August 13, 1937

To the Committee on Graduate Study:

I submit herewith a thesis by Miss Ruth Winton, "A History of Brushy Mountain Penitentiary," and recommend that it be accepted for nine quarter hours credit in fulfillment of the requirements for the degree of Master of Arts, with a major in History.

S. J. Fowler
Major Professor

At the request of the
Committee on Graduate Study,
I have read this thesis,
and recommend its acceptance.

J B Sanders

Wm H Coombs

Accepted by the Committee

W. C. Smith
Chairman

A HISTORY OF

BRUSHY MOUNTAIN PENITENTIARY

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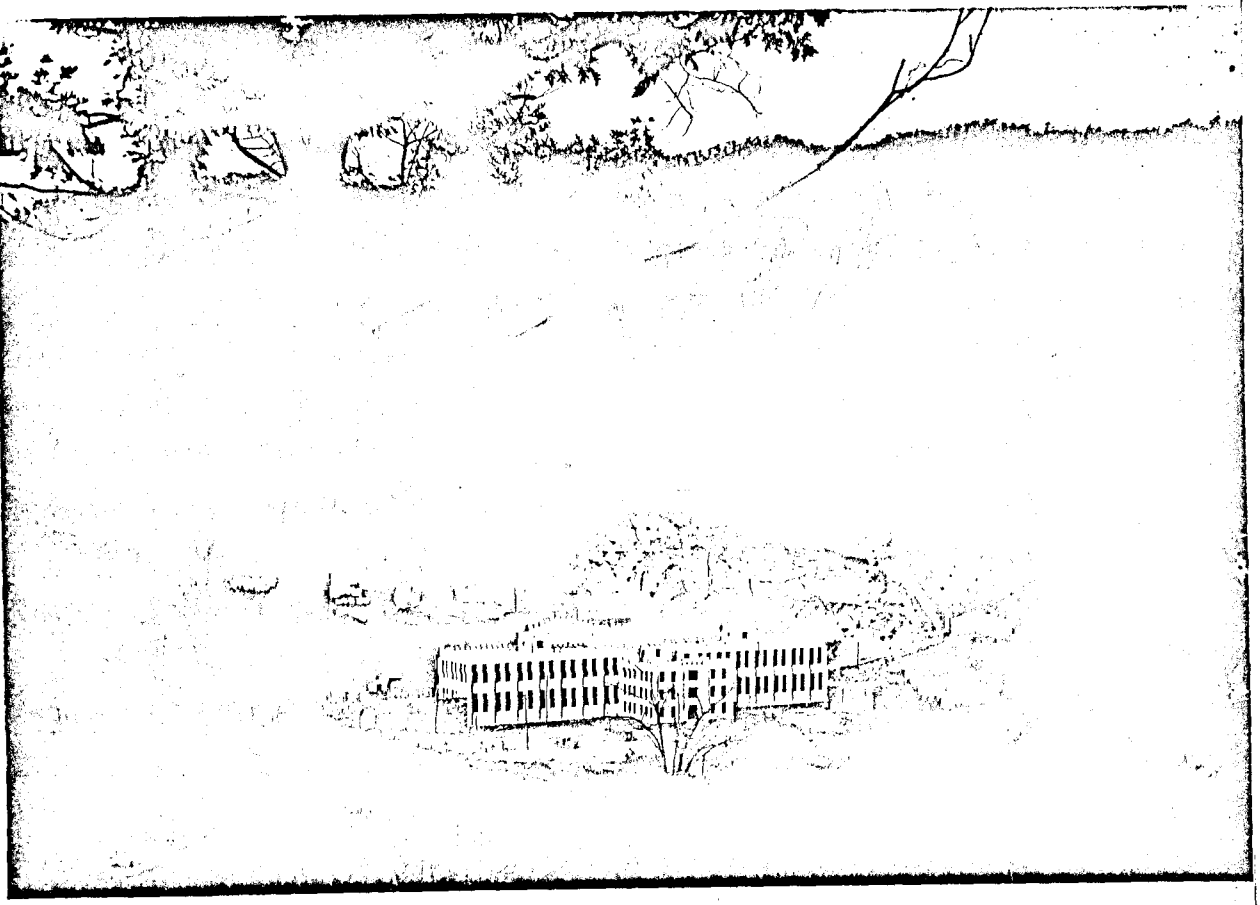
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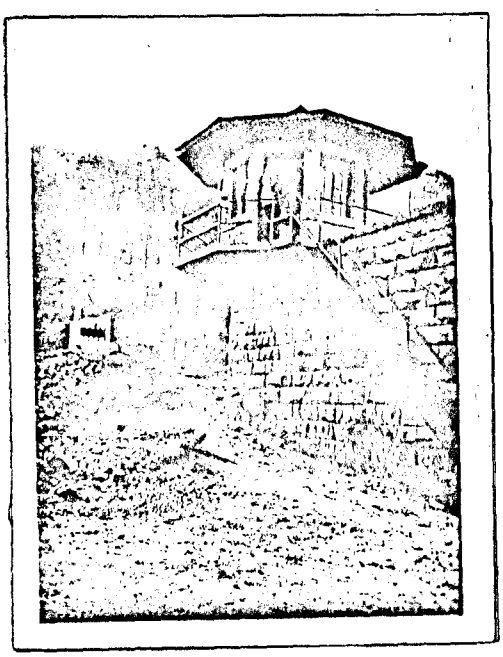
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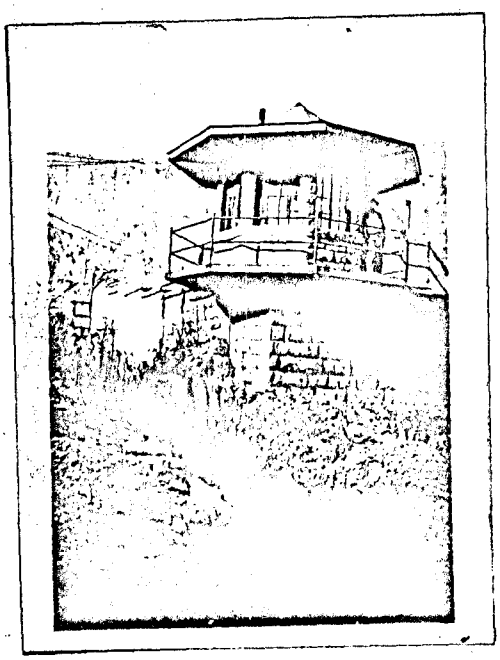
by

RUTH WINTON

August 1937







The New Prison and Guard Towers

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PREFACE

Among the problems which confronted the legislature of Tennessee in 1893 was that of abolishing the convict lease system in the state. The results of the coal miners' insurrections in 1891-1892 made it imperative that the state take complete charge of her convicts. In order to meet this situation, coal lands were purchased in 1894 in Morgan County, and Brushy Mountain Penitentiary was built, at Petros, in 1895, so as to take care of the leased convicts at the expiration of the convict lease system, January 1, 1896. The purpose of this study has been to trace the development of this penitentiary, both from point of view of the problem of management and from that of the problem of production and sale of coal and coke, from its establishment to the present time.

In the preparation of this thesis the writer has been greatly aided by the helpful suggestions and valuable criticisms offered by Dr. S. J. Folmsbee of the History Department of the University of Tennessee. For assistance in obtaining the material for this work, grateful acknowledgements are due the staffs of the University of Tennessee Library, the Tennessee State Library, and the Department of Institutions, and to Colonel W. M. Nixon, member of the first board of prison commis-

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sioners, Mr. A. W. Evans, mining engineer, and Mr. W. H. Nelson, who was connected with the penitentiary for thirty years, and others who generously contributed their time in interviews.

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Chapter I

The Origin of Brushy Mountain Penitentiary

Brushy Mountain Penitentiary at Petros, Tennessee, was opened for the reception of prisoners January 1, 1896, as a result of an act passed by the General Assembly of 1893 abolishing the convict lease system.[1] Since the establishment of this penitentiary and the overthrow of the convict lease system are so closely interrelated, it will be necessary to make a brief survey of the operation of the lease system and of the general penal system in the state.

As the result of an act passed October 28, 1829,[2] the first penitentiary in Tennessee was opened on January 1, 1831,[3] near Nashville.[4] From 1831 to 1865 the prisoners were employed chiefly on public works within and without the prison. During the 1850's they were employed in the erection of the state capitol. They were compelled to make supplies for the Confederate Army during the Civil War.[5] Since the prison authorities were unable to keep a

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1. Acts of the General Assembly of Tennessee, 1893, pp. 96-105. Hereafter cited as Acts.
2. Acts, 1829-30, p. 5.
3. Phillip M. Hamer, Tennessee, A History, I, 328.
4. Acts, 1829-30, p. 5.
5. Acts, 1861-65, p. 63.

sufficient supply of raw materials on hand, many of the convicts were idle much of the time.[6] The ravages of war rendered the prison buildings uninhabitable and inflicted upon the inmates much suffering because of disease and epidemics. At the close of the war the penitentiary was indebted in excess of $30,000, as the legislature had failed to make provision for its maintenance.[7] At the same time the state government was indebted to the amount of $3,896,606.66, in addition to a liability approximating twenty million dollars in connection with the issuance and endorsement of bonds for railroad construction.[8]

Since the condition of the penitentiary and method of its management demanded immediate action on the part of the legislature, some plan had to be devised whereby the institution might become self-sustaining and provide the necessary additional facilities for taking care of the constantly increasing number of prisoners. A legislative committee appointed late in 1865 to consider the question reported three months later that the best interest of the state required a change in the system of management, and that they had decided unanimously in favor of the convict leasing system.[9] A few days later a bill giving the peni-

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6. House Journal, 1865, pp. 41-42; 70-71.
7. Senate Journal, 1865-66, pp. 97-104.
8. Ibid., p. 5.
9. Nashville Republican Banner, February 1, 1866.

tentiary officials the right to lease out the penitentiary was presented, and by May 12, 1866, had been adopted by both houses and become a law.[10]

This act provided for the leasing of the convicts under the management of three directors appointed by the governor and confirmed by the Senate. The directors were to advertise for bids, the contract to be awarded to the highest and best bidder. By the terms of this contract the lessees were authorized to occupy and take charge of all the shops and work-houses in the prisons, to put up the necessary machinery, and to have the privilege of buying the tools and materials on hand. For the term of the lease, four years, lessees were to hire all the able-bodied convicts in the prison except those that were necessary for the maintenance of the penitentiary. The lessee was required to make quarterly payments and give security amounting to the sum of $50,000 for the faithful performance of the duties prescribed by law and the contract. The state assumed the obligation of managing and providing for the convicts: guarding, feeding, housing and clothing them. These expenses the state expected to meet with the revenue derived from the labor of the convicts.[11]

After the directors had been appointed, bids were in-

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10. Senate Journal, 1865-66, pp. 377, 406, 519, 545.
11. Acts, 1865-66, pp. 48-52.

vited, and after much consideration the contract was awarded on July 16, 1866, to Hyatt, Briggs and Moore at the price of forty-three cents a day for each convict.[12] It was the purpose of this company to manufacture "reapers, mowers, thrashers, hames, harness, saddles, plows, wagons, and cedarware."[13] All indications pointed toward a profit for both the state and the lessees.

This newly discovered prosperity on the part of the management lasted less than a year, however. In June, 1867,[14] a disastrous fire destroyed buildings, raw materials and finished products to the extent of a total loss of $75,000 to the state and the lessees, and resulted in the execution of a new lease by the terms of which the lessees agreed to construct a more substantial and commodious workshop at a cost of $30,000.[15] This loss naturally rendered all the more unstable the already precarious financial condition of the penitentiary. In spite of the returns from convict labor and an appropriation of $55,000, there was a deficit of approximately $36,000 at the close of 1867.[16]

During the first years of the system, 1866-69, the convicts were engaged in work of a machanical nature

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12. Senate Journal, 1865-66, pp. 93-96.
13. Nashville Republican Banner, July 26, 1866.
14. Senate Journal, 1867-68, pp. 392-393.
15. Ibid., pp. 219-224.
16. Ibid., pp. 219-224.

within the prison. This, however, brought clamors of disapproval from the mechanical industries of the state.[17] Free laborers who had spent long periods, even years, in learning their trades felt immediately in reduced wages the sting of their employers' attempts to compete with convict-made goods, and it was obvious that an ever-increasing number of prison-trained mechanics would be turned out of the penitentiary "to pollute all the avenues of skilled labor."[18] The mechanical laborers therefore asked that a distinction be made between skilled and unskilled labor.

The officials replied to the effect that it was necessary to work the convicts, from a financial as well as from a moral standpoint. Nevertheless, the appeal of the laborers made an impression, and beginning in 1871 many convicts were given employment on railroads and in the coal mines.[19] Since the nature of the work on the railroads increased the difficulty of guarding the prisoners, this method of employment was discontinued within a few years. During the years 1875-76, 257 convicts made their escapes from the convict camps on the farms and railroads. It therefore seemed the wisest policy for the lessees to withdraw the convicts from the railroads and send them to

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17. House Journal Appendix, 1871, Penitentiary Inspector's Report, p. 397.
18. Knoxville Tribune, November 8, 1891, quoting the Nashville American.
19. House Journal Appendix, 1871, Penitentiary Inspector's Report, p. 403.

the coal mines, where escapes had been very rare.[20] The workers in mechanical industries, then, had little to say against the lease system, and being unorganized and not given to legislative lobbying, the coal miners could cause very little disturbance.

A defense of this method of making the prisoners pay for their upkeep was framed by a joint special committee of the legislature on the state penitentiary in 1873, on the grounds that the convict labor outside the prison was unskilled, such as could not be used within the prison. The committee was "satisfied that the employment of this character of labor in the development of the mineral resources of the State is the best to which it can be applied, thereby removing as far as possible from the competition with honest labor, and at the same time developing the resources of the State."[21] With these same aims in mind, Governor Porter addressed the General Assembly in 1877, saying that all competition with mechanical industries would be destroyed by placing the convicts in the coal mines. This plan, however, would meet with the opposition of the respectable miners then engaged in the mining industry. But the governor argued that so long as the system existed, convicts should be utilized in manual labor that would bring the state into competition with the fewest number. This plan would lower the price of iron and coal

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20. Senate Journal Appendix, 1877, Report of the Superintendent of the Penitentiary, p. 321.
21. House Journal Appendix, 1873, Report of the Penitentiary Committee, p. 138.

and encourage the growth of the manufacturing interests.[22] While the unskilled prisoners were engaged in the production of coal and iron, the skilled were manufacturing articles at the penitentiary. The inspectors stressed the fact that until the manufacturing industries of the state had enough coal and iron to meet the demands of the public and thus end the importation from other states, some of which had been made by their prisoners, the competition of convict labor would not react injuriously.[23]

A review of the financial history of the penitentiary, 1870-90, shows that the state profited greatly. The total income was $1,197,415. The expenses of the institution, including the salaries of the officials, the repairs to buildings, transportation of convicts to the penitentiary and costs of arresting fugitives, amounted to $393,159.07, leaving a total profit of $804,255.93 from the labor of the convicts. The profits thus derived lacked only $176,000 of repaying the state for the expenses of the penal institution from its beginning in 1829,[24] and the results were so gratifying to the state officials and to the public that the convict lease system was continued despite objections that were raised. In 1889 an act was passed providing for the re-lease of the convicts in 1890 to the

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22. Senate Journal Appendix, 1877, Governor's Message, p. 10.
23. House Journal Appendix, 1871, Inspector's Report of the Penitentiary, p. 398.
24. From a compilation of reports of the Treasurers and Comptrollers of Tennessee during the years 1871-1891 (MS. in Secretary of State's office, Nashville, Tenn.)

highest bidder at a public auction for not less than $100,000. The act also stipulated that the convicts might be re-possessed at sixty-day notice in case the state should build a new penitentiary.[25]

When the old prison was built at Nashville, it was situated in the country, two miles distant from the little village. By 1875 the rapid growth of the city had encompassed the prison grounds, placing them in the very center of Nashville. The main prison would take care of about six hundred convicts if crowded two in a cell. As the number of convicts increased, more and more had to be sent to the branch prisons. By 1885 less than half of the state prisoners were confined at Nashville. The condition of the penitentiary was described as being "wholly inadequate for the accommodation of convicts . . . with no proper discipline . . . and no sufficient provision for the health or moral condition of the prisoners."[26]

The penitentiary officials pleaded at every session of the legislature for the erection of a new prison.

On September 15, 1889, a new contract was made with the Tennessee Coal, Iron, and Railroad Company at a bid of $100,000.[27] Some of the prisoners were put to work in the mines at Tracy City, Inman, and Briceville; others

25. Acts, 1889, pp. 399-411.
26. Senate Journal, 1875, p. 22.
27. A. C. Hutson, The Coal Miners' Insurrections, 1891-1892, p. 34.

were subleased to work on farms and within the State Penitentiary. The subleasing of the convicts to work in the Tennessee Coal Mine near Briceville, Tennessee, led to the coal miners' insurrection of 1891.[28]

The coal miners in East Tennessee were organized as a part of the Knights of Labor, but were not very closely attached to the national movement. One of the strongest of these unions was that in the region of Briceville, Tennessee, a strong organization with membership intact and wielding considerable influence in the community. A state convention of the Knights of Labor held at Nashville, June, 1885, passed resolutions favoring the payment of the miners in lawful currency and the abolition of the lease system of prison management in order that free men might have a better chance to earn respectable wages, but produced no effective changes in the evils under consideration.[29]

On May 2, 1887, the union attempted to bring about an improvement of the unsatisfactory labor conditions that first existed by effecting at Coal Creek, Tennessee, a walk-out during which the mine was closed for twenty-one days, at the end of which period they agreed to return to work with nothing accomplished.[30] Other strikes followed,

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28. Ibid., pp. 41-61.
29. Hutson, op. cit., p. 38.
30. Ibid., p. 39.

but with the exception of two partly successful ones in 1890, all attempts at bettering mining conditions and preventing reduction of wages failed. In 1891 only one out of the seven strikes that occurred proved successful, the mine trappers on this occasion succeeding in preventing a reduction of their wages.[31] Only one of these strikes had for its main purpose the prevention of the use of convicts in the mines at Briceville, the others being more concerned with increasing or preventing the lowering of the wages of the miners.

