

After the Bureau: The Rise of African-American Debt Peonage and Convict Labor in the
South following Reconstruction

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Debt peonage and convict-lease labor were the dark realities for many African Americans in the years following southern Reconstruction. Based on the contract labor laws of the Reconstruction Era, peonage, the practice of holding someone in labor service pending repayment of a debt, and convict leasing, the renting out of convict labor, were popular methods of involuntary servitude employed by the southern white landowning class from 1877 through the early 1940s. Historians argue as to the direct cause of these systems of involuntary servitude; however, most will agree that the issue is deeply rooted in the policies of Reconstruction.

For over one hundred years, historians have viewed Reconstruction through contemporary eyes. Early historiography, led by the William A. Dunning school, portrays Reconstruction as a dark time of government corruption, epitomized by scalawags, carpetbaggers, and a nefarious Freedmen's Bureau, with Radical Republicans at the helm. Turn of the century historians viewed Andrew Johnson as a hero who battled Radical Republicans as they inflicted black supremacy on an innocent and struggling white South. Viewed as a dark, oppressive time in history, the light returned to the South only when the southern Democratic Party garnered victory in state legislatures and in Washington thereby allowing the rebel states' "Redeemers" to re-establish "Home Rule," a euphemism for white supremacy.¹

¹ Eric Foner, "Reconstruction Revisited," *Reviews in American History* 10, no. 4 (Dec., 1982): 82-83.

The traditionalist view of Reconstruction remained fairly consistent until the 1960s, when revisionists placed Andrew Johnson in the role of the bigoted politician attempting to impede the work of Radical Republican idealists. These historians focused on the positive aspects of Reconstruction represented in the political, educational, and economic progress of southern blacks. However, revisionists tended to gloss over the reality of potentially corrupt local and federal agencies.²

By the 1970s, “post-revisionists” such as C. Vann Woodward and August Meier argued that Reconstruction had little overall effect on the country as a whole. These historians did not consider Reconstruction as a radical departure, but instead as a fairly conservative attempt at change. Some, such as Eric McKittrick, John and LaWanda Cox, Michael Perman, and William Gillette, favored the concept that moderate rather than radical Republicans, motivated by the preservation of the Union and cooperation with southern whites instead of betterment for the freedmen, molded Reconstruction legislation. In effect, Reconstruction prompted little social change in the New South.³

More recently, works by historians such as Eric Foner revive the perspective in W.E.B. DuBois’ *Black Reconstruction*. Foner studies the role of citizenship and the challenge of defining freedom for former slaves, illustrated by the proactive nature of African Americans as they established their identity separate from white authority. The development of black churches, black social and political organizations, and black schools, as well as the reuniting of the family unit, and securing the right to vote, exemplified the expanse between slavery and freedom. Freedmen struggled in the face of oppression and bigotry to define freedom on their

² Ibid., 83

³ Ibid., 83-84

own terms, and readily appropriated the benefits of Reconstruction policies in an attempt to better their economic and political situation.⁴

Within the realm of Reconstruction history lies the story of involuntary servitude, which arose from the dust of Reconstruction. Many historians disagree concerning the root cause of post-bellum peonage in the South. Some, such as Donald Nieman, argue that political and economic issues, particularly the suppression of land ownership for African Americans, racism and the depression that began in 1873 drove many southern freedmen into the debt peonage system.⁵ Whereas Pete Daniel posits that social issues including the law, violence, and illiteracy created the peonage system with legal “coercion” as the key to the movement between freedom and peonage.⁶ Still, Roger Ransom and Richard Sutch broach the subject from the standpoint of economy and class. The lack of available traditional financing for agricultural workers and landowners shifted the responsibility of credit supply to the merchants. Power was in the hands of these merchants, who demanded payment in cotton and who were often the freedmen’s only resource for daily living supplies. Thus, merchants created exploitive monopolies by controlling the money lending, the sustenance, and the crop. Northern investors demanded cotton, and this demand fueled the monopoly system. These merchants wielded enough power to force debtors into the production of risky but profitable commercial crops like cotton in lieu of subsistence farming, thus perpetuating a cycle of debt.⁷

⁴ Ibid., 86-87

⁵ Donald G. Nieman, “Introduction,” *From Slavery to Sharecropping: white Land and Black Labor in the Rural South 1865-1900*, vol. 3, *African American Life in the Post-Emancipation South, 1861-1900*, ed. Donald E. Nieman (New York: Garland Publishing, 1994), x, xi.

⁶ Pete Daniel, “The Metamorphosis of Slavery, 1865-1900,” *The Journal of American History* 66, no. 1 (June 1979): 89.

⁷ Roger L. Ransom and Richard Sutch, “Debt Peonage in the Cotton South After the Civil War,” *The Journal of Economic History* 32, no. 3 (Sept., 1972): 642-643.

However, Donna Franklin maintains that during Reconstruction, Congress designed the Freedmen's Bureau as a means of protecting the planter, intentionally binding the freedmen to the planter class through labor contracts. Group contracts, she argues, simply reinstated the plantation system and too closely resembled slavery.⁸ Thus, Reconstruction and the Bureau were economic and social failures from their inception according to Franklin. On the contrary, as argued in this study, both Reconstruction and the Bureau could claim initial social successes for the freedmen. Failure only came with the Bureau's premature withdrawal from the South in 1872. Without social and legal protection provided by the authority of the federal government, the instances of debt peonage rose significantly. At the same time, state laws subjected freedmen to unjust arrest, conviction, and sentencing as state and local convict laborers. This constant fear of imprisonment on the horrific chain gang deterred freedmen from breaking, or in many cases, even questioning labor contracts. With the termination of the Bureau, Congress missed its opportunity to effect significant change in the lives of southern freedmen by abandoning its commitment to the cause of freedom.

Ironically, the Bureau unwittingly laid the foundation for the peonage system with the establishment of contract labor as a quick means of ameliorating the employment issues of the freedmen, as well as fulfilling the desires of the northern economists and businessmen to return the South to its pre-war agricultural status. To achieve this economic strategy, blacks would have to return to the plantation system as laborers. Under the group contract system, an individual freedman signed a written agreement with the landowner on behalf of a large group

⁸ Donna Franklin, *Ensuring Equality: The Structural Transformation of the African-American Family* (New York: Oxford University Press, 1997), 29.

of African-American workers, who then worked the land in exchange for a portion of the crop.⁹ For instance, this representative may have contracted the labor of all of the emancipated slaves from one plantation.

Nonetheless, at the same time, the Bureau served the African-American community as a voice of reason between the blacks and the whites, in a sense “protecting” the poverty stricken (both black and white) from exploitation by the landowning class. During the Bureau’s existence, the southern African-American population had a stronger voice in the court system and the labor system. Federal law empowered the Bureau to squelch the attempts of unscrupulous southern white landowners to force a freedman into a position of involuntary servitude. The Bureau and the Army together protected black voters. Bureau presence also aided in the continuation of the African-American school system, and served as a legal buffer in disputes between blacks and whites. Although powerless to end completely violence and exploitation, the Bureau certainly served as helpmate to freedmen by providing an authoritative voice.

Therefore, the freedmen’s position in the labor structure did not develop immediately, but was characterized by gradual change, challenges, and conflict, shifting between group contract labor, tenantry and sharecropping.¹⁰ Lacking a solid plan, the white southern landowners re-built their new labor system based upon a “plantation economy,” characterized by white oppression over black workers;¹¹ or, as Daniel claims, the system was much like a

⁹ Eric Foner, *Short History of Reconstruction 1863-1877* (New York: Harper & Row, 1990), 69, 79.

¹⁰ C. Vann Woodward, *The Strange Career of Jim Crow* (New York: Oxford UP, 1955, 1957, 1966, 1974, 2002): 6.

¹¹ N. Gordon Carper, “Slavery Revisited,” *Phylon* (1960-)37, no.1(1976): 87.

“unfinished patchwork quilt . . . constructed on the frame of chattel slavery.”¹² As C. Vann Woodward shows, the Bureau’s departure did not signal white supremacy immediately. With the agency’s demise, however, white supremacy was free to rise, unchecked. Debt peonage, an exploitive labor system illegal in the United States as defined by the Thirteenth Amendment and the Peonage Statutes of 1867, grew out of the contract labor system.¹³ With contract labor in place, the evolution of tenant farming and sharecropping followed. For some, among those who chose to remain in agriculture, these forms of labor served them well, while others quickly became a subjugated class of people held in place by debt, violence, and deceit.

