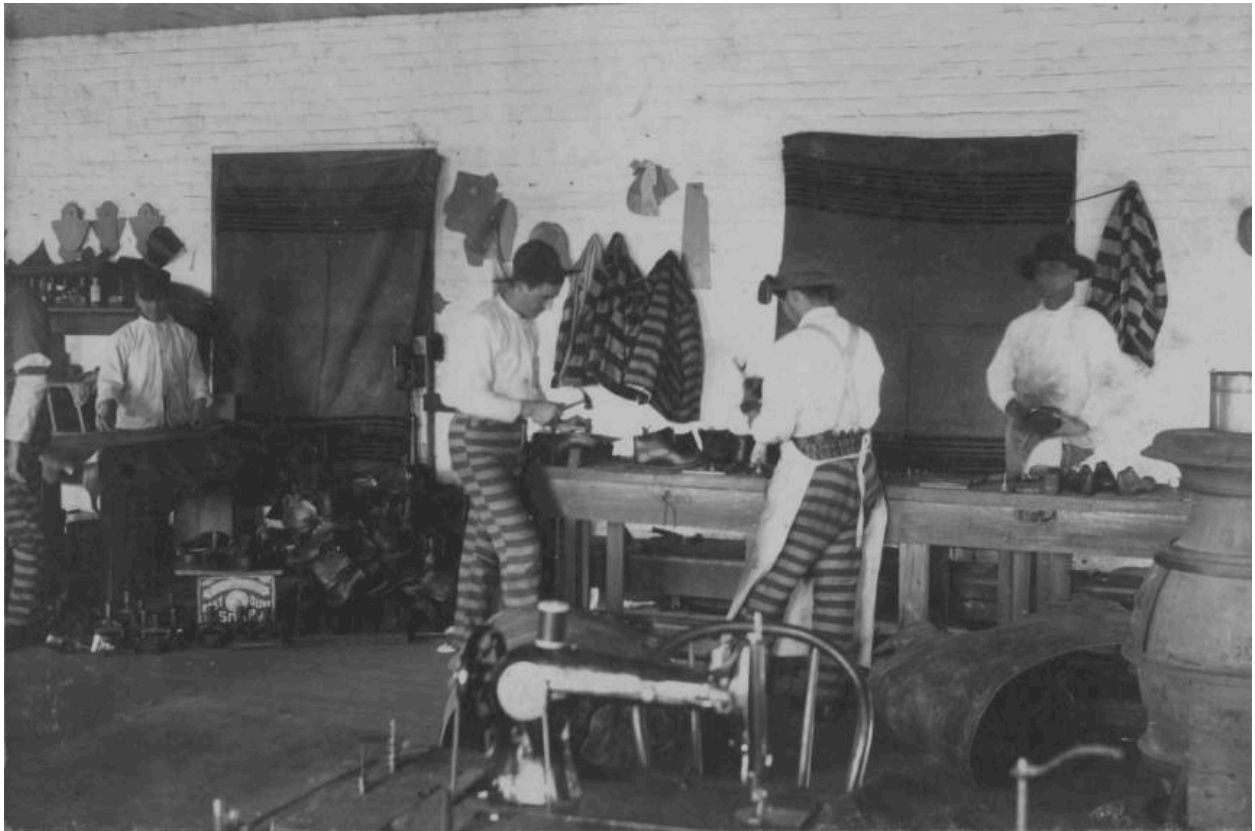
<sup>61</sup> Ibid.

**Figure 6.9**  
Photograph of the Clothing Factory,  
Louisiana State Penitentiary



Henry L. Fuqua, Jr. Lytle Photograph Collection and Papers, Mss. 1898, Louisiana and Lower Mississippi Valley Collections, LSU Libraries, Baton Rouge, La. (Image ID 1898\_004). Courtesy of Special Collections, Louisiana State University Library.

**Figure 6.10**  
Photograph of Convicts Making Shoes,  
Louisiana State Penitentiary



Henry L. Fuqua, Jr. Lytle Photograph Collection and Papers, Mss. 1898, Louisiana and Lower Mississippi Valley Collections, LSU Libraries, Baton Rouge, La. (Image ID 1898\_008). Courtesy of Special Collections, Louisiana State University Library.

**Figure 6.11**  
Photograph of Stock Room with Prisoner Clothing,  
Louisiana State Penitentiary



Henry L. Fuqua, Jr. Lytle Photograph Collection and Papers, Mss. 1898, Louisiana and Lower Mississippi Valley Collections, LSU Libraries, Baton Rouge, La. ( Image ID 1898\_003). Courtesy of Special Collections, Louisiana State University Library.

had overtaken the camp. Even the physician in charge had been “taken down” with the disease and was critically ill. Officials observed that unsanitary conditions prevailed and documented that the hospital had been overcapacity when the disease attacked men “already enfeebled by fever and diarrhea.” Authorities mobilized all available resources to stem the epidemic. Dr. Landry, the physician sent by the board, immediately vaccinated all convicts “not yet attacked,” “fumigated and disinfected” the camp, and isolated the sick “as far as it was possible.”<sup>62</sup>

This ordeal presented its own labor problem as the outbreak disrupted the board’s plan to “remove the men from [the] camp, as they might carry the infection into other camps.” Officials notified the Board of Health that three cases had proven fatal, and that nineteen cases were under treatment. The press credited the governor and his special agents for purchasing “all the necessary supplies, to contract for the supply of fresh meat every day to the sick, and thrice a week for the men who were well,” and additionally, for procuring daily supplies of fresh water. The camp came under orders not to drink the bayou water. Agents were also authorized to contract for a “supply of fresh milk daily for the sick as well as for any food or supplies which the surgeon might think proper to order.” These interventions had become a heavy expense to the state. But, Colonel Parker “held that the quicker the patients or convalescents regained their strength and got well the better for all concerned.”<sup>63</sup>

Although the precise cause of the outbreak was unknown, there was speculation that the attending physician, Dr. Truxillo, had introduced the illness into the camp after visiting a patient with smallpox not far away. Reports emphasized that the state played no role in the outbreak other than to stop its spread. After visiting other levee camps, however, authorities found them to be in “excellent condition as regarded the health of the prisoners.” So true was this assessment

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<sup>62</sup> Ibid.

<sup>63</sup> Ibid.

that in “one camp not one man was on the sick list, and in another, only one was sick, but the disease was not of a contagious character.”<sup>64</sup> The new managers drew lessons from the afflicted camp. The “visitation...had the effect of forcibly impressing upon the minds of the Board of Control the vital importance of guarding against this disease in the future” and to the “necessity of sanitary equipment in the new prison buildings on the farms.” The best efforts of the new custodians to stem the contagion’s spread did not prevent the loss of twelve men, one of whom was Dr. Truxillo. Two others were “so enfeebled that they died subsequently.”<sup>65</sup> The employment of convicts at levee works was a trusted revenue source even under the worst of conditions. But, no matter how lucrative the enterprise proved to be, levee ventures had not solved “the labor problem.” The new management’s drive to reduce mortality rates limited the degree to which the state could subject prisoners to such employment and retain legitimacy.

### *Alluvial Empire and Convict Enterprise*

Abolition of the convict lease system and the state’s adoption of large-scale, industrial penal farms accompanied the rise of an “alluvial empire” in the Mississippi Delta. With it came the industrialization of the region’s countryside, which extended from the boot heel of Missouri following the Mississippi river southward to the Gulf of Mexico, reaching further eastward and westward from the waterway.<sup>66</sup> This region became a magnet for extractive industries, which led the way to large-scale industrial agriculture as newly built railroads yoked the region more closely to national and international markets. Ambitious entrepreneurs backed by Midwestern, Eastern, and foreign capital did not consider the Delta to be “a backward area.” For them, it contrasted sharply with the declining cotton economy of the southeastern part of the United

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<sup>64</sup> Ibid.

<sup>65</sup> State of Louisiana, *Report of the Board of Control* (1902), 10.

<sup>66</sup> Woodruff, *The American Congo*, 8.



States. According to these interests, the ‘alluvial empire’ was “a frontier of opportunity” associated with progressive farming, scientific management, state-of-the-art infrastructure, as well as quick and high returns on investment.<sup>67</sup> The development of this province also coincided with colonial expansion in Africa, Latin America, and Asia.<sup>68</sup> Louisiana’s decision to found the twentieth century penitentiary system on penal farming was not a retreat from its nineteenth century experiments with prison industry. Rather, it represented a great leap forward for the state into export economies based on extractive industries, agricultural products, and various forms of labor coercion engineered to maximize surplus extraction.<sup>69</sup>

Yet, Louisiana did not pioneer state penal enterprise in the ‘alluvial empire.’ Mississippi had led the way when it abolished the convict lease system and developed its own large-scale state penal farm on a corporate model. After abolishing the lease in 1895, Mississippi purchased the Sunflower plantation, a 15,000-acre farm as the basis of a model penal system.<sup>70</sup> Most other Southern penal systems adopted convict farming as an important accessory to other operations, much like many Northern states were to do after a decade or more. However, penal farms in Louisiana, like those in Mississippi, were “progressive” according to the prevailing national, imperial, and social scientific logics of the time.<sup>71</sup> From the very beginning, Louisiana achieved a scale of production, systems of scientific management and a degree of labor control previously unrealized by the lessees, one that would have been the envy of planters.<sup>72</sup> The emergence of the corporate estate and the penal farm in the Mississippi Delta coincided with the early twentieth century’s incarnation of white supremacy. The white supremacy that had been institutionalized

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<sup>67</sup> Ibid., 8, 9.

<sup>68</sup> Ibid., 8-15.

<sup>69</sup> Ibid., 8.

<sup>70</sup> McKelvey, *American Prisons*, 213-4.

<sup>71</sup> McKelvey, *American Prisons*, 213-4; Woodruff, *The American Congo*, 8-37.

<sup>72</sup> State of Louisiana, *Report of the Board of Control* (1902), 3-35; Woodruff, *The American Congo*, 21.

by 1900 in the election fraud, corruption, and a reign of terror that underwrote Jim Crow provided the legal and ideological foundation for Louisiana's twentieth century penitentiary system.<sup>73</sup> This type of social 'progress' drew strength from locally defined race and class-based rule, a national government and from a political culture that advanced disfranchisement, segregation, and national imperial rivalries which authorized white supremacy as a touchstone for Western ideals of civilization. Thus, 'alluvial empire' inspired a type of 'progress' informed by 'enlightened' Western colonial ideology and white nationalism, which branded people of color to be morally and racially inferior, and criminally inclined.<sup>74</sup>

State penal farms operated along much the same lines as the Southern lumbermen and landowners who mixed with outside businessmen to form the region's large and powerful business class. Many planters had enriched themselves by harvesting timber before becoming large estate owners. State managers did not overlook similar potential in their own forested land. They exploited forests by felling timber for quick profits, building materials, and added arable land. For the state, the timber reserves not only held value, but also afforded raw material for the manufacture of barrels, boxes, and lumber which would provide employment to convicts for "several years to come."<sup>75</sup> Soon after operations began, managers inventoried timber reserves by hiring an "expert" who estimated that there were 8,096 feet of timber, which included first and second class cottonwood, first and second class red gum, cypress, and tupelo gum trees. There was also a large quantity of willow not enumerated. No price tag tallied the value of timber at

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<sup>73</sup> Woodruff, *The American Congo*, 22; State of Louisiana, *Report of the Board of Control* (1902), 39; U.S. Department of Commerce and Labor, *Convict Labor* (1906), 681-2; *Constitution of Louisiana* (1898).

<sup>74</sup> Woodruff, *The American Congo*, 8-15; "Convict System Changed in the South," *Chicago Daily Tribune*, August 3, 1901.

<sup>75</sup> State of Louisiana, *Report of the Board of Control* (1902), 19.

Hope plantation, but managers were optimistic since the larger share of the planation consisted of “timbered land, nearly all of fine quality and susceptible of good drainage.”<sup>76</sup>

State officials in Louisiana understood that convict-based industrial agriculture held decided advantages over private sector operations.<sup>77</sup> The state did not suffer from the labor shortages that vexed estate managers during the first two decades of the twentieth century.<sup>78</sup> Their labor problem concerned oversupply and “idleness.”<sup>79</sup> Demand for labor in the timber industry competed with the emerging corporate plantation economy. In 1907, many lumber mills in Arkansas, Missouri, and Louisiana shut down due to inadequate labor, cash, and railroad cars, as well as from a bumper cotton crop that same year. The state’s unwaged, convict labor force held advantages for the state. This was particularly true when it came to making ‘improvements’ on estates, such as building and maintaining levees, drainage systems, buildings, fencing, and clearing new land since these tasks were unwaged and required little working capital.<sup>80</sup> State managers could expand productive lands at a rate that private planters found difficult to match. But, this system of forced labor also benefited planters since convict labor served to subsidize the infrastructural improvements upon which their operations depended.

At the end of their first year of operation, penitentiary officials declared, “There has been much done with the prison labor.” In addition to cultivation, the Board noted the extent to which the application of convict labor added value to estates. While the state erected new structures and improved existing buildings during the 1901, managers focused the bulk of convict labor on upgrading and extending drainage systems. The “digging of seventy miles of ditches, four miles

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<sup>76</sup> Ibid.

<sup>77</sup> Ibid., 23.

<sup>78</sup> State of Louisiana, *Report of the Board of Control* (1902), 6; Woodruff, *The American Congo*, 16.

<sup>79</sup> State of Louisiana, *Report of the Board of Control* (1902), 3-39.

<sup>80</sup> Woodruff, *The American Congo*, 16.

of canals, and the deepening and cleaning out of fifteen miles of ditches culminating in upwards of one-hundred miles of canals and ditches on the plantation resulted in the reclamation of 310 acres of new land for cultivation.”<sup>81</sup> Board members acknowledged that “at the regular price per cubic yard” for this work, it would have cost at least \$11,297 for labor alone. All difficulties aside, Louisiana’s secretary of state reported to the governor that Angola yielded a revenue of \$92,000 from crops in just one year of operation.<sup>82</sup> Officials realized that the potential of this business model remained largely untapped. With high hopes, penal managers stated, “The work of developing this property [has] only just begun.” They predicted that when the “vast area will have been fully utilized...it will present a magnificent estate not surpassed by any similar sized body of land in this or any other state.”<sup>83</sup>

If the abolition of the convict lease system prompted a revolution, it was one that would transform the state penitentiary system into an agricultural industrial giant.<sup>84</sup> Only four months after the transfer of prisoners back to the state, the Board of Control reported to the General Assembly that “from a business standpoint, the result of the year’s operations [was] beyond what might have been expected.” They indicated that “cash receipts for farm products and levee work together with the supplies made and reserved for use in 1902 make up a total beyond the net cost of maintenance.” The administration anticipated that revenue would increase markedly since management had yielded net profits in the face of particularly adverse conditions. These conditions resulted from the fact that “foodstuffs and material had to be bought at advancing prices and agricultural operations carried on upon the basis of conditions created by others and

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<sup>81</sup> State of Louisiana, *Report of the Board of Control* (1902), 23.

<sup>82</sup> *Report of the Secretary of State to His Excellency, W. W. Heard, Governor of the State of Louisiana* (1902), 492.

<sup>83</sup> State of Louisiana, *Report of the Board of Control* (1902), 23.

<sup>84</sup> “Convict System Changed in the South,” *Chicago Daily Tribune*, August 3, 1901.

not the most favorable. Officers and men had to be more or less trained to their duties and the work of improvement carried on at the same time alongside the farming operations proper.”

While private employers struggled to contract workers, the state worked to find employment for the one hundred additional hands who joined the ranks of the state’s convict workforce of 1,142 inmates between January and May of 1901.<sup>85</sup>

The state held another advantage in mobilizing and commanding labor unavailable to private firms. While Act 70 of 1900 legally defined the state’s use of corporal punishment as a “humane” method of imposing prisoner control and work discipline, the law clearly did not afford employers the same license.<sup>86</sup> Nevertheless, landowners and plantation managers often took their own initiatives. They used a variety of strategies to stiffen labor coercion, some legal and others not. While some landowners imposed outright peonage, others settled on deception, theft, threats, assault, and at times, murder, of the men, women, and children upon whom their fortunes depended.<sup>87</sup> Criminalization, or threats thereof, remained commonplace after 1900 as a means to intimidate workers or punish them with spurious legal indictments and arrests on charges of vagrancy, bootlegging, and bigamy. This was especially true after 1905 when federal courts outlawed holding people for debt and imposed burdensome fines on perpetrators.<sup>88</sup> Yet, in the absence of outright peonage, planters leaned harder on civil and criminal penalties to coerce labor. This had the unintended effect of pressing some workers into service for the state’s own burgeoning agricultural-industrial enterprise which competed with their own. With no liberation in sight, convicts were subjected to a more systematic and rationalized form of physically-forced,

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<sup>85</sup> State of Louisiana, *Report of the Board of Control* (1902), 55.

<sup>86</sup> U.S. Department of Commerce and Labor, *Convict Labor* (1906), 681-2.

<sup>87</sup> Woodruff, *The American Congo*, 32-3..

<sup>88</sup> *Ibid.*, 33-4.

productive labor under the reorganized penitentiary system.<sup>89</sup> Analysts who study the penitentiary during the first quarter of the twentieth century have overlooked the fact that penal reformers in the state did not work for their release from such servitude.<sup>90</sup> Rather, the Louisiana State Board of Charities and Corrections, led by Michael Heymann, a founder of the Louisiana Prison Reform Organization, found physically-forced convict labor so promising that the organization drafted a legislative bill stipulating the extension of mandatory forced labor to all prisoners in the state.<sup>91</sup> The body, dedicated to oversight of the penitentiary system and state penal reform, recommended that “every sentenced prisoner should be obliged to labor; from the economic point of view, from the reformatory point of view, and as a matter of simple justice.”<sup>92</sup> The legislative draft suggested that,

In all criminal prosecutions, where any person is sentenced to imprisonment in default of the payment of the fine imposed, whether in the parish jail or without qualification as to the nature of such imprisonment; or to imprisonment in default of the payment of the fine imposed, for the violation of any valid ordinance of any of the political subdivisions of the State, such imprisonment shall mean imprisonment with labor; and every person so sentenced.

Thus, any individual, subject to criminal penalty or a fine beyond their reach, was to pay their debt to the state by performing physically forced hard labor either in the penitentiary system or

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<sup>89</sup> State of Louisiana, *Report of the Board of Control* (1902), 3-61.

<sup>90</sup> Carleton, *Politics and Punishment*; Wisner, *Public Welfare Administration in Louisiana*.

<sup>91</sup> Charity Organization Society of the City of New York, “Prisons and Prisoners.” *Charities Review* 7 (1898), 717. The Louisiana Prison Reform Organization was founded in 1897.

<sup>92</sup> Article 295 of Louisiana’s Constitution of 1898 mandated the creation of the Louisiana State Board of Charities and Corrections as an organization “dedicated to the oversight of all State, parish, and municipal institutions, which are charitable, eleemosynary, correctional, or reformatory in character, and all private institutions of like character, and all private insane asylums.” The Board was to report annually to the governor and make suggestions to the legislature. It consisted of six members of which the governor was chairman ex-officio. The duties of the Board were without administrative or executive power. Article 295 was carried out by Act 176 of 1904. See: Charity Organization Society of New York, “Prisons and Prisoners,” 717; State of Louisiana. *First Annual Report of the Louisiana State Board of Charities and Corrections, March 1906* (New Orleans: James Buckley & Co., Ltd., 1906), 4-5.

on “public roads, streets or levees of the parish or municipality responsible for the costs of the prosecution...or upon ...useful employment within the walls of the jail...as prescribed by the police jury or City Council of particular parishes or municipalities.”<sup>93</sup>

To assure the most effective use of Louisiana’s criminal workforce, members mandated the use of a much-touted physical classification system. Under this directive, penitentiary physicians assigned employment to prisoners to the penitentiary at Baton Rouge, levee camps, or at one of the two penal farms.<sup>94</sup> The system separated prisoners into four classes, ranking them based on physical fitness. Yet, this classification was just one of the means by which the penal system institutionalized racism and racial segregation. “First class” assignments “applied almost exclusively to the colored men” and sent them “to the levee camps where the work was most severe” while “second class” designation implied a lower degree of fitness and transfer to one of the penal farms. “Third class” status was reserved for old men, boys, and healthy women who were mostly assigned to Angola. The impaired and infirmed who were confined in the hospital constituted the “fourth class.”<sup>95</sup> The system assigned most white men and all women to Angola. Exceptions to this rule regarded the “white men...sent to the other plantations and the levee camps for commissary clerks, or similar mental services” [see Table 6.2].<sup>96</sup> By 1903, almost half of the male prisoners were engaged in some form of agricultural labor, working under guard “in the tilling of the soil and the cultivation of cotton, corn, peas, rice, sugar cane, and vegetables; in

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<sup>93</sup> State of Louisiana, *Report of the Louisiana State Board of Charities and Corrections* (1906), 9.

<sup>94</sup> Charity Organization Society of New York, “Prisons and Prisoners,” 717.

<sup>95</sup> Charles Richmond Henderson, *Outdoor Labor for Convicts: A Report to the Governor of Illinois* (Chicago: The University of Chicago Press, 1907), 98; State of Louisiana, *Report of the Board of Control* (1902), 12; State of Louisiana, *Second Biennial Report of the Louisiana State Board of Charities and Corrections, December 1907* (Baton Rouge: The Daily State Publishing Company, 1908), 11.

<sup>96</sup> U.S. Department of Commerce and Labor, *Convict Labor* (1906), 275; State of Louisiana, *Report of the Louisiana State Board of Charities and Corrections* (1908), 11.

**Table 6.2**  
Number of Prisoners Employed, Sick, and Idle, 1903,  
Louisiana State Penitentiary

	<u>Farming</u>	<u>Levee Work</u>	<u>Clothing, etc.</u>	<u>Prison Duties</u>	<u>Sick</u>	<u>Idle</u>
<b>Male</b>	582	315	50	6	55	116
<b>Female</b>	0	0	26	98	3	0

*Sources:* Unites States Department of Commerce and Labor, *Convict Labor: Twelfth Annual Report of the Commissioner of Labor, 1905* (Washington: Government Printing Office, 1906), 208, 275.

the raising of cattle, horses, sheep, and hogs; and in harvesting alfalfa and hay.”<sup>97</sup> This ‘reform’ became the foundation for the penal regime’s forced labor system for at least the next three decades.<sup>98</sup>

In addition to improvements in drainage, levee construction, and buildings, the state planted crops in a way that would enrich the land. Officials stated that “it was manifestly the duty of the State...to follow [the] most enlightened system and keep each and every acre up to the point of maximum fertility.” Their model was that of the previous proprietor who “followed the true plan of rotating the cotton crop with corn and cow peas each year.” During the first year

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<sup>97</sup> In 1901, convicts planted 2300 acres of cotton and 700 acres of corn and cow peas at Angola while at Hope plantation, convicts planted sixty acres of corn and planted 200 acres of cane. Declared profits at Angola amounted to \$40, 507.21. See: “Convict System Changed in the South,” *Chicago Daily Tribune*, August 3, 1901; State of Louisiana, *Report of the Board of Control* (1902), 24, 34.

<sup>98</sup> Immediately instituted, the system included four classes: “first class, comprises all men of sound physical health, between the ages of 20 and 50 years, of 140 pounds weight or more, and who have been accustomed to physical labor; Second class, comprises all men of sound physical health, who are slightly under or over the age limited of class one, or who are less than 140 pounds weight or who have not been accustomed to hard outdoor labor; Third class, comprises all old men and boys, all men suffering from any impairment of health of not sufficient severity to confine them to the hospital, and all healthy female prisoners; Fourth class, comprises al sick prisoners who should be in the hospital and under physicians’ care.” Only individuals in the first class were supposed to be sent to levee camps to perform heavy work. The second and third classes were to work on the farms and were utilized for lighter work. The system represented a way to reduce mortality since only prisoners fit for heavy labor were to be subject to it. State of Louisiana, *Report of the Board of Control* (1902), 12, 43



managers directed the planting of 2,300 acres of cotton and 700 acres of corn and cowpeas.<sup>99</sup> The Board also reported success in livestock operations. Not only had the state purchased 315 head of cattle, but they also opened a butcher shop to supply fresh meat for all prisoners, officers, and guards. Satisfied that convicts had supplied their labor, managers sought to expand operations to include 700 heads of hogs, proper fencing to contain them, and more corn cultivation to “feed and fatten” the animals come fall and winter. For managers, the only problem that remained after the first year was one that would not disappear. The labor problem, or convict “idleness,” continued to worry the Board of Control. Members conceded that profits accrued despite the fact that they “had a very large part of the force idle during the year.”<sup>100</sup>

Though illness furloughed a force of 150 men in quarantine for several weeks, and a heavy sick list upon transfer thinned the ranks of the state’s convict labor pool, the “two plantations could not at once give employment to all the labor not available for levee work.”<sup>101</sup> This problem, “only fully disclosed in practical work,” stemmed from the crop regime. Managers explained, “Two hundred men will grow as much cotton in an average year as four hundred men will pick in a season. There is employment therefore for two hundred men for twelve months and two hundred extra for four months of the year.” This led to a lack of revenue producing agricultural employment for these extra two hundred convicts. Because of this predicament, the Board warned, “Employment must be found for some two hundred men from January to September in some industry other than growing cotton and corn.” To this effect, managers proposed a sawmill for the estate’s timber reserves, an oil mill to process cottonseed, doubling its value, and to develop additional industry for brick and tile-making. The Board concluded that

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<sup>99</sup> Ibid., 23.

<sup>100</sup> Ibid., 20

<sup>101</sup> Ibid., 8.

only with the introduction of these industries would Angola would achieve its goal of full employment and a higher revenue standard.”<sup>102</sup>

Hope plantation included an additional labor source that Angola did not possess, which made Louisiana a landlord. Managers applied convict labor alongside non-incarcerated tenants in order to maximize surplus. State acquisition of the sugar estate included the transfer of the lease of an adjoining plantation, known as “Rosedale.” It was nearly equal to Hope in size and had been “a feeder” to the main estate’s sugar house. The previous owners had leased the majority of it to small tenants on the basis of fifty cents per ton of cane grown while convicts farmed 200 acres of the holding. Rosedale tenants supplied nearly 3,000 tons of cane while the adjacent plantation produced an estimated 2,000 tons more. A railway nearly two and one-half miles long, equipped with “transfer hoists and cars,” linked the properties with the sugar house. The Board renewed contracts with tenants at the sugar estate but for 1901 and 1902, but made no such accommodation at the cotton plantation.<sup>103</sup> Sharecroppers from Angola found themselves evicted upon state acquisition of the property.<sup>104</sup> Thus, the sale of crops and proceeds from levee work during 1901 earned the state \$176,000 in revenue.<sup>105</sup>

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<sup>102</sup> Officials stated that the sawmill could process the estate’s nearly nine million feet of timber into boards and process raw material into barrels. They reasoned that the manufacture of brick and tile would use the “slabs and waste” from the saw mill. Prisoners also found employment at the penitentiary at Baton Rouge, primarily in the manufacture of clothing and shoes, but revenues at ‘the walls’ largely came from “the sale of junk” or the machinery allowed to fall into disrepair on the lessees’ watch. Total credits reported were: cash received from the sale of junk, \$3,400; cash received for removing junk, \$108.50; and cash received from the sale of old brick, \$208.40. *Ibid.*, 24, 37.

<sup>103</sup> State of Louisiana, *Report of the Board of Control* (1902), 34; Kelley, et al., *Archaeological Data Recovery at Angola Plantation*, 99. Cecile Shilstone stated that the sharecroppers were distressed at the sale of the plantation, and Law James, the son of Samuel L. James tried to relocate as many of them as possible on other plantations.

<sup>104</sup> Kelley, et al., *Archaeological Data Recovery at Angola Plantation*, 99.

<sup>105</sup> The secretary of state calculated the total value of products from the penitentiary systems farms and levee camps in 1901 as: \$114,870.67, Angola State Farm; \$55,169.47, Hope State Farm; Receipts from Baton Rouge Penitentiary, \$3,716.90; and receipts and interest from levee camps, \$63,781.16. The grand total of state the state penitentiary enterprise for 1901 was reported to be \$237,538.20. *Report of the*

After just a few years of state-run management, Louisiana's penitentiary system won national and statewide praise. In 1906, the *St. Louis Dispatch* reported, "Louisiana is successfully solving the convict question by having them work in the open air on farms," covering expenses and adding to the state's revenue.<sup>106</sup> In 1909, *The Nashville American* made a similar assessment when the newspapers stated, "The convict farm system now in operation in...Louisiana and Mississippi...has been more successful than it was expected to be."<sup>107</sup> The press indicated in the first five years of operation, convict labor from Louisiana's penitentiary system produced a revenue averaging \$375,000 per year. Over the same period, penitentiary property increased to 15,000 acres of good land valued at approximately \$700,000, with a debt of only about \$100,000. By this formula, the state gained at least \$500,000 in capital improvement, in addition to monetary profits.<sup>108</sup> In 1909, *The Nashville Tennessean* commented that, there was very little capital to start with, but "today these new farms are worth millions, all net profit to the state, and income from them promises to turn a handsome revenue annually into the state treasuries."<sup>109</sup> The newspaper reported that the state was "beyond the million dollar point" in outlays for property and improvements and that it did not cost the state a dollar since the money came "out of the earnings of the convicts."<sup>110</sup> In 1908, Governor N.C. Blanchard registered his own praise for the system when he boasted that the state's "promise had been fulfilled," as his

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*Secretary of State to His Excellency, W. W. Heard, Governor of the State of Louisiana*, 494.

<sup>106</sup> "State Profits from Convicts on the Farm: Louisiana Turns Annual Prison Deficit with Good Revenue," *St. Louis Dispatch*, April 22, 1906.

<sup>107</sup> "New Convict Problems: Increase in Southern Prison Population and Their Product," *The Nashville American*, July 26, 1909.

<sup>108</sup> "State Profits from Convicts on the Farm," *St. Louis Dispatch*, April 22, 1906.

<sup>109</sup> "Statesmen Now Face the Convict Problem: Great Increase in Negro Prisoners Opens a New Question," *Nashville Tennessean*, July 21, 1909, 7.

<sup>110</sup> Additional property acquisitions included the following plantations: Hard Times, Rosedale, Oakley, and Monticello, which totaled approximately 15,000 acres in all with nearly 8,000 under cultivation in cane, cotton, and corn. *Ibid.*

administration had not called “upon the state for a single dollar” and had met “accruing debts on the purchase price of State farms...and provid[ed] funds for equipping the increasing population and putting them to work.”<sup>111</sup>

### ***Labor Surplus and “The Convict Problem”***

By 1908, there had been little change in the governance of the penitentiary system. The expanded plantations and additional levee camps promised even greater returns.<sup>112</sup> To facilitate further growth, the legislature passed a joint resolution in 1906 to allow the employment of convicts on public roads, railroads, convict farms, public works, or in manufactories owned and controlled by the state.<sup>113</sup> As managers enlarged and diversified state penal farms and sought to open railroads and public roads to convict employment, they diminished investment at the old penitentiary buildings in Baton Rouge. ‘The walls’ continued to be used as a receiving station, hospital, and clothing and shoe factory as well as a place for executions until it was finally closed in 1917.<sup>114</sup> Debate over the subject, nevertheless, signaled an emerging problem in the

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<sup>111</sup> Cowan and McGuire, *Louisiana Governors*, 132-35. Newton Crain Blanchard served as governor from 1904 to 1908. His family home was Rosedale Plantation, and was described as a “stuffed shirt” for his condescending manner that in his day was known as “strutting.” He was accused of intimidating black Republicans in the 1878 election but was acquitted. The charges increased his political stature, and he gained prominence as a Bourbon Democrat. Murphy J. Foster appointed him to the U.S. Senate. He served as an associated justice of the Supreme Court from 1897 to 1903. Appalled by the incarceration of minors in the state penitentiary system, the governor supported the creation of a state reform school. See: State of Louisiana, *Biennial Report of the Louisiana State Penitentiary, Board of Control, Calendar Years 1908-1909* (Baton Rouge: J. G. Hauser, 1909), 3.

<sup>112</sup> State of Louisiana, *Report of the Board of Control* (1909), 3. Expansion included two more levee camps with a fifth planned.

<sup>113</sup> State of Louisiana, *Official Journal of the Proceedings of the House of Representatives of the State of Louisiana at the Second Regular Session Begun and Held in the City of Baton Rouge, May 14, 1906* (Baton Rouge: The Advocate, Official Journal of Louisiana, 1906), 877.

<sup>114</sup> The process of selling the penitentiary grounds began in August of 1905. George Hill bought the prison yard for \$20,000 but it changed hands several times over the ensuing years. The prison workshops in the yard remained until at least 1916, but managers dismantled the institution’s unusual walls. While funds from the sale of the penitentiary were to go toward improvements in the remaining complex, the Board of Control decided in 1908 to abandon the penitentiary completely. Nevertheless, managers did transform the old gin room into a cell block for women. The Lower Cell House, which had not been used

penitentiary system. The governor recommended the sale of ‘the walls’ at Baton Rouge only after conducting a thorough study of its potential uselessness. The Board of Control determined that a project to install a small cotton cloth factory intended to provision prisoners was no longer practical because of the “rapid increase in prison population.” For this reason, members decided “to dispose of the balance of the property” since “the hospital and little clothing factory [could] be more economically administered on the farm.”<sup>115</sup> The proposed sale of the Baton Rouge penitentiary, then, indicated an adjustment on the part of authorities to a rapidly increasing inmate population.

In their struggle to find full employment for inmates, penitentiary administrators restructured prison enterprise with cash cropping, timber operations, subsistence production, and levee construction to develop a system that paid for itself and more.<sup>116</sup> Yet, their calculations did not predict rising incarceration rates, which annulled their solutions to ‘the labor problem,’ or

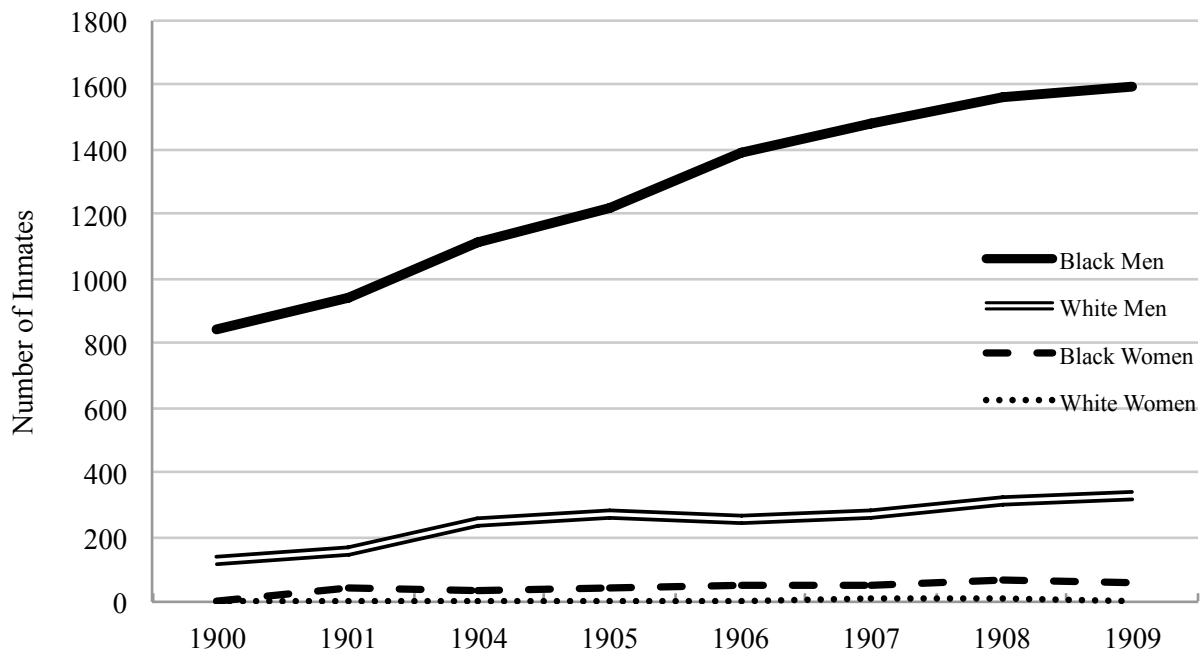
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since the 1890s, was renovated to serve as a dormitory. On the suggestion of the physician, the Board ordered the enlargement of the Upper Cell House by removing alternating cell walls to create cellular housing measuring 7 by 8 feet. In 1910 and 1911 managers installed a modern hospital which provided separate infirmaries for blacks and whites. The institution averaged 93 prisoners per year. In 1916, the city of Baton Rouge bought the prison’s main complex for \$45,000. It retained the property until January 18, 1918. Over the course of these two years, the state maintained control over it and dismantled remaining structures in order to salvage the materials for use at Angola and Oakley plantations. The city also acquired the prison yard and converted the entire property into a community center which was built over the remains of the main complex. Since then, the property has served as a park, a community center, a school, a post office, and a federal court building. See: Hahn and Wurtzburg, *Hard Labor*, 14-16; State of Louisiana, *Report of the Board of Control* (1902), 37; State of Louisiana, *Biennial Report of the Louisiana State Penitentiary, Board of Control, Calendar Years 1906-1907* (Baton Rouge: The Daily State Publishing Company, 1908), 33; State of Louisiana, *Biennial Report of the Louisiana State Penitentiary, Board of Control, Calendar Years 1908-1909* (Baton Rouge: J. G. Hauser, 1909), 13, 70, 88, 114; State of Louisiana, *Biennial Report of the Louisiana State Penitentiary, Board of Control, Calendar Years 1912-1913* (Baton Rouge: n.p., 1913), 10-1, 78, 95; State of Louisiana, *Report Made by HY L. Fuqua, General Manager of the State Penitentiary to the Governor and General Assembly of Louisiana for the Regular Session of 1918, Governing the Biennial Period of 1916 and 1917* (Baton Rouge: Ramires-Jones Printing Co., 1918), 18.