These strikes were caused by the unfair treatment of the miners; the substitution of convicts to work in their places precipitated an insurrection in July, 1891. Other contributing factors were such industrial grievances as disputes between the miners and coal operators regarding the use of scrip and the presence of a check-weighman. The immediate cause of this uprising was the presentation to the laborers of an iron-clad contract requiring them to relinquish their right to a check-weighman, to surrender to the company all coal on their cars in excess of 2,200 pounds, to agree to accept scrip, to promise not to stop work when they had a grievance, and to certify that they had confidence in the integrity of the company.[32] When the majority of the miners at the Tennessee Coal Mine re-

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31. Ibid.
32. Ibid., p. 40-41.

fused to sign this contract, making it difficult for the company to keep the mine running full time, convicts were brought into the mines to work, in accordance with a contract made between the Tennessee Coal Mining Company and the Tennessee Coal, Iron, and Railroad Company.[33] The miners, resenting the loss of their jobs to convicts, revolted, and freed the convicts by marching them, along with the guards and officers, to Coal Creek, where they entrained them for Knoxville. They then completed this gesture by firing guns in the direction of the Knoxville Iron Mine stockade.[34]

This first insurrection resulted in no definite decision either for or against the miners. Acting under orders from Governor Buchanan, three companies of state militia reconfined the prisoners in the stockade at the Tennessee Coal Mine. Thoroughly aroused because no attention had been paid to their demands that their rights and privileges be protected, the miners lost no time in organizing a second revolt, which broke out July 20, 1891, in the camps at Briceville and Coal Creek. This time Governor Buchanan not only accepted the resolutions framed by the miners, but promised to call an extra session of the legislature to consider their grievances.[35]

The legislators, however, failed to realize the im-

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33. Ibid.
34. Ibid., 41-61.
35. Ibid., pp. 62-83.

portance of the issue and the necessity for action against the lease system. Instead, they made provisions for the continuance of the practice that had incited revolts and overwhelming condemnation, by conferring greater power upon the governor and by imposing heavy penalties upon those who interfered with the work of the convicts.[36]

The legislative session ended in September, and when the miners realized that nothing had been done for them, a third insurrection occurred in October, 1891. The prisoners were released at Briceville, Knoxville Iron Mine, and Oliver Springs, and the stockade and buildings were burned. Governor Buchanan seemed unable to cope with the situation. Finally, about the middle of December, he announced that the convicts would be replaced in the stockades at the mines near Briceville, Oliver Springs and Coal Creek, accompanied by companies of the state militia to supplement the civil guard. The lessees assured the state officials that the convicts would not be returned to work at Briceville, but would be sent to Oliver Springs. This resulted in the permanent removal of the state convicts from competition with the free labor at the Tennessee Coal Mine. The third revolt also brought about the establishment of a military camp in Tennessee by the state militia for the purpose of maintaining law and order.[37] These

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36. Senate Journal Appendix, 1893, Report of Commissioner of Labor, pp. 190-200.
37. Hutson, op. cit., pp. 104-120.

measures, however, fell far short of satisfying the conditions for which the miners were fighting.

On August 13, 1892, a fourth insurrection broke out, the first attack taking place at Tracy City. The miners loaded the three hundred and sixty prisoners there, as well as the two hundred and eighty-two at Inman, on trains and forwarded them to Nashville, where they were crowded into the inadequate penitentiary already housing five hundred inmates. These two outbreaks were accomplished without gun-shots or bloodshed. To the scene of the attempted release at Oliver Springs, Governor Buchanan ordered the third regiment dispatched at once. The miners by that time were so well organized that the convicts were placed on trains and sent to Knoxville. The Governor then ordered that they be sent to Nashville. Immediate return of convicts to branch prisons was impossible, since the stockades or prisons had been in each case either burned or torn down.[38]

By August 31, 1892,[39] the destroyed stockades at Tracy City, Inman, and Big Mountain (Oliver Springs) had been rebuilt, and the penitentiary inspectors ordered the return of the convicts, accompanied in this instance by militia. Here the convicts remained until the abolition of the lease system in 1896. It is interesting to note

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38. Ibid., pp. 121-145.
39. Knoxville Journal, September 1, 1892.

that although at least one thousand men had been involved in the miners' warfare, only three hundred of these were indicted, and only two served prison sentences. The conflict had cost the state more than $250,000,[40] and would have greatly exceeded this sum had the railroads not declined to present their bills for the transportation of militia and prisoners.[41] Moreover, it was reported in the legislative session of 1893 that $12,000 had been spent for the recapture of released convicts.[42] Since the lives of so many people had been endangered by the riots that had caused such great financial loss to the state, brought on by the condition that had helped reduce the wages of the miners to a mere existence level, it seemed evident that an abolition of the lease system was in order.

Public sentiment against the lease system ran so high that in 1892 all three candidates for governor declared themselves in favor of its abolition. Buchanan, running for reelection as an independent, adopted a conservative platform in which he made an appeal for the support of the labor interests. The Democratic candidate, Peter Turney, was less favorable to the labor interests, but outlined definite plans for the management of the state's prisoners. George W. Winstead, the Republican candidate,

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40. Senate Journal Appendix, 1893, Report of State Comptroller, p. 19.
41. Ibid., Report of Adjutant General, p. 7.
42. Ibid., Report of State Comptroller, p. 19.

denounced the Democratic state government which had fostered and protected the convict lease system.[43] Buchanan stood little chance of election, and Winstead was defeated by Turney.

Retiring Governor Buchanan at the regular session of the General Assembly in January, 1893, urged the legislature to secure the abolition of the lease system by providing for the building of a modern penitentiary outside of Nashville, and by acquiring coal lands where the convicts might be employed. The incoming governor, Peter Turney, was confined at home by illness, but he sent to the legislature his message, in which he recommended the abolition of the convict lease system, since this procedure seemed to find favor with all concerned, and since the recent trouble in Anderson County together with the inadequacy of the penitentiary rendered such action imperative. Such action could be taken, however, he pointed out, only after the construction of a new penitentiary, as the main prison could accommodate only 500 of the 1,400 state prisoners.[44]

On April 4, 1893, Governor Turney approved a bill passed March 25, making possible the erection of a new penitentiary and the purchase of a farm and coal lands in order "to provide for the abolition of the convict lease

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43. Knoxville Journal, August 24, 1892.
44. Senate Journal Appendix, 1893, Penitentiary Report, p. 5.

system in Tennessee."[45] The prison, sufficient in size to accommodate 1,500 convicts, was to be located near "an advantageous commercial and accessible distributing point" in the state; the farm, near the prison site, was to contain not more than 1,500 acres nor cost more than $75,000.[46] Suitable coal land of not more than 10,000 acres was to be purchased at a price not to exceed $80,000. Not more than $35,000 was to be spent in the construction of the stockades necessary for safe-guarding the prisoners who were to work in the mines.[47] The mine was to be ready for operation by the time the lease contract should expire, January 1, 1896.[48] The maximum cost of carrying out the provisions of this act was fixed at $600,000, to be obtained by the issuance of bonds.[49]

The purpose of the act, as embodied in the measure itself, was to enable the state "To relieve its citizens from the financial burdens of crime; to remove, as far as possible, convict labor from competition with free labor; to utilize, under the exclusive control and management of the state, and for and on the state's account, the labor of its convicts for their maintenance and the reimbursement to the state of the cost of its criminal prosecutions and the expenses incurred under this act, and for the

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45. Acts, 1893, pp. 96-105.
46. Ibid., pp. 96-99.
47. Ibid., p. 98.
48. House Journal, 1895 (Extra Session), pp. 3, 4.
49. Acts, 1893, pp. 104-105.

support of such state asylums as are dependent upon state taxation; and from and after the expiration of the lease now in force between the state and the lessees of the hire and labor of the convicts of the state to forever abolish the convict lease system in this state."[50]

In view of the events leading up to this action on the part of the legislature of 1893, the acquisition of state-owned coal mines for the purpose of employing the state's prisoners seems strange indeed, since the express purpose of the penitentiary act was the abolition of the convict lease system that had caused so much trouble. There were a number of factors to be taken into consideration. It was very necessary that the state manage to maintain its prisoners with the lowest possible cost, and with the least possible competition with other industries. Had the main penitentiary near Nashville been made sufficiently large to accommodate all the prisoners, they would have had to be employed in other fields, such as the mechanical industries, the trained workers in which did not want to work against untrained convict competition. Although the prison-mined coal would be sold in competition with free-mined coal, the use of convicts in state-owned mines would not affect the wages of the miners themselves. Manufacturing was a new and growing industry,

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50. Ibid., p. 98.

and the coal market was not overstocked. Another item of considerable cost was the problem of transportation. Tennessee is a rather long and narrow state, and branch prisons or stockades in various regions would naturally shorten the distance over which prisoners must be transported.

Chapter II

The Opening of the Prison

The Penitentiary Act of 1893 carried within itself the provisions for the appointment by the governor of a "Penitentiary Purchasing and Building Committee" of three members, whose duty it was to purchase all the property, to visit other state prisons for building suggestions, to advertise for the erection of all buildings and stockades, to make all necessary contracts, to draw up all regulations, and to sub-lease as many convicts as possible to do the labor in the construction of the penitentiary. To save time in the matter of finding suitable farm and coal lands, the committee was authorized to advertise in one prominent newspaper in each grand division of the state for thirty days.[1]

Governor Turney appointed Judge R. J. Morgan of Shelby County, D. R. Young of Anderson County, and M. H. McDowell of Franklin County as the penitentiary committee. For the purpose of investigating coal lands for purchase, these men were to confer with State Geologist James M. Safford,[2] and Louis E. Bryant, a skilled mining expert and geologist.[3] On April 22, 1893, the committee quali-

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1. Acts, 1893, pp. 100-101.
2. Fifth Annual Report, Bureau of Labor, Statistics and Mines, submitted by F. P. Clute, Commissioner of Labor, January, 1896, p. 127. Hereafter cited Clute's Report.

fied and gave bond under the law, and the work was under way. They had their headquarters at Nashville, but frequently met at other places in the state more accessible to the farms and mines that were to be visited.[4]

The funds for carrying out the provisions of the act were to be provided by the issuance of six hundred thousand dollars worth of state bonds. Until these bonds were negotiated by the state and the money received by the treasurer, February 22, 1894, the committee worked under the handicap of an empty treasury, so far as any monetary appropriation for their work was concerned. From the $600,000 raised by means of the bonds, commissions amounting to $12,000 were deducted, leaving the sum of $588,000 for use in connection with the prison, and farm and coal lands.[5]

The committee, with their two skilled assistants, Safford and Bryant, began the work of locating coal lands early in June, 1893. The task of investigating and inspecting lands was not completed until August 13, 1893, when a purchase was made in East Tennessee. The group first visited two mines, the Perin and Whitworth, opening into the Sequatchie Valley. They next investigated three vields in the Cumberland Mountains, contiguous to Sequatchie Valley, known as the Myers and Spears coal

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3. Report, Penitentiary Purchasing and Building Committee, 1893-1894, p. 9. Hereafter cited Report, Purch. and Bldg. Comm.
4. Ibid. pp. 3-4.
5. Ibid.

lands. Many other coal fields were then inspected, including several on the west and east of the Cumberlands, one at Standing Stone in Putnam County, one in Overton County, and one in Morgan County near Bledsoe Stand. They then visited other coal lands; north of Rockwood, Cumberland County, Buffalo Cove, Fentress County, Van Buren County, Coal lands on Crab Orchard Mountain, one field near and opposite Daisy, two near Chattanooga, and the Brushy Mountain fields near Harriman. In visiting these fifteen fields in Tennessee's "coal belt," the committee of necessity had to confine investigation to those fields that were contiguous to transportation or to such points at which they were assured that transportation would be provided without delay.[6]

The field at Brushy Mountain was revisited, and a thorough and exhaustive examination conducted. The coal was exposed in several places in the various seams, and in many cases in more than one place in the same seam, many miles apart. Proof of the abundance and permanency of the layers and veins having been established to the satisfaction of the committee, negotiations with the owners, the East Tennessee Land Company, were begun. This company owned about 12,000 acres of land in four 5,000-acre grants, consisting of entries number 1,969, 2,314, 1,959, and 1,968, embracing a group of mountains known in the neighborhood

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6. Ibid., pp. 8-10.

as "The Brushies." The state made an especial effort to secure 9,000 acres in a tract of land as nearly square as possible, free from interfering boundaries belonging to others. This included all the land in entries number 1,969 and 2,314 not held by prior legal claims and some of the lands out of the adjacent entries 1,968 and 1,959 to the west. Of this 9,000-acre tract the company owned the mineral interest only in about 700 acres, having the right of ingress and egress and all mining privileges; the remainder they were able to transfer to the state in fee simple, including all surface as well as mineral rights.[7]

In the technical report filed with the committee on July 31, 1893, Dr. Safford expressed his opinion: "Considering the number of beds of coal and the quality of the coal, I feel justified in saying that so far as my observations have extended, there is as a whole no better coal property in the State of Tennessee than that purchased by the state. It would appear that we have represented in its great section of strata every coal bearing horizon to be found anywhere within the entire area of our coal fields."[8]

According to the terms of the contract made through George F. Gerding for the company, the first day of August,

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7. Ibid., pp. 19-20. This whole locality is drained by the Crooked Fork of Emory River and the headwaters of Flat Fork, Beech Fork, and New River.
8. Ibid., p. 21.

1893, the purchase of this tract of land in the Brushy Mountains in Morgan County at Joynersville, now Petros, was almost completed, at the price of $80,000 and under the condition that the vendor, the East Tennessee Land Company, within six months complete and equip for operation the Harriman Coal and Iron Railroad, then partially finished in the direction of the site of the purchase. By August 20, 1893, the title papers were ready for submission to the attorney general, who reported that with a few exceptions concerning private liens, the titles were clear.[9] In due course of time, these conflicting interests were ironed out, and the deed was drawn up August 8, 1894, in the office of the register of Morgan County; in consideration of the sum of $80,000 paid to the land company, the state received two tracts of land, the surface and mineral rights to one containing 8,429 48/100 acres, and the mineral rights to another composed of ten smaller tracts, 570 52/100 acres, making a total of 9,000 acres.[10]

In the meantime the East Tennessee Land Company employed the Cumberland Construction Company to build the railroad from Harriman to Brushy Mountain, a distance of twenty miles.[11] On July 1, 1894, the prison camp at Big Mountain was discontinued, and the inmates and guards,[12]

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9. Ibid., pp. 21-24.
10. Deed Record Book, F, Vol. 2, pp. 393-409, in Register's Office, Morgan County.
11. Report, Purch. and Bldg. Comm., p. 25.
12. Report, Superintendent of the Tennessee Penitentiary, December, 1895, p. 6.

under command of Captain G. H. Crozer, were moved to a railroad camp near Harriman to build the road.[13] On the following day work was begun on the stockade,[14] a building made of logs stood upright in the ground. It was joined to the log commissary, which was provided with a large platform used in loading and unloading supplies. This building stood on the present site of the old frame commissary, now used as the supply room.[15]

Work on the development of the coal seams was commenced September 1, 1894, using free labor under the direction of L. E. Bryant, mining expert employed by the state. By November 1, 1894, the railroad had been completed to the point at which the state's tipple for loading coal was to be located. The free labor was then replaced by the seventy-five convicts leased at the price of seventy-five cents a day each from the Tennessee Coal, Iron and Railroad Company that had been working on the railroad. The plans of the committee were necessarily restricted by the meagerness of the appropriation for this purpose, only $40,000,[16] but the railroad company agreed that the commissioners should simply balance the cost of this labor by crediting the company's account against the large bal-[17]

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13. Ibid.
14. Knoxville Evening Sentinel, July 2, 1894.
15. Interview with A. W. Evans, June 17, 1936, Petros, Tenn.
16. Acts, 1895, p. 612.
17. Report, Purch. and Bldg. Comm., pp. 24, 25.

ance already due the state for the leasing of the convicts under their earlier contract.

The committee found that the cost of opening this mine, providing the necessary side tracks, switches, mine equipment, and stockade, together with the necessary buildings for offices, warehouses and barns would consume the entire appropriation. With this in mind they recommended that they be empowered to operate the mine until January 1, 1896, when the convicts would be turned over to the state, and that all the proceeds from the sale of coal mined therefrom be used in furthering more rapid extension of the entries, so as to be certain to have sufficient entry to place the entire mining force of convicts.[18]

Governor Turney discussed the problem in his message to the extra session of the state legislature, May, 1895: "As it is absolutely certain in the short time left (about seven months) to the termination of the lease, it will be impossible for the State to take care of the convicts (now about 1,700 and increasing), in a way creditable to itself and just to them. The question is, What is to be done? . . . I recommend that the stockade at the coal mines be provided for and the mines be opened as fast as possible, that as many convicts may be engaged there as can be advantageously."[19]

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18. Ibid., p. 25.
19. Acts, 1895 (Second Session), pp. 541-543.

The act of 1893 provided that convicts might be employed in building, if satisfactory arrangements could be made with the lessees.[20] Governor Turney further stated that in the compromise of the matters in suit between the state and the lessees, it was understood that such arrangements could and would be made. The contract price could be entered as a credit on the debt due the state from the lessees, and thus carry out in good faith what had been the understanding among all parties. While it was more than desirable that leasing should end, and while it was the determined purpose of all that it must end, the state at this juncture was compelled to submit to a modification of the plan for a short time.

The Governor accordingly recommended, "if it shall appear to the Commissioners to be absolutely necessary, that there be a temporary leasing of surplus convicts, for it not to extend beyond the closing of the next General Assembly, which meets in January, 1897, the leasing to be open to all on the best terms that can be obtained."[21] This fear on the part of Governor Turney tended to speed up the work of getting the mine developed sufficiently to care for the prisoners. Major E. E. McCroskey, a practical coal mine operator, visited Brushy Mountain in July, 1895, and said that he thought that the entry work should

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20. Acts, 1893, p. 102.
21. Acts., 1895, p. 542.

have been pushed from the beginning so as to provide working room for the convicts, as there was not room for more than thirty coal diggers in the mines.[22] He did find, however, 860 feet of main entry, 2,000 feet of cross entry for rooms, one excellent tipple with screens to make four grades of coal and a capacity for dumping 600 tons into railroad cars in ten hours, 150 first-class mine cars, and a stockade to accommodate 100 convicts, and 55 sub-leased convicts at work.

