

**TESTIMONY ON SENATE BILL  
NO. 116**

**BY**

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**BEFORE THE HOUSE OF  
REPRESENTATIVES  
SUBCOMMITTEE ON CRIMES  
AND CORRECTIONS**

**SEPTEMBER 16, 1997**

Thank you, Mr. Chairman, for the opportunity to express my views on Senate Bill 116 that is before the committee today. My name is Barry Bogarde and I am the Legislative Director for the American Federation of State, County and Municipal Employees (AFSCME) Council 13. Our Union represents more than 7,000 employees in corrections operations for both State and county jurisdictions.

Senate Bill 116, in its attempt to create an Inmate Work Force, is not a new idea. The inmates in our prisons, and now our correctional institutions, have been performing some type of work for over 200 years. However, the bill before us raises many issues that, in our opinion, dramatically impact on the status of the current and future work forces of the Commonwealth.

Our Union has worked with our employers, and with relative success, making policies internally through the labor management process, to find ways in which the use of inmate labor would have no adverse effect on the members of our union, who, by the way, live by the rules and are law-abiding, tax-paying constituents.

The use of inmate labor has been a practice for many years within our state and counties. For example, inmates in Dauphin County Prison are used regularly to clean up around the County Courthouse, and I believe that they are performing groundskeeper duties at the county's public golf course. For the Commonwealth, state correctional inmates have performed many functions for the state government agencies. Breaking down modular workstations, then relocating and reassembling them at the worksite is just an example of the type of function that the inmates have been doing for some time now.

Remember the snow removal project at the Penn State football stadium during the winter of 95? Some county inmates are assigned litter retrieval duties along our highways.

The Pennsylvania Department of Corrections and the Union have worked together to make the assignment of work to the inmates productive, and at the same time maintain job protections for our members who would have done this work on a normal basis.

The legislation does not contain any of the necessary language that would protect an employee from being displaced or even replaced by an inmate. The legislation does not address the questions of positions that are vacant in the work force.

Do we use an inmate to do this work, do we hire that young high school graduate looking for their first job or someone who has been laid off with a family to provide for, or someone who is coming off welfare and is hoping to re-enter the work force?

These policy questions must be addressed first, before you consider expanding the use of inmate labor as approved public policy of the Commonwealth of Pennsylvania.

As you will hear from other presenters, this is not just a public employer problem. This legislation would also reach into the private sector. Private employers and contractors in your districts, who do business with the state or local governments, would be forced into competing with no-wage, low-wage inmate work forces, whether it is road work or any other public service work project as defined in the legislation.

As I stated from the beginning, this bill raises a number of policy questions that need to be addressed before you take on the creation of an inmate work force.

This bill does not include an appropriation request. How many additional Corrections Officers will need to be hired to supervise the inmates on these work details? Where does the money come from to purchase the necessary equipment required by the inmates and the Corrections Officers to do the work--trucks, tools, highway equipment, radios, and cellular telephones for communications and safety protections for both the community where the inmates may be working and the Corrections Officers themselves.

Attached to my testimony are copies of the current laws dealing with inmate labor in the Commonwealth of Pennsylvania found in Title 61, which give state and county governments the right to use inmate labor in a number of different ways. As you can see, these laws have been around for a long time.

Mr. Chairman, on behalf of the members of AFSCME Council 13, I urge the committee to reject the legislation, and express our opposition to the proposed bill.

It is time for us to remember the Commonwealth's last two mottos: **"YOU'VE GOT A FRIEND IN PENNSYLVANIA"** AND **"MEMORIES LAST A LIFETIME"** and not accept the motto that I coined last session when this bill was introduced in the Senate, **"DO THE CRIME, DO THE TIME, GET A JOB."**

At this time I will try to answer any questions the committee members may have. .

Thank you.

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## CONVICT-MADE GOODS

251. Convict-made goods to be branded.
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254. Branding in convict-made goods, not branded, prohibited.
255. Counties of first class; prison inspectors authorized to sell prison-made goods.
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## Cross References

Bureau of Correction, powers and duties as to labor of prisoners, see section 305 of Title 71, State Government.

Department of Welfare, see section 1181 of Title 71, State Government.

Federal prisoners, employment, see 18 U.S.C.A. §§ 1121 to 1128.

Hours of labor, see sections 801 to 804 of this title.

## IN GENERAL.

## § 141. Convict labor to be employed for the state

At the expiration of existing contracts, the board of inspectors, wardens, or other officers of state prisons and reformatory institutions, are directed to employ the convicts under their control for and in behalf of the state. 1883, June 13, P.L., 112, § 1.

Library references: Convicts  $\Rightarrow$  7 et seq.; C.J.S. Convicts § 13 et seq.

## Cross References

Board of inspectors of jails or county prisons in counties of third, fourth and fifth classes, see section 108 et seq. of this title.

