

**USE OF CONVICT LABOR ON THE HIGHWAYS
IN VIRGINIA**

**REPORT OF THE
VIRGINIA ADVISORY LEGISLATIVE COUNCIL**

to

THE GOVERNOR

and

THE GENERAL ASSEMBLY OF VIRGINIA



SO 10, 1962

COMMONWEALTH OF VIRGINIA
Department of Purchases and Supply
Richmond
1961

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USE OF CONVICT LABOR ON THE HIGHWAYS IN VIRGINIA

A REPORT

of the

VIRGINIA ADVISORY LEGISLATIVE COUNCIL

Richmond, Virginia, November 1, 1961.

To:

HONORABLE J. LINDSAY ALMOND, JR., *Governor of Virginia*

and

THE GENERAL ASSEMBLY OF VIRGINIA

Prisoners have been employed in working on the roads of Virginia since 1906. Early in this century convicts could also be used to produce goods under contract work for private individuals and under the public account system by which the State produced goods and sold them on the open market. However, the adoption of federal legislation in 1929 which in effect barred convict-made goods from interstate commerce closed this avenue of utilization of convict labor and restricted the penal authorities to a State-use system. As a part of this system, convict labor on the roads has become an important and integral part of the penal administration in Virginia.

Nevertheless, there has been considerable opposition expressed to the use of the convicts on highway work. This was recognized by the Governor in a letter written to the then chairman of the Council requesting a study by the Council of this subject. The Governor's letter was as follows:

May 4, 1960

Honorable John H. Daniel, Chairman
Virginia Advisory Legislative Council
Charlotte Court House, Virginia

Dear Jack:

I would like to make the following request of the Virginia Advisory Legislative Council predicated on the reasons herein stated:

I find much unrest and division of opinion over the State at large relative to the use of convict labor on the highways of the State. As you know, the use of this labor, mandated by law, is directly related to the rehabilitation program of convicts at the penitentiary, and at the several penal farms and road camps. As the highway program inevitably progresses in Virginia, this issue will become more accentuated in the minds of our people and at the same time bear an increasing impact on the special revenues dedicated to highway maintenance and construction.

I am advised that the VALC in the past has given consideration to this important subject. However, I believe that the best interest of the State would be promoted if the VALC would address itself to a thorough study in the light of present conditions and in the light of foreseeable future developments, as well as a study and recommendation relating to establishment, construction and continuation of convict road force camps, with the relation that these camps bear on the peace, good order, safety and development of the communities where located, and other matters germane thereto. I believe it would be well for the Council to consider any shortcomings or deficiencies in the housing rehabilitation program for convicts at the State Penitentiary, State Convict Farms, and other related services.

I would respectfully suggest that the Council undertake to complete its study, and make report containing findings and recommendations to the Governor and the General Assembly not later than September 1, 1961.

Respectfully submitted,

J. Lindsay Almond, Jr.

The Council determined to make a study of convict labor on the highways itself, with the assistance of the two State departments directly concerned. It secured information from the Department of Welfare and Institutions concerning the place of the convict road force in the overall penal system of the State and it secured from the Highway Department statistical data concerning the use of convicts in its general highway program. It consulted with representatives of both departments and held a public hearing, after due notice, to which persons known to have special interest in the subject as well as the general public were invited.

After considering the information before it as well as the views expressed to it at the public hearing and otherwise, the Council has reached the conclusion and makes the recommendation set out below.

CONCLUSION AND RECOMMENDATION

The use of convict labor on the highways is necessary to a continuance of successful penal administration in Virginia at the present time and no change in the system is presently feasible or desirable.

THE PLACE OF THE CONVICT ROAD FORCE IN THE VIRGINIA PENAL SYSTEM

The number of convicts in the custody of the Division of Corrections of the Department of Welfare and Institutions has shown a steady increase in recent years. An analysis made as of June 30, 1960 showed that the number of male felons in the system increased at a faster rate in recent years than the number of commitments for criminal offenses or the general population of the State. The prison population increased 33%, commitments were 22% higher and the rate of increase in the general population was 17.6%. The numerical increase was from 4,383 male felon prisoners as of June 30, 1951 to 5,745 on the same date in 1960. Based on the rate of increase over this period, an increase of nearly 1,900 male felon prisoners would be expected during the next decade, which would amount, on June 30, 1970 to a total of 7,640.

During the same period the number of misdemeanor male inmates of the penal system increased from 756 in 1951 to 1,127 in 1960.

It is thus apparent that no substantial curtailment of the activities of any part of the penal system is feasible in the immediate future unless those committed are to be held in enforced idleness. Of the total number of male felons, the convict road force has served to house and occupy more than 2,000 during each year of the past decade and the total number on June 30, 1961 had increased to 2,840.

The history of prisons in the United States and elsewhere has shown that the greatest impediment to successful handling of prison populations is enforced idleness on the part of those incarcerated. This was recognized in Virginia as long ago as a report made in 1930 by the Commission on Crimes and Prisons which stated "Useful work in prisons is a vital factor in crime prevention, as well as in the reconstruction of the criminal. Idleness in our penitentiaries and jails cannot be justified by any interests of capital or labor; the best interests of the State and of the people as a whole demand that men and women who are confined in State institutions at State expense should be employed at profitable labor."