The expense of running the mine that properly could be applied to putting out coal was $75.00 a day. The capacity of the mine was about 75 tons in ten hours, which made the cost of producing coal on that basis about $1.00 per ton. Major McCroskey suggested that if work on the entries should be pushed on a double shift, the capacity for output could be increased to 200 tons daily by the first of September. In that case the cost per ton would be reduced to seventy-five cents.[23]

On August 1, 1895, the state engineer of mines, Louis E. Bryant, resigned. He was replaced by the appointment of Major Jesse T. Hill,[24] who had had considerable experience with convict labor in the Birmingham district. Although $41,355.24 had been expended, the opening, developing and unfolding of an up-to-date system of coal mining

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22. Knoxville Weekly Tribune, July 3, 1895.
23. Ibid.
24. Clute's Report, p. 128.

on a large scale had scarcely begun.[25] Under Hill's management the output of the mines was developed to about a thousand tons each day by the time the convict lease contract expired, January 1, 1896. The measurements on December 31, 1895, were as follows:[26]

Main entry	1,688 feet
Total cross entries	8,601 feet
Total rooms turned	206

While the work of opening the mine was going forward, the work of constructing adequate housing quarters for the incoming convicts was being considered and carried on by a new board appointed by Governor Turney, in accordance with a legislative act passed in 1895.[27] Of the three divisions of the state to be represented, in accordance with the legislative act of 1893, W. M. Nixon of Chattanooga, the new chairman, was appointed in place of D. K. Young, of Anderson County, who had resigned. Samuel R. Simpson, of Gallatin, succeeded M. H. McDowell, of Franklin County, who also had resigned, and R. O. Morgan, of Shelby County, was reappointed.[28] According to the biennial report of the superintendent of prisons, John H. Trice, covering the years 1894-96, in June, 1895, he found only sixty-four convicts at work there, some driv-

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25. Report, Board of Prison Commissioners, 1897-1898, pp. 11-12. Hereafter cited First Report.
26. Third Biennial Report, Board of Prison Commissioners, 1898-1900, p. 130. Hereafter the reports of the Board of Prison Commissioners will be cited Second Biennial Report, Third Biennial Report, etc.
27. See chapter 3.
28. Clute's Report, p. 128.

ing entries to the mines, and others clearing off the grounds preparatory to building a new prison, and making other improvements of various kinds.[29]

A great asset in the work of actual construction was the excellent quality of the heavy growth of timber on the tract acquired by the state: poplar, white oak, cherry, chestnut oak, chestnut, and walnut.[30] Two sawmills were set up, owned and operated by Frank Schubert of that locality, and a Mr. Bartley, from Indiana,[31] and much timber was cut and turned into lumber.

The site chosen for the building, just a little to the left and rear of the present prison, is ideal for a penitentiary, in that it is entirely surrounded by high mountains forming a narrow triangle, making escape difficult. Since the L-shaped wooden building designed by S. M. Patton of Chattanooga was constructed by free labor, it cost the state from $80,000 to $100,000.[32] The four-story front wing measured 205 feet by 31; the rear or west wing was three stories high, and measured 170 by 31.[33] A. W. Evans, the construction engineer, designed the kitchens, hanging beds, and the bathroom, which contained 52 showers.[34] In addition to sleeping quarters for the

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29. Biennial Report, Superintendent of the State Prison, 1895-1896, pp. 6-7.
30. W. N. Nixon to Dr. H. K. Shelton, April 3, 1934. Letter in possession of Dr. H. K. Shelton, Oliver Springs, Tennessee.
31. Interview with A. W. Evans, June 17,1936, Petros, Tenn.
32. Ibid.
33. Interview with W. M. Nixon, July 30, 1935, Chattanooga, Tenn.
34. Interview with A. W. Evans, June 17, 1936, Petros, Tenn.

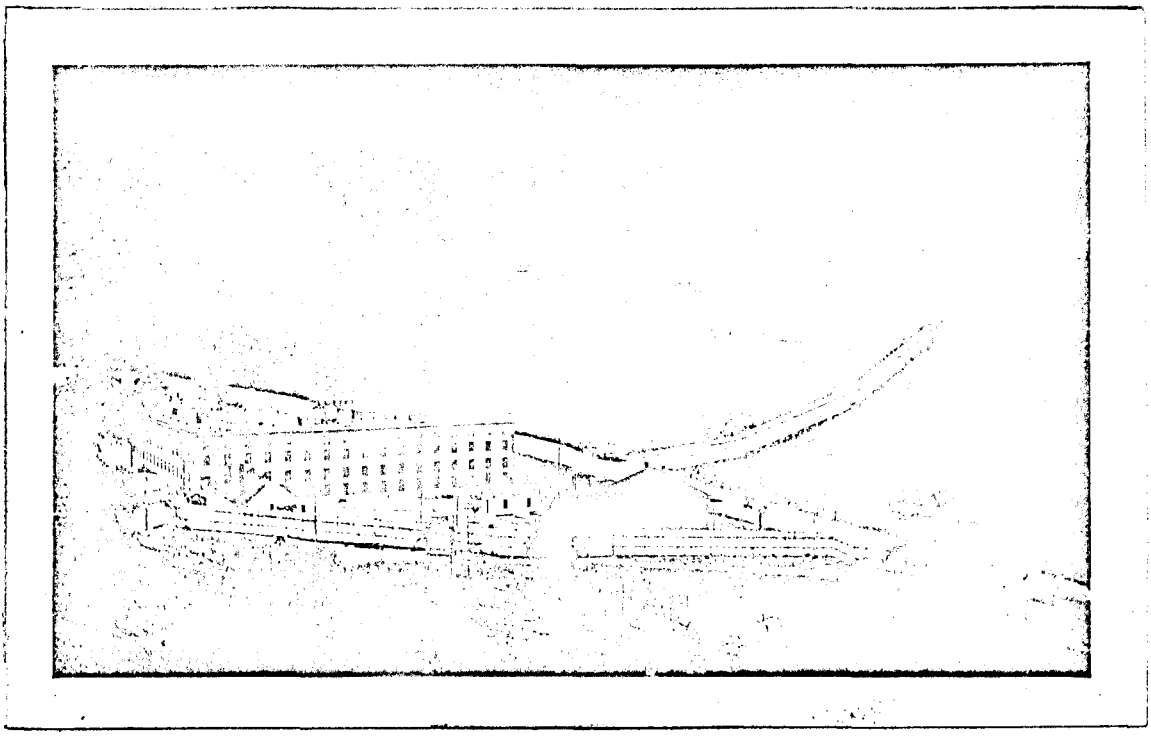
prisoners and guards, space was provided for tailor and shoe shops.

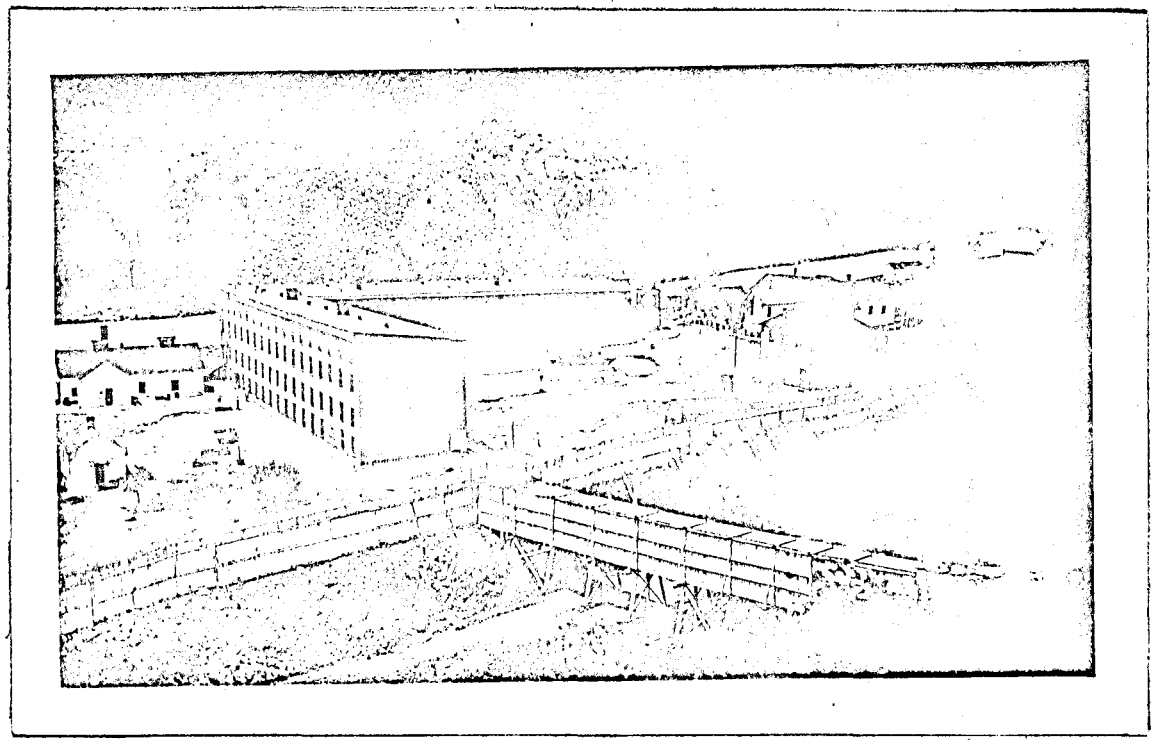
The construction of the building rendered it as comfortable, and as safe, except from fire, as one of brick or stone. The walls were built double, the outside being made of rough inch boards set perpendicularly, with all spaces between the boards carefully covered with strips. The inside was of dressed pine, put on diagonally. Between this and the outer wall was a layer of heavy tar paper. The floors also were double, the under layer of two-inch plank, and the upper, one-inch tongue and grooved flooring, with tarred paper between, as in the walls. The windows, of course, were securely barred with one-inch round iron.

The five wards used for sleeping quarters were large enough to allow 450 cubic feet of air for each of 120 men, the whole building being large enough to accommodate about 600. Double swinging beds were decided upon for reasons concerning health, sanitation, and security. Each ward was provided with two large "cannon" stoves, and the building was lighted by means of oil lamps.

Health and sanitation facilities were the best that could at that time be provided with the means at hand. A separate building behind the prison served as a hospital, accommodating twenty-five men. Each of the wards, one 25 feet by 20 for white men, and the other, 40 by 20

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Views of the First Prison
Showing Enclosure and Manway

for colored, was equipped with a bathtub and hot and cold water. The building also contained a laboratory, operating room, physician's office, and another private office. The water for the prison and hospital was conveyed through pipes from a reservoir formed by a dam built in the ravine a quarter of a mile north of the prison. A system of hydrants and sinks furnished the wards with drinking water. Each ward was provided with a dry closet and a urinal with running water in offsets adjoining but outside the main building.

The prison kitchen and a small kitchen and dining room for the officials were in a separate building near the front entrance of the mess hall, making it necessary to carry the food about fifteen feet. All of the food was cooked in large steam kettles,[35] and the bread was baked in an immense oven.

With the exception of five comfortable dwelling houses and three "shacks" built for temporary use, finished by December, 1896, the prison buildings stood in a seven-acre enclosure shaped like a parallelogram, formed by an eighteen-foot wall made of long planks stood upright. The gate, over which a guard shack was built, and a "manway," through which the prisoners passed to the mines, were the only two openings to

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35. First Report, pp. 6-11; interviews with A. W. Evans, July 30, 1935, June 15, 1936, Petros, Tennessee.

the enclosure. The manway was a boxed walkway that extended about 100 feet from the prison wall to an opening in the mountain whence prisoners were carried to work in cars. This not only saved time, but also made escapes more difficult. The gate entrance, of course, was secured with an extra large strong lock.[36]

In the meantime, Commissioner Nixon was in Nashville completing plans to take care of the state's prisoners at the expiration of the convict lease contract, January 1, 1896. On December 30, 1895, he divulged the following information for publication:[37]

> There have been no bids made by the Tennessee Company for a renewal of their leases, and so far as I am cognizant neither overtures nor talk of an extension of the contract have been made. Preparations for their removal are all complete and officials of the state will carry out the order.
>
> There are now four hundred and forty convicts leased to the Tennessee Coal Iron Railroad, and of these there are three hundred and fifty-five at Tracy City and the remaining eighty-five are at Coal Creek. The contract with the Company was for a term of six years, and as is generally known, it expires to-night at 12 o'clock.
>
> Supt. of Prisons Trice left Nashville for Coal Creek yesterday, and he will escort all the eighty-five there to the barracks at Brushy Mountain, where their labor will be utilized in getting out the coal in the mines belonging to the state.
>
> Mr. Joe Turney will leave for Tracy City today and of the 355 there he will take two car loads--about 125--to Brushy Mountain, also for the same purpose as the other lot.

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36. First Report, pp. 5, 6; interview with W. H. Nelson, July 30, 1935, Chattanooga, Tennessee.
37. Nashville Daily Sun, Dec. 31, 1895.

> The remaining 230 will be brought to Nashville immediately, and domiciled within the prison walls.

It took just about twenty-four hours to complete the transfer of the 125 prisoners from Tracy City to Brushy Mountain. On January 1, 1896, two coaches full were entrained, under the wardenship of Captain Joe Turney, a brother of the Governor. Assisting Captain Turney, the "long chain" man, were six or seven other guards, among whom were "Captain Jack" (W. H.) Nelson, Frank Meriweather, and W. T. Massengale. Guards armed with shotguns were stationed at either end of both coaches, the aisle being patrolled by another. None of the men were handcuffed, except possibly the long-termers. A march of one mile was necessary at the Harriman Junction, and the men were entrained on the Harriman & North Eastern Railroad, which had been built the distance of twenty miles, from Harriman to the prison. Since the one small caboose on this train could not accommodate all the guards, "Captain Jack" and some of the others braved the bitter cold in open coal cars. Upon their arrival at Brushy Mountain about noon, January 2, 1896, the men were served food in the old stockade, after which they were marched to the new prison through mud that was nearly knee-deep.[38]

In the following article the Nashville Daily Sun

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38. Interview with W. H. Nelson, August 5, 1935, Chattanooga, Tenn.

commemorated the passing of the lease system, January 1, 1896:[39]

> The State of Tennessee has received just $1,659,060.50 for the use of the convicts since 1872.
>
> But last night the dollars ceased to flow into the State Treasury for their employment, and the State must now maintain them, and they take charge of their convicts today . . .
>
> The capacity of the prisons will be crowded at first, and the expense of amintaining them will be considerable, but the immense amount of work will materially reduce the expenses, and the turmoil of twenty-four years over the lease system will be over.

In all, there were 329 prisoners confined at Brushy Mountain Penitentiary at first. As working space in the mines developed, the number was increased. By December 1, 1896, there were 466.[40]

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39. As a matter of fact, the cessation of the lease system was not immediately as complete as had been intended. Due to crowded conditions at Nashville, and difficulties encountered in exercising the prisoners, 125 convicts were again leased on June 16, 1896, to the Tennessee Coal, Iron & Railroad Company to be employed in mining and loading iron. These prisoners occupied the old stockade, in effect a branch prison, at Inman. Second Biennial Report, 1897-1898, p. 42.
40. First Report, p. 38.

Chapter III

Management of the Prison

By the Penitentiary Act of March, 1893, the Governor was empowered and directed to appoint three citizens of the state to serve as the Penitentiary Purchasing and Building Committee. This committee was to elect one of the members chairman, and another, the secretary. Any two of the members could constitute a quorum for the transaction of business.[1] By act of the legislature in 1895, this committee was superseded by a new board, to be called the "Board of Prison Commissioners." This board was directed to formulate and submit a code of laws and regulations for the management of the penitentiary system of the state to the governor, who would transmit the ones he deemed advisable to the General Assembly of 1897 for consideration.[2] The legislature of 1897 specified that each of the three commissioners should be responsible for a particular phase of the penal organization:[3] Chairman W. M. Nixon was assigned the superintending and supervising the state's mining operations at Brushy Mountain; John H. Trice was assigned the farming operations, and

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1. Acts, 1893, pp. 98, 102.
2. Acts, 1895, pp. 607, 608, 611.
3. Acts, 1897, p. 293.

Secretary William Morrow was to remain in the office and have charge of routine business requiring constant attention.[4]

The legislature of 1915 passed an act "to create a State Board of Control to manage and govern the penal, reformatory, and charitable institutions controlled and operated by the state."[5] The governor by and with the advice of the Senate appointed three electors of the state, one for each grand division, to be known as "The Tennessee Board of Control." They were to have charge of the nine institutions of the state, one acting as president of the board, another as secretary; it was the duty of the third to visit every institution at least once a month. This board was required to hold a meeting once every two months for the purpose of considering paroles and applications for pardon or discharge according to statute. An annual report of the acts, proceedings and conclusions of the board for the preceding calendar year, giving a complete financial statement of the various institutions, was to be submitted to the governor. Quarterly statements to the governor showing the business transactions of the entire management of the Tennessee State Penitentiary and the Brushy Mountain Penitentiary were required also.

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4. Second Biennial Report, p. 3.
5. Acts, 1915, p. 44.