The long-lived state of racism was impossible to overcome without government support, for a group of people who were struggling to establish themselves as free, independent members of society within a social context of white supremacists who resented their very freedom. The loss of the presence of an accountable force of the federal government in their own back yard curtailed the progress of southern African Americans. As the door to the Freedmen’s Bureau closed, the door to debt peonage and abusive convict lease labor opened.

Defining Freedom: Strength in the African-American Community

At the close of the war, emancipated African Americans were ready and eager to establish their freedom, and openly receptive to the guidance and leadership provided by the Bureau, in spite of white fears and racism. African Americans began to emancipate themselves even before the 1863 Proclamation, and continued to voice their stand as American citizens,

¹² Daniel, “The Metamorphosis of Slavery, 1865-1900,” 90.

¹³ “Violations of Federal Peonage Laws by State Statutes,” *Virginia Law Review* 2, no. 5 (Feb., 1915): 385-386.

entitled to freedom and to assistance from the federal government during and immediately following the war. Slaves took control of some plantations, as whites would abandon their homes leaving slaves free to run the property. Alternatively, in cases where the male head of household left to fight, some slaves stood up against the white women and elderly men remaining on the grounds. In many cases, slaves left the plantations to follow the Union troops, and their advancement in the army and their increased literacy created a source of future black political leaders, as well as justifying the rights of citizenship for African Americans.¹⁴

The South's white landowning class had a long history of anxiety concerning African-American uprisings. History shows that antebellum slave owners strove to protect their physical, economic, and social well-being as they squelched the attempts of slaves and free blacks to rise in rebellion against the "peculiar institution." White apprehension toward social equality with African Americans was magnified following emancipation as the landowning class feared the potential of the freedmen to become educated, to assume roles in government, to own land, and to become competitive businessmen and farmers. Freedmen did indeed seize the opportunity to stand their ground against white supremacy, and the more freedmen defied white authority, the more anxious white southerners became, reacting with hatred. Southern whites not only feared the social rise of African Americans, they blamed them for "the defeat in battle, economic ruin, and the occupation of Union troops," and often manifested their fear and enmity with violence.¹⁵ Pete Daniel further argues that southern planters were partially motivated to reclaim control of the freedmen because they had studied the collapse of the plantation systems in Haiti, the West Indies and Jamaica following the abolition of slavery

¹⁴ Eric Foner, *Short History of Reconstruction*, 2-5.

¹⁵ Daniel "The Metamorphosis of Slavery," 90.

there. White landowners were desperate to maintain or in many cases regain, by any means possible, their grip on the plantation system before it crumbled.¹⁶

With the legal support provided by the Freedmen's Bureau, members of the African-American community exerted their legitimacy as American citizens, much to the dismay of the white landowners. In the post-bellum period, particularly in urban areas and in areas occupied by the Union, blacks raised a political voice and began to establish private organizations designed to help advance southern African Americans. Based on their role in the economic development of the United States and the 'moral credit' gained as soldiers in both the Revolutionary and Civil Wars, African Americans asserted their rights as citizens. They formed benevolent and fraternal societies, controlled their own churches, demanded education, solidified the family component, and began to vote, hold political office, and serve as jurors.¹⁷ African Americans relished their position as American citizens and embraced American nationality. They recognized themselves as "an integral part of the nation" worthy of the same rights and privileges of white citizens.¹⁸

Freedmen as well as free blacks organized meetings, protests, and conventions demanding equality in the name of the Declaration of Independence as well as the strength of the African Americans' service in battle. However, whites tried to answer these assertions of equality with increasing violence. Beatings and murders took place over such issues as blacks speaking directly to whites, failing to open a gate, leaving a plantation, expressing concern over

¹⁶ Ibid., 92.

¹⁷ Foner, *A Short History of Reconstruction*, 11, 49-51.

¹⁸ Ibid., 11, 39-43.

labor contracts or trying to purchase land.¹⁹ Such actions were frequently unchecked, especially in areas lacking Bureau representation; however, many issues, particularly those concerning labor, were often brought to justice through the Freedmen's Bureau. Faced with "white-controlled local and state governments" that "refused to recognize blacks' claim as citizens" the Bureau provided the only outlet for a fair trial.²⁰ In some cases, the mere presence of the Bureau provided implicit federal authority.

Although this early black political organization was concentrated regionally, with Black Belt states underrepresented, protests did elicit change.²¹ For instance, the establishment of state Black Codes after 1865 was short-lived as the military stopped whites from implementing the codes and the new Republican legislatures ultimately repealed the laws. Additionally, in 1867, African-American protesters ended racial discrimination on streetcars in New Orleans, Richmond, and Charleston.²² In the southern states during Reconstruction, African American political and social protesters received active protection from the Freedmen's Bureau.

Political awareness continued to spread throughout the South into the late 1860s and early 1870s with the support of the Freedmen's Bureau and the Republican Party. With the protection of the Bureau, eligible freedmen expressed their political voice by voting. They were encouraged into political action by Union Leaguers, by lecturers presenting programs on citizenship, and by the black community itself, as African Americans would gather to hear daily readings of the local and national news. During the Reconstruction era, black voters

¹⁹ Ibid., 49-54.

²⁰ Randall M. Miller, "The Freedmen's Bureau and Reconstruction: An Overview," introduction to *The Freedmen's Bureau and Reconstruction*, ed. Paula A. Cimbala and Randall M. Miller (New York: Fordham University Press, 1999): xvi.

²¹ Foner, *Short History of Reconstruction*, 52.

²² Woodward, *The Strange Career of Jim Crow*, 23, 27.

spoke loudly at the polls as upwards of ninety percent of eligible black voters exercised their rights. Blacks began appearing in important numbers as state legislators, and even congressmen. As African Americans organized politically, many southern whites became anxious and fearful as their historical position in society was threatened. After all, only a few short years prior, these white men were buying and selling African Americans and these same freedmen now threatened to be political equals.²³

Southern African Americans continued to vote in the face of adversity following Reconstruction, but by 1890 southern state governments manipulated the law as a means virtually to end black suffrage. They circumvented federal laws protecting the black vote by requiring poll taxes or imposing literacy tests as a prerequisite to voting. Theoretically, election officials applied these impositions to both black and white. In truth however, only the African-American voter was targeted.²⁴

The more African Americans asserted their liberties, the more white planters worked to suppress their rights to freedom. If this previously subjugated class of people were to rise to the social and economic equality of their former oppressors, the entire southern social system would be in flux. The white landowning class would do almost anything in their power to suppress African-American advancement in the political, social and economic arenas.

The Freedmen's Bureau

²³ Eric Foner, *Forever Free: The Story of Emancipation and Reconstruction* (New York: Alfred K. Knopf, 2005), 129-131, 137.

²⁴ *Ibid.*, 206-207.

In March 1865, Congress approved the establishment of the Bureau of Refugees, Freedmen, and Abandoned Land (the Freedmen's Bureau), a temporary institution with a proposed one-year life span. Republicans understood that southern citizens, particularly African-American citizens would require assistance from the federal government to develop a new way of life; however, Congress wanted to avoid a "long-term guardianship."²⁵ Congress designed the Bureau to distribute to poor southerners, both black and white, emergency food, clothes, and fuel, and to assist in improving the quality of life. An imposing task, the Bureau was responsible for mediating relations between blacks and whites, providing social services for both freedmen and poor whites, establishing schools and helping to develop an equitable free-labor system for a destitute South.²⁶ General Oliver O. Howard, head of the Freedmen's Bureau during Presidential Reconstruction, foresaw the role of the Bureau as that of an entity created to protect the freedmen from violence, to educate them with the establishment of schools and to provide the emancipated slaves with fair legal representation.²⁷ However, the Bureau was to administer these programs in an often-hostile environment and with little funding.

In its early version, Congress authorized the Bureau not only to address the immediate needs of the freedmen, but also to manage confiscated Confederate land by dividing it into forty-acre plots to be rented and eventually sold to freedmen and refugees. General William T. Sherman promoted that land policy toward the end of the war, when he issued a field order providing forty acres of southern land for each emancipated slave family. Sherman even

²⁵ Foner, *Short History of Reconstruction*, 31.

²⁶ *Ibid.*, 65.