This Council studied this subject as recently as 1954 when, in response to a directive of the legislature, it considered the general subject of State competition with private labor and industry; in its report thereon the Council stated that "This labor . . . absorbs in useful employment a major part of the prison population, relieves the general fund of the expense of maintenance of these prisoners" but also noted that the use of convict labor "costs, to highway funds, a slightly larger sum than would be the case if the work were performed either under contract or by the Highway Department with its own free labor forces." The Council also recognized the reduction of the number of convicts on the State Convict Road Force as a desirable end but stated that "If the convicts are to be kept employed, and it is the conviction of the Council that this is imperative, any diminution in one line of prison labor or industry must be accompanied by an equivalent increase in another."

With regard to utilization of the convicts by the Department of Highways, the State Highway Commissioner stated, in response to an inquiry by the Council: "It is evident from the attached report that an increasing percentage of convict labor is being employed on maintenance activities. This change is due in large part to two factors over which the Department of Highways has no direct control, (1) the State law requiring employment of a minimum of 1,600 convicts on highway work, and (2) the ruling of the Federal government that convict labor cannot be employed on any project in which Federal funds are involved."

The communication from the Commissioner further had this to say "Other than the restrictions by statute and Federal regulation, it is our belief that convict labor is being used to the best advantage. So long as the Federal regulations are effective, we feel that no restrictions should be placed on the type or amount of work to be performed or on the manufacture of materials for use in highway operations. Methods and cost of maintenance operations change with the times and every freedom should be provided in order to minimize the cost differential.

"With reference to the relative merits of permanent and temporary road camps, it is our considered opinion that in most cases, permanent camps are preferred, so long as the majority of work being performed is on maintenance activities. Maintenance activities are performed by areas and it is best that this labor supply be made available as nearly as possible to the center of this working area. The working area is determined by

travel time which is in turn based on the road network. This Department has a Convict Study Committee charged with recommending methods and procedures for the most efficient utilization of prison labor. High among the recommendations of this Committee was distribution of the convict camp population throughout the State on the basis of available funds for activities on which convict labor could be employed. This distribution has been largely completed, however, to attain complete distribution, several temporary or semi-permanent camps appear desirable at some future time."

The location of convict road force camps as indicated above, under the long range program for the State Convict Road Force, contemplates the use primarily of permanent camps, under applicable statutes and regulations. There are 30 road force camps located throughout the State and permanent sites have been acquired for 28 of these. It is in connection with the location of some of these camps that criticism has been directed at the State Convict Road Force system. The criticisms presented to the Council fell into three classifications: (1) fear and unrest on the part of residents of the areas near the camp; (2) deleterious economic effects of camps both with respect to adjacent property values and to supplanting local labor by convicts on road work and (3) doubt as to the value of the work required of convicts on the road force toward their rehabilitation and reentry into society.

As to the first of the above criticisms, the Council sought evidence relating to the occurrence of crimes committed by convicts on the road force. The records of the Department of Welfare and Institutions show, since the beginning of the Convict Road Force in 1906, that prisoners have committed crimes of violence against private citizens on four separate occasions. These included two murders, one kidnapping and an alleged rape. The crimes occurred in 1924, 1950, 1959 and 1960. Only in the case of the murders and the kidnapping were convictions had.

It is obvious that when the State has custody of persons with criminal records, every precaution must be taken to protect the public from any further danger to the extent that the same is possible. In the placement of convicts within the system every effort is made to put under maximum security detention those convicts whose previous record gives evidence of danger to the public. The system has had its failures, which cannot be condoned; but we believe that the record over a period of more than 50 years does not show the State Convict Road Force generally as a hazard of major importance to the general public.

With regard to the economic effect of the establishment of a road camp within an area, it is obvious that, to the extent that convicts are used to work on the highways, free labor will not be employed. If the road force is to be continued, and operated as efficiently as possible, this is inevitable no matter where the camps are located; it is the function of the Highway Department to place the road camps in the areas where the labor of the convicts can be most effectively utilized.

However, letters from residents of localities where convict road force camps are located which were presented to the Council by the Division of Corrections of the Department of Welfare and Institutions indicated that in the opinion of many persons the camps have been of actual benefit to the localities economically in that the payrolls of the personnel employed at the several camps is to a considerable extent, spent locally. No definite

evidence was made available to the Council as to the effect on real estate values of the location of convict camps.

REHABILITATION AND HOUSING

The Governor's letter of May 4, 1960, directed the Council to investigate specifically the question of rehabilitation and housing of the inmates of the penal institutions. With regard to the first of these items, a report made to the Council in August, 1960 by the Department of Welfare and Institutions, discusses the subject of rehabilitation as follows:

"The prime purpose of the Division of Corrections is the protection of society. This Division attempts to meet this responsibility through maintaining custody of the prisoners committed to our care, and through attempting to rehabilitate them during their stay in prison. More than 98% of the men committed to prison are eventually released. Because of this fact, the rehabilitation of inmates is of great importance for the continued protection of society. It is often impossible to radically change the way of life of adults whose personalities have been formed over a period of many difficult and unpleasant years, but this is the goal of 'rehabilitation.'

