The making of Florida's 'criminal class:' Race, modernity and the convict leasing program, 1877-1919*

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1 Introduction

"The new government found the state bankrupt and ruined by a war waged in the interest of despotism," began Republican Governor Harrison Reed's January 5, 1871 address to the Florida State Legislature, "and it sought to unite all classes of people in one common effort to restore prosperity and good government" [1]. Yet, having served a single year in office, Reed had already fended off the first of three attempts at his impeachment, each led by an unstable array of Republican and Democratic factions [2, p. 278]. Meanwhile, the Reed administration advanced plans to repurpose an abandoned Federal arsenal in remote Chattahoochee, Florida into a penitentiary, farm, and workhouse. The attempt was short-lived; when Florida's Reconstruction

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government fell to the Democratic "Redeemers" in the election of 1876 so too did the penitentiary. Democratic Governor George Drew signed into law a mandate that state prisoners be leased to the highest bidder, forming an industrial labor force subject to corporal punishment. By the end of Florida's convict leasing program in 1919 approximately 14,000 Floridians had served sentences in a sprawling network of private labor camps.

At least since Lichtenstein's pioneering work historians have linked convict leasing to the New South coalition of elites that sought a quasi-modernization of the southern economy. Convict leasing enabled an industrialization process that would preserve the power and wealth of the planter class, Lichtenstein argued, by siphoning some agricultural workers into nascent industries while still solidifying plantation labor relations by providing "a powerful sanction against rural blacks" [3, p. 13]. The plantation economy itself is further removed from more recent research. As Haley summarizes, "convict labor was a system of gendered racial terror that maintained and propagated race/gender logics in the face of economic and social shifts including industrialization, urbanization, explosions of white women's wage work, and black migration" [4, p. 256]. While Georgia is the focus of Haley's study, administrators of the Florida prison system at times articulated their own understanding of convict leasing in terms of enforcing labor discipline and deference to whites specifically in response to black urbanization and inter-state labor migration. Florida's convict leasing program provided a relatively small pool of labor for extractive industries but, as this article details, decades of prison reports and sentencing data show how the penal system was deployed as a labor market institution that contributed to wage repression and tyrannical labor relations beyond the plantation belt, particularly in the footloose lumber and turpentine industries.

The effectiveness of the system as a repressive institution stemmed in large part from the arbitrary authority invested in the courts which, according to the prevailing constitutional theory of the time, were not bound to provide due process to criminal defendants in state and local court. The well-known result is that white women were almost never sentenced to prison, black women routinely were, and the vast majority of prisoners were black males. This article uncovers another pattern—the seemingly systematic sentencing of persons with disabilities. According to prison physician's reports from 1905 and 1907 a remarkable 30% of Florida's prison population were identified as disabled, aged, or afflicted with disease upon their entry to the prison. This article explores the shifting narratives of the prison administrators and lessees as they attempted to explain the prevalence of disability and disease among prisoners as well as high prison mortality rates. Florida prison officials' efforts to save convict leasing from its political opposition by promoting a process of penal reform

are particularly important to this history. In addition to entrenching existing biases regarding race and crime, in official reports and professional networks Florida's prison officials trafficked in the latest, pseudo-scientific theories of racial hierarchy in a concerted attempt to recast the palpably barbaric institution as not just acceptable for modernizing Florida but as particularly suitable for repressing the state's increasingly non-agricultural black working class.

2 The Administration of Justice in Post-Redemption Florida

Even before the passage of Jim Crow laws criminal defendants in the United States were explicitly denied the right to due process. The legal basis for the denial of due process to criminal defendants was the doctrine of Dual Federalism under which Federal and State governments were each said to have sovereign authority within their respective jurisdictions. Writing for the majority in United States v. Cruikshank (1876), Chief Justice Morrison Waite argued, "The same person may be at the same time a citizen of the United States and a citizen of a State, but his rights of citizenship under one of those governments will be different from those he has under the other" [5]. As criminal defendants were overwhelmingly tried in lower courts for violation of state and local law they were not guaranteed the privileges delineated in the Bill of Rights[1] [7, 6]. The direct result of the Supreme Court's refusal to enforce the rights of defendants was, in the words of Judge Emory Speer of the Federal District Court of Southern Georgia, that local officials were "entrusted by the state with practically arbitrary power to impose cruel and infamous punishment for offenses of the most trivial" nature" [8, 9]. The predictable outcome was persecutory and prejudice-driven sentencing: African Americans comprised between 76 and 97% of annual state prison sentences during the convict leasing program though they accounted for less than 44% of Florida's population. While most prisoners were black men, a total of at least 338 black women were also sentenced to State prison while just 18 white women were ever sentenced in the same period. Critically, the debased legal practices scorned by Judge Speer extended beyond the backcountry and into the State Circuit Courts of Florida.

The conditional pardon served as a means of redress for unfair sentencing in

[1] As [6] argues, the *Cruikshank* decision had immediate implications for the government's (and thus black communal) struggle against white supremacist terrorism and the preservation of nascent democratic governments in southern states, forming the legal basis for Federal abdication from responsibility for upholding law and order thus enabling one-party rule in the South.

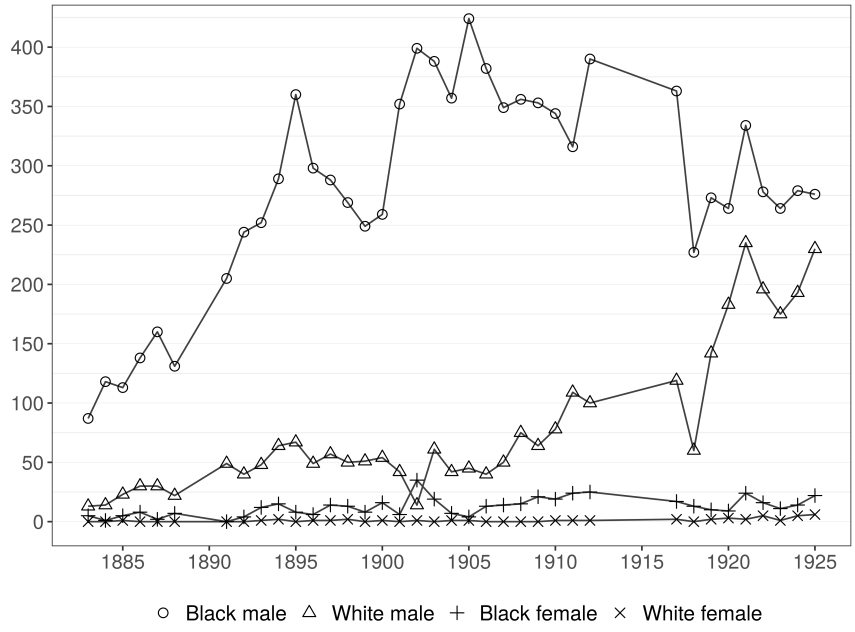


Figure 1: State prison sentences by race and gender, 1883-2925. Source: author's calculations with data gathered from the Biennial Reports of the Commissioner of Agriculture of the State of Florida [10].

