

The Convict-Lease System During Reconstruction

A Loophole in 1865

While the 13th Amendment legally abolished slavery and involuntary servitude, a loophole allowed the widespread continuation of slavery in the Southern states—slavery as punishment for a crime. The 13th Amendment reads,

Neither slavery nor involuntary servitude, *except as punishment for crime whereof the party shall have been duly convicted*, shall exist within the United States, nor any place subject to their jurisdiction.”

The italicized phrase is the obvious loophole. Some states used these words not only to treat their prisoners like slaves, but to lease them to a corporation or wealthy family that would use them to mine coal, dig railroad tunnels, cultivate and harvest crops, or work in a factory.

Income for the States

Take Alabama, for example. Convict leasing actually began in Alabama before the Civil War, in 1846, when most convicts in the state were white. By 1883, about 10 percent of the state government’s total revenue was derived from convict leasing. This figure increased to nearly 73 percent of total revenue by 1898. Right after the Civil War, most of the leased convicts were former slaves.

CONVICT CATECHISM!



Read to Your Neighbor.

Anti-slave labor pamphlet, Georgia, 1880s

Convict labor was a benefit to the wealthy because it provided cheap workers and depressed the social movement for labor unions. Convict labor was popular with taxpayers because it reduced the costs of running prisons. Indeed,

it often produced profits for states that were still recovering from the devastations of the Civil War. Thus, for the white upper class, the convict lease system worked just fine.

For African American men, convict labor could be worse than slavery. A slave owner might be reluctant to destroy his own “property” (that is, a slave). But a gang boss could face little or no punishment for murdering a convict. “If one dies, get another.”

Reconstruction or Re-enslavement?

African American men were in constant danger of being arrested on a trumped up charge such as vagrancy (not having a job), and then saddled with court fees and other fines to be “paid off” with hard labor. Innocent men, caught up in the convict-lease system, might be prisoners for years.

A company or plantation that used convict laborers was not concerned about rehabilitation of convicts. In fact, the lessee had few incentives to provide the most basic necessities. Plantations and prison yards commonly kept secret graveyards containing the bodies of prisoners who had been beaten, tortured to death, or died from diseases that swept through work camps. Convicts would be made to fight each other, sometimes to the death, for the amusement of the guards and wardens. The legendary John Henry was probably a convict laborer who was forced to work in deadly conditions (See Reading 2). Death rates among leased convicts were approximately 10 times higher than the death rates of prisoners in non-lease states. In Alabama in 1873, for example, 25 percent of all black leased convicts died.

Not all convict laborers were black. For example, about half of Texas inmates were black. In that state, however, blacks were sent to sugar plantations, where the work was both brutal and dangerous.

Public Awareness and Reform

Newspapers at the time did report on this abusive system. Labor unions criticized the cruelty and unfairness. Reformers brought the shocking truths before the eyes of the world. In Southern states, the evils of convict labor and abuses were generally described and debated during each election cycle. And, for decades, little changed.

Beginning in 1900, many states moved toward ending the convict leasing system. The system, however, was not abolished, but merely transformed. Prisoners who had labored for private companies and landowners now labored for the public sector. The chain gang, overseen by state employees, replaced plantation labor.

The convict lease system was slowly phased out, and ended by 1930. The turning point may have been in 1923, when Florida governor Cary A. Hardee ended convict leasing in his state after the case of Martin Tabert, a young white man from North Dakota, received national attention. Tabert had been arrested merely for riding a freight train in Tallahassee and was flogged to death. Coverage of Tabert’s killing brought the Pulitzer Prize for Public Service to the *New York World* newspaper in 1924.

Although the convict lease system, as such, disappeared, yet other forms of convict labor continued in various forms in the state prisons. These other systems included state-owned plantations, industrial prisons, and the infamous “chain gang.”

SOURCES: University of Houston, “Convict Lease System,” *Digital History*, www.digitalhistory.uh.edu.

Matthew J. Mancini, *One Dies, Get Another: Convict Leasing in the American South, 1866-1928* (Charleston: University of South Carolina Press, 1996).

