

APPENDIX F

Limitation of Market for Prison-made Goods

THE majority of jurisdictions forbid sale on the open market of prison-made goods, either absolutely and without exception, as in Arizona and Idaho, or to a limited extent. These limited restrictions vary widely. Iowa, for example, merely requires prison-made goods to be labeled as such; Kansas permits sale of tags, markers, twine and agricultural products; Massachusetts permits retail sale at the institution; New Mexico prohibits sale of such goods from other states, but allows its own to be sold by public advertisement and bid; Wisconsin provides that "no monumental articles" shall be sold. In general, however, the restrictions on open marketing are sufficient to limit seriously the development of education of convicts in trade skills if no other opportunity for disposal of products were provided.

Arizona. 3 Code Ann. (1939) sec. 47-301. No products of prison labor may be sold or exchanged on the open market within the state.

Arkansas. Digest of Stats. (1937) sec. 12777. It is unlawful to use, possess, store, sell, or distribute goods produced in whole or in part by convict labor.

California. Penal Code (1941) secs. 2709, 2870. Prison-made products must be so labeled and cannot be sold nor given away for private use.

Colorado. 4 Stats. Ann. (1935) ch. 131, secs. 107, 108. The sale, use, or storage of prison-made goods is unlawful except by some governmental unit or public institution. The rule applies to convict-made goods from other states as well as to those made in Colorado.

Connecticut. Gen. Stats. (1939 supp.) sec. 1448e. It is unlawful to sell for purposes of resale.

Florida. Stats. (1941) secs. 959.02, 959.03. It is a misdemeanor for any person or any federal authority, state or political subdivision thereof to sell or offer for sale in this state "goods, wares or merchandise manufactured or mined, in whole or in part by convicts or prisoners (except convicts or prisoners on parole or probation). . . ."

Georgia. Laws (1939) p. 108, sec. 7. The prison and parole commission can "establish such industry and manufacture such products as are permitted by law," but is not authorized to set up any "business, whether industrial or agricultural, for sale of such products to the public in competition with private industries or agricultural activities. . . ." But see Code Ann. (1933) sec. 77-323, which indicates that prison-made goods can be sold to the public by the state itself.

Idaho. 1 Code Ann. (1932) sec. 20-407. "So far as practicable, no article shall be manufactured with convict labor which is extensively manufactured in the state of Idaho. . . ."

Sec. 20-701. Sale of prison-made goods or of prison-mined goods on the open market is prohibited.

Illinois. Ann. Stats. (1935) ch. 108, sec. 75. (Jones Ann. Stats. 99.053.) Convict-made goods may not be sold on the open market nor in competition with the products of free labor.

Indiana. 4 Stats. Ann. (1933) sec. 10-4923. Convict-made goods may not be offered for sale on the open market, though they may be sold privately for personal use without resale.

Iowa. Code (1939) sec. 3274.1. Prison-made goods must be labeled as such.

Kansas. Gen. Stats. Ann. (1935) sec. 76-2466. Declares by implication, that only tags, markers, twine, or agricultural products may be sold on the open market.

Louisiana. Code of Crim. Proc. (1932) art. 1322. "No goods, wares or merchandise manufactured, in whole or in part, out of leather, iron, textiles, lumber or vegetable fibre, by convicts or prisoners (except convicts or prisoners on parole or probation) in the state of Louisiana, or in any state or district of the United States, shall be sold or offered for sale in this state. . . ."

Maryland. Ann. Code (1939) art. 27, sec. 762(1). "No goods . . . manufactured by convicts or prisoners in the State of Maryland or elsewhere . . . shall be sold in this State except by or for the State of Maryland . . . and in no event either directly or indirectly to the consuming public, except that perishable vegetables may be sold to canneries. . . ."

Massachusetts. 4 Ann. Laws (1933) ch. 127, sec. 67 ff. It is unlawful to sell convict-made goods unless sold at retail on the premises of the institution where they were made or unless sold to the Commonwealth or to any political subdivision thereof, or to certain other institutions.

Michigan. 3 Comp. Laws (1929) sec. 17636-5. (Mich. Stats. Ann. § 28.1525.) It is unlawful to sell or exchange or to purchase any prison products except pure-bred livestock raised on the several prison farms and sold for breeding purposes. This does not apply to articles made by prisoners for their personal benefit or that of their dependents, or to binder rope and cordage used in agricultural production or to sales to state institutions.

Minnesota. 3 Mason's Stats. (1927) sec. 10846-21. Prohibits goods produced or mined by convicts to be bartered, traded, or exchanged by penal institutions for any goods of any kind for use in such institutions.

Sec. 3976-31. It is unlawful to sell prison-made goods unless so marked.

Mississippi. Gen. Laws (1940) ch. 137, sec. 1. Convict-produced goods may not be offered for sale or exchange on the open market. This does not apply to goods made by convicts on parole or probation, nor to perishable goods and agricultural products, nor to goods made by convicts for their personal benefit, nor to sales to other governmental institutions. Articles so exempted must be marked "prison-made."

Montana. 5 Rev. Codes (1935) sec. 12447.1 ff. Wearing apparel manufactured in the state prison may not be sold on the open market in competition with the products of free labor. The board of prison commissioners may sell hides tanned or treated at the prison.