Florida, though it was woefully inadequate. The Board of Pardons was the closest thing defendants could find to an institutional check on the whims and raw prejudices of the judiciary. Successful applications for conditional pardon often had the support of local officials including the applicant's judge, the arresting sheriff, members of the jury, perhaps a County Solicitor or public attorney as well as the required citizen's petition. R. W. Moore, an investigator for the Florida Board of Pardons, wrote in 1896 that "the convict has but little chance to look after...such petitions" and that he himself never received adequate resources to copy evidence from files, to visit the various counties, and circulate the petition. "In many cases in which I think the parties deserve the clemency of the board the evidence was not taken down even in capital cases," Moore reported, "and I have found it quite difficult to get a statement of fact upon which to base an opinion" [10, 1897 p. 54]. Between 1900 and the end of the convict leasing program in 1919 44.4% of white convicts received a pardon compared to 10.8% of black convicts [10, author's calculations].

While prisoners and their loved ones lobbied the Board of Pardons, pardon investigators like Moore sought to obtain written statements from judges confirming that

the defendant was unfairly tried. Ralph W. Daniels, an African American resident of Duval County, was given a twenty-year sentence for arson by the Circuit Court. After nine years of hard labor in state prison camps Daniels' judge endorsed a statement proclaiming "that such conviction was entirely upon circumstantial evidence, and that there was some room for doubt as to his guilt..." [11, p. 88] In 1909 Henry Meritt was sentenced to five years in the state prison by the Criminal Court of Volusia County for "Larceny and Receiving Stolen Property." In 1912 Meritt's judge supported his request for pardon and informed the Board that the conviction rested "wholly upon circumstantial evidence" [11, p. 208]. D. M. Semour was convicted for being an accessory to the burning of a building with intent to defraud. Semour's Circuit Court judge in Marion County likewise submitted that "he evidence against him was entirely circumstantial" [12, p. 64] Similarly, Smokey Joe served fifteen years of a life sentence before his Circuit Court Judge admitted to holding "serious doubt as to [Joe's] guilt" of first degree murder [12, p. 30]. Ruff Harris was only a boy around fifteen years of age in 1903 when a Circuit Court judge and jury for Gadsden County sentenced him to ten years of hard labor in the state prison for the theft of less than $2 worth of goods. In 1910 the jury endorsed a conditional pardon and felt that "he has had sufficient punishment for his offense and should be given a chance" [11, p. 90]. In the Spring of 1890 a Circuit Court judge in Jefferson County gave Sherod Love, Rachel Love, and Lucy Thompson (their races were recorded as "Yellow", "Yellow", and "Brown") life sentences for "Breaking and entering a building with intent to rob and robbery". All three received pardons on May 21, 1896 [13, p. 210-12].

John C. Ulmer, on the other hand, was released thanks to being "a young white man who had, prior to his trouble, lead an exemplary and industrial life." His effort was aided by "a petition signed by a large number of white citizens of Leon County." He and other young white men and boys who had, in the eyes of the pardon board, been "tempted" or "fell into trouble" could hope to be shown leniency [11, p. 116] [12, p. 29] Yet Ulmer was also known to be very sick, which was another common trait of recipients of the conditional pardon [cf. 14, pp. 168-71, 184–86]. Hugh Armstrong, "a white boy now 19 years old," was "practically paralyzed from the exposure incident to prison work" while Arthur J. Jackson was in "very bad and possibly hopeless physical condition" at the time he received a conditional pardon. Others were "worn out," "a physical wreck, suffering with tuberculosis," or "in wretched physical condition, one eye being blind and the sight of the other being badly impaired" [12, pp. 30, 36]

J. B. Brown was exonerated in 1913 for the 1901 murder of a white railroad engineer but by the time the Legislature decided to compensate Brown for wrongful incarceration he was "aged, infirm and destitute." His alibi notwithstanding, Brown

previously had little chance of avoiding prison. The local Palatka News and Advertiser exclaimed that "Brown is a worthless negro. Guilty or not the town would be better off rid of him and his ilk." As the prosecution informed the Board of Pardons in 1902, "the entire white population, except republicans, are absolutely convinced of the guilt of the accused." Considering the uncertainty of the evidence against Brown, the Board of Pardons commuted his sentence from death by hanging to life in prison [15].

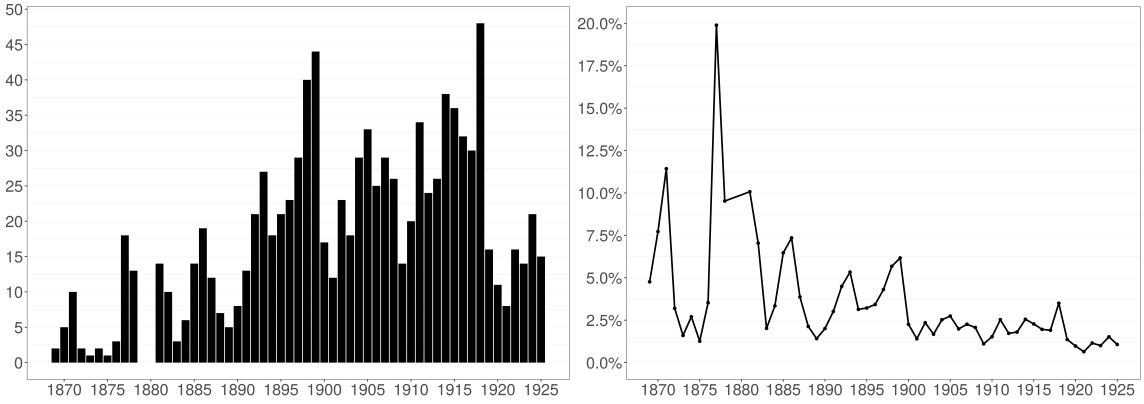
3 'A dumping ground'

