GOP promotes proposals to lease, auction prison labor

by Edward Spannaus

Radical privatization proposals, which could result in the Federal government auctioning off the labor of federal prisoners to the highest bidder, are currently being promoted by some Congressional Republicans. The most extreme ideas are coming directly out of the feudalist Mont Pelerin Society, and are receiving a favorable hearing in the House Judiciary Committee's Subcommittee on Crime, chaired by Rep. Bill McCollum (R-Fla.).

During an Oct. 30 hearing of McCollum's subcommittee, there was high praise for existing programs under which state prisons are already farming out their labor force to private businesses, and producing goods for both domestic U.S. consumption, as well as for export abroad. Thirty-eight states now operate such programs, under the "Prison Industry Enhancement" (PIE) program. The hearing was organized around proposals for applying this same approach to Federal prisons—although the organizers of the hearing were compelled to include representatives of labor and manufacturers' groups which are not interested in these radical privatization proposals, but are striving to protect workers and businesses from being undercut by cheap prison labor programs.

Abolish the rules

At the hearing, the sole academic witness was Prof. Morgan Reynolds, of Texas A&M University, and director of the Criminal Justice Center of the National Center for Policy Analysis (NCPA) in Dallas. The NCPA is part of the network of Mont Pelerin Society think-tanks in the United States, and Reynolds is himself a member of that secretive society, which was founded in Switzerland in 1947 by Otto von Hapsburg and Friedrich von Hayek, to carry on the tradition of pre-war fascist economics.

The theme of Reynolds's testimony was that "competition is good," and that artificial restraints on competition are bad; therefore, all laws and rules which impede the employment of prison labor by the private sector should be relaxed or repealed.

"To apply the principles of competition to the labor of federal prisoners implies allowing qualified businesses to bid for their services—an auction, if you will," Reynolds said. "Cheap, productive labor is the major attraction for a private business to tolerate the many disadvantages of operating behind prison gates."

Reynolds is the author of various studies on crime and prisons published by the NCPA. One of these, "Factories Behind Bars," nostalgically reviews the history of "leasing" convicts to outside businesses, which was prevalent in the South during the period between the Civil War and the World War I. Reynolds presents a number of case studies, including Tennessee and Texas; he reports that in Texas, "black prisoners in first-class physical condition cost $31 per month and first-class white prisoners cost $29 per month."

This report, including the above passages and an explicit recommendation that laws should be changed to permit "convict leasing" once again, was circulated by the Judiciary Committee staff at the hearing.

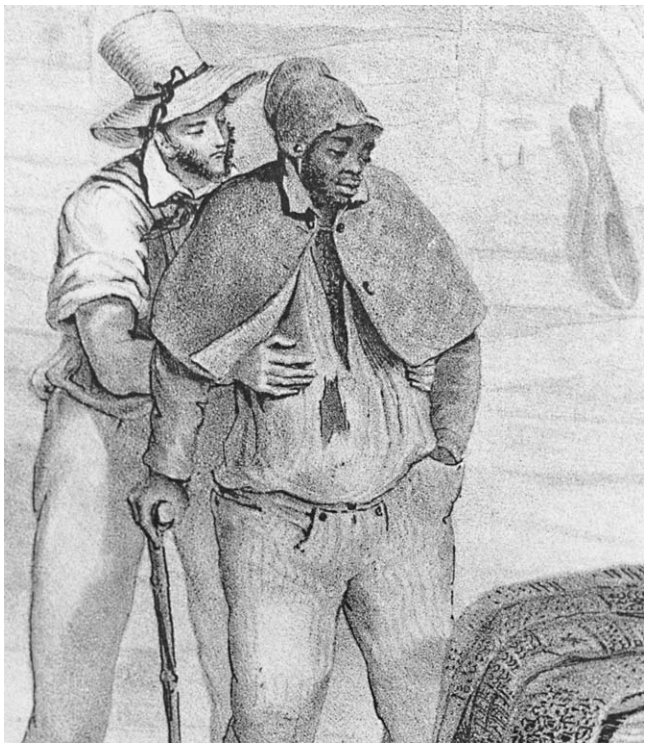
A 1994 Reynolds-authored NCPA report, entitled "Using the Private Sector to Deter Crime," calls for abolishing the "government monopoly" on the criminal justice system altogether, by privatizing law enforcement, prosecutions, prisons and jails, and probation and parole. One of Reynolds's recommendations is to expand the use of bounty hunters to track down persons who are wanted on bench warrants. He also suggests the payment of bounties for criminal convictions.