Board of inspectors of Philadelphia county prison, see chapter 8 of this title.

Board of trustees of state penitentiaries, see chapter 1 of this title.

## § 142. Employment of inmates of certain institutions

The chief officers of the various reformatory institutions, deriving their support wholly or in part from the state, are hereby directed, at the expiration of existing contracts, to employ the inmates of said institutions for and in behalf of such institutions; and no labor shall be hired out by contract. 1883, June 13, P.L., 112, § 2.

Library references: Convicts  $\Rightarrow$  7 et seq.; C.J.S. Convicts § 13 et seq.

**§ 143. Employment of inmates of county prisons, etc.**

The officers of the various county prisons, workhouses and reformatory institutions within this Commonwealth, now letting the labor of convicts by contract, shall, at the expiration of existing contracts, employ the same for and in behalf of their respective counties. 1883, June 13, P.L. 112, § 3.

Library references: Convicts  $\S$  7 et seq.; C. J. S. Convicts § 13 et seq.

**§ 144. Convicts to receive wages**

All convicts under control of the state and county officers, and all inmates of reformatory institutions engaged in manufacturing articles for general consumption, shall receive quarterly wages equal to the amount of their earnings, to be fixed from time to time by the authorities of the institution, from which board, lodging and clothing, and the costs of trial shall be deducted and the balance paid to their families or dependents; in case none such appear, the amount shall be paid to the convict at the expiration of the term of imprisonment. 1883, June 13, P.L. 112, § 4.

**Repealed in Part**

*This section is repealed, in so far as it applies to convicts under control of state officers and to inmates of reformatory institutions, by act 1915, June 1, P.L. 656, § 13.*

**Notes of Decisions****Library references**

Convicts  $\S$  7 et seq.

C. J. S. Convicts § 13 et seq.

- In general. One and the prisoner is entitled to full labor credit together with the gratuity given by the statute, see Communications and Prizes (Ch. Atty. Gen.), 36 C. C. 138, 19 Dec. 737, 1909.

**STATE INSTITUTIONS****§§ 161, 162. Repealed. 1953, July 29, P.L. 1422, § 1****Historical Note**

These sections, derived from acts of 1925, April 7, P.L. 186, §§ 1, 2 and 1927, May 10, P.L. 662, §§ 1, 2 related to sale of surplus products of prison industries and payments into manufacturing fund.

**§§ 163, 164. Repealed. 1953, July 29, P.L. 1423, § 1****Historical Note**

These sections, derived from act 1925, April 27, P.L. 304, §§ 1, 2, related to institutions and the manner of paying additional wages to inmates of certain ment.

**§ 165. Employment of convicts in construction and farming and dairying**

Upon the completion of such building or buildings as may be necessary for the custody of prisoners, the board shall transfer the convicts from the Eastern State Penitentiary<sup>1</sup> in Philadelphia as rapidly as feasible until all such convicts are so transferred, and such convicts may be assigned with the necessary guards to assist in any work connected with the improvement of said tract, the preparation of building materials or the construction of the said buildings and improvements pertinent thereto, or to engage in farming or dairying work for the purpose of supplying the prisoners at Graterford and at the Eastern State Penitentiary, Philadelphia, with food products. For the labor of all such prisoners, the Board of Trustees of Eastern State Penitentiary shall enter into an agreement with the Department of Welfare, and shall pay to the Department of Welfare Manufacturing Fund such wages for each prisoner employed as may be agreed upon in accordance with the laws regulating the employment of prison or inmate labor. Wages paid hereunder for the labor of prisoners engaged in farming or dairying or cooking, or other work in connection with the maintenance of prisoners at Graterford, shall be charged to the counties as a part of the cost of keeping prisoners; and all wages paid hereunder for the labor of prisoners engaged in the preparation of building materials, or in improving the site of the new penitentiary, or in the construction of buildings, shall be paid out of any moneys appropriated by the General Assembly for the construction of the new penitentiary. The expense of keeping the convicts at the site of said new Eastern State Penitentiary shall be borne by the respective counties in which they shall be convicted, and the said expense shall be paid as provided by law in the case of convicts confined in the Eastern State Penitentiary at Philadelphia. 1927, May 4, P.L. 761, § 4; 1929, April 26, P.L. 826, No. 350, § 1.

<sup>1</sup> Now State Correctional Institution at Philadelphia. See Historical Note preceding section 310.1 of this title.

Library references: Convicts  $\S$  7 et seq.; C. J. S. Convicts § 13 et seq.

Historical Note

Act 1927, May 4, P.L. 761, provided for the erection and equipment of buildings for the new Eastern State Penitentiary.

COUNTY INSTITUTIONS

Library References

Convicts  $\Rightarrow$  et seq.; C.J.S. Convicts § 11 et seq.

§ 181. Limitation of employment of inmates of county prisons, etc.