²⁷ Foner, *Forever Free*, 76.

offered the use of Army mules to help the freedmen establish their farms; this is the likely origin of the phrase, “forty acres and a mule.” Not entirely a benevolent act, Sherman hoped to disperse the thousands of freedmen who had attached themselves to the Army as he and his troops marched through the occupied South. By the end of the war, Sherman had settled over 40,000 freedmen.²⁸ Unfortunately, President Andrew Johnson halted the land reform when he vetoed the measure: “Johnson had in effect abrogated the Confiscation Act and unilaterally amended the law creating the Bureau.”²⁹

The Radical Republican policy clashed somewhat with the tastes of the more moderate Republicans concerning Reconstruction. For instance, by 1866, Johnson had prepared to re-admit rebel states to Congress in spite of the Radical Republicans’ platform calling for “black suffrage” and “land distribution” as requisite provisions for congressional voting rights. Reaching an impasse, a more moderate Republican viewpoint replaced the Radical stance. Even though, in the moderates’ pragmatic opinion, they did not intend for Reconstruction to be an imposition of radical social change but to be simply a political and economic issue that required a Congressional response, they still argued for the basic ideals proposed by the Radicals, a “free labor economy in the South” and the “protection of the freedmen’s basic rights.”³⁰ All Republicans agreed that congressional representation should be contingent upon the guarantee of freedmen’s rights.³¹

²⁸ Foner, *Reconstruction*, 70-71.

²⁹ *Ibid.*, 161.

³⁰ *Ibid.*, 241.

³¹ *Ibid.*, 243.

During this time, chair of the Judiciary Committee, Lyman Trumbull, proposed a revision of the Freedmen's Bureau. Primarily, Trumbull hoped to lengthen the time period for the Bureau's presence, yet still retain its temporary nature, provide congressional funding, and authorize the Bureau to oversee judicial cases thus securing the freedmen's civil rights. The result was two bill proposals. First, he designed the Freedmen's Bill to strengthen the Bureau's authority with judicial jurisdiction and adequate funding. The second proposal, The Civil Rights Bill, represented congressional support for the African-Americans' civil liberties. Congress was to extend national citizenship to all U.S. born individuals "(except Indians)" with equal application of rights and privileges including "making contracts, bringing lawsuits, and enjoying 'full and equal benefit of all laws and proceedings for the security of person and property.'"³² Most importantly, the bill provided for the federal processing of freedom violations. The bill empowered Bureau officials legally to intercede on behalf of the freedmen.

The bill still faced debate and conflict even within the Republican Party. Few Representatives were yet willing to extend the vote, nor would they approve the land policy in spite of Thaddeus Stevens' dogged attempts to convince them otherwise. As a means of political preservation, many members of the Republican Party acted upon their desire to maintain a moderate stance in the eyes of their white constituents in both the North and the South. Congress attempted to assuage the freedmen's demand for land reform with the Southern Homestead Act by which public lands would be open for settlement. However, the large plantations had already consumed the rich, fertile land and only poor-quality swampland

³² Ibid., 243-244.

remained for settlement. Of this land, the majority went to major, white-owned lumber companies.³³

The Republicans thought they had provided a reasonable compromise on Reconstruction policy; however, much to their surprise, Johnson vetoed both the Bureau and the Civil Rights Bills, citing the argument that the federal government should not have the responsibility of providing economic relief, land, or schools for the destitute. Such actions, in his view, implied that freedmen would come to rely on aid rather than on their own work. Beyond that, Johnson felt that a Congress that lacked southern representation should not approve such a far-reaching bill. A Senate vote overrode the presidential veto, marking the rise of the Radicals to power.³⁴

As debates concerning the admittance of the southern states to Congress continued, George Julian, Chairman of the House Committee on Public Reform, proposed to govern the southern states from Washington. This measure would ensure a legitimate adherence, on the part of the southern governments, to the congressional guidelines required for the restoration of voting privileges. Thus, with the approval of the Reconstruction Act of 1867, Congress established military rule in the former Confederate States by dividing them into five military districts. Congress bestowed upon district leaders the authority to use federal troops as needed for protection and enforcement of the freedmen's legal rights, including voter registration and elections.³⁵

³³ Ibid., 245-246.

³⁴ Ibid., 247-249.

³⁵ Ibid., 266-267, 273.

Many white southerners despised the Bureau. After the withdrawal of the Army, Bureau agents were often the only physical remnant of federal authority in many parts of the South. While racist whites failed to recognize the legal freedom of emancipated slaves, the Bureau was the legal mouthpiece for the persecuted. In most cases, (there were exceptions) white landowners had to answer to federal authority, and the Bureau provided a degree of accountability. In their hostility toward the federal government, some southern whites found this authority an imposition and a vestige of what they perceived to be a corrupt federal government and were anxious for the Bureau's demise.³⁶ This bitterness is testament to the constant, nagging role that the Bureau's presence played in the lives of the white landowning class.

Beyond the antipathy of embittered whites, the Freedmen's Bureau struggled with its own internal challenges. First, inadequate funding early on, forced short staffing of the agency. The government assigned nine hundred agents for the entire South, of which only twelve were assigned to Mississippi and twenty to Alabama. Because of meager numbers of representatives, much of the South remained without Bureau assistance. In order to staff Bureau courts, agents assigned locals to the necessary posts. Local administrators often agreed to fill the positions and agreed to federal regulations only as a means of speeding along the process of Reconstruction and quickly moving the Freedmen's Bureau out of the southern picture. Even so, for the most part, the Freedmen's Bureau courts were impartial where and while they existed.³⁷

³⁶ Miller, "The Freedmen's Bureau and Reconstruction," xv-xvi.

³⁷ Foner, *Short History of Reconstruction*, 65-67.

As previously noted, Congress created the Bureau as a temporary solution to a major problem. Although the agency remained active in some form until 1872, the original intent was that schools would become permanent fixtures, while social benefits, including medical services, labor regulations, and military court systems were to be temporary. Unfortunately, the ephemeral nature of this existence “severely limited the scope and effectiveness of Bureau policies.”³⁸ White Democrats knew the agency was temporary and could placate officers until they left the area.

The Bureau also suffered from inconsistencies from agent to agent, who ran the gamut from liberal to conservative. For instance, at the liberal end of the spectrum was South Carolina Assistant Commissioner Rufus Saxton. Understanding that the Bureau was created as an agent of free labor, Saxton went beyond the job of instituting labor policy to educate freed African Americans on their emancipated status and to protect them in the process. Additionally, he hoped to solidify the law of emancipation in the minds of the southern plantation owners. Saxton promoted fair labor contracts and instructed his agents to do so.³⁹

On the conservative end of the spectrum was South Carolina Agent E. R. Chase who accused African Americans of insolence, theft, and provocation of violence. His racism was evident in his bureau reports as he regularly used the reference of ownership and derogatory vocabulary such as, “Mr. Duncan’s nigger,” as well as accepting the word of landowners against the freedmen. In his support of the landowners, Chase ran his branch of the Bureau in a similar fashion to “slave patrols,” sending soldiers to hold insubordinate workers until they

³⁸ Ibid., 67.

³⁹ James D. Schmidt, “A Full-Fledged Government of Men’: Freedmen’s Bureau Labor Policy in South Carolina 1865-1868,” in *The Freedmen’s Bureau and Reconstruction*, ed. Paula A. Cimbala and Randall M. Miller (New York: Fordham University Press, 1999): 224-225.

“promised to work better.” In one instance, he sent a doctor and an officer to pressure an ill woman to return to work. Even though most agents actually fell somewhere between Saxton and Chase, the Bureau continually was forced to deal with the problems of inconsistencies and lack of uniformity.⁴⁰

Finally, the development of the Bureau came under the auspices of a northern view of labor and social services. Both Democratic and Republican Congressmen did not want government funds to become the sole support for a generation of poor and feared that continued help would create an idle dependency on aid. The perceived goal of the Bureau was to provide only enough help for freedmen to become quickly self-sufficient. The northern attitude was that necessity was the impetus for self-reliance. In support of this concept, the Bureau ceased the distribution of food rations in 1866—an action that coincided with the first crop failure.⁴¹ What Congress failed to acknowledge was that self-sufficiency required either property or fair and equitable labor relations. With each reduction in Bureau support came a reduction in opportunity for African Americans. Pete Daniel notes that by the late-1870s, African Americans recognized a shift in the dynamics of race relations. On the heels of great economic and political potential, “[blacks] realized that they had lost the momentum of freedom, that they were more and more at the mercy of their former masters, and that they came to resemble slaves.”⁴²

In spite of these issues of non-support, during the Reconstruction period the newly free African-American community was making progress in education and labor development with the help of the Freedmen’s Bureau. Even though the bureau had elements of alleged corruption

⁴⁰ Ibid., 235-237.