<sup>115</sup> State of Louisiana, *Journal of the House* (1906), 65.

<sup>116</sup> “Statesmen Now Face the Convict Problem,” *Nashville Tennessean*, July 21, 1909; “New Convict Problems,” *The Nashville American*, July 26, 1909.

**Figure 6.12**  
Inmate Population by Race and Sex, 1900-1909,  
Louisiana State Penitentiary



Sources: 1900: State of Louisiana, *Journal of the Senate* (1900), 6; 1901: State of Louisiana, *Report of the Board of Control* (1902), 55; 1903: State of Louisiana, *Report of the Louisiana State Board of Charities and Corrections* (1908), 10; 1905: State of Louisiana, *Report of the Louisiana State Board of Charities and Corrections* (1906), 16; 1906-7: State of Louisiana, *Report of the Louisiana State Board of Charities and Corrections* (1908), 10; 1908-9: State of Louisiana, *Report of the Board of Control* (1909), 85, 89.

‘the convict problem.’ The *Nashville Tennessean* observed in 1909, that the Delta states of Mississippi and Louisiana “have been brought to face to face with a new penitentiary problem, and this at a time with they were flattering themselves that they had solved the question of what to do with their convicts.”<sup>117</sup> The new problem arose from “the great increase” in the number of prisoners, especially black men [see Figure 6.12]. Between 1900 and 1910, the number of convicts received by the Louisiana penitentiary increased by fifty percent.<sup>118</sup> The number of

<sup>117</sup> “Statesmen Now Face the Convict Problem,” *Nashville Tennessean*, July 21, 1909

<sup>118</sup> In 1900, the penitentiary received 495 prisoners and by 1910 accepted 751 convicts. See: State of Louisiana, *Report of the Board of Control* (1902), 54; Louisiana State Penitentiary, *Report Made by HY L. Fuqua, General Manager of the State Penitentiary to the Governor and General Assembly of Louisiana for the Regular Session of 1918, Governing the Biennial Period of 1916 and 1917* (Baton Rouge:

**Table 6.3**  
Increase of Louisiana State Prisoners vs. State Population Growth, 1900-1910

	<u>Inmates Received</u>	<u>Inmates Confined</u>	<u>State Population</u>
1900	495	989	1,381,625
1910	751	1999	1,656,388
<b>Percent Increase</b>	<b>51%</b>	<b>100%</b>	<b>20%</b>

*Sources:* State of Louisiana, *Report of the Board of Control* (1902), 10; Department of Commerce and Bureau of the Census, *Prisoners in State and Federal Prisons and Reformatories, 1926: Statistics of Prisoners Received and Discharged During the Year, for State and Federal Penal Institutions* (Government Printing Office, 1929), 4; U.S. Department of Commerce and Labor, Bureau of the Census, *Thirteenth Census of the United States Taken in the Year 1910: Statistics for Louisiana*.

convicts in confinement more than doubled in the same decade.<sup>119</sup> This fact was particularly pronounced since the increase was six times as rapid as the increase of the civilian population, which only experienced a twenty percent growth between 1900 and 1910 [see Table 6.3].<sup>120</sup> Even more striking was the fact that black incarceration rates increased ten times as fast as the overall population. The incarceration rate of adult black males was nearly two percent, and in black parishes such as East Carroll and Madison, the incarceration rate rose to four percent. The newspaper report speculated that at such a rate, it would “take just fifty years to land half the male negroes in the penitentiary.” Noting that “the rapid increase in the penitentiary population has embarrassed the authorities,” catching them unprepared for the influx, the report estimated that “six or eight more plantations of say 20,000 acres would not be too much to give them all

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Ramires-Jones Printing Co., 1918), 42.

<sup>119</sup> When the state took charge lessees turned over 1014 convicts. The number increased to 2,065 on July 1, 1909. “Statesmen Now Face the Convict Problem,” *Nashville Tennessean*, July 21, 1909; “New Convict Problems,” *The Nashville American*, July 26, 1909. See also: State of Louisiana, *Report of the Board of Control* (1902), 10; Department of Commerce and Bureau of the Census, *Prisoners in State and Federal Prisons and Reformatories, 1926: Statistics of Prisoners Received and Discharged During the Year, for State and Federal Penal Institutions* (Government Printing Office, 1929), 4.

<sup>120</sup> Department of Commerce and Labor, Bureau of the Census, *Thirteenth Census of the United States Taken in the Year 1910: Statistics for Louisiana* (Washington: Government Printing Office, 1913), 568.

work.”<sup>121</sup> Thus, the escalation in incarceration rates, combined with administrators drive to maintain full employment for profits and prisoner control, gave the state even more incentive to enlarge prison enterprise.

The proliferation of Louisiana’s prison industrial complex sparked opposition from a variety of interests. The Board of Control had rejected a manufacturing base for the state’s prison industry, in large part, because of clashes with merchants and labor organizations. Cash-cropping on penal farms promised little capital investment, banked on strong international markets, and engineered employment for nearly two-thirds of the inmate population unfit for levee construction. But, as prison industry quickly proliferated, protest quickened. This state enterprise conflicted with the interests of local officials since “convict farms paid no taxes.” Indignant, officials complained that the state was buying up the best lands as property tax revenues were dropping by half. Strong opposition also came from “the farmers of the neighborhood,” and the press reported that convict servitude was “demoralizing labor” since non-incarcerated workers were “beginning to feel the competition of this convict labor.”<sup>122</sup>

This ‘convict problem’ had another face. Prisoners did not easily acquiesce to the state’s regime of captivity and physically forced labor. In 1906, *The Washington Post* spoke to this predicament when it published a report on those prisoners with life sentences who attempted to escape from Angola. That year, on June 20 at nine o’clock in the morning, three male convicts acted together to liberate themselves from the penal farm. Under guard at the sawmill, Jim Singleton, a convict, grabbed the captain’s revolver while he was “reading a newspaper.” Accompanied by “Dutch and Byrd,” fellow convicts, the three men attempted to flee. But, their motion attracted the attention of Gibson, a guard, who “fired on the party.” Singleton “returned

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<sup>121</sup> “Statesmen Now Face the Convict Problem,” *Nashville Tennessean*, July 21, 1909.

<sup>122</sup> Ibid.



the shot, shooting Gibson through the body.” As the guard fell, Byrd “secured his revolver.” The three convicts, two of whom were armed, persuaded “Foreman Block to accompany them.” The convicts together with the foreman in tow “started toward the river,” placing their “captive in a skiff, when they were fired on by a trusty named Deleath.” The ringleader, Singleton, then shot and killed the foreman in retribution. Another guard, J.T. Ogden, joined the trustie in fire on the three convicts. “In the fusillade of shots that followed” the three white convicts from New Orleans were killed, and Gibson was shot through the liver.<sup>123</sup> As Singleton, Byrd, and Dutch were taken down at Angola, another Louisiana state prisoner, confined in a penitentiary near Baton Rouge, faced the hangman in West Baton Rouge Parish for killing a guard. At the beginning of March in 1909, Charles Davis “made a desperate effort to escape which came near proving successful.” Davis “maintained that his imprisonment was the result of mistaken identity, and as a matter of fact, it was under another name that he was logged in the penitentiary.” While Governor Sanders granted reprieve to one of the eight black prisoners slated for the gallows, Davis met death with the suggestion of mistaken identity.<sup>124</sup>

Protest coalesced on the outside while prisoners threatened the system from within. While attempted escapes were not officially recorded, there were seventy-one escapes in 1906 out of a total population of 1,709 prisoners.<sup>125</sup> Despite the obvious risks to authorities in such a labor system, prisoner resistance took a toll on the balance sheet. The shift to “outdoor labor” came with hidden costs to the state. In 1908, the Board of Control acknowledged that “employment of prison forces at outdoor labor, farming, and levee building requires much

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<sup>123</sup> “Escaping Convicts Slain: Three Life-term Prisoners Killed After They Shot Guard,” *The Washington Post*, June 21, 1906.

<sup>124</sup> “Hangman’s Harvest,” *The Nashville American*, March 5, 1909.

<sup>125</sup> State of Louisiana, *Report of the Louisiana State Board of Charities and Corrections* (1908), 10; State of Louisiana, *Report of the Board of Control* (1908), 49.

greater expense of guarding and for the staff of officers to direct operations, maintaining discipline, care forth safekeeping of the prisoners than indoor work.”<sup>126</sup> In the years between 1906 and 1909, the state reported that twenty prisoners had perished from gunshots inflicted during escape attempts.<sup>127</sup> Thus, the peculiar nature of convict labor held certain risk, hidden costs, and relied on threats of lethal force on the part of authorities, as well as prisoners.

To disrupt prisoner attacks and organized rebellion, administrators employed work routines, spatial regimes, and offered incentives to undermine the ever-present threat posed by captives held and worked against their will. Angola’s geographic isolation and the inhospitable terrain that surrounded the farm was not enough to dissuade convicts from escape. The press drew on metaphors of slavery to describe the structure of authority on the penal farms. *The Nashville Tennessean* reported that “the slavery of the penitentiary” operated like paternalistic planters during the antebellum period since penitentiary managers learned that it “paid to treat the convicts well and encourage them by favors.”<sup>128</sup> Managers acknowledged the role of commutation in controlling prisoners. They stated, “The good time law and the double good time law...supply a motive for good conduct on the part of the convict.” Officials also indicated experimentation with the use of trusty guards when they commented that “in January, 1905, fourteen Trustees were sent to prepare quarters at Oakley without a guard for four or five weeks; they did the work and none of them ran away.”<sup>129</sup>

Penitentiary authorities employed racism as an instrument of social control. Abolition of the convict lease system coincided with new policies to racially segregate convicts.

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<sup>126</sup> State of Louisiana, *Report of the Board of Control* (1908), 10.

<sup>127</sup> State of Louisiana, *Report of the Board of Control* (1908), 46, 59; State of Louisiana, *Report of the Board of Control* (1909), 80, 97, 114, 117.

<sup>128</sup> “Statesmen Now Face the Convict Problem,” *Nashville Tennessean*, July 21, 1909.

<sup>129</sup> State of Louisiana, *Report of the Board of Control* (1909), 18. Act 122 of 1890 and Act 160 of 1902.

Institutionalized by Act 170 of 1900, penitentiary authorities operated under the first legal mandate demanding the separation of blacks and whites “as far as practicable” in the penal system.<sup>130</sup> But, like similar attempts in the nineteenth century, the institutionalization of racism within the penal system was gradual and uneven, and economic considerations often trumped racism. The ‘progressive’ physical classification system instituted shortly after represented a first step towards racial segregation since it had the effect of sending black workers with few exceptions to levee camps.<sup>131</sup> Prompted by progressive reformers, the legislation that instituted a reform school for boys in 1906 included clear mandates for racially segregated facilities.<sup>132</sup> Authorities began the task of building segregated camps on the penal farms. But, seven years after the state resumed control, segregation at Angola remained incomplete. The warden, W.H. Reynaud, stated that it was his hope that authorities would soon “be in a position to organize two absolutely white quarters on Angola” for the 278 white men held by the system.<sup>133</sup>

The Louisiana State Board of Charities and Corrections reported on the state’s progress in implementing racial segregation at Angola in 1907. The state had engineered prisoner housing to reflect the institutionalized white racial hierarchy established in the Constitution of 1898 and the abolition of the lease. Prisoners were distributed among nine different work sites – ‘the walls’ at Baton Rouge, penal farms at Angola, Hope, and Monticello, and Oakley, and four separate levee camps [see Table 6.4]. Administrators further stratified the convict population at Angola

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<sup>130</sup> U.S. Department of Commerce and Labor, *Convict Labor* (1906), 680.

<sup>131</sup> Henderson, *Outdoor Labor for Convicts*, 98; State of Louisiana, *Report of the Board of Control* (1902), 12; State of Louisiana, *Report of the Louisiana State Board of Charities and Corrections* (1908), 11.

<sup>132</sup> State of Louisiana, *Report of the Louisiana State Board of Charities and Corrections* (1906), 11. Act 173, approved July 5, 1904, provided for the creation, maintenance, and governance of a state reform school. For male prisoners, eighteen years of age and less, not convicted of murder, manslaughter, or rape. It mandated that “the white and colored males shall be separated.”

<sup>133</sup> State of Louisiana, *Report of the Board of Control*, (1908), 10.

**Table 6.4**  
Location of Prisoners by Race and Sex, 1908,  
Louisiana State Penitentiary

LOUISIANA STATE PENITENTIARY.

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**CLASSIFICATION BY SEX AND COLOR OF PRISONERS ON HAND**  
**JANUARY 1, 1908.**

LOCATION.	WHITE.		COLORED		Chinese.	Filipinos.	Total in Camp.
	Males.	Females.	Males.	Females.			
Baton Rouge Penitentiary.....	43	..	30	..	1	..	74
Angola, "A" .....	1	..	116	..	..	..	117
Angola, "B" .....	95	..	41	..	..	..	136
Angola, "C" .....	1	..	126	..	..	..	127
Angola, "D" .....	..	8	..	52	..	..	60
Angola, "E" .....	111	..	..	..	..	..	111
Hope, "F" .....	4	..	154	..	..	..	158
Hope, "R" .....	1	..	138	..	..	..	139
Oakley Farm .....	4	..	155	..	..	..	159
Monticello .....	2	..	103	..	..	..	105
Levee, No. 1 .....	1	..	140	..	..	..	141
Levee, No. 2 .....	2	..	153	..	..	..	155
Levee, No. 3 .....	2	..	151	..	..	..	153
Levee, No. 4 .....	1	..	147	..	..	..	148
Chronic and consumptive hos- pital at Angola .....	5	..	25	..	..	1	31
<b>Totals .....</b>	<b>273</b>	<b>8</b>	<b>1479</b>	<b>52</b>	<b>1</b>	<b>1</b>	<b>1814</b>

*Source:* Louisiana State Penitentiary 1908 Annual Report. Caption pictured is from original report. Image in public domain.

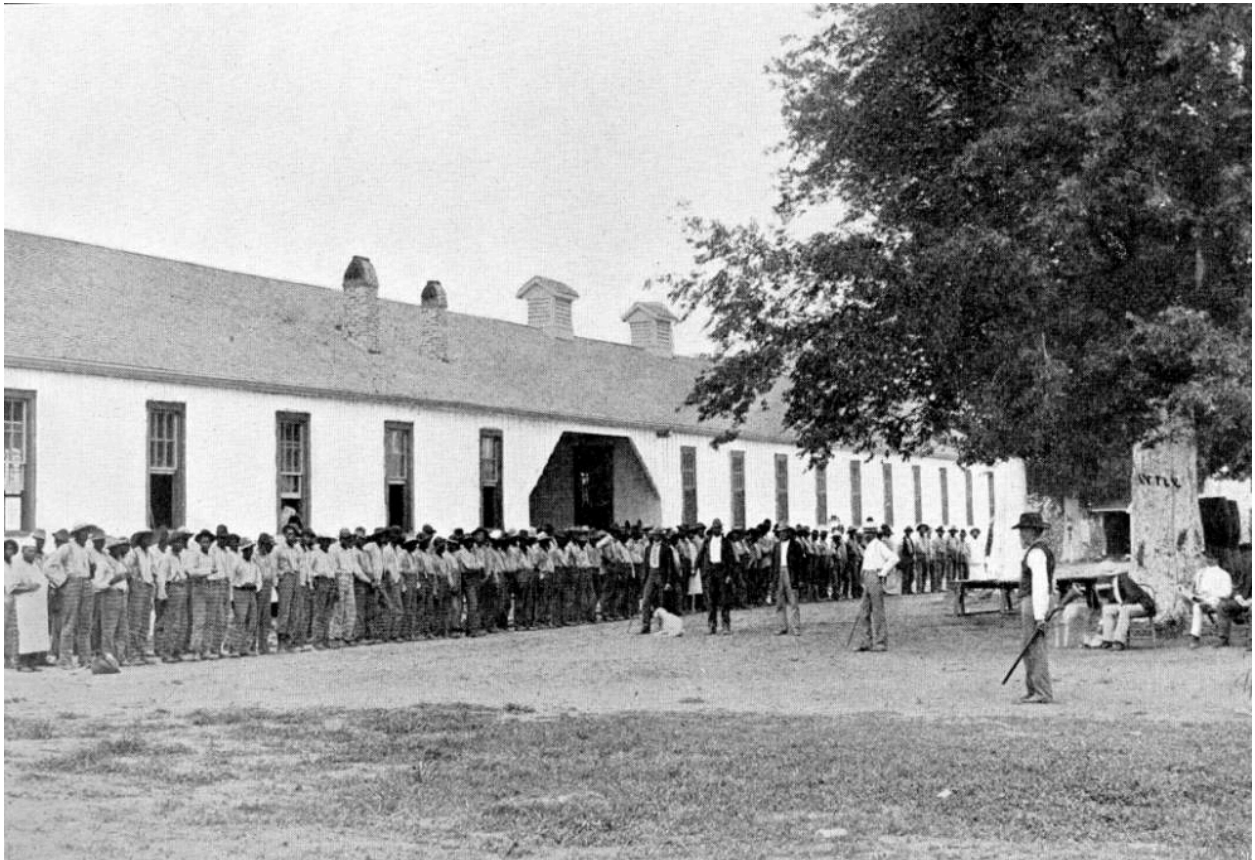
by assigning them into housing of varied, unequal conditions. Visitors suggested that “the white men’s camp, viz: Camp ‘E’ was ideal.” Constructed of brick, the buildings were clean, well-appointed, “modern and up-to-date.” By contrast, the quarters for black male prisoners, camps ‘A’ and ‘C,’ were “entirely too small, unsanitary, and constructed entirely of wooden buildings with shingle roofs” [see Figures 6.13 and 6.14]. Inspectors reserved the harshest criticism for the women’s camp. They stated that it “was in need of immediate reconstruction” as women lived in

**Figure 6.13**  
Photograph of “A” Quarters at Angola State Farm,  
Louisiana State Penitentiary



Andrew D. Lytle Collection, Mss. 893, 1254, Louisiana and Lower Mississippi Valley Collections, LSU Libraries, Baton Rouge, La. (Image ID 1254\_A-005). Courtesy of Special Collections, Louisiana State University Library.

**Figure 6.14**  
Photograph of “C” Quarters at Angola State Farm,  
Louisiana State Penitentiary



State Library of Louisiana Historic Photograph Collection, State Library of Louisiana, Baton Rouge, La. (file no. hp009061). Courtesy of Special Collections, State Library of Louisiana.

**Figure 6.15**  
Photograph of Women's Quarters at Angola State Farm,  
Louisiana State Penitentiary



Henry L. Fuqua, Jr. Lytle Photograph Collection and Papers, Mss. 1898, Louisiana and Lower Mississippi Valley Collections, LSU Libraries, Baton Rouge, La. (Image ID 1898\_017). Courtesy of Special Collections, Louisiana State University Library.

**Figure 6.16**  
Photograph of Interior of Hospital at Angola State Farm,  
Louisiana State Penitentiary



Henry L. Fuqua, Jr. Lytle Photograph Collection and Papers, Mss. 1898, Louisiana and Lower Mississippi Valley Collections, LSU Libraries, Baton Rouge, La. (Image ID 1898\_018). Courtesy of Special Collections, Louisiana State University Library.



overcrowded “plantation cabins.” Officials reported, “In a building some 60 x 30, eight white women and fifty-two colored women find their sleeping quarters” [see Figure 6.15].<sup>134</sup>

Authorities imposed a racial hierarchy through Angola’s built environment which reflected the “military character in the farms as well as in the camps.”<sup>135</sup> However, as is evident in the Board’s own records, racial stratification was somewhat flexible and irregular. Black and white women resided together in the aged, overcrowded residential building while the quarters at the ‘B’ Camp at Angola were shared by white and black men alike. A photograph of the hospital at Angola, included in the Board of Control’s official report, shows white men lying alongside black men in their beds [see Figure 6.16].

Nonetheless, governance at Angola elevated some white members of the convict class over and above their black counterparts and other white prisoners.<sup>136</sup> At Angola, a general manager controlled the penal farm while captains were next in command and oversaw a “section,” comprised of 125 to 150 men.<sup>137</sup> Under each captain were sergeants and one guard for every ten prisoners. But, at the head of each section was “a prisoner of the white race” said to be “intelligent [and] sentenced to a short imprisonment” who, under the orders of the captain, held authority, kept statistics and distributed provisions and clothing.<sup>138</sup> A camp was like a “small town in itself” and prisoners slept in “barracks.” By day, one guard stood watch over the buildings while at night one “sentinel” sat outside while a “guard corps” occupied the interior.

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<sup>134</sup> State of Louisiana, *Report of the Louisiana State Board of Charities and Corrections* (1908), 13.

<sup>135</sup> Henderson, *Outdoor Labor for Convicts*, 100.

<sup>136</sup> Blacks consistently outnumbered whites four to five times from the time of transfer.

<sup>137</sup> Henderson, *Outdoor Labor for Convicts*, 100. A captain was responsible to the council for the good behavior of the prisoners and for the care which they required as well as for the proper execution of the work.

<sup>138</sup> Henderson, *Outdoor Labor for Convicts*, 100-1.

Surrounding the barracks were the houses of the guards, some of whom “sat with rifle in hand night and day watching that none attempt[d] escape.”<sup>139</sup>

By 1908, authorities had hardened racial segregation within the penitentiary system. Popular rhetoric in leading newspapers contributed to the racialization of criminality. *The Chicago Daily Tribune* conflated convict status with black racial identity in the South. The paper used the term “negro” and “convict” synonymously. It headlined that the convict system had changed in the South so that “negro prisoners” were no longer to be leased out.” Deploying metaphors of slavery, the report announced, “The whip and lash of the slave driver was said to be felt no more.” The article effaced the presence of white men, women, and children held by the state in the penitentiary system, and in doing so, racialized convict status. By representing the prison as an institution of slavery, and slavery as imprisonment, the article celebrated the “transition from slavery into comparative freedom” for black convicts after the abolition of the lease. This type of freedom, while admittedly not complete, was attractive enough, according to the report, that “[black] prisoners who were discharged returned of their own volition.” The article stated, “It has been known to happen that where a negro was discharged, he would announce that he would ‘be back soon,’ and committing some small offense, return to the farm where good food and a comfortable bed was obtainable.”<sup>140</sup>

The esteemed penal reformer, Frederick H. Wines contributed to associations of black racial identification and criminality when he wrote a report in the spring of 1906 after a careful and prolonged study of Louisiana’s prisons. While he did not treat black racial identification as commensurate with convict status Wines asserted that convict farms were uniquely suited to

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<sup>139</sup> “Convict System Changed In South,” *Chicago Daily Tribune*, August 3, 1901. Henderson, *Outdoor Labor for Convicts*, 100-1.

<sup>140</sup> “Convict System Changed In South,” *Chicago Daily Tribune*, August 3, 1901.

“negro prisoners.”<sup>141</sup> According to Wines, employment in manufacturing did not suit the black prisoner, since “he was naturally adapted to farm labor” and loved “outdoor life.” Additionally, Wines emphasized that outdoor labor suited the black convict because “his life on the state farms is almost identical with that he would lead if working for wages.” Wines justified the captivity and forced labor of the black convict on the grounds that under the watch of the state, “He is deprived of the opportunity to gratify his appetite for whiskey and for sensual indulgence.” With this type of paternalism, Wines claimed that the black prisoner was “easily controlled.” But, in the same instance Wines conceded, “He is liable to punishment by strapping for insubordination or persistent laziness.” The penal reformer also claimed that the black prisoner held another peculiarity, asserting that, “He will not often run from an armed overseer, and if he does, unless he is more than ordinary capable and fortunate, he runs but a short distance before he is treed by the dogs.” Yet, buried within his observations, colored by anti-black caricatures that justified the criminalization of black life, the penal reformer made one realistic remark: that the labor performed by black convicts was more profitable than that of a “free laborer.”<sup>142</sup>

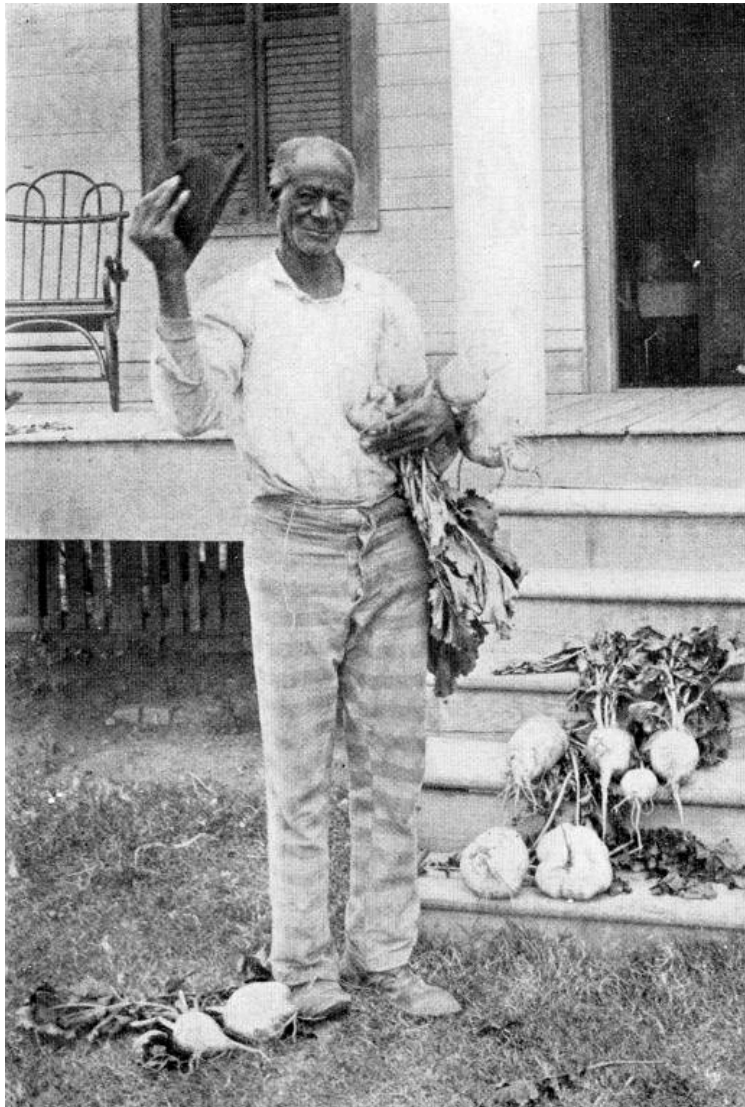
Statements by state penitentiary officials reveal that that penitentiary managers did not discount the criminality of white offenders. Nevertheless, images included in the Board of Control’s first annual report tell another story. The very cover of the official report presents a photograph of a smiling elderly black man. Positioned in front of what appears to be the big house at Angola, the figure tips his hat to the camera with one hand and holds an offering of produce in another. Wearing an unstained white shirt, trousers in good condition, and quality shoes, the man almost appears pleased with his condition. The caption below the photograph reads, “Here’s Your Turnips, Cap’n” [See Figure 6.17]. The second image included in the report

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<sup>141</sup> F.H. Wines, “Farm Prisons of Louisiana,” in *Outdoor Labor for Convicts*, 152-3.

<sup>142</sup> Ibid.

**Figure 6.17**  
Photograph of Inmate with Turnips,  
Louisiana State Penitentiary



State Library of Louisiana Historic Photograph Collection, State Library of Louisiana, Baton Rouge, La. (file no. hp009078). Courtesy of Special Collections, State Library of Louisiana.

**Figure 6.18**  
Photograph of Inmates Dancing at Levee Camp,  
Louisiana State Penitentiary



Andrew D. Lytle Collection, Mss. 893, 1254, Louisiana and Lower Mississippi Valley Collections, LSU Libraries, Baton Rouge, La. (Image ID 1254\_A-018). Courtesy of Special Collections, Louisiana State University Library.

accompanies the remarks of Governor W.W. Heard on the report's first page. It features at least twelve black men, wearing convict stripes standing in front of a wooden building. With one man playing a fiddle and others dancing, some seem startled by the camera's gaze while the men in the foreground play into the camera's lens. All dressed in untattered uniforms with little sign of soil, the men show no signs of the hardship associated with the unforgiving work routines and backbreaking labor required of men forced to labor on levees. The caption to the second image which reads, "Fun in Levee Camp, Atchafalaya River," denied the realities of daily life at these work camps operating within the penitentiary system [See Figure 6.18].

### ***Cotton, Cane, and Calamity***

Authorities came under siege on another front. In struggling to overcome the penitentiary's labor problem, they faced three countervailing forces: first, 'the convict problem'—the product of a rising incarceration rate; second, opposition from local officials, farmers, and 'demoralized' labor; and third, destabilization from within by the convicts themselves. But, by 1907, a new antagonist emerged. It endangered the penal system's burgeoning industrial agricultural operation. A migrant from Mexico, the boll weevil made its way to Angola. Authorities recognized in 1907 that the future of the farm as a cotton producer was "menaced by the appearance of the boll weevil." They projected that while the insect may not greatly decrease production for the next year, it would likely ravage crops thereafter. They burned stalks, kept ditches and banks clean, and substituted alternate varieties of cotton to stem the spread.<sup>143</sup> But, the boll weevil came anyway.<sup>144</sup> The *American Sugar Industry and Beet Sugar Gazette* reported in 1909 that the state's "penal colonies" had sustained heavy losses. Consequently, authorities

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<sup>143</sup> State of Louisiana, *Report of the Board of Control* (1908), 13.

<sup>144</sup> "Development of Penitentiary Traced By C. Harrison Parker, Veteran President of Board of Control," *Times Picayune*, April 4, 1915. The appearance of the boll weevil in Louisiana cut the state's cotton crop from 1,000,000 bales to 250,000 while the industry was practically extinguished in southern Louisiana.

charted a new direction for Angola and pursued industrial enterprise on an even greater scale. Angola joined Hope and Monticello plantations in sugar cane cultivation. Managers set about planting 500 acres in sugar during 1909 and installed a state-of-the art sugar refinery with a crushing capacity of 1,200 tons a day. The sugar manufacture's trade journal reported, "For the first time in Louisiana, penitentiary convicts under state control will be used to operate a sugar refinery owned by the commonwealth."<sup>145</sup>

The planter publication reported enthusiastically about the shift to sugar cultivation in Louisiana's "penal colonies." The journal reported that Angola plantation, "the largest cotton place in the state," had substituted cane for cotton.<sup>146</sup> In 1909, 1,500 acres at Angola cultivated gross profits of \$130,000.<sup>147</sup> Total receipts for the penitentiary system's four plantations were \$268,000.<sup>148</sup> Yield predictions for 1911 nearly doubled totals for 1910 since 2,400 acres had been planted.<sup>149</sup> As a major player in the sugar business, managers sought the authority to build a refinery at Angola. Swayed by the success of the shift to sugar they authorized "funds and to enter upon sugar manufacture with penal labor, which costs the state nothing."<sup>150</sup> Authorities planned to concentrate operation at Angola where its convict labor force would assure that labor costs were not much more than "nothing."

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<sup>145</sup> *American Sugar Industry and Beet Sugar Gazette* 11, no. 12 (December 1909), 417, 524.

<sup>146</sup> *American Sugar Industry and Beet Sugar Gazette* 13, no. 1 (January 1911), 17-8.

<sup>147</sup> *American Sugar Industry and Beet Sugar Gazette* 12, no. 9 (September 1910), 331; *American Sugar Industry and Beet Sugar Gazette* 13, no. 1 (January 1911), 17-8.

<sup>148</sup> *American Sugar Industry and Beet Sugar Gazette* 13, no. 2 (February 1911), 71.

<sup>149</sup> *American Sugar Industry and Beet Sugar Gazette* 13, no. 1 (January 1911), 70.

<sup>150</sup> *American Sugar Industry and Beet Sugar Gazette* 13, no. 4 (April 1911), 167. To finance the erection of the mill the Board of Control secured a loan of \$200,000 from a bank at Baton Rouge and will borrow an additional \$150,000 after the work starts.

The legislature acted on its pledge to put up a state-owned sugar refinery on Louisiana's premier penal farm. In 1911, the state began construction of a "model factory" at Angola.<sup>151</sup> The *Louisiana Planter and Sugar Manufacturer* reported on the management and labor force of the new industrial facility. Owned by the state government and operated by a state institution, the new venture was to rely on convicts for field and factory labor "in so far as it was possible." Positions of skill and authority were to be filled "in the usual way," as the Board of Control had contracted "the best engineering and agricultural talent in Louisiana to take charge of the extensive fields and the magnificent factory at Angola."<sup>152</sup> The Board of Control took particular interest in the project. Ex-Governor Heard dedicated the greater part of his time to the erection of the factory. The trade journal credited him for "the great success of [the] venture" stating that it was "due largely to his keen ability to handle men and money."<sup>153</sup> The journal referred to the new factory as the "Payne & Joubert House" with a "Bancroft mill," after the contractors responsible for its construction [see Figure 6.19].<sup>154</sup> The journal also reported that the state had contracted with Thornton Grab & Derrick Company of Donaldsville, Louisiana—a firm "known all over the world" to equip the new factory. These contracts indicated that Angola's new factory would boast the "very latest and most economical equipment in every department."<sup>155</sup>

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<sup>151</sup> *The Louisiana Planter and Sugar Manufacturer* 47, no. 17 (1911), 269.

<sup>152</sup> *The Louisiana Planter and Sugar Manufacturer* 47, no. 6 (1911), 88.

<sup>153</sup> *The Louisiana Planter and Sugar Manufacturer* 47, no. 17 (1911), 269. In 1911, Ex-Governor W.W. Heard, Hon. J.T. Young, Judge G.A. Kilgore were directly involved in the venture. Heard secured the services of Hon. D.D. Gondran, as farm manager and Mr. Chas A Corner as chief engineer.

<sup>154</sup> *Ibid.* Bancroft, Ross & Sinclair were given the contract for the mills while Payne & Joubert Foundry & Machine Co. obtained all the remainder including all buildings. There were other smaller contracts connected to the work of these two main companies.