The board was authorized to purchase all supplies needed for the proper support and maintenance of the various institutions by means of competitive bids, under rules that the board might adopt. All bids were open to the public on the day, hour and at the place specified in the advertisements. The contract was to be awarded to the lowest responsible bidder, preference to be given to bidders in localities wherein the institution was located, provided the price was fair and reasonable and not greater than the usual price. Also, all contracts covering the sale or disposal of the output of the state mines or of any factory or industry operated by the state were to be submitted to the board for approval.[6]

The title, "Tennessee Board of Control," was changed to "State Board of Administration" in 1918. A. H. Roberts was chairman of this board; the other members were Hill McAlister, the state treasurer, and Lewis S. Pope, the general manager. This board had charge of the activities of the eleven penal and charitable institutions of the state.[7] In 1921 by legislative act the board became the "Department of Institutions," consisting of only one commissioner, Lewis S. Pope, and his secretary. This act conferred upon the department the authority to remove

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6. Ibid., pp. 44-52.
7. Biennial Report, State Board of Administration, 1918-1920, pp. 6, 7.

wardens and superintendents, a power formerly vested in the governor.[8] At present the management of Brushy Mountain Penitentiary is under the jurisdiction of the new "Department of Institutions and Public Welfare" created by the reorganization act of 1937.[9]

The statute for the management of the prison system of the state passed in 1896 provided that the warden, physicians, chaplains and matrons should be appointed by the governor, and the guards by the commissioners or commissioner, and the clerks and other employees by the commissioners with the advice of the governor. This arrangement necessarily produced a more or less dual management and division of responsibility which was not conducive to the best results.[10] According to Warden Gammon's report in 1898, "one of the evils that confront our penitentiary system is the frequent change of those who administer its affairs. Political and personal influences, rather than adaptability or special fitness for the work, is generally the most potent factor in selecting prison officials in Tennessee."[11] Despite repeated criticisms of a similar nature, this evil has continued to the present time.

From the beginning the warden has had charge of the general management of the prison, the control of all the subordinates, and the maintenance of discipline under rules made by the state board. According to the original

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8. Acts, 1921, pp. 1, 2.
9. Knoxville News-Sentinel, January 31, 1937.
10. Second Biennial Report, p. 64.
11. Ibid., p. 193.

statute, it was his duty to see that a full, correct and complete record was kept of all the convicts confined in the prison under his charge; to make requisitions to the board of prison commissioners for all necessary food, clothing and other supplies for the convicts; and to make a monthly report to the commissioner of the condition of the prison and inmates, including suggestions at to the needs of the institution.[12] His duties have remained much the same throughout the years, but he has had the assistance of an increasing corps of prison officials. This staff includes at present, in addition to the deputy warden, his assistant and numerous guards, a cashier, a physician, a chaplain, an identification and record clerk, a supply clerk, a steward, farm and stable "bosses," a mine superintendent, and numerous mine foremen and assistants.[13]

The physical equipment of the prison also has been expanded and improved since Brushy Mountain Penitentiary was established. Soon after the prisoners were admitted, an administration building was completed, the first floor of which was used as offices for the manager or warden, cashier, bookkeeper, and mining engineer; the second floor was used as sleeping quarters for the office employees.[14]

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12. Ibid., pp. 356, 357.
13. Interviews with various prison officials, Petros, Tenn.
14. Second Biennial Report, pp. 58, 59.

In 1899 Major A. J. McWhirter, one of the prison commissioners, wrote Dr. Charles W. Dabney, president of the University of Tennessee, asking him to send to Brushy Mountain a young man to install electric lights in the prison and electric haulage in the mines. Jasper H. Bowling was sent, and he made a great many improvements for the sake of the health, comfort and safety of the prisoners. There was no floor in the dining room, and he afterwards related that the mud was at least ankle deep when he put in the floor. He also put a strip floor and concrete drainage in the bathroom, drew plans for a cooking oven and directed it construction, installed a modern laundry, replaced oil lamps with electric lights, put electric haulage in the mines, and helped with the building of the forty additional coke ovens. It was his opinion that the greatest fire hazard was the old lighting system, kerosene lamps suspended from the ceiling, with the bowl holding a gallon or more oil, supplemented by smaller ones around the sides of the rooms.[15] It was estimated that the cost of coal oil lighting was $350.00 a year, whereas the estimated cost of washing and lighting machinery would amount to about $1,750.[16]

By 1901 the number of prisoners had increased until the third story of the west wing, formerly used by the

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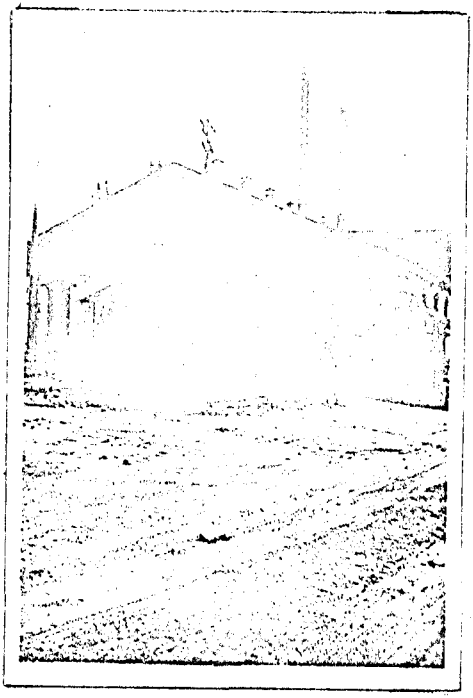
15. Interview with J. H. Bowling, July 25, 1935, Knoxville, Tennessee.
16. Second Biennial Report, p. 182.

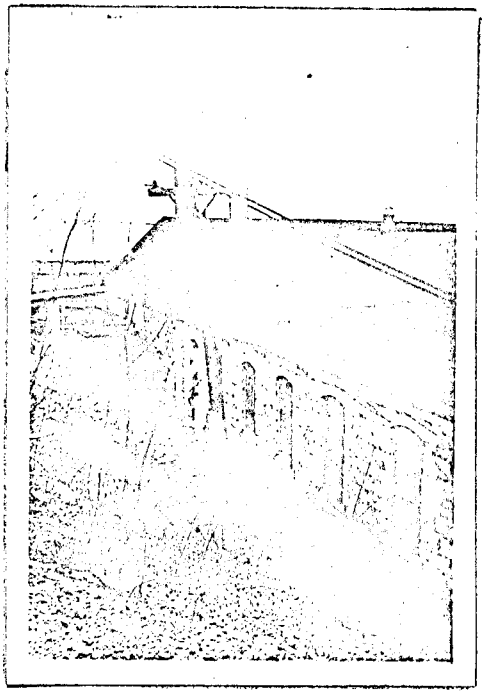
guards, was used for prisoners, and a fourteen-room dormitory was built for the guards. During the same year a five-room cottage was erected for the engineer, and seven three-room houses were built north of the coke ovens, at the base of the foothills of Frozen Head Mountain. A brick crematory was built on the hill west of the prison, to burn the refuse from the prison which previously had been carried away and deposited in pits.[17] The old power house was a frame building located so near the tipple and coal bins that it was a fire hazard. Consequently, in 1902 a new power house was built of stone, with metal roof and concrete floor. Also, a new engine, boiler, and generator were purchased in order to furnish duplicate power to prevent loss of time in case of accident.[18]

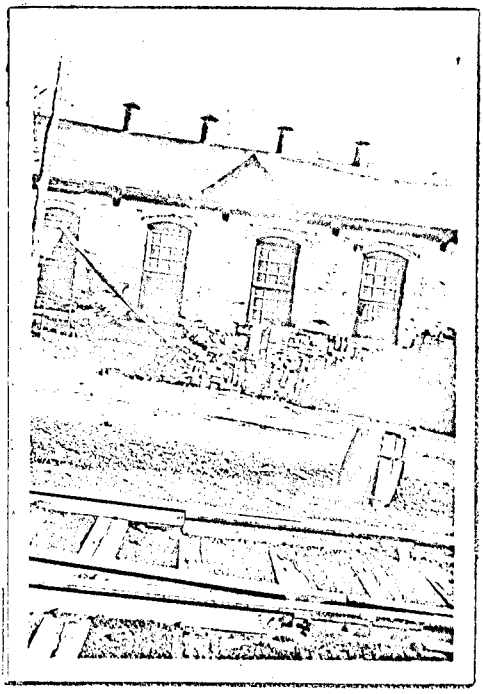
There were about seventy employees working for the state at Brushy Mountain in 1905, several of whom had families, and as the Petros school was crowded, the commissioners directed that a two story building be built for the children of the employees. This building was used also for Sunday School and church and the second floor was rented for lodge purposes.[19] This one-teacher school was discontinued in 1914, and the pupils have

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17. Fourth Biennial Report, 1900-1902, pp. 115, 116.
18. Ibid., pp. 28, 29.
19. Report, House Committee on Management of the Penitentiary System, 1905, pp. 16-17.







The Power House from Various Angles

attended the Petros school since.[20]

A new commissary building built in 1906, 40 by 100 feet, gave ample room for the handling of supplies for the convicts, and storage space for whatever supplies were necessary for the repairs and operation of the plant and mines. A retail department also was fitted out for the accommodation of the employees of the state. The basement was used for the ice plant and as a storage for meats and vegetables.[21] The last two dwelling houses were built in 1908;[22] additions and repairs have been made as necessary.

Rock was quarried from the hillside just above the prison for a cow-barn 710 feet long, 30 feet wide, and 11 feet high, built in 1932 by prison labor. A feed mill was purchased whereby the feed for the cows could be made by grinding products grown on rented neighboring farms. A stone and cement potato house 46 by 24 by 21 was also built for storing both Irish and sweet potatoes. With lumber made at their own sawmill, a corn crib was built, with sheds on either side in which to keep the farm implements.[23]

In 1934 it was decided that the addition of a cannery would materially reduce the cost of maintenance,[24] and during the following summer 2,025 gallons of canned beans

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20. Interview with Mrs. S. H. Justice, former teacher at the school, August 20, 1936, Wartburg, Tennessee.
21. Sixth Biennial Report, 1904-1906, pp. 127, 156.
22. Seventh Biennial Report, 1906-1908, p. 123.
23. Biennial Report, Department of Institutions of Tennessee, 1930-1932, pp. 307-308.
24. Ibid., 1932-34, p. 173.

and 6,000 cans of tomatoes were put up. These products were grown either in the state's garden or on rented farms; 7,762 cans of apples, purchased at a very low price, were also canned.[25]

These very necessary buildings were added only as the need grew into a real problem. The necessity for supplies immediately is always so great, and the red tape of approving requisitions so lengthy, that building projects tend to be delayed.

The first population of Brushy Mountian Penitentiary were the convicts that had been hired by the lessees to work in the coal mines at Coal Creek and Tracy City until the expiration of the convict lease system, January 1, 1896. As there was not working space in the mines to use more than half of these convicts, half of them were taken to the State Penitentiary at Nashville.[26] As the mines developed, some of these men, especially those with considerable mine experience, were transferred to Brushy Mountain. Newly sentenced offenders from neighboring counties increased the number of inmates, while those from Middle and West Tennessee were sent to Nashville.[27] Thus, early in 1898 the commissioners decided that the warden of the Brushy Mountain Branch Prison should take

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25. Report found in Supply Office (Guy Bradshaw, supply clerk), April 15, 1936.
26. Supra., p. 33.
27. Interview with W. H. Nelson, July 31, 1935, Chattanooga, Tennessee.

charge of all convicts from the thirty-six East Tennessee counties.[28]

Exchanges, for various reasons, have been customary for a number of years. Prisoners in the East Tennessee branch requiring greater security are transferred to Nashville; experienced miners from Middle and West Tennessee are transferred to Brushy Mountain. Prisoners who have developed strong grudges or enmities are separated by transfer. Tuberculars are taken to Nashville for special treatment in the prison hospital there. Those of subnormal intelligence receive treatment at the criminal unit of the Middle Tennessee Hospital for the Insane.[29]

For some time a number of federal prisoners were incarcerated at Brushy Mountain. Some of these prisoners had been causing considerable trouble in the various penitentiaries where they were being held, especially in those south of the Ohio and east of the Mississippi River. Realizing from his experience with United States prisoners when he was United States Marshal that it would be to Tennessee's advantage to enter into an agreement to take care of some of these federal prisoners, Colonel Nixon, then chairman of the Board of Prison Commissioners, entered upon negotiations to secure the contract.[30] Through the

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28. Second Biennial Report, p. 29.
29. Interview with W. H. Nelson, July 31, 1935, Chattanooga, Tennessee.
30. Interview with Colonel W. N. Nixon, July 30, 1935, Chattanooga, Tennessee.

efforts of Congressman John W. Gaines, an agent was sent to Tennessee by the attorney-general. After a thorough examination of the prison system, he reported that Tennessee's penitentiary compared favorably with the best institutions of the kind in the United States.[31] In 1899 the legislature passed a resolution authorizing such an arrangement with the government, and shortly thereafter a contract was executed between the attorney-general and the board, designating Tennessee's penitentiary as the prison for the confinement of United States prisoners from Kentucky, Tennessee, Mississippi, Louisiana, Alabama, Georgia and Florida.[32]

This contract remained in force until the completion of the federal prison at Atlanta, and netted the state a profit of not less than $100,000. The United States prisoners at Raleigh, North Carolina, were immediately transferred, and under an arrangement that was not in violation of the United States statutes, employed in the prison factories and mines at Nashville and Petros, earning from 40 to 70 cents a day. The government delivered the prisoners, paid all discharge and transportation expenses, and paid to the state of Tennessee 25 cents a day for the maintenance of each prisoner.[33] In all, according to Colonel Nixon, there were from five to seven hundred

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31. Third Biennial Report, p. 28.
32. Acts, 1899, pp. 1167, 1168.
33. Third Biennial Report, pp. 28, 29.

of these prisoners, a large proportion of them very intelligent, and serving moderately long terms--in a great many cases sentenced for illegal traffic in whiskey, or "moonshining." One of the federal prisoners thus acquired was a good photographer, and he performed the unique service of photographing the others at Brushy Mountain.[34]

Since the production of coal and coke has been the chief industry at Brushy Mountain, more than two-thirds of the prisoners there were required to work in the mines. Each prisoner was given to understand that he had a task to fulfil in order to repay his debt to the state, usually the equivalent of loading from two to six tons of coal a day, depending on the thickness of the coal, or working twelve hours a day six days a week at some other task. Their working hours were longer in the summer and shorter in the winter. In 1903, however, as a result of a Senate committee report their hours were reduced to ten;[35] since 1920 only eight hours have been required. Men who wished to earn extra money might do so by working "over task", being paid from five to forty cents a ton for loading coal; for years the price was ten cents a ton, but for the past several years it has been twenty-five cents. The pay for extra shifts on other jobs was computed on the basis of

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34. Interview with Colonel W. N. Nixon, July 30, 1935, Chattanooga, Tennessee.
35. Report of Prison Operations from Dec. 1, 1902 to Nov. 30, 1904, Senate Committee, p. 9. Hereafter cited Prison Operations, 1902-1904.

overtask loading, many of the workers receiving as much as forty dollars a month, and others as little as one cent.

The remaining one-third not assigned to tasks in the mines worked at the tipple, drove teams, did repair work on the houses, made coke, cooked, and worked in the laundry and hospital. The more trustworthy were allowed to work in the offices or serve as cooks at the residences of the various officials. Those whose vocations had been farming tended the sixty-acre garden. By 1920 several acres of neighboring farm land had been rented.[36] At present about 200 acres of land is being cultivated by the convicts on the share-crop plan.[37]

In 1911 the slack condition of the coal and coke market, together with the fact that the cost of maintenance was soaring, led to the recommendation by the board that prisoners be employed in building state and county highways.[38] During the very dull coal season in 1916, Colonel Nixon, who was then warden of Brushy Mountain Penitentiary, contracted with authorities of Campbell County for the employment of 225 prisoners at a dollar a day for the construction of the Jellico highway toward LaFollette, through the impassable section of the mountains. Camps were established at Morley and High Cliff for the purpose, and within

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36. Interview with W. H. Nelson, July 31, 1935, Chattanooga, Tennessee.
37. Interview with C. W. Heck, Farm Foreman, June 14, 1937, Petros, Tennessee.
38. Tenth Biennial Report, 1913-14, pp. 128, 129.

the space of six summer months the road, which came to be designated as highway No. 9, was completed.[39]

It was just about the same time, also, that another industry was added to the activities at Brushy Mountain. Much timber was going to waste, some being damaged by fire, some being stolen. The prison commissioners, however, had no authority to dispose of it except for mine purposes.[40] In 1903 an investigating committee recommended that it would be inadvisable to sell the timber at that time, as there was no probability of securing additional railroad facilities at an early date.[41] The agitation was continued, however, until the passage of an act March 18, 1919, authorizing the sale of the timber. Provision was made that short term convicts might be used as timber cutters in the woods and mill yard. To procure railroad facilities the state offered $15,000 in convict labor to the company building the road,[42] and contributed $50,000,[43] in addition to building the necessary lumber camp at Fork Mountain (New River Camp), about five miles from the penitentiary. Approximately 125 prisoners were incarcerated there to work in the timbers by June, 1919.[44] Timber worth $330,000 was sold from about 4,000 acres of

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39. Acts, 1915, pp. 323-327; 1917, pp. 88, 89; Nixon to Shelton, loc. cit.
40. Ninth Biennial Report, 1911-1912, p. 157.
41. Report, Penitentiary Investigating Committee, 1903, pp. 34, 35.
42. Acts, 1919, pp. 160-165.
43. Biennial Report, State Board of Administration, 1918-1920, p. 56.
44. Interview with L. L. Quisenberry, superintendent of mines for fourteen years, July 30, 1936, Petros, Tenn.

land, and in addition, $150,000 was received from the sale of the lumber manufactured.[45]

After the completion of these highway and timber operations, prisoners were assigned tasks that kept them at Petros, except for the working of Mines No. 5 and No. 6 on the New River side of the mountain from 1928 until 1936. During part of this time as many as 200 prisoners were maintained at the New River Camp.[46] At present all of the Brushy Mountain prisoners are working in the immediate vicinity of the prison.

The discipline, which was at first rather deplorable, has been greatly improved by the creation of an advisory board of pardons; the introduction of a scheme of reward as well as punishment, based on a grading system with honor grades and good time allowances; and the enactment of the indeterminate sentence and parole law.

Before the development of this system, as there was no particular reason for good behavior, many of the convicts were surly and impudent to officials, refused to work, and fought among themselves. Punishment for these offenses ranged from confinement in the dungeon for from two hours to five days or more, combined with a diet of bread and water; fighting or attempting to escape merited six or more strokes on the naked body with a leather strap

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45. W. H. Nelson, "A Brief History of the Brushy Mountain Penitentiary," in Quarterly Bulletin of State Institutions, III, (Dec., 1921), p. 12.