Visit *SLAVERY by Another Name*, www.pbs.org/sban.

Was John Henry a Convict Laborer in Virginia?

The ballad “John Henry” is the most recorded folk song in American history. John Henry—the mighty railroad man who could pound through rock faster than a steam drill—is a towering figure in our culture.

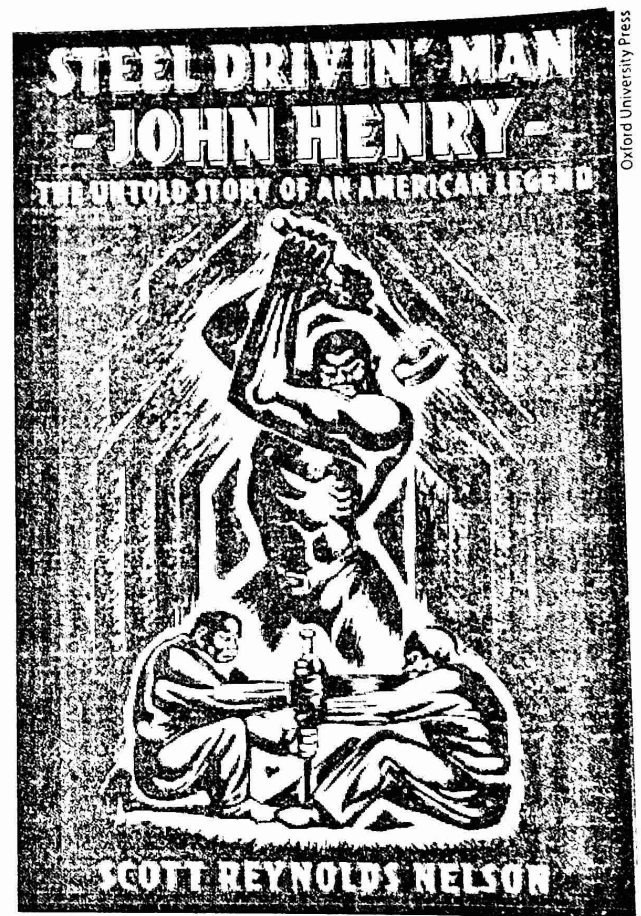
Scott Reynolds Nelson was curious about the song, and he began researching this question: What could have happened to John Henry? Using census data, penitentiary reports, and railroad company reports, Nelson discovered records of a “John Henry” who, victimized by Virginia’s notorious Black Codes, was shipped to the infamous Richmond Penitentiary to become prisoner number 497. John Henry was forced to labor on the mile-long Lewis Tunnel (between Talcott and Millboro, Virginia) for the C&O railroad in 1872. The tunnel was cut through solid rock.

Silicosis

Why did John Henry die? Engineering reports from construction of the Lewis railroad tunnel state that steam drills and men were tested against each other. It is easy to imagine that he somehow drove himself to a heart attack. But there is more to the story.

Working in tunnels is dangerous, but not because of large rocks so much as microscopic ones. Hammering on rock kicks up dust, and power drills are the worst. We know today that unless miners are careful, and unless the company takes precautions, workers in the mines breathe in a dust

made up of small, sharp fragments of rock. This mist causes various diseases including silicosis and black lung, and has killed miners throughout



The illustration on this book jacket is by Frank W. Long, from the collection of Warren and Julie Payne

the world. The deadly mixture can cause a lingering slow death over four or five years, or kill you right away. Anyone working side by side with a steam drill in a closed tunnel was doomed. So John Henry may have died as his heart struggled to get oxygen. His lungs were probably congested

(filled with fluid) due to fine, sharp particles of the mineral silica that he had breathed in.

Work 'til You Drop

The C&O Railroad Company was working against a deadline. If the tunnel was not finished by 1872, then the company would not be granted the rights to the whole run from Richmond to the Ohio River. (Such forced-labor contracts are illegal today.) So, the C&O company leased convicts, bought steam drills, and then its bosses worked men and machines as hard as they could.