The officers of the various county prisons, workhouses, and reformatory institutions, within the Commonwealth of Pennsylvania, shall not employ more than five per centum of the whole number of inmates in said institutions in the manufacture of brooms and brushes and hollow ware, and ten per centum in the manufacture of any other kind of goods, wares, articles, or other things that are manufactured elsewhere in the State, except mats and matting, in the manufacture of which twenty per centum of the whole number of inmates may be employed. Provided, This act shall not apply to goods manufactured for use of the inmates of such institution, or for any institution or the inmates of any institution supported, wholly or in part, by the county in which the prison, workhouse, or reformatory institution is located, or for the use of the county itself. 1897, June 18, P.L. 170, § 2; 1899, April 28, P.L. 122, § 1; 1915, June 1, P.L. 651, § 1.

Historical Note

Section 13 of act 1915, June 1, P.L. 651, repeals section 1 of act 1899, April 28, P.L. 122, which also amended the act of 1897, above cited. Probably food-power machinery should be read in through error, the act of 1899 is cited. In said section 13 as that of 1897.

Cross References

Non-Interference with skilled labor, see section 229 of this title.

Notes of Decisions

Construction and application 1 Use of machinery 2

1. Construction and application Act 1899, April 28, P.L. 122, § 1 amended act 1897, June 18, P.L. 170, § 2.

power, except mats and matting, and twenty per cent in the manufacture of mats and matting; L. E. Thirty-five per cent of the whole number of inmates may be employed in the manufacture of the three classes of goods enumerated. Prison Manufacture, (Cp. Acts Gen. & Consol. 303, 1903.

Section 2 of act 1899, April 28, P.L. 122, repeals section 1 of act 1897, June 18, P.L. 170 limited the manufacture of goods to be used exclusively within the institution, or for the maintenance of its inmates. Id.

Act 1909, April 28, P.L. 122, § 1 applied to the Pennsylvania Industrial Reformatory, Manufacturing Reformatory, (Cp. Acts Gen. & Consol. 29 C.S. 124, 7 Dist. 72, 1897.

2. Use of machinery

Act 1897, June 18, P.L. 170, § 3, repealed, prohibited the use, in any penal institution in the state, of any and all machinery operated other than by hand or foot power in the manufacture of goods. Kemp v. Fenwick, 66 A. 199, 228 Pa. 226, 1913.

Act 1897, June 18, P.L. 170, § 3, repealed, contained no exceptions, other expense or budget, permitting part of

§ 182. Penalty for violation of act

Any warden, superintendent, or other officer or person having control of the employment of inmates of any of the within-mentioned state or county institutions or other penal institution or institution wherein convict labor is employed within the State of Pennsylvania, violating the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be sentenced to pay a fine not exceeding one thousand dollars, or undergo an imprisonment not exceeding one year, or both, at the discretion of the court. 1897, June 18, P.L. 170, § 4.

Library references: Prison  $\Rightarrow$  10; C.J.S. Prisons § 12, 13, 16, 16.

§ 183. Convicts in county jails may be required to perform labor

All persons sentenced to simple imprisonment, for any period of time, in the county jails may be required to perform such labor, in the custody of the sheriff, about the county buildings and upon the grounds and property of the county as the commissioners of the coun-



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ly in which the prisoners are confined may specify, and the said commissioners are authorized to allow and pay from the moneys of the county, to the sheriff, for his services in guarding such prisoners while so employed, compensation not to exceed twenty five cents per hour. 1860, March 31, P.L. 427, § 75; 1895, June 29, P.L. 374, § 1.

**§ 184. Male prisoners of jails and workhouses; hours of labor; employment; exceptions**

For the better employment of the prisoners and improvement of highways of this commonwealth, from and after the passage of this act, it shall and may be lawful to require every able bodied male prisoner, now or hereafter confined under sentence within any jail or workhouse now or hereafter to be established in this commonwealth, to do and perform eight hours of manual labor each day of such imprisonment, except on Sunday or legal holidays: Provided, That this act shall not include any prisoner awaiting trial, or over ten per centum of the prisoners confined in any workhouse, unless authorized by the managers or officers in control thereof. 1907, May 25, P.L. 217, § 1.

**Saved from Repeal**

*Act 1919, May 11, P.L. 1911, relating to the management and control of the county jail or prison in counties of the sixth, seventh and eighth classifications (section 419.1 of this title), provided in section 2 that nothing contained in such act should be construed to repeal section 5 of act 1899, April 28, P.L. 89 (section 188 of this title) or act 1907, May 25, P.L. 217 (sections 184-187 and 189-192 of this title).*

**Historical Note**

This section repeals and supplies section 1 of act 1899, April 28, P.L. 89.

**Cross References**

Work on funds, see section 221 of sup. of this title.