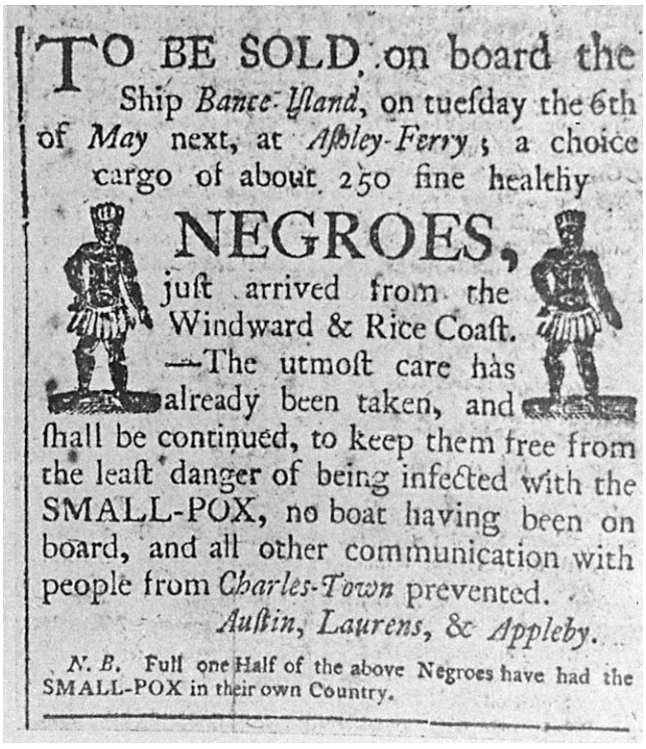
Reynolds had to be kept on somewhat of a leash at the hearing, because the hearing was supposed to be on the subject of proposed changes in the laws governing Federal Prison Industries. One of the specific proposals discussed, was to turn Federal Prison Industries (FPI, also known as Unicor) into an agency that simply contracts out prison labor to the private sector.

The spokesman for Unicor said that his agency would be receptive to the idea that Unicor would become what he called a "virtual corporation"—an agency that would simply hire out workers to the private sector, rather than carrying out its own manufacturing programs.

Labor opposition

The labor and industry spokesmen, who testified on a second panel at the hearing, were definitely not promoting these radical privatization proposals.





Slaves at auction in the antebellum South. In today's privatized prison system, a black prisoner in Texas, in top physical condition, goes for $31 per month, while white prisoners cost $29.

"Prisoners should never be used in competition with free labor, or to replace free labor," said Anne Hoffman, legislative director of the Union of Needletrades, Industrial and Textile Employees (UNITE), during her testimony. Hoffman also said that the union's experience with the PIE private-sector programs in state prisons "has not been encouraging." Under that program, prison inmates working for private industry are supposed to be paid the minimum or prevailing wage in the particular industrial sector. But, UNITE's experience is that the minimum wage is not paid, much less the prevailing wage. "And workers on the outside are displaced by workers on the inside," she added.

Hoffman gave a number of examples of situations in which workers lost their jobs when their employers began using prison labor. In one case, a hog-slaughtering plant in Arizona was shut down, throwing 400 members of the United Food and Commercial Workers union out of work. Then the plant was leased to the Arizona Department of Corrections and partially reopened with 60 prison workers, as a joint venture with private pork producers.

The "most audacious and disturbing prison-based program," Hoffman said, is the "Prison Blues" manufacturing program for blue jeans, t-shirts, and so on, in Oregon. She said that UNITE has been getting calls from trade unionists in Europe, who are "incredulous that commercial use of prison labor is legal in the U.S., and that the products are being exported and sold worldwide."

Also testifying at the hearing were representatives of furniture and apparel manufacturers, who complain that private-sector manufacturers cannot compete with the wages of 25¢ to $1.25 an hour being paid to prison laborers. Their primary concern is to end the "mandatory preference," under which government agencies are required to purchase furniture and other goods made by Unicor's prison labor, thus freezing their businesses out of that market. A large number of members of the furniture and apparel trade associations attended the hearing to protest what they call the Unicor "monopoly."