46. [illegible], p. 84.

wide enough to avoid lacerations. The dungeon was a tiny dark cell six by three feet, eight feet high, aired and lighted only by an opening in the door four inches by six. It contained nothing in the way of a stool, chair or bed, but for a time was furnished with a pulley hung from the ceiling from which a refractory prisoner might be suspended by means of cords tied around the thumbs, so that his toes just barely touched the floor, for from five to thirty minutes.[47] The suspension method of discipline was abolished in 1904 as a result of a special investigation made by a Senate committee, which reported that although corporal punishment was necessary for the preservation of proper discipline, it should be judiciously administered.[48]

In order that these conditions might be remedied, an act of the legislature in 1899 authorized the Board of Prison Commissioners to serve as an advisory board of pardons. Thereafter the governor was to submit for their consideration all preliminary applications for pardons of prisoners, together with all recommendations accompanying them. The board, after careful investigation, was required to report to the governor their approval or disapproval in writing within thirty days.[49] This board also adopted a system of grading prisoners according to conduct, which went into effect at the State Penitentiary at Nash-

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47. Interview with W. H. Nelson, July 30, 1935, Chattanooga, Tennessee.
48. Prison Operations, 1902-1904, p. 8.
49. Acts, 1899, p. 18.

ville in 1902. It proved so effective there that it was extended in 1905 to Brushy Mountain.[50]

According to this system, which in its general outlines is still in use, the convicts were to be classified according to behavior in three grades, upper, middle and lower, or first, second, and third, new prisoners being placed in the middle grade. A conduct account was kept of each prisoner, and every violation of the rules was charged against him. If the fines did not amount to thirty-three marks a month, his standing was not affected; one hundred marks or more in one month, or thirty-three or more in each of two successive months, lowered his standing. He could regain his standing in the middle grade by maintaining a perfect record for thirty days. For promotion to the upper grade a perfect record in the middle grade was required for three consecutive months, or almost in succession. Remaining in the upper grade required a good record continuously. Two successive imperfect months or one offense of sufficient gravity would reduce the prisoner to a lower grade.

The privileges accorded the men varied with their grade standing, and one day of the "good time" allowed the prisoner by law could be declared forfeited for every twenty marks imposed for infractions. Those in grade one

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50. Fifth Biennial Report, 1902-1904, pp. 7, 8.

might receive as visitors members of their immediate families not oftener than once in two weeks, those in grade two, once every month, and those in grade three, not at all. The same rules applied to correspondence. The grade standing of each man was readily distinguishable by his cap, blue-gray for the first, plaid for the second, and prison stripes for the third.[51]

At first all prisoners were required to wear the regulation prison stripes, but the new board of 1911 changed the ruling so that a convict on entering the prison was required to wear the stripes for only ninety days, provided he made a good prisoner and violated none of the rules. Khaki was the garb for those not wearing stripes, until 1918, when the uniform of those in grade one was modified to the extent of blue shirts. In every case, however, the prisoner's number in some four or five figures was stamped on the back of his shirt and coat just under the collar, and above the left hip pocket on the trousers.[52] As a result of this change, out of more than seven hundred prisoners, there were but a few who had to be punished about their work.[53]

In addition to this grading system, wardens and other officials urged the advisability of an indeterminate sentence and parole law in Tennessee. Warden W. F. English

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51. Fourth Biennial Report, pp. 17-21.
52. Interview with W. H. Nelson, July 30, 1935, Chattanooga, Tennessee.
53. Ninth Biennial Report, pp. 14, 181.

in 1910 suggested that the jury should determine the guilt or innocence of a defendant, and that the law itself fix the minimum and maximum limits of his imprisonment. This would be an incentive to the convicted man to conduct himself in such a way as to earn an early release, and might instil habits of good behaviour that would carry over into his post-prison life.[54] Warden J. E. Burrows in 1912 reported that they were compelled to put out a great number of prisoners on their honor, both day and night, and that these convicts had shown appreciation of this trust by their good conduct. He therefore urged that a parole system be inaugurated whereby such a convict could secure his release.[55]

On February 21, 1913, such an act went into effect, providing for the indeterminate sentence of persons convicted of crime, and authorizing and regulating the paroling of prisoners. A criminal could be subject to release or parole and final discharge, however, only after serving the minimum term provided by law for the offence committed, less "good time," also provided for by law. During his parole the prisoner was required to remain in the lawful custody and under control of the board, subject to being returned to the penitentiary for any violation of terms of parole, by written order certified by any member

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54. Eighth Biennial Report, pp. 48-50.

55. Ninth Biennial Report, pp. 14, 18.

of the board. If he succeeded in leaving the state the governor had the power to issue a requisition for his return. Paroled prisoners and their employers were expected to keep in touch with and make reports to the parole officer, a man employed by the board with the advice and consent of the governor. Upon the release of a paroled prisoner, the governor granted a final discharge from confinement under the sentence, and the board issued the prisoner a certificate of final discharge, admissable as evidence in any proceeding in which the prisoner might seek restoration to the rights and privileges of citizenship.[56]

An amendment of the Indeterminate Sentence Law passed in 1921 authorized the Board of Parole to collect two dollars a month for twelve months from the earnings of each prisoner released on parole. This sum was to be used in the payment of expenses in connection with the establishing and maintaining of a "follow up" system for paroled prisoners. The amendment also provided for the payment of one-third of the paroled prisoner's earnings to an official at Nashville, to be kept in trust and refunded at the time of final discharge. In case of expense incurred in recapturing and returning any violator of parole, the board was authorized to reimburse

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56. Acts, 1913, pp. 15-18.

the state out of funds so collected and belonging to the prisoner. Any prisoner physically incapacitated to work was released from paying either of these amounts.[57] For the past four years, however, because of the financial condition in general, this plan has not been followed except at the option of the prisoner.[58] According to a recent state audit, Tennessee has $10,498 for which claims have not been filed and records of ownership are incomplete. What disposition of these funds will be made is now a question.[59]

"No more important act was passed by the Legislature of 1929 than that creating an Advisory Board of Pardons. . . . For the first time in the history of the State, a careful investigation and study are made of all pardon applications. Regular meetings are held each month and the Secretary of the Board is prepared to make a complete report on each application, his life before his entrance into prison or jail, his record while incarcerated and his opportunity for rehabilitation upon release."[60] One effective contribution of this board was an elaborate plan for keeping conduct records and deciding the eligibility of prisoners for parole that finally in 1931 became a legislative act.[61] This act authorized the Commissioner

57. Acts, 1921, pp. 170-172.
58. Interview with John Fielder, secretary of Board of Parole, September 1936, Petros, Tennessee.
59. Knoxville Journal, July 20, 1937.
60. Biennial Report, Department of Institutions, 1928-1930, p. 8.

of Institutions "to establish rules and regulations by which convicts in the State Penitentiaries may be allowed good time deductions on their terms of imprisonment and to establish an honor grade for prisoners and to provide for an allowance of good time for those placed in such grade." On the basis of a carefully kept conduct record, each convict that "demeaned himself uprightly" was to have one month deducted from his sentence for the first year, two months for the second, three for each subsequent year until the tenth year inclusive, and four for each remaining year of the term of his sentence. The commissioner had the power to place in the "Honor Grade" any man whose past and present record rendered him eligible, and so long as he remained in the honor grade, two months for each year would be deducted in addition to those already mentioned. Any violation of the rules, of course, cancelled or modified these privileges.[62]

The members of Tennessee's newly created Board of Pardons and Paroles, 1937, are: George H. Cate, commissioner of institutions; C. E. Menzler, director of the Division of Paroles; and John J. Lively, board secretary. Mr. Cate felt that the former custom of extending conditional paroles and pardons to natives of other states "on the condition that they leave this state and return to the state from which they came" was fair to neither state.

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62. Acts, 1931, pp. 323-325.

This practice was therefore discontinued. The board now meets at Brushy Mountain the third Monday in each month, instead of the last Sunday in every second month as formerly.[63]

Much might be written in evidence of the improvement in discipline over a period of years, but perhaps a few brief illustrations or comparisons will suffice. The Investigating Committee of 1913 found that in February of the following years there was a steady decrease in whippings: 1900, 276; 1910, 100; 1912, 50; and 1913, 17. This led to the committee's recommending the rejection of a bill which had been introduced in favor of the abolition of corporal punishment. It was argued that the number of whippings was not excessive, as it was difficult to manage so many different kinds of men without the whip to hold some of the more desperate characters under control. According to Warden J. E. Burrow, the parole law enacted in 1913 did as much as or more than any other influence toward improving the discipline and reducing the number of guards from 48 on March 5, 1911, to 37 on the same date in 1913.[64] By the end of the first year of the life of the act there were about 150 who had good prison records and were therefore eligible to parole.[65]

Supplementing and assisting in the work of the parole boards were the various activities of the chaplains. At

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63. Knoxville Journal, July 7, 1937.
64. Report, Joint Investigating Committee on Penal Institutions, 1913, p. 6.
65. Tenth Biennial Report, pp. 183-184.

first, ministers of neighboring towns conducted religious services there.[66] In 1908 the state paid Reverend J. H. Denton of Harriman $250.00 a year for services twice each month.[67] In 1911 Reverend J. N. Bull became a full-time resident chaplain, who, in addition to conducting church and Sunday school services, organized a night school, library, prison band and shows using prison talent.[68] Chaplain John R. Morris was appointed assistant parole officer in 1915, and he prepared applications for parole for those who were eligible and presented their cases to the board, with the result that forty-nine paroles and fifteen pardons were granted in the 1915-1916 biennium.[69] This same type of work was continued by Reverend H. K. Allison, 1917-1918, through whose leniency seventy-four convicts were paroled during a period of six months. Thus it was brought to light that the work of chaplain and parole officer did not go hand in hand; since the men were ashamed to report the rule violations of their fellow prisoners to a "man of God," the warden had a much better opportunity to keep in close contact with the conduct of the men, and the work of assistant parole officer was again placed in the hands of the warden in 1919 as it was in 1899.[70]

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66. Interview with W. H. Nelson, July 31, 1935, Chattanooga, Tennessee.
67. Eighth Biennial Report, p. 123.
68. Tenth Biennial Report, pp. 183-184.
69. [illegible]nial Report, Tennessee Board of Control, 1915-[illegible] 142.
70. [illegible] Report, Tennessee Board of Control, 1917-1918, pp. 141-142.

Other services of a religious nature were provided by interested outsiders. Mrs. Mattie E. Hunter of Nashville frequently visited Brushy Mountain during the period 1915-1925, and a majority of the prisoners attended her services.[71] For the past ten years, Dr. L. C. Skinner, a retired physician, has taken a minister and some musicians to Brushy Mountain every second Sunday of each month for a Sunday afternoon service. He also takes with him all the magazines he can secure through the cooperation of Knoxville churches.[72] These magazines, together with those subscriptions donated by people interested in the prison, furnish a much needed supplement to the 1,200-book library.[73]

Recreational opportunities, however have always been necessarily few, leaving much time in which some of the prisoners could not find anything to do but shoot dice and play cards. For a number of years gambling on the first Sunday of each month, pay day, was tacitly sanctioned,[74] but the games frequently led to angry fights sometimes ending in death from stabbing.[75] Strict orders against

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71. Interview with W. H. Nelson, July 30, 1935, Chattanooga, Tennessee; Biennial Report, Tennessee Board of control, 1915-1916, p. 141.
72. Interview with Dr. L. C. Skinner, June 13, 1937, Petros, Tennessee.
73. Interview with Reverend A. T. Judkins, June 13, 1937, Petros, Tennessee.
74. Interview with W. H. Nelson, July 30, 1935, Chattanooga, Tennessee.
75. Interviews with prisoners. In such cases the prisoner was taken to Wartburg and tried in the Morgan County Court by a jury as if he were a free citizen. Interview with George W. Dagley, county judge, June 14, 1937, Wartburg, Tennessee.

gambling have therefore been issued by the new administration which took office in January, according to E. M. Williamson, director of institutions.[76]

The growth of a recreational program was slow, indeed, but efforts have been made to offer some few substitutes for idleness and gambling when not on task duty. For many years baseball has been a Sunday diversion, but the prison enclosure allowed space for only one game. In 1924 moving pictures were provided every Saturday night, being a feature at least once a month since then. The night school program grew until under Reverend R. N. Brooks, assisted by qualified inmates, instruction was offered three nights a week through the winter months, and those who could neither read nor write were required to attend.[77] The total enrollment of the school was 65 in 1932, under the direction of Reverend E. R. Allison, and in the two-year period 50 learned to read and write.[78] Even so, this was a very low percentage of the illiterates, according to Mr. Nelson, who estimated that more than sixty per cent of the inmates were illiterate, and more than seventy-five per cent had no religious belief; this was the approximate average, he believed, from the beginning of the institution.[79]

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76. Knoxville News-Sentinel, June 30, 1937.
77. Biennial Report, Department of Institutions, 1924-26, pp. 317, 318.
78. Ibid., 1930-1932, p. 347.
79. Interview with W. H. Nelson, July 31, 1935, Chattanooga, Tennessee; [illegible]

While the work of the parole boards and ministers lay chiefly in the direction of raising the moral standards of the prisoners, early investigating committees were interested in the food and health of the inmates. After an investigation in 1897, Colonel Nixon wrote manager J. T. Hill at Inman: "To my great surprise the committee appears much better pleased with this place than at Brushy Mountain. . . . A few peas, corn bread, and water after a hard days work, like the ration when we were there, is not enough." He urged that more and better food be provided.[80] Although an official penitentiary report in 1901 stated that "a sufficient amount of plain wholesome food is issued to the convicts, and they are given plenty of time to eat,"[81] the Penitentiary Investigating Committee of 1903 recommended "that they be given a change of diet oftener than at present, and that their food be served to them while it is warm."[82] As a result of these and similar reports, the prison wardens have given the food situation more attention. If too many prisoners complained, investigation and adjustment followed.[83]

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80. Col. W. M. Nixon to J. T. Hill, Feb. 22, 1897. Found by the writer in the old Administration Building vault.
81. Report on Prisons and Mines, Committee appointed to inspect the State Penitentiary, 1901, p. 7.
82. Report, Penitentiary Investigating Committee, 1903, pp. 6, 7.
83. Interview with W. H. Nelson, July 31, 1935, Chattanooga, Tennessee; also with E. R. Bradshaw, warden, 1933-1936, August 15, 1935, Petros, Tennessee.

Serving the food in the mines proved one of the major problems. Having discovered that the prisoners recooked the food taken with them into the mines, an investigating committee in 1906 recommended that other arrangements be made, because of the fire hazard.[84] Thereupon the food was sent into the mines in large cans, and tin pans were used for plates.[85] This plan was discontinued about three years ago, and aluminum dinner pails were used, which proved very unsatisfactory because they or the dishes were left in the mines or were thrown away. As a result, paper bags have since been used.[86]

Much discussion centered around the food problem in the early days of Brushy Mountain, but the problem of safeguarding the health of the prisoners assumed vaster proportions. Since the building was made of lumber that had not yet become seasoned, it was extremely damp, and the weather during January and February of 1896 was such that there were many deaths from exposure and pneumonia. After the first year the mortality record showed a lower death rate than that of the main prison,[87] a fact attributable to two causes, according to a committee report:

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84. Report of Prison Operations from Dec. 1, 1904 to Nov. 30, 1906, Joint Investigating Committee on Penal Institutions, 1906, p. 14.
85. Interview with W. H. Nelson, July 30, 1935, Chattanooga, Tenn.
86. Interview with Branson M. Randolph, steward, May 24, 1935, Petros, Tennessee.
87. Interview with W. H. Nelson, July 30, 1935, Chattanooga, Tenn.

the requirement that Brushy Mountain prisoners bathe daily when at work, and the transfer of prisoners who were in need of better hospitalization facilities from Brushy Mountain to the main prison at Nashville.[88] Of 31 deaths occurring between December 1896 and 1898, only 6 were caused by accidents in the mines.[89] For the biennium ending in 1904 there were 53 deaths out of an average convict population of 700 at the prison and 37 of these were from natural causes, and 16 from accidents and other causes, including 2 who died from wounds inflicted by other convicts.[90] In 1908 several self-inflicted injuries were reported, sustained by convicts who wished to escape work. Although a few cases of typhoid fever were contracted, an epidemic was suppressed.[91] As the natural death rate lowered, the fatal accidents in the mines decreased to 5 in 1909 and 1910 as compared with 17 in 1907 and 1908,[92] and the total mortality rate decreased forty-six per cent from 1911 to 1912.[93] There were very few contagious diseases; two instances occurred, however, in 1914, one of small pox and the other of cerebro-spinal meningitis, but a general spread of these diseases was prevented by strenuous efforts in vaccination, isola-

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88. Report, Penitentiary Investigating Committee, 1903, p. 7.
89. Second Biennial Report, p. 303.
90. Prison Operations, 1903-4, p. 7.
91. Seventh Biennial Report, p. 202.
92. Eighth Biennial Report, p. 146.
93. Ninth Biennial Report, p. 244.

tion and disinfection.[94] During the biennium 1921-1922, there were 18 deaths as compared with 8 ten years later.[95] The more recent reports are incomplete as to the number dying from natural causes and from accidents in the mines.

In all cases of death the prisoner's relatives are notified. If they make no other arrangements concerning burial, the state provides a plain wood coffin made in the prison shop and an inexpensive civilian suit, and the prisoner is buried on "Simmon's Hill," after a brief service at the grave.[96]

While medical attention has always been provided at Brushy Mountain, there was no dental service available until 1916, when for about sixteen months[97] a skillful dentist who had been sentenced for a short term did some very useful work in the dental office equipped for him by the board.[98] After his release there was no provision for dental work until September 1933, when Dr. Earl Foster was hired by the state to spend every Tuesday at the prison. Extractions were attended to first, and then if time permitted he did other dental work.[99]

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94. Tenth Biennial Report, pp. 231-232.
95. Biennial Report, State Board of Administration, 1920-1922, p. 72; Biennial Report, Department of Institutions, 1930-1932, p. 324.
96. Interview with W. H. Nelson, July 30, 1935, Chattanooga, Tennessee.
97. Interview with Dr. H. K. Shelton, who served as prison physician from 1915 to 1937, August 15, 1935, Petros, Tennessee.
98. First Biennial Report, Tennessee Board of Control, 1915-1916, p. 55.
99. Interview with Dr. Earl Foster, August 15, 1935, Petros, Tennessee.