A substantial amount of evidence points to a persistent over-representation of persons with disabilities in the prison population during this period. However, evaluating the evidence is complicated by the extent of the disabling violence that occurred inside the camps as well during arrest, pre-trial confinement, and transportation to State authorities, and further still by the vested interests of the lessees and the State in exculpating themselves of responsibility for the deaths of prisoners in their custody. Claiming that prisoners were disabled or sick *before* entry served those ends and would tend to exaggerate the frequency of such an event. Yet the weight of the evidence suggests that there was such an over-representation of persons with disabilities in the State prison system, raising new questions pertaining to disability in Florida's social history and in the construction and enforcement of racial and class hierarchies. As we will see, just how to manage such a system of forced labor in which perhaps 30% of workers were disabled at their time of entry would become central to prison "reform" efforts in the early twentieth century.

Prior to the period of penal reform beginning in 1901, lessees and sub-lessees confined prisoners in their private mines and pine-forest turpentine camps with scant supervision. Lessees were responsible for self-reporting conditions in their camps and their official correspondence with prison administrators in the Department of Agriculture was uniformly positive. The "general health" of the prisoners has been good, "very good," "quite good" if not "exceptionally good." The high incidence of mortality among prisoners in their custody—from gun violence, disease, or unreported causes—was continually shrugged off.

E. B. Bailey, a planter of Monticello with new investments in phosphate mining, tersely reported to Commissioner of Agriculture L. B. Wombwell on the health of prisoners in his custody:

> Dear Sir – The general health of the convict camps for the past two years has been exceptionally good. I should say the dead list numbering 33,



(a) Number of deaths (b) Mortality rate

Figure 2: Deaths of Florida state prisoners, 1870-1925 [10, author's calculations].

> contains 3 accidentally killed, and a large majority of the others were due to diseases contracted prior to their arrival at the state penitentiary, and were absolutely incurable.
>
> Yours Truly,
>
> E. B. Bailey [10, 1893 p. 132]

Perhaps the three "accidentally killed" is a reference to that year's work-related deaths—Jesse Spear was reportedly crushed to death by a collapsed wall in a phosphate mine; John Council killed by a "falling tree"; and Warren Greenleaf died from the cryptically reported, "Compression of the brain." As for the others, he blames their own poor health. While obdurate and self-serving, his comments represent something other than mere fabrication. Prison Physician Dr. S. H. Blitch registered emphatic complaints of the sorry condition of the incoming prisoners or "recruits" who were "IN NINE CASES OUT OF TEN IN SUCH A FILTHY, UNSANITARY AND DEBILITATED CONDITION THAT THEY WERE NOT FIT, WITHOUT THOROUGH RENOVATING AND REMOVAL OF VERMIN, TO COME IN CONTACT WITH THEIR FELLOW PRISONERS" [10, 1905 p. 324]. Arrest, confinement, and transportation to the "headquarters" camp was often itself a debilitating ordeal.

In 1907 Dr. Blitch reported more thoroughly on the health of prisoners at the time of entry to the penal system. Blitch reported that 70% of prisoners were "in good health and good physical condition." Of the remaining new prisoners half were "in good health, but are slightly maimed" by some injury "in the past" or otherwise

"are of a frail physical condition about whom an abundance of care must be used to avoid a collapse, and the possibility of the subject becoming a wreck and only fit for the hospital." 12% of those in poor health were "hospital subjects" suffering from syphilis, tuberculosis, Bright's disease (involving kidney inflammation), rheumatism, and heart disease while 3% of them were "chronic cripples and aged persons who are unable to perform hard manual labor" [10, 1909 p. 47]. This is a remarkable thirty percent of state prisoners counted as "frail," "maimed," "crippled" or "aged," representing a distinct subset of prisoners not fully accounted for by the jail system. Similarly, in his 1905 address to the National Prison Association, Blitch reported that 23% of roughly 500 black prisoners and 65% of around 50 white prisoners were, "owing to previous excesses and ravages of disease incapable of manual labor at their time of entrance into prison" [16, pp. 167-72]

Lessees also commented on the prevalence of disabled and afflicted prisoners. As Bailey coarsely remarked in 1897,

> the penitentiary seems to be a dumping ground for men likely to prove a burden on the charitable institutions of the State. In many cases men are sent here in the last stages of disease, some afflicted with mental disorders, others not thirteen years of age, and others absolutely inadequate for work. This seems especially the case from counties who have chain gangs. [10, 1897 p. 81]

Bailey seems to conflate the chain gangs (which were common) with public welfare institutions (which did not exist at the time). Another lessee similarly reported that the "general health of our camps is good and death rate very small," given "the number of invalids, cripples and old chronics that were forced on us in the general division of January, 1898" [10, 1899 p. 96]. To the consternation of administrators, the Chattahoochee Asylum for Indigent Lunatics (located on the site of the Reconstruction-era penitentiary) regularly received persons who were indigent but not considered "lunatics." Rather, they were "in the last stages of chronic diseases, or those infirm and helpless by reason of extreme age" [17, p. 50].

The absence of effective social welfare institutions in an economy that rested on a class of impoverished manual laborers left the sick, disabled, elderly, young, and orphaned highly vulnerable to the state's overzealous legal system. Questions remain, not least of which is the extent to which a particular discrimination or devaluation of persons with disabilities was at work or, instead, if they were simply trapped in the legal dragnet designed to enforce an axiom of labor discipline they could not possibly meet.

4 Migration and coercion in Florida's extractive industries

Throughout the first two decades of the twentieth century Florida experienced waves of immigration from other states as well as internal migration, urbanization, and labor scarcity in remote forested areas across the state. These changes engendered conditions that tend to favor those who would challenge poverty wages and racial oppression. When the prison population bulged between 1901 and 1905, prison officials pointed to migrant forest workers as the cause and defended the convict leasing system as an instrument for insulating the strictures of white supremacy and enforcing labor discipline. While Lichtenstein described convict leasing in Alabama and Georgia as a controlled means of transferring labor from the established agricultural economy to the growing industrial sector, in Florida sentencing rates were lowest in the plantation belt, corroborating other sources from the time that describe black prisoners as typically urban black residents and migrant workers in the lumber and turpentine industries. The disciplinary effects of convict leasing, then, also fell hardest on those tens of thousands of black migrant workers and others whose life circumstances were illustrative of the modernizing forces transforming the state.