⁴¹ Foner, *Short History of Reconstruction*, 68.

⁴² Daniel, “The Metamorphosis of Slavery,” 97.

and difficulties in its own right, it was still a much-needed political and legal voice, representing African Americans who were asserting their rights as free people in a newly re-developing South. With the complete disassembling of the Bureau in 1872, the U.S. government left the African American labor community to deal alone with southern white supremacy. In its failure to support the ongoing duties and responsibilities of the Freedmen's Bureau, Congress tacitly condoned the methods of peonage and convict-lease labor that began to flourish at the close of Reconstruction, thus enabling the virtual re-enslavement of southern African Americans.

The Pursuit of Land

An original responsibility of the Freedmen's Bureau was to manage the distribution of confiscated southern land. Post Civil War African Americans sought land ownership as a means of both economic and social freedom. However, although the U.S. government gave the Freedmen's Bureau the power to confiscate Confederate land and sell it to freed slaves, President Johnson stymied the land distribution, hoping to secure the political support of the "southern elite," as a means of national unification. Republican congressmen who inherently supported the right to land ownership, tacitly condoned Johnson's actions.⁴³

When Johnson crushed the hope of land distribution, the African-American community reacted with crestfallen disbelief at the lack of loyalty by their own government officials. After all, most African Americans had served on the Union side during the war either physically or emotionally, thus were certainly more "American" and indisputably more loyal than their planter class counterparts. Following Johnson's decision to return confederate lands to

⁴³ Donald G. Nieman, "Introduction," *From Slavery to Sharecropping*, vii-viii.

confederate planters and talk of homesteading in the American West, a committee of African Americans from Edisto, South Carolina, Henry Brahm, Ismael Moultrie, and Yates Sampson, protested to General Howard. These three men represented their friends and neighbors as they expressed their frustration in a government that so readily chose to support a population that was, in the immediate past, an enemy. The petition asked, ““Are not our rights as a free people and good citizens of these United States to be considered before those who were found in rebellion against this good and just government? . . . We look to you . . . for protection and equal rights with the privilege of purchasing a homestead—a homestead right here in the heart of South Carolina.””⁴⁴ The result of Johnson’s policies was the immediate dispersal of thousands of freedmen who had successfully taken it upon themselves to settle confederate lands during and immediately following the war.⁴⁵

In spite of the loss of redistributed lands, freedmen still desired to control their own labor and to move out from under the direct supervision of white authority, and land ownership could make that goal a reality. Nevertheless, without government support, land ownership for African Americans was difficult at best. Whites controlled the economy and refused to provide loans to freedmen. If African American farmers were able to purchase land it was usually plots that were quite small and of poor quality, or they would purchase land as a group, sharing the responsibilities and the profits. Others obtained their own land by squatting in minutely populated regions in Texas and Florida.⁴⁶ Few were successful. For instance, in Edgefield County, South Carolina, only 2.3 percent of southern blacks as opposed to 41 percent of

⁴⁴ Foner, *Forever Free*, 77- 78.

⁴⁵ *Ibid.*, 80.

⁴⁶ Foner, *Short History of Reconstruction*, 46-48.

southern whites owned property by 1880.⁴⁷ This lack of land ownership in a predominantly agricultural environment ensured the restoration of “large-scale, labor-intensive” production of cotton.⁴⁸ The return to pre-war production levels was crucial to business owners and merchants in both the North and the South. In this way, cotton remained an economic force in the United States.

With the inability to obtain land, those African Americans who could afford it turned to tenant farming as the preferred means of laboring. Unlike sharecropping, group contract-labor, or wage labor, tenant farming allowed the freedmen to control their own production without the direct supervision of white owners.⁴⁹ As tenants, farmers either rented land from an owner with cash (though few blacks fell into this category), or they were considered share tenants who owned their own tools and animals and paid rent with a percentage of the crop.⁵⁰ In most cases tenants wanted to move as far from the vestiges of slavery as possible. As they exerted their independence, they often chose to grow self-sufficient foodstuffs rather than the income producing “slave crops” of cotton, tobacco, and rice, and families remained intact as parents and children labored together.⁵¹ For many who succeeded in obtaining land by virtue of

⁴⁷ Orville Vernon Burton, “The Development of Tenantry and the Post-Bellum Afro American Social Structure in Edgefield County, South Carolina,” in Nieman, ed., *From Slavery to Sharecropping*, 31.

⁴⁸ Jay R. Mandle, “Continuity and Change: The Use of Black Labor After the Civil War,” *Journal of Black Studies* 21, no. 4 (June, 1991): 424.

⁴⁹ Foner, *Short History of Reconstruction*, 46-48.

⁵⁰ Carter A. Wilson, *Racism: From Slavery to Advanced Capitalism*, Vol. 17, *Sage Series on Race Relations and Ethnic Studies* (Thousand Oaks: Sage Publication, 1996), 86.

⁵¹ Foner, *Short History of Reconstruction*, 46-48; Burton, “The Development of Tenantry and the Post-Bellum Afro American Social Structure in Edgefield County, South Carolina,” 23.

ownership or tenantry, however, still had to work away from their own farms in order to support their families.⁵²

Education

Both the Freedmen's Bureau and the African-American community recognized education as the key to the "advancement of the freedmen."⁵³ Notably, education was so important to the African-American community that black churches and missionary societies began to establish schools before the war had ended. While the drive and the desire for education was an inherent concept for the community, educators looked to the Bureau for help.⁵⁴ Although Congress did not fund the Bureau for the establishment of schools in their own right, they did authorize the Bureau's management of the schools established by agencies from the North, or by black benevolent societies in the South. Bureau schools were successful for the most part, and by 1869 nearly 3,000 schools reported to the Bureau.⁵⁵

The development of the education system proved an instrumental factor in economic self-sufficiency as illiteracy handicapped the freedmen farmers. As Ransom and Sutch posit, emancipation threw most ex-slaves into the world of farm managers without sufficient training. Although freedmen were skilled from the labor standpoint, they "had never negotiated a contract, borrowed on credit, determined the crop mix, marketed a cotton crop, or read an

⁵² Nieman, "Introduction," *From Slavery to Sharecropping*, xi.

⁵³ Foner, *Short History of Reconstruction*, 65.

⁵⁴ Foner, Eric, *Reconstruction*, 97-99.

⁵⁵ *Ibid.*, 144.

agricultural journal.”⁵⁶ While illiteracy created a work force vulnerable to exploitation, education could help to create a sound and stable workforce.

However, basic education for adults progressed slowly and when the Bureau ultimately left the South, black schools were more vulnerable to white violence and economic neglect. Now subject to state management and funding, state governments drastically cut spending following Reconstruction and sacrificed the southern education system. While the overall system suffered rapid deterioration, the African-American schools suffered the most. Spending for black schools dropped to less than \$1.00 per student as opposed to \$3.11 per white student. The predominantly white southern states had little compulsion to maintain African-American schools.⁵⁷ Many landowners remained adamant that blacks were not entitled to an education. As one planter put it, ““What I want here is Negroes who can make cotton . . . and they don’t need education to help them make cotton.””⁵⁸

The Contract

The Freedmen’s Bureau initiated the contract labor system as a seemingly viable free labor option. Much like the systems of tenantry or sharecropping, where an individual person or a single nuclear family unit contracted with a landowner, contract laborers were large groups of individuals, represented by a single freedman whom they authorized to sign a written agreement with the landowner on their behalf. They agreed to farm using the landowner’s land, tools, and credit in exchange for a portion of the crop. The Bureau considered the written

⁵⁶ Ransom and Sutch, *One Kind of Freedom: The Economic Consequences of Emancipation*, 2nd ed. (Cambridge: Cambridge University Press, 2001), 15.

⁵⁷ Foner, Eric, *Forever Free*, 201.