The discharged prisoner has always been extremely neglected. According to early reports, he was given a suit of clothing and transportation to the place of his conviction or his home, without any money with which to buy his first meal. One of the earliest suggestions was that he be given five dollars in cash as was done by the United States upon the release of federal prisoners, or that they be given at least $2.50.[100] Records showed that many of the released prisoners drifted back into crime because they could not maintain themselves until employment was secured. W. F. English, warden of Brushy Mountain Penitentiary in 1910, suggested that a per cent of the prisoner's earnings should be given him upon release, which would in many cases save the state another prosecution, and would help the man become an honest, law-abiding citizen.[101] Warden J. E. Burrow's report, in 1912,[102] suggested similar needs.

Sometime after 1912 the Board made it possible for each discharged prisoner to be given five dollars in addition to the usual clothing and transportation. The five-dollar donation was reduced to $2.50 about 1930.[103] The board under the McAlister Administration, in 1933, dis-

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100. Second Biennial Report, p. 41.
101. Eighth Biennial Report, p. 160.
102. Ninth Biennial Report, pp. 182, 183.
103. Interview with W. H. Nelson, July 30, 1935, Chattanooga, Tennessee.

continued giving the suit of clothes, which cost only about five or six dollars, and gave an eleven-dollar clothing allowance instead, so that the prisoner could make his own clothing selections.[104] Since the McAlister Administration, the clothing allowance has been increased to fifteen dollars, and the $2.50 donation has been discontinued.[105]

In order to reduce discharge costs, it has been the practice for many years to transfer prisoners living in Middle and West Tennessee from Brushy Mountain to Nashville, sometimes several days before their time expires, whenever the "long chain" car happens to be making a trip, as this materially reduces the cost of transportation by bus or train to the home of the ex-convict.[106]

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104. Interview with E. R. Bradshaw, August 15, 1935, Petros, Tennessee.
105. Interview with R. G. Best, June 10, 1937, Petros, Tennessee.
106. Interview with Joe Kirby, September 27, 1936, Petros, Tennessee.

Chapter IV

The Production and Sale of Coal and Coke

At the time of the opening of Brushy Mountain Penitentiary, only one mine was in operation. As the demand for coal and the number of convicts increased, five additional mines were opened. All were not used continuously, however. Only two are in use at present. In opening the six mines, only three of the available eleven seams of coal on state property were used: the Jellico or Brushy Mountain Seam for Mines number 1, 2, and 3, the Pee Wee Seam for Mines number 4 and 6, and the Dean Seam for Mine number 5.[1]

Although the coal was of excellent quality,[2] difficulty soon developed in the disposition of the product. The policy at the beginning was to furnish the state institutions first with coal and coke at the minimum cost of production, and then sell the surplus to the highest bidder.

According to Colonel Nixon, the marketing of coal, under the dull and depressing times that followed the panic of 1893, was a huge undertaking, but together with

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1. Interview with A. W. Evans, assistant mining engineer at Brushy Mountain in 1895, mining engineer for several years, and chief mine inspector of Tennessee for twelve years, June 15, 1936, Petros, Tennessee.
2. Clute's Report, p. 128.

Major Hill and his experience and activity the output of the mines was disposed of to the railroads and large manufacturers. The dirty slack coal offered a major obstacle, and several thousand tons of it were dumped along the railroad for about eleven miles as ballast on the tracks, but it had to be removed later because there was so much sulphur in it that the rails were being destroyed.

This led to a decision to use the slack coal in the manufacture of coke. Due to a sudden decline in the decline in the demand for iron, however, only 140 of the 200 ovens planned were constructed. These ovens were designed by A. W. Evans, along with the coal washing plant and two reservoirs.[3] Engineer Ferguson devised machinery for dropping the washed slack by gravity to the ovens, thus dispensing with much hauling by means of mules. The manufacture of coke began October 1, 1897, with a small production from a few ovens and increased steadily until June, 1898, when the full capacity of the 100 ovens that had been constructed by that time had been reached. The total profit for the year on coke, $21,292.31, more than fulfilled the prediction of a profit of $15,000 made in the first report.[4] By 1900 the maximum capacity of the battery of 100 ovens was about 175 tons of 48-hour

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3. A. W. Evans to the writer, July 5, 1935.
4. Second Biennial Report, pp. 162, 178, 179.

coke per day, requiring 300 tons of washed coal. This coke, which was thoroughly tested, ranked with the well-known Stonega coke of Virginia.[5]

Since much water was needed for the purpose of making coke, two wells were drilled in 1898 and 1899, losing two strings of tools, and going to depths of 2,100 and 3,000 feet without finding any water. It was then recommended that a dam be built for a storage reservoir, of five million gallons capacity. This water was pumped to a smaller reservoir on top of a hill and fed by gravity into the power house. Mine water could be used for washing coal and quenching coke, but not for steam production. During the summer months from 1897 to 1903 oil tanks were rented and water was secured from the water works at Harriman and shipped by rail to the mine. This amounted to $435.31 in 1899 and in 1900 sixty tanks of water cost $550.55.[6] In times of high water, Crooked Fork Creek, into which the waste water passed with its sediments of sulphur, pyrites, muck and fine coal, overflowed its banks, resulting in damages to farm lands which were finally estimated at $605.00 and paid out of state funds.[7]

During the years 1896 and 1897, when it was necessary to establish the value of this heretofore unknown coal

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5. Third Biennial Report, pp. 142, 168, 169.
6. Ibid., pp. 65, 143, 144, 145; interview with James B. Kelley, July 31, 1935, Chattanooga, Tennessee.
7. Acts, 1899, p. 1177; 1901, p. 1258; Third Biennial Report, p. 76; Report on Prisons and Mines, 1901, p. 6.

and coke, the manager and agent found it necessary to put forth much effort at no little expense. As a rule, however, although the bid for sale might be five cents under the next lowest bid, the prison contracts brought more for the state coal than free mines could secure, because there was no strike clause in the contract.[8]

There was, however, a fight made in 1896 against the Brushy Mountain Coal Mines by the Operator's Coal Trust of East Tennessee and adjoining states, some members of which employed convict labor leased from other states. This combination, which professed to be so much alarmed at the state, instead of a private corporation, working convicts in the mining of coal, declined to buy the output of the state mines; and to cause further trouble, they forced higher coal prices on the consumers, and attempted in some instances to use the radical exaggerations of the state's enterprise to force down the wages of the free coal miners. After these attempts failed, secret caucuses were held and schemes were laid to try to force the state to turn over the coal lands. An experienced coal operator at one of these meetings announced that "the coal lands recently purchased by the State of Tennessee for the sum of $80,000 have been carefully examined and are without any doubt, fully worth $500,000."[9]

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8. Interview with Major J. T. Hill, March 20, 1937, Chattanooga, Tennessee.
9. First Report, p. 13.

Their argument against convict labor failed also, for instead of underselling the mines using free labor, the state in January, 1901, was getting an average of seven and a half cents a ton more than some of the others for coal of the same grade.[10]

In the first eleven months of the convict operation, ending November 30, 1896, there were 132,812 tons of coal mined at a cost of $53,067.48, an average of $ .3995 a ton; this coal was marketed for $66,742.93, an average price of $ .5025 a ton. Instead of the heavy loss predicted for 1896, these operations produced a profit to the state of $14,906.13. Equally as important, the coal was introduced into the markets of a territory extending from Cincinnati, Ohio, to Charleston, South Carolina.[11]

The Cincinnati Southern Railroad made a test of two cars of the coal and reported that it was "superior to any coal used by the company in some time." The coal was exposed to the weather for sixteen days and there was no slack in it when it was used. "Most of the engineers say that they can pull the same tonnage the same distance with seventy-five bushels that they can with one hundred bushels of any other coal they get at Oakdale chute."[12]

The Legislative Investigating Committee of 1897 was of the opinion that the sale of the entire output of the

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10. Report on Prisons and Mines, 1901, p. 14.
11. First Report, pp. 20, 21, 12.
12. Knoxville Weekly Tribune, July 3, 1895.

mines to one or more persons, firm or firms or corporations, for no longer period than six years, would be to the interest of the state.[13] The strongest arguments in favor of this proposition were that it would be taking the mines out of a commercial business, and that it would mean the reduction of expenses incurred by travelling, bookkeeping, and escaping bad accounts. The most serious objection was the chance of inordinate profits on the part of the purchaser at the expense of the state. If this occurred, the amount would be magnified by rumor until the good faith and business management of the commissioners would be questioned and the administration approving the sale vigorously attacked. The commissioners accordingly issued two invitations for bids for all or any part of the output, delivery to commence July 1, 1998. The bids obtained ranged from 35 to 50 cents a ton for the six years. The market fully justified the commissioners in their prompt rejection of the bids as entirely inadequate. Had the commissioners accepted the best bid submitted, the purchaser would have cleared $500 to $1,500 a month at the expense of the state. Since the bad accounts from sales in 1897, amounted to only $105.26 on total sales of $148,000, it was the opinion of the commissioners that the state could better afford to carry this business than to take chances on any wholesale purchaser for the entire

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13. Acts, 1897, pp. 290-298.

output, unless at far better figures than those proposed.[14]

The act specified that no clause in any contract made by the prison commissioners was to prevent them from furnishing the state institutions with coal or coke direct from the mines at actual cost for putting coal and coke on board the cars. All state institutions using either were required to use only that furnished by the state mines, provided it could be delivered at the institution at the same cost or cheaper than if bought in the general market.[15]

On account of the heavy demand for coal during 1899 and 1900, and the impossibility of increasing the output of Mine No. 1, equipped as it was with mule haulage, and because of a "fault" that developed,[16] it was deemed advisable to open another mine on Big Brushy Mountain. The state owned a detached tract of 230 acres of land, 155 acres of which appeared to be underlaid with the Brushy Mountain seam of coal. The outcrop of this coal was within 1,500 feet of the Harriman & North Eastern Railroad, about one and a half miles below the tipple at Mine No. 1. The vertical elevation of the coal at this point was about 373 feet above the railroad.

In order to secure a right of way from the state's property to the railroad,[17] two tracts of land, one 21

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14. Third Biennial Report, pp. 47, 48.
15. Acts, 1897, p. 297.
16. Second Biennial Report, pp. 158, 160.
17. Third Biennial Report, pp. 59, 60.

acres and the other 4.9 acres were contracted for from W. C. Kelley, but not purchased until August 29, 1901.[18] The character of the coal was the same as that in Mine No. 1, except that this seam carried no parting of rash or "muck" and it had a good sandstone bottom and a solid slate top. As the state had some contracts for strictly straight run of mines coal, this mine, No. 2, was hurriedly opened in the summer of 1899 to fill this demand.

The opening and equipping of this mine cost $3,242.50 and during its development $1,158.75 worth of coal was saved and sold, reducing the net cost of the mine to $2,083.75. The coal produced during the month of November was sold for $1,664.38; that produced in December was sold for $2,491.50; thus by January 1, 1900, the entire cost of the development and equipment of this mine was returned, with $500 in excess.[19]

Because of persistent difficulties in maintaining production in Mine No. 1, a third mine was opened in 1902. Mine No. 3 was located in the south side of Frozen Head Mountain, directly opposite Mine No. 1, and was opened in the Jellico vein, which is the same as the Brushy Mountain seam. Opening this mine in the foothills of Frozen Head Mountain was a costly operation. The

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18. Deed Record Book, K, Vol. II, pp. 473-474. (Morgan County).
19. Third Biennial Report, pp. 60, 61.

coal measures on this side of the mountain were disturbed by a "fault;"[20] the top was not safe, and the mine was subject to rolls and "squeezes," and irregularities in thickness which were overcome as the mine was developed.[21] This mine was selected for development because it opened up the only field of Brushy Mountain coal accessible to the state at that time, 1902, and because it was the only point convenient enough to the present plant to insure economic mining.[22] In 1904 76 men were employed there with an average output of 200 tons daily.[23] The coal was of about the same quality as that in Mine No. 1; it was too brittle, however for domestic use, and could be used chiefly for coking and steam purposes.[24]

Mine No. 4 was located after persistent prospecting to find the Middle Pioneer or Pee Wee Seam, which yielded a fine domestic coal and averaged four feet and ten inches in thickness. The mine was located in the south side of Frozen Head Mountain almost due north from Mine No. 1, and it was reached by an incline plane 4,400 feet in length that had a vertical rise of 1,150 feet. Production was begun in December, 1903, using the Morgan-Gardner and two Jeffrey make machines formerly used in Mines No. 1 and No. 3

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20. Fifth Biennial Report, pp. 60, 61.
21. Report, Investigating Committee, 1903, p. 10.
22. Fourth Biennial Report, p. 30.
23. Fifth Biennial Report, p. 103.
24. Report, Investigating Committee, 1903, p. 10.

Since there was no top to be taken, each man could get out a third more coal than was possible in the Brushy Mountain seam. The number of men employed in the mines averaged fifty, and the output averaged 130 tons daily.[25]

Colonel W. M. Nixon, commissioner in charge of mine development realized that the state did not own all the land that would necessarily be used in mining coal. He described the state's property as follows: "The location of the state's mining enterprise is in an amphitheatre formed by the mountain peaks of Indian Knob, Frozen Head, and Big Fodder Stack, rising to elevations of 3,500 to 3,600 feet above sea level, with the intervening mountain ranges connecting these peaks and the boundary line of the state's property running, as a rule, from peak to peak and along the apex or backbone of the connecting ranges, so that development of mines under most of these knobs or connecting ranges, when well in and under way and in condition to produce a large product, soon begins to pass under the boundary line and encroach upon the property of other owners than the state."[26] This adjoining coal land could then, before such development, be bought at reasonable prices. Much of it was more or less inaccessible to others for mining purposes.

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25. Fourth Biennial Report, pp. 30, 31; Fifth Biennial Report, pp. 90, 91, 103, 104.
26. Third Biennial Report, pp. 71, 72.

With this in mind, Colonel Nixon recommended that legislative authority be given the board of commissioners to acquire for the state such contiguous coal lands, rights of way, water and timber privileges, as in their judgment was to the best interest of the state. This authority could be limited in acreage and amount as well as protected by such other safeguards as the legislature might suggest. He suggested that without this authority "a few years might result in the development of adjacent property and disclosing and enhancing its value and, perhaps, forcing the state to expend five or ten times the amount in the acquisition of property it might be compelled to secure."[27]

The legislative committee appointed by the Fifty-second General Assembly recommended that Mine No. 2 be sold and the proceeds invested in lands lying to the north and east of the original tract.[28] It was found that a right of way had been secured from W. C. Kelly for the incline at Mine No. 2 without any right on the part of the state to pass the title of the land in case of the sale of this mine. With this in view, the Board authorized W. T. Murray, the commissioner in charge of the mine, to take steps to procure title to the 25.9 acres of land in tracts of 21. and 4.9 acres as rapidly as possible, taking the deed in his name to be held in trust for the

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27. Ibid., p. 72.
28. Report, Investigating Committee, 1903, p. 41.

state.[29] These negotiations were completed August 29, 1901, at the price of $350.[30]

An act was passed April 13, 1903, authorizing the board of commissioners by and with the consent and approval of the governor to purchase additional coal lands. The board was not to purchase more than 15,000 acres nor pay more than an average of $12.00 per acre for it. Not less than six annual installments were to be made in paying for the land, so that the burden of paying would not rest upon any one year. The payments were to be made in the regular way, through the office of the comptroller and treasurer of the state, but out of funds arising from the operation of the state's mines. Small strips or tracts of coal lands lying adjoining or within the boundaries of the property owned by the state that were of importance to the mines then or perhaps to future development could be purchased also; no price limitations were specified in this connection.[31]

The first tract purchased was the "Armes Tract," containing approximately 2,000 acres. It was believed that the Brushy Mountain seam extended under the entire tract, and by its purchase the state could own both sides of Frozen Head Mountain.[32] Difficulty developed in obtain-

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29. Fourth Biennial Report, pp. 31, 33.
30. State Deed Book, p. 229.
31. Acts, 1903, pp. 1117-1119.
32. Report, Investigating Committee, 1903, p. 41.

ing this land because of the large number of heirs of the original owner, Bletcher Armes, and numerous suits were prosecuted against the state.[33] The Scott Coal Company owned nine-elevenths interest in the mineral rights of this tract needed by the state, while the state owned Mine No. 2, needed by the coal company to complete their boundaries.[34] An exchange of these properties was effected therefore, March 27, 1902, whereby the state paid Miss Ellen Scott $1,500 in addition, for her interest in the Armes tract. Under this agreement the state was to be permitted to operate Mine No. 2 until January 1, 1903, provided not more than an average of 1,500 tons a week be mined.[35]

In due time the other claims were adjusted, and this valuable tract cost the state only $15,650.20 (estimating Mine No. 2 to be worth not more than $10,000), or about $7.82 an acre. The state gained one-fourth the area of Mine No. 4 and about one half of the area of Mine No. 3; and by tunneling, the entire new purchase could be operated from the plant already in operation. The commissioners felt that they did not "exaggerate the value of the Armes tract" when they stated that they had added "at least $100,000 to the value of the State's holdings at Brushy Mountain by this exchange."[36] The deed to this property

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33. Fourth Biennial Report, p. 32; State Deed Book.
34. Report, Investigating Committee, 1903, pp. 11, 12.
35. State Deed Book, pp. 128-130.
36. Report, Investigating Committee, 1903, p. 42.

was made March 29, 1902;[37] and the Morgan county line was extended by a legislative act passed March 28, 1903, from the "Wagon Rock," on top of the mountain, "north east into the Tenth (10th) Civil District of Anderson County," in order that all the state's land would lie in the same county.[38]

Outstanding among other strips of land acquired about the same time were two tracts differing widely in cost: in one case 141 acres were obtained for $530, whereas about six months later $750 was paid for four acres. In 1908 another agreement between the state and Miss Scott was consummated, by which the state acquired 18.4 acres of land near the office on which the big reservoir had been built through mistake.[39] In 1921 two other tracts were acquired, totalling about 305 acres, and the Morgan County line was again modified by legislative action.[40]

In addition to the land owned outright, the state in 1904 was compelled to lease a 300-acre tract of coal land that adjoined the most productive part of Mine No. 1. This lease was being sought after by others as well, including one of the state's largest customers, a coal dealer in Atlanta. In order to prevent the competition that would have resulted, and to secure the greatest