By 1910 lumber and turpentine industries formed Florida's largest area of industrial employment, together comprising over 37,000 wage earners or 65% of manufacturing employment [18, p. 642]. The work was arduous and pay was low and typically issued in company scrip. Turpentine (also known as naval stores) was extracted from longleaf pine trees by cutting gashes in the trunks, eliciting the trees produce a protective gum. Diagonal cuts in the tree then guided the gum into boxes, from which it was gathered and then distilled into rosin and spirits of turpentine. The work, as one manager explained, "is severe to a degree almost impossible to exaggerate, and it is very difficult to control a sufficient quantity of free labor to properly cultivate any great number of trees" [19, pp. 68-76, 163]. Debt peonage and violence against workers were commonplace in both the lumber and turpentine industries [20, 21, 22]. As railroad lines cut ever deeper into the pine forests, lumber and turpentine operators fanned out around them. Surrounded by wilderness, workers attempting to flee would be chased by armed overseers on horseback known as woodsriders. Apart from white woodsriders and, for a brief window of time, trafficked European immigrants, the workforce was largely black and male [21] [22, Ch. 3]. Meanwhile, contract law "effectively legalized debt peonage" [22, p. 106]. While advances of supplies or provisions were common, Florida's "false-pretense" law rendered it illegal for a worker to quit without first repaying any debts owed to the employer.

Yet the workforce was no less migratory than the industry itself [19, pp. 164-68]

Sapping trees to death in a few years and clear cutting kept the industry moving, decimating pine forests all the way from North Carolina to Florida. By clamping down on workers' freedom of movement with anti-vagrancy and false-pretense laws, debt, and surveillance employers made migrant workers vulnerable to arrest—particularly if between jobs—and ultimately incapable of turning labor scarcity and industrial expansion into wage increases. Indeed, despite intense competition for workers over two decades of rapid expansion, wages in the turpentine industry remained largely flat [19, p. 172].

Meanwhile, the largest lumber and turpentine corporations began to outbid and politically overshadow previous lessees in the phosphate industry. For lessees like the Florida Pine Company and Florida Naval Stores and Commission Company the prison labor force became one more resource to lease out to the hundreds of small lumber and turpentine operators scattered over the state. Cash-strapped small and medium-sized operators already relied on the large lumber companies and factorage houses for everything from land rental to financing, equipment, and product purchases [22, pp. 46-9]. By 1905 the powerful and well-financed forest industry was well on its way to becoming the sole lessee of state prisoners.

The early history of convict leasing, particularly as it relates to struggles over black agricultural labor in the wake of emancipation, suggests that sentencing rates would be highest in the plantation belt. Lichtenstein proposed that convict leasing was "a method of forced proletarianization" benefiting mining companies in Alabama, Georgia, and Tennessee. There, convict leasing siphoned workers out of the agricultural sector and into nascent industry while still disciplining and cordoning in the agricultural workforce [3, pp. 83-7]. By contrast, most Florida prisoners were from outside of the plantation belt and, moreover, were often already laboring in the industrial sector. For the duration of Florida's convict leasing program most individuals sentenced to state prison—59% of them—had out of state origins though in 1910 such residents comprised just 35% of Florida's population. Rapid growth of the forest industries, Commissioner McLin reported in 1905, "has caused an influx of a floating population that follow this class of work. From Georgia, Alabama, and North Carolina, the turpentine and lumbermen have been followed by this undesirable and expensive class of people" [10, 1905 p. 318]. These migrant forest workers, together with urban blacks, he claimed, accounted for the swelling of the prison population after 1900.

Patterns in the place of sentencing further indicate that the relative risk of sentencing was lowest inside the plantation belt and highest in certain urban and non-agricultural rural areas. While county-level sentencing data is unfortunately not disaggregated by race, we can obtain a strong sense of the spatial distribution of

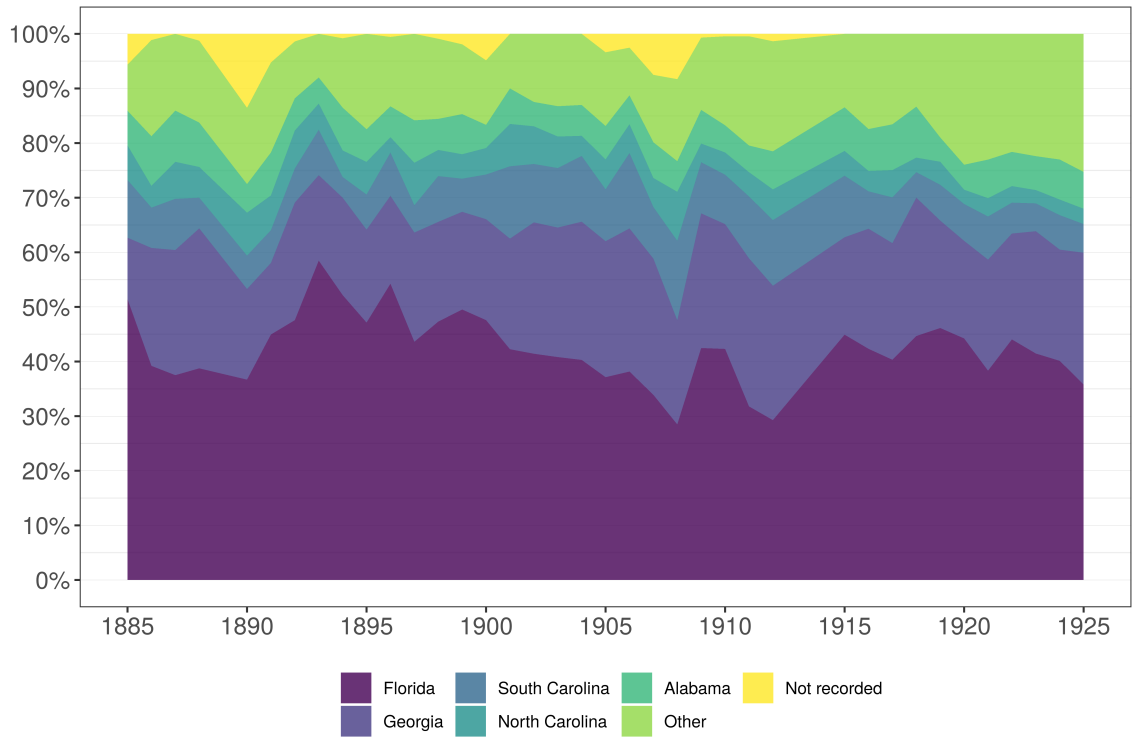


Figure 3: Origins of persons sentenced to Florida state prison, 1885-1925. [10, author's calculations].

