



SLAVERY by Another Name

***Slavery by Another Name* History Background**

By Nancy O'Brien Wagner, Bluestem Heritage Group

Introduction

For more than seventy-five years after the Emancipation Proclamation and the end of the Civil War, thousands of blacks were systematically forced to work against their will. While the methods of forced labor took on many forms over those eight decades — peonage, sharecropping, convict leasing, and chain gangs — the end result was a system that deprived thousands of citizens of their happiness, health, and liberty, and sometimes even their lives.

Though forced labor occurred across the nation, its greatest concentration was in the South, and its victims were disproportionately black and poor. Ostensibly developed in response to penal, economic, or labor problems, forced labor was tightly bound to political, cultural, and social systems of racial oppression.

Setting the Stage: The South after the Civil War

After the Civil War, the South's economy, infrastructure, politics, and society were left completely destroyed.

Years of warfare had crippled the South's economy, and the abolishment of slavery completely destroyed what was left. The South's currency was worthless and its financial system was in ruins. For employers, workers, and merchants, this created many complex problems. With the abolishment of slavery, much of Southern planters' wealth had disappeared. Accustomed to the unpaid labor of slaves, they were now faced with the need to pay their workers — but there was little cash available. In this environment, intricate systems of forced labor, which guaranteed cheap labor and ensured white control of that labor, flourished.

For a brief period after the conclusion of fighting in the spring of 1865, Southern whites maintained control of the political system. Desperate to recreate the previous social and economic system and control the movement and freedom of blacks, the white politicians enacted "Black Codes" that denied blacks the rights to testify against whites, to serve on juries or in state militias, or to vote. In response to planters' demands that the freed people be required to work on the plantations, the Black Codes declared that those who failed to sign yearly labor contracts could be arrested and hired out to white landowners. Some states limited the occupations open to blacks and barred them from acquiring land, and others allowed judges to

assign black children to work for their former owners without the consent of their parents.

Reconstruction and the Birth of Convict Leasing and Peonage in the South

In 1866, Republicans took control of the South's political system and, in what became known as "Reconstruction," attempted to rebuild the South's economy, politics, and culture.

Radical Republicans created the Freedmen's Bureau to offer former slaves food, clothing, and advice on labor contracts. The Thirteenth, Fourteenth and Fifteenth Amendments were passed in order to attempt to bring equality to blacks. Initially, with federal laws and federal troops offering protection, blacks began to vote and gain political power. The Black Codes were quickly repealed in 1866. But in 1877, in part because of Northern exhaustion and Southern protests, the federal government withdrew from the South, and black disenfranchisement and unchecked oppression quickly followed.

With Southern whites fully in power after the federal government pulled out, Southern states began to heavily enforce a series of laws that unfairly penalized poor African Americans for crimes. "Pig laws" made the theft of a farm animal worth a dollar punishable by as much as five years in jail. Vagrancy statutes made it a crime not to have a job or be able to show proof of employment. While these laws did not specifically mention African Americans, they were rarely enforced for whites. The result was a huge increase in the number of blacks arrested and convicted and the rise of the labor system known as convict leasing.

Convict Leasing

Initially, to save money on prison construction and later to actually generate revenue, Southern states and counties began leasing "convicts" to commercial enterprises. Within a few years states realized they could lease out their convicts to local planters or industrialists who would pay minimal rates for the workers and be responsible for their housing and feeding, thereby eliminating costs and increasing revenue. Soon, markets for convict laborers developed, with entrepreneurs buying and selling convict labor leases. From county courthouses and jails, men were leased to local plantations, lumber camps, factories and railroads. The convict lease system became highly profitable for the states.

To employers and industrialists, these men represented cheap, disposable labor. The costs to lease a laborer were minimal, and the cost of providing housing, food, clothing and medical treatment could be kept low. Replacement costs were cheap. Unlike in slavery, there was no incentive to treat a laborer well. (Slaves were expensive to purchase, but might create new profit by having children who became more slaves, and could live with a family for generations.)

But for victims and all Southern blacks, convict leasing was a horror. Prisoners were often transferred far from their homes and families. The paperwork and debt record

of individual prisoners was often lost, and the men were unable to prove they had paid their debts — and were otherwise assumed they hadn't. Working conditions at the convict leasing sites were often terrible: illness, lack of proper food, clothing, or shelter as well as cruel punishments, torture and even death.

Though the profits from convict leasing brought funds to the states' coffers, the public (both Southerners and Northerners) became uncomfortable with the practice of convict leasing. As part of a series of reforms, Alabama created an office of prison inspector to oversee conditions for convict laborers. The inspectors described wretched conditions for convict laborers. New rules for leasing began to require minimum standards for treatment and rules for punishments. These reforms brought only modest improvements.

Peonage

Another way that blacks were forced into labor was through a system known as "peonage." Peonage, also called debt slavery or debt servitude, was a system where an employer compelled a worker to pay off a debt with work. Peonage had been in use in New Mexico Territory before the Civil War. Although Congress deemed that peonage was illegal in the Anti-Peonage Law of 1867, the practice began to flourish in the South after Reconstruction.

A loophole in the Thirteenth Amendment that declared involuntary servitude illegal "except as a punishment for crime" was used to ensnare blacks into peonage.

In many cases, defendants were found guilty of real or fabricated crimes and were fined for both the crime and additional court fees. When the men were unable to pay, a local businessman would step forward to pay the fines. The convict would then sign a contract agreeing to work for him without pay until the debt was paid off.

A second method involved a defendant who, when faced with the likelihood of a conviction and the threat of being sent to a far-off work camp, would "confess judgment," essentially claiming responsibility before any trial occurred. A local businessman would step forward to act as "surety," vouching for the future good behavior of the defendant, and forfeiting a bond that would pay for the crime. The judge would accept the bond, without ever rendering a verdict on the crime. The defendant would then sign a contract agreeing to work without pay until the surety bond was paid off.