When they hired the convicts, the C&O had promised to pay a large fine if the prisoner, or his body, did not come back at the end of the job. This kept the company vigilant to prevent runaways. The C&O gathered the bodies of the men killed by dust in Lewis Tunnel and sent them back to the Richmond Penitentiary. Prison administrators did not want anyone to know about all those deaths, so they dug holes and buried 300 bodies in the sand. That's how John Henry's body came to be buried on prison property.

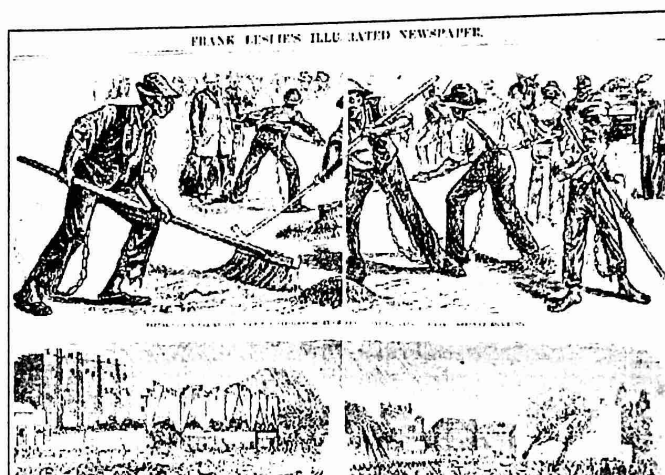
Evidence in a Song

No wonder the Board of the Virginia Penitentiary was alerted in 1872: Hundreds of prisoners were dying from breathing the dust in the Lewis Tunnel. That year, one out of every ten men in the prison died. Working on the railroad was killing prisoners at a terrible rate.

The tunnel was built on time, and the prisoners were buried. John Henry simply vanished from the prison record in 1873 as if he had disappeared into the air.

But not everyone died, and not everyone was forgotten. Cal Evans was a cook who had worked

at the camps beside the construction sites. He kept telling everyone stories about John Henry. And then there was a waterboy, whose name is lost to history, who knew more than a hundred verses of songs about John Henry. Cal and the boy took the story and song with them, taught it to others, and soon other people were singing the song and adding their own variations to it.



Convicts cleaning street of Richmond, Virginia, 1877

Library of Congress

SOURCE: This reading is adapted from *Steel Drivin' Man: John Henry, the Untold Story of an American Legend*, by Scott Reynolds Nelson (Oxford University Press, 2008) and an interview posted at www.ibiblio.org/john_henry/nelson.html.

Ain't Nothing But a Man: My Quest to Find the Real John Henry, by Scott Reynolds Nelson and Marc Aronson (National Geographic Children's Book, 2007) was a 2008 Notable Social Studies Trade Book for Young People:

Hear the song, from the Library of Congress Folkways collection, at xroads.virginia.edu/~ma01/grand-jean/hurston/LOC/music/JohnHenry.html. Zora Neale Hurston, working as an anthropologist, captured the recording.

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The Convict-Lease System in Louisiana

After the Civil War, Louisiana's prison system saw two important changes.

The first change was the lease system, through which convict labor was leased to private contractors. Convict leasing began in Louisiana in 1844, in direct response to citizens' complaints about the cost of operating the Baton Rouge penitentiary. Taxpayers would not have to pay for prisoners' food, shelter, and supervision if private companies could lease (that is, rent) prisoners from the state and use these men to do labor.

The second change was the influx of African Americans into the prison population. Before the Civil War, the great majority of Louisiana's convicts were white men who labored at the craft and industrial jobs common to other walled prisons. The Civil War freed the slaves and granted them the rights of citizenship, but it also imposed on them one of the liabilities of citizenship: imprisonment at hard labor for convicted felons.

Overnight, in Louisiana and the other Southern prisons, the prison population became predominantly black. These young black men were mostly accustomed to agricultural labor. In Louisiana (and in the other states that established large prison farming operations), "convict," "slave," "Negro," and "farm work" became synonymous terms in the public and political mind.