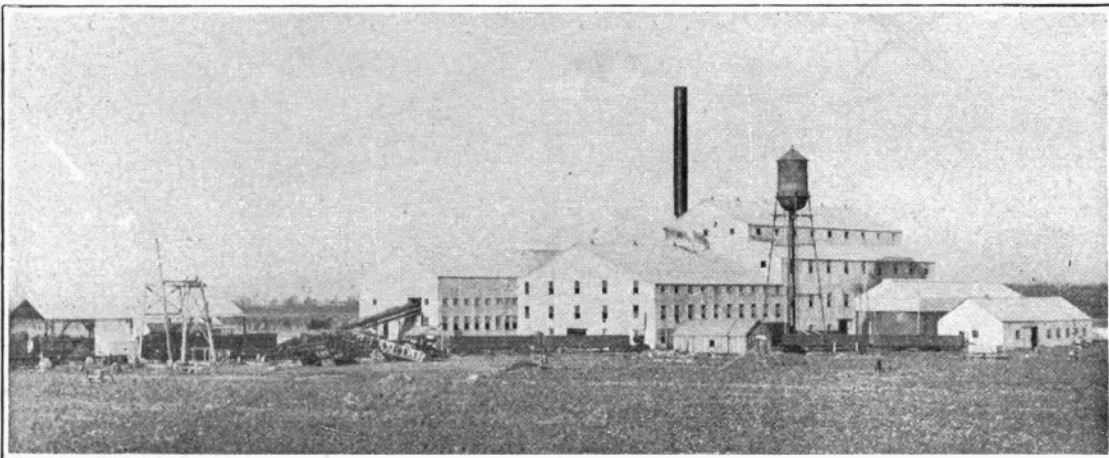
<sup>155</sup> *The Louisiana Planter and Sugar Manufacturer* 47, no. 9 (1911), 134.



**Figure 6.19**

Payne & Joubert Machine & Foundry Company Advertisement of Angola Sugar Factory,  
Louisiana State Penitentiary

**PAYNE & JOUBERT MACHINE & FOUNDRY CO**  
**CONTRACTORS AND BUILDERS OF SUGAR FACTORIES**  
WE MANUFACTURE IN OUR OWN SHOPS  
VACUUM PANS, MULTIPLE EFFECTS, FILTER PRESSES, BAG FILTERS, CRYSTALLIZERS,  
BOILERS, TANKS, MIXERS, CHAR KILNS AND DRYERS



ANGOLA FACTORY OF THE STATE OF LOUISIANA: 1300 TONS CAPACITY. ERECTED IN 1911 BY THE PAYNE & JOUBERT MACHINE & FOUNDRY CO.

MAIN OFFICE—423 CARONDELET ST., NEW ORLEANS, LA.

BIRMINGHAM OFFICE—AT THE WORKS      NEW YORK OFFICE—THE SOUTHERN ENGINEERING CO., 258 BROADWAY

*Source: American Sugar Industry 15, no. 6 (December 1912), 10. Image in public domain.*

This “magnificent factory at Angola” accommodated 1,200 tons of sugar a day and readied for the “very heavy tonnage of cane” expected at Angola.<sup>156</sup> The trade journal showcased the state-of-the-art industrial facility upon completion. It unveiled the “the great sugar factory” and its cutting-edge mechanized process of production.<sup>157</sup> The modern installation was “fire-proof” and appointed with “windows and ventilators to make a pleasing sight to the eye.” A machine shop, a cane shed, and a steel tank extending seventy-five feet into the air accented the main building which consisted of a milling plant, a boiler room, a steel stack over eight feet in diameter and 150 feet high, space for presses, steamers and washers, separators, crystallizers, and granulators, and dryers [see Figures 6.20 and 6.21].<sup>158</sup> The buildings retained an “unfinished look” because of the rush to ready the factory for the “enormous cane crop.”<sup>159</sup> However, the appearance of the sugar plant did not take away from its hallmarks. Designers had blended form and function in keeping with modernist sensibilities. The planter’s journal reported that the “vaulted style of the main building and the boiler room... was very well arranged with plenty of light and head room, and the symmetry of the layout makes it a very impressive one. Taken as a whole, it is one of the prettiest boiler-rooms in the State.” The end of the boiling house on the third floor provided for “an excellent view of the entire factory from the pan floor.” The exterior also achieved this aesthetic mix of form and function. There was an enormous steel tower, which supplied two large pumps, each two-stories high. Placed side-by-side and “very neatly piped,” they were said to be “among the prettiest water pumps in the state.” With this blending of form and function, the “model factory” at Angola was expected to “handle 60,000 tons of state-raised

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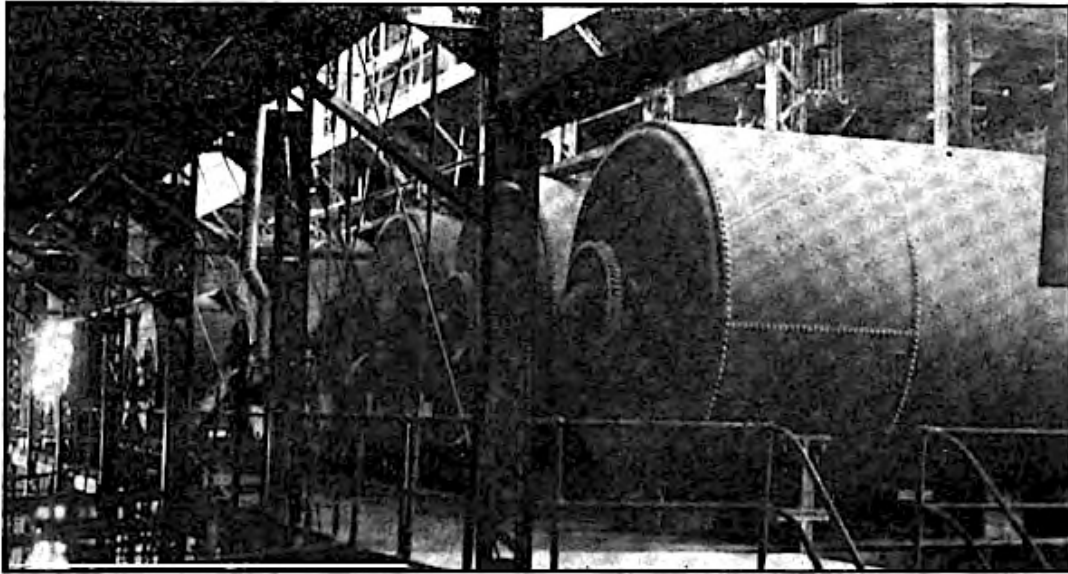
<sup>156</sup> *The Louisiana Planter and Sugar Manufacturer* 47, no. 6 (1911), 88.

<sup>157</sup> It reported that “a fine view is given of the cane carrier loading up from the cane yard to the cane mill, with a ton of cane or more in the large automatic grab hanging in the air, ready for dropping on the feeding platform.” *The Louisiana Planter and Sugar Manufacturer* 47, no. 9 (1911), 134.

<sup>158</sup> *The Louisiana Planter and Sugar Manufacturer* 47, no. 17 (1911), 269-71.

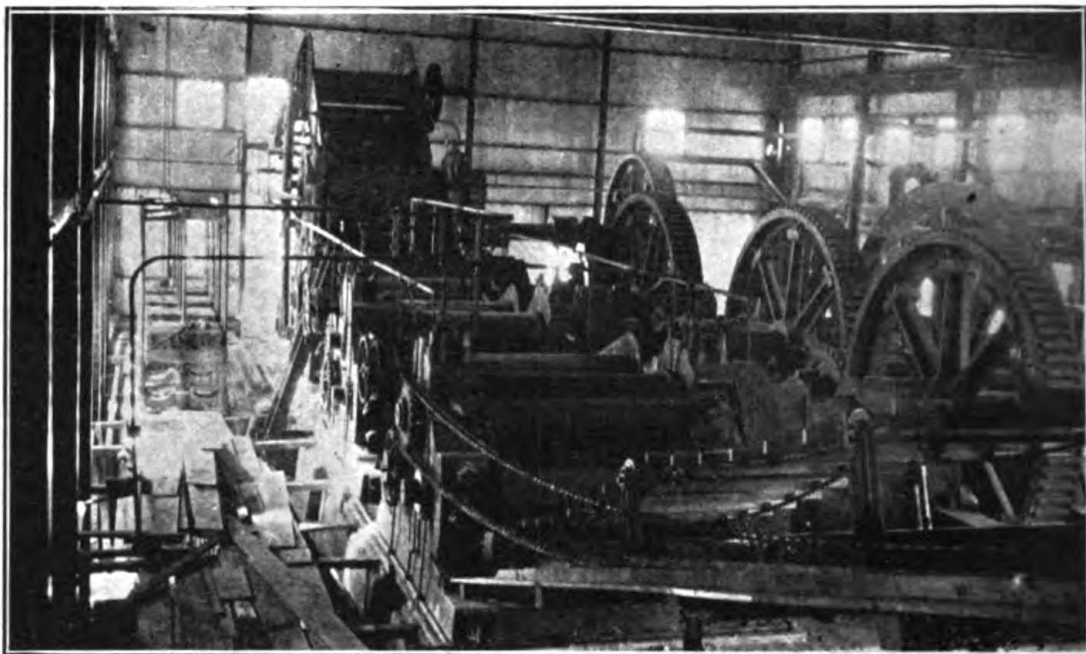
<sup>159</sup> *The Louisiana Planter and Sugar Manufacturer* 47, no. 21 (1911), 339-40.

**Figure 6.20**  
Photograph of Bock Sugar Crystallizer at Angola State Farm,  
Louisiana State Penitentiary



*Source: The Louisiana Planter and Sugar Manufacturer 47, no. 21 (1911), 340. Image in public domain.*

**Figure 6.21**  
Photograph of Nine-roller Sugar Mill and Crusher at Angola State Farm,  
Louisiana State Penitentiary



*Source: The Louisiana Planter and Sugar Manufacturer 47, no. 17 (1911), 270. Image in public domain.*

cane” and to employ approximately one-thousand convicts in the fields and around the factory during the 1911-1912 grinding season.<sup>160</sup>

Angola’s sugar revolution promised relief from the cotton economy’s recent misfortune and achieved vertical integration with an economy of scale previously unrealized. But, a second wave of misfortune struck in the spring of 1912. It brought an abrupt halt to the “model factory” and the record-breaking harvests at Angola of the previous year. Levees broke and submerged the vast floodplains of the ‘alluvial empire.’<sup>161</sup> In topping all previous records, the Mississippi river “swept away the embankments of nearly all the levee districts,...engulfed every acre of the great state farm wiping out every vestige of the crops, [and] destroy[ed] 2,500 acres of plant and stubble cane.”<sup>162</sup> The levee breach at Angola inundated the farm and flooded the recently completed “half a million dollar sugar refinery.”<sup>163</sup> State and federal authorities retreated in the face of the crevasses giving up all hope while panic prevailed in towns like Torras, Louisiana where water measured six feet deep in the streets.<sup>164</sup> Estimates of property damage in the Mississippi Valley ranged between \$50,000,000 and \$100,000,000. The artificial levees raised in the early nineteenth century to channel the great river –so attractive to outside capital, state

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<sup>160</sup> *The Louisiana Planter and Sugar Manufacturer* 47, no. 17 (1911), 270-1; *The Louisiana Planter and Sugar Manufacturer* 47, no. 21 (1911), 339-40.

<sup>161</sup> Woodruff, *American Congo*, 1-7.

<sup>162</sup> “Development of Penitentiary Traced By C. Harrison Parker, Veteran President of Board of Control,” *Times Picayune*, April 4, 1915. Hope State farm was also devastated. With no crops to speak of, the state had to purchase forage, levee forces were idle for months and their camps and outfits were also lost in the flood waters. With devastation to cane production stretching over two years, the crop at Angola in 1913 was restricted to one-half what it would have otherwise been. The state incurred costs of reseeding, and rebuilding levees to new standards and enlarging the ten miles of embankments surrounding the property, which constituted about 1.5 million yards of work. Authorities outfitted the sugar house which produced white granulated sugar, and reconstructed the plantation railway by adding forty cane cars, installed switches, bought a locomotive, and constructed a sugar warehouse with additional tanks.

<sup>163</sup> Mississippi Delta Towns Are Being Submerged Fast: Break of Levee Near Beulah spreading Devastation,” *Nashville Tennessean*, April 19, 1912; “Convict Farm Flooded: Fine Plantation Near Baton Rouge is Totally Ruined,” *Nashville Tennessean*, May 3, 1912.

<sup>164</sup> “Water Six Feet Deep in Streets of Torras Town: Many Other Places in Louisiana Are Beneath Water,” *Nashville Tennessean*, May 3, 1912.

planters and penal administrators- made the region more vulnerable to the ravages of the river. Yet, the drive for rationalization and efficiency that informed the state's twentieth century penal practice and infrastructural development would create the conditions for even greater calamity.

Upon inspection, investigators found Angola to be "a complete wreck." The Board of Control provided a vivid description of the penitentiary system's misfortune in June of 1912. They reported,

Angola had been completely submerged, and every growing thing on it had perished. About two-thirds of Hope farms had gone under the water, the levee camps had been washed away and destroyed, and the levee forces were scattered about in temporary quarters... There was not a blade of forage nor grain of corn to feed the 500 heads of mules and horses. The equipment had been scattered and damaged and some if it lost. The farm building and fences had been damaged, and there was much sickness resulting from such abnormal condition.<sup>165</sup>

Fortunately for the state, the damage to the buildings amounted to "nothing" and the recently completed \$750,000 sugar refinery was not affected. In spite of crop losses and large-scale dislocations, Angola fared better than other parts of the Delta. The *American Sugar Industry* reported, "Not less than 1,000,000 acres of farming land" remained "under water as a result...every plantation...between the east bank of Bayou Lafourche and the west bank of the Mississippi river as far as the Gulf of Mexico is inundated."<sup>166</sup> Yet, in this instance, the 'labor problem' became a solution. Managers were able to draw on a labor force that numbered well over 2,000 convicts to fill crevasses, plant seed cane, and restore the penal farm to full industrial capacity.<sup>167</sup> The flood raised the costs of prisoner maintenance. But, even given the higher rate, the state's use of forced labor allowed the penitentiary system to recover quickly. Convicts cost

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<sup>165</sup> State of Louisiana, *Biennial Report of the Louisiana State Penitentiary, Board of Control, Calendar Years 1912-1913* (Baton Rouge: n.p., 1913), 3.

<sup>166</sup> "Correspondence from Cane Sugar Producing Sections," *American Sugar Industry* 14, no. 7 (1912), 10.

<sup>167</sup> Louisiana State Penitentiary, *Report of the Board of Control* (1913), 68.

the state only about \$4.37 per month and \$52.50 per annum –including clothing, bedding, food, medical care, officers, guards, and administrators.<sup>168</sup> With this captive workforce, managers projected revenues to “reach the half million dollar mark” in spite of the calamity. For 1912, farm income decreased to \$28,118.33,” while under “normal conditions” properties should have produced \$300,000.<sup>169</sup>

In 1914, Angola’s peculiar workforce prompted officials to declare that even after the substantial losses incurred in the flood, the sugar industry on the penal farm would “survive and be made independent of the Sugar Trust by turning out white granulated sugar that...sold directly to the consumer, increasing the margin of profit.” They stated that the “Angola refinery could convert the cane into sugar or syrup and molasses as cheap or cheaper than any house in the state.”<sup>170</sup> The timber industry showed like profitability. Managers stated that the “Industry also offers a very inviting field for us. In this wages are high, and the labor which we have can secure better returns than in almost any other line...White men to the number of 132 are engaged in this work, and have proven so competent that the equality of the lumber gives it a ready sale direct from the yard at full market prices.” Levee work was prized as one of the most profitable departments of the penitentiary system. Yet, administrators called attention to its harsh conditions and heavy demands when they stated, “None but the first-class men over 21 years and under 45 years can stand the labor, even with an abundance of the best food and good care.”<sup>171</sup> For these reasons, the Board of Control did not harbor reservations over the penitentiary system’s return to profitability.

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<sup>168</sup> Ibid., 12.

<sup>169</sup> Ibid., 4-6.

<sup>170</sup> Ibid., 7.

<sup>171</sup> Ibid., 8.

What was more worrisome to penitentiary managers was an emerging threat to their ability to command convict labor with impunity. A legislative act passed in 1912 included a section which required that the Board impose positive rules and regulations to dictate maximum and minimum average working hours for all prisoners. Members of the Board adamantly opposed any suggestion of such a rule. They claimed, “It is absolutely impossible to carry out this law, and to attempt to do so would be to restrict and hamper the operations of the entire system...we therefore, recommend that this section of the law be repealed.”<sup>172</sup> Thus, the impending restrictions posed a clear challenge to the ability of managers to maximize surplus extraction from convict workers and threatened to ruin the expansion of prison industry.

Authorities also commanded convict workers to prevent a second inundation as they rebuilt Angola’s industrial capacity in 1913. Col. Harrison Parker, chairman of the penitentiary Board of Control, recalled that the state replanted Angola at considerable cost and its overflow during the following year would have been a “near-disaster, in a financial sense.” He indicated that five miles of the new levee line had to be defended with “most of the dikes being new and unseasoned.” The penitentiary’s board organized a force of convicts in advance to be on call for “emergency work.” While they suggested there was no reason to fear, managers were determined “not to be caught unawares” and risk further losses.<sup>173</sup> In 1915, The Board of Control’s president, Col. Harrison Parker, also broadcasted that the state would expand and diversify production so as not to decrease risk. In suggesting an even bolder direction for the state’s prison industry, he stated that all energy should be spent in the direction of highest earnings, “not in petty parings here and there.” He explained that, “As matters stand, we are carrying our eggs in one basket.

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<sup>172</sup> Ibid., 16-7. Act No. 26 of 1912 state in Section 3 that, ‘wherein it is provided that this Board shall lay down positive rules and regulations for a maximum and a minimum average of work for all prisoners.’

<sup>173</sup> *American Sugar Industry* 15, no. 4 (1913), 43.

There should be a scatter of the risk: we should go into cotton and sawmill business in north Louisiana.” Given the nature of the workforce, Col. Parker stated, “We have surplus labor on hand now that could be applied to these and add to our earnings without any increase in cost of maintenance.”<sup>174</sup> Thus, misfortunes only served to expand and fortify the industrial base of the Louisiana State Penitentiary.

### *Conclusion*

The abolition of Louisiana’s convict lease system, made law in Constitution of 1898, culminated in the more systematic, rationalized, and more expansive carceral state and system of forced labor. There were striking structural similarities between lessee and state-administered prisoner enterprises. The latter essentially bought out the operations of the former. Consequently, Louisiana picked up where the lessees left off as officials acquired and then expanded ready-made levee prison camps and a penal plantation. Rhetoric by penal reformers and the standard press elided this fact by equating Louisiana’s abolition of convict leasing and the constitution that authorized it with humanitarian achievement and civilizational advance. Their rhetoric served to legitimate strict racial segregation inside the prison and the entrenchment of a white racist state by referring to the constitution’s new mandates. Officials reported improvements in prisoner conditions. But, any amelioration served the interests of the state’s Democratic Party since such betterment was a litmus test for their legitimacy. Thus, the resumption of state control of the penitentiary system after over thirty years of private management signified state consolidation with rise of Louisiana’s Democratic Party, the institutionalization of racism as an

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<sup>174</sup> “Development of Penitentiary Traced By C. Harrison Parker, Veteran President of Board of Control,” *Times Picayune*, April 4, 1915.



instrument of social control, and the expansion of state-building projects tied to the ‘alluvial empire.’<sup>175</sup>

Prison industry saw exponential growth under direct state management. Administrators’ pursuit of agricultural industry was a calculated decision driven principally by economic considerations, rather than a direct result of the racial composition of its workforce. The eventual abandonment of industry at ‘the walls’ resulted from the greater capital investments necessary for large-scale manufacturing and objections over its competition with ‘honest labor.’ The combination of large-scale cotton cultivation, subsistence production, timber industry, public works, and manufactures for state consumption, together with a physically forced labor system, achieved profitability early on. A growing convict population and the institution’s imperatives for full employment, together with the lure of profits, drove the institution’s expansion in the first decades of the twentieth century. Yet, opposition by local officials over diminishing tax revenues, complaints by landowners over the state’s growing monopoly on the ‘best’ agricultural land, and alarm over labor competition placed limits on growth of such enterprise. What radically changed its course was the invasive boll weevil. Large-scale sugar production replaced the institution’s cotton economy. While the flood of 1912 posed a setback, the state penal institution rose to new heights because of its cheap, captive labor force and infusions of capital from the treasury. Yet, setbacks ultimately prompted a new administrative structure that generated even greater efficiencies meant to boost profits and prisoner control.

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<sup>175</sup> Woodruff, *American Congo*, 135.

## Chapter 7

### The Myth of the “Model Prison” and Realities at Angola, 1916-1935

In 1917, Louisiana unveiled its advances in imprisonment to the world. The state assembly passed a resolution to host the National Prison Congress in New Orleans in the fall of 1917. The conference was indicative of the international scope of the penal reform movement and Louisiana’s significance to it. It attracted top officials from the United States and from the nations of Western Europe as well as Latin American states.<sup>1</sup> The National Prison Congress showcased Angola, the former slave plantation, as the twentieth century’s “model prison.”<sup>2</sup> Hon. E.N. Stafford of New Orleans spoke of Louisiana’s accomplishments by recalling that “scarcely a quarter century ago the convict lease system was abolished in Louisiana.” He confirmed that the system “has gone never to return.” Stafford repeated commonly recited opinions when he said that the abolition of Louisiana’s convict lease system initiated “an improvement in the status of prisoners that has continued steadily until the Louisiana system is now one of broad humanity.”<sup>3</sup> Thus, legitimacy for Louisiana’s expanding penitentiary system remained tied to the state’s abolition of convict leasing and claims of ameliorative change in prisoner conditions.

This chapter separates these myths from reality at Angola, the state’s premier prison farm, by critically examining its claims to success –a task not accomplished in extant sources.<sup>4</sup> It

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<sup>1</sup> Officials in attendance were from the United States and its territories, Canada, Great Britain, France Denmark, Mexico, Cuba, as well as officials from Central and South America. See: Act No., 28, State of Louisiana, *Acts Passed By the General Assembly of the State of Louisiana at the Extra Session, Begun and Held in the City of Baton Rouge on the Ninth Day of July, 1917* (Baton Rouge: Ramires-Jones Printing Co., 1917).

<sup>2</sup> American Prison Association, *Proceedings of the Annual Congress of the American Prison Association* (1917), 96.

<sup>3</sup> Ibid.

<sup>4</sup> Carleton argues that since the standard press and penal reform organizations did not report “excessive brutality” in the penitentiary system during the 1920s and that press reportage concerned financial matters, there is little reason to believe abuses existed. He stated that it is difficult to imagine that penal

begins in 1916, as the penitentiary system experienced an administrative restructuring which brought about increased centralization of authority and an intensification of scientific management. It closes in the mid-1930s as the institution earned a new reputation—one that branded it “the worst prison in America.”<sup>5</sup> To this end, this chapter contrasts accounts of the penal farm by state officials, prison reform organizations, and the press with critical accounts of the institution. It addresses a notable gap in the literature concerning penitentiary life in Louisiana between 1918 and 1932, a period during which administrators published few, if any, reports on the penitentiary.<sup>6</sup> In doing so, this examination develops quantitative prisoner profiles derived from the *Louisiana State Penitentiary Prisoner Database* (LSPPD), designed specifically for this project.<sup>7</sup> Based on this new information, I reveal that life at Angola deviated markedly from public representations of the penal farm as a “model prison.” I argue that imperatives for profitability and prisoner control culminated in an even more entrenched, rationalized, and efficient prison industry complex and physically forced labor system by the second decade of the twentieth century, but one that remained vulnerable to its own contradictions.

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reform organizations would have failed to criticize the state penal system if there had been reason to do so. He did, however, acknowledge the brutality of the system by 1930 under the administration of Huey P. Long and argued that “limited reform” and paternalistic administration during the 1920s had deteriorated to conditions comparable to the convict lease system by 1940. He attributed this fact to political corruption and racism, and therefore, neglected a material analysis, which reveals the state’s use of the institution to force contract labor and compel a convict workforce for profit and prisoner control. In sum, he stated, “treatment of convicts...was generally humane.” Wisner’s account ends by the beginning of the 1920s. She largely accepts claims by penal reformers that Louisiana’s penal farms represented humanitarian progress in imprisonment due to outdoor work and non-cellular confinement. Wisner states that “there are features of the system which are commendable and perhaps in advance over the more highly institutionalized system of other sections of the country.” See: Carleton, *Politics and Punishment*, 114, 134, 122; Wisner, *Public Welfare Administration in Louisiana*, 176, 177.

<sup>5</sup> “10,000 Floggings,” *Times Picayune*, May 11, 1941.

<sup>6</sup> Between 1918 and 1932, the Louisiana State Penitentiary published no official reports.

<sup>7</sup> The dataset is based on prisoner inventories from 1926 to 1936, which includes fifty-one fields of information included in the *Louisiana State Penitentiary Prisoner Database*, which will be abbreviated from this point on as: *LSPPD*.

### *The “Model Prison” and the Duke of Angola*

The National Prison Congress came to Louisiana in 1917 on the heels of the state’s modernization and expansion of its penal farms, their administrative centralization, and in the context of a national debate about adapting penal industries for wartime agricultural production.<sup>8</sup> The association credited the state for enacting progressive legislation, which included: measures to enact indeterminate sentencing, parole laws, a juvenile court, a reform school, a modern house of detention, and a city mental health facility.<sup>9</sup> Henry L. Fuqua, a Louisiana businessman, took command of the penitentiary system in 1916. After just one year of control, he took credit for acclaim awarded to the institution.<sup>10</sup> Fuqua was appointed General Manager after the legislature dissolved the Board of Control.<sup>11</sup> The measure centralized all authority over the institution, thereby “removing any opportunity for friction [and] putting the responsibility for success or failure ...squarely upon the shoulders of the official.” The new administrator was called “The Duke of Angola” for his singled-handed control over the institution. He aimed to restore the institution and place it on a “solid and substantial business basis.”<sup>12</sup> The American Prison Association held his “one-man rule” in high regard. After a tour of the penitentiary system, the

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<sup>8</sup> The Prison Association of New York, “The American Prison Association and the War,” *The Delinquent* 7, no. 6 (June 1917), 1, 2, 13. The American Prison Association resolved in July of 1917 to the full capacity of penal farms assist in the contributing to war-time demand. They recommended that in many states inmates could be paroled to labor for farmers. It was presumed that prisoners were “earnestly desirous of ‘doing their bit.’”

<sup>9</sup> President Hon. F.S. Shields credited the Prison Reform Association for securing the enactment of the following laws: juvenile court laws; recreant husband law; the suspended sentence, indeterminate sentence and parole laws; also for the building and organization of the Monroe Reform School for Boys and a modern House of Detention and city hospital for mental diseases. American Prison Association, *Proceedings of the Annual Congress of the American Prison Association* (1917), 13-4.

<sup>10</sup> Cowan and McGuire, *Louisiana Governors*, 155. Fuqua was appointed to the position by Governor Pleasant and reappointed by his predecessor, Governor Parker. He served as governor from May 19, 1924 until October 11, 1916, when he unexpectedly died.

<sup>11</sup> State of Louisiana, *Report Made by HY. L. Fuqua, General Manager of the State Penitentiary* (1918), 24-6.

<sup>12</sup> “Bouchard Hits Fuqua and Klan in Address Here,” *Times Picayune*, November 28, 1923; State of Louisiana, *Report Made by HY. L. Fuqua, General Manager of the State Penitentiary* (1918), 24.

organization determined that “since, Mr. Fuqua took charge...he has made many improvements [which] all speak volumes to his credit as an intelligent and businesslike manager.”<sup>13</sup> Based on their observations, they predicted that “the prison farm...will be a model in many respects for State penitentiaries all over the country.”<sup>14</sup>

Henry Fuqua had personally led the tour. The party included David C. Peyton, president of the American Prison Association Congress, and a large delegation. The group left New Orleans for Angola early on a Saturday morning and spent several hours dining and sightseeing at Angola. Fuqua hosted them to a feast provided by inmates where they presented some of the fruits of their physically forced labor.<sup>15</sup> The midday fare included “courtbullion” –Cajun cuisine made of catfish caught in the Mississippi river, roast pork and sweet potatoes, turkey, yams, Irish potatoes, cold tumblers of sweet milk, cinnamon rolls, tea cakes, cookies, coffee, and other items.<sup>16</sup> Fuqua told the visitors that prisoners received everything on the menu but the turkey at least two or three times a week. After the luncheon, Fuqua escorted the party in automobiles and wagons to tour Angola’s seven prison camps. Visitors said there was a “spotless cleanliness about each dormitory.”<sup>17</sup> The guests noted how nicely prisoners kept lawns and flowers. They also remarked on the prisoners at work in the fields stripping cane and described how they prepared it for grinding at the large refinery. Guides explained that “the plant [was] being worked to full capacity day and night and prisoners engaged in this work are given good time.” But, later in the day, Fuqua’s remarks about hours worked by prisoners gave a different

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<sup>13</sup> The Prison Association of New York, “Louisiana’s Prison,” *The Delinquent* 7, no. 6 (June 1917), 13.

<sup>14</sup> Ibid.

<sup>15</sup> The Prison Association of New York, “The Angola Sugar Plantation Prison Farm of Louisiana,” *The Delinquent* 7, no. 11 (November 1917), 13-5.

<sup>16</sup> “Courtbouillon” refers to a thick, rich fish stew most often prepared with catfish and thickened with roux.

<sup>17</sup> The Prison Association of New York, “The Angola Sugar Plantation Prison Farm of Louisiana,” *The Delinquent* 7, no. 11 (November 1917), 14.

impression. He said, “Sometimes we work them six hours a day, and sometimes a little more than ten.”<sup>18</sup>

A hallmark of Fuqua’s administration was the institutionalization of “trusty guards” or the use of prisoners to police other prisoners. This system, which would in no time gain a great deal of notoriety, drew “warmest commendation from the visiting wardens and prison reformers.” The general manager had systematized the practice in order to achieve even greater economy, efficiency, and prisoner control. Fuqua commented that the system “worked admirably, and [was] saving this institution a large amount of money, at the same time giving to a large number of prisoners opportunity to better their living conditions, and by voluntary discipline and good conduct” was shortening their sentences.<sup>19</sup> Fuqua added that eighty of the state’s 1,677 prisoners had been selected.<sup>20</sup> The institution rewarded these prisoners by allowing them to adopt civilian attire, carry arms, and reside in the same housing as non-convict guards. The innovation not only reduced the costs of prisoner maintenance but also institutionalized a hierarchy among convicts, directed by officials, and set the interests of some convicts against other convicts. Officials adopted Jim Crow when formulating the trusty system. Black convict guards were to police black prisoner while white trusties guarded white prisoners. Fuqua told his guests that trusties were superior to paid guards since “when one of the prisoners gets bad, the captain does not call up on the guards to help him, but calls up on some of the prisoners to assist. They are game and [the captain] knows he can depend upon them.”<sup>21</sup> The trusty system drew

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<sup>18</sup> Ibid., 15.

<sup>19</sup> State of Louisiana, *Report Made by HY. L. Fuqua, General Manager of the State Penitentiary* (1918), 25.

<sup>20</sup> Ibid., 42.

<sup>21</sup> The Prison Association of New York, “The Angola Sugar Plantation Prison Farm of Louisiana,” *The Delinquent* 7, no. 11 (November 1917), 15. Fuqua gave two examples of attempts to escape in order to demonstrate the success of the trusty system. One involved a black man who attempted to escape a black

praise for another reason. Fuqua disclosed that Louisiana had adopted a “slight pay system” with this new approach to prisoner control. Trustees, unlike the prisoners who they guarded, were entitled to a wage of two dollars per month.<sup>22</sup>

Fuqua was neither the first administrator to experiment with the trusty system, nor was he the only official dedicated to employing it to dramatically reduce maintenance costs. The Louisiana state legislature had established a sub-committee to investigate Mississippi’s use of “convicts as guards for convicts” in 1915.<sup>23</sup> The method of guarding prisoners in Mississippi had reportedly been “in vogue for several years.”<sup>24</sup> Investigators testified that the practice had achieved “absolutely satisfactory results.” Officials reported few convict escapes, reduced mortality from violence, and dramatic cost savings. In 1915, the investigating committee calculated that “a conservative estimate of the amount which could be saved to our state each year is not less than, \$75,000.” The committee concluded, “In view of the large amount of money which thereby could be saved the State each year, we cannot too strongly urge at least a trial of that method of guarding convicts.”<sup>25</sup>

In addition to discussing his methods of prisoner supervision, Fuqua also addressed the use of corporal punishment with his guests. The general manager indicated his desire to abolish the system of flogging. But, he suggested that it was impractical because of the “complexion” of

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guard. Fuqua said that “the guard tried every way possible to prevail upon him to behave but the prisoner persisted in running away. The guard fired and the escaping man was shot.” In a second instance, four white prisoners conspired to escape. Fuqua said that they broke out under white prisoner guards who cut them down with a shotgun. Three of the prisoners each received one buckshot, enough to stop them but not so much to seriously hurt them. The fourth prisoner “got away” but was captured by the dogs within thirty minutes..

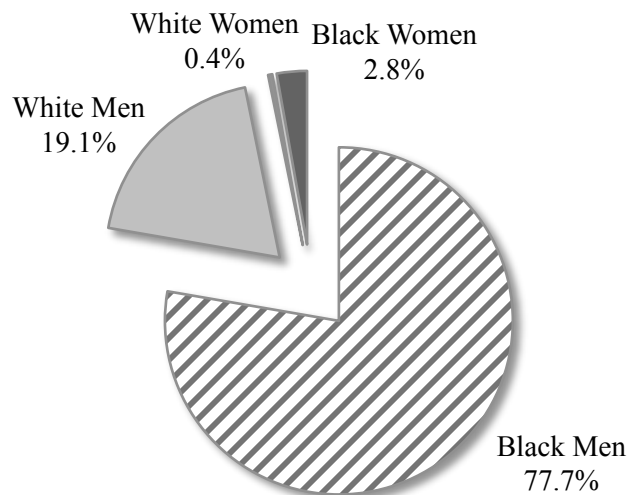
<sup>22</sup> The Prison Association of New York, “The Angola Sugar Plantation Prison Farm of Louisiana,” *The Delinquent* 7, no. 11 (November 1917), 15. Prisoner guards received \$2 per month. The amount was placed in a savings account and interest compounded every six months.

<sup>23</sup> “Report of the Legislative Investigating Commission of Louisiana to Hon. Luther Hall, Governor of Louisiana, August 2nd, 1915” (*n.p.*, 1915), 77.

<sup>24</sup> *Ibid.*, 78.

<sup>25</sup> *Ibid.*, 80.

**Figure 7.1**  
Inmate Population by Race, 1913,  
Louisiana State Penitentiary



*Source:* State of Louisiana, *Report of the Board of Control* (1913), 87.

Angola's prisoners. Fuqua stated, "With our large percentage of negro population and ignorant negroes at that, I doubt if any other system would maintain discipline as well."<sup>26</sup> Yet, the same legislative commission that had recommended the trusty system in 1915 disparaged the continuation of corporal punishment, irrespective of race. They reasoned that,

To the man of a rebellious disposition the lash does more harm than good, for he nurses a secret grievance against his tormentor which abides with him and unfits him for the work to which he has been assigned. To the timid and tractable man, the lash is unnecessary, as a stern reprimand or mild form of punishment always has the desired effect. For convicts some other form of punishment than corporal punishment by the use other lash should be found.<sup>27</sup>

This statement reveals that an economy of punishment based strictly on physical punishment was more costly than a system of control which applied positive inducements to gain cooperation

<sup>26</sup> The Prison Association of New York, "The Angola Sugar Plantation Prison Farm of Louisiana," *The Delinquent* 7, no. 11 (November 1917), 15.