Documentation

The following are excerpts from the testimony of Ann F. Hoffman, Legislative Director, UNITE, Union of Needletrades, Industrial and Textile Employees.

UNITE shares the view of the AFL-CIO that training opportunities should be provided for prisoners to help in their rehabilitation and to reduce recidivism, but prisoners should never be used in competition with free labor or to replace free labor. We find, unfortunately, that prison labor is being used increasingly in both the states and by the federal government to

perform work in both the private and public sectors ordinarily done by those who are not incarcerated. This is unacceptable.

We have considered the suggestions for expansion that have been propounded by Federal Prison Industries in the recent past, and have serious reservations about them.

One idea is to permit prison-made products or inmate-furnished services to be sold in interstate commerce, such as state prison products are currently made and sold in cooperation with private sector firms under the Prison Industries Enhancement, or PIE program. The experience with that program has not been encouraging.

The PIE program permits private sector businesses to engage in prison-based industries in many ways, including financing, marketing, planning and other participation. In return, the statute has certain requirements designed to protect non-prison labor. The requirements are payment of prevailing wages to inmates; consultation "with local union central bodies or similar labor union organizations . . . prior to the initiation of any project"; and assurance that inmate employment does not displace employed workers, impair existing contracts for services or occur in areas where there is a surplus of available labor.

The experience of UNITE and other unions is that consultation virtually never occurs. Minimum wage is not paid, let alone prevailing wages. And workers on the outside are displaced by workers on the inside. . . .

In short, the PIE program is not being operated in accordance with the law that established it. It is fostering head-to-head competition between prisoners and non-incarcerated workers, with the deck stacked against those on the outside. That is a good reason enough not to expand the PIE program to the federal prison system.

. . . The proposals that have been put forward for expansion of Federal Prison Industries all involve threats to the jobs and livelihoods of currently employed individuals who are not incarcerated. . . .

Excerpts of testimony of Morgan O. Reynolds, Professor of Economics, Texas A&M University; Director, Criminal Justice Center, National Center for Policy Analysis.

I assume that the question is, How can we use federal prison labor as normally and productively as possible, consistent with prison security considerations? First, we must repeal or relax the federal and state laws which impede the employment of prison labor and commerce in prison-made products. With that accomplished, access to productive work on a large scale would mean private enterprise supplying as many as six out of seven jobs, similar to the employment pattern in the U.S. economy.

Competition is a good thing, not bad. . . . Monopoly privilege, achieved through artificial restraints on competitors, is bad in terms of both fairness and efficiency. . . .

To apply the principles of competition to the labor of federal prisoners implies allowing qualified businesses to bid for their services—an auction, if you will. An open and just process, of course, implies freedom from corruption (collusion and fraud) on the part of both business executives and prison officials.

A vital factor in a successful bid to operate as a joint venture partner behind bars should be wage policies, which ought to be as high, flexible and market-determined as politically feasible. . . . Wages should be paid wholly to inmates, who, in turn, should be required to pay reasonable amounts for room and board, taxes, restitution, court costs, fines, family support and compulsory personal saving, usually to the tune of 80% of gross wages.

Cheap, productive labor is the major attraction for a private business to tolerate the many disadvantages of operating behind prison gates. But "cheap" must be understood in context. If convict labor is cheaper than civilian labor, it's because entrepreneurs bidding for the labor expect it to be less productive. Sustained overpayment for resources always spells doom for private enterprise. If government artificially overprices (and overregulates) prison labor, it can easily kill private employment and production in prison. . . .

Inmates should compete for employment opportunities and industry should compete for their labor. . . .

If bureaucrats can do it, they are best advised to move to the private marketplace and grab a golden ring or two. For details, please see my National Center for Policy Analysis Report No. 206 titled "Prisoners Behind Bars," published in September 1996, attached to my testimony today. . . .

Excerpts from "Prisoners Behind Bars."

If one in four prisoners could be put to work for private enterprise over the next five to 10 years, during which time the [federal and state] prison population is projected to increase to 1.6 million, that would mean 400,000 new prison jobs. Allocating 60% of their earnings to taxpayer compensation could reduce taxpayer costs by $2.4 billion per year, or somewhat less than 10% of the total cost of prison support. . . .

One of the difficulties of creating jobs for prisoners is that many of them are illiterate or semiliterate, or have low IQs, but champions of inmate labor are confident such jobs could be created. The federal system has the best prospects for high rates of payback because many of the prisoners are there for crimes typically committed by more intelligent criminals like counterfeiting, kidnapping, and drug smuggling.