**§ 185. Labor to be classified by prison board**

The labor to be done or performed shall be classified, fixed, and established by the prison boards, which are hereby created in the several counties of the commonwealth, and to be constituted as hereinafter set forth, and shall be subject to such rules and regulations

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as shall be adopted by the respective prison boards, and approved by the president judge of the court of quarter sessions of the proper county, to secure humane treatment of said prisoners and provide continuous and healthful employment. 1907, May 25, P.L. 247, § 2.

**Saved from Repeal**

*Act 1919, May 11, P.L. 1191, relating to the management and control of the county jail or prison in counties of the sixth, seventh and eighth classifications (section 419.1 of this title), provided in section 2 that nothing contained in such act should be construed to repeal section 5 of act 1899, April 28, P.L. 89 (section 188 of this title) or act 1907, May 25, P.L. 217 (sections 181-187 and 189-192 of this title).*

**Historical Note**

This section repeals and supplies section 2 of act 1899, April 28, P.L. 89.

**Notes of Decisions**

1. Construction and application  
Where the prison board of a county the prison board within its discretion in supposed pursuance of this act undertakes to repair a public road within the county, the county is not liable for injuries caused by negligence in connection therewith; the statute giving A. 216, 229 Pa. 289, 1910.

**§ 186. Composition of prison board**

That the sheriff and county commissioners of the several counties of the commonwealth shall compose the prison board for employment of prisoners in the jails of the respective counties; and the superintendent and managers, or other chief officers, of the several workhouses shall constitute the prison board thereof, for the employment of the prisoners therein, in the several counties wherein the same is or may be located. 1907, May 25, P.L. 247, § 3.

**Saved from Repeal**

*Act 1919, May 11, P.L. 1191, relating to the management and control of the county jail or prison in counties of the sixth, seventh and eighth classifications (section 419.1 of this title), provided in section 2 that nothing contained in such act should be construed to repeal section 5 of act 1899, April 28, P.L. 89 (section 188 of this title) or act 1907, May 25, P.L. 217 (sections 181-187 and 189-192 of this title).*

Historical Note

This section repeals and supplies section 7 of act 1899, April 28, P.L. 89.

§ 187. Road work; main public roads preferred

The prison boards so constituted, and each of them, within their respective counties, and under the rules and regulations to be established under section two of this act, shall have full power and authority to compel the said male prisoners to work, on the public highways, outside of the limits of the said jails and workhouses, and within the respective counties: Provided, That preference shall be given to the making new and the maintenance and repair of the main public roads; all roads to be made to conform in grade and width to the general road laws of the state and according to the plans and specifications prescribed and laid out by the state highway department; and the said work shall be done so that not more than five miles of road shall be constructed in any township, by this method, until a like mileage has been completed in each and every township in said county. 1907, May 25, P.L. 217, § 4.

<sup>1</sup> Section 185 of this title.

Saved from Repeal

Act 1919, May 11, P.L. 1191, relating to the management and control of the county jail or prison in counties of the sixth, seventh and eighth classifications (section 119.1 of this title), provided in section 2 that nothing contained in such act should be construed to repeal section 5 of act 1899, April 28, P.L. 89 (section 188 of this title) or act 1907, May 25, P.L. 217 (sections 181, 187 and 189, 192 of this title).

Historical Note

This section repeals and supplies section 1 of act 1901, April 21, P.L. 100, which amended section 1 of act 1899, April 28, P.L. 89.

§ 188. Disposition of proceeds of labor

All moneys received under the provisions of this act for labor done within such jails and workhouses, or the products of such labor sold, shall be credited on account of the receipts and expenditures paid to and for the maintenance of such institutions. 1899, April 28, P.L. 89, § 5.

Saved from Repeal

Act 1919, May 11, P.L. 1191, relating to the management and control of the county jail or prison in counties of the sixth, seventh and eighth classifications (section 119.1 of this title), provided in section 2 that nothing contained in such act should be construed to repeal section 5 of act 1899, April 28, P.L. 89 (this section) or act 1907, May 25, P.L. 217 (sections 181-187 and 189, 192 of this title).

§ 189. Organization of prison boards; purchase of tools and materials

For the purpose of carrying the several provisions of this act into effect, the several prison boards, established under this act, shall organize and establish the rules required in section two of this act; within thirty days after the passage thereof; and said prison boards shall be required to purchase all materials and tools adapted to the work, at the same shall be ordered, which tools and materials shall be paid out of the moneys in the treasury of the proper county, upon warrants drawn by the county commissioners thereof. 1907, May 25, P.L. 217, § 5.

<sup>1</sup> Section 185 of this title.

Saved from Repeal

Act 1919, May 11, P.L. 1191, relating to the management and control of the county jail or prison in counties of the sixth, seventh and eighth classifications (section 119.1 of this title), provided in section 2 that nothing contained in such act should be construed to repeal section 5 of act 1899, April 28, P.L. 89 (section 188 of this title) or act 1907, May 25, P.L. 217 (sections 181, 187 and 189, 192 of this title).