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37. Deed Record Book (Anderson County), R, p. 1; Deed Record Book (Morgan County), J, Vol. II, 420.
38. Acts, 1903, p. 1347.
39. Deed Record Book (Morgan County), L, Vol. II, 32,33, 168-170; State Deed Book; Acts, 1897, p. 218.
40. Acts, 1897, p. 218; 1920 (Extra Session), pp. 32, 33; 1921, p. 386; 1923, p. 2338; Deed Record Book (Morgan County), L, Vol. III, 443-444.

possible benefits from the improvements already made in Mine No. 1, and to extend the life of this mine, the state closed a contract with the Scott Coal Company, securing a lease for such time as the coal could be mined profitably enough to warrant a royalty of six and a quarter cents a ton, which was one half of the usual royalty paid in the Coal Creek and Jellico section of the state.[41]

The coal from Mine No. 4 was of such good quality that the demand for it (under the trade name of "Hickory Block")[42] became so great that complaints began to pour into the governor's office from other mine operators.[43] Due to a thinning out of the seam as entry work progressed, the output of this mine declined from 130 tons a day in 1904 to only 75 a day in 1905,[44] which meant that the mine had reached the point of diminishing returns in comparison to mining costs in Nos. 3 and 4. Its operation was continued, however, because the state was under contract for this coal, until April 1906, when it was closed by the bursting of the monitor drum.[45] Since the incline was nearly a mile long and presented a dangerous task in getting men to and from work, and the chute was 200 feet long and so steep that the coal was badly crushed, and the vein was only 26 inches

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41. Fifth Biennial Report, pp. 16, 17.
42. Prison Operations, 1903-1904, p. 14.
43. Interview with A. W. Evans, June 15, 1937, Petros, Tennessee.
44. Prison Operations, 1903-1904, p. 14; Fifth Biennial Report, pp. 103-104.
45. Sixth Biennial Report, p. 167.

thick, the mine was not reopened.[46]

Since Mine No. 1, which had been in operation since the beginning of the enterprise, was almost extinct in 1908, No. 3 was the greatest source of the state's output.[47] In 1910 there were 23 miners working in No. 1, with an output of 110 to 120 tons a day;[48] when all the working areas became exhausted and this mine was abandoned October 1, 1912, the equipment was removed and used in the development of No. 3. The main entry, however, was left open to protect the ditch through which the water in No. 1 ran to the surface, as this mine furnished water for the coke ovens during the dry season.[49]

In the meantime Mine No. 3 furnished the only output of coal, and the contracts with their largest consumer expired the last of April, 1914. Since this contract was not renewed because of the bad condition of the coal market, the management was unable to dispose of enough coal to keep the men at work in the mines continuously. By the time they did get enough orders to run the mines steadily, so many men had been discharged that there were not enough left to fill all of them. More men were being discharged than were being received, but since most of

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46. Interview with A. W. Evans, June 15, 1937, Petros, Tennessee.
47. Seventh Biennial Report, p. 142.
48. Eighth Biennial Report, p. 144.
49. Ninth Biennial Report, p. 151.

those left were long-termers who had had experience in the mines, a high average was made for the last five months of the year.[50]

In 1914 when a serious railroad strike seemed imminent, the demand for coal exceeded the output. The prices of both coal and coke advanced; and during the six-months period, January 1 to June 30, 1918, Brushy Mountain deposited $406,476.43 with the state treasurer, and the vouchers issued amounted to $151,218.29, leaving a net balance in the state treasury of $255,258.14 for this period.[51] The shortage of railroad cars at various times, 1919, 1921 and 1922, cost the state many thousands of dollars, since no provisions had been made for storing a quantity of coal for any length of time. The next biennium, 1922-1924, showed a marked increase in the output of coal--an average of 162 cars a month or 7,889.55 tons amounting to $17,991.94, and 29,240 tons of coke which sold for $132,710.28.[52]

During these years the state manufactured its own electricity and operated two generating units, one during

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50. Tenth Biennial Report, pp. 132, 133.
51. Biennial Report, Tennessee Board of Control, 1917-1918, pp. 126, 127.
52. Biennial Report, State Board of Administration, 1918-1920, pp. 54,55; ibid., 1920-1922, p. 63; Biennial Report, Department of Institutions, 1922-1924, pp. 293-294.

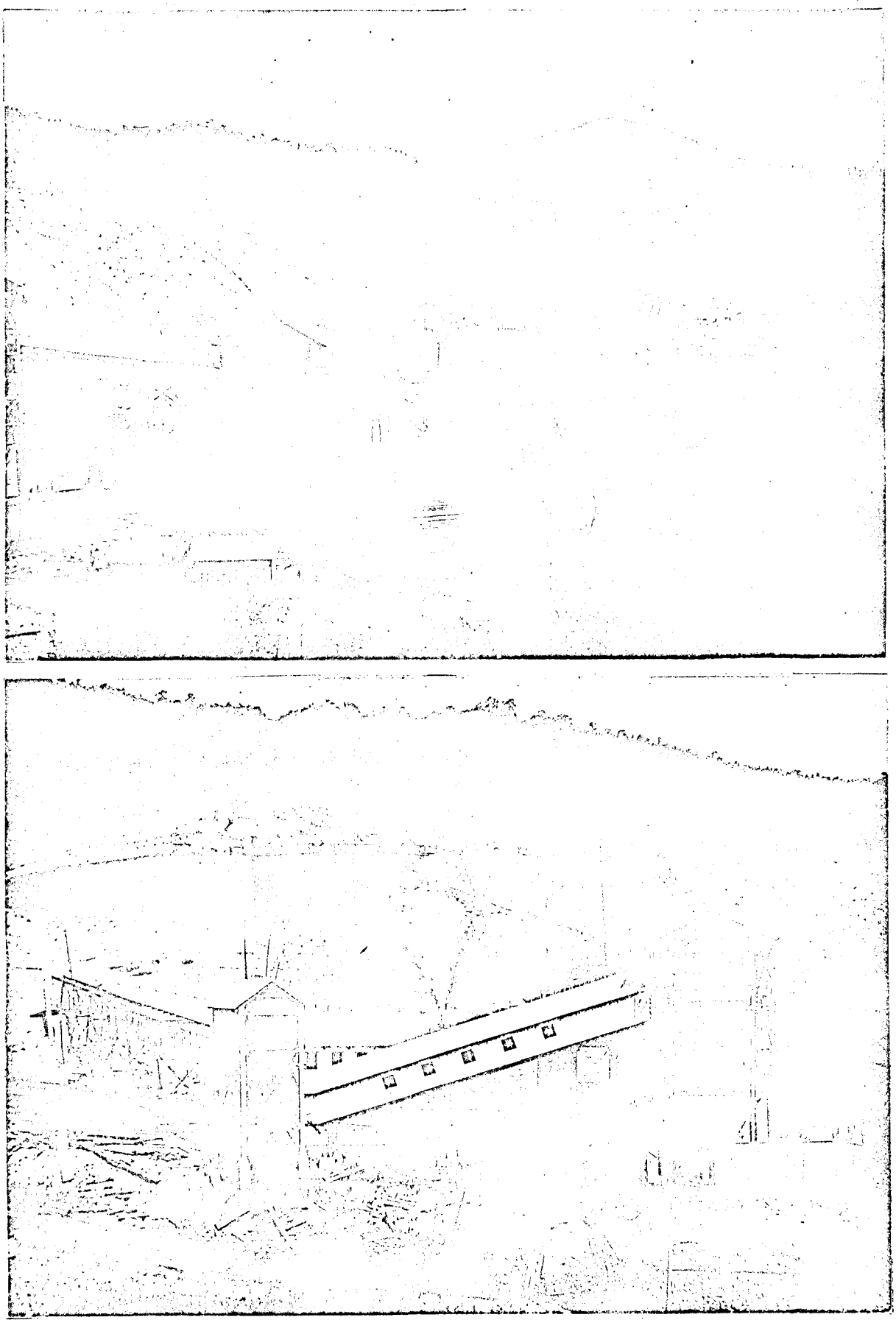
the day and the other at night. Even so, there was risk in case of emergency or break-down. The state therefore connected with the Tennessee Electric Power line when it was built in 1927, and has since operated on a split load.[53]

This power line proved very convenient in opening Mine No. 5 in the Dean Seam on the New River or Fork Mountain side of Frozen Head in 1928.[54] The prison camp built in connection with lumbering in 1919[55] housed 125 prisoners, who mined 1,984 tons of coal during the first year. In 1929 5,711.90 tons were mined, and in 1930 3,480.38 tons were produced.[56]

The state opened Mine No. 6 in 1930 in the Pee Wee Seam just above No. 5. The combined output of Mines No. 5 and 6 aggregated 60,420.61 tons during 1931, and 63,595.49 tons in 1932.[57] In the meantime the prison camp was extended to accommodate 200 men. Mine No. 5 was abandoned in 1933, and these forces concentrated on Mine No. 6, which could be worked to greater profit.[58] This mine was discontinued soon after it was worked through

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53. Interview with James B. Kelley, July 31, 1935, Chattanooga, Tennessee; Tenth Biennial Report, pp. 28, 29.
54. Interview with L. L. Quisenberry (superintendent of mines for fourteen years), June 15, 1936, Petros, Tenn.
55. Supra, p. 48; Biennial Report, State Board of Administration, 1918-1920, p. 55.
56. Biennial Report, Department of Institutions, 1926-1928, p. 322; ibid., 1928-1930, p. 334.
57. Ibid., 1930-1932, p. 132.
58. Interview with L. L. Quisenberry, June 15, 1936, Petros, Tennessee.



Tipples: Old and New

the mountain to the old No. 4 that had been closed in 1906. No. 4 was then reopened in 1936 as No. 6, and the New River Camp abandoned, the prisoners being brought to Brushy Mountain Prison. This change was brought about partly because freight costs could be lowered by shipping from the Petros side of the mountain, with the Harriman & North Eastern, and partly because it was inconvenient to get supplies to the New River Camp.[59]

According to Mr. Evans, the state has already mined approximately 1,100 acres of coal in Mine No. 3, leaving only about a million tons of workable coal. There are, however, about 90 acres of good coal north of No. 3, but the remainder has a parting in it of from six to eighteen inches. The average daily output is from 400 to 450 tons.

Mine No. 6 has a daily output of 300 tons; special effort is being made to maintain this average because there is a parting in this 32-inch vein averaging from 3 to 30 inches. Opinions varied concerning the reopening of this mine. Mr. E. L. Pardue, Superintendent of Industries thought that it would be quite profitable. Mr. Evans, however, believed that although this mine might supply the state institutions with run of mine coal for a number of years, it was a mistake to resume its operation.[60]

It is fortunate that the state made haste to dispose

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59. Interview with Robert Evans, superintendent of mines, Petros, Tennessee, September 10, 1936.
60. Interview with A. W. Evans, chief mine inspector of Tennessee for twelve years, Petros, Tenn., June 10, 1937.

of its coal as speedily as possible, in view of the Hawes-Cooper Act passed January 19, 1929, which took effect January 19, 1934, and was upheld by the United States Supreme Court in June, 1936. This act declared convict-made goods, convict-mined coal, etc., even when transported according to the rules of inter-state commerce, to be as much subject to the laws of the state into which they were shipped as though made in that state.[61] To cope with the situation resulting from the passage of this bill, the legislature of 1933 created a sub-division of the Department of Institutions, designated as the Industrial Division.[62] In anticipation of a verdict of "constitutional" in the decision concerning this bill, the state adopted the State-Use Plan. By this plan, the institutions manufacture such products and commodities as are required by Tennessee's various state institutions, supplying them at a minimum cost, proving a worth-while economic measure as well as providing suitable occupation for the prisoners.

With the sum of $72,000 reverting from an old appropriation the Industrial Division began operations at both penitentiaries early in 1933.[63] The authority for

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61. Tennessee Taxpayers' Association, The Taxpayers' Report on Methods of Using State Prison Labor in the Department of Institutions of the State of Tennessee, Research Report, No. 26, p. 3. Hereafter cited Taxpayers' Report.
62. Acts, 1933, p. 87.
63. Biennial Report, Department of Institutions, 1932-1934, pp. 8, 9.

such expenditures was expressed in an act passed in 1933:[64]

> "That all funds remaining on hand and to the credit of the Department of Institutions and unexpended on June 30, 1933, instead of reverting to the general fund of the State shall be placed in a special fund to be known as the Industrial Fund. . . which Industrial Fund shall be used for the purpose of building, equipping, and maintaining industrial plants and shops and manufacturing plants at the various institutions of the State, and said fund shall be expended in the same manner as the appropriation for maintenance at the main prison. . . .
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> Provided, also, that the Commissioner of Institutions with the approval of the Governor shall use, operate and expend said industrial fund to the best advantage of the State as their judgment may dictate."

The act was revised in 1935 so that "all sums realized from said Industrial Division in excess of the actual operating expenses of said Division and of the commissary at the main prison shall be paid to the Treasury quarterly and credited to the general fund of the State without deduction and not subject to expenditure for any purpose by the Department of Institutions or by the Industrial Division."[65]

This bill was passed so that surplus prison products could be sold without violating Federal laws regarding prison-made goods in competition with free labor. The Industrial Division includes the supervision of all labor of prisoners such as mining, construction, rail and

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64. Acts, 1933, pp. 87, 88.
65. Acts, 1935, p. 52.

highway work, and farming at Brushy Mountain. The prison operates on appropriations set up by the legislature, whereas the Industrial Division operates as a free concern. The main idea for years has been to produce coal for the various institutions first, then for charity, and finally if there is a surplus, to dispose of it through coal brokers.[66]

All state institutions using either coal or coke were required to use only that furnished by state mines at the actual cost of putting on board the cars, unless the institution could buy it as cheaply or more so in the general market.[67] Of 222,116.80 tons of coal mined in 1935, 50,869.9 tons were used by the institutions.[68] According to the P. I. R. A. Report, less than one third of the coal produced in 1936 was used by twelve of the twenty-four state institutions that use Brushy Mountain coal. It further stated that state use consumption can be increased somewhat, but a part of the remaining institutional market is unavailable because of disadvantageous freight rates.[69]

An act passed January 15, 1931, and continued in ef-

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66. Interview with Robert Evans, September 10, 1936, Petros, Tennessee.
67. Acts, 1897, p. 297.
68. Information obtained from cashier's office.
69. The Prison Industries Reorganization Administration, The Prison Labor Problem in Tennessee, a Survey, p. 92. Hereafter cited P. I. R. A. Report.

fect since that time, directed that all the surplus coal mined from the state mines be donated for the benefit of the unemployed citizens of the state who are in need. This coal was to be shipped to the mayors of the cities or to the chairman of county and charitable organizations who would pay all freight charges, and they were to be responsible for its distribution to the most needy. All the shipments were to be made between December 1 and April 1, and Senator Andrew J. Graves was named director for the distribution.[70] Twenty-eight cars averaging 50 tons a car of No. 1 block coal valued at $1,361.19 was given to charity during the winter of 1935-36.[71]

During 1935-36 about two thirds of the coal mined at Brushy Mountain, or 130,785 tons, were sold at an average price of $ .884 aggregating $115,666.01. All of this coal except that of a value of $127.62 was disposed of in Tennessee.[72] Although this policy of selling surplus coal to private brokers will be continued throughout 1937, it will be brought to an end on February 19, 1938, because of recent legislation by the Tennessee General Assembly made necessary by a decision of the United States Supreme Court in January, 1937, upholding the con-

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70. Acts, 1931, pp. 1-3; 1933, pp. 1, 2; 1935, pp. 1-3.
71. Biennial Report, Department of Institutions, 1934-1936, p. 239.
72. Taxpayers' Report, p. 6.

stitutionality of the Ashhurst-Sumners Act, passed by Congress in 1935. This act makes it unlawful to ship prison-made goods, prison-mined coal, etc., into any state which had enacted laws forbidding the sale of such goods within its borders, and in effect provides for "Federal policing at State borders to see that one state does not violate the laws of another state."[73]

The effect on the state of Tennessee of the Supreme Court decision in connection with this act is that the legitimate open market for the sale of prison-made goods has been destroyed. According to the Taxpayers' Report,

> "The only place where Tennessee prison-made goods can now be legally sold in the open market is in our own state and the remaining 15 states, most of which are beyond economical shipping distance, that have not yet closed the markets in their states against such goods. The result is that this restricted market does not warrant the operation of large prison units producing sizeable industrial outputs of merchandise. It now makes it necessary that Tennessee enact legislation similar to that of the other states . . . "[74]

Realizing the necessity of closing the Tennessee market to prison-made goods from other states, the General Assembly, on February 19, 1937, passed an act to take effect twelve months later, prohibiting "the sale, disposition or exhange in Tennessee of goods, wares and merchandise manufactured in whole or part by convicts or prisoners (except convicts or prisoners on parole or probation) . . ." The act is not to be construed, however,

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73. Ibid., p. 3.
74. Ibid.

as intending to prohibit the sale of convict-mined coal to any county or town government, or any political subdivision.[75]

This bill will cause a serious loss of state revenue. Even though small--$28,498.38 at Brushy Mountain Coal Mines in 1935-36--it was an important consideration. Still more important is the problem of providing employment and gainful occupation for these men. Prison authorities agree that idleness and lack of regular employment will break down discipline and morale, and cause riots.[76] A recent survey of this problem was made by the State Planning Commission, and a special committee under the direction of George Cate, State Commissioner of Welfare and Institutions, is now working on plans for prison labor after February 19, 1938.[77] Commissioner Cate has recently expressed the opinion that under the reorganization measure about half the 900 Brushy Mountain prisoners now employed in mining projects can be shifted to other work. The remaining 450, he said, can be kept at Petros "to mine coal for state usage."[78]

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75. Senate Bill No. 269, Approved February 19, 1937. Copy obtained from Cedric Hunt, Chief Clerk of the Senate.
76. Taxpayers' Report, pp. 29, 5.
77. Knoxville News-Sentinel, May 10, 1937.
78. Ibid., May 20, 1937.