Foreground: Blues musician Huddie William Ledbetter, aka Leadbelly (1888-1949), in Louisiana in 1934

A Plantation Prison

Samuel L. James stepped forward to lease prisoners in 1869. Major James, who had served briefly in the Confederate Army, began to relocate the great bulk of Louisiana's convicts from Baton Rouge to



Child workers in fields and textile factories were common until the Fair Labor Standards Act of 1938. The children in this photo were probably not paid for their work. They were forced laborers. Probably Louisiana, about 1903. Visit www.loc.gov/pictures and search on "juvenile convicts."

his own large plantation on the Mississippi River. The year was 1870, and the plantation was called Angola.

Major James ran what has been called "the most cynical, profit-oriented, and brutal prison regime in Louisiana history." Convicts worked on private property—both Major James's and that of other plantation owners who sub-contracted their labor—for the profit of Major James. They did farm labor and cut timber. They performed as household servants. They travelled on Major James's steamboat, repairing and building levees in the never-ending struggle to contain the Mississippi and protect the rich farmland.

The convicts lived in camps, open wooden buildings with bunk beds (much like the Florida road camps of the 1940s depicted in the movie *Cool Hand Luke*), built along the river and around the plantation. Angola covered about 13 square miles, and the convicts shared the land with black sharecroppers, several hundred families of free blacks. They paid rent for their land and house, bought their supplies at the two plantation stores, and settled up at the end of the year when their crops came in.

A Brutal Period

The *Annual Report of the Louisiana State Penitentiary*, from 1901, suggests that the last seven years of the lease, from 1894 to 1900, were likely the most brutal of its entire history: about 732 convicts, averaging over 100 a year, died during this period.

When Major James's lease expired in 1901, the State of Louisiana again took custody of its prisoners. Unfortunately, little changed. The prisons simply became a state-operated, for-profit business enterprise. If the ghost of Major James had returned to walk around Angola in 1969 (one hundred years after he bought the lease), he would have found that conditions had not changed greatly since his time. The prison was in a remote part of the state, away from urban areas, and shielded from visits by anyone who might have been critical of prison practices. Outsiders were never welcome at the old Angola.

SOURCE: Adapted from "Plantation Days at Angola" (1993) by Burk Foster, online at www.burkloster.com/plantationdays.htm. Professor Foster recently retired from his post as Visiting Professor of Criminal Justice at Saginaw Valley State University in Michigan. From 1974 to 2005 he was an associate professor of criminal justice at the University of Louisiana-Lafayette.

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Discovering a Mass Grave in Alabama

In Alabama, the convict lease system was central to the web of restrictions that kept free black men from enjoying full citizenship. In 1900, a black man could be charged with "vagrancy," even if he had committed no true crime. Vagrancy, the offense of a person not being able to prove that he or she is employed, was a new and flimsy concoction.

Typically, a man would be found guilty in a swift appearance before a county judge and immediately sentenced to a thirty-day term of hard labor. Unable to pay the array of fees assessed on every prisoner—fees to the sheriff, the deputy, the court clerk, the witnesses—the prisoner's sentence could be months of hard labor. Once caught in the system, a prisoner could be caught in it for years.

TABLE IV, PART 1.—A copy of the Physical Record when received from Jail.
Table of Deaths of State and County Convicts at Pratt Mines, and of Convicts at the Walls.