"The skills of many professions are employed in our classification program. Our chaplains, medical doctors, psychiatrists, psychologists, educators and classification officers work with the administrative staff in determining the best treatment for each individual prisoner. On the basis of the combined opinions of these, decisions are made as to the proper placement and assignment of each prisoner.

"The foundation of any good prison program of rehabilitation is regular, productive employment for each inmate. After overcoming the stagnating problem of idleness, other prison programs can be helpful to the inmates. Religious activities, educational opportunities, library facilities, organized recreation, sound medical and dental care, psychological or psychiatric evaluation when indicated, a health diet, and a constant effort to meet the housing demands of a continuously increasing inmate population are included as parts of Virginia's prison rehabilitation program.

"Because more than half of the inmates are released upon completion of their sentences rather than by parole, a rehabilitation supervisor has been employed to assist these discharged men to obtain employment. (Each felon is eligible for parole consideration after serving one fourth of his sentence.) The rehabilitation supervisor begins to work with the prisoners some months before they are discharged, but preparation for eventual employment as free men begins soon after each prisoner is received. Part of this preparation is our emphasis on the importance of having each illiterate prisoner attend school to learn to read and write. Higher skills such as carpentry, bricklaying, plumbing and other construction trades are taught to apt inmates either through formal training or on-the-job. In the various shops of the industrial department which provides goods for State use only, as in all other job assignments, each prisoner has the opportunity to acquire good work habits. Hard physical labor, as is done in highway work and in farming, is often the kind of training and therapy an inmate really needs.

"As they select the proper assignment for each prisoner our professional personnel and other prison officials consider the inmate's past,

his skills and abilities, and his attitude, but the major consideration is the effect which this man will have on society while serving his sentence and after his release."

The following table taken from the same report shows how the prisoners in the several institutions were classified as to their employment. It will be noted that only 425 out of the nearly 7,000 prisoners on the date this tabulation was made were shown as "not assigned" and this heading included the disabled, those who were hospitalized, those who were too aged or infirm to work, and those newly received who had not at the time been classified and assigned.

EMPLOYMENT OF INMATES
JUNE 30, 1960

	Public Works Highway	Maintenance & Construction	Indus- trial	Farm- ing	Insti- tutional	Not Assigned	Total
Penitentiary .	.....	35	901	.....	408	245	1,589
Road Force....	1,800	140	.....	553	360	.....	2,853
State Farm....	.....	126	381	405	319	127	1,358
Southampton .	.....	118	73	130	169	11	501
Bland .....	.....	64	52	203	135	42	496
Catawba .....	.....	.....	.....	.....	14	.....	14
Blue Ridge ...	.....	.....	.....	.....	26	.....	26
Lime Plant....	.....	.....	35	.....	.....	.....	35
Total	1,800	483	1,442	1,291	1,431	425	6,872

With regard to housing prisoners, the Division of Corrections indicates that housing conditions throughout the penal system are inadequate. The penitentiary, which has an approved capacity of only 932 inmates, was approximately 500 over capacity. The only unit not over its designated capacity was the Lime Grinding Plant at Staunton, which had an actual population of 35, its approved number. The Southampton farm was only 11 over capacity, with 501 prisoners occupying space designed for 490. The other three farms for men were from 122 to 184 over capacity and the Convict Road Force as a whole was overcrowded to the extent of nearly 700 men.

SUMMARY

There is no disposition either on the part of the administrative authorities of the penal system in Virginia, who are charged with custody of the prisoner population, nor on the part of the State Highway Department, which is charged by statute with utilizing the labor of those confined on the Road Force, to regard the Convict Road Force as an ideal solution to the problem of dealing with prisoners. This system has been in operation for 55 years and during this time no satisfactory alternative has been developed to the present method of keeping prisoners usefully occupied under conditions reasonably conducive to their physical and mental well-being. Although the annual per capita cost of the convicts on the State Convict Road Force is, and has consistently been, much higher than for those confined in the institutions providing greater security, the State is recompensed to some extent by the labor performed for the Highway Department; the necessary capital outlay expenditures to erect institutions of other types to house these prisoners would be great.

Furthermore, since the State is committed both to a program of providing employment of some variety for these men and to a State-use system in disposing of the products of their labor, any drastic change in this program would necessitate an imbalance in the overall system. We do not feel that such matters as the exact employment of prisoners in the penal system or the location of institutions such as the State Convict Road Force camps can be the proper subject of legislation unless abuses are shown to exist. The agencies involved must handle the matter and our study has not shown any abuse in the exercise of the discretion vested in them.

The Council desires to thank all those who assisted us in the conduct of the study by the furnishing of information or the expression of their views on this important subject.

Respectfully submitted,

ROBERT Y. BUTTON, Chairman
CHARLES K. HUTCHENS, Vice-Chairman
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