Historical Note

This section repeals and supplies section 6 of act 1899, April 28, P.L. 89.

§ 190. Deputies may be appointed; compensation

The respective prison boards shall have power and authority to employ such deputies, or other guards or officers, as shall be necessary for the supervision, safekeeping and good conduct of the said prisoners while employed without the said prisons, and these depu-

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ties shall receive the same pay as for like services within the prisons: Provided, That the compensation of such additional deputies employed by prison boards shall not exceed two dollars per day for their services, to be paid out of moneys of the treasurer of the proper county. 1907, May 25, P.L. 247, § 6.

**Saved from Repeal**

*Act 1919, May 11, P.L. 1191, relating to the management and control of the county jail or prison in counties of the sixth, seventh and eighth classifications (section 419.1 of this title), provided in section 2 that nothing contained in such act should be construed to repeal section 5 of act 1899, April 28, P.L. 89 (section 188 of this title) or act 1907, May 25, P.L. 247 (sections 181-187 and 189-192 of this title).*

**Historical Note**

This section repeals and supplees act 1907, April 24, P.L. 229, which amended section 7 of act 1899, April 28, P.L. 89.

**§ 191. Penalty for attempted escape while employed outside of limits**

If any prisoner, while employed outside of the limits of said jails or workhouses, and while beyond said limits, shall make his escape, or attempt to escape, the prisoner so escaping, or attempting to escape, shall be deemed and taken to have committed an escape or breach of prison, and shall be subject to like penalties as are now provided by law for an escape or breach of prison. 1907, May 25, P.L. 247, § 7.  
Library references: Escape  $\text{\textcircled{C}}$  et seq.; C.J.S. Prisons § 1 et seq.

**Saved from Repeal**

*Act 1919, May 11, P.L. 1191, relating to the management and control of the county jail or prison in counties of the sixth, seventh and eighth classifications (section 419.1 of this title), provided in section 2 that nothing contained in such act should be construed to repeal section 5 of act 1899, April 28, P.L. 89 (section 188 of this title) or act 1907, May 25, P.L. 247 (sections 181-187 and 189-192 of this title).*

**Historical Note**

This section repeals and supplees sections 8 and 9 of act 1899, April 28, P.L. 89.

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**§ 192. Repeating clause**

All acts or parts of acts inconsistent with this act be and the same are hereby repealed: Provided, however, that this act shall not affect or change the method or manner of employment of prisoners within said prisons, or control thereof. 1907, May 25, P.L. 247, § 8.

**Saved from Repeal**

*Act 1919, May 11, P.L. 1191, relating to the management and control of the county jail or prison in counties of the sixth, seventh and eighth classifications (section 419.1 of this title), provided in section 2 that nothing contained in such act should be construed to repeal section 5 of act 1899, April 28, P.L. 89 (section 188 of this title) or act 1907, May 25, P.L. 247 (sections 181-187 and 189-192 of this title).*

**§ 193. Employment of prisoners on county or almshouse farms**

It shall be lawful for the authorities having control and supervision of any county jail or county prison within this Commonwealth, and they are hereby empowered, to permit the employment of such inmates serving sentences therein, as they shall deem advisable, at agricultural labor on any county or almshouse farm of the county or poor district in which such jail or prison is located, by the poor authorities of such county or district, under the direction and guard of the warden or keeper of such jail or prison or any deputy or deputies of such warden or keeper, and all inmates so employed shall at all times be amenable to restraint, discipline, and punishment, in the same manner as if they were confined in the proper jail or prison. 1917, July 17, P.L. 1036, § 1; 1919, April 18, P.L. 79, § 1.

**§ 194. Exemption from liability for escape of prisoner from farm**

No warden or keeper or his surties shall be held liable on any bond conditioned for the safekeeping of persons given into his care, in case any inmate so employed shall escape, if due care and diligence has been exercised in the discharge of the duties herein imposed. 1917, July 17, P.L. 1036, § 2.

Library references: Prisons  $\text{\textcircled{C}}$  16; C.J.S. Prisons § 38.

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**§ 195. Employment and compensation of prisoners**

All persons sentenced to the several county jails and prisons who are physically capable, may be employed at labor for not to exceed eight hours each day, other than Sundays and public holidays. Such employment may be in such character of work, and the production of such goods as may now be manufactured and produced in such jails and prisons, and may also be for the purpose of the manufacture and production of supplies for said prisons and jails; or for the preparation and manufacture of building material for the construction or repair of the said prisons and jails; or in the manufacture and production of crushed stone, brick, tile, and cement pipe, or other material suitable for draining roads, or in the preparation of road building and ballasting material. 1923, May 19, P.L. 271, § 1.