sentencing rates by way of standardized sentencing ratios (SSRs, generally known as relative risk ratios in epidemiology).[2] Sentencing data can be standardized by dividing the observed counts (O_i) by an expected count of sentences (E_i) given basic demographic information ($SSR_i = O_i/E_i$). The expected counts were in this case obtained by taking aggregate sentencing rates for blacks and whites respectively for the designated time period and multiplying them by the total estimated population count (person-years) for each of two racial groups (white and black) in each county. Ratios less than one indicate low relative risk of sentencing while the converse holds for ratios greater than one.[3]

[2]Left raw or unadjusted, sentencing rates would mislead due to differences in racial composition of county populations.

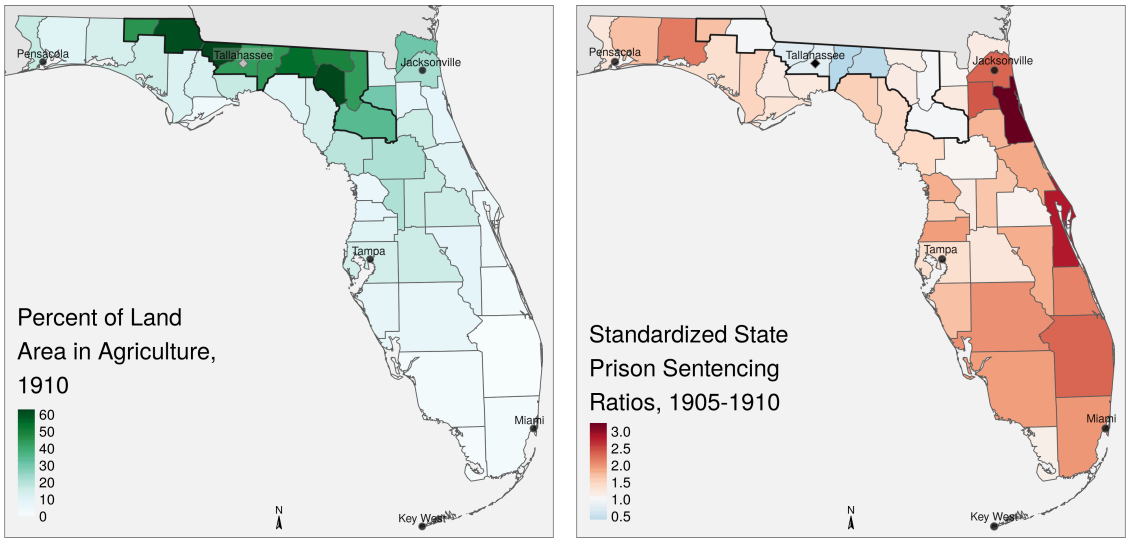
[3]The sentencing rate for blacks was 1.1 in 1,000 while the rate for whites was 0.1 per 1,000. For a county with $5,000$ white residents and $4,00$ black residents the 'expected' number E_i would be $.0011 * 4,000 + .0001 * 5,000 = 4.9$. If 6 sentences were recorded then the SSR would be $6/4.9 = 1.2$. Ratios for low-population areas are highly unstable as small changes to the numerator can have a

Since Florida's county boundaries were stable between 1900 and 1910 but undergo significant changes throughout the subsequent decade the analysis is limited to the first five years for which data is available (1905-1910). To guard against instability of ratios in low-population areas (where small, random variation in the numerator can have substantial impact on the estimated SSR) the local empirical Bayes estimator was employed. This will "shrink" extreme values towards a geographically circumscribed average to the extent that the underlying population counts (amount of evidence) is too low the justify such an outlying value.

Figure 4 maps the resulting SSR estimates for each Florida county and highlights the approximate boundaries of the plantation belt. The plantation economy was concentrated in the fertile Tallahassee Hills, extending from Jackson County eastward into Columbia County and running south just into Marion County [23]. Jefferson (0.27), Madison (.30), Leon (0.57), Gadsden (0.65), Jackson (0.68), Columbia (0.72), and Alachua (0.77) Counties—all in the plantation belt—had below their expected number of sentences given their share of the black population. Holmes County, on the northwest edge of the plantation belt, has an estimated SSR of 1.32. Meanwhile, Dade County saw 2.5 times as many sentences as expected given its share of the black population, Duval County and neighboring Clay counties had SSRs of 2 and 2.3 respectively, and Saint John's County, just south of Duval, had 3.5 times the expected number of sentences in this period (see Table 1). Overall, low SSRs were clustered within the plantation belt while high SSRs clustered around Duval County and further down the Atlantic coast.

Commissioner McLin made the case himself that violence against prisoners was intended to reinforce industrial labor discipline and white supremacy among migrant and urban black populations. Urban blacks, he claimed, disrupt the smooth functioning of the prison camp since they "have never learned the lesson of obedience, are indisposed to labor and are more insolent...Nothing but corporal punishment, sometimes repeated and severe, will have any effect on them" [10, 1905 p. 302]. "He is placed in prison," McLin wrote in his official capacity, "to learn the lesson of obedience, submission and energetic effort or labor" (p. 314) for it was his belief that, "this class should labor, should be wealth-producers in or out of prison" (309). The spatial and demographic sentencing patterns uncovered here indicate that McLin was not at all alone in seeking to target urban and migrant blacks, or what he termed the "criminal class" (p. 308-09). The overall picture painted by the data and Florida officials is one in which the penal system was deployed specifically and dispropor-

substantial impact on the result. This motivates the use of the empirical Bayes estimator. Population estimates were obtained through linear interpolation between the 1900 and 1910 decennial census counts.



(a) Agricultural production by land extent (b) Relative risk of sentencing

Figure 4: Agricultural production and standardized sentencing ratios (1905-1910), highlighting approximate boundaries of the plantation belt [24, 25, 10, 18, 23, author's calculations].

tionately against blacks in the non-agricultural workforce. That is, against those who were outside of the forms of personal control and supervision already solidified in the plantation economy.