<sup>27</sup> "Report of the Legislative Investigating Commission of Louisiana to Hon. Luther Hall, Governor of Louisiana, August 2nd, 1915," 80.



with authorities. Thus, even at a time when the more than eighty percent of the state's prisoners were black, the legislative investigative commission argued that the abolition of corporal punishment and its substitution by "other means" would more perfectly effect prisoner control [see Figure 7.1].<sup>28</sup>

Commendation of Louisiana's penitentiary system resounded in the standard press. Angola won the favor of the *Washington Times-Herald*. The publication boasted that Angola was the most remarkable prison on the American continent, "a genuine prison deluxe." Cornelius Vanderbilt, Jr. implored to his readers,

Picture yourself on the banks of the broad Mississippi a veritable garden spot, surrounded on three sides by high embankments on the fourth by beautiful hills, with a wonderful air of peace and security, with beautifully cultivated fields, stretching for miles and miles, dotted here and there little clusters of long, low white buildings, and at the center of this peninsula, a huge factory-like structure with the usual towering black chimney, and groups of humans everywhere working industriously.<sup>29</sup>

The article praised Angola's trusty system and projected that as a "businesslike institution run by business men," Angola would become "one of the show prisons of the country [and] will be known as the most remarkable institution of its kind in the world."<sup>30</sup> This congratulatory portrayal of Louisiana's "penal colony" nevertheless gave a factual account of the farm's booming industrial base. It reported that the farm comprised 17,800 acres, with 6,000 acres of pasture and 8,000 in cane. "Self-supporting," it housed the fourth largest sugar refinery south of the Mason-Dixon line, producing over 6,000,000 pounds of granulated sugar and 1,000,000 of lump sugar—all by the hands of convicts. The prison farm was also home to "twelve of the

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<sup>28</sup> State of Louisiana, *Report Made by HY. L. Fuqua, General Manager of the State Penitentiary* (1918), 42.

<sup>29</sup> Quoted in "Life in a Prison Deluxe in Louisiana," in *The Wall is Strong*, 28.

<sup>30</sup> The article noted that "although over 1,600 men are confined at Angola, there are but eleven paid guards in the camp, and not a man has been lost in many years."

largest sugar refinery boilers in the world,” with five of them consuming 20,000 barrels of oil per month.<sup>31</sup>

The *Boston Daily Globe* also found Angola to be inviting. Headlines read, “No Cells and Little Indoor Work in Louisiana’s Model Prison.”<sup>32</sup> The journalist went so far as to assert that when asked the question, “Has it succeeded?” that “thousands of convicts who have passed through the Louisiana Farm School, answer with a resounding ‘Yes.’” Such a certainty it was that, according to the account, “one had only to ask hundreds of tubercular patients, and scores of victims of disease and drugs who have come back to society apparently cured.” The same paper reserved high honors for Manager Henry L. Fuqua and attributed the ability to make “men and women out of...derelict criminals” to his “one man rule.”<sup>33</sup> The author found that Christianity was the foundation of reform, with “upwards of 2000 convicts...repenting for their sins against society while they work in the open, in the sunshine, and breathe pure air on sleeping porches at night.” The paper reported that sanitation was enforced, that there was “an abundance of substantial food,” that prisoner housing had “all modern conveniences,” including “sanitary closets and splendid artesian water.” The same account noted that the system reserved corporal punishment only in “aggravated cases...a three inch strap being used for repeated infractions of the rules and for refusing to do work properly.” Thus, all indications were that the state was gaining distinction in many circles as the world’s model prison.<sup>34</sup>

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<sup>31</sup> Ibid., 28.

<sup>32</sup> “No Cells and Little Indoor Work in Louisiana’s Model Prison,” *Boston Daily Globe*, June 3, 1923.

<sup>33</sup> “Life in a Prison Deluxe in Louisiana,” in *The Wall is Strong*, 30. The *Globe* reported that “one man’s hands” had brought “a high degree of efficiency and under his further development, Louisiana hopes to soon boast of the model prison system of the world.”

<sup>34</sup> “No Cells and Little Indoor Work in Louisiana’s Model Prison,” *Boston Daily Globe*, June 3, 1923.

### *Behind Fuqua's Facade*

Yet, as Louisiana unveiled its penitentiary system to the world, a prison expert saw through Fuqua's facade.<sup>35</sup> Professor J. C. Heery demonstrated that the success of the penitentiary system was a product of smoke and mirrors in his interview with *The Times Picayune*. Raised on Van Diemen's Land, Australia, a former British penal colony, Heery said that daily encounters with the ruins of the old cells as a child inspired him devote his life in the study prisons or "man's inhumanity to his fellow man." After touring prisons of every kind in Australia and Europe, he investigated several federal, military, and state penitentiaries as well as city and county jails, "horror road camps," and "turpentine stockades."<sup>36</sup> The professor had originally accepted an invitation from Louisiana's Governor Pleasant to visit the penitentiary system in 1917, the same year that New Orleans held the international penal reform meeting. Heery had planned to act on the governor's request that he pose as a prisoner in order to investigate Louisiana's system, as it was well known to state officials that he had previously done so in Kansas [see Figure 7.2].<sup>37</sup> Heery testified that the governor wanted his "experiences and suggestions for betterment."<sup>38</sup> However, the 'Duke of Angola' refused to allow such "horse play" since he considered it "utter farce and humbuggery" to allow Heery to "have his hair clipped, don a prison uniform, and mingle with the prisoners as a prisoner."<sup>39</sup> Ultimately,

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<sup>35</sup> "Lecturer Visits Baton Rouge Walls and Convict Farm: Professor J.C. Heery Gives Interesting Interview Following Inspection Trip," *Times Picayune*, February 2, 1917. He was considered an expert on penal system in Australia.

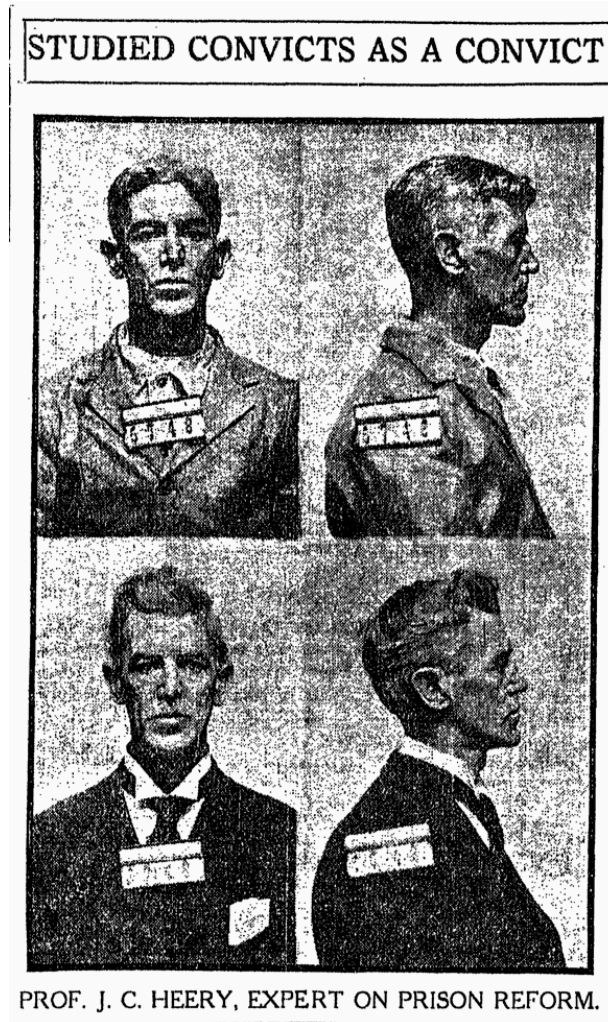
<sup>36</sup> Ibid.

<sup>37</sup> "Declares Abuse, No Refutation: Prof. Heery Points Out Weaknesses in Penitentiary System Which He Emphasized," *Times Picayune*, March 7, 1917; "Prison System Declared Breeder of Far Worse Evils," *Times Picayune*, February 26, 1917. Heery claimed to have served seven days as a prisoner in the Kansas state penitentiary.

<sup>38</sup> "Manager Fuqua Replies to Prof. Heery's Criticisms," *Times Picayune*, March 6, 1917.

<sup>39</sup> Ibid. Heery stated that, "the superintendent, Mr. Fuqua, could not be persuaded that any good result would come from not being admitted as a convict, so I was reluctantly compelled to make my instigations

**Figure 7.2**  
Photograph of Prof. J.C. Heery as Inmate and Civilian



*Source:* "Prison System Declared Breeder of Far Worse Evils," *Times Picayune*, February 26, 1917. Image in public domain.

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as an advisor."

Fuqua's misgivings overruled the governor's prerogative as the general manager only allowed the professor to visit Angola and 'the walls' as a civilian, rather than a convict.

Professor Heery's first visit was to Angola and he arrived early in the morning. He described the dawning day as cold, bleak, and rainy. Before first light, he approached "Camp B," where the white prisoners who worked in the cane fields lived. About sixty men marched out of the unlocked door for breakfast. While the men were dining, Heery followed a guide through the dormitory. He observed that "many of the windows were broken and the room was very cold."<sup>40</sup> Sanitation was much less than ideal as there was only a "rough trough...for common washing."<sup>41</sup> Though there were six "very dirty roller towels hanging," the men did not use them. Heery inquired further and the inmate responded, "I don't want to catch disease." Heery reminded the newspapermen of the health record in the 1914-1915 penitentiary report, which listed fifteen cases of chronic venereal disease and thirty-one cases "of the worst form" before saying that "any further comment should be unnecessary" as to the men's reluctance to wash and dry.<sup>42</sup> Heery found that the "splendid artesian water" reported by the *Boston Globe* was conspicuous solely for its absence. Fuqua did acknowledge to his Australian visitor that there was a lack of potable water, claiming that, "Wells are being bored, and that as soon as possible, an ample water supply will be available."<sup>43</sup>

Prisoner rations were nothing like the sumptuous feast that the visitors from the American Prison Association enjoyed. Fuqua told the professor that, "The ration was a higher grade than that served to soldiers in the army." After acquainting himself with the fare, Heery said that if what Mr. Fuqua said was true, then, "God help America." The breakfast in mention

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<sup>40</sup> "Prison System Declared Breeder of Far Worse Evils," *Times Picayune*, February 26, 1917.

<sup>41</sup> Ibid. The bathing facilities consisted of small wooden tubs and very little soap.

<sup>42</sup> "Lecturer Visits Baton Rouge Walls and Convict Farm," *Times Picayune*, February 11, 1917.

<sup>43</sup> "Prison System Declared Breeder of Far Worse Evils," *Times Picayune*, February 26, 1917.

consisted of “a very small piece of meat, a little grits, bread and molasses,” which the men called “Black Joe.” The professor tasted it saying only that, “It was bad.” He found the coffee not much better. One prisoner remarked, “They call it coffee; it’s hot and helps to kill the taste of ‘Black Joe.’” With the permission of the guard, the professor “made a short talk to the boys.” He took the opportunity to announce his intention to ascertain prison conditions. Heery said that the men were “palpably afraid.” He viewed the inmates as they sat at the “insufficiently supplied table” in silence, eating “inferior food.” The light was still low during the early morning meal and the rain persisted. That gave the professor the opportunity to talk to “one group of men huddled together in the dim morning light.”<sup>44</sup> Well-versed in the study of crime, the professor aptly summarized the nature of the penitentiary population in the news article. Without mentioning names, Heery explained that the great majority of prisoners resulted from a “floating population,” most of whom were not “real criminals.”<sup>45</sup> He said, “Prisons are very largely filled with petty offenders and unfortunate victims of circumstances.” Thus, he understood that more often than not, criminality was a consequence of the struggle for existence under difficult circumstances.

In addition to Angola’s work camps, Heery also toured the hospital at Camp B but was disappointed to have found no “sanitary closets.”<sup>46</sup> He found the infirmary to be nothing but a “crude lumber shack” with cracks visible in the sides of the walls and a common toilet seat made of “uneven lumber” which provided a certain resting place for “germs and vermin.” Even more troubling to Heery was the condition of a patient brought in from Camp C the day before his visit. The young man, one of ten patients lying on rough beds, was nineteen years old, weighing ninety pounds, and measuring about four feet and six inches tall in height. Despite his small

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<sup>44</sup> “Lecturer Visits Baton Rouge Walls and Convict Farm,” *Times Picayune*, February 11, 1917.

<sup>45</sup> “Prison System Declared Breeder of Far Worse Evils,” *Times Picayune*, February 26, 1917.

<sup>46</sup> “No Cells and Little Indoor Work in Louisiana’s Model Prison,” *Boston Daily Globe*, June 3, 1923; “Prison System Declared Breeder of Far Worse Evils,” *Times Picayune*, February 26, 1917.

stature, the prisoner had been “wheeling a barrow” on the levee for nearly twelve months. The professor diagnosed the young man’s condition as exhaustion from overwork and poor food, noting that this victim of Louisiana’s levees should not have been subject to such work since the state’s much lauded physical classification system should have disqualified him on the basis of his height.

Heery did not visit any of the state’s levee camps, but he did examine Angola’s “Camp E,” a dormitory where white workers lived. Upon arrival he “enjoyed an excellent dinner at the officer’s mess.” Afterward, a foreman took him to a dimly lit mess room where prisoners ate a very scanty meal. Officials granted his request to talk with the men after the meal in the dormitory. After finding 121 prisoners housed in a large room on the second floor, Heery observed that “the men had every appearance of being overworked and underfed.”<sup>47</sup> He discovered that such unmerciful work had been solely reserved for black inmates only in theory. Heery remarked that despite the general “belief that white men should not be worked with negroes on the levees, [he] found that all these white boys had just come in from a hard day’s work building levees.” After visiting the levee works, Heery observed “colored men working behind one dredge, and white men behind the other.”<sup>48</sup> He commented that the work of pushing wheelbarrows up narrow planks on an incline was “continuous and hard.” What was also apparent was the strength of its guard. The professor said that he could not “help but notice the number of armed guards surrounding the work area, and hearing the baying of the bloodhounds, ever ready to run down the poor escapes.” Heery stayed on the levee until after lunch, which he

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<sup>47</sup> “Prison System Declared Breeder of Far Worse Evils,” *Times Picayune*, February 26, 1917.

<sup>48</sup> The professor observed that Angola’s levee system was nearly complete with “little more being necessary to absolutely insured against any inundation.” While two steam dredges were put to work near the levee, “beyond the radius of the dredge,” prisoners did the work.

said was “obviously insufficient.” It was the brutal levee work, according to Professor Heery, that made Angola the “money-maker” that it was.<sup>49</sup>

Since the incarcerated men were noticeably intimidated by the penitentiary foreman’s presence, Heery persuaded the guard to leave him alone with the convicts. The foreman’s retreat broke the men’s silence. Crowding around the professor, they spoke freely about their keeper’s liberal use of the lash. “Frequently and severely whipped,” the men were also subjected to “ridicule and humiliation at the hands of the guards and trusties.” The professor, playing the skeptic, provoked the men to prove to him the truthfulness of their accusations. He explained to the prisoners that if they did so, he would “guarantee the governor should hear the details.” Heery recalled, “To satisfy myself that they spoke the truth, I...asked the men to show me the marks.” Prisoners enthusiastically obliged. The professor said that “they were not only willing but very anxious.” Heery counted eight men with whose legs showed vivid marks of recent whipping. He disclosed that, “One man in particular had his flesh exposed over an area of about eight inches long by two inches wide, and gave audible evidence of the suffering as I endeavored to remove the underclothing which had stuck fast to his raw flesh.”<sup>50</sup>

Prisoners provided explicit description of methods used in such punishments. Heery remarked, however, that it varied little from methods associated with the *ancien regime*. Based on his interviews with inmates, Heery explained that the prisoner facing a whipping was “spread-eagled, and four ‘trusty’ prisoners hold the wrists and ankles while the captain of the camp applies the whip.” Several prisoners told him that they had received five, ten, and up to thirty strokes of the whip, which they described as “a very heavy piece of tanned hide about twenty inches long and three inches wide.” The professor learned from prisoners as well as ex-prisoners

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<sup>49</sup> Ibid. Heery noted the success of the farm as a revenue produced.

<sup>50</sup> Ibid.



and “people on the outside” that contrary to the image portrayed by officials and journalists, employees beat men and women “severely for very trifling offences” rather than “aggravated cases.” A staff member at Angola did not deny application of the whip, maintaining that it was “absolutely necessary—imperative in order to retain order and obedience.” Trustees who aided in the whipping of fellow prisoners took more prerogatives than they were granted. The professor indicated that “guards and trusty prisoners were permitted access to the women’s department.” Evidence of this was undeniable since it was “known for girls to give birth to babies two or three years after going to prison.”<sup>51</sup> In response, Henry L. Fuqua acknowledged that it was difficult for his staff to ensure the segregation of men and women at Angola. Fuqua explained, “Despite every effort, constant care, and vigilance, the cunning power of sexual desire sometimes thwarted us, and that every few years a black sheep was born in the women’s quarters.”<sup>52</sup> An incident noted by Heery did, however, lend credibility to Fuqua’s statement about the resolve of some of the staff in counteracting illicit relations. Heery recounted that not long before his arrival, “A trusty prisoner from an adjoining camp was shot dead as he was leaving the women’s camp before sunrise.”<sup>53</sup>

Nonetheless, on his own visit to the women’s quarters Heery found them to be “comfortable.” Upon arrival, he saw that most of the women were “at work cleaning up the yard.” He talked with a black woman who “was plowing a field [by] driving a big mule with the efficiency acquired by long practice.” Despite the “comforts” of camps, the professor recommended that authorities remove all of the women from Angola at once. He advised that they be “kept either at the state prison in Baton Rouge, where suitable work could be found or

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<sup>51</sup> Ibid.

<sup>52</sup> “Manager Fuqua Replies to Prof. Heery’s Criticisms,” *Times Picayune*, March 6, 1917.

<sup>53</sup> “Prison System Declared Breeder of Far Worse Evils,” *Times Picayune*, February 26, 1917.

them or be placed in cottages on a farm apart from the main body of men.”<sup>54</sup> Out of decorum, the professor refused to speak more specifically on the matter but indicated that “it was not to be expected that their morals [were] like Caesar’s wife.”<sup>55</sup>

The day after Professor Heery visited Angola, he toured ‘the walls.’ The shocking circumstances he had witnessed at Angola among the adult population did not prepare him for what he observed inside the old penitentiary complex. He said, “I could hardly believe the evidence of my own senses when I saw [a] child in stripes, and was told that he was serving a sentence of eighteen months for stealing a tin of sardines.” The professor implored to people on the outside, “Try and visualize this child, wandering about in the ‘bull’ pen as the prison yard is called—associating with men steeped in crime, and whose vices and teachings would contaminate a matured, strong minded man, to say nothing of a nine-year old boy already inclined to be wayward.”<sup>56</sup> The penitentiary’s own reports provided ample evidence of the problem. Three years prior to the professor’s visit, there were sixty-three prisoners under sixteen and 362 under twenty years of age. There were five children under the age of twelve convicted and sent to the penitentiary in 1913, along with twenty-two youths between twelve and sixteen years of age [see Table 7.1 and Figure 7.3].<sup>57</sup> In response to a letter of inquiry by Heery about the boy that he encountered at Baton Rouge, the general manager replied with the following letter directed to the professor:

Dear Sir—

Replying to your inquiry, I beg to advise that the little negro, J.C. Shepherd, age 8 years, height 4 feet 9 inches, weight 85 pounds, was sent up on a charge of

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<sup>54</sup> Ibid.

<sup>55</sup> Ibid.

<sup>56</sup> Ibid.

<sup>57</sup> State of Louisiana, *Report of the Board of Control* (1913), 87.

burglary of a storehouse in the daytime, and was sentenced one year minimum and fourteen months maximum. He was received here at the Walls on October 27, 1916.

Trusting this gives you the information you wish, I beg to remain,

Yours respectfully,  
THE STATE PENITENTIARY  
Henry L. Fuqua, General Manager<sup>58</sup>

The ‘Duke of Angola’ responded in a more public manner to Professor Heery a couple of weeks after the critical expose splashed across The *Times Picayune*. Fuqua added credibility to Heery’s story when he verified that the Australian had in fact wished to enter the institution as a prisoner and explained his refusal to allow it. Fuqua stated, “The authorities of the Louisiana penitentiary

**Table 7.1**  
Age and Race of Inmates Received During 1913,  
Louisiana State Penitentiary

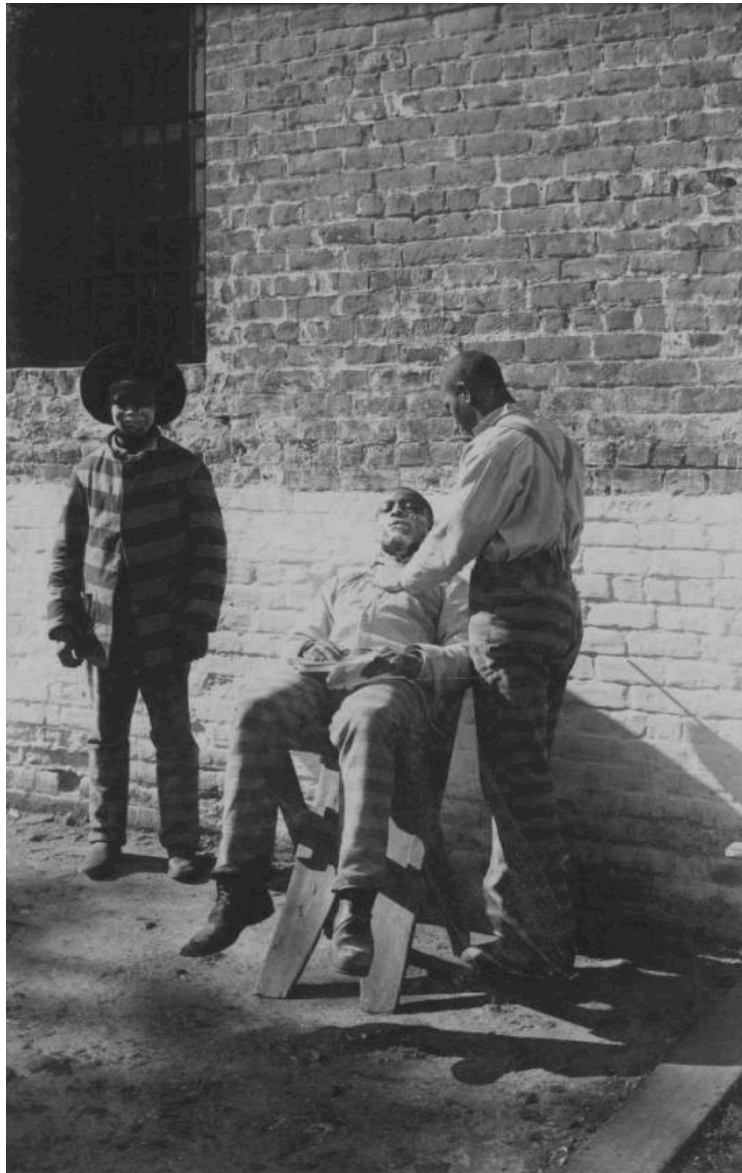
<u>Age</u>	<u>White</u>	<u>Black</u>	<u>Total</u>
Under 12 Years	0	5	5
12-16 Years	9	13	22
17-20 Years	41	104	145
21-25 Years	56	144	200
26-30 Years	34	96	130
31-35 Years	12	49	61
36-40 Years	8	32	40
41-45 Years	18	23	41
46-50 Years	6	8	14
51-60 Years	6	7	13
Over 60 Years	5	7	12

*Source:* State of Louisiana, *Report of the Board of Control* (1913), 87.

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<sup>58</sup> “Manager Fuqua Replies to Prof. Heery’s Criticisms,” *Times Picayune*, March 6, 1917. The article was addressed to “Mr. J.C. Heery, care Prison ship, ‘Success,’ Canal Street, New Orleans, La.” The personal correspondence was published on February 21, 1917 independently in the Time-Picayune and reprinted beside Heery’s interview on February 26, 1917.

**Figure 7.3**  
Photograph of Young Inmates Shaving,  
Louisiana State Penitentiary



Henry L. Fuqua, Jr. Lytle Photograph Collection and Papers, Mss. 1898, Louisiana and Lower Mississippi Valley Collections, LSU Libraries, Baton Rouge, La (Image ID 1898\_007). Courtesy of Special Collections, Louisiana State University Library.

have given this man every facility that he asked for in making his so-called investigation, except that we declined to assist him in his sensational, visionary, and impracticable scheme that he presented for going through the prison as a fake convict.” Fuqua dismissed the legitimacy of Heery’s investigation by attacking him personally, reducing his motivations to material gain, showmanship, and publicity. Fuqua stated that, “The whole burden of this man’s effort seems to have been publicity and advertising, without counting the cost.” Casting the professor as a hypocrite and a huckster, the general manager called his lectures a “show ship at 25 cents.” Fuqua also dismissed Heery’s criticisms and deflected the necessity of a response. He stated, “The articles in question are so dexterously interwoven with truth and fiction as would require a long and tedious correspondence to unravel them, or as it were to unscramble the nasty mess of exaggerations, fiction, fable, and truth.” But, Fuqua did concede that the ‘model system’ was not perfect. He commented, “We all know that there is great room for improvement in our penitentiary...and I wish the public to know that we are giving these questions earnest, thoughtful and prayerful consideration, and hope to move forward to higher ground as fast as circumstances will permit.”<sup>59</sup>

Yet ultimately, the professor had the last word. Heery’s rejoinder introduced nothing new but simply reiterated five major observations: first, men were undeniably overworked and underfed; second, there was copious evidence of systematic brutality; third, children associated with hardened criminals; fourth, sanitation was poor; and lastly, there were no apparent educational or recreational facilities for the convicts. The rebuttal gave the penal expert who had devoted his life to the study of imprisonment in both the Pacific and the Atlantic a last opportunity to dismantle the notion that Angola’s success included any glint of genuine

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<sup>59</sup> “Manager Fuqua Replies to Prof. Heery’s Criticisms,” *Times Picayune*, March 6, 1917.

humanitarian reform. To punctuate earlier statements, Heery said, “The whole system of prison administration in Louisiana, from the point of view of reforming a prisoner, is a total failure, and the worst I have seen in America.”<sup>60</sup> In so doing, he not only shattered Fuqua’s facade but also exposed what he called “crimes of the state” or the vilification of the petty offenders who constituted the majority of Louisiana’s convict class.<sup>61</sup>

The professor from Australia was not the only expert to see through the penitentiary system’s veneer. The American criminologist and historian, Frank Tannenbaum, published his own investigation on Southern penal systems in 1924 in *Darker Phases of the South*.<sup>62</sup> Many of Tannenbaum’s observations confirmed those made by Professor Heery in Louisiana. The first concerned the subject of prisoners’ hygiene. Tannenbaum wrote, “The habit which is too common of allowing several men to use the same water is dangerous, filthy, and disgusting to any right-thinking man. The man had better be allowed to go unwashed than to mix his dirt in a common tub thus spreading any skin, eye, venereal disease any one of them may have to the whole crowd using common water.”<sup>63</sup> Tannenbaum documented that by 1924, prisoners in the American South did not appear to be better fed than they were during Heery’s visit almost seven years earlier. He observed, “Men go to sleep so hungry that they wake up trying to feed themselves in their sleep.” A female prisoner smuggled out a letter in which she confided, “I suffer from actual hunger all the time.” The food itself was unsanitary, the variety poor, and not uncommonly “infested with weevils and worms.” Whereas Heery found the women’s quarter at

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<sup>60</sup> “Declares Abuse, No Refutation: Prof. Heery Points Out Weaknesses in Penitentiary System Which He Emphasized,” *Times Picayune*, March 7, 1917.

<sup>61</sup> “Prison System Declared Breeder of Far Worse Evils,” *Times Picayune*, February 26, 1917.

<sup>62</sup> Matthew G Yeager, “Frank Tannenbaum: The Making of a Convict Criminologist,” *Prison Journal* 91, no. 2 (2011): 177–97. This was first published on April 8, 2011. See also: Frank Tannenbaum, *Darker Phases of the South* (New York: G.P. Putnam’s Sons, 1924), 90-91.

<sup>63</sup> Tannenbaum, *Darker Phases of the South*, 92-3.

**Table 7.2**  
Age of Inmates Received During 1927,  
Louisiana State Penitentiary

<u>Age</u>	
12 - 15 Years	2 (0.27%)
16 - 21 Years	290 (39%)
22 - 30 Years	274 (37%)
31 - 40 Years	121 (16%)
41 - 50 Years	40 (5%)
Over 55 Years	22 (3%)
Total	749 (100%)

*Source: LSPPD.*

**Table 7.3**  
Inmates Received by Prior Conviction Status, 1927-1935,  
Louisiana State Penitentiary

	<u>None</u>	<u>Prior</u>	<u>Total</u>
1927	684 (91%)	65 (9%)	749
1929	755 (86%)	123 (14%)	878
1931	1066 (81%)	250 (19%)	1316
1933	869 (75%)	294 (25%)	1163
1935	770 (69%)	345 (31%)	1115

*Source: LSPPD.*

Angola to be comfortable, Tannenbaum observed that the housing for most of the South's female prisoners was "deplorable." Tannenbaum supported Heery's observations at Angola when he stated that women were generally guarded by men, disciplined like men, and "in some of the prisons children are born in prison," either from the male prisoners or just "others." Tannenbaum noted that across the South "the color line exists in the prison, and that black inmates constituted a highly disproportionate share."<sup>64</sup>

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<sup>64</sup> Ibid., 104-5.

Despite the quarter of a century that had passed since the state took over watch of its prisoners, in most ways, the typical prisoner remained virtually unchanged in Louisiana. Prisoners received between 1927 and 1935 were still mostly young, uneducated, black males.<sup>65</sup> The average prisoner entering a prison camp in Louisiana would have been about twenty-five years old and new to the penitentiary system [see Table 7.2 and Table 7.3].<sup>66</sup> Like his turn-of-the-century counterpart, the typical incoming prisoner of the late 1920s or early 1930s would have also been poorly educated. Only three percent of prisoners received in 1927 could claim to have a “good” education, while fourteen percent possessed a “fair” education, and the rest either had a “poor” education or none at all.<sup>67</sup> At the height of the Great Depression, more educated men began to join the ranks of Louisiana’s convict population. In both 1933 and 1935 about half of the received inmates came with a “good” or “fair” education. Overall, the literacy rates for prisoners were much higher than those who entered at the beginning of the state’s management [see Figure 7.4]. Between two-thirds and three-quarters of all received inmates could read and write, regardless of their skills and abilities beyond basic literacy.<sup>68</sup>

The racial makeup of the penitentiary system was largely characterized by continuity. As Tannenbaum observed, black men continued to enter the penitentiary system at a disproportionate rate [see Table 7.4]. White men consistently made up the minority of prisoners received, numbering between a high of forty percent of all inmates in 1929, and low of thirty-four percent in 1933. Black men, on the other hand, made up the majority of incoming inmates in a state that was occupied by mostly white citizens. The 1930 national census represented

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<sup>65</sup> Women remained a very small percentage of convicts, only comprising about four percent of all admissions. *LSPPD*. See: Table B.2 and Figure B.2 in Appendix B.

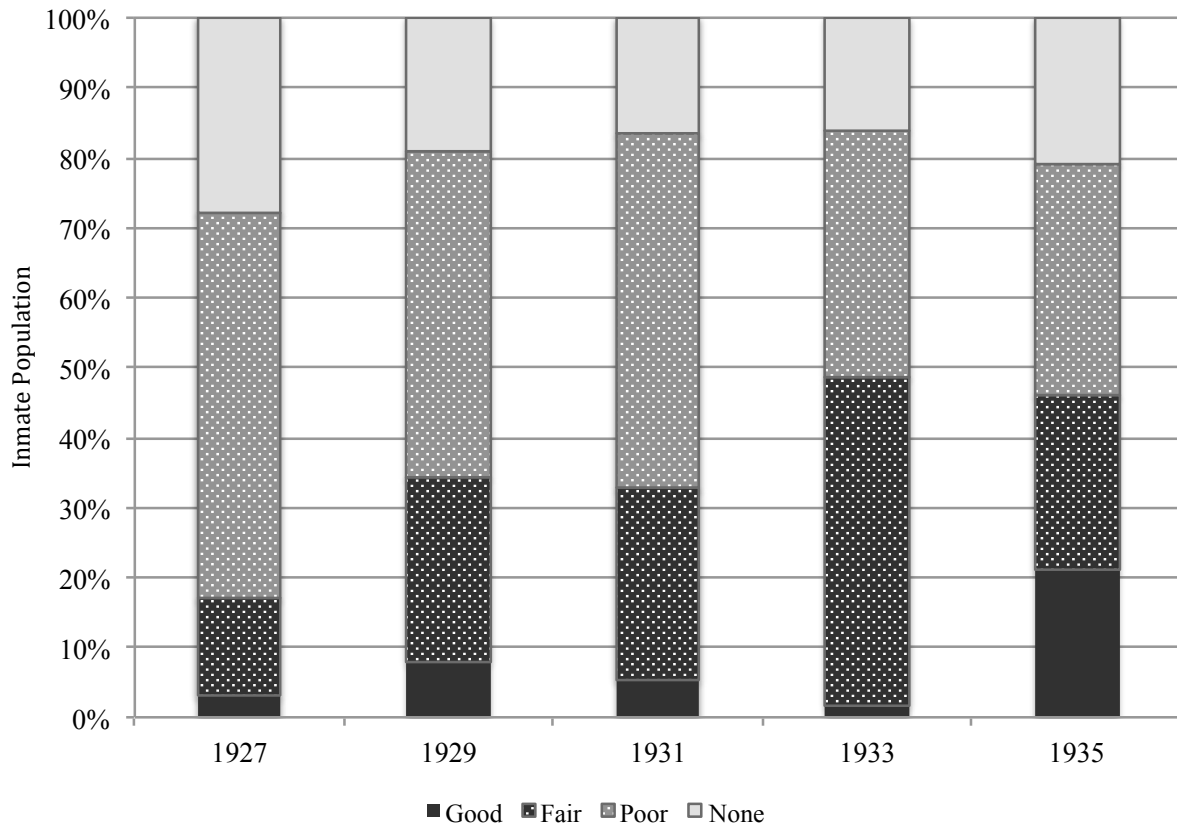
<sup>66</sup> *LSPPD*

<sup>67</sup> *Ibid.*

<sup>68</sup> *Ibid.*



**Figure 7.4**  
Education of Inmates Received, 1927-1935,  
Louisiana State Penitentiary



*Source: LSPPD.* This figure represents an average of education levels recorded for the years 1927, 1929, 1931, 1933, and 1935.

**Table 7.4**  
Inmates Received by Race, 1927-1935,  
Louisiana State Penitentiary

	<u>Black</u>	<u>White</u>	<u>Other</u>	<u>Total</u>
1927	460 (61%)	285 (38%)	4 (1%)	749
1929	526 (60%)	352 (40%)	0 (0%)	878
1931	823 (63%)	493 (37%)	0 (0%)	1316
1933	742 (64%)	419 (36%)	2 (0%)	1163
1935	735 (66%)	378 (34%)	2 (0%)	1115

*Source: LSPPD.*

Louisiana to be a racially diverse state, albeit a white majority. Of the 2,101,593 individuals included in the census counts, 1,318,160 were classified as white, whereas only 776,326 were counted as black.<sup>69</sup> Thus, the racial proportions of the Louisiana population, at large, were essentially inverted within the penitentiary system [see Figures 7.5 and 7.6].

In this penitentiary system, populated most frequently by young black men, Tannenbaum noted that without exception “the management is white,” and that authorities carried “certain notions of discipline and control of the prisoner which came from experiences outside the prison walls.” But, he also asserted, “The white prisoners do not escape the mood and the temper of the treatment of the colored...and so they suffer with their darker fellow.”<sup>70</sup> The criminologist’s observations provided insight into a topic left largely unseen by professor Heery. Tannenbaum noticed that Mississippi, like Louisiana, employed trustees or prisoner guards with “high power rifles,” who were usually prisoners serving long sentences or those who had committed murder.<sup>71</sup> If loyal trustees succeeded at killing fellow prisoners who attempted to escape, they were often pardoned. Incentivizing the murder of fellow convicts meant that a man sentenced to life imprisonment for murder could gain release by simply recommitting it. Recaptured inmates typically faced extreme brutality, if not death, from a variety of antagonizers –guards, convict trustees, and even bloodhounds used to track, tree, and attack convicts on command. Tannenbaum described a case that he witnessed in which an escaping inmate was lacerated by dog bites upon his recapture –a common enough occurrence to generate the phrase “treeing a convict” [see Figure 7.7].<sup>72</sup>

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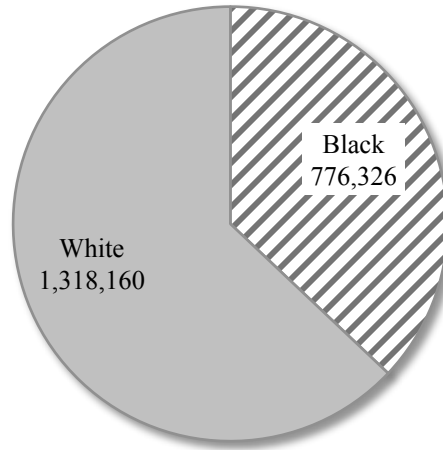
<sup>69</sup> Ibid.