	Personal History.							Pathological and Surgical History.		
	Race.	Sex.	Age.	Kind of convict.	Time when received.	Time in jail.	Occupation.	Habits.	Diseases.	Injuries.
Cape Wells	B.	M.	37	"	January	90 1 mo.	"	"	Pulmonary disease	
Wm. Robinson	"	"	25	"	February	90 3 w'ks	"	"	Had fits and pock.	Cut on neck.
Robt. Harris	"	"	26	"	April	88 3 1/2 m.	Laborer	"	Sick in jail, and dyspepsia	
Peter Calloun	"	"	21	"	October	88 3 w'ks	Farm	"	Sore eye, and chronic cough	
Ben Haygood	"	"	15	"	October	89 7 mos.	"	"	"	
Chas. Smith	"	"	58	"	January	90 1 w'k	"	"	Stricture, clapp, pneumonia.	Right eye out.
Andrew Jackson	"	"	23	"	"	2 mos.	"	"	Typhoid fever, pneumonia, etc.	
Sam Madden	"	"	18	"	February	90 1 mos	"	"	Cough and clapp.	Cut in side and back.
Turner Jackson	"	"	49	"	April	90 5 w'ks	Carpenter	"	Pneumonia and dropsy.	
Prince Mathews	"	"	35	"	"	2 mos.	Farm	"	Pneumonia and fever.	
Wash Wilder	"	"	38	"	December	88 1 1/2 m.	"	"	Rheumatism, clapp, pock	
Peter Young	"	"	48	"	January	90 1 1/2 m.	"	"	Pneumonia	
Sam Wadsworth	"	"	40	"	April	90 4 mos.	"	"	Pneumonia	
Robt Willingham	W.	"	28	Sta.	June	88 7 mos.	Carpenter	Temp	Yellow fever, clapp and syphilis	Hurt in back.
Henry Garrett	B.	"	48	"	Nov.	87 8 w'ks	Farm	"	Rheumatism, and clapp.	
Thos. Phillips	"	"	52	"	October	88 2 mos.	"	Intem	Vertigo and clapp.	Skull fractured.
Anthony Martin	"	"	35	"	August	87 1 mo.	"	Temp	Congenital rupture.	
Furlow Johnson	"	"	27	"	Nov.	88 3 1/2 m.	Blacksm't	"	Pneumonia, typhoid fever, etc.	
Jas. Carter	W.	"	22	"	August	87 6 mos.	Farm	"	Pneumonia and skin disease	Cut in hand.
Simon Jeter	B.	"	29	"	January	88 2 mos.	Carpenter	"	Pneumonia and typhoid fever.	
Robt. Robinson	"	"	19	"	December	88 4 mos	Farm	"	"	
Alex. Abrahams	"	"	21	"	October	88 3 1/2 m.	R. R.	"	Pneumonia and chronic cough	Cut and gun shot.
Malachi Coleman	"	"	16	"	May	88 4 mos.	Bricklay'r	"	Typhoid fever and dyspepsia	Leg mashed.
Antony Garrett	"	"	40	"	April	88 5 mos.	Farm	"	Pneumonia and clapp.	
Henry White	"	"	19	"	July	88 5 mos.	"	"	Pneumonia, pleurisy, typhoid fever.	
Johnny Johnson	"	"	17	"	December	88 6 mos.	Laborer	"	Dropsy, clapp, and typhoid fever.	
Jesse Gaines	"	"	"	"	Nov.	88	"	"	"	
Hilliard Floyd	"	"	19	"	"	2 1/4 m.	Drayman	"	Rheumatism	
Thos. Bowen	"	"	"	"	1885	"	"	"	"	
Wm. Mize	"	"	21	"	May	88 4 1/2 m.	Farm	"	Pneumonia	
Will Payne	"	"	24	"	December	88 4 mos.	"	"	"	
Geo. Campbell	"	"	33	"	Nov.	87 4 y'rs.	"	"	Cough	Dislocation and fract.
Geo. Turner	"	"	23	"	April	89 5 1/2 m.	"	"	"	
Swan Gardner	"	"	25	"	June	88 6 mos.	"	"	Clapp, pock, and rheumatism	

Death Registry, 1888, showing deaths at Pratt Mines, Birmingham, Alabama

Under an agreement between county governments and U.S. Steel Corporation, sheriffs turned young men over to the company for the length of their sentences. In return, the U.S. Steel's subsidiary (Tennessee Coal, Iron & Railroad Company), would give a county \$12 a month to pay off a prisoner's fine and fees. This helped the county balance its budget. What the company's managers did with thousands of black men they purchased was entirely up to them.