⁵⁸ *Ibid.*

contract to be a means of legal protection for the freedmen. The contract served a dual purpose by providing a destitute African-American population with a form of employment while satisfying the landowner's need for a production labor force.⁵⁹ Contracts lasted for one year and, although participation in the system was voluntary, Union troops and Bureau agents occasionally coerced or threatened freedmen if they refused to sign. Economic recovery was contingent upon a substantial agricultural workforce. However, while Bureau agents stringently enforced the contract labor system for African Americans, they did not require contracts for destitute white southerners.⁶⁰

The annual contract between the owner and the laborer became a predominant control factor for the landowning class. In some cases, the agreements were equitable, while others imposed heavy penalties for crop failures or for such minute infractions as bad language spoken by the freedmen.⁶¹ The Freedmen's Bureau oversaw the contract procedures and in some cases Bureau officials acknowledged that some proposed contracts resembled slavery. Based on Senate reports, Daniel supports the conclusion that the Bureau was aware of the potential for some southern landowners to corrupt and abuse the system. These documents noted contracts designed to keep freedmen economically beholden to the landowners in the future. Some agents even reported a trend in proposed contracts that resembled closely Mexico's debt

⁵⁹ Miller, "The Freedmen's Bureau and Reconstruction: An Overview," in ed. Cimbala and Miller, *The Freedmen's Bureau and Reconstruction*, xxiii.

⁶⁰ Foner, *Short History of Reconstruction*, 75-77.

⁶¹ *Ibid*, 74.

peonage systems. The Bureau, acknowledging the potentially illegal outcome of involuntary servitude, did not authorize these contracts.⁶²

Contract labor was economically inefficient for African Americans trying to lift themselves from poverty. Each individual laborer received only a small portion of the crop; they did not receive pay until after the harvest, and were at the mercy of agricultural conditions. Laborers, dependent upon the owners between seedtime and harvest, easily and quickly built up a debt that was often not satisfied with their year-end earnings, especially if the farmer faced a poor growing season. This situation was ripe for not only faultless indebtedness, but also for out-and-out fraud on the part of the landowner. Some owners reportedly charged excessive amounts for necessities, or billed laborers for food or supplies that they never received. Others imposed fines for alleged poor workmanship on the part of the laborer, or for violating one of the many rules concerning insolence or foul language.⁶³ Instead of bettering themselves economically, many African Americans found that they were deep in debt—poorer than when they signed their original contract.

Group contract labor reached its peak by 1867, and then developed into the system of individual sharecropping. Based on the group contract system, sharecroppers farmed a small portion of the landowner's crop, and customarily received one-third of their farmed crop if the landowner provided the means of production or one-half if the sharecropper supplied his own seed, fertilizer and tools.⁶⁴ However, sharecroppers fell into the same debt trap as contract

⁶² Daniel, "The Metamorphosis of Slavery, 1865-1900," 96.

⁶³ Foner, *Short History of Reconstruction*, 79.

⁶⁴ *Ibid.*, 75, 79-80.

laborers, particularly since few could afford to pre-purchase their farm needs. This credit system created a major problem for freedmen.

In many ways, the contract laborer was subject to elements of involuntary servitude even before an individual issue of peonage arose. Because pay came at the end of the growing season, the tenant was tied to the landowner throughout the year. If he found himself dissatisfied with his treatment by the landowner, the tenant was not free to leave, as leaving meant the relinquishment of his right to pay—the rights to a crop which he had cultivated. In addition, if the cropper had received any amount of payment, no matter how small, and then left the plantation, the law considered him in breach of contract and subject to punishment on the public chain gang.⁶⁵

As some property owners repeatedly exploited their laborers, African Americans did file complaints with the Freedmen's Bureau. Freedmen often filed complaints concerning "violence, nonpayment of wages, and unfair division of crops."⁶⁶ In most cases, the Bureau stepped in to support the contract laborer by investigating freedmen's complaints against unfair labor practices, and utilizing their legal influence to curtail peonage-like contracts. The Bureau even secured payment for the freedmen by impounding employers' crops until they paid the laborers their fair share.⁶⁷

Merchants were the power brokers in the new South. With little money in circulation, the storeowners loaned materials and food to laborers in exchange for crops, and by 1880 the

⁶⁵ Jay R. Mandle, *Not Slave, Not Free: The African American Economic Experience since the Civil War*, (Durham: Duke University Press) 1992, 22-23, 41-42; Larian Angelo, "Wage Labour Deferred: The Recreation of Unfree Labour in the US South," *The Journal of Peasant Studies* 22, No. 4 (July, 1995): 587.

⁶⁶ Foner, *Short History of Reconstruction*, 68.

⁶⁷ Eric Foner, *Reconstruction: America's Unfinished Revolution 1863-1877* (New York: Harper and Row 1988), 165-167.

southern states were dotted with “over 8,000 rural stores.”⁶⁸ Owning the neighborhood store was so lucrative that many landowners exploited their laborers by controlling the land, the means of production, the necessary provisions, the crop, and the credit. When the general store was part of the plantation system, the sharecropper borrowed from and repaid the landowner who set the prices and loaned at usury rates, sometimes exceeding fifty percent.⁶⁹ In situations where the landowner borrowed from the local merchant on behalf of the laborer, the employer reportedly charged the laborer upwards of seventy percent.⁷⁰ The lenders justified these exorbitant costs by claiming that the African-American tenant, by his nature, was untrustworthy. According to a 1893 journal article, “Now the [African American] is as helpless as a child, and is still as thoughtless of the morrow. The merchant who has a lien on his share of the crop pays his taxes, buries his wife or child, buys him a mule if he needs one, and feeds and clothes him and his family to the extent that his improvidence and laziness are allowed credit. The high prices that the tenant pays for supplies are partly due to his untrustworthiness.”⁷¹ The merchant argued that he provided a livelihood for the freedmen, who were incapable of caring for their own needs. Unable to plan ahead, the debtor could panic and flee without making good on his debts. The high interest rate offset the risk of defaulted loans. However, just as likely, the unreasonable interest rates worked to create the increased incidents of default.

⁶⁸ Foner, *Short History of Reconstruction*, 176.

⁶⁹ *Ibid.*

⁷⁰ Wilson, *Racism: From Slavery to Advanced Capitalism*, 87.

⁷¹ George K. Holmes, “The Peons of the South,” *Annals of the American Academy of Political and Social Science* 4 (Sept., 1893): 71.

Thus, the crop lien became a perpetuating cycle by which the sharecropper remained forever in debt, and the cotton monoculture exacerbated the problem. As the old plantation system died, the southern economy developed around many small, local farming operations, which in turn created the many small, local merchant monopolies. As these monopolies controlled credit, lenders would only accept cotton as payment, and farmers were forced into continuing the production of risky, but profitable cotton in lieu of self-sufficient farming.⁷² Cotton provided the loan collateral for operational expenses. The more cotton the farmer grew, the fewer foodstuffs he could produce and the more he relied on the merchants for daily necessities, which in turn circled back to the need for cotton to repay the loans.⁷³ When these debts were coupled with the usury methods of the local merchant monopolies, climbing from depths of poverty was certainly formidable, if not impossible.

Peonage

The new plantation system, characterized by sharecropping, was itself a uniquely hierarchal labor system with white landowners filling the leadership role, followed by both black and white supervisors in the middle, and primarily black sharecroppers at the bottom. In this system, the landowner held power that most employers did not. The landlord considered himself justified to control the cropper's work life as well as his social life as a means of protecting the outcome of the crop. According to the landlord, if the cropper was to lead a licentious, drunken lifestyle that in turn would adversely affect his or her abilities on the plantation. Therefore, the planter held sway over education, housing and religious activities.

⁷² Ransom and Sutch, *One Kind of Freedom*, 12-13.

⁷³ *Ibid.*, 159-162.

Combine this direct influence with the fact that the landlord also controlled the source of credit as well as the bookkeeping, in many instances, the sharecropper was at the mercy of the landowner's integrity.⁷⁴

By the late 1870s, southern states began legally to classify the difference between "share-tenant" and "sharecropper." Crop ownership determined the demarcation. A share-tenant owned the means of production and thus owned his portion of the crop; whereas a sharecropper, constituting the vast majority of tenant farmers, did not own farming implements, animals, or fertilizer. Thus, in this case, the cropper did not have legal ownership of the crop. The landlord was the legal owner of the planted crop, and the sharecropper was a "wage worker whose form of wages was a share of the crop."⁷⁵ Larian Angelo estimates "the number of share croppers in 1900 to be approximately 429,205," of which 80 percent ended the year in debt; thus, approximately 343,464 families were potentially peons.⁷⁶

More importantly, the distinction between the two forms of labor came with substantial legal differences; share-tenant disputes were settled under civil law, while sharecropper disputes were criminal issues. By charging a sharecropper with breach of contract, the courts held the right to return the worker to the plantation via the local chain gang. Legislatures rationalized the legal differences by arguing that bringing croppers under civil suit was a pointless endeavor since the economic hierarchy had already deemed sharecroppers as destitute. With this legal system in place, the landlord had nothing to lose within the courts as

⁷⁴ Mandle, *Not Slave, Not Free*, 22-23, 41-42

⁷⁵ Angelo, "Wage Labour Deferred: The Recreation of Unfree Labour in the US South," 594-595.