Among the steps that must be taken to make prisons hum with productive activity are:

- Repeal the various state and federal laws that restrict trade in prison-made goods.
- Repeal the laws that compel government agencies to buy prison-made goods in favor of competitive bidding for government purchases.

• Create prison-enterprise marketing offices in prisons and jail systems.

• Allow private prison operators to profit from the gainful employment of convict labor.

Origins of convict labor

The idea of work by prisoners is hardly new. In 1787 the founding father of criminology in the English-speaking world, Jeremy Bentham (1748-1832), urged replacement of the jails of his day by what he terms "mills for grinding rogues honest and idle men industrious."

Contracting with private businesses

Under the contract system, prison officials advertised for bids from private employers to hire the labor services of convicts within the walls of the prison, while prison officials maintained control over security and sustenance. . . . The contractor sold the finished products in the open market, and the state received a fixed fee per prisoner per day. . . .

Prisoner leasing

After the Civil War, convict leases became another way in which prisoners were put to work. Under convict leases, private employers essentially assumed control over nearly all aspects of prison life, including security and living conditions. Prisoner leases usually involved work camps on farms, construction sites (including railroads), and mines outside prison walls. Leases to private employers usually yielded the highest revenues to the state.

The system of leasing prisoners to private businesses for work outside prison walls was first tried in Kentucky in 1825, and during Reconstruction the practice became widespread in Southern and border states whose economies had been devastated. Leasing proved economically successful but politically difficult.

. . . Between the end of the Civil War and the outbreak of World War I, Texas also routinely hired out prison inmates to private individuals and corporations. . . . Railroad contracts were more lucrative for the state than farm labor, but the latter was more common, especially in sugar farming, and yielded net revenue to the state of $3.4 million over the period. Black prisoners predominated on sugarcane farms, and labor prices charged to companies were only slightly less than the wages of similar free labor. From 1880 to 1912, black prisoners in first-class physical condition cost $31 per month and first-class white prisoners cost $29 per month.

Policy options

Repeal of federal restrictions on prison labor would allow the states to design their own lease and contract systems. Conditions and criteria would differ among the states. States could lease labor to industries both inside and outside prisons and retain final control, inspection and auditing responsibilities. Allowing state authorities maximum latitude in negotiating prison lease deals would benefit taxpayers, prisoners, and crime victims and would improve public safety over the long run.

Oregon votes a Nazi 'solution': euthanasia

by Linda Everett

On Nov. 4, the voters of Oregon gave themselves the ignominious distinction of voting twice for the same Hitlerian euthanasia policy that the United States condemned as crimes against humanity at the 1945 Military Tribunal at Nuremberg. Oregonians voted to retain their 1994 Death with Dignity Act, which gave physicians the legal right to provide sick patients with prescriptions for lethal drugs with which to kill themselves. The vote condemns the lives of tens of thousands of sick, elderly, and disabled, as well as polluting the purpose of medicine for millions of doctors, nurses, and health care workers in the state and beyond, with its focus on finding the most efficacious ways to kill a patient.

The Oregon law is the predictable result of the U.S. Supreme Court's June 26 assisted-suicide ruling, in which the court accurately cites the incalculable risks that the nation faces by making assisted-suicide a legal right—and then, throws the issue to the "laboratory of the states," to resolve it how ever they may. The monstrosities unleashed by the Oregon vote are now at work in dozens of other states—and, more insidiously, in Federal and state programs, like Medicare and Medicaid.

Background of the case

In November 1994, Oregonians narrowly passed Ballot Measure 16, the Oregon Death with Dignity Act, the first law in the history of the United States that amends a state constitution to make euthanasia, or, in today's parlance, "physician-assisted suicide," legal, by permitting doctors to prescribe lethal doses of medications for terminally ill patients to allow them to commit suicide. The law was written by nurse and attorney Barbara Coombs Lee, who, at the time, worked with a major managed-care company that specialized in "early warning systems" for hospital cost projections. She called for Medicaid coverage of suicide aid, saying that it met a need without further burdening a medical system that already labors under huge costs. "The writing of a prescription," she said, "is not expensive." In fact, what could be cheaper?

Once passed, however, Measure 16 never went into effect, because a group of patients and doctors challenged it as un-