In other cases, workers became indebted to planters (through sharecropping), merchants (through credit) or company stores (through living expenses). Workers were often unable to re-pay the debt, and found themselves in a continuous work-without-pay cycle. Often struck in remote company towns or isolated plantations, workers were prevented from attempting escape by chains, cells, guards, dogs and violence. If they did attempt to flee their workplace or the spurious debt, they risked a very high chance of being picked up, found guilty of abandoning their debts, fined

court fees, and eventually returned to the same employer — or worse, “leased” to a convict mine.

There was little interest in prosecuting the employers who abused their forced laborers: the employers were rich, white, and often politically connected. Worse, many of the laborers had “agreed” to their unfair treatment when they had signed the contracts agreeing to work off their debt. Most were unable to read. Sometimes, the contracts stated that the men agreed to be locked up, to be physically punished, and that any expenses due to health care, new clothing, or re-capturing due to an escape attempt could be added to the total.

Progressivism and the Beginning of the End of Convict Leasing

By the 1890s, blacks in the South were suffering the worst treatment they had endured since the end of the Civil War. After the Supreme Court’s 1896 *Plessy v. Ferguson* decision, segregation became even more ensconced through a battery of Southern laws and social customs known as “Jim Crow.” Schools, theaters, restaurants and transportation cars were segregated. Poll taxes, literacy requirements and grandfather clauses not only prevented blacks from voting, but also made them ineligible to serve in jury pools or run for office. “Separate but equal” wasn’t just an unspoken custom, but a formal law.

Meanwhile, a new social and political movement was growing in the North. In response to significant economic, social, and political inequalities, “progressivism” advocated that the government should lead efforts to change society’s ills. When President Theodore Roosevelt took office in 1901, progressivism became a powerful national movement. He advocated for fair trade and pro-labor laws, including a decreased workweek, child labor restrictions and workplace safety rules.

Roosevelt’s attitudes on race fluctuated, though he was generally considered a moderate during his era. As governor of New York, he ended school segregation. As president, Roosevelt invited Booker T. Washington, a black civil rights leader, to dine at the White House. The resulting uproar over the perceived impropriety appeared to restrain Roosevelt, who never repeated the invitation. However, he did continue to advocate for a “square deal” for all citizens, appointing progressive judges and encouraging the prosecution of peonage.

While progressive leaders often focused on the needs of the poor and immigrants, they did *not* organize to promote black suffrage or equal rights. However, many black activists, journalists, and thinkers such as W.E.B. Du Bois, and the members of the National Association for the Advancement of Colored People (NAACP) fought for civil rights.

During this time, dramatic stories of the abuse and wretched conditions of convict laborers began to be publicized through trials and newspaper accounts. The egregiousness of the violence and corruption of the system began to turn public opinion against convict leasing. Public outrage over scandalous tales of abuse led

Tennessee to stop leasing convicts to coal mines in 1893, and to stop all leasing to other industries by 1896. South Carolina (1897), Louisiana (1901), Mississippi (1907), Georgia (1908), Arkansas (1913) and Florida (1923) followed suit.

Public concern about eliminating convict leasing did not reflect a desire to create political, economic, or social equality for blacks. In fact, during this time, new laws made private peonage even easier to establish. In Alabama, where convict leasing persisted, changes to contract labor laws ensnared more men into peonage. Previously, if a worker skipped out after receiving an advance, an employer had to prove that fraud had always been the worker's intention. A new 1903 law no longer required any evidence of bad intention by the worker; instead, any white employer could claim a black worker had taken an advance and not repaid it, and Alabama courts would not accept black workers' testimony in court. Georgia passed a similar law in 1903 and Florida in 1907.

Throughout the 1920s, a series of sensational crimes and trials brought attention to the pockets of convict leasing and peonage that remained. By 1928, Alabama became the final state to eliminate convict leasing by the state.

Chain Gangs

Though many Southern citizens and politicians wanted to abolish convict leasing, the problem of the expense and difficulty of housing convicts remained. Chain gangs developed as a popular solution to that problem. Chain gangs were groups of convicts forced to labor at tasks such as road construction, ditch digging, or farming while chained together. The improvements they made to public roadways had significant impact on rural areas, allowing planters to more quickly and easily transport their crops to market.

Chain gangs minimized the cost of guarding prisoners, but exposed prisoners to painful ulcers and dangerous infections from the heavy shackles around their ankles. An individual's misstep or fall could imperil the entire group, and chains prevented individuals from moving away from aggressive or violent prisoners.

The Final Chapter of Forced Labor

Across the South, new technologies and shifting economic patterns decreased peonage. The dust bowl and Great Depression shifted many sharecroppers off their land. After Franklin Delano Roosevelt was elected, he instituted his "New Deal," a series of economic programs intended to offer relief to the unemployed and recovery of the national economy. Though blacks were not the intended audience for these programs, they benefitted as many citizens did. Labor laws that encouraged union organization and defined a minimum wage also supported black workers. However, peonage remained — generally hidden in the rural counties of Southern states. In 1940, with the help of the International Labor Defense (ILD), a group of people in New York and Chicago organized the Abolish Peonage Committee and began to pressure the Justice Department to try cases.

In 1941, in response to the outbreak of World War II and amid fears that racial inequalities would be used as anti-United States propaganda, Attorney General Francis Biddle issued Circular No. 3591 to all federal prosecutors, instructing them to actively investigate and try more peonage cases. Finally, the federal government was willing to act aggressively to protect all its citizens from this forced labor.