⁷⁶ *Ibid.*, 601.

the law only acknowledged breach of contract on the part of the sharecropper and not the land owner.⁷⁷

The landowner used the nuances of the legal system and the definition of “wage earner” to circumvent peonage laws. If the sharecropper ended the harvest season still in debt to the landlord, the law considered the debt as payment for the next year’s labor. If the cropper attempted to leave the plantation with debt in place, he was charged with fraud, having received payment for work he did not intend to complete. With the fraud charge in place, the cropper was subject to placement within the prison-labor workforce.⁷⁸ This simple term, “fraud,” was a key component in the peonage legal system. It was not until the courts began to challenge these laws involving fraud that the peonage system began to collapse.

Peonage occurred in agricultural areas throughout the South, but was predominant in “the turpentine belt, a strip along the borders of Florida, Georgia, Alabama, and Mississippi . . . [and] in the cotton belt” of South Carolina, Georgia, Alabama, and Mississippi.⁷⁹ Without federal protection from the Freedmen’s Bureau, peonage became a part of the southern mainstream. Daniel quotes a 1903 attorney as saying, “The tendency of the legislative enactments of [Alabama] since the Reconstruction period . . . has been uniformly, to weave about the ignorant laborer, and especially the blacks, a system of laws intended to keep him absolutely dependent upon the will of the employer and the land owner.”⁸⁰ The penal system reinforced the usury credit system, creating an indisputable state of involuntary servitude.

⁷⁷ Ibid., 595, 597.

⁷⁸ Ibid., 598.

⁷⁹ Pete Daniel, “Up from Slavery and Down to Peonage: The Alonzo Bailey Case,” *The Journal of American History* 57, no. 3 (Dec., 1970): 655.

⁸⁰ Ibid., 656.

The key component to peonage is coercion, a demarcation that could be blurred at best. Contracts, even debt contracts, were legal agreements provided both parties voluntarily agreed to the arrangement.⁸¹ The contract is called into question based on the coercive means, be that deceit, usury, or intentional fraud. In some cases, planters and merchants even forced into debt peonage laborers who *could* manage to purchase their supplies by refusing to sell to them. For instance, Nate Shaw, a man who had earned a reputation in the south as a self-assertive freedman, exerted constant effort to remain debt free. However, in response to his assertiveness, southern merchants would often refuse to do business with him. Daniel quotes Shaw as saying, “I had men turn me down, wouldn’t let me have the land I needed to work, wouldn’t sell me guano, didn’t want to see me with anything.”⁸²

Oral histories have provided a glimpse into the domestic life of peons and have exposed the coercive nature of the beast. A 1901 Georgia peon recounted his tale to a reporter for *The Independent*. At the age of twenty-one, the sharecropper contracted with “Captain,” the landowner, for whom he had been working for over eleven years, by marking his “x” on the official documents. The contract provided that the laborer was to work in exchange for \$3.50 a week wages and a laborer’s cabin. Early on, the young man lived comfortably. He married and his wife worked for the family as a servant in the plantation’s main house, and he and his wife shared a two-room home with new furniture (a wedding gift) provided by the landowner. The laborer renewed his contract each year for five years.⁸³

⁸¹ Aziz A. Huq, “Peonage and Contractual Liberty,” *Columbia Law Review* 101, no. 2 (March, 2001): 367.

⁸² Daniel, “The Metamorphosis of Slavery,” 98.

⁸³ “The Married Life of Georgia Peons,” in *Black Women in White America: A Documentary History*, ed. Gerda Lerner (New York: Random House, 1972, 1992), 151.

However, with the death of his landlord, the peon's life became difficult at best. Similar to the master/slave relationship in the slavery era, the peon's quality of life was largely dependent upon the character of the landowner. In this case, the peon's deceased landlord bequeathed his property to his son, whom the laborer had known since childhood. The new landlord, referred to as "Senator" by the peon, persuaded the laborer to sign a ten-year contract claiming that since the contract was merely a formality, the ten-year agreement would alleviate the bother of yearly paperwork.⁸⁴ The transparency in this situation reveals that illiteracy on the part of the laborer hindered his ability to negotiate a fair contract.

Within the first year of his new contract, the laborer became curious about a row of buildings the Senator was building. The "long, low shanty" had a double "row of frames or stalls" one atop the other, "just large enough to hold a single mattress" running down both sides of the structure.⁸⁵ According to the peon, "Nobody seemed to know what the Senator was fixing for."⁸⁶ However, the laborers soon had their answer when the senator brought forty strong, healthy prisoners onto the farm and housed them in the row shanties. "This was the beginning of the Senator's *convict camp* (emphasis added)."⁸⁷

The presence of this new group of workers frightened the free laborers. When they confronted the senator, he castigated them and made it clear that breaking their newly-signed ten-year labor agreements would result in their immediate arrest and employment as convict

⁸⁴ Ibid.

⁸⁵ Ibid.

⁸⁶ Ibid., 152.

⁸⁷ Ibid.

laborers. According to the laborer reporting the story, “From that day forward [the free laborers] were treated just like the convict.”⁸⁸

Accordingly, the laborer’s description of the 1901 new plantation system closely resembled that of the old antebellum plantation. Not only was the laborer subjected to the coercive measures of the landowner, he was also punished harshly for minor insubordination. In the same respect, both the white workers and the white landholders sexually victimized African American women working the plantation as witnessed by the plantation’s proliferation of children of mixed ancestry. Ironically, the senator separated the peon from his birth child by removing the child and adopting him out to a family off the plantation. This Georgia peon never saw his son again.⁸⁹ The personal life and social status of this laborer had changed little from antebellum days.

Ultimately, fraud statutes (more appropriately, veiled peonage laws) slowly began to crumble in the early twentieth century. In 1903, the U.S. Department of Justice investigated peonage cases in “every county in Alabama,” with every southern state “involved in a major peonage case,” by 1920.⁹⁰ South Carolina and Arkansas ended this peonage loophole in 1907, North Carolina and Alabama in 1911, Mississippi in 1912, and Louisiana in 1918. While Georgia and Florida did not overturn their laws until as late as 1942 and 1944 respectively.⁹¹ In most cases the states enforced the legislation, virtually ending peonage; however, sporadic reports of violations surfaced through the 1950s.

⁸⁸ Ibid., 153.

⁸⁹ Ibid., 153-154.

⁹⁰ Angelo, “Wage Labour Deferred: The Recreation of Unfree Labour in the US South,” 602.

⁹¹ Ibid., 598.

Convict-Lease

Convict leasing originated in the prison reformations of the early 1800s. Debates on general prison reform began in the early nineteenth century as reformers scrutinized the efficacy of many social institutions. In light of this mindset, prisons, which had been simply institutions for punishment, were now considered as opportunities for rehabilitation.

Contemporary thought contended that by simply removing the individual from the environmental causes of his criminal behavior, surrounding him with a new, positive, uplifting environment, and providing the discipline created by hard work, a convict could indeed be rehabilitated and returned to freedom as a productive member of society. Penitentiaries quickly turned the work element of this reform system into profit, which they could easily justify as a way of helping to improve the inmate.⁹²

Historians continue to debate the motivation for convict leasing following Reconstruction. Donald Walker contends that convict leasing was not a “conceived and well-executed master plan,” but was instead a system that simply developed from pragmatic needs.⁹³ Southern leasing was used as a means of funding, an answer for a collapsed prison infrastructure, and as a way to accommodate a steadily increasing prison population.⁹⁴ Alex Lichtenstein also argues that convict labor was not a “barbarous relic of the Old South,” but was instead a means by which the southern states established a modern economic system.⁹⁵ As southern landowners established a new plantation system through sharecropping, the states

⁹² Donald R. Walker, *Penology for Profit: A History of the Texas Prison System, 1967-1912*, (College Station: Texas A & M University Press), 5-8.

⁹³ *Ibid.*, 4.