Into the Coal Mine

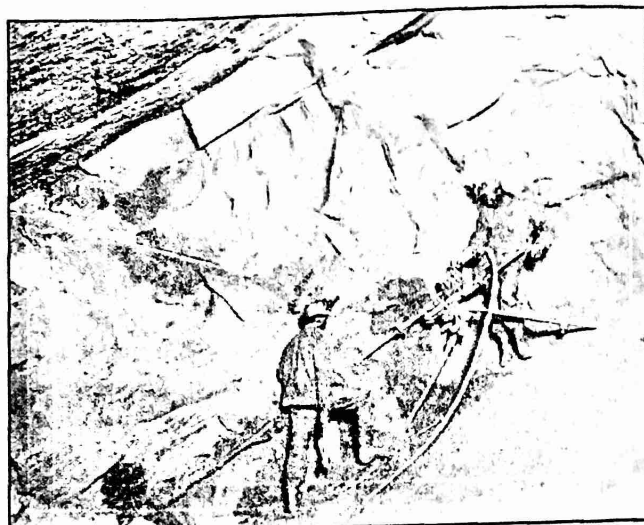
Thousands of prisoners were sent into the darkness of tunnels on the edge of Birmingham known as the Pratt Mines. There, they were chained inside a long wooden barrack at night and required to spend nearly every waking hour digging and loading coal. A required "task" for one prisoner might be to remove eight tons of coal from the mine every day.

The lightless caves of black rock were packed with hundreds of desperate men slick with sweat and coated in pulverized coal. Prisoners could be whipped for failure to dig the requisite amount. They were at risk of physical torture for disobedience.

Waves of diseases such as pneumonia and tuberculosis ripped through the population. In the month in one mine known as Slope 12, almost 60 men died of disease, accidents, or homicide in 1908.

Hiding the Evidence

Most of the broken bodies, along with hundreds of others before and after, were dumped into shallow graves scattered among the refuse of the mine. Others were incinerated in nearby ovens



U.S. Steel mine workers, Alabama (undated)

Courtesy Douglas Blackmon

used to blast coal into coke—the carbon-rich fuel essential to U.S. Steel's production of iron. Forty-five years after President Abraham Lincoln's 1863 Emancipation Proclamation freeing American slaves, more than a thousand black men toiled under the lash at Slope 12. They were slaves in all but name.

Today, on an overgrown hillside five miles from the bustling downtown of contemporary Birmingham, there is a dense thicket. But beneath the undergrowth, the faint outlines of hundreds upon hundreds of oval depressions still mark the land. Spread in haphazard rows across the forest floor, these are the sunken graves of the dead from nearby prison mines once operated by U.S. Steel. Here and there, headstones jutted from the foliage. No signs mark the place, and no paths lead to it.

SOURCE: This reading is adapted from the introduction to the book by Douglas Blackmon, *Slavery by Another Name: The Re-Enslavement of Black Americans from the Civil War to World War II*, published by Anchor Press in Norwell, Massachusetts. The book won the Pulitzer Prize in 2009. Blackmon has been a writer and editor for *The Wall Street Journal*, and is now Chair of the Forum Program at the Miller Center at the University of Virginia.

Read the entire Introduction at www.slaverybyanothername.com/the-book/excerpt.

Visit *SLAVERY by Another Name*, www.pbs.org/sban.

Worksheet A

Compare and Contrast: Slavery and the Convict-Lease System

Similarities

CATEGORY or FEATURE	SLAVERY	CONVICT-LEASE SYSTEM
Example: Compensation for work performed	Enslaved people got no wage or salary.	Convicts got no wage or salary.

Differences

CATEGORY or FEATURE	SLAVERY	CONVICT-LEASE SYSTEM

Worksheet B

Compare and Contrast: Convict-Lease System in Three States

State	Type of Work	Typical Lessees	Treatment of Convicts
Virginia			
Louisiana			
Alabama			