Chapter V

Construction of the New Prison

As a result of newspaper publicity and strong public sentiment concerning the bad condition of the prison at Petros, recommendations were made that resulted in the building of a new penitentiary of reinforced concrete at Brushy Mountain in 1933-1934. The old frame structure erected in 1895 and heated by old coal stoves, according to Commissioner Richard H. Lyle, constituted "one of the greatest fire risks of the United States." In order to remedy this evil, he recommended that the legislature appoint a special committee to survey the prison situation in Tennessee.[1]

In accordance with this recommendation, a committee was appointed by the legislature of 1931 to investigate conditions with reference to fire, and the danger, if any, to which the prisoners were subjected on account of this hazard, and to make recommendations as to what should be done.[2] On March 17, 1931, this committee made a report to the Sixty-seventh General Assembly in which the penitentiary was described as "a most dangerous fire

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1. Biennial Report, Department of Institutions, 1930-1932, p. 8.
2. Acts, 1931, pp. 435-438.

hazard. . . . This condition is indefensible and should not be tolerated by the state longer than is necessary for its correction." Nine hundred and seventy-six prisoners were housed in this building, which in the first place was not constructed large enough to take care of more than three or four hundred men. These hundreds of prisoners slept on cots, crowded together as closely as it was possible to crowd them. The wiring was described as of a "most dangerous character . . . liable at any time to cause a fire." If a fire had broken out in the building, the committee felt that hundreds of the state's wards, with practically no chance of escape, would have been burned to death.

The condition of the prison was attacked not only from the viewpoint of danger of fire, but also from the standpoint of the health of the prisoners as well. These conditions were found to be even more deplorable. There were eight beds in "an old shack on the grounds called a hospital," filled with sick and crippled prisoners. "In addition to that situation . . . one hundred and thirty-eight prisoners sick of flu and pneumonia . . . were scattered throughout the wings and locked in closely at night with the rest of the prisoners . . . where approximately four hundred prisoners were kept, there were more

than seventy cases of flu scattered promiscuously among the other prisoners."[3]

The committee recommended that fireproof barracks for the housing of the prisoners be erected at Brushy Mountain to contain suitable plumbing requirements, a hospital and facilities for segregation of cases of contagious disease. It was thought most economical to construct the building of sandstone quarried from state property, using convict labor.

In concluding this report, the committee stated that the conditions that Prevailed at Brushy Mountain were in no sense the fault of the commissioner of institutions nor of Captain W. H. Nelson, warden of the prison, but were due to the state's policy; the state alone was responsible. They suggested that something must be done at Brushy Mountain, and "if the present Legislature is not willing to remedy present conditions which prevail at this prison, then it should abolish the whole undertaking at that place, sell the state's holdings there and get out of the mining business altogether." They were "unanimously agreed that the conditions which prevail at Brushy Mountain are intolerable as matters now stand and approach conditions which prevailed in the Siberian prisons under the old Russian regime."[4]

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3. Report, Penal Institutions Committee, March 17, 1931, pp. 1-5.
4. Ibid., pp. 11-13.

This very embarrassing description found its way to a London, England, newspaper, according to Bishop James M. Maxon, who addressed a large audience on "Conditions at Petros," at St. Paul's Episcopal Church in Athens, Sunday night, May 17, 1931. Bishop Maxon said that "it was truly sufficiently bad for the true conditions to exist, without the knowledge of it being made known world wide." He believed that since the conditions had been exposed, steps should be taken immediately by the legislature to remedy them.[5] He spoke again, at Memphis, May 20, on "Conditions at Tennessee's Brushy Mountain Prison,"[6] and in a letter published in the Nashville Banner, May 21, he told of the needs at Brushy Mountain as they were disclosed in the report of the joint legislative committee: "They are awful. Just get the report . . . and read it."[7]

As a result of these reports, the Woman's Union Prayer Meeting organization of Clarksville memorialized Montgomery County's legislative delegation requesting them to support recommendations of the General Assembly's penal investigating committee as to improvement of prison conditions in the state: "Feeling sincerely concerned over the conditions of the penal institutions of Tennessee, and especially the convict camp at Brushy Mountain branch

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5. Nashville Banner, May 19, 1931.
6. Ibid., May 20, 1931.
7. Ibid., May 21, 1931.

prison, we wish to invoke the aid of our representatives in the State Legislature, asking that they use their influence to further such reforms as shown to be necessary by the report of the legislative investigating committee."

In offering the letter for publication, the group stated:[8]

> "The conditions at the Brushy Mountain branch prison referred to have been described by the legislative committee investigating our penal institutions as being scarcely better than those in Siberia. A thousand men are camped together in a flimsy wooden structure built thirty years ago for half that number, hardened criminals and youthful first offenders in close association, without hospital facilities and protection from fire."

Regardless of these and many other recommendations, the legislature of 1931 failed to make any provision for a new penitentiary at Brushy Mountain. E. L. Pardue, superintendent of industries, said that he could build one for $20,000 by using convict labor, cutting their own lumber, quarrying their own rock, and hauling their own sand. Having received ample assurance as to these facts, the governor gave him permission to proceed. Commissioner Lyle, also, wanted a new building, and discussed a plan with J. H. Brooks, supervisor of construction for state institutions, for a four-story dormitory style building, 242 feet by 50 feet, that would be sanitary and fireproof. The lowest figures for such a building were $75,000, and as there was not any money that could be appropriated for

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8. Ibid., May 20, 1931.

the building, the plans could not be followed.

Again, in 1933, there was no money that the state legislature could appropriate,[9] but a solution was found in the Industrial Devision that was organized in 1933, in order that the state could meet the situation resulting from the passage by Congress of the Hawes-Cooper Bill.[10] Without legislative appropriation, but through a recommendation of Commissioner of Institutions Edwin W. Cocke[11] and the approval of Governor McAlister, the money for the building of a new prison was to come from the Industrial Division. Due to the fact that all unexpended funds from each institution went into this revolving fund, and not the general fund, the plans for building the prison were soon under way.[12]

Material for the building was the next consideration; and as there was a good quarry near the site of the prison, arrangements were made to let convicts begin quarrying stone.[13] This procedure was so slow that it was decided to use the stone in building a guard house on each side of the entrance and a new 18-foot wall enclosure, to replace the old plank one, and construct the building of reinforced concrete.

Mr. Pardue suggested the plan of a Greek cross with

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9. Interview with J. H. Brooks, supervisor of construction for state institutions, December 20, 1936, Nashville, Tennessee.
10. Biennial Report, Department of Institutions, 1932-1934, pp. 8, 9; supra, chapter 4.
11. E. L. Pardue (comp.), Industrial Survey of the Fifteen State Institutions under the Commissioner of Institutions, p. 5.

battlements on top as a design for the prison; he had seen such a building at some military academy. According to this suggestion Mr. Brooks proceeded to draw up the plans. The site selected by the construction engineer, James T. Adams, was to the right, yet in front, of the old prison. Excavation was begun in May, 1933, by convict labor; in December, however, the convict labor was withdrawn for three or four months. These workers were replaced by 150 CWA men, the state furnishing the materials, and the Federal Government the labor. During the progress of this CWA project the convicts were employed in the mines, but at the termination of the period, were again put to work on the building.

The state was required to secure three bids for all supplies. If all conformed to the same specifications, the contract was to be awarded the lowest bidder. Some of the material was purchased from Gray and Dudley Iron Foundry at Nashville and paid for with articles made at the Nashville prison. There were other instances in which Brushy Mountain coal was used in exchange for supplies.[14] The new prison was completed in January, 1935 (with a few exceptions concerning equipment), at a cost of $45,960 for labor and materials. Disinterested contractors and archi-

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12. Interview with J. H. Brooks, December 20, 1936, Nashville, Tennessee.
13. Pardue, op. cit., p. 5.
14. Interview with J. H. Brooks, December 20, 1936, Nashville, Tennessee.

tects appraised the building at $175,000.[15]

The building is three stories high, but the cell houses or wards have four walks or floors of cells. The administration part of the building is 51 feet by 40 feet, and forms the front of the Greek cross design. On the first floor are the offices of the warden, cashier, identification and record clerk and superintendent of mines; the second floor is used for sleeping quarters for guards and other officials, while the third floor is used for the hospital, with sections for both white and colored prisoners.

From the first floor of this building, one passes into the lobby, which is 30 feet by 43 feet, and is well lighted by a skylight 10 by 21 feet; it contains the armory, a small store, telephone, trusty board, a table and several benches. Steps lead to the second floor, which is the visiting gallery, where relatives and friends may sit outside a heavy wired partition and visit inmates on Sunday. The prison dispensary, doctor's office and dietitian's kitchen are on the third floor.

The cell blocks are reached by passing through the lobby where the "turn-key" may allow passage through the door into a barred compartment which is opened after the main door is closed. There is a passageway eleven feet

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15. Biennial Report, Department of Institutions, 1932-1934, p. 204.

wide and fifty-two feet long opening into each cell house. The white ward is to the right and the colored is to the left; each cell house is 109 feet long and 43 feet wide. Each of the four walks or floors of cells contains 20 cells 10 feet square, occupied by four men; the cell is furnished with two double-deck bunks, a wash basin and closet. The total capacity of the prison is 640 men, 80 to a walk and 320 to each cell house.

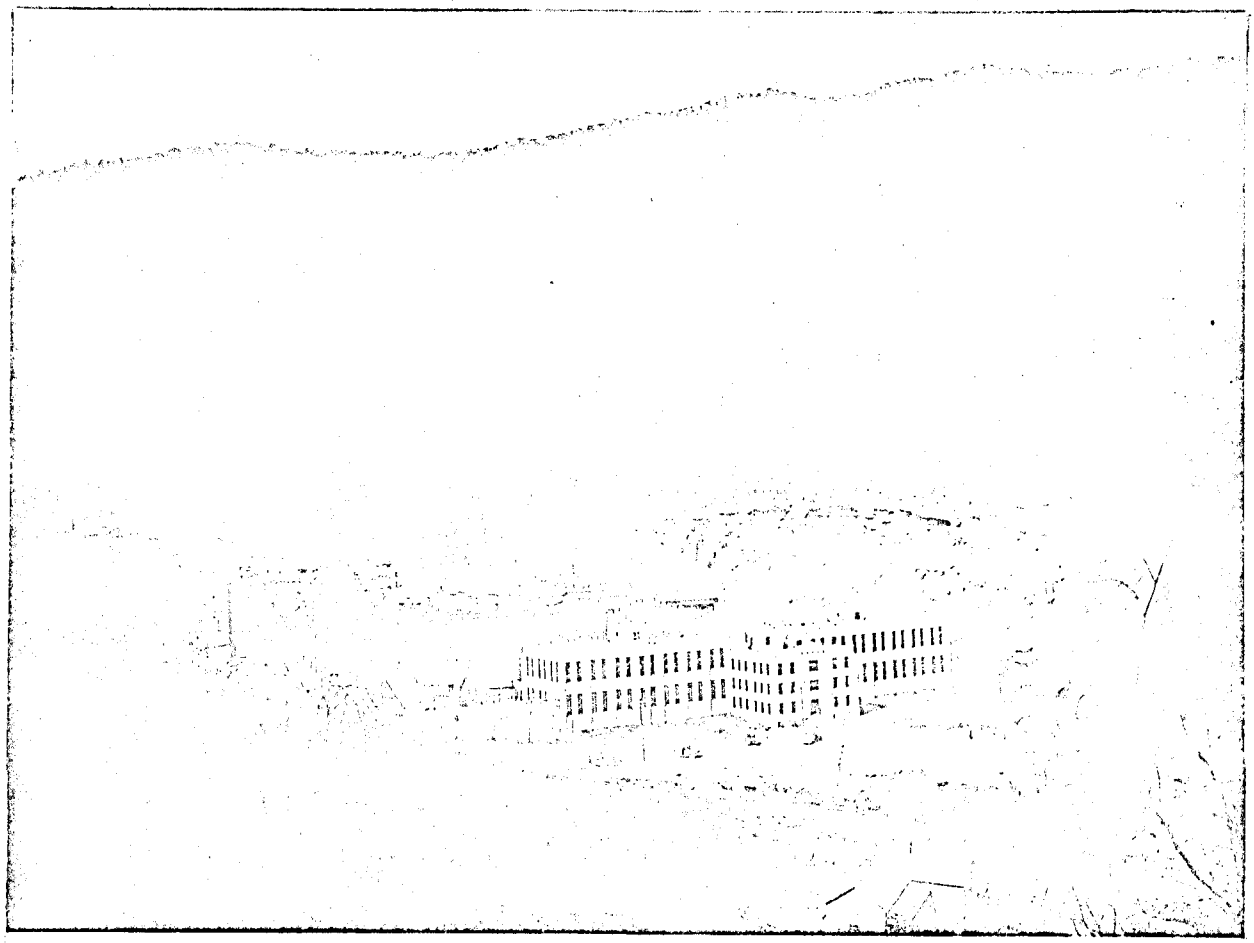
The rear part of the building is 91 feet by 52 feet, on the first floor of which are the deputy warden's office, officials' dining room and kitchen, the prison bakery, and storage rooms. The main kitchen and dining room for prisoners are on the second floor, while the third floor is used as an auditorium.

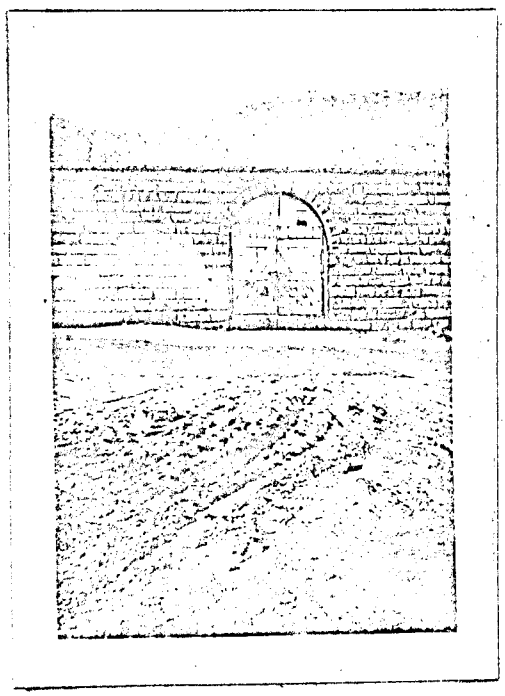
Just behind this part of the building there is a reinforced concrete boiler house 68 feet by 51 feet, that furnishes steam for cooking, heating the building, and the water for showers and the laundry. A bar screen, Imhoff tank and filter plant were built for sewage disposal.[16]

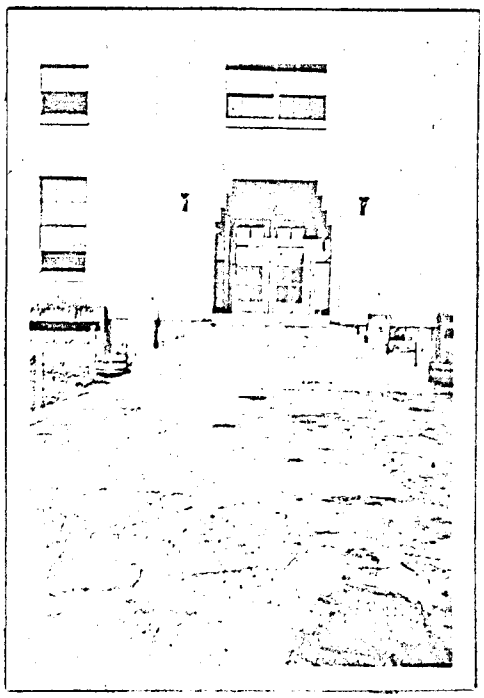
At a cost of $1,402.28, a waterworks system was installed which affords ample fire protection, as well as sanitary accommodations, for the entire population. This was accomplished by placing a pipe line from a reservoir made from the abandoned Mine No. 1, which has a natural

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16. Interview with J. H. Brooks, December 20, 1936, Nashville, Tennessee.







The New Prison
Gateway and Main Entrance

flow of about 60 pound pressure.[17]

After the completion of these necessary buildings, 640 prisoners moved into the new prison, and the right wing of the old frame prison was torn down; the remainder of the old building had to be used, however, since there were more than 900 prisoners at Brushy Mountain.

About this time it was revealed that the commissary had not been producing any revenue for several years, and a legislative act was passed February 5, 1935, whereby the commissioner was enabled to lease or rent the commissary building on such terms as he deemed proper.[18] With this authority, Commissioner Cocke leased the commissary to John M. Harwood on March 1, 1935, for a six-year period at $50.00 a month. As the commissary building was old, and the space was needed for prison supplies, a new combination four-room apartment and commissary frame building was built in 1936, by authority of Commissioner E. L. Pardue with the approval of the Governor.[19] On May 21, 1937, however, the legislature repealed the commissary act,[20] thus placing its management under that of the Industrial Division, which is very closely connected with the management of the prison.

The crowded condition at Brushy Mountain Peniten-

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17. Biennial Report, Department of Institutions, 1932-1934, p. 204.
18. Acts, 1935, p. 9.
19. Interview with John M. Harwood, May 25, 1937, Petros, Tennessee.
20. House Bill No. 1325, passed May 21, 1937 (not printed).

tiary has been generally known to all prison authorities for some time, but the Tennessee State Planning Commission report, The Brushy Mountain Penitentiary at Petros, published January, 1937; the P. I. R. A. report, The Prison Labor Problem in Tennessee, published March 31, 1937; and Mr. Lewis Pope's investigation, revealed the horror of the crowded condition and danger of fire to such an extent that Commissioner George Cate made a visit to the institution on July 28, 1937. He suggested that the three hundred inmates who were occupying the old frame structure be housed in the auditorium of the new concrete building. "The state can not justify leaving men in the building another night," he declared. "If there were a fire, there couldn't be a man saved."

Mr. Cate said that the prisoners would be kept in the auditorium until a proposed new prison is erected on the state-owned Herbert Domain near Pikeville. The commissioner pointed out that it would be "at least a year," before the prison farm program at the Herbert Domain, being considered by him and Governor Browning, could be completed.[21]

It is expected that when the reorganization of the prison system has been completed, the new prison at Brushy Mountain will be quite adequate to accommodate the reduced number of prisoners to be confined there.

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21. Knoxville News-Sentinel, July 28, 1937.

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