⁹⁴ *Ibid.*, 4, 192.

⁹⁵ Alex Lichtenstein, *Twice the Work of Free Labor: The Political Economy of Convict Labor in the New South* (New York: Verso 1996), xix.

needed improved transportation systems to move goods quickly and efficiently. Thus, the state governments relied on prison labor as a resource for road and railroad building. However, Lichtenstein adds that this labor resource went beyond simple economics because prison labor was an effective method of maintaining white authority by physically controlling a portion of the emancipated slave population.⁹⁶ The legal system became a “means of racial control and labor exploitation” in the post-war South.⁹⁷ Milfred Fierce takes this position even further, claiming convict leasing exploited postbellum African Americans more than any other form of labor, and directly compares the system to slavery. The system in his view was a contrived means of racial control and was exemplified by its characteristics to slavery: quotas, lashings, loss of freedom, and control.⁹⁸

Convict leasing became a profitable and fairly common practice in the postbellum South. Prison leasing actually was in moderate practice during the Reconstruction era. However, by the early 1880s, encouraged by the Democratic Redeemers in the South, the practice flourished. In some cases, prison labor was directly related to the peonage system, while other times, it stood independently and acquired laborers by arresting freedmen for such vague offenses as vagrancy and insubordination. Prisoners worked as unskilled laborers on plantations, railroads, turpentine farms, and lumber mills as well as in coalmines. Leasing was a popular means of acquiring labor for several reasons. First, leasing was an economic resource for ailing state and county fiscal budgets that suffered from the cost of war. Not only did officials receive lease money, they also did not have to provide inmate housing, much of

⁹⁶ Ibid., xv, xix, xxi, 3.

⁹⁷ Ibid., 18.

⁹⁸ Milfred Fierce, *Slavery Revisited: Blacks and the Southern Convict Lease System, 1965-1933*. (NY: African Studies Research Center 1994) 2.

which the war had decimated. In most cases, the state or county relinquished complete responsibility for the prisoner to the lessee.⁹⁹ Many southern prisons reportedly returned a four-fold profit. However, most notably, prison labor served not only as a continued “source of cheap labor” and “white supremacy,” but also as an effective deterrent to keep peons tied to their debt for fear of breaking their legal contract and being thrust into the prison system.¹⁰⁰

Since convict labor represented by prison camps or by chain gangs was a visible and public spectacle, the practice of leasing made a bold statement to the southern African American community. The message was clear. If one did not follow the social standards as set forth by the white community, the freedman would find himself bound by shackles in a prison work gang.¹⁰¹ In this manner, the visible labor force served as a message for agricultural laborers to remain loyal to their labor contracts, and to remain in the state of peonage if necessary as the end result of breaking the agricultural contract was the prison chain gang.¹⁰²

In the first year following the war, the planter class quickly legislated “Black Codes” as a means of maintaining oppressive control of the African-American community. State governments designed these laws to force contract-labor and to deny legal and political rights for African Americans. Within these Black Codes, “vagrancy” laws served as a pre-cursor to debt peonage in that any freedmen who failed to sign a contract was a “vagrant” and arrested. If the destitute freedman could not pay his fine (which was usually the case), he was “sold” to a

⁹⁹ Christopher R. Adamson, “Punishment after Slavery: Southern State Penal Systems, 1865-1890,” *Social Problems* 30, No. 5, Thematic Issue on Justice (June, 1983): 561, 556, 558, 564.

¹⁰⁰ *Ibid.*, 556; Lichtenstein, *Twice the Work of Free Labor*, 19.

¹⁰¹ Adamson, “Punishment after Slavery: Southern State Penal Systems, 1865-1890,” 557.

¹⁰² Alex Lichtenstein, “Good Roads and Chain Gangs in the Progressive South: ‘The Negro Convict is a Slave,’” *The Journal of Southern History* 59, no. 1 (Feb., 1993): 109.

white employer who then legally worked the “vagrant” until the fine was repaid.¹⁰³

Fortunately, the Freedmen’s Bureau was quick to vanquish the most oppressive of the Black Codes at every opportunity. Bureau officials exerted their federal authority to deter the attempts of the southern planter to re-establish white supremacy. Bureau agents stepped in to represent the freedmen, reporting that “no jury in Georgia . . . would ‘convict a white man for killing a freedmen,’ or ‘fail to hang’ a black man who killed a white in self-defense.”¹⁰⁴

State and local law enforcement ensured that the supply of prisoners for labor camps was seemingly inexhaustible, and local laws restricting black freedom were enforced with impunity following Reconstruction. Vagrancy laws, a carry-over from the Black Codes, targeted the unemployed. If one did not have a job, he or she was arrested, jailed and forced to work through the convict-lease system. Harsher penalties also added to the lease system as petty crimes such as the theft of a chicken could now garner a five-year prison term. The Freedmen’s Bureau was no longer available to help temper the rampant racist laws, or to represent the Freedmen in the all-white courts. With the proliferation of white law enforcement officers, judges, and juries, blacks were particularly vulnerable to the unchecked power of white legislators.¹⁰⁵

Those not deemed “vagrant” often became liable to the convict lease system because of the dire circumstances created by sharecropping. For instance, a common conviction for African Americans was theft, and likely, there were instances of out-and-out stealing without justification. However, in many cases, exploited freedmen did not receive their full pay or

¹⁰³ Foner, *Forever Free*, 95-96.

¹⁰⁴ *Ibid.*, 96.

¹⁰⁵ *Ibid.*, 202.

received no pay at all and starving, they stole food from the planters' caches, or stole in an attempt to avoid the inevitability of debt that came with "borrowing" from the local merchant.¹⁰⁶ Thus, by trying to avoid the grip of peonage, the freedman may have found himself subject to an even worse fate, convict laborer.

State and county leaders avoided violation of the Civil Rights Act and the Fourteenth Amendment by applying the law to both whites and blacks, yet an unemployed white was rarely, if ever, arrested. For instance, in Mississippi, white convicts did not work on plantations or on railroads; Florida rarely sent whites to turpentine camps, and there were no white convicts working in the Tennessee mines. The Georgia penal system refused to send white convicts to work on visible road crews because of the demoralizing nature of the work, whereas African Americans were "not lowered by this form of publicity."¹⁰⁷ Subjecting few whites to prison labor was a customary practice following Reconstruction as the Democratic leaders held fast to the idea that African Americans required "compulsory labor" to ensure discipline and control while white convicts did not.¹⁰⁸

Unfortunately, with this "compulsory labor" prison officials and lessees placed little value on the lives of African-American inmates. Even with the horrific abuses of slavery, there was some desire to maintain the financial investment in the slaves as property. However, with convict labor, the lessee had little if nothing to lose. A sick or elderly convict was simply an economic burden. Since one life did not cost any more than the next and each laborer could be replaced with another, prisoners lacked protection from hazardous jobs and failed to receive

¹⁰⁶ Lichtenstein, *Twice the Work of Free Labor*, 28; Fierce, *Slavery Revisited*, 7.

¹⁰⁷ Lichtenstein, "Good Roads and Chain Gangs in the Progressive South," 90.

¹⁰⁸ Adamson, "Punishment After Slavery: Southern State Penal Systems, 1865-1890," 565.

basic health care. In the road camps of Georgia and South Carolina, common complaints included lack of water, rotted, inedible food, regular beatings, torture, inebriated guards, unsanitary conditions, cramped sleeping quarters, and even shootings.¹⁰⁹ One overseer was quoted as wanting “to kill” an ill laborer because he did not want “to feed him for nothing.”¹¹⁰ As a result, death rates in the prison camps were high. In twelve years, Georgia penal records show that convict deaths (over 400 in all) were four times the total of those recorded in the state’s entire pre-war history. Some estimates show that by 1883 the life expectancy for a convict laborer was three years, with annual death rates in some camps reaching as high as fifty-three percent.¹¹¹

One would think that only those who committed the most heinous crimes would receive such harsh treatment, but such was not the case. According to Macon Georgia court reports, in March of 1904, “149 men and women were sent to the county chain gang for a total of 6,751 days of labor. Fifty-six of these convictions were for drunkenness, 40 for disorderly conduct, 18 for fighting, 12 for loitering, another 12 for violating city ordinances, 4 for reckless driving or riding, 2 for throwing rocks, and 1 simply for ‘suspect.’”¹¹² This overzealous application of the law exemplified the abuse of the penal system as both a labor source and as a means of oppression.