5 Saving the system in the progressive era

Among the formerly Confederate states, all but Virginia were leasing state prisoners by 1880. By 1900 the political tide seemed already to have turned against convict leasing and towards public road work and state-run farms. Mississippi, South Carolina, and Louisiana had all abolished the lease. Georgia soon followed suit, ending convict leasing in 1908. Riding a growing wave of public sentiment against monopoly power and corruption was Florida Democratic gubernatorial candidate William Sherman Jennings (cousin of the populist Democratic Presidential candidate William Jennings Bryan). Jennings promised to fill the public coffers by breaking the cartel of lessees who were colluding in the bidding process and to improve the treatment of prisoners at the same time [26, pp. 129-34] [27, pp. 72-8].

Jennings' populist message for white voters proved effective. Among his first

accomplishments as Governor was to negotiate a new leasing contract with the rising monopsony Florida Naval Stores and Commission Company. Annual revenue increased from $21,000 in 1901 to $138,588 the following year, with all excess funds over administrative expenses distributed to the counties. The administration immediately expanded the prerogatives of the Department of Agriculture to include administering the hiring process for prison guards, photographing prisoners, and requiring lessees to publicize $100 rewards for the return of escaped prisoners. They standardized the strap used for whippings, limited the number of "licks" allowed, mandated that a single "whipping boss" be appointed for each camp, and collected monthly punishment reports from lessees. The new "Rules and Regulations" also required that lessees furnish each camp with "a building to be used as a hospital" to include "a single bed with springs, mattress, pillow, etc., also net to keep flies away, and such food as the physician shall prescribe" for all convicts requiring medical attention" [10, 1903 pp. 64-8]. To enforce the new rules Commissioner McLin shut down an unreported number of camps and, he claimed, discharged guards and captains deemed irresponsible [10, 1905 p. 300].

Meanwhile, the Florida Naval Stores and Commission Company invested $30,000 to build a central hospital on a newly purchased tract of farm land in Ocala, known as the the Marion Farms. By contract, the hospital "shall be fully equipped" with the same requirements as the labor camps—a stockade, garden, iron cot bedstead with "good clean mattress and pillow," and at least two well-trained bloodhounds. Hospitals, though, were also to have mattresses with "good, comfortable springs" and be "thoroughly equipped with a dispensary, operating room and all the necessary drugs, surgical implements and other equipment and supplies incident to a modern first class hospital" [10, 1911 pp. 515-15].

Dr. S. H. Blitch was hired as the first State Prison Physician and Surgeon at the hospital. "The aged, maimed and those suffering from such chronic diseases have furnished a perplexing problem to solve," he explained. Numerous prisoners "need more careful nursing and more constant attention of a capable physician than is practicable, distributed as our prisoners are in so many camps." Many such prisoners who were "forced upon the lessees" were not only "incapable of rendering any service" but were also "a heavy expense [for lessees] to care for" [10, 1903 p. 54]. With the reforms came a new sense of confidence among defenders of convict leasing. Official reports, professional presentations, and public commentary combined an open malice for blacks with pronouncements on the supposed benefits that the reformed system brought to them. Commissioner McLin reported that prisoners "are better provided for from a sanitary standpoint, than if running at large, dependant [sic] upon their own resources" [10, 1903 p. 52] while Supervisor of State Convicts R. F. Rogers

claimed more specifically, "the death rate is less" among prisoners than among "free citizens in any section of the South" [10, 1903 pp. 69-70].

Such views reached a national audience among prison administrators thanks to Dr. Blitch who was elected President of the Surgeons and Physicians' Association of the National Prison Association (NPA). At the NPA's annual gathering Blitch lectured his colleagues on the merits of convict leasing in light of the "serious and deplorable" deterioration in black morals. Whereas enslaved blacks were, he claimed, "free from care, worry and responsibility," freedom had brought only calamity. Now "he crowds into the cities" and is "given over to indulgences, licentiousness and crime." "His degeneration has been so rapid," he continued, that "the 'good negro' is the exception now rather than the rule." Blitch's seething disdain for African Americans, and particularly for his own imprisoned patients, colored his bilious lecture, "The Negro Criminal in the Open Air", which was print in the Department of Agriculture's Biennial Report:

ifty percent of him is the progeny of licentiousness and vice, conceived among surroundings of the filthiest kind and among breeding places of disease, from diseased parents, in the moment of the most virile lust and passion and born out of wedlock, incapable of finer feelings...and incapable of learning right from wrong. [10, pp. 1907, 339]

Whereas closed confinement in jail would only quicken the pace towards extinction, "we are striving to better his conditions" and employment in Florida's "open air" prison system would "at least allow his tendencies to degenerate, to lie dormant." Convict leasing was thus one of the "small factors" in some supposed "movement" to protect blacks from the repercussions of emancipation. Nothing less than the putative "salvation of the negro race in America" was at stake [10, 1907 p. 340].

Blitch's lecture merely extended the arguments of Frederick Hoffman's Race Traits and Tendencies of the American Negro regarding impending black extinction to suit his own institutional interests. Like Hoffman, Blitch and his colleagues carelessly abused available data [28, 29, 30]. Mortality statistics published by the Department of Agriculture itself continued to show that prisoners were dying at rates far higher than the general population. The mortality rate in Florida was just 0.66% in 1905 (or around 0.6% for whites and 0.7% for blacks) while the mortality rate in the prison system that same year was 2.74% or more than four times greater than the state [10, 1907 pp. 38-42]. Worse still, most prison mortality was accounted for by prisoners under thirty years of age (see Figure 5). Had the youthful prison population in fact suffered an age-adjusted mortality rate comparable to the general population then the vast majority of the 513 prisoners who died under the "reformed" system would certainly have survived their experience in the Florida prison system. Instead,

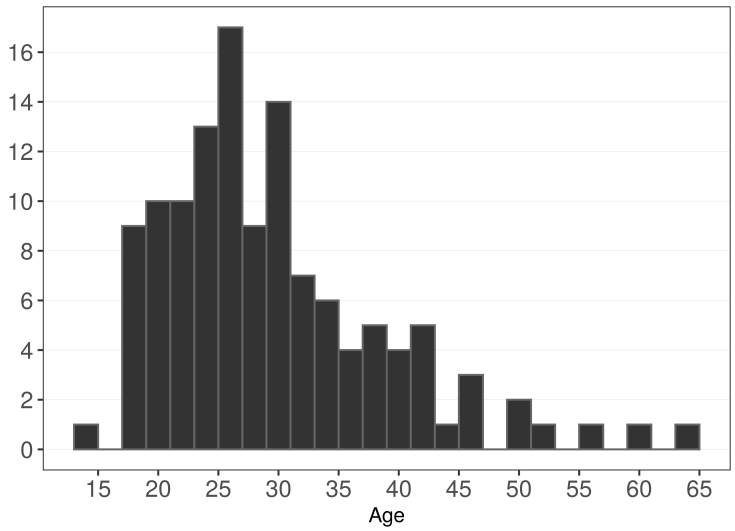


Figure 5: Counts of in-custody deaths of Florida state prisoners by age at time of death, 1905-1909. [10, author's calculations].