**Notes of Decisions**

- 1. Construction and application** — *June 4, 1915, 812* (revenue 294) one of the members of the board of this title, governing payment to prisoners of the county prison has no such beneficial interest as will support his application for mandamus to compel board to comply with acts 1923, May 19, P.L. 271 (revenue 294) and sections 195-198 of this title), and 1915, 210.

**§ 196. Officers charged with duties as to employment; sale of products**

The county commissioners, or board of inspectors, or other person or persons in charge of any such jail or prison, shall determine the amount, kind, and character of the machinery to be erected in such jail or prison, the industries to be carried on therein, and shall arrange for the purchase and installation of such machinery at the expense of the county. They shall also provide for the sale of articles and material produced. The county commissioners shall make available the necessary funds to carry out the provisions of this act. 1923, May 19, P.L. 271, § 2.

**§ 197. Disposition of wages of prisoners**

The authorities in charge of any such county jail or prison shall have authority to fix the wages of each prisoner to be employed, and they shall keep an account of all such wages and the amount due each prisoner. Three-fourths of the amount credited to each prisoner at the entire amount if the prisoner so wishes, shall constitute a fund for the relief of any person or persons dependent upon such prisoner, and

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shall be paid to such persons, establishing dependency to the satisfaction of the said authorities, at such times as they may prescribe.

In case a prisoner has no person dependent upon him, his wages shall be deposited for his benefit, and shall be paid to him as follows:—one-third at the time of his discharge; one-third, three months thereafter; and one-third, six months thereafter. 1923, May 19, P.L. 271, § 3.

**§ 198. Fund for enforcement of act**

The authorities in charge of any such jail or prison may establish a fund for the purpose of carrying out this act, and may provide for the purchase of machinery and materials and payment of wages from such fund. All revenues received from the sale of articles produced shall be paid into said fund. 1923, May 19, P.L. 271, § 4.

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**Library References**

Convicts — *See* sec. 1: C. J. S. Convicts § 13 et seq.

**Gross References**

*See*, also, act to work on roads, sections 181-192 of this title.

**§ 221. Definitions**

As used in this act, the term "jail" means penitentiary, jail, prison, or workhouse.

"Warden" means any person in charge of a jail.

"Highway" means any highway, road, street, or alley.

"Convict" means any inmate of a jail.

"Municipality" means any municipal corporation or quasi municipal corporation. 1915, June 4, P.L. 812, § 1.

**§ 222. Road work for convicts**

The warden of any jail is hereby authorized and directed to detail for work on the public highways such convicts as he may deem advisable, excepting prisoners under sentence of death, upon the written request of the State Highway Commissioner,<sup>1</sup> for all State roads; the county commissioners, for all county roads; the township commissioners of township supervisors, as the case may be, for township roads; the mayor or burgess, as the case may be, for all municipal

**61 § 222****PENAL, ETC., INSTITUTIONS**

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streets. The detail shall be voluntary on the part of the convict, and shall in no way be compulsory. 1915, June 4, P.L. 812, § 2.

<sup>1</sup> Now Secretary of Highways. See Historical Note under this section.

**Historical Note**

Title of State Highway Commissioner was changed to Secretary of Highways. See section 66 note of Title 71, State Government.

**§ 223. Rules and regulations**

Convicts detailed to highway work shall, while so engaged, be under the general direction of the warden, or overseers appointed by him, and shall be subject to such rules and regulations with respect to their hours of labor, conduct, and control as the warden shall establish. 1915, June 4, P.L. 812, § 3.

**§ 224. Violation of rules and regulations**

The convicts shall not be required to wear stripes. For any infraction or violation of the rules and regulations the maximum punishment of any convict shall be his summary return to confinement in the jail, and loss of all deductions from the time of his sentence which he may have been entitled to up to the time of such infraction or violation. 1915, June 4, P.L. 812, § 4.

**§ 225. Remuneration**

Each convict shall be allowed the sum of twenty-five cents for each day's labor. This sum shall accumulate as a fund to be paid the convict on the termination of his sentence, or on his release by pardon or parole, and which shall be in addition to the sum of money ordinarily given discharged convicts. The sum shall be paid by the State, county, township, or municipality having the work done. 1915, June 4, P.L. 812, § 5.

**Notes of Decisions****1. Construction and application**

Member of board of inspectors of county prison has no such beneficial interest as will support his application for mandamus to compel board to comply with acts 1923, May 19, P.L. 271 (sections 195-199 of this title), and 1915, June 4, P.L. 812 (sections 221-230 of this title); governing payment to prisoners of their earnings on public roads. *Kulp v. Board of Inspectors of Herts County Prison*, 23 Herts 225, 1931, appeal quashed 156 A. 617, 102 Pa. Super. 310.

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**CONVICT LABOR****61 § 228****§ 226. Disposal of fund**

On petition of any convict, the warden may pay out from any sum so accumulated a portion, or all thereof, in support of a dependent wife, children, or parent of such convict in need or distress. 1915, June 4, P.L. 812, § 6.