Many considered railroad contracting as one of the more deplorable lease activities. The drive for job completion coupled with budgetary issues turned the penitentiary system into

¹⁰⁹ Lichtenstein, “Good Roads and Chain Gangs in the Progressive South,” 92-93; Lichtenstein, *Twice the Work of Free Labor*, 54.

¹¹⁰ Lichtenstein, *Twice the Work of Free Labor*, 54.

¹¹¹ Adamson, “Punishment After Slavery: Southern State Penal Systems, 1865-1890,” 566.

¹¹² Lichtenstein, “Good Roads and Chain Gangs in the Progressive South,” 94.

a labor mill, with little value for the welfare of the laborers. Even a Georgia penitentiary manager “complained that ‘a humane treatment of [the convicts . . .] is entirely ignored,’” noting that railroad foremen worked the laborers “to the point of exhaustion or disease.”¹¹³ Some penitentiaries served more as a hub for the railroad system, as sick laborers returned to the facility while fresh, healthy ones took their place, thereby ensuring an ongoing supply of strong labor.¹¹⁴

Railroad labor for the convicts was horrific and even deadly, consisting of grueling sixteen-hour workdays that began before sunrise and ended at dark. Convicts ate meals as they walked en route to and from work sites. If a worker failed to fulfill the expectation of the overseer, the convict was “motivated” by the whip, and much like the quota requirements in a pre-war cotton field, the convict had a fixed amount of material to move daily. If he failed to meet the quota, or was caught filling a weaker laborer’s bin, the overseer punished the convict with the whip. There are even some reported cases of managers beating convicts to death for refusing to work, or for pretending to be ill. Although corporal punishment was an accepted form of penitentiary discipline in both the North and the South, the southern convict laborer was not beaten merely as a means of discipline or security, but for an increase in production.¹¹⁵

Gordon Carper studies convict labor in the turpentine district in Alabama, Georgia and Florida. He argues that convict leasing helped to maintain the previous slave/master relationship and was a contrived system created by plantation owners and law enforcement. He quotes from the February 18, 1904, newspaper, *Independent*:

In many cases it is very evident that the court officials are in collusion with

¹¹³ Lichtenstein, *Twice the Work of Free Labor*, 51.

¹¹⁴ *Ibid.*, 52.

¹¹⁵ *Ibid.*, 52-53.

the proprietors or agents, and that they divide the “graft” among themselves. As an example of this dickering among the whites, every year many convicts were brought to the Senator’s camp from a certain county . . . way down in the turpentine district. The majority of these men were charged with adultery Upon inquiry I learned that down in that county a number of negro lewd women were employed by certain white men to entice negro men into their houses; and then, on a certain nights, at a given signal, when all was in readiness, raids would be made by the officers upon these houses, and the men would be arrested and charged with living in adultery. Nine out of ten of these men, . . . would find their way ultimately to some convict camp. . . . The low-down women were never punished in any way.¹¹⁶

Turpentine farmers often rented convict laborers and then retained them through peonage by forcing employees to purchase supplies through the “commissary system,” usually at inflated prices. Once the laborers’ debt became too high, he was enslaved until the debt was repaid—often twenty or more years.¹¹⁷

Carper illustrates his argument with the investigation and prosecution of Captain Alston Brown in Dixie County, Florida. This case is unique not only because it is one of the few cases, based on both African American and white testimony, that made it all of the way to conviction, but also because it provided historians with a clear vision of the abuses of peonage and with evidence of the connection between peonage and convict labor.¹¹⁸

Brown’s turpentine camp was horrific. Often innocent men, women and children were held captive for fifteen years or more, while many others forced to buy from Brown’s commissary were kept in debt and could never leave. For instance, Brown tricked convict Will Jeffrey who had just finished a six month prison term. He sent Jeffrey to the commissary for a new pair of pants; however, after Jeffrey received the pants, he was immediately returned to

¹¹⁶ Carper, “Slavery Revisited: Peonage in the South,” 88-89.

¹¹⁷ *Ibid.*, 89.

¹¹⁸ *Ibid.*, 97.

labor to repay the debt. After eight years, Jeffrey's debts totaled \$148.00. Most laborers never left the confines of the camp, and if they died, their family was never notified. Just like the slave system, laborers were brutally beaten, and women (married or unmarried) were prostituted to men in the camp, or raped by Brown. Brown inflicted himself upon girls as young as thirteen.¹¹⁹ Unfortunately, the degraded state of this type of camp existed because state Democrats stopped the supervision of camps and allowed lessees to maintain their own systems of management.¹²⁰

Mary Ellen Curtin discusses the use of prison labor in the Alabama black belt mines. The labor force in the mines was comprised almost entirely of black prison labor. Noting that the prison populations in Alabama were ninety-nine percent white prior to Reconstruction and became primarily black following emancipation, she argues that racism, manifested in the black codes, created a pool of cheap black labor that fed the Alabama mining operations.¹²¹ The prison system allowed southern whites to maintain control over freedmen. African Americans were often sentenced to two years of hard labor for misdemeanor crimes, and public prison labor was used as a message for the free black population to "learn their place."¹²² Whites angered by the mobility of freedmen used the legal system as an outlet for frustration and a means of punishment for assertive African Americans.¹²³

¹¹⁹ Ibid., 95-96.

¹²⁰ Adamson, "Punishment After Slavery: Southern State Penal Systems, 1865-1890," 564.

¹²¹ Mary Ellen Curtin, *Black Prisoners and Their World, Alabama, 1865-1890*, (Charlottesville: University Press of Virginia, 2000), 2, 6.

¹²² Ibid., 6.

¹²³ Ibid., 44, 78.

Besides conviction for crimes, the freedmen were subjected to prison labor as a means of paying fines. The law required county convicts to pay court costs; however, income poor blacks could rarely pay the approximately \$50.00 fine. As a result, the legal system practiced its own form of peonage by requiring additional prison time to repay the fine.¹²⁴ Once in prison, Curtin notes that in order “[t]o control prisoners southern states copied methods of labor control perfected under slavery, including torture, whipping, patrols, and cash rewards for runaways”. This prison system was profitable for both the county and the mine owners. The owners had inexpensive labor, and the county had revenue. One protected the other as neither wanted to endanger the relationship. Subsequently, abuses – even murder—were often overlooked.¹²⁵

Similar to the fate of debt peonage, Progressive era reformers ended the convict lease system in most southern states in the first two decades of the twentieth century. However, state and county law enforcement continued the chain-gang system, whereby the prison no longer relinquished full responsibility to contractors, but instead used the convicts for county and state work, particularly construction of transportation networks.¹²⁶

Conclusion

This period of involuntary servitude following the war was indeed a dreadful time in American history. Characterized by deceit, violence and injustice, the labor systems of debt peonage and forced convict labor were intertwined and subjected African Americans to a

¹²⁴ Ibid., 7, 78.

¹²⁵ Ibid., 19.

¹²⁶ Lichtenstein, *Twice the Work of Free Labor*, 3, 15; Fierce, *Slavery Revisited*, 12
 Dates convict leasing was outlawed: GA 1908, AK 1913, TX 1914, TN 1896, FL 1919, MS 1894, SC 1901, AL 1928, NC 1933.

life imitating slavery. While the peonage system perpetuated a state of debt, the African-American farmer could not free himself or herself of the constant burden for fear of figuratively exchanging his debt for the odious life of convict laborer. The systems worked together in many ways to benefit the white landowner or the state government and oppress the African-American worker. Thus, debt peonage is inextricably linked with prison labor.

As many have argued, peonage resulted from a conglomeration of ignorance, greed, violence, racism, lack of land reform, and illiteracy; however, all of these dark issues were exacerbated if not created by the early withdrawal of the Freedmen's Bureau. The Bureau possessed the potential to repudiate what society has deemed the worst of civilization. Even in its handicapped state, with little funding and lack of land reform, the Bureau made a difference in the day-to-day lives of the freedmen. Nevertheless, the task was immense, and the time for the Bureau was short. Centuries of oppression could not be overcome in a matter of seven years, less than a single generation. The birth of the New South was fresh and U. S. citizens from the North and the South were reconsidering their political, social and economic roles in the postbellum period. In the rush to put the Civil War in the past as well as to avoid its own misgivings concerning the intrusion of big government, Congress missed the opportunity to establish a solid, long-term agency that would speak to the needs of African Americans through the Progressive era and beyond.

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