Florida's public officials referenced fictitious data and casted blacks as a dying race that was congenitally unfit for freedom in order to naturalize their persecution and excuse the violent homicides of those in their custody.

6 The fire of 1905

On October 7, 1905 a fire consumed the stockade at the Aycock Brothers Lumber Company in Washington County. Nine prisoners died in the fire, some escaped, and at least two were left tethered by their night chain to the window, consumed below the waste by the blaze which had become too hot to approach [31]. Prisoners frequently died in remote camps such as this one but a report on the fire by Superintendent of State and County Convicts Charles D. Clark appears to be among the only surviving records that details the conditions under which injured and dying prisoners were attended to by physicians. With "reformers" from the Jennings administration arguing that the prison system could be lucrative, punishing, professional, and "healthful" all at once the fire exposes just how little had changed inside the private camps.

How the fire began remains disputed but Superintendent Clark's investigation pointed to "gross neglect" of the Aycock brothers and to Troy Longino, a county

convict "trusty" who was appointed as the night guard. Troy Longino got drunk and smashed an oil lamp after a late-night poker game in the guards' room. Having stamped out the fire with his feet he left with a friend to kill a trapped opossum. He later returned to find the fire consuming the stockade along with his brother, Jim Longino, who worked as the regular night guard but had passed out after drinking alcohol.

Superintendent Clark arrived on November 3rd, twenty-seven days after the fire. The prison camps, like most turpentine camps, were rugged outposts, often insulated from society by miles of forest [10, 1909 p. 443]. Clark found two convicts upon arrival at the mill, "both with legs cut off and one with foot badly burned and one badly burned all over. Some of the wounds had never been dressed by a physician." Yet the Aycock camp did have an "attending physician" as the state contract required. Clark's report continues:

ne man, in my opinion, will recover, the other lying there unconscious will die. I found these two men lying on common [illegible] mattresses without sheets and two blocks of wood for pillows. I found that these two men were lying on the same mattresses they were first put on without any change having been made. I ordered some sheets and new mattress and secured help to change bedding. I found, when beginning to move unconscious prisoner that his wounds had stuck to the mattress and moving causes intense pain. Upon examination I found that wounds were full of maggots. Judging from the size, looks and quantity of them, they must have been there at least ten days... We made another examination of prisoners and found that wound on underside of prisoners was completely in a work with maggots. [31]

The camp physician claimed that he kept the prisoner on one side "to keep the burned side up, but we found that the underside of prisoner was considerably the worse burn from the beginning." Had the unnamed prisoner received proper care, Clark believed, he would have survived following the amputation of his leg. No charges came of the incident and as far as Clark's report indicates, the burned men were left as they were inside the camp.

7 Hospital prisoners for lease

In 1910 officials implemented a set of policies that leaped clear across the fictitious boundary that supposedly distinguished court-ordered servitude from the kind of abusive behaviors that violated the new list of "Rules and Regulations." As the prison hospital reached capacity with injured and disabled prisoners, officials sought to make remunerative use of those patients who were "unfit for regular service" but could still "perform some remunerative service" [10, 1911 pp. 529-30]. By adjusting

the cost and intensity of labor for "hospital subjects," officials and lessees could continue forcing labor out of the prisoners until they reached a state of complete debilitation.

The new policy of leasing hospital subjects began with an evaluation which consisted of no more than coarse guesswork with a thin veneer of medical expertise. Such prisoners were to be examined quarterly by the State Prison Physician and "placed on a pay roll based upon the physical condition of each prisoner separate and apart." By then placing them under the care of some "responsible person who could use them," such "hospital prisoners" would remunerate the state "to some extent" and "prevent an overloading or congestion of the hospital" [10, 1911 p. 530]. The physician's standard report explains that "a man graded $\frac{1}{2}$ is in my judgment capable of doing half as much work as an able-bodied worker, and cases of 00, the prisoner is not capable of doing any manual labor."[4]

The physician's reports consisted of the prisoner's identification number, name, debility, and the physician's grade. Traumatic injuries which were common, such as the following sample:

5085 Kid Wright	Had heel chopped off, and physically weak	$\frac{1}{3}$
5960 Julius Goodwin	Gundshot wound in the left arm	$\frac{1}{2}$
9829 Jon Johnson	Fractured skull	$\frac{1}{4}$
9585 W. T. Turner	Throat cut; weak minded	$\frac{1}{4}$
9804 Charlie Wilson	Gunshot wound through the face	00
1909 Will Johnson	Gun-shot wounds both legs	$\frac{1}{3}$

Missing limbs, rheumatism, organic heart disease, kidney disease, "general debility," syphilis and combinations such as "Syphilitic Rheumatism" or "Rheumatism and kidney disease" were also common diagnoses [32, 33, 34, 35]. Soon such "hospital prisoners" would be found working for turpentine and lumber companies throughout the state. Of the fourteen camps reported to have leased "hospital prisoners" in 1913, most notable were the Hall Lumber Company in Terrell which sub-leased at least twenty-five disabled prisoners, Riverland Turpentine Company which was

[4] A grade of 00 may still be required to perform non-production labor. Blitch's written description was inconsistent on this point, at least once designating grade 00 as able only to pay for one's keep, and it stands to reason that performance of non-production labor is the reason lessees would take them at all.

working at least sixteen "hospital prisoners" that year, and Rogers-Tiller Company which leased at least forty "hospital prisoners" at once for its turpentine operation. The discounted prisoners were "frequently" sent back to the hospital as they "do not always make the improvement that is hoped for them" [10, 1911 p. 530]. Charlie Wilson, having been shot in the face, was returned to the central hospital from Rogers Tiller Naval Stores Company in May of 1913. Dr. Willis was "disappointed to learn that this prisoner does not improve from the gun-shot wound" [35].