<sup>70</sup> Tannenbaum, *Darker Phases of the South*, 82.

<sup>71</sup> Ibid., *Darker Phases of the South*, 102-03.

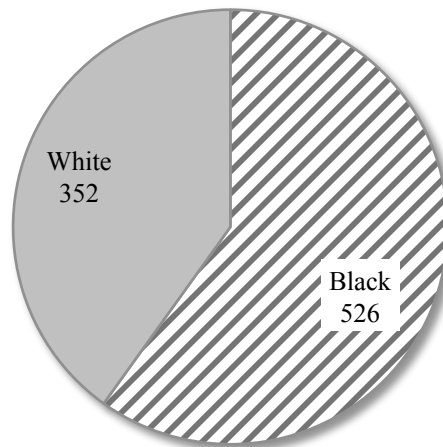
<sup>72</sup> Ibid., 101.

**Figure 7.5**  
Population by Race, 1830,  
State of Louisiana



*Source:* U. S. Department of Commerce and Bureau of the Census, *Fifteenth Census of the United States: 1930, Population*, 1st ed., vol. 3 (Washington: Government Printing Office, 1932).

**Figure 7.6**  
Received Inmates by Race, 1830,  
State of Louisiana



*Source:* LSPPD.

**Figure 7.7**  
Photograph of “Treed” Inmate,  
Louisiana State Penitentiary



Henry L. Fuqua, Jr. Lytle Photograph Collection and Papers, Mss. 1898, Louisiana and Lower Mississippi Valley Collections, LSU Libraries, Baton Rouge, La. (Image ID 1898\_037). Courtesy of Special Collections, Louisiana State University Library.

**Table 7.5**  
Number of Lashes per Punishable Offense, 1924,  
Louisiana State Penitentiary

<u>Punishable Offenses</u>	<u>Number of Lashes</u>
Laziness	8 to 10
Insolence	8 to 10
Inferior work	8 to 10
Feigning sick	8 to 10
Other minor offenses	8 to 10
Impudence	10 to 12
Disobedience	10 to 12
Destroying property	10 to 12
Using bad language	10 to 12
Fighting	10 to 15
Disturbance in cell room	10 to 15
Sodomy	10 to 20
Stabbing	15 to 20
Attempting to escape	20 to 30
Escaping	20 to 40

*Source:* Reproduced from Tannenbaum, *Darker Phases of the South*, 107.

During his visit to Louisiana’s penal facilities, Tannenbaum found that the use of corporal punishment after abolition of the lease produced uniform metrics for staff conduct. Two particular codes of conduct, published in his book, reveal the nature of penal reform in Louisiana’s penitentiary system. The first detailed a list of prisoner offenses warranting punishment and described the range in choice of punishment [see Table 7.5]. All offenses earned “lashes with a strap.” The only question was just how many. The most minor offenses earned from eight to ten lashes. The most egregious offense listed was “escape” which earned twenty to forty lashes. Fighting, stabbing, causing disturbance in the cell room, and sodomy earned well over ten. Prisoners could officially receive twelve lashes for “using bad language,” whereas destroying property, disobedience and impudence warranted an equal number. Offenses earning the least number of strikes were laziness, insolence, inferior work, and “other minor offenses.” Still, the captain had the authority to lash a prisoner with a strap up to ten times. The code,

**Table 7.6**  
Other Punishable Offenses, 1924,  
Louisiana State Penitentiary

<u>Other Punishable Offenses</u>
Altering clothing
Singing
Whistling
Talking
Creating a disturbance
Failure to make satisfactory progress at school
Gazing at visitors
Having papers when not in cell
Inattention
Laughing and fooling
Losing an article of clothing
Quarreling
Neglect to obey laundry rules
Soiling books
Replying when corrected
Using improper language
Profanity
Vulgarity
General crookedness
Breach of trust
Immoral acts or conversations of any nature
Laziness
Misrepresentation
Other offensive acts
Smoking cigarettes
Bed not properly made
Clothing not in order
Communication by signs
Dilatory
Hands in pockets
Hair not combed

*Source:* Reproduced from Tannenbaum, *Darker Phases of the South*, 108-9.

however, was not comprehensive. Penitentiary rules gave captains the authority to punish prisoners at their discretion for anything from “singing, whistling, or talking” to soiling books, losing an article of clothing, or not making a bed properly. Tannenbaum indicated that even these were but a few of the offenses for which prisoners were punished at the Louisiana State

Penitentiary [see Table 7.6].<sup>73</sup> Most troubling to Tannenbaum was the unofficial acts and rituals of humiliation common to convict punishment. He found that, “The guards in charge of prisoners’ work in fields and on farms, frequently beat them with ropes, quirts, bridle reins, and pistols, without necessity or authority and that in some instances the guards have ridden over the prisoners with their horses and have set the dogs on them, inflicting serious and painful injuries.” Tannenbaum also observed, “The guards on farms” tended to be “hardened against human sympathy.” He felt that some of the guards’ efforts to amuse themselves “run to the grotesque.” He described a scene where officers surround a prisoner who was being whipped. As a guard used the whip to cut into the man’s flesh, they made the prisoner “count the number of licks.” The guards gave the pretense of following rules but stood about “amusing themselves by disturbing and upsetting the poor fellow” until he made a mistake, and then had to begin counting from the beginning. Tannenbaum stressed that “all of this [was] done in a hilarious, good-natured fashion.”<sup>74</sup>

It was not uncommon for new prisoners to be introduced to the guards’ brute force upon arrival. Tannenbaum indicated that “a guard must be sure of his authority.” In order to impress such power upon newcomers, convicts were often whipped as soon as they arrived at camp and before they had a chance to prove their “pliancy.”<sup>75</sup> In Louisiana, a letter from a warden explained the modern efficiency of these instances of legitimate and unauthorized punishment and ritualized humiliation, particularly as it regarded a physically forced labor system. He wrote, “Bread and water work well in prisoners where the prisoners do not work—but where they are employed the strap can be used, and in a few minutes the party be put back to work again

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<sup>73</sup> Ibid., *Darker Phases of the South*, 106-09.

<sup>74</sup> Ibid., 78-9.

<sup>75</sup> Ibid., 78-80.

without losing any time to speak of.”<sup>76</sup> Thus, there was a rationality, however brutal, behind Louisiana’s attachment to the lash long after the abolition of convict leasing.

The American professor Tannenbaum did not subscribe to the idea that the South was peculiar for its brutality as an outgrowth of slavery. His personal experience as a prisoner of the state of New York likely taught him the lesson. He took pains to clarify this point when he wrote,

Lest the readers of this should be under the delusion that the rest of the country is so much better, let me remind them that the cruelest form of punishment, the straitjacket, is still used in one prison in the North; that flogging is still practiced in the Middle West; that dark dungeons with leg irons and chains riveted about the ankles are still used in the far West; that in the southwest one warden wrote, ‘for serious offenses cold baths—ice is cheaper here than in the South. We like bread and water diet with solitary confinement;’ that some of the States have iron cages made to fit the body, and at least one of them has steam pipes on the side of this iron cage; that solitary confinement and dark cells are almost universal.<sup>77</sup>

Yet, Tannenbaum’s lucid observations about imprisonment in the United States during the 1920s were not equally revealing about the causes of such a system or the failings of the American prison reform movement. Nonetheless, it was clear to many reformers that their progressive dreams had failed to materialize.

### ***Trusties, “Incorrigibles,” and Trouble on the Farm***

Tannenbaum’s observations about the trusty system and punishment on Louisiana’s penal farm became subject to public discussion immediately following action taken by “incorrigibles” at Angola. On September 9, 1928, a gun battle broke out in the wake of a prison break leaving two dead, four slain, and a score wounded as convicts fought guards at the “model prison.” The break began at a camp for “incorrigible prisoners.” Cleveland Owen, a “New Orleans desperado,” held up two guards with an automatic pistol smuggled to him and forced them to

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<sup>76</sup> Ibid., 107-8.

<sup>77</sup> Ibid., 113.



open the exterior gate. Owens opened the way for the fourteen convicts who left with him. The group took the guards captive as they went to the guardhouse and seized shotguns and ammunition. Heavily armed, they ran to the Mississippi River, just a short distance away. They did not proceed unseen as a “volley of buckshot” dropped on them from “Penitentiary towers.”<sup>78</sup> Three convicts fell in their tracks while the rest raced to the riverbank where they shot a boatman, climbed into a twelve-foot skiff, launched into the current, and returned fire with the two guards in tow. Captain John Singleton, officer of the guards, led his men to the river in pursuit and ordered another trusty to fetch the penitentiary motor launch. The pursuers “laid down a heavy barrage of gunfire” on the craft.<sup>79</sup> Two trusties “poured loads of lead into the huddled convicts aboard the skiff.” Yet, the barrage took out one of their own when a “pistol ball struck Higginbotham in the eye.”<sup>80</sup> Fire from one of the convicts killed another trusty and hit the captain with a load of birdshot, wounding him in the head and “about the body.” Prison authorities reported that seven prisoners had been killed either in the launch or before the craft “escaped from the danger zone.” They speculated that four men, evading the gunfire, had successfully absconded by river.<sup>81</sup>

This battle, resulting from a carefully planned collective act of at least fifteen inmates from Angola’s most secure prison camp, came to signify not the failure, instability, or brutality of the system, but rather, its success and strengths. On December 17, 1928, *The Times Picayune* used the prison break as opportunity to praise the trusty guard system, reporting that without the services of “faithful convicts...there would have been the largest delivery in the history of the

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<sup>78</sup> “Six Convicts Killed in Louisiana Break,” *New York Times*, September 9, 1928.

<sup>79</sup> *Ibid.*

<sup>80</sup> “26 Shot in Battle at Louisiana Prison,” *New York Times*, September 10, 1928.

<sup>81</sup> “Six Convicts Killed in Louisianan Break,” *New York Times*, September 9, 1928.

institution.”<sup>82</sup> The article revealed that more than 120 convicts policed their fellow prisoners. Armed with shotguns and assigned to various camps, officials allowed trustees to “go in and out unwatched” as locomotive engineers, water boys, teamsters, and even as school bus drivers, in capacities “where paid men would be needed in their stead.”<sup>83</sup> The report corroborated Tannenbaum’s earlier observations when it stated that experience “taught prison authorities that the life-termer, being usually a homicide convict and hence not often a professional criminal, makes the most reliable trusty.”<sup>84</sup> Most important to the state, however, was the economy represented in these unusual public servants, as their inexpensive compensation finally allowed the penitentiary “to be at last a self-sustaining institution.”<sup>85</sup>

Not all endorsed Louisiana’s penitentiary practices. One of the penitentiary’s own officials broke ranks to indict the system in 1930. Reverend F. L. Cox, chaplain at the penitentiary, demanded an impartial investigation of the Louisiana penitentiary system and, in doing so, made public the liquor law violations and cruelty that he had observed firsthand.<sup>86</sup> The chaplain had been “ousted” by the warden, J. E. McLanahan, for creating “agitation among the prisoners.” Reverend Cox countered that the “real issue” regarded “irregularities in the system as well as ill-treatment of prisoners.” The reverend maintained that drunkenness had contributed to dehumanizing conditions at the penal farm.<sup>87</sup> The *Times Picayune* published the following statement by the chaplain:

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<sup>82</sup> “Prison Officials Defend Angola Honor System,” *Times Picayune*, December 17, 1928.

<sup>83</sup> “Prison Officials Defend Angola Honor System,” *Times Picayune*, December 17, 1928. See also records for Carl Holbrook in *LSPPD*.

<sup>84</sup> “Prison Officials Defend Angola Honor System,” *Times Picayune*, December 17, 1928. Law James had promoted murderers as trusted household servants with a similar logic.

<sup>85</sup> *Ibid.*

<sup>86</sup> “Chaplain Charges Cruelty in Prison,” *Baltimore Sun*, January 2, 1930.

<sup>87</sup> “Ousted Chaplain Repeats Charges of Brutalities,” *Times Picayune*, January 1, 1930. Cox declared that he would provide investigators “proofs of excessive uses of liquor with ‘names, places, dates, and

I know what I am talking about when I say prisoners have been unmercifully beaten in some cases as many as seventy-five blows with a leather being administered, literally taking the skin off back and hips. I can produce the proof. It is not ‘falsehood’ nor ‘hearsay’ which I affirm that the evidence is at hand to prove that prisoners have been incapacitated for work and have had to remain in the yard or hospital for days and sometimes weeks because of blows and kicks. One captain made the remark to me not over two weeks ago that he whipped so-and-so until he vomited and that he would be whipping him yet had not one of his foreman interfered.<sup>88</sup>

Administrators denied the charges; however, the penitentiary’s own intake records reveal the extent and prevalence of corporal punishment. A great proportion of Louisiana’s inmates bore the lashes of the whip in the duration of their confinement. Between about thirty and forty percent of prisoners admitted between 1927 and 1935 received corporal punishment [see Table 7.7].<sup>89</sup>

**Table 7.7**  
Number and Percentage of Inmates Who Received Corporal Punishment by Admission Year, 1927-1935, Louisiana State Penitentiary

	<u>Inmates Received Corporal Punishment</u>	<u>Number of Admitted Inmates</u>	<u>Percent Received Corporal Punishment</u>
1927	230	749	31%
1929	338	878	38%
1931	529	1,316	40%
1933	446	1,163	38%
1935	389	1,115	35%

*Source: LSPPD.*

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drunks.”

<sup>88</sup> *Ibid.*

<sup>89</sup> *LSPPD.*

**Table 7.8**  
Instances of Corporal Punishment and Average Lash Count by Admission Year, 1927-1935,  
Louisiana State Penitentiary

	Corporal Punishment Instances/Inmate				Lash Count/Instance
	<u>Median</u>	<u>Average</u>	<u>Minimum</u>	<u>Maximum</u>	<u>Average</u>
1927	2	2.2	1	15	8
1929	2	2.7	1	16	13
1931	2	3.4	1	20	15
1933	2	2.2	1	15	14
1935	2	2	1	9	11

*Source: LSPPD.*

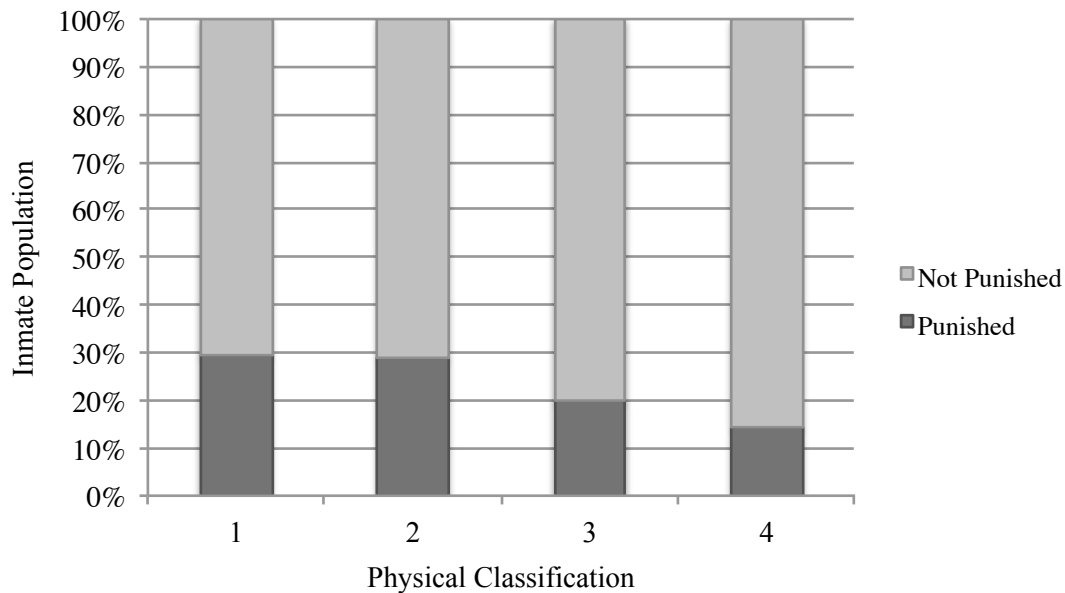
The typical inmate who faced the whip was punished on three occasions during their stay, receiving an average of fifteen lashes each time [see Table 7.8]. While these averages provide a useful representation of routine punishment practices within the Louisiana state penitentiary, they do not express the state's more extreme procedures. Curtis Ogden, a black truck driver from New Orleans, was recorded to have been struck by the whip 569 times in the first eight years he spent in the penitentiary. Ogden entered the system in 1928 when he was twenty years old as a first time offender convicted of assault with intent to rob. Ogden was a very healthy, heavily built man, and was clearly neither daunted nor deterred by physical punishment. He was punished on thirty-eight separate occasions by several guards for various offenses, the most frequent being "laziness and impudence," which earned him a variety of lashes –as little as six and as many as thirty-one.<sup>90</sup>

Prison records reveal that punishment not only varied according to individual or by the guard in charge, but also by the race, gender, and health of inmates. A larger proportion of the penitentiary system's most robust prisoners, employed at the most physically demanding work,

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<sup>90</sup> Ibid.

**Figure 7.8**  
Corporal Punishment by Physical Classification for Inmates Admitted Between 1927-1935,  
Louisiana State Penitentiary



*Source: LSPPD.* This figure represents an average of punishment records for the years 1927, 1929, 1931, 1933, and 1935.

received corporal punishment [see Figure 7.8]. Guards used corporal punishment much less frequently on black women than men, and completely abstained from whipping white women altogether. Black men were punished at rates twice that of their white counterparts, as almost half of all black inmates received were punished. In contrast, only one quarter of all white inmates were whipped at some point during their confinement [see Table 7.9]. In addition to being whipped more than their white counterparts, black inmates were often punished more severely. Henry Payne, a black man from Alto, Louisiana was whipped on seven different instances for charges ranging from laziness and possessing a knife to sodomy and attacking another prisoner. His last punishment was the most brutal. A guard whipped Payne forty-five times on a winter day for threatening another prisoner –twice the standard protocol for

**Table 7.9**  
Inmates Who Received Corporal Punishment by Race and Sex 1927-1935,  
Louisiana State Penitentiary

	<b>All Inmates Received</b>	<b>Number Punished</b>	<b>Percent Punished</b>
<b>Male</b>			
Black	3,113	1,473	47%
White	1,909	430	23%
Other	8	3	38%
<b>Female</b>			
Black	173	25	14%
Female	18	0	0%

*Source: LSPPD.* This figure represents an average of punishment records for the years 1927, 1929, 1931, 1933, and 1935.

“insolence” or “impudence.”<sup>91</sup> Another prisoner named Herbert Rendall, a young porter, received an offense only a black man could commit: writing an “insulting letter to white lady.” Records did not indicate whether or not the woman in question was another convict or not. After serving seven years and only receiving merits for good behavior and work, as well as his successful chase and recapture of fellow inmates, Rendall received forty lashes for his wrongdoing –his first and last punishment.<sup>92</sup>

In 1933, Albert Orgeron, Patrick J. Dugan, and John Arnold joined together and made an unsuccessful escape attempt in June. After receiving twenty lashes each, the three white men –a mechanic, clerk, and machinist- continued to plot and even managed to manufacture their own guns in preparation for a second attempt. In late August of the same year, the trio’s scheme was found out. The men produced the guns and admitted that they had planned to use them to liberate themselves and “take the warden for a ride.” Orgeron, Dugan, and Arnold took another twenty

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<sup>91</sup> Tannenbaum, *Darker Phases of the South*, 107.

<sup>92</sup> *LSPPD*.

lashes for their offenses and served the rest of their sentences. Two years later, Eddie Jackson, a black man, made an escape attempt himself. However, his experience bore a much greater resemblance to the brutalized prisoner that Reverend Cox described in his testimony. Unlike the trio, Eddie Jackson did not manufacture any weapons nor did he conspire to attack his keepers, but he did succeed at escaping. However, upon recapture twenty-seven days later, Jackson paid dearly. He was whipped sixty-five times on the summer day, more lashes than Orgeron, Dugan, and Arnold received altogether.<sup>93</sup>

Speaking out in protest against this type of treatment, Reverend Cox was indicted by the warden as “an agitator and revolutionist” among the inmates. As such, Cox found no favor with the governor, Huey P. Long, who stated that “he had washed his hands of the Rev. F. L. Cox affair.” While the governor indicated that he had “known the preacher all his life,” Long absolved himself when he concluded that the “Cox controversy is [the warden’s] affair. The preacher is through.” The reverend gained much support from “convicts and friends of convicts who wrote to him expressing their appreciation of his work.” But, legislators, like the governor, ignored his request for an investigation.<sup>94</sup>

### ***Shadows of the Lease***

Just as charges leveled by the reverend retreated from public view, a new scandal broke about trouble on the farm. On April 25, 1930, *The Times Picayune* reported that nearly three decades after the abolition of the convict lease system, state officials had suffered a relapse. The newspaper stated that the governor, Huey P. Long, blatantly admitted that prisoners from the penitentiary were “being worked on a privately-owned rice farm.” He made no attempt to defend the illegality of the action. The only excuse offered by Governor Long was that he believed “the

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<sup>93</sup> Ibid.

<sup>94</sup> “Ousted Chaplain Repeats Charges of Brutalities,” *Times Picayune*, January 1, 1930.

penitentiary made a good bargain with the owner of the rice farm.”<sup>95</sup> The penitentiary’s General Manager, Clay J. Dugas, contracted with John P. Burgin, Inc., to produce rice on a crop-lien basis on rented lands. Half of the profits were to go to the penitentiary for supplying implements and labor while the other half went to the firm for extending land, seed, and irrigation. The newspaper article made explicit reference to the fact that Louisiana’s constitution prohibited such action since the law stipulated, “No convict sentenced to the state penitentiary shall ever be leased or hired to any person or persons or corporation, private or public or quasi-public, or board, save as herein authorized.”<sup>96</sup>

Governor Long described the questionable practice as just one of many industries pursued by the penitentiary during his administration. He confidently noted that under his leadership the institution bought and put into operation a sawmill, a concrete tile and culvert plant, an ice plant, a light plant, and a factory to make metal road signs and automobile tags. Agricultural industry matched manufacturing in scale since convicts planted “every acre” on the sprawling farm. In addition to unabashedly admitting to the return of unauthorized leasing of the penitentiary, Long boasted, “We got all the road work we could from the Highway Commission.” After reviewing productive prison industries, Long exposed the dilemma driving the apparent expansion and diversification of convict enterprise. He explained, “So after we have planted every acre of our own land, after we have supplied our industrial plants and road camps all the men they can use, we still have some good able-bodied men left and no work for them to do.” He argued that it was this familiar ‘labor problem’ which drove the state back to hiring out convict labor. Confident in his explanation, Long concluded, “So now the great exposure has been made. It falls as flat as a pancake...administrators were only using surplus labor to raise a

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<sup>95</sup> “Long Admits State Convicts Are Used on Rice Plantation,” *Times Picayune*, April 25, 1930.

<sup>96</sup> Ibid.



crop of rice on halves, so as to keep its men employed and to have the penitentiary continue [on] a paying basis.” Thus, Long justified his administration’s resurrection of contract convict servitude on the basis of “fair and businesslike” management of the penitentiary and encouraged taxpayers to disregard the illegality to keep government out of their pocketbooks.<sup>97</sup>

While the chaplain’s calls for intervention fell on deaf ears, the state’s unconstitutional extension of prison industry was not so easily silenced. Percy Saint, Louisiana’s attorney general, inquired into the complaints.<sup>98</sup> About two weeks later, the governor appeared before the Senate and attempted to excuse the use of convicts on the privately owned rice farm. In appealing to lawmakers’ pragmatism, the governor painted a gloomy portrait of the state’s finances in order to persuade them to return to the convict lease system. Long explained,

You lately read some criticism in the press about the employment of some convicts on a farm in a near-by parish. We try to keep the prisoners employed all the time, but we have reached a point where the penitentiary population is so large that we can’t keep them all busy. I would suggest that the penitentiary committee...amend the law so as to keep all the prisoners at work.<sup>99</sup>

In other words, profitability and industrious took precedent over legal supervision and maintenance of Louisiana’s criminals. Although Long may have persuaded some lawmakers to support the state’s return to convict leasing, it was not enough to forestall the Senate Committee on the Penitentiary to launch a formal investigation into its affairs.<sup>100</sup> When the Senate investigating committee convened to inquire into the state’s contracting enterprises, the legislative body also took a closer look at penitentiary conditions. In doing so, they recalled the dismissed chaplain’s charges and subpoenaed him to testify in a hearing. Thus, inquiry into the

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<sup>97</sup> Ibid.

<sup>98</sup> “Saint to Fight Use of Convicts on Private Farm,” *Times Picayune*, April 29, 1930.

<sup>99</sup> “State’s Finances View Gloomily by Long in Talk,” *Times Picayune*, May 14, 1930.

<sup>100</sup> “Governor Present As Expert Explodes Penitentiary Claim,” *Times Picayune*, June 14, 1930.

penitentiary's violation of constitutionally mandated employment restrictions gave the reverend a second opportunity to agitate against the cruel treatment of the captive men, women, and children of the state of Louisiana.

Reverend Cox took the stand as the first witness of the day. With the permission of the committee, he prefaced his testimony with the statement that the Louisiana penitentiary was "rotten." He asserted that in Louisiana, as elsewhere, prisoners must 'root, hog, or, die.'<sup>101</sup> When a senator asked the preacher what he meant by "rotten," Rev. Cox replied, "I mean that prisoners were beaten, they were forced to work long hours, the food was bad and there was whisky drinking going on." The committee also revealed questionable punishment of two female prisoners at Angola after an attempted escape. One was twenty-four years of age and the other was twenty-nine years old. Both had been sentenced for shoplifting in Shreveport, Louisiana. When questioned by a senator, the farm manager, Pete Daniels, recalled that the two women "ate their dinner hurriedly one night several weeks ago, slipped out of the dining hall, and got away." He recounted, "They were overtaken on the river bank about a mile from the women's camp. A white guard and a negro guard were together when they made the capture." He added that, "Captain Willis gave the women a light spanking." The senator pressed Daniels, asking him for a more detailed description of the punishment. Daniels responded by saying that the punishment occurred without specific authorization from the warden, but that only the top layer of their dresses were raised for the lashing. Further probing on the senator's part revealed that the incident attracted an audience since "several men witnessed the whipping."<sup>102</sup>

As lawmakers pursued investigations of the penitentiary system, prisoners took direct action. *The Times-Picayune* reported that a "mutiny" had erupted on the Burgin rice plantation

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<sup>101</sup> "Preacher Tells of Noisy Parties, Wild Drinking," *Times Picayune*, June 26, 1930.

<sup>102</sup> "Whippings, 'Wild Parties' Probed at State Prison," *Times Picayune*, June 19, 1930.

where convicts were employed in the illegal crop-lien scheme.<sup>103</sup> Prisoners launched a strike on August 25, 1930 when they refused to work because of the “cruel unusual, and unconditional punishment inflicted upon them.” They protested the “scant and meager food provided” and demanded that “they be returned at once to the Louisiana State Penitentiary, where they properly and legally belonged.”<sup>104</sup> When penitentiary officials refused demands from prisoners to be returned to the penitentiary, guards “set upon the convicts, and fired upon them with pistols and shotguns,” killing one convict and “instantly and wounding another.”<sup>105</sup> Three days later, penitentiary authorities reported that order had been restored on the Burgin rice farm in Pointe Coupee parish and that additional guards had been posted at the farm. They indicated only that “one negro prisoner was slain and several others slightly wounded.”<sup>106</sup> The general manager, Clay J. Dugas, attempted to ease the public fears by reassuring that “the harvest of the rice crop is now in full swing” and that about “100 prisoners were back to work on the farm.”<sup>107</sup>

The unnamed convict killed by a trusty guard was named Curtis Blackwell, a nineteen-year-old inmate.<sup>108</sup> His mother, Ruby Blackwell, only learned of her son’s death after a friend read of the shooting in a newspaper two days afterward. In reporting on the failure of authorities to notify the deceased man’s mother, the *Times Picayune* also uncovered the unwillingness of authorities to release the young man’s body. Ruby Blackwell said that she “wanted to bring the body of her only boy back to the city where he was raised.” Unfortunately, her request was

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<sup>103</sup> “Calm Restored on Bergin Farm; Harvest Goes On,” *Times Picayune*, August 28, 1930.

<sup>104</sup> “Slain Convict’s Wife Sues Long, Dugas, and Burgin,” *Times Picayune*, August 31, 1930.

<sup>105</sup> “Slain Convict’s Wife Sues Long, Dugas, and Burgin,” *Times Picayune*, August 31, 1930; “Calm Restored on Bergin Farm; Harvest Goes On,” *Times Picayune*, August 28, 1930.

<sup>106</sup> “Slain Convict’s Wife Sues Long, Dugas, and Burgin,” *Times Picayune*, August 31, 1930.

<sup>107</sup> “Calm Restored on Bergin Farm; Harvest Goes On,” *Times Picayune*, August 28, 1930.

<sup>108</sup> “Calm Restored on Bergin Farm; Harvest Goes On,” *Times Picayune*, August 28, 1930; “Mother of Slain Convict Is Not Told of Killing,” *Times Picayune*, August 29, 1930; “\$25,000 Damage Suit Exceptions Will Be Argued,” *Times Picayune*, October 14, 1930.

denied. The undertaker was “told in communications from new Roads that the body was buried so hurriedly that it was not embalmed,” and that the family “must bear the expenses of removal of the body.”<sup>109</sup>

### ***Conclusion***

The realities of life at Angola by the third decade of the twentieth century proved the ‘model prison’ to be a fiction. Abolition of the convict lease system did not alter Louisiana’s longstanding commitments to imprisonment for profit, nor did it terminate the super-exploitation of Louisiana’s majority black, physically-forced convict labor system. The project did not achieve humanitarian reform. But, penitentiary practice did advance a particular business model, one based on scientific principles, racial segregation, direct forced labor, and greater command over convict capital which came under the veneer of humanitarian reform. By 1916, the ‘Duke of Angola’ and “one man rule” intensified the penitentiary’s forces of production first put to work in 1835. The new administration achieved a more systematic and rationalized system of forced labor applied to large-scale factory farming, a constituent element of the Mississippi Delta’s ‘alluvial empire.’ Much like nineteenth century practice, taxpayers provided modest working capital while surpluses from convicts driven by the lash supplied the greater share. The state-run vertically integrated enterprise pursued cash cropping and large-scale sugar refining to add value to its own yield and to provide planters with a lower cost refinery. This state enterprise maximized returns by cutting prisoner maintenance costs to a bare minimum, by organizing cultivation of food crops for consumption, by employing convicts to guard convicts, and by reducing prisoner provisions to, at most, a bare-life subsistence.

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<sup>109</sup> “Mother of Slain Convict Is Not Told of Killing,” *Times Picayune*, August 29, 1930

By the mid-1930s, historic floods, market failure and economic collapse, as well as prisoner defiance shattered any illusions about genuine humanitarian reform at Angola. By 1941, even the standard press indicted the state's premier prison farm as "the worst prison in America." Scathing reports marked Angola's fall from grace by comparing the penal farm to a German concentration camp.<sup>110</sup> Yet, such disclosures did not fully lift the veil from the persistence of forced labor in the 'free' world. Explanations for such cruelties perpetrated in the name of social progress and moral reform went only so far as to target political officials for corruption or naivety and ignorance on the part of the public. Such criticism ultimately proved hollow since it left unquestioned the specters of freedom which animated the penitentiary and its workforce.

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<sup>110</sup> "Blood Took Penitentiary 'Out of Red' Records Show," *Times Picayune*, May 11, 1941. The Louisiana State Penitentiary compared unfavorably when reporters indicated that officials at Angola did not even place wet cloths on the skin in advance of a flogging to prevent permanent scars.

## Conclusion

The decade of the 1930s brought massive market failures, economic depression, and destitution to many working people in Louisiana.<sup>1</sup> It also brought indictment to Louisiana's penitentiary system. From 1925 to 1935, the state's dragnet widened and the penitentiary's population rose dramatically.<sup>2</sup> This led to a new crisis in imprisonment for administrators as prisoner maintenance costs increased, prices for prison-made goods plummeted, markets contracted, state revenues tightened, and when prisoner strikes and rebellions spilled out into the public sphere. As increasing numbers of white convicts joined Louisiana's majority black convict workforce, state officials, penal reformers, the standard press, and elite opinion voiced alarm over the state of the penitentiary. They stated that the apparent brutality and strife at the state's 'model prison' resulted from political corruption, administrative incompetency, and the viciousness of lower class whites hired as guards. Individual vice and immorality, for them, explained increases in the number of convicts.<sup>3</sup> But, not everyone agreed. For Louisiana's convicts, sharecroppers, tenants, 'plain folk' and urban underclass, it was not difficult to see the business model that had advanced Louisiana's state-run system of direct forced labor. Nor did they overlook the forces that drove Angola's meteoric rise from a slave plantation, to a private prison farm, to a state-run and scientifically managed agribusiness which served the interests of the state's large planters.<sup>4</sup>

Black newspapers, Communist publications circulating in the South, and other publications sponsored by organized labor during the decade provided ample evidence of this fact. These publications revealed that sharecroppers, tenants, wage-earners, and the urban poor

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<sup>1</sup> De Jong, *A Different Day*, 19-40.

<sup>2</sup> See Table B.1 and Figure B.1 in Appendix B.

<sup>3</sup> "Blood Took Penitentiary 'Out of Red' Records Show," *Times Picayune*, May 11, 1941.

<sup>4</sup> Clark, *Remember My Sacrifice*.

who struggled against the stranglehold of Louisiana's carceral state during the Great Depression were not mystified about the persistence of forced labor in the 'free' world. Nor were they unaware of the penal system's relationship to it. Writers railed against "legal lynchings," "frame-ups," and police brutality. They mounted successful fundraising campaigns, organized legal defense initiatives, and publicized working people's use of armed self-defense. They did this in order to combat "boss justice" or state administered penal repression as well as extra-legal punishment, planter policing, and vigilante violence.<sup>5</sup> Louisiana's black farmers asserted their interests through interracial solidarities such as the Louisiana Farmer's Union, which was affiliated with the C.I.O and the Communist Party of the United States to gain a rightful share.<sup>6</sup> By May of 1936, the Louisiana Farmer's Union boasted approximately 1,000 declared members in Louisiana and grew in strength throughout the decade. Planters and state authorities charged that the "nigger union" put "ideas in the minds of the farmers and negro tenants in Louisiana which could not have possibly originated there." But, the union's largely black membership "did not need to study Karl Marx" to recognize the penitentiary system as a specter of 'freedom.'<sup>7</sup> They mobilized the organization as a powerful ally in their long struggle against discrimination. And not uncommonly, they suffered imprisonment for doing so.<sup>8</sup>

One such person was Clinton Clark, a black sharecropper from Louisiana's Pointe Coupee parish. Known as the "the Black Ghost of Louisiana," Clark worked tirelessly for the

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<sup>5</sup> For example, see: *International Labor Defender*, *The Daily Worker*, *The Southern Worker*, *The Louisiana Weekly*, *Louisiana Farmer's Union*.

<sup>6</sup>The organization welcomed whites and blacks alike. Women took active roles in the organization at both local and national levels. Support for the organization grew steadily throughout the late 1930s. Members of the Communist Party of the United States (CPUSA) began working among rural blacks in Alabama in 1931. Socialists helped to organize a farmers union in Arkansas in 1934, and by the mid-1930s, Louisiana's black agricultural workers had organized the Louisiana Farmers Union as an offshoot of Alabama's Communist influenced labor organization. See: Clark, *Remember My Sacrifice*, xv-lx.

<sup>7</sup> De Jong, *A Different Day*. 30.