**§ 227. Supervision of work**

The warden, on the written requests for convicts by the State Highway Commissioner,<sup>1</sup> in the construction of State roads; or the county commissioners of each county, in the construction of county roads; or the township supervisors or township commissioners, as the case may be, in the construction of township roads; or the municipal authorities, in construction of municipal streets; shall determine upon what highway convicts so detailed shall be employed, whether in the improvement of existing highways or in the construction of new highways. The State Highway Commissioner shall have general supervision and direction of all State road work, and the county commissioners of all county roads, the township commissioners or township supervisors, as the case may be, of all township roads, and the municipal authorities of all municipal streets, to the improvement or construction of which convicts have been detailed. 1915, June 4, P.L. 812, § 7.

<sup>1</sup> Now Secretary of Highways. See Historical Note under section 223 of this title.

**§ 228. Providing for the granting of additional good time**

Hereafter convicts of any jail, undergoing sentence in accordance with law, who shall or may be engaged in work on any highway, and who shall conduct himself in accordance with the rules of the prison and perform his work in a creditable manner, shall be granted such good time in addition to that allowed by law as the Governor may order, not to exceed (10) days in any one calendar month. The Governor shall not execute any of the rights or powers herein granted unto him until the Lieutenant Governor, Secretary of the Commonwealth, Attorney General, and Secretary of Internal Affairs, or any three of them, after full hearing, upon due public notice and in open session, upon such rules as they shall provide, shall have recommended the commutation of sentence. 1915, June 4, P.L. 812, § 8.

Library references: Prisons 615; C.J.S. Prisons § 21.

**§ 229. Skilled labor not interfered with**

Convicts employed under this act shall not be used for the purpose of building any bridge, or other structure of like character, or to do any work in connection therewith, which requires the employment of skilled labor. 1915, June 1, P.L., 812, § 9.

**Cross References**

Limitation upon percentage of convicts employed manufacturing goods manufactured elsewhere in state, see section 184 of this title.

**§ 230. Disbursements and expenditures**

All disbursements for expenditures for convict labor shall be on warrants certified to by the officer or person in charge of the highway work, and upon approval by the State Highway Commissioner, county commissioners, township commissioners, township supervisors, or proper municipal authorities be paid to the warden for the use of such convicts, on warrants drawn by the State Treasurer, county treasurer, or treasurer of the board of township commissioners, township supervisors, or of the municipality, from such funds as may be designated for labor for such convicts, to be used in the repair and construction of such highways. 1915, June 1, P.L., 812, § 10.

<sup>1</sup> Now Secretary of Highways. See Historical Note under section 222 of this title.

**§§ 231-237. Repealed. 1915, June 1, P.L., 1212, art. XI,**

**§ 1101**

**Historical Note**

These sections, derived from act 1917, of Public Works in a county, the thirty July 11, P.L., 811 § 17, related to the of which coincided with the limits of employment of prisoners by the State city of the first chess. Highway Department and the Director

**CONNIE T. MAJDE, GOODS**

**Library References**

Convicts 1919; C.J.S. Convicts § 26.

**§ 251. Convict-made goods to be branded**

From and after the passage of this act, all goods, wares, merchandise or other article or thing made by convict labor, in any penitentiary, reformatory prison, school or other establishment in which convict

labor is employed, whether for the direct benefit and maintenance of such penitentiary, reformatory prison, school or other establishment, or upon contract by the authorities of the same with any third person, all and every such goods, wares, merchandise, article or thing, immediately upon the completion of the same, shall be branded as hereinafter provided, and shall not be taken into or exposed in any place, for sale at wholesale or retail, without such brand. 1883, June 20, P.L., 125, § 1.

**§ 252. Style and place of brand**

The brand herein required shall be in plain English lettering, and shall contain at the head or top of said brand the words "convict made," followed by the year and name of the penitentiary, reformatory prison, school or other establishment in which made. That the brand aforesaid shall in all cases, when the nature of the article will permit, be placed upon the same, and only where such branding is impossible it shall or may be placed on the box or other receptacle or covering in which it is contained. And the same shall be done by casting, burning, pressing or other such process or means as that the same may not be defaced, and in all cases shall be upon the most conspicuous place upon such article, or the box, receptacle or covering containing the same; Provided, That goods, wares and merchandise shipped to points outside of the state shall not be so branded. 1883, June 20, P.L., 125, § 2.

**§ 253. Managers to see that goods are branded**

It shall be the duty of the manager, principal or superintendent of any penitentiary, reformatory prison, school or other establishment within this commonwealth wherein convict labor is employed, to see that the brand herein required shall be so placed as aforesaid before such goods, wares, merchandise or other article or thing shall be removed or taken from the place where made; and upon failure or neglect so to do, such manager, principal or superintendent shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand dollars, or undergo an imprisonment not exceeding one year, or either or both, at the discretion of the court. 1883, June 20, P.L., 125, § 3.