The depraved policy arose following the construction of a second hospital, which was becoming insufficient to accommodate all patients. In its first full year of operation the hospital in Ocala accommodated 77 prisoners whom Blitch described as "the decrepit, chronic, and otherwise worn-out prisoners of the State Prison of Florida" [10, 1905 p. 324]. Besides condemning dozens of these would-be patients to the labor camps, the effect of the policy was to open the door to bargaining between lessees and the State over the grade of the prisoners. In March of 1914, J. G. Boyd of the Boca Grande Investment Company and President of Herty Turpentine Cup Company, "was surprised to find the situation so bad relative to the real ability of the men" serving out prison sentences at his turpentine camp. He requested that Dr. Blitch visit the camp that very week, confident that the doctor "will class somewhere between fifteen to twenty of these men as hospital subjects." It was supposedly "not fair to us to pay for men who are not able to do the work required of them...and really it is not far to the men" who are required to perform the work of able-bodied men. Boyd continued, apparently in his own defense,

am inclined to think that your criticism in regard to our camp doing too much punishing is due to the fact that these men are classed as able bodied men while they should really be classed as No. two men, and the Captain has been demanding first class work of number two prisoners. Now we want to be fair and explicit to you and to the Board and say that these men who are hospital subjects we want to treat them as such... but when they are classed as able bodied men and first class, we naturally expect them to be able to do a day's work [36].

The motivations for the grading scheme were clear—it increased the intensity of labor exploitation, cut down on time spent 'loafing' in the hospital, and attended to the concerns of lessees who had a strong preference against continuing to pay full price for laborers with disabilities including those they had beaten, shot, or worked to shambles.

8 White prisoners and the end of the lease

In 1895 eleven young white men traveled to Marion, County Florida to enjoy the hunting and fishing. They were quickly arrested, sentenced as "vagrants," and leased to a nearby turpentine camp for thirty days of hard labor. "They were chained to negroes," the Florida *Times-Union* reported, "and ordered to do tasks which were impossible." After ten days they were afforded the opportunity to plead their case before a Circuit Court judge. "Faint from hunger and with backs bloody from repeated lashings," some nearing death according to the *Times-Union*, they described being stripped naked, tied to logs, and lashed after failing to complete their daily task. Infuriated residents threatened to storm the camp and free the men but were quelled by the Judge's own order for their release [26, pp. 88-9]. he sentiments evinced by news of whites being treated just like black men underscores how unsustainable the system was. As Florida's population grew so too did the white majority and as a result the penal system was increasingly scandal prone. At the same time, public road construction appealed both to proponents of the abolition of convict leasing and those favoring incremental change. After convict leasing was ended, most prisoners would continue to labor at gunpoint but directly under public authority.

Meanwhile, there was growing belief that female and disabled convicts ought to have alternative arrangements. In 1909 the Florida Legislature ordered the purchase of 500 acres of land for a penitentiary-farm (not unlike the Reconstruction-era Chattahoochee penitentiary), in 1911 the land for what would become the Raiford Penitentiary was purchased, and in 1913 the Legislature finally provided funds for construction [10, 1913 p. 14, 1915 pp. 25-31]. The Legislature's unheeded 1909 order for all disabled and female convicts to remain at the hospital notwithstanding, the first substantive Legislative reform came in 1914 when Governor Park Trammell launched an unsuccessful bid to abolish the lease. Having failed to obtain majority support for a new system of public road work, Trammell fought for a fully segregated system.

Under Trammell's reform only black males or "Grade 1" convicts would be leased while the revenue was to be invested in the new penitentiary. Women and disabled convicts were again ordered to be housed at Raiford, while white males and any black males with at least ten years of prison labor behind them were employed in public road work or else housed at Raiford [10, 1917 p. 19]. As of January 1st, 1919, there were still 471 black males leased to private interests, 166 state prisoners working in county road camps, 127 in state road camps, and 444 at the prison farm. There were also two prisoners in the insane asylum and nine at the State's new "Girl's Industrial School" [10, 1921 p. 51].

It would take two more scandal-driven investigations before convict leasing was ended at all levels of government. The first followed the public admission by prison physician Dr. Robert Kennedy that "hospital subjects consist mostly of men who have been beat up or worked to death...on turpentine...Some are physical wrecks and can never again hope to enjoy sound health" [26, pp. 297-99]. Kennedy's statement contradicted decades of official reports and sparked a new round of investigations and disturbing revelations. Finally, the State of Florida's convict leasing program was abolished by Chapter 7833 of the Legislature, effective December 31st, 1919. Seventy-five able bodied male convicts were to remain at "The State Farm" together with women and disabled prisoners. The rest were set to work building Florida's public roads and highways [10, 1921 pp. 88-90][26, pp. 141-52].

9 Conclusion

This article has sought to expand our understanding of the role of convict leasing in the New South in large part by piecing together a more detailed picture of the prison population based on where they were from and where they were sentenced. The prison population was skewed towards urban, non-agricultural, and especially migrant black workers from out of state. Prison officials expressed every intention of using the penal system to stifle the potential for blacks to leverage migration and urbanization for their own social and economic advancement, but sentencing patterns were of course not under their control—they were the product of the interests and outlooks of white judges, law enforcement officers, and juries across Florida as they responded to socio-economic change unrestrained by Federal civil rights enforcement. That "practically arbitrary power to impose cruel and infamous punishment" exercised by local government officials infused itself into the labor market, reinforcing the unchecked power of employers in the lumber and turpentine industries in particular.

The sentencing patterns uncovered here also raise questions that only further research can answer. In particular, to what extent was the over-representation of persons with disabilities driven specifically by persecution of the disabled? Whatever it was that linked disability to convict, prisoners entered a maelstrom of violence against persons with disabilities, disabling violence, and endless labor at the pain of the lash. As opposition to this system mounted, Governor Jennings and prison officials forged a new public image for the penal system and its wards. The system could be both just and profitable, they argued, if only punishment was measured and properly administered. The hollow and malevolent nature of the Jennings "reforms" were eventually revealed but the theories, associations, and rank excuses propagated by Florida officials of innate black criminality, disease, lust, and—the supposedly

inevitable result—youthful death endure.

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