<sup>8</sup> Clark, *Remember My Sacrifice*, 78-95.

cause for over a decade, but suffered imprisonment, death threats, and mob attacks like so many of his compatriots. He frequently held meetings at night in sharecropper's shacks, in black churches, and often walked all day, hiding in fields, swamps, and woods to avoid confrontations with police and lynch mobs.<sup>9</sup> After holding a mass meeting in Natchitoches, Louisiana, authorities arrested him. His case became a cause celebre making front page headlines in black newspapers in Louisiana and across the nation. Clark's own testimony revealed the lack of any necessary correspondence between criminality and morality after his imprisonment for organizing. He said,

I haven't done any kind of crime. I had the right to organize the poor people to better their condition. They government had give the people the right to organize. Why should we give up our right to the bosses when we been slaving for them all our days. It is better to stand up for your right.<sup>10</sup>

The Louisiana Farmer's Union membership did not disagree. The membership was of the opinion that planters had been robbing them of their "crops and labors long enough." They said, "We rather died than to continue to living this way. We are not a bit better than our grandfather. We are slaving for them and getting nothing out of our crops."<sup>11</sup>

By the 1930s, such exposure of forced labor in the 'free' world gained traction across the nation and abroad. These disclosures uncovered the false face of liberal Democratic claims to justice and equality before the law in Louisiana and in the United States. In so doing, this publicity broadcasted the political nature of imprisonment. Walter Wilson, a Southern secretary for the American Civil Liberties Union in the 1930s whose writing reached national and international audiences, stated that it had become "evident that one need not go thousands of

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<sup>9</sup> Ibid., xv-lx.

<sup>10</sup> Ibid., 85.

<sup>11</sup> Ibid., 74.



miles to Africa to witness forced labor.”<sup>12</sup> He emphasized that “of all the many kinds of forced labor in the United States, one of the most important is the use of convict.” He indicated that this form of direct forced labor had intensified in Louisiana and elsewhere as workers suffered unprecedented unemployment, state repression, planter abuses and impoverishment under increasingly dire economic conditions. Wilson exemplified this point when he stated,

“The impoverishment of the working class has caused a great increase in the prison population. Individual workers, on the one hand have been forced to commit ‘crimes against property’ in order to remain alive. Other workers have been thrown into prison on political charges for participating in struggles growing out of the workers’ battle against starvation.”

He concluded, “Most of the inmates of prisons are not ‘criminals’ at all but victims” of a political economic system that “desires to make profit out of convicts.”<sup>13</sup> Thus, exposures of the business model at work at Angola demonstrated the fundamental incongruity between criminality and morality, and thus, the ludicrousness of pretenses to the moral reform for men, women, and children ensnared in the system.

Wilson did not overlook the fact that forced labor through convict servitude and ‘free’ labor were two sides of the same coin. He stated that workers outside the penitentiary system were “victimized by the more indirect system” of exploitation while authorities subjected workers inside the penitentiary system “to even more direct and brutal forms of exploitation.”<sup>14</sup> Insightfully, he noted that any illusion about prison reform in the capitalist penal structure should be “completely dispelled by any examination of the chain gang, the special institution established by the Southern Bourbons to keep the masses—especially the Negro masses—in subjection.” Wilson drew on metaphors of slavery to depict convict servitude as well as the debt servitude

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<sup>12</sup> Walter Wilson, *Forced Labor in the United States* (New York: International Publishers, 1933), 9.

<sup>13</sup> Wilson, *Forced Labor in the United States*, 34.

<sup>14</sup> *Ibid.*, 67.

associated with sharecropping and tenancy in the American South. Yet, like many other critics of his time, he used slavery as a term to describe the dramatic rise in incarceration after emancipation in the American South, its racial disproportionality, as well as its undeniable association with planter's efforts to mobilize cheap black labor.<sup>15</sup>

Such metaphoric uses of the term 'slavery' was common before abolition and remained so in its aftermath. Slavery has frequently been used as an iconic form, as signifier for the most extreme types of exploitation, debasement, and dehumanization. Trade unionists and wage-earners of all kinds harnessed this power to protest "wage slavery" and "industrial slavery." The metaphor was also frequently used to protest any number of conditions such as: the dependent status of women, the use of child labor, peonage, industrial labor, non-voluntary military service, class hierarchies, merchant power, colonial rule, planter domination of the yeomanry, and abuses of federal authority. The power of these pronouncements rested in their ability to elicit public outrage and condemnation when an apparent non-slave was treated *like* a slave. Such appropriation of slavery acted as an analogue – 'akin to slavery,' 'quasi-slavery,' 'neo-slavery' but *not* slavery. When used in this way prior to the abolition of chattel slavery, such assertions functioned to police the normative boundaries between slave/not slave and gained moral force through this action. As chattel slavery declined and met its demise across the Atlantic, analogic associations were no less ubiquitous or powerful.

Contemporary critics of 'mass incarceration' have similarly appropriated the term 'slavery' to express the degradation, abjection, and racial make-up of prison populations in the United States during the latter part of the twentieth and the beginning of the twenty-first century.

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<sup>15</sup> "The Negro in the 'Land of the Free,'" *International Labor Defender* (March 1931); Art Shields, "Chattel Slavery," *International Labor Defender* (February 1931); Wilson, *Forced Labor in the United States*.

These depictions undoubtedly do much to raise public awareness of imprisonment as a social problem and go far in pointing out its overwhelming racial disproportionality.<sup>16</sup> Yet, such representations neglect the historical, structural, and ontological differences between chattel slavery and convict servitude. Examination of Louisiana's unique practice of incarcerating substantial numbers of slaves alongside non-enslaved convicts in the penitentiary adds new perspective to this question.<sup>17</sup> It reveals concrete differences between chattel slavery, defined as the commodification of a person, and convict servitude.<sup>18</sup> Evidence shows that the condition of non-enslaved convicts and enslaved convicts was distinct in Louisiana's antebellum penitentiary. Enslaved convicts, unlike non-slave convicts, entered the penitentiary by either criminal conviction under slave law or by a process of forfeiture. While slaves sentenced to the penitentiary adopted an extra status as a convict and were wards of the state, they remained the property of their masters. Upon release, they were to be returned to their owners. But, there were exceptions to this rule. Enslaved convicts sentenced to life occupied a liminal space. This anomaly resulted from the very *difference* between convict servitude and chattel slavery.

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<sup>16</sup>Alexander, *The New Jim Crow*; Blackmon, *Slavery by Another Name*; Davis, *Are Prisons Obsolete*.

<sup>17</sup> Literature on convict leasing and key studies on the history of punishment tend to represent imprisonment as *analogous* to slavery or entirely distinct from it rather than as a continuation of chattel slavery or a new type of it. See: Ayers, *Vengeance and Justice*; Lichtenstein, *Twice the Work of Free Labor*; Mancini, *One Dies, Get Another*; McLennan, *The Crisis of Imprisonment Protest, Politics, and the Making of the American Penal State*; Myers, *Race, Labor, and Punishment in the New South*; Oshinsky, *Worse than Slavery*.

<sup>18</sup> Scholarly treatments of slavery reflect little definitional consensus, methodological congruence, or epistemological unity. Many critics challenge the plausibility of a general model while some cast definitional discussion as unnecessary, as a distraction from examination of history and culture. Slave studies emerged from different disciplinary orientations. Historical studies are the most numerous but also the most resistant to explicit theorization. By contrast, anthropological, sociological and political economic examinations of slavery have played pivotal roles in debate and have pursued overt theorization forcefully. Instead, definitional disagreement stems from complex epistemological and conceptual differences which crosscut disciplinary divisions. Despite these divisions and the composites derived from them, most analysts agree that property rights in persons, where the person (of the slave) is itself the subject of an economic transaction is a defining element of slavery. Theorization of convict status has received even less attention, particularly since it has been commonly defined as enslavement, a new version of it, or as analogous to it.

Ownerless convict slaves, for all intents and purposes, lapsed into a condition of perpetual convict servitude. This circumstance developed because such slaves could neither be sold by the state nor released since they had no master and were not ‘free’ persons. Therefore, they became perpetual wards of the state, but not state property to be sold or transferred.

The simultaneous confinement of enslaved inmates and non-enslaved inmates, in of itself, proves the distinction between the two legal conditions and means of coercing labor. Just as obvious, however, was a peculiar state practice. Louisiana instituted ‘state-slavery’ at the penitentiary during the antebellum period but not in a metaphorical sense. The state acted as a literal slaveholder when it commodified the children of female convict slaves who bore children while in the state’s custody. While this practice was more than unfortunate, it is diagnostic of the distinction between convicts and slaves.<sup>19</sup> The state held the mothers of these enslaved children under life sentences. Therefore, no master had claim to either the convict slave mothers or their children. Yet, the children retained their mother’s prior condition as slaves, not their status as convicts. Consequently, the state assumed ownership of the children and sold them upon their tenth birthday while their mothers remained subject to perpetual confinement and convict labor.

The death of chattel slavery after the American Civil War precluded fraternities between prisoners of different social conditions inside the penitentiary. But, convict servitude survived the American Civil War unscathed. It won constitutional mandate in the very act that abolished chattel slavery. The legal sanctioning of convict servitude, a distinct form of forced labor authorized by the *U.S Constitution*, came to structure post-emancipation ‘freedom.’ The Thirteenth Amendment both outlawed chattel slavery and also authorized captivity and forced labor for convicts. It provided, “Neither slavery nor involuntary servitude, except as a

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<sup>19</sup> This is particularly clear as the progeny of incarcerated white women, free women of color, or any other non-enslaved woman could not be sold as slaves.

punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.”<sup>20</sup> This exception, granted to forced labor and captivity for a criminal conviction, at once sanctioned and silenced the presence of bondage and direct forced labor. This action sustained a widespread and legally sanctioned system of direct forced labor to serve new industrial and agricultural interests. It also underwrote infrastructural development and state-building without regional exception. The Thirteenth Amendment was the capstone to series of legal decisions that gave expression and force of law to the convict’s formal and practical status as a forced laborer, as subject to involuntarily alienation, as well as a relative or total loss of legal personhood.<sup>21</sup> But these actions did not turn convicts into chattels.

The exception framed by Thirteenth Amendment of the *U.S. Constitution* set precedent for international norms, which have similarly licensed the presence of direct forced labor in the ‘free’ world. The General Conference of the International Labor Organization negotiated a convention against force labor in 1930. The convention defined forced labor as “all work or service which is exacted from any person under menace of any penalty and for which the said person does not offer himself voluntarily.” The convention settled upon this definition with the stated aim of using it as an “instrument” to “suppress the use of forced labor or compulsory labor in all its forms within the shortest possible period.” Yet, the conveners engineered this precedent-setting mechanism to effectively disassociate penal labor from the definition of forced labor. The accord mandated that “the term forced or compulsory labour shall not include any work or service exacted from a person as a consequence of a conviction in a court of law.”<sup>22</sup> Exceptions

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<sup>20</sup> Section 1, Thirteenth Amendment, *U.S. Constitution* (1865).

<sup>21</sup> McLennan, *The Crisis of Imprisonment*.

<sup>22</sup> Qualifications to this statement authorized only penal labor administered by a public authority while

granted by both the International Labor Organization and the *U.S. Constitution*, which allow for compulsory penal labor remain under-examined and their significance underestimated.<sup>23</sup> Thus, legal fictions operating in national and international law continue to grant license to forced labor in the ‘free’ world through convict servitude.

Without denying the power of slavery as a metaphor to elicit exposure and social action, this rhetoric lacks explanatory power. Such rhetoric operates as ‘floating signifier,’ neglecting historical and structural analysis of the labor regimes and how these systems coerce labor for surplus extraction. These underdeveloped assertions overlook the degree to which forced labor is a form of exploitation deeply anchored to the capitalist mode of production, intertwined with free wage labor, but nevertheless unrestricted to these systems. Such conceptualizations elide the state, national, and importantly, international exemptions extended to convict servitude and how such provisions have normalized such a condition. Instead, such metaphoric assertions approach bondage as an individual or group relationship of domination that can be abolished through governmental reform, state enforcement, amelioration of living conditions, corporate social responsibility initiatives, and efforts to “free” so-called slaves by individuals and community groups as moral imperatives. Over one hundred and fifty years after the formal end to slavery in the United States, penal sanction, convict servitude, and now ‘mass imprisonment’ show themselves to be the primary means by which state and society respond to the contradictions of post-emancipation ‘freedom.’ These specters of freedom are evident in today’s scale of incarceration in the American state of Louisiana, where imprisonment has been pushed beyond

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labor not “hired or placed at the disposal of private individuals” was prohibited as a type of forced labor.

<sup>23</sup> See: International Labor Organization, Forced Labor Convention 1930, [http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100\\_ILO\\_CODE:C029](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_ILO_CODE:C029).

historical or contemporary parallel.<sup>24</sup> Yet, the Louisiana State Penitentiary stands as an enduring monument to the looming threat workers posed to elites and liberal state governance. It signifies the resolve of working people to live and labor on their own terms. Exposure of this unstable ground locates the deep fissures on which the world's prison capitol trembles in the balance.

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<sup>24</sup> Bureau of Statistics, *Correctional Surveys* (Washington DC, 2002); Alessandro De Giorgi, *Rethinking the Political Economy of Punishment: Perspectives on Post-Fordism and Penal Politics*. (Burlington, VT: Ashgate, 2006), 91-103; Glenn C. Loury, *Race, Incarceration, and American Values*. (Cambridge Mass: MIT Press, 2009), 4.

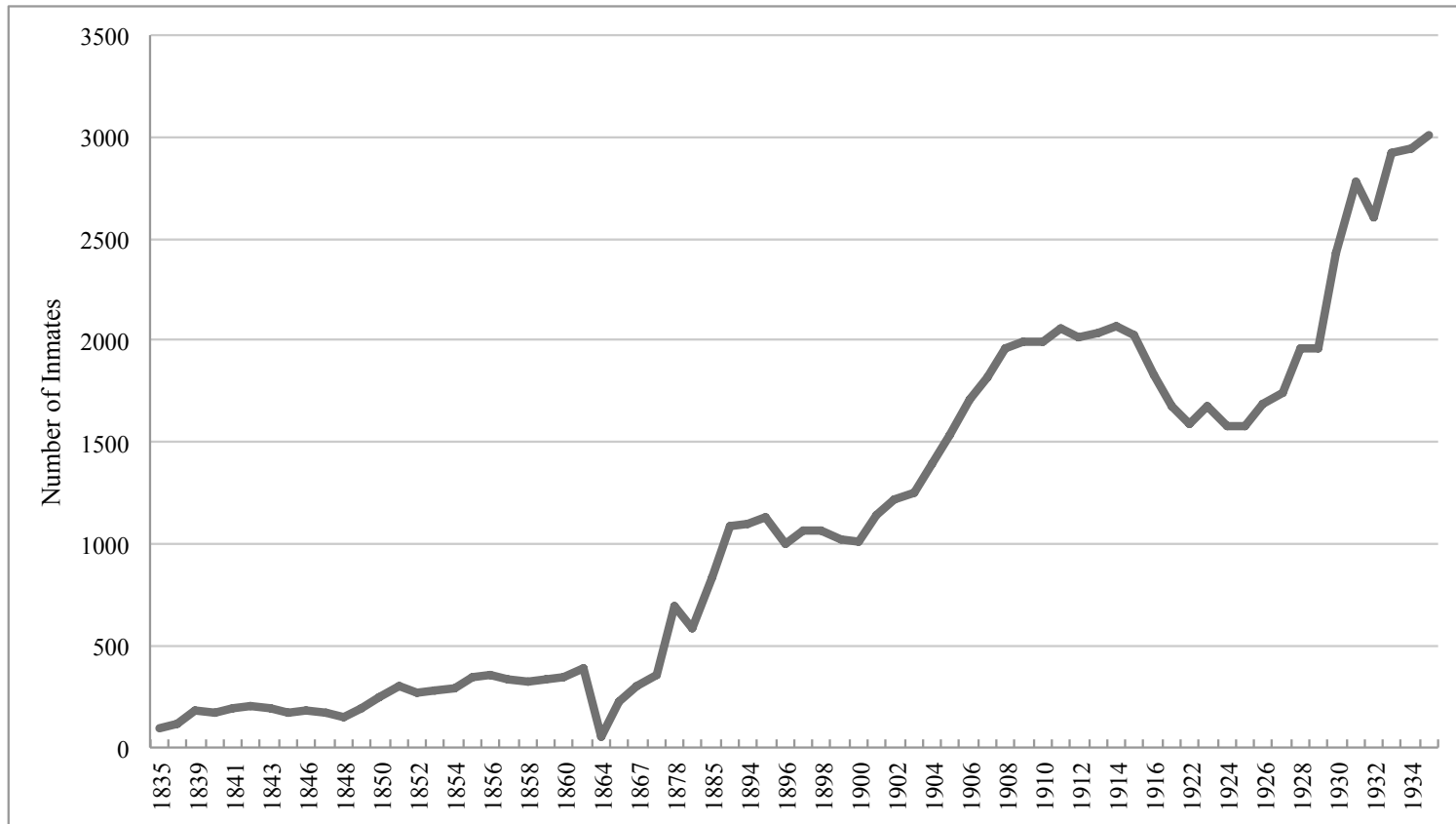
## APPENDICES



## APPENDIX A

### INMATE POPULATION DATA, 1835-1935

**Figure A.1**  
Number of Inmates, 1835-1934,  
Louisiana State Penitentiary



Sources: 1835: Derbes, *Prison Productions*, 28; 1836: Gibson, *Gibson's Guide* (1838), 260; 1837-8: *The American Almanac* (1839), 182; 1839: Gibson, *Gibson's Guide* (1838), 260; 1840-2: Derbes, *Prison Productions*, 28; 1843: State of Louisiana, *Report of the Standing Committee* (1844), 8, 10-12; 1844: State of Louisiana, *Report on the Penitentiary* (1845); 1846-8: Derbes, *Prison Productions*, 28; 1849: *The American Almanac* (1852), 284; 1850-1: *Annual Report of the Board of Directors* (1852) 6; 1852: State of Louisiana, *Report of the Board of Directors* (1853), 4; 1853: *The American Almanac* (1855), 282; 1854: State of Louisiana, *Annual Report of the Board* (1855), 9-14; 1855: State of Louisiana, *Annual Report of the Board* (1856), 5, 17-18; 1856: *The American Almanac* (1859), 299; 1857: *The American Almanac* (1860), 268; 1858: State of Louisiana, "Report of the Committee on the Penitentiary," in *Documents* (1859), 61, 45-

**Figure A.1 (cont'd)**  
 Number of Inmates, 1835-1934,  
 Louisiana State Penitentiary

57; 1859: *The American Almanac* (1861), 285; 1860: Derbes, *Prison Productions*, 28; 1861: Forret, "Before Angola," 149; 1864: State of Louisiana, *Journal of the House* (1864), 182; 1866: State of Louisiana, *Report of the Board of Control* (1867), 60; 1867: State of Louisiana, *Report of the Board of Control* (1868), 3, 32, 111; 1869: State of Louisiana, "Message from the Governor," in *Journal of the House* (1870), 15; 1873: Correctional Association of New York, *Report of the Prison Association of New York* (1874), 94; 1878: State of Louisiana, *Report of the Senate Committee on Penitentiary* (1878), 12; 1879: U.S. Bureau of Labor, *Eleventh Annual Report* (1880), 84; 1885: U.S. Bureau of Labor Statistics, "Convict Labor," (1896), 458; 1893-4: State of Louisiana, *Report of the Board of Control* (1902), 10; 1895: U.S. Bureau of Labor Statistics, "Convict Labor," 457; 1896-1901: State of Louisiana, *Report of the Board of Control* (1902), 10, 55; 1902-4: Louisiana State Penitentiary, *Report of the Louisiana State Penitentiary* (1908), 10, 13; 1905: State of Louisiana, *Report of the Louisiana State Board of Charities and Corrections* (1906), 16; 1906-7: State of Louisiana, *Report of the Louisiana State Board of Charities and Corrections* (1908), 10, 40; 1908: Louisiana State Penitentiary, *Report of the Board of Control* (1909), 85, 89; 1910: Dept. of Commerce and Bureau of the Census, *Prisoners in State and Federal Prisons and Reformatories* (1929), 4; 1911-3: State of Louisiana, *Report of the Board of Control* (1913), 68, 87-8; 1914-7: State of Louisiana, *Report Made by HY L. Fuqua*, 41-2; 1922: Dept. of Commerce and Bureau of the Census, *Prisoners* (1929), 4; 1923-4: "Convict Labor: 1923," *Monthly Labor Review* 18, no. 4 (April 1924), 4; 1925-6: Dept. of Commerce and Bureau of the Census, *Prisoners* (1929), 4; 1927: Dept. of Commerce and Bureau of the Census, *Prisoners* (1931), 5; 1928: Dept. of Commerce and Bureau of the Census, *Prisoners* (1931), 35; 1929: (1932), 3, 144-5; 1930-3: (1934), 48-9; 1934: Dept. of Commerce and Bureau of the Census, *Prisoners* (1936), 3; Dept. of Commerce and Bureau of the Census, *Prisoners* (1937), 3; *LSPPD*.

**Figure A.2**  
Number of Inmates in Confinement Per Capita, 1835-1934,  
Louisiana State Penitentiary



Sources: Ibid.; U.S. Dept. of Commerce and Labor, Bureau of the Census, *Thirteenth Census of the United States*; U.S. Department of Commerce, Bureau of Labor, *Fourteenth Census of the United States, State Compendium, Louisiana* (Washington: Government Printing Office, 1924); U. S. Dept. of Commerce and Bureau of the Census, *Fifteenth Census of the United States*

**Table A.1**  
Inmate Population, 1835-1864,  
Louisiana State Penitentiary  
Number of Inmates

<b>1835</b>	91
<b>1837</b>	112
<b>1839</b>	182
<b>1840</b>	174
<b>1841</b>	195
<b>1842</b>	206
<b>1843</b>	189
<b>1844</b>	176
<b>1846</b>	183
<b>1847</b>	172
<b>1848</b>	152
<b>1849</b>	194
<b>1850</b>	249
<b>1851</b>	300
<b>1852</b>	273
<b>1853</b>	283
<b>1854</b>	295
<b>1855</b>	347
<b>1856</b>	356
<b>1857</b>	337
<b>1858</b>	326
<b>1859</b>	330
<b>1860</b>	343
<b>1861</b>	390
<b>1864</b>	53

*Sources:* 1835: Derbes, *Prison Productions*, 28; 1836: Gibson, *Gibson's Guide* (1838), 260; 1837-8: *The American Almanac* (1839), 182; 1839: Gibson, *Gibson's Guide* (1838), 260; 1840-2: Derbes, *Prison Productions*, 28; 1843: State of Louisiana, *Report of the Standing Committee* (1844), 8, 10-12; 1844: State of Louisiana, *Report on the Penitentiary* (1845); 1846-8: Derbes, *Prison Productions*, 28; 1849: *The American Almanac* (1852), 284; 1850-1: *Annual Report of the Board of Directors* (1852) 6; 1852: State of Louisiana, *Report of the Board of Directors* (1853), 4; 1853: *The American Almanac* (1855), 282; 1854: State of Louisiana, *Annual Report of the Board* (1855), 9-14; 1855: State of Louisiana, *Annual Report of the Board* (1856), 5, 17-18; 1856: *The American Almanac* (1859), 299; 1857: *The American Almanac* (1860), 268; 1858: State of Louisiana, "Report of the Committee on the Penitentiary," in *Documents* (1859), 61, 45-57; 1859: *The American Almanac* (1861), 285; 1860: Derbes, *Prison Productions*, 28; 1861: Forret, "Before Angola," 149; 1864: State of Louisiana, *Journal of the House* (1864), 182;

**Table A.2**  
Inmate Population, 1866-1935,  
Louisiana State Penitentiary

<u>Number of Inmates</u>			
		<b>1909</b>	1994
<b>1866</b>	228	<b>1910</b>	1999
<b>1867</b>	297	<b>1911</b>	2055
<b>1869</b>	358	<b>1912</b>	2017
<b>1873</b>	409	<b>1913</b>	2036
<b>1878</b>	693	<b>1914</b>	2075
<b>1879</b>	589	<b>1915</b>	2028
<b>1885</b>	841	<b>1916</b>	1830
<b>1893</b>	1090	<b>1917</b>	1677
<b>1894</b>	1100	<b>1922</b>	1593
<b>1895</b>	1127	<b>1923</b>	1672
<b>1896</b>	1001	<b>1924</b>	1578
<b>1897</b>	1066	<b>1925</b>	1575
<b>1898</b>	1070	<b>1926</b>	1686
<b>1899</b>	1017	<b>1927</b>	1746
<b>1900</b>	1014	<b>1928</b>	1963
<b>1901</b>	1142	<b>1929</b>	2130
<b>1902</b>	1222	<b>1930</b>	2435
<b>1903</b>	1251	<b>1931</b>	2775
<b>1904</b>	1393	<b>1932</b>	2601
<b>1905</b>	1536	<b>1933</b>	2922
<b>1906</b>	1709	<b>1934</b>	2939
<b>1907</b>	1814	<b>1935</b>	3005
<b>1908</b>	1956		

*Sources:* 1866: State of Louisiana, *Report of the Board of Control* (1867), 60; 1867: State of Louisiana, *Report of the Board of Control* (1868); 3, 32, 111; 1869: State of Louisiana, "Message from the Governor," in *Journal of the House* (1870); 15; 1873: Correctional Association of New York, *Report of the Prison Association of New York* (1874), 94; 1878: State of Louisiana, *Report of the Senate Committee on Penitentiary* (1878); 12; 1879: U.S. Bureau of Labor, *Eleventh Annual Report* (1880), 84; 1885: U.S. Bureau of Labor Statistics, "Convict Labor," (1896), 458; 1893-4: State of Louisiana, *Report of the Board of Control* (1902); 10; 1895: U.S. Bureau of Labor Statistics, "Convict Labor," 457; 1896-1901: State of Louisiana, *Report of the Board of Control* (1902); 10, 55; 1902-4: Louisiana State Penitentiary, *Report of the Louisiana State Penitentiary* (1908), 10, 13; 1905: State of Louisiana, *Report of the Louisiana State Board of Charities and Corrections* (1906), 16; 1906-7: State of Louisiana, *Report of the Louisiana State Board of Charities and Corrections* (1908), 10, 40; 1908: Louisiana State Penitentiary, *Report of the Board of Control* (1909), 85, 89; 1910: Dept. of Commerce and Bureau of the Census, *Prisoners in State and Federal Prisons and Reformatories* (1929), 4; 1911-3: State of Louisiana, *Report of the Board of Control* (1913), 68, 87-8; 1914-7: State of Louisiana, *Report Made by HYL Fuqua*, 41-2; 1922: Dept. of Commerce and Bureau of the Census, *Prisoners* (1929), 4; 1923-4: "Convict Labor: 1923," *Monthly Labor Review* 18, no. 4 (April 1924), 4; 1925-6: Dept. of Commerce and Bureau of the Census, *Prisoners* (1929), 4; 1927: Dept. of Commerce and Bureau of the Census, *Prisoners* (1931), 5; 1928: Dept. of Commerce and Bureau of the Census, *Prisoners* (1931), 35; 1929: (1932), 3, 144-5; 1930-3: (1934), 48-9; 1934: Dept. of Commerce and Bureau of the Census, *Prisoners* (1936), 3; Dept. of Commerce and Bureau of the Census, *Prisoners* (1937), 3; *LSPPD*.

**Table A.3**  
Occupation of Inmates Before Incarceration, 1854, 1855,  
Louisiana State Penitentiary

	<u>Deaths</u>		
		<b>1898</b>	102
<b>1837</b>	7	<b>1899</b>	115
<b>1843</b>	5	<b>1900</b>	72
<b>1844</b>	1	<b>1901</b>	38
<b>1848</b>	7	<b>1902</b>	24
<b>1850</b>	12	<b>1903</b>	35
<b>1851</b>	9	<b>1904</b>	24
<b>1852</b>	12	<b>1905</b>	36
<b>1853</b>	13	<b>1906</b>	43
<b>1854</b>	12	<b>1907</b>	24
<b>1855</b>	21	<b>1908</b>	49
<b>1856</b>	14	<b>1909</b>	45
<b>1857</b>	5	<b>1910</b>	39
<b>1858</b>	6	<b>1911</b>	39
<b>1859</b>	9	<b>1912</b>	46
<b>1864</b>	1	<b>1913</b>	39
<b>1866</b>	24	<b>1914</b>	27
<b>1870</b>	19	<b>1915</b>	35
<b>1871</b>	21	<b>1916</b>	40
<b>1872</b>	9	<b>1917</b>	18
<b>1875</b>	53	<b>1926</b>	28
<b>1878</b>	31	<b>1927</b>	18
<b>1885</b>	118	<b>1928</b>	25
<b>1886</b>	94	<b>1929</b>	27
<b>1888</b>	99	<b>1930</b>	26
<b>1889</b>	68	<b>1931</b>	43
<b>1893</b>	73	<b>1932</b>	40
<b>1894</b>	92	<b>1933</b>	46
<b>1895</b>	67	<b>1934</b>	51
<b>1896</b>	216	<b>1935</b>	27
<b>1897</b>	68		

*Sources:* See those for Table 1.

**Table A.4**  
Occupation of Inmates Before Incarceration, 1854, 1855,  
Louisiana State Penitentiary

<u>Occupation</u>	<u>1854</u>	<u>1855</u>
Baker	2	4
Barber	1	1
Blacksmith	4	6
Bricklayer	4	1
Butcher	4	6
Cabinet Maker	1	1
Carpenter	12	13
Clerk	2	3
Cook	6	3
Cooper	4	3
Engineer	1	
Farmer	16	16
Finisher		3
Goldsmith		1
Harness maker	1	
Lawyer		1
Machinist	2	2
Merchant	1	2
Moulder		2
No Occupation or Trade	175	204
Painter	3	3
Plaster	1	
Printer	2	6
Sail Maker	1	1
Sawyer	1	
Seamen	9	29
Service Worker	15	16
Ship Carpenter	2	2
Shoemaker	7	6
Stone Cutter	2	2
Tailor	7	4
Tin Smith	1	
Tobacconist	2	1
Turner		1
Wagoner	1	
Washerwoman	1	1
Watchmaker	1	
Wheelwright	3	1

*Sources:* 1854: State of Louisiana, *Report of the Board of Directors* (1855); 1855: State of Louisiana, *Report of the Board of Directors* (1856).



## APPENDIX B

### LOUISIANA STATE PENITENTIARY PRISONER DATABASE RECORDS, 1927-1935

## APPENDIX B (etc.)

### Methodology Statement

Statistical analyses of prisoner populations from 1927 to 1935 which appear in this study are derived from the *Louisiana State Penitentiary Prisoner Database (LSPPD)*. Designed specifically for this dissertation, this database contains matriculation data from prisoners confined to the Louisiana State Penitentiary. General categories of analysis include: individual physical markers, social identity, systems of reward and punishment, indicators of individual struggle and collective action within this system of confinement, social geographies of crime and punishment, the quantity and quality of crime and punishment, patterns of labor and industry within the institution, together with categories suggestive of sexuality, survival, life, and death.

My database consists of information from unpublished Louisiana State Penitentiary Records.<sup>1</sup> The form and function of these records is quite varied. They include: Conduct Records, Death Reports, Fugitive Warrant Registers, Receiving Station Registers, Registers of Convicts Received, Convict Records, and Indexes for Official Registers of Inmates, Prisoner Escapes, and Prisoners Received. These records provide information on inmates of the Louisiana State Penitentiary system from 1866 to 1963. This study relies on Convict Records since they provide the most complete profile of inmates held in the institution and provide over fifty categories of information about individual prisoners. These records are the foundation for the *LSPPD*. In total, my database comprises more than fifty categories of information for each

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<sup>1</sup> Louisiana, State Penitentiary Records, 1866-1963," images, FamilySearch (<https://familysearch.org/pal:MM9.3.1/TH-1961-25322-10370-73?cc=1931391&wc=SJ7Z-HZ9:227357201,227371701> : accessed 14 March 2013).

prisoner, and includes nearly 10,000 state prisoners received at the Louisiana State Penitentiary between 1926 and 1936.

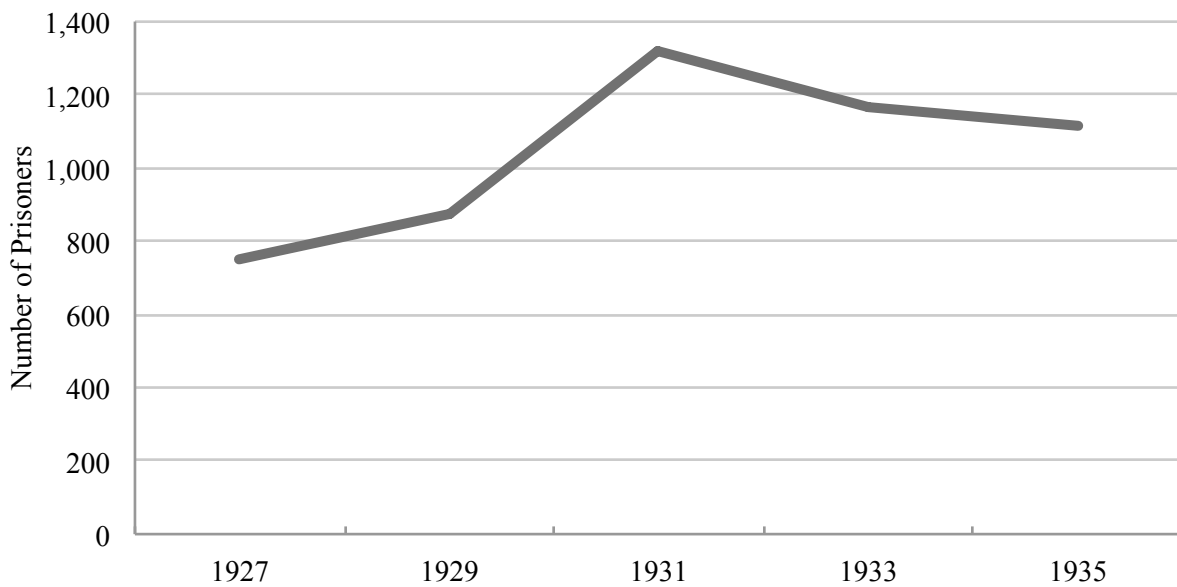
The quantitative analysis derived from the *LSPPD*, which appears in this dissertation, examines twenty-eight data points. Analysis includes the total number of prisoners received (5,221) at the Louisiana State Penitentiary during the five following years: 1927, 1929, 1931, 1933, and 1935. The database provides complete information for all 28 data points for 3,492 prisoners out of a total number of 5,221 prisoners (67%). Most points of analysis appearing here concern fourteen of the twenty-eight data points within the *LSPPD*. For these fourteen data points, analysis also includes the total number of prisoners received (5,221) at the Louisiana State Penitentiary during the five following years: 1927, 1929, 1931, 1933, and 1935. The dataset provides complete information for all fourteen data points for 5,199 out of a total of 5,221 prisoners (99%).