**§ 254. Dealing in convict-made goods, not branded, prohibited**

It shall not be lawful for any person dealing in any such convict made goods, wares, merchandise or other article, at wholesale or

"Sec. 820. (a) All programs concerned with juvenile delinquency and administered by the Administration shall be administered or subject to the policy direction of the office established by section 201(a) of the Juvenile Justice and Delinquency Prevention Act of 1974.

"(b) The Director of the National Institute of Justice and the Director of the Bureau of Justice Statistics shall work closely with the Administrator of the Office of Juvenile Justice and Delinquency Prevention in developing and implementing programs in the juvenile justice and delinquency prevention field.

"PROHIBITION ON LAND ACQUISITION

"Sec. 821. No funds under this title shall be used for land acquisition.

"PROHIBITION ON USE OF CIA SERVICES

"Sec. 822. Notwithstanding any other provision of this title, no use will be made of services, facilities, or personnel of the Central Intelligence Agency.

"INDIAN LIABILITY WAIVER

"Sec. 823. Where a State does not have an adequate forum to enforce grant provisions imposing liability on Indian tribes, the Administration is authorized to waive State liability and may pursue such legal remedies as are necessary.

"DISTRICT OF COLUMBIA MATCHING FUND SOURCE

"Sec. 824. Funds appropriated by the Congress for the activities of any agency of the District of Columbia government or the United States Government performing law enforcement functions in and for the District of Columbia may be used to provide the non-Federal share of the cost of programs or projects funded under this title.

"LIMITATION ON CIVIL JUSTICE MATTERS

"Sec. 825. Authority of any entity established under this title shall extend to civil justice matters only to the extent that such civil justice matters bear directly and substantially upon criminal justice matters are inextricably intertwined with criminal justice matters.

"REIMBURSEMENT FOR UNUSED EQUIPMENT

"Sec. 826. The Law Enforcement Assistance Administration may reimburse a State council, a grantee, or other recipient of assistance under this title to reimburse the Administration for the federally listed part of the cost of any equipment whose purchase was in connection with a program or project assisted by such Administration under this title and which cost in the aggregate \$100,000, or more, if such equipment has not been placed in use one year after the date set forth in the purchase order for the commencement of such use, or has not continued in use during its useful life. In lieu of requiring reimbursement under this section, such Administration may require that the grantee, a grantee, or other recipient of assistance under this title take appropriate measures to put such equipment into use.

"Sec. 827. (a) Section 1761 of title 18, United States Code, is amended by adding thereto a new subsection (c) as follows—

"(c) In addition to the exceptions set forth in subsection (b) of this section, this chapter shall also not apply to goods, wares, or merchandise manufactured, produced, or mined by convicts or prisoners participating in a program of not more than seven pilot projects designated by the Administrator of the Law Enforcement Assistance Administration and who—

"(1) have, in connection with such work, received wages at a rate which is not less than that paid for work of a similar nature in the locality in which the work was performed, except that such wages may be subject to deductions which shall not, in the aggregate, exceed 80 per centum of gross wages, and shall be limited as follows:

"(A) taxes (Federal, State, local);

"(B) reasonable charges for room and board as determined by regulations which shall be issued by the Chief State correctional officer;

"(C) allocations for support of family pursuant to State statute, court order, or agreement by the offender;

"(D) contributions to any fund established by law to compensate the victims of crime of not more than 20 per centum but not less than 5 per centum of gross wages;

"(2) have not solely by their status as offenders, been deprived of the right to participate in benefits made available by the Federal or State Government to other individuals on the basis of their employment, such as workmen's compensation. However, such convicts or prisoners shall not be qualified to receive any payments for unemployment compensation while incarcerated, notwithstanding any other provision of the law to the contrary;

"(3) have participated in such employment voluntarily and have agreed in advance to the specific deductions made from gross wages pursuant to this section, and all other financial arrangements as a result of participation in such employment.

"(b) The first section of the Act entitled 'An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes', approved June 30, 1936 (49 Stat. 2036; 41 U.S.C. 35), commonly known as the Walsh-Healey Act, is amended by adding to the end of subsection (d) thereof, before the semicolon, the following: 'except that this section, or any other law or Executive order containing similar prohibitions against purchase of goods by the Federal Government, shall not apply to convict labor which satisfies the conditions of section 1761(c) of title 18, United States Code.'

"(c) The provisions of this section creating exemptions to Federal restrictions on marketability of prison made goods shall not apply unless—

"(1) representatives of local union central bodies or similar labor union organizations have been consulted prior to the initiation of any project qualifying of any exemption created by this section; and

"(2) such paid inmate employment will not result in the displacement of employed workers, or be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality, or impair existing contracts for services.

18 USC 1761 note.

Labor unions, consultation.

Effect on labor market.