**Table B.1**  
Count of Prisoners by Year Received at Louisiana State Penitentiary,  
1927, 1929, 1931, 1933, 1935

<u>Year</u>	<u>Prisoners Received</u>
1927	749
1929	878
1931	1,316
1933	1,163
1935	1,115
Total	5,221

*Source: LSPPD.*

**Figure B.1**  
Count of Prisoners by Year Received at Louisiana State Penitentiary,  
1927, 1929, 1931, 1933, 1935



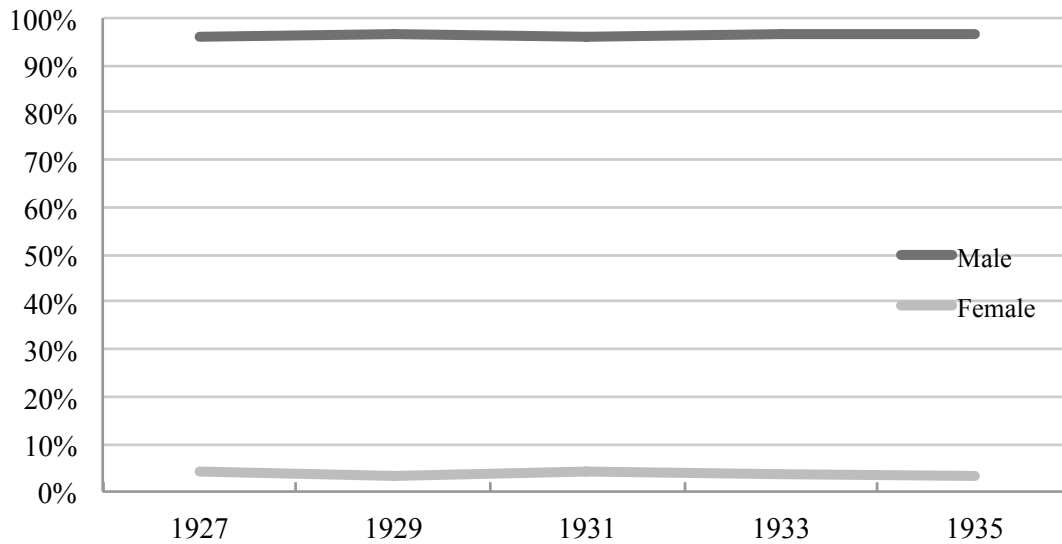
*Source: LSPPD.*

**Table B.2**  
Sex of Prisoners by Year Received at Louisiana State Penitentiary,  
1927, 1929, 1931, 1933, 1935

<u>Year</u>	<u>Male</u>	<u>Female</u>
1927	718 (96%)	31 (4%)
1929	849 (97%)	29 (3%)
1931	1,262 (96%)	54 (4%)
1933	1,123 (97%)	40 (3%)
1935	1,078 (97%)	37 (3%)
Total	5,030 (96%)	191 (4%)

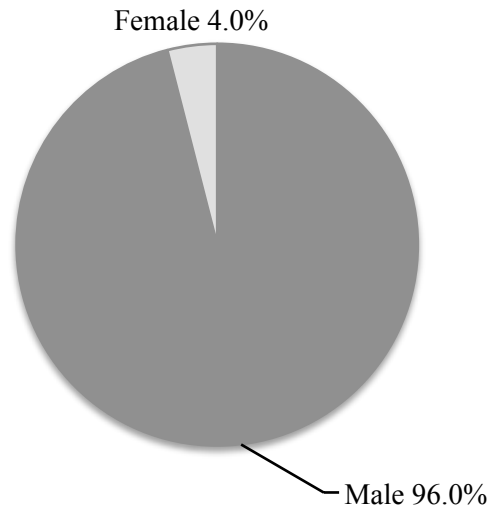
*Source: LSPPD.*

**Figure B.2**  
Sex of Prisoners by Year Received at Louisiana State Penitentiary,  
1927, 1929, 1931, 1933, 1935



*Source: LSPPD.*

**Figure B.3**  
Sex of Prisoners Received at Louisiana State Penitentiary,  
1927, 1929, 1931, 1933, 1935



Source: LSPPD.

**Table B.3**  
Race of Prisoners Received at Louisiana State Penitentiary,  
1927, 1929, 1931, 1933, 1935

<u>Race</u>	<u>Count</u>
Black	3,286
White	1,927
Other	8
<i>Chinese</i>	2
<i>Honduran</i>	1
<i>Indian</i>	2
<i>Japanese</i>	1
<i>Mexican</i>	2

Source: LSPPD.

**Table B.4**  
Race of Prisoners by Year Received at Louisiana State Penitentiary,  
1927, 1929, 1931, 1933, 1935

<u>Year</u>	<u>Black</u>	<u>White</u>	<u>Other Race</u>
1927	460 (61%)	285 (38%)	4 (1%)
1929	526 (60%)	352 (40%)	-
1931	823 (63%)	493 (37%)	-
1933	742 (64%)	419 (36%)	2 (0.17%)
1935	735 (66%)	378 (34%)	2 (0.18%)
Total	3,286 (63%)	1,927 (37%)	8 (0.15%)

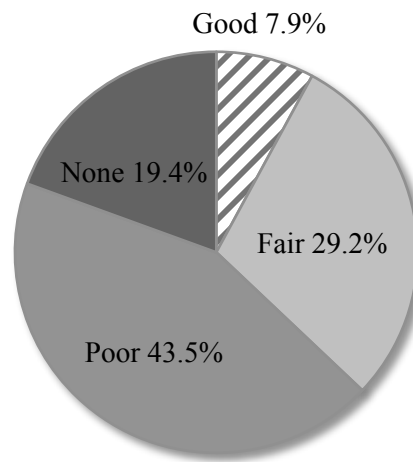
*Source: LSPPD.*

**Table B.5**  
Education of Prisoners by Year Received at Louisiana State Penitentiary,  
1927, 1929, 1931, 1933, 1935

<u>Year</u>	<u>Good</u>	<u>Fair</u>	<u>Poor</u>	<u>None</u>
1927	22 (3%)	104 (14%)	415 (55%)	208 (28%)
1929	68 (8%)	232 (26%)	409 (46%)	167 (19%)
1931	69 (5%)	361 (27%)	667 (51%)	219 (17%)
1933	20 (2%)	545 (47%)	412 (35%)	186 (16%)
1935	232 (21%)	278 (25%)	367 (33%)	232 (21%)
Total	411 (8%)	1,520 (29%)	2,270 (43%)	1,012 (19%)

*Source: LSPPD. Note: n = 5,213.*

**Figure B.4**  
Education of Prisoners Received at Louisiana State Penitentiary,  
1927, 1929, 1931, 1933, 1935



*Source: LSPPD.*

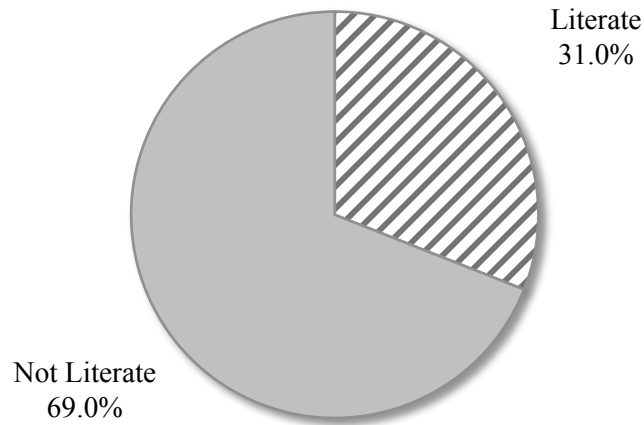
**Table B.6**  
Literacy of Prisoners by Year Received Louisiana State Penitentiary by Year,  
1927, 1929, 1931, 1933, 1935

<u>Year</u>	<u>Literate</u>	<u>Not Literate</u>
1927	534 (71%)	215 (29%)
1929	610 (69%)	268 (31%)
1931	838 (67%)	478 (33%)
1933	777 (67%)	385 (33%)
1935	820 (74%)	293 (26%)
Total	3,579 (69%)	1,642 (31%)

*Source: LSPPD.*

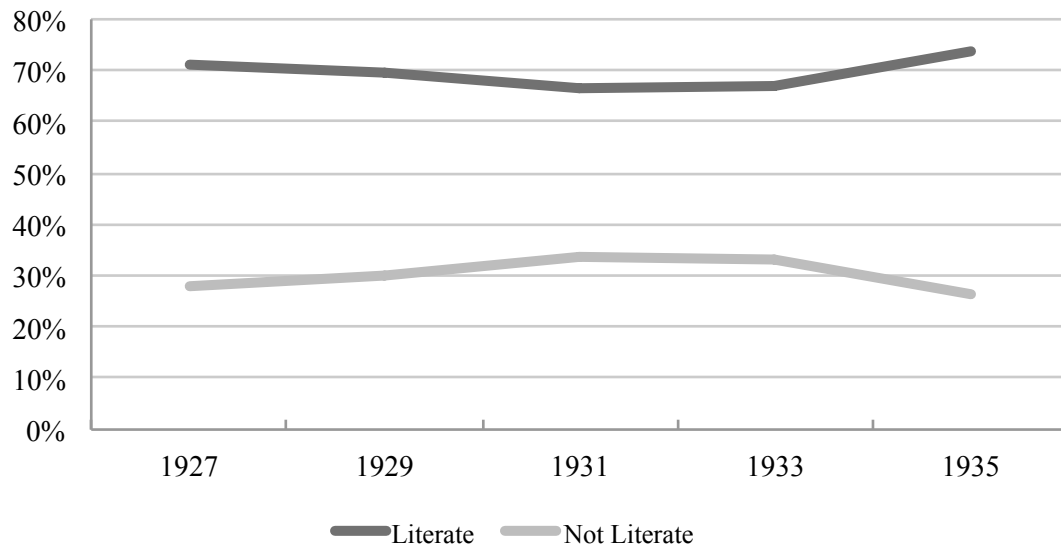


**Figure B.5**  
Literacy of Prisoners Received at Louisiana State Penitentiary,  
1927, 1929, 1931, 1933, 1935



*Source: LSPPD.*

**Figure B.6**  
Literacy of Prisoners by Year Received at Louisiana State Penitentiary,  
1927, 1929, 1931, 1933, 1935



*Source: LSPPD.*

**Table B.7**  
Literacy of Prisoners by Race and Year Received at Louisiana State Penitentiary,  
1927, 1929, 1931, 1933, 1935

<u>Year</u>	<u>Black</u>		<u>White</u>	
	<u>Literate</u>	<u>Not Literate</u>	<u>Literate</u>	<u>Not Literate</u>
1927	284 (62%)	176 (38%)	247 (87%)	38 (13%)
1929	308 (59%)	218 (41%)	302 (86%)	50 (14%)
1931	417 (51%)	406 (49%)	421 (85%)	72 (15%)
1933	318 (43%)	424 (57%)	351 (84%)	68 (16%)
1935	485 (66%)	250 (44%)	333 (88%)	45 (12%)
Total	1,812 (55%)	1,474 (45%)	1,654 (86%)	273 (14%)

*Source: LSPPD. Note: n = 5,213.*

**Table B.8**  
Age of Prisoners by Year Received at Louisiana State Penitentiary,  
1927, 1929, 1931, 1933, 1935

<u>Year</u>	<u>12 - 15</u>	<u>16 - 21</u>	<u>22 - 30</u>	<u>31 - 40</u>	<u>41 - 50</u>	<u>55+</u>	<u>Median Age</u>
1927	2 (0.27%)	290 (39%)	274 (37%)	121 (16%)	40 (5%)	22 (3%)	23
1929	3 (0.34%)	276 (31%)	333 (38%)	153 (17%)	83 (9%)	30 (3%)	25
1931	6 (0.46%)	410 (31%)	523 (40%)	224 (17%)	96 (7%)	56 (4%)	25
1933	6 (0.52%)	317 (27%)	506 (44%)	215 (19%)	74 (6%)	43 (4%)	25
1935	2 (0.18%)	315 (28%)	426 (38%)	251 (23%)	72 (6%)	46 (4%)	26
Total	19 (0.4%)	1608 (31%)	2062 (40%)	964 (18%)	365 (7%)	197 (4%)	25

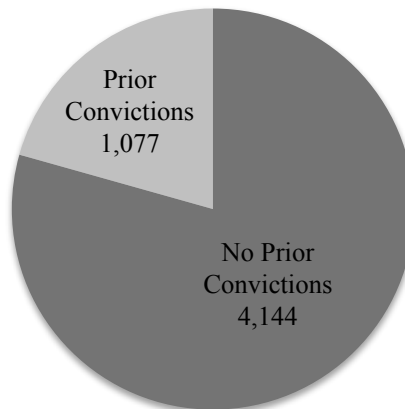
*Source: LSPPD. Note: n = 5,215.*

**Table B.9**  
Prior Convictions of Prisoners by Year Received at Louisiana State Penitentiary,  
1927, 1929, 1931, 1933, 1935

<u>Year</u>	<u>No Prior Conviction</u>	<u>Prior Conviction</u>
1927	684 (91%)	65 (9%)
1929	755 (86%)	123 (14%)
1931	1,066 (81%)	250 (19%)
1933	869 (75%)	294 (25%)
1935	770 (69%)	345 (31%)
Total	4,144 (79%)	1,077 (21%)

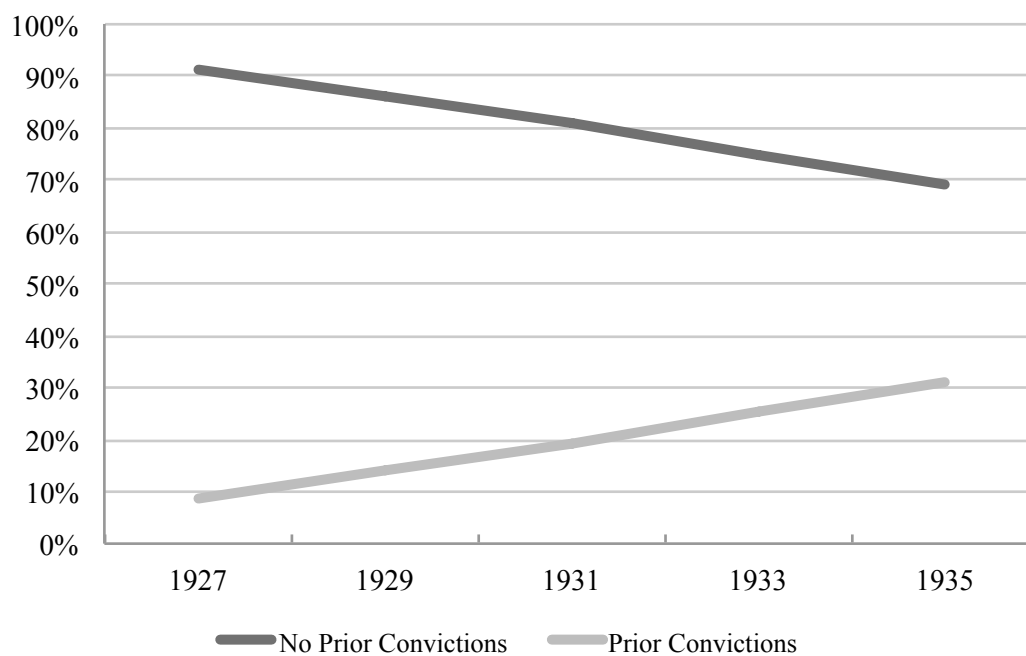
*Source: LSPPD.*

**Figure B.7**  
Prior Convictions of Prisoners Received at Louisiana State Penitentiary,  
1927, 1929, 1931, 1933, 1935



*Source: LSPPD.*

**Figure B.8**  
Prior Conviction Rates of Prisoners by Year Received at Louisiana State Penitentiary,  
1927, 1929, 1931, 1933, 1935



Source: LSPPD

**Table B.10**  
Prior Convictions of Prisoners by Race, Sex, and Year Received at Louisiana State Penitentiary,  
1927, 1929, 1931, 1933, 1935

<u>Year</u>	<u>Prior Conviction</u>					<u>No Prior Conviction</u>				
	<u>Black Male</u>	<u>Black Female</u>	<u>White Male</u>	<u>White Female</u>	<u>Other Race Male</u>	<u>Black Male</u>	<u>Black Female</u>	<u>White Male</u>	<u>White Female</u>	<u>Other Race Male</u>
1927	46 (11%)	1 (3%)	17 (6%)	-	1 (25%)	384 (89%)	29 (97)	267 (94%)	1 (100%)	3 (75%)
1929	66 (13%)	-	57 (16%)	-	-	433 (87%)	28 (100%)	293 (84%)	1 (100%)	-
1931	126 (16%)	1 (2%)	123 (25%)	-	-	648 (84%)	48 (98%)	365 (75%)	5 (100%)	-
1933	168 (24%)	4 (12%)	122 (30%)	-	-	540 (76%)	30 (88%)	291 (70%)	6 (100%)	2 (100%)
1935	203 (29%)	1 (3%)	138 (27%)	1 (25%)	2 (100%)	499 (71%)	21 (97%)	236 (63%)	3 (75%)	-
Total	609 (20%)	7 (4%)	457 (24%)	1 (6%)	3 (27%)	2,504 (80%)	167 (96%)	1,452 (76%)	16 (94%)	5 (63%)

*Source: LSPPD.*

**Table B.11**

Sentencing for Prisoners by Year Received at Louisiana State Penitentiary,  
1927, 1929, 1931, 1933, 1935

<u>Year</u>	<u>Median Minimum Sentence in Months</u>	<u>Median Maximum Sentence in Months</u>	<u>Average Minimum Sentence in Months</u>	<u>Average Maximum Sentence in Months</u>	<u>Life Sentences</u>
1927	24	36	32	56	40
1929	24	36	46	71	33
1931	24	36	42	62	47
1933	24	36	43	62	49
1935	24	36	38	62	49
Total	24	36	40	63	218

Source: LSPPD.

**Table B.12**

Time Served by Prisoners by Year Received at Louisiana State Penitentiary  
1927, 1929, 1931, 1933, 1935

<u>Year</u>	<u>Minimum in Months</u>	<u>Median in Months</u>	<u>Average in Months</u>	<u>Maximum in Months</u>	<u>Deaths</u>	<u>Life Sentences Served</u>
1927	1	24	37	348	31	8
1929	3	28	44	342	37	10
1931	1	24	39	504	53	4
1933	1	27	40	337	49	5
1935	2	32	45	468	43	7
Total	1	27	41	504	213	34

Source: LSPPD.

**Table B.13**  
Nativity of Prisoners Received at Louisiana State Penitentiary,  
1927, 1929, 1931, 1933, 1935

<b>USA</b>	<b>5,142</b>	<b>Outside USA</b>	<b>67</b>
Alabama	101	Argentina	1
Arizona	3	Australia	1
Arkansas	182	Austria	1
California	11	BC	1
Colorado	12	Belize	1
Connecticut	2	British	
Delaware	1	Honduras	1
Florida	25	British Isles	1
Georgia	48	Broussardville	1
Illinois	27	Canada	5
Indiana	17	China	1
Iowa	6	Cuba	1
Kansas	10	Denmark	1
Kentucky	26	France	3
Louisiana	3,754	Honduras	1
Maine	1	Hungary	1
Maryland	4	Ireland	1
Massachusetts	6	Italy	17
Michigan	13	Jamaica	1
Minnesota	4	Mexico	9
Mississippi	365	Nova Scotia	2
Missouri	32	Palestine	1
New Jersey	8	Panama	1
New Mexico	1	Philippines	2
New York	21	Poland	2
North Carolina	18	Puerto Rico	1
North Dakota	1	Russia	3
Ohio	24	Scotland	1
Oklahoma	36	Siberia	1
Pennsylvania	22	South	
South Carolina	16	America	1
Tennessee	33	Spain	2
Texas	289	Turkey	1
Utah	1		
Virginia	11		
Washington	2		
West Virginia	3		
Wisconsin	6		
		<b>Unknown</b>	<b>12</b>

Source: LSPPD

**Table B.14**  
Residency of Prisoners Received at Louisiana State Penitentiary,  
1927, 1929, 1931, 1933, 1935

Alabama	28
Arizona	2
Arkansas	76
California	9
Colorado	1
Connecticut	1
Florida	12
Georgia	13
Illinois	7
Indiana	2
Iowa	3
Kansas	4
Kentucky	7
Louisiana	4,623
Maryland	1
Massachusetts	4
Michigan	9
Minnesota	5
Mississippi	95
Missouri	20
New Jersey	2
New York	11
North Carolina	3
Ohio	6
Oklahoma	14
Pennsylvania	6
South Carolina	4
Tennessee	15
Texas	193
Utah	1
Virginia	3
West Virginia	1
Wisconsin	3
British Columbia	1
Guatemala	1
Unknown/Transient	35

*Source: LSPPD.*



**Table B.15**  
 Ethnicity of Prisoners Received at Louisiana State Penitentiary,  
 1927, 1929, 1931, 1933, 1935

African American	2,800	Italian American	
American White	1,028	Jamaican	1
Argentinian	1	Jewish	2
Australian	1	Lithuanian	1
Austrian	2	Lithuanian Polish	1
Austrian German	1	Mexican	13
Belizean	1	Mexican American	
Bohemian	1	White	1
Canadian	6	Mongolian	1
Canadian American	1	Mulatto	4
Canadian Irish	1	Panamanian	1
Canadian Scottish	1	Polish	2
Chinese	1	Puerto Rican	1
Cuban	1	Russian	2
Dutch	2	Russian Polish	1
English	4	Scottish	1
English American	2	Scottish French	1
English Scottish	1	Scottish Irish	1
Filipino	2	Siberian	1
French	2	Spanish	4
French American	4	Spanish American	2
French German	1	Spanish Cuban	1
French Italian	1	Spanish Irish	1
German	11	Swedish	3
German American	5	Swedish American	1
Greek South American	1	Swiss	1
Honduran Italian	1	Syrian	2
Hungarian	1	Syrian Palestinian	1
Indian	2	Undeclared (Other)	3
Irish	15	Undeclared (Black)	478
Irish American	4	Undeclared (White)	302
Irish French	1	Unknown (Black)	12
Irish German	1	Unknown (White)	399
Irish Scottish	2		
Italian	55		
	12		

*Source: LSPPD.*

**Table B.16**  
Complexion of Prisoners Received at Louisiana State Penitentiary,  
1927, 1929, 1931, 1933, 1935

Black	610	Medium	1
Blonde	2	Medium Brown	373
Bright	1	Medium Dark	3
Bronze	1	Medium Fair	93
Brown	645	Medium Griff	3
Brunette	4	Medium Ruddy	1
Chocolate	1	Medium Tan	4
Copper	4	Olive	22
Creole	1	Red	1
Dark	200	Red Brown	1
Dark Brown	614	Red Tan	1
Dark Griff	2	Reddish	56
Dark Olive	1	Rosey	1
Dark Tan	5	Ruddy	202
Deep Brown	7	Ruddy White	1
Fair	716	Sallow	165
Florid	4	Swarthy	79
Griff	2	Tan	21
Leathery	2	Very Dark	1
Light	1	Very Dark Brown	2
Light Brown	294	Very Light	2
Light Brown Dusky	1	White	2
Light Griff	5	Yellow	61
Light Olive	1	Yellowish	22
Light Tan	42	Undeclared (Black)	560
Light Yellow	9	Undeclared (White)	368

*Source: LSPPD.*

**Table B.17**  
Physical Classification of Prisoners Received at Louisiana State Penitentiary,  
1927, 1929, 1931, 1933, 1935

1	1,854
2	1,075
3	1,044
4	18
Undeclared	1,230

*Source: LSPPD.*

**Table B.18**  
Religion of Prisoners Received at Louisiana State Penitentiary,  
1927, 1929, 1931, 1933, 1935

Adventist	1
Apostolic	10
Baptist	1,395
Carmelite	2
Catholic	661
Christian	19
Christian Scientist	2
Church of Christ	2
Church of God	4
Congregational	1
Episcopalian	7
Free Thinker	1
Holiness	11
Holy Cross Church	1
Holy Roller	1
Jewish	3
Latter Day Saints	1
Living God	1
Lutheran	10
Methodist	290
Mormon	4
Nazarene	4
None	546
Pentecostal	2
Postolic	3
Presbyterian	24
Protestant	6
Sanctified	6
Seventh Day Adventist	1
Undeclared/Unknown	1,545

*Source: LSPPD. Note: n = 4,564.*

**Table B.19**

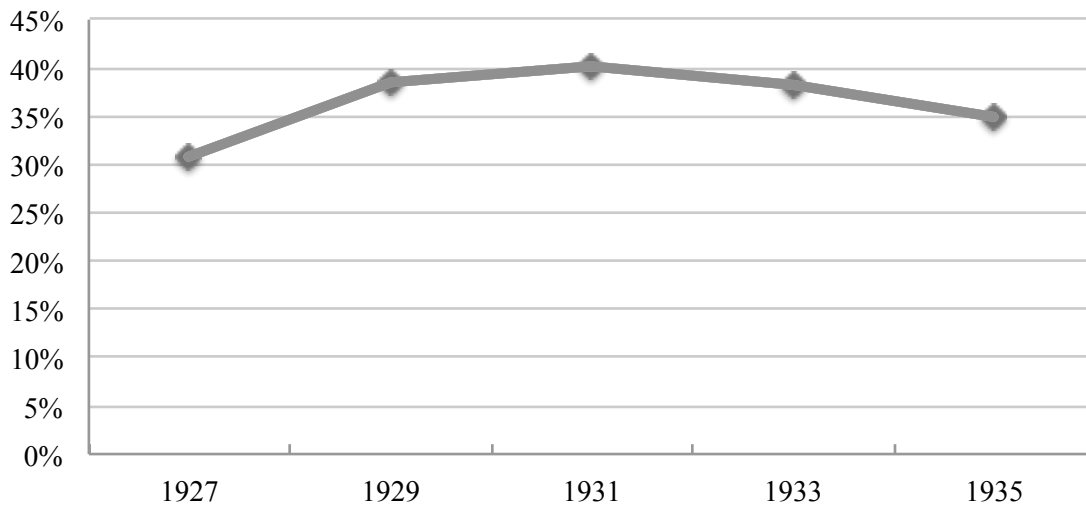
Corporal Punishment Statistics for Prisoners by Year Received at Louisiana State Penitentiary, 1927, 1929, 1931, 1933, 1935

<u>Year</u>	<u>Prisoners Receiving Corporal Punishment</u>	<u>Median Instance per Person</u>	<u>Median Lash Count per Person</u>	<u>Average Lash Count per Corporal Punishment Instance</u>
1927	230	2	15	8
1929	338	2	25	13
1931	529	2	30	15
1933	446	2	27	14
1935	389	2	22	11
Total	1,932	2	24	12

Source: LSPPD.

**Figure B.9**

Percentage of Prisoners by Year Received at Louisiana State Penitentiary that Received Corporal Punishment, 1927, 1929, 1931, 1933, 1935



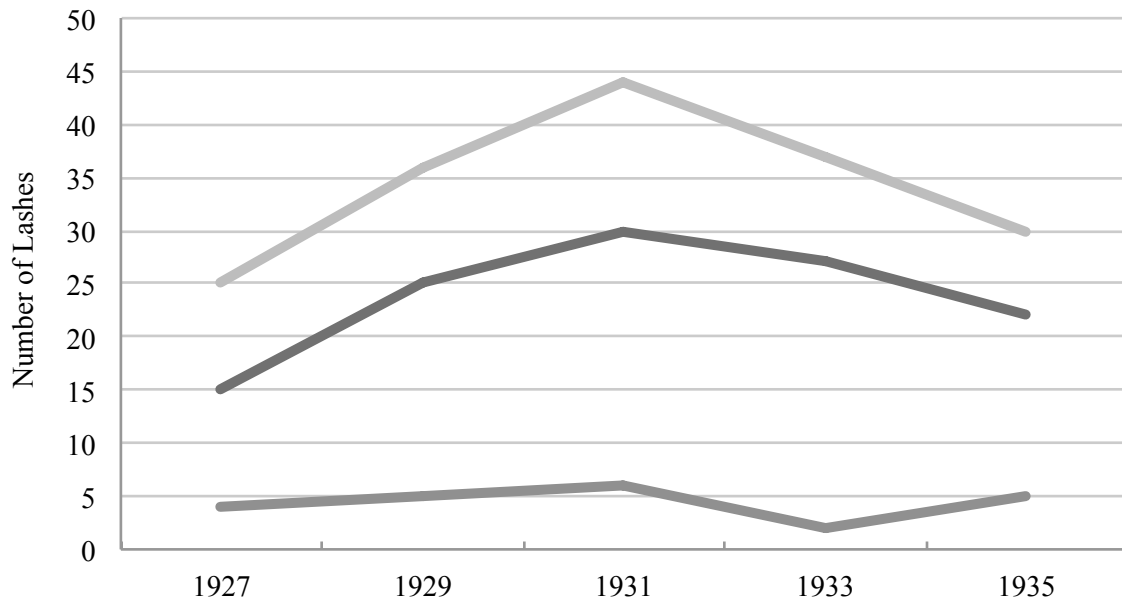
Source: LSPPD.

**Table B.20**  
Lash Count Statistics for Prisoners Who Received Corporal Punishment  
by Year Received at Louisiana State Penitentiary,  
1927, 1929, 1931, 1933, 1935

Year	Median	Average	Minimum	Maximum
1927	15	25	4	182
1929	25	36	5	302
1931	30	44	6	314
1933	27	37	2	370
1935	22	30	5	323
Total	25	36	1	370

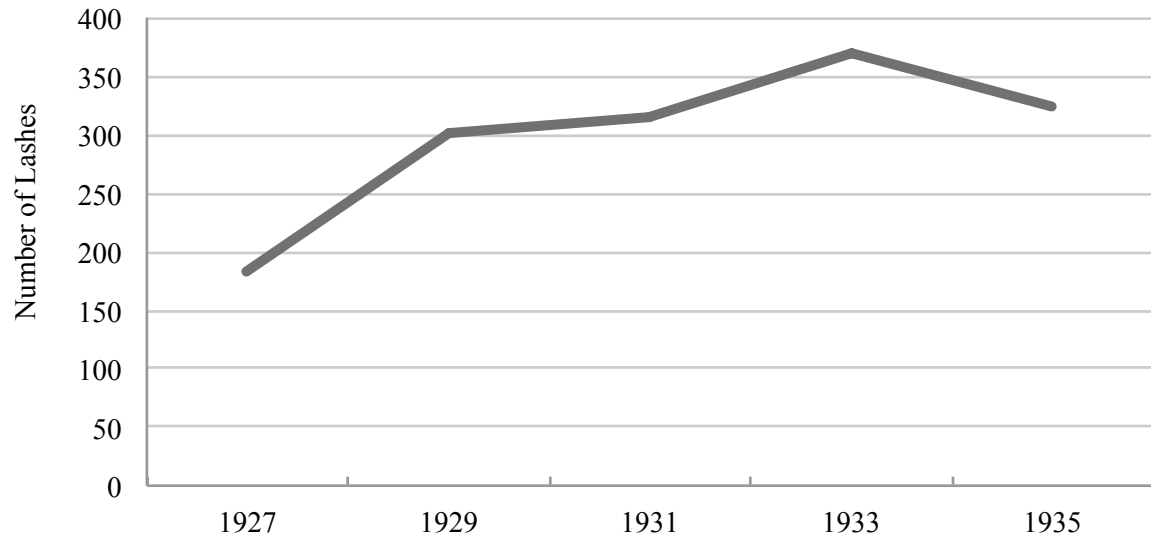
Source: LSPPD.

**Figure B.10**  
Lash Count Statistics for Prisoners Who Received Corporal Punishment  
by Year Received at Louisiana State Penitentiary,  
1927, 1929, 1931, 1933, 1935



Source: LSPPD.

**Figure B.11**  
Maximum Lash Count for Prisoners Who Received Corporal Punishment  
by Received at Louisiana State Penitentiary,  
1927, 1929, 1931, 1933, 1935



*Source: LSPPD.*

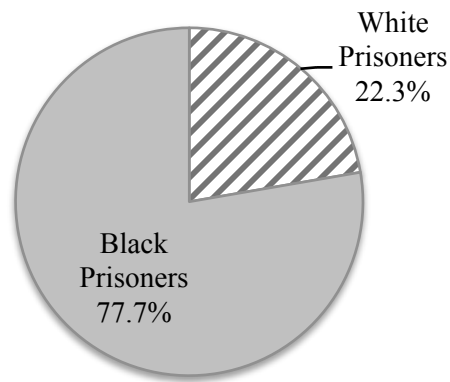
**Table B.21**

Lash Count Statistics for Prisoners by Race and Year Received at Louisiana State Penitentiary Who Received Corporal Punishment,  
1927, 1929, 1931, 1933, 1935

<u>Year</u>	<u>Prisoners Receiving Corporal Punishment</u>	<u>Median</u>	<u>Black Average</u>	<u>Maximum</u>	<u>Minimum</u>	<u>Prisoners Receiving Corporal Punishment</u>	<u>Median</u>	<u>White Average</u>	<u>Maximum</u>	<u>Minimum</u>
1927	155	18	28	182	5	51	10	17	57	5
1929	247	25	38	302	5	91	20	30	115	1
1931	426	30	47	314	5	103	20	30	145	1
1933	352	30	39	370	10	94	25	29	105	2
1935	319	22	31	323	5	91	20	25	118	5
Total	1,499		38	370	5	430		27	145	1

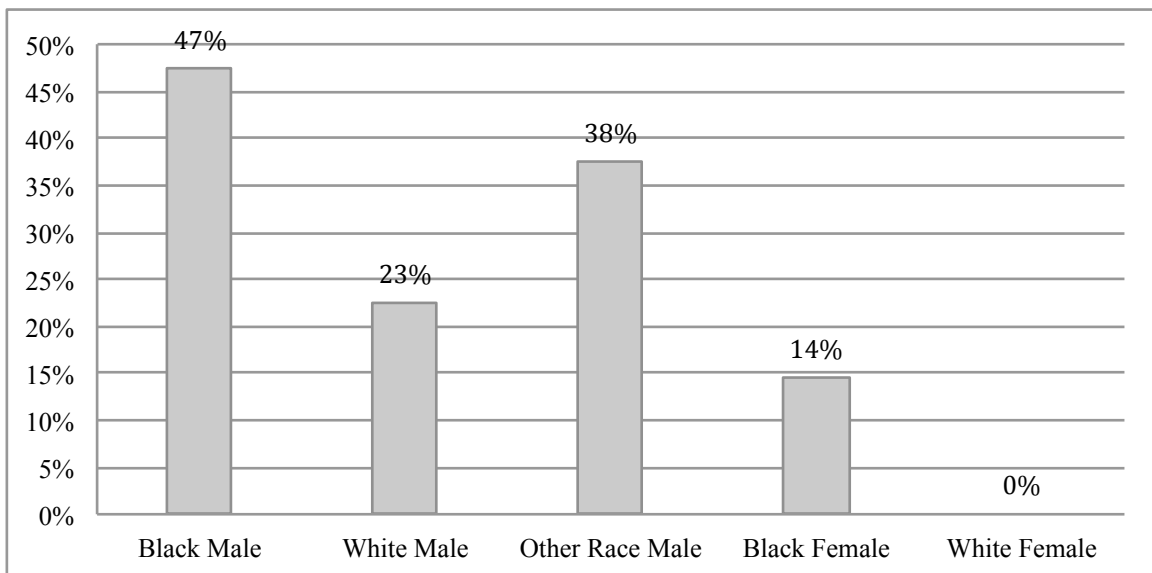
Source: LSPPD.

**Figure B.12**  
Race of Prisoners Received at Louisiana State Penitentiary Who Received Corporal Punishment, 1927, 1929, 1931, 1933, 1935



Source: LSPPD.

**Figure B.13**  
Prisoners Received at Louisiana State Penitentiary Who Received Corporal Punishment by Race and Sex, 1927, 1929, 1931, 1933, 1935



Source: LSPPD.



**Table B.22**  
Parish of Conviction for Prisoners by Year Received at Louisiana State Penitentiary,  
1927, 1929, 1931, 1933, 1935

<u>Parish</u>	<u>1927</u>	<u>1929</u>	<u>1931</u>	<u>1933</u>	<u>1935</u>
Acadia	9	15	21	23	23
Allen	9	13	14	10	8
Ascension	1	5	5	8	22
Assumption		2	1	1	3
Avoyelles	6	7	19	12	6
Baton Rouge	1				
Beauregard	15	16	26	10	11
Bienville	16	13	11	19	15
Bossier	6	16	30	32	24
Caddo	57	64	110	124	109
Calcasieu	27	50	48	48	49
Caldwell	7	6	11	4	7
Cameron			2	1	1
Catahoula	3	1	16	3	5
Claiborne	16	9	24	19	25
Concordia	13	4	11	9	8
De Soto	19	9	30	14	20
East Baton Rouge	31	35	56	60	34
East Carroll	15	11	20	24	21
East Feliciana	4	6	11	7	6
Evangeline	6	19	9	22	4
Franklin	6	17	16	14	28
Grant	12	8	7	9	2
Iberia	3	3	9	11	11
Iberville	2	12	8	7	5
Jackson	6	4	14	8	3
Jeff Davis	2	10	8	15	11
Jefferson	12	11	13	19	14
Jefferson Davis	3				
La Salle	7	12	11	3	2
Lafayette	6	9	20	10	10
Lafourche			4	3	5
Lincoln	9	8	9	22	19
Livingston	4	8	7	6	11
Madison	15	15	38	30	21
Morehouse	18	16	19	13	22
Natchitoches	7	19	40	13	22

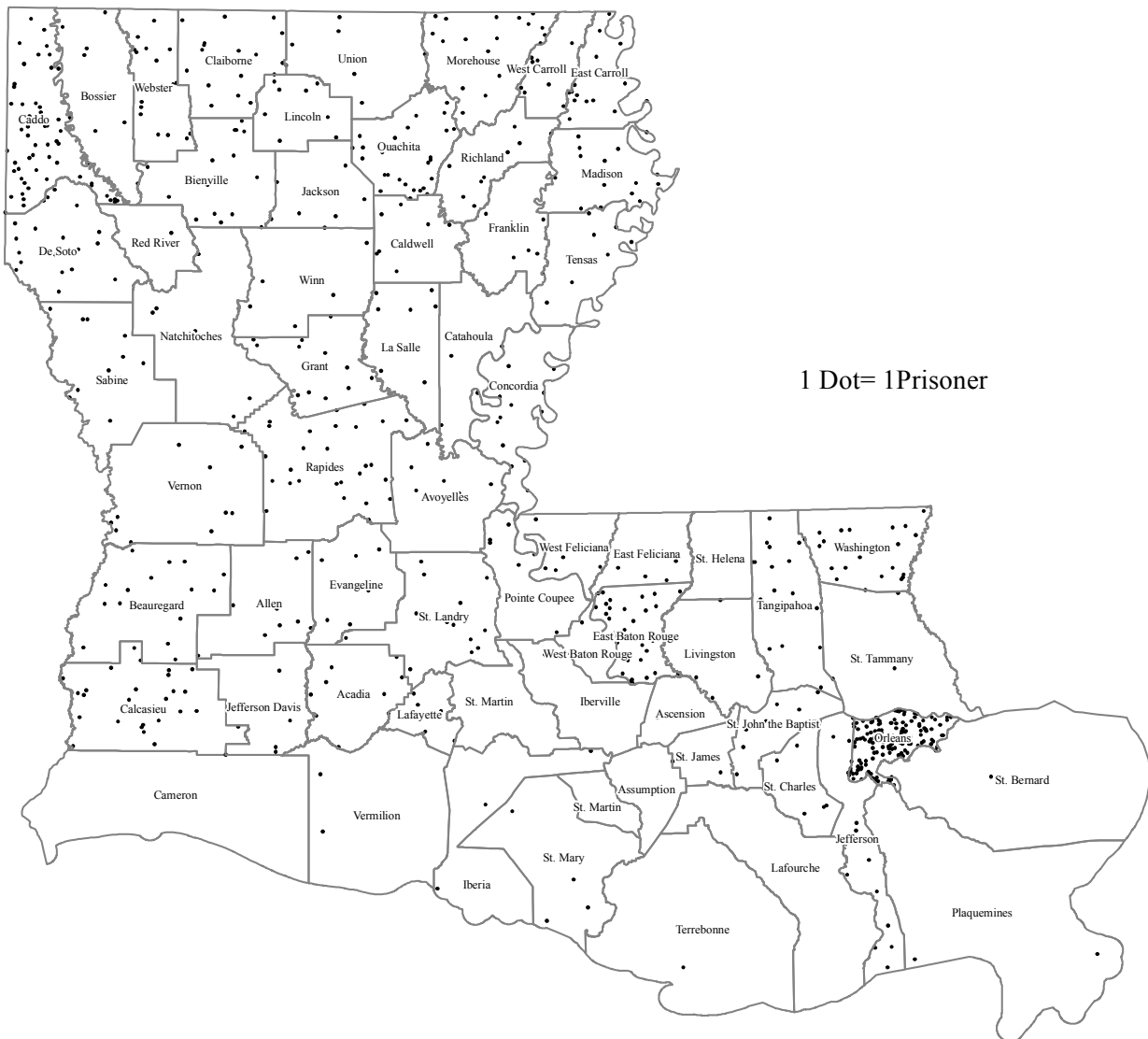
Source: LSPPD.

**Table B.22 (cont'd)**  
Parish of Conviction for Prisoners by Year Received at Louisiana State Penitentiary,  
1927, 1929, 1931, 1933, 1935

<u>Parish</u>	<u>1927</u>	<u>1929</u>	<u>1931</u>	<u>1933</u>	<u>1935</u>
Orleans	146	175	209	171	189
Ouachita	28	48	55	70	64
Pointe Coupe	6	8	9	8	2
Plaquemines	2	3	1	3	
Rapides	29	26	38	32	37
Red River	1	3	7	3	4
Richland	9	12	42	26	12
Sabine	12	7	19	21	9
St. John the Baptist	7		5	4	4
St. Bernard	1	1	1		
St. Charles	5	2	1	2	5
St. Helena		7	2		5
St. James	2	1	4	2	1
St. Landry	14	11	22	24	5
St. Martin		1	6		11
St. Mary	4	2	5	10	12
St. Tammany	3	21	16	15	15
Tangipahoa	16	22	30	19	13
Tensas	8	7	11	6	5
Terrebonne	1	1	6	5	9
Union	7	10	11	5	12
Vermillion	3	5	8	9	9
Vernon	10	5	19	3	5
Washington	22	16	23	35	37
Webster	17	6	20	11	19
West Baton Rouge	2	2	5	13	5
West Carroll	9	3	15	18	13
West Feliciana	5	4	11	8	4
Winn	6	16	16	7	10
NA	1		1		12

*Source: LSPPD.*

**Figure B.14**  
 Dot Density Map of Parish of Conviction for Prisoners Received at Louisiana State Penitentiary,  
 1927



Source: LSPPD.

**Figure B.15**  
 Dot Density Map of Parish of Conviction for Prisoners Received at Louisiana State Penitentiary,  
 1929



*Source: LSPPD.*

**Figure B.16**  
 Dot Density Map of Parish of Conviction for Prisoners Received at Louisiana State Penitentiary,  
 1931



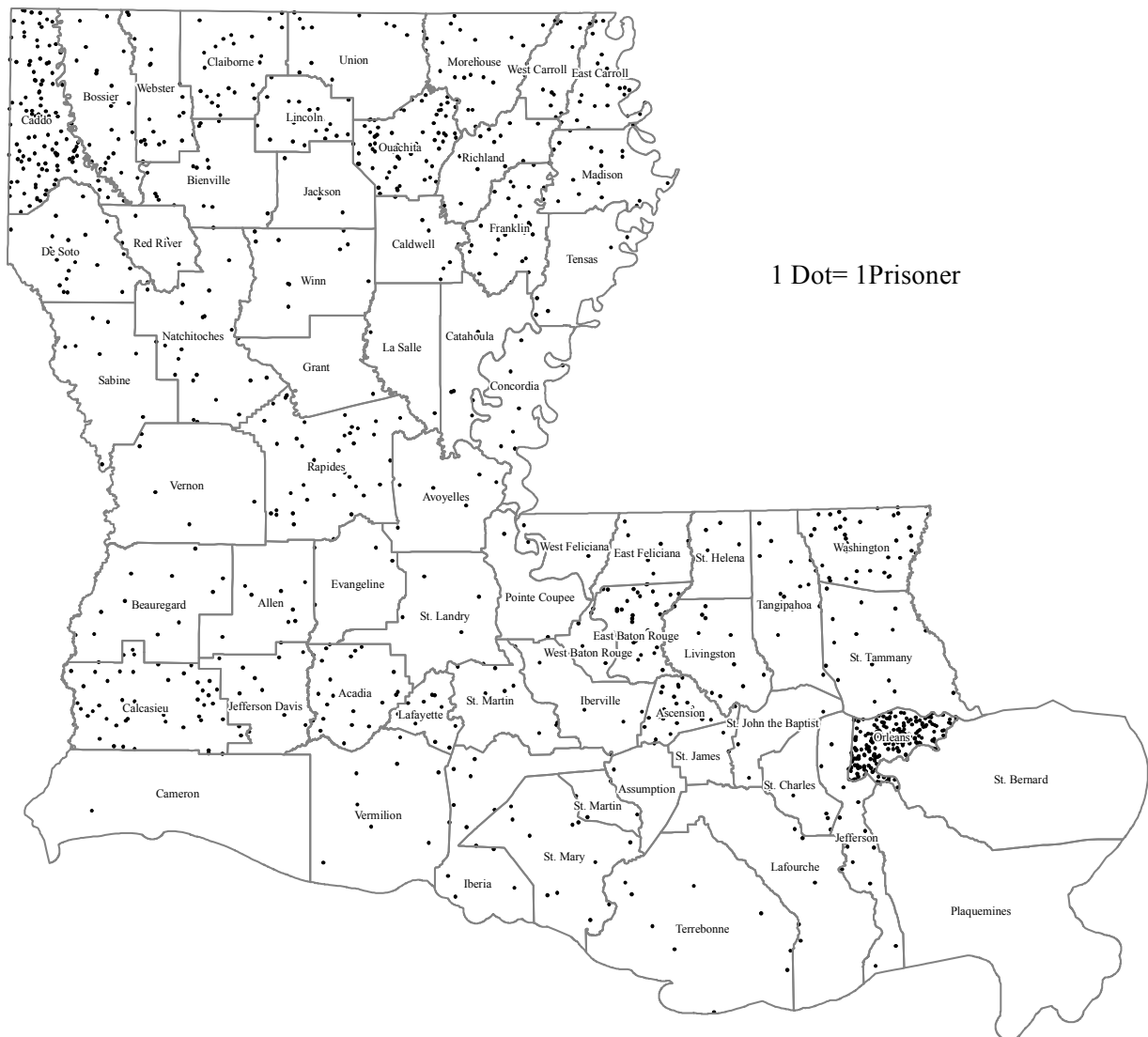
Source: LSPPD.

**Figure B.17**  
 Dot Density Map of Parish of Conviction for Prisoners Received at Louisiana State Penitentiary,  
 1933



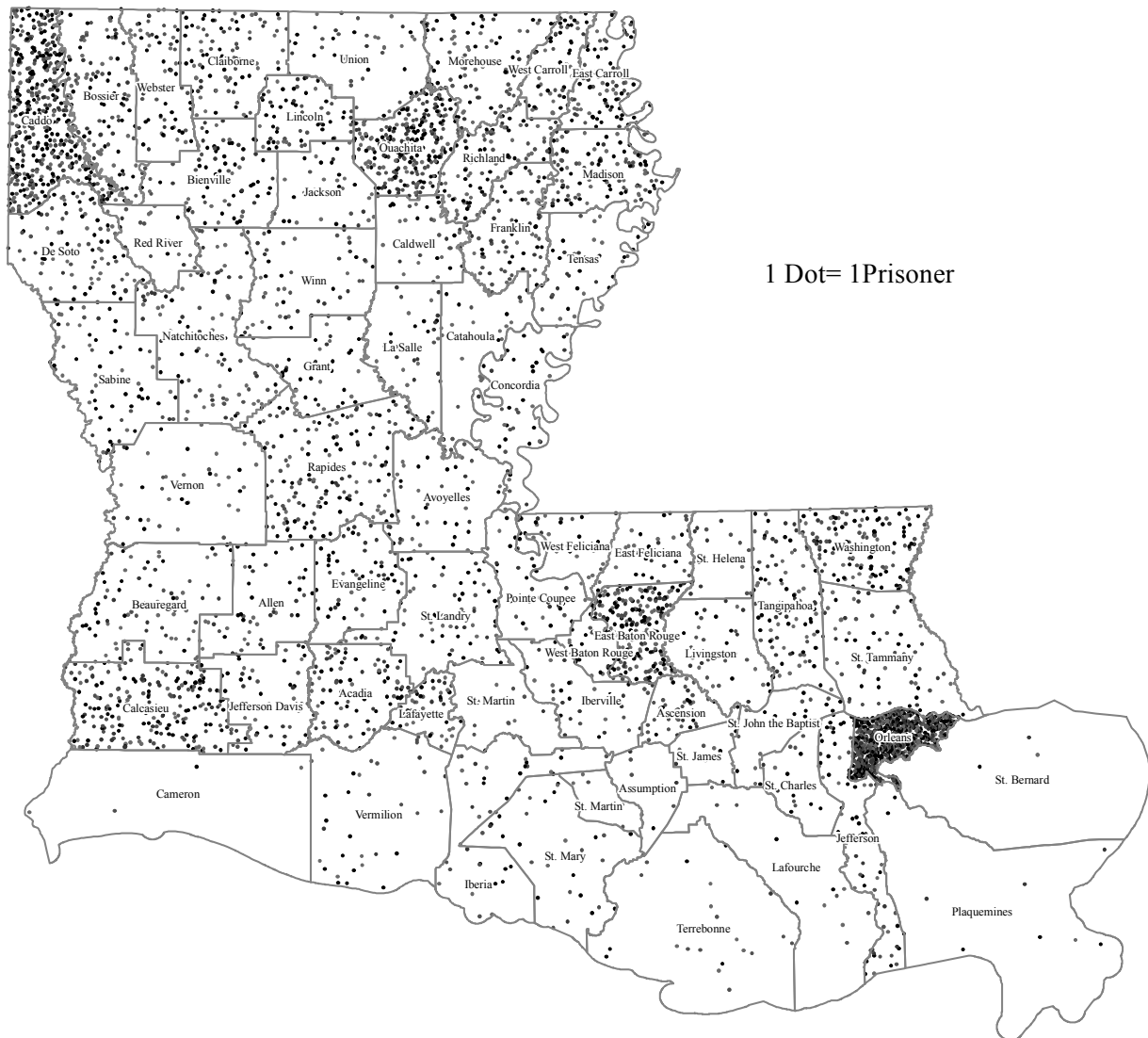
Source: LSPPD.

**Figure B.18**  
Dot Density Map of Parish of Conviction for Prisoners Received at Louisiana State Penitentiary,  
1935



Source: LSPPD.

**Figure B.19**  
 Combined Dot Density Map of Parish of Conviction for Prisoners Received at Louisiana State Penitentiary, 1927, 1929, 1931, 1933, 1935



Source: LSPPD.



**Table B.23**  
Crime Convictions for Prisoners by Year Received at Louisiana State Penitentiary,  
1927, 1929, 1931, 1933, 1935

<u>Crime</u>	<u>1927</u>	<u>1929</u>	<u>1931</u>	<u>1933</u>	<u>1935</u>	<u>Total</u>
<b><i>Crimes Against Property</i></b>	<b>497</b>	<b>511</b>	<b>846</b>	<b>713</b>	<b>720</b>	<b>3,287</b>
arson	2	2	2	9	5	20
arson and theft			1			1
attempted arson			2			2
attempted breaking and entering			2			2
attempted theft			5		2	7
attempted theft of livestock					1	1
breaking and entering	76	79	137	162	170	624
breaking and entering and property destruction					1	1
breaking and entering and theft	1	18	14	24	28	85
confidence game	15	6	12	10	17	60
embezzlement	15	14	12	11	7	59
entering	2	2	4	9	20	37
entering and theft	1	1	1	2	6	11
false pretense	4	13	4	3	9	33
forgery	42	41	56	24	23	186
forgery and theft		1	1		1	3
possession of stolen goods	18	19	49	38	27	151
property destruction		8	11	1	3	23
property destruction and theft of livestock			1			1
theft	297	274	440	395	353	1,759
theft of crops		2	2		3	7
theft of livestock	24	31	90	25	44	214

*Source: LSPPD.*

**Table B.23 (cont'd)**  
Crime Convictions for Prisoners by Year Received at Louisiana State Penitentiary,  
1927, 1929, 1931, 1933, 1935

<b><i>Crimes Against Person</i></b>	<b>206</b>	<b>241</b>	<b>313</b>	<b>280</b>	<b>225</b>	<b>1,265</b>
accessory before the act of murder		1				1
assault	21	5	16	5	4	51
assault with weapon	7	13	17	21	7	65
attempted assault	1		2			3
attempted manslaughter	19					19
attempted murder	31	69	110	86	81	377
attempted rape	11	17	14	16	12	70
involuntary homicide			1	7	3	11
involuntary manslaughter				1	1	2
kidnapping				4	3	7
manslaughter	71	87	95	90	65	408
manslaughter and attempted murder				1		1
murder	45	47	56	47	45	240
rape		2	2	2	4	10

*Source: LSPPD.*

**Table B.23 (cont'd)**  
Crime Convictions for Prisoners by Year Received at Louisiana State Penitentiary,  
1927, 1929, 1931, 1933, 1935

<b><i>Crimes Against Person and Property</i></b>	<b>19</b>	<b>81</b>	<b>111</b>	<b>132</b>	<b>74</b>	<b>417</b>
assault and robbery	1	35	20	24	8	88
assault with weapon and breaking and entering			1			1
assault with weapon and theft				1	1	2
attempted murder and robbery					2	2
attempted murder and theft			1		1	2
attempted robbery	6	5	15	18	2	46
blackmail		1	4	1		6
breaking and entering and robbery				2	1	3
bribery				1		1
kidnapping and robbery	1			2		3
manslaughter and confidence game				1		1
manslaughter and theft of livestock				1		1
robbery	9	40	70	81	59	259
robbery and forgery	2					2
<b><i>Crimes Against Public Morality</i></b>	<b>15</b>	<b>25</b>	<b>21</b>	<b>18</b>	<b>23</b>	<b>102</b>
advising use of drug for the purpose of procuring and abortion					1	1
bigamy	5	7	5	2	1	20
buggery		1				1
carnal knowledge	7	13	16	12	16	64
concubinage	1					1
incest	1	3		2	2	8
pandering				1	2	3
prostitution				1	1	2
sodomy	1	1				2

Source: LSPPD.

**Table B.23 (cont'd)**  
Crime Convictions for Prisoners by Year Received at Louisiana State Penitentiary,  
1927, 1929, 1931, 1933, 1935

<b><i>Other Crimes</i></b>	<b>10</b>	<b>14</b>	<b>20</b>	<b>13</b>	<b>67</b>	<b>124</b>
assisting prisoner escape			3	1		4
conspiracy	1	7	6	11		25
driving while drunk		1		1	2	4
driving while drunk and injuring	1	3	7		6	17
driving while drunk and injuring and theft	1					1
drug distribution					7	7
drug possession					8	8
drug possession and/or distribution					39	39
drug possession and/or distribution and possession of stolen goods					1	1
dynamatizing					1	1
escape			1			1
obstructing railroad property	2				1	3
perjury	1	2	1		1	5
resisting an officer	4	1				5
tampering with witness			2			2
throwing missile at passenger train					1	1
<b><i>NA</i></b>	<b>2</b>	<b>6</b>	<b>5</b>	<b>7</b>	<b>6</b>	<b>26</b>

*Source: LSPPD.*

**Table B.24**  
Classes of Crime Convictions for Prisoners by Year Received at Louisiana State Penitentiary,  
1927, 1929, 1931, 1933, 1935

<u>Crime Classes</u>	<u>1927</u>		<u>1929</u>		<u>1931</u>		<u>1933</u>		<u>1935</u>		<u>Total</u>	
	<u>Count</u>	<u>%</u>	<u>Count</u>	<u>%</u>	<u>Count</u>	<u>%</u>	<u>Count</u>	<u>%</u>	<u>Count</u>	<u>%</u>	<u>Count</u>	<u>%</u>
Crimes Against Property	497	66%	511	58%	846	64%	713	61%	720	65%	3,287	63%
Crimes Against Person	206	28%	241	27%	313	24%	280	24%	225	20%	1,265	24%
Crimes Against Person and Property	19	3%	81	9%	111	8%	132	11%	74	7%	417	8%
Crimes Against Public Morality	15	2%	25	3%	21	2%	18	2%	23	2%	102	2%
Other Crimes	10	1%	14	2%	20	2%	13	1%	67	6%	124	2%
NA	2	0.27%	6	0.68%	5	0.38%	7	0.60%	6	0.54%	26	0.50%

*Source: LSPPD.*

**Table B.25**

Classes of Crime Convictions for Prisoners by Race, Sex, and Year Received at Louisiana State Penitentiary, 1927, 1929, 1931, 1933, 1935

	<u>Crimes Against Property</u>	<u>Crimes Against Person</u>	<u>Crimes Against Property and Person</u>	<u>Crimes Against Public Morality</u>	<u>Other Crimes</u>	<u>NA</u>
<b>1927</b>						
Black Male	273	144	2	3	7	1
White Male	209	44	16	12	2	1
Other Male	3	1	-	-	-	-
Black Female	12	17	-	-	1	-
White Female	-	-	1	-	-	-
<b>1929</b>						
Black Male	287	170	26	7	6	3
White Male	212	55	54	18	8	3
Other Male	-	-	-	-	-	-
Black Female	11	15	1	-	-	-
White Female	1	1	-	-	-	-
<b>1931</b>						
Black Male	504	217	36	5	9	3
White Male	326	62	72	15	11	2
Other Male	-	-	-	-	-	-
Black Female	15	33	1	-	-	-
White Female	1	1	2	1	-	-
<b>1933</b>						
Black Male	462	189	43	5	6	3
White Male	235	70	85	12	7	4
Other Male	2	-	-	-	-	-
Black Female	13	18	3	-	-	-
White Female	1	3	1	1	-	-
<b>1935</b>						
Black Male	469	162	33	7	30	1
White Male	241	44	38	14	32	5
Other Male	-	-	-	-	2	-
Black Female	9	18	2	1	3	-
White Female	1	1	1	1	-	-

Source: LSPPD.

**Table B.26**  
Classes of Crime Convictions for Prisoners by Age and Year Received at Louisiana State  
Penitentiary  
1927, 1929, 1931, 1933, 1935

	<u>Crime Against Property</u>	<u>Crime Against Person</u>	<u>Crime Against Property and Person</u>	<u>Crime Against Public Morality</u>	<u>Other</u>	<u>N A</u>
<b>1927</b>						
12 - 15	1	1	-	-	-	-
16 - 21	226	53	7	1	3	-
22 - 30	164	86	9	8	6	1
31 - 40	72	43	2	4	-	-
41 - 50	21	16	1	1	1	-
51+	13	7	-	1	-	1
<b>1929</b>						
12 - 15	-	3	-	-	-	-
16 - 21	183	48	37	5	3	-
22 - 30	193	93	33	10	2	2
31 - 40	79	52	10	6	4	2
41 - 50	45	30	1	3	2	2
51+	11	15	-	1	3	-
<b>1931</b>						
12 - 15	3	3	-	-	-	-
16 - 21	291	67	42	3	6	1
22 - 30	338	122	48	7	5	3
31 - 40	125	72	14	5	7	1
41 - 50	55	31	6	4	-	-
51+	33	18	1	2	2	-
<b>1933</b>						
12 - 15	-	6	-	-	-	-
16 - 21	230	47	35	2	3	-
22 - 30	309	116	65	7	7	2
31 - 40	117	66	20	7	1	4
41 - 50	34	29	9	-	2	-
51+	22	16	3	1	-	1
<b>1935</b>						
12 - 15	-	2	-	-	-	-
16 - 21	237	39	28	4	7	-
22 - 30	268	83	31	9	33	2
31 - 40	144	70	12	3	20	2
41 - 50	39	17	2	6	7	1
51+	29	14	1	1	-	1

Source: LSPPD. Note: n = 5,215

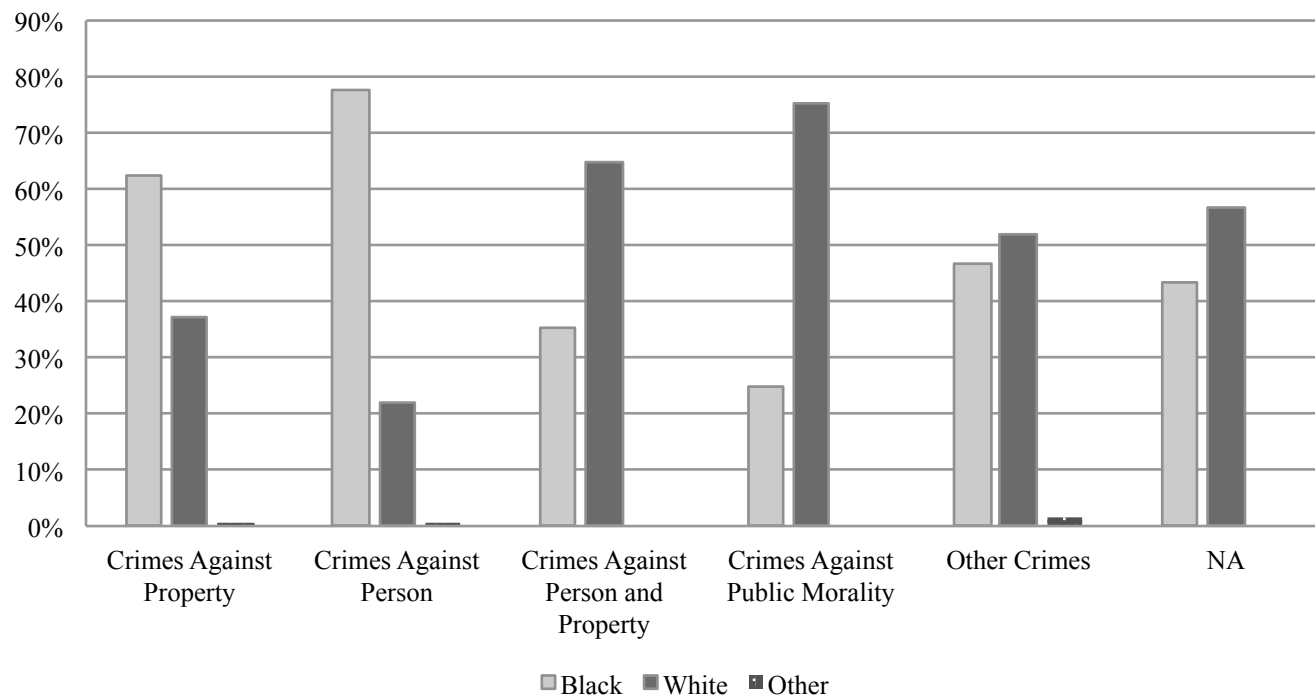
**Table B.27**  
Classes of Crime Convictions for Prisoners by Literacy and Year Received at Louisiana State Penitentiary,  
1927, 1929, 1931, 1933, 1935

<u>Crime Category</u>	<u>1927</u>		<u>1929</u>		<u>1931</u>		<u>1933</u>		<u>1935</u>	
	<u>Literate</u>	<u>Not Literate</u>	<u>Literate</u>	<u>Not Literate</u>	<u>Literate</u>	<u>Not Literate</u>	<u>Literate</u>	<u>Not Literate</u>	<u>Literate</u>	<u>Not Literate</u>
Crimes Against Property	376	121	361	150	543	302	481	233	545	175
Crimes Against Person	121	85	147	94	170	142	161	118	141	86
Crimes Against Person and Property	18	1	70	12	94	18	108	24	59	13
Crimes Against Public Morality	11	4	17	7	14	8	13	4	16	8
Other Crimes	7	3	12	2	13	7	11	2	55	12
NA	1	1	3	3	4	1	3	4	4	2

*Source: LSPPD.*

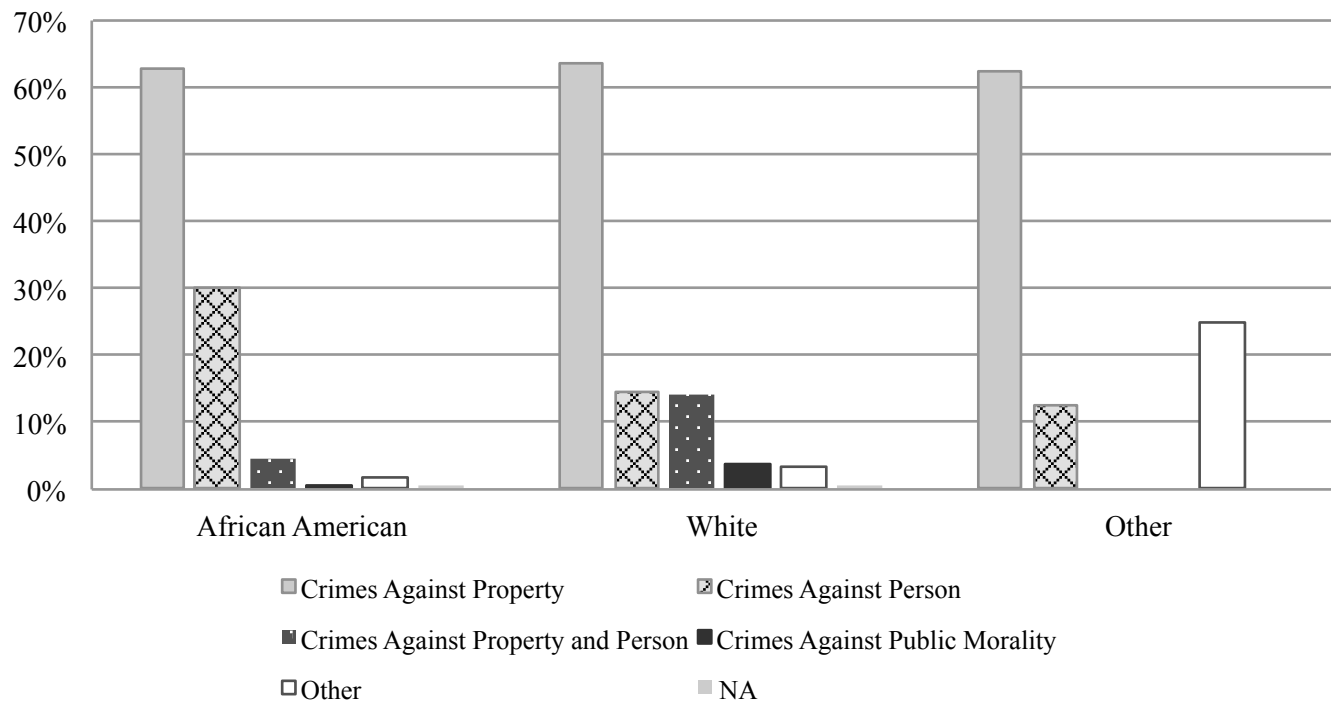


**Figure B.20**  
Race and Classes of Crime Convictions for Prisoners Received at Louisiana State Penitentiary,  
1927, 1929, 1931, 1933, 1935



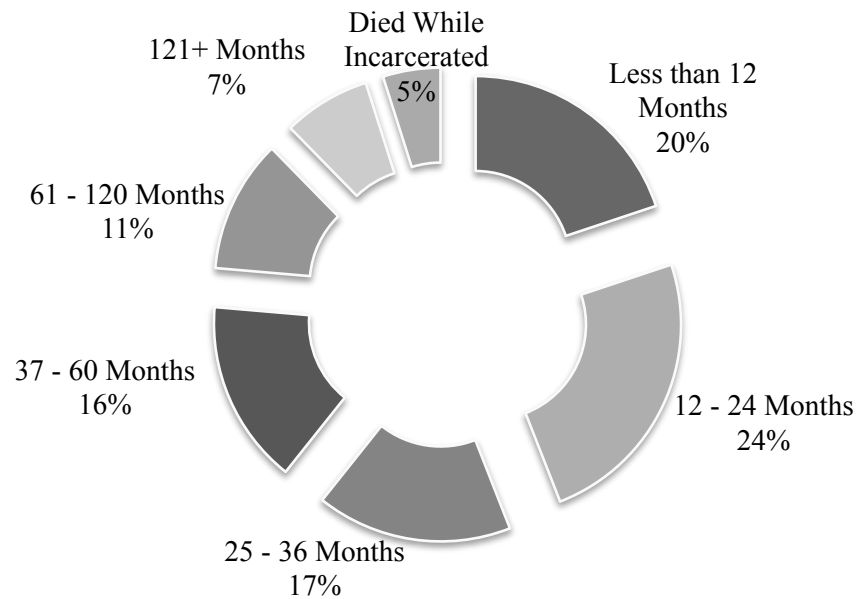
Source: LSPPD.

**Figure B.21**  
Classes of Crime Convictions for Prisoners Received at Louisiana State Penitentiary by Race,  
1927, 1929, 1931, 1933, 1935



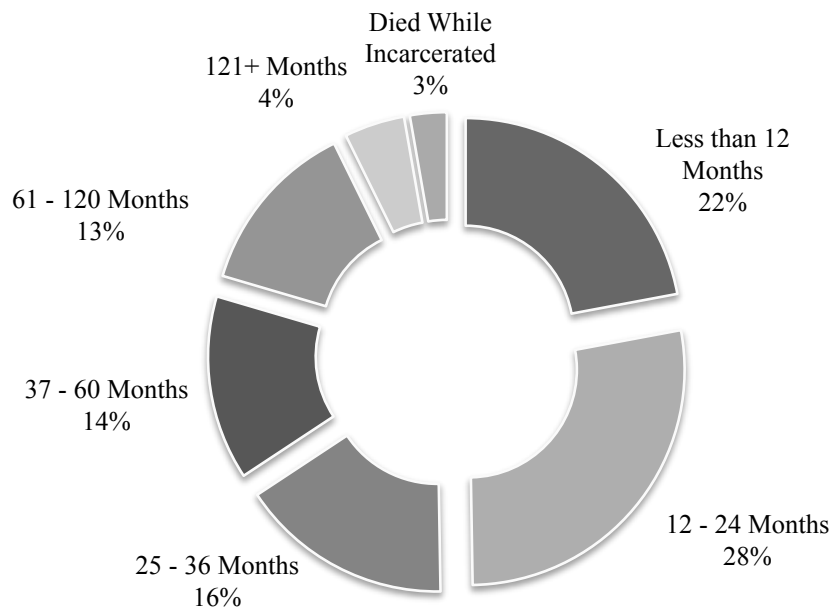
Source: LSPPD.

**Figure B.22**  
Time Served by Black Prisoners Received at Louisiana State Penitentiary,  
1927, 1929, 1931, 1933, 1935



Source: LSPPD.

**Figure B.23**  
Time Served by White Prisoners Received at Louisiana State Penitentiary,  
1927, 1929, 1931, 1933, 1935



Source: LSPPD.

**Table B.28**  
Time Served by Prisoners by Race, Sex, and Year Received at Louisiana State Penitentiary,  
1927, 1929, 1931, 1933, 1935

<u>Time Served</u>	<u>1927</u>	<u>1929</u>	<u>1931</u>	<u>1933</u>	<u>1935</u>	<u>Total</u>
<b><i>Less than 12 Months</i></b>						
Black Male	67	88	190	127	130	602
White Male	71	73	122	86	71	423
Other Race Male	1	-	-	-	-	1
Black Female	3	9	20	9	9	50
White Female	-	1	-	-	1	2
<b><i>12 - 24 Months</i></b>						
Black Male	118	114	178	185	163	758
White Male	109	99	134	111	84	530
Other Race Male	-	-	-	-	-	-
Black Female	10	5	12	11	6	44
White Female	-	1	1	-	1	3
<b><i>25 - 36 Months</i></b>						
Black Male	74	105	103	112	110	504
White Male	31	56	76	75	66	304
Other Race Male	1	-	-	-	-	1
Black Female	9	9	7	10	11	46
White Female	-	-	1	3	-	4
<b><i>37 - 60 Months</i></b>						
Black Male	85	47	119	116	108	475
White Male	32	42	64	61	67	266
Other Race Male	1	-	-	1	2	4
Black Female	8	4	11	4	7	34
White Female	-	-	2	-	-	2

Source: LSPPD.

**Table B.28 (cont'd)**  
Time Served by Prisoners by Race, Sex, and Year Received at Louisiana State Penitentiary,  
1927, 1929, 1931, 1933, 1935

<u>Time Served</u>	<u>1927</u>	<u>1929</u>	<u>1931</u>	<u>1933</u>	<u>1935</u>	<u>Total</u>
<b><i>61 - 120 Months</i></b>						
Black Male	41	71	81	75	102	370
White Male	27	52	66	48	54	247
Other Race Male	1	-	-	1	-	2
Black Female	-	-	-	-	-	-
White Female	1	-	-	3	2	6
<b><i>121 Months+</i></b>						
Black Male	22	47	61	57	56	243
White Male	13	18	15	19	22	87
Other Race Male	-	-	-	-	-	-
Black Female	-	-	-	-	-	-
White Female	-	-	-	-	-	-
<b><i>Died While Incarcerated</i></b>						
Black Male	23	27	41	36	33	160
White Male	8	10	12	13	10	53
Other Race Male	-	-	-	-	-	-
Black Female	-	-	-	-	-	-
White Female	-	-	-	-	-	-

Source: LSPPD.

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