Brick manufactured at the state prison may be used only for construction or repair of buildings at the state prison.

Sec. 11573.1. No goods manufactured in penal or reformatory institutions may be sold on the open market.

Nebraska. Comp. Stats. (1929) sec. 83-966. The sale of prison made goods, except those made by convicts or prisoners on parole or probation, is prohibited unless the sale is specifically sanctioned by law.

New Hampshire. 2 Public Laws (1926) ch. 400, sec. 6. Prison trustees "so far as may be practicable shall dispose of the products of every prison industry under their control and management to public institutions within the state."

Laws (1933) ch. 42, sec. 1. No goods made by convicts shall be sold on the open market.

New Jersey. 1 Rev. Stats. (1937) sec. 30:4-97. Surplus products of convict labor may be sold in the open market under such terms as not to compete unfairly with free labor. All goods made by convict labor must be so marked.

New Mexico. Stats. Ann. (1941) sec. 45-149. Prison-made goods must be so labeled, unless made by a prisoner for his own benefit.

New York. 10B McKinney's Consol. Laws Ann. (1929) ch. 47, sec. 177. Prison-made goods may be sold to state institutions "Provided . . . that no product manufactured . . . in any penal institution . . . shall be sold, or otherwise disposed of for profit, by any officer, or administrative body of the state . . . except to the state itself or a political subdivision thereof, or to or for a public institution . . . ; and in no case shall said products be purchased for resale. . . ."

North Carolina. Code Ann. (1935) sec. 4468 (a). ". . . the sale anywhere within the state of North Carolina of any and all goods, wares and merchandise manufactured, produced or mined wholly or in part, by convicts or prisoners . . . is hereby prohibited and declared unlawful. . . ."

Ohio. Throckmorton's Code Ann. (1940) sec. 2228-1. Convict-made goods may not be sold on the open market.

Oklahoma. Stats. (1941) tit. 74, sec. 123f. The sale of goods manufactured by prisoners, except prisoners on parole or probation, is prohibited except that if the departments or institutions of the state do not buy the products, the state may sell on the open market such goods as are not generally manufactured in Oklahoma.

Tit. 74, sec. 123a forbids the manufacture by prison labor of products generally manufactured by private industry in the state.

Oregon. 8 Comp. Laws Ann. (1940) sec. 127-1004. Sale of prison-made goods on open market is prohibited with the exception of flax processed by prisoners.

Sec. 127-1012. All goods made by convict labor in any prison must be clearly labeled or branded as such.

Pennsylvania. Purdon's Stats. Ann. (1930) tit. 61, sec. 251. All goods made by convict labor, "whether for the direct benefit and maintenance of such penitentiary, reformatory prison, school or other establishment, or upon contract by the authorities of the same with any third person," must be branded as convict-made.

Sec. 252. The brand shall be the words "convict made", followed by the year and the name of the penitentiary in which the article was made. "Provided, That goods, wares and merchandise shipped to points outside of the state shall not be so branded."

Rhode Island. Gen. Laws (1938) ch. 64, sec. 3. Sale on open market of prison-made goods is prohibited.

Tennessee. Michie's Code Ann. (1938) sec. 12206 (3). "In order that any competition between the labor of such convicts to be worked directly by and for the benefit of the state, and free labor, shall be reduced to its practical minimum, all reasonable efforts shall be made to dispose of the articles manufactured by such prisoners at such prices as will best protect the financial interests of the state, and maintain the earnings of such prisoners as nearly as may be on a par with the prices paid to free labor engaged in the same lines of manufacture."

Sec. 12209 (4). "From and after the effective date of this chapter no goods, wares or merchandise manufactured, in whole or in part by convicts or prisoners (except those on parole or probation) shall be sold or offered for sale in this state by any person, firm, association or

corporation or by any federal authority, state or political subdivision thereof; provided, however, that nothing in this chapter shall be construed to forbid the sale, exchange or disposition of such goods to any institution supported wholly or in part by funds derived from public taxation and operated under the supervision of the United States of America, the state of Tennessee, or any other state of the union, or any political subdivision thereof."

Texas. 17 Vernon's Civil Stats. (1925) art. 6166z8. "No sale of prison made goods in intra state commerce in this State shall ever be valid. . . ." Goods must be labeled with the words "Prison made Goods."

2 Vernon's Penal Code (1925) art. 1137i-1. It shall be a misdemeanor "for any person, firm, partnership, association, or corporation to sell or offer for sale within the State of Texas any goods, wares, or merchandise manufactured wholly or in part by convicts or prisoners in penal or reformatory institutions, except convicts or prisoners on parole or probation. . . ."

Utah. 5 Code Ann. (1943) sec. 85-9-31. In determining lines of productive labor to be used in state prison, the board of correction "shall select diversified lines of industry so as to interfere as little as possible with the same lines of industry carried on by citizens of this state."

Sec. 85-9-87. Forbids sale on open market of convict-made goods. Sec. 85-9-89. Excepts certain goods sold for personal benefit of prisoners.

Sec. 85-9-88. Requires labeling as prison-made goods.

Virginia. Code (1942) sec. 5009b. Sale or exchange of prison-made goods on open market is unlawful.

Washington. 10 Remington's Rev. Stat. Ann. (1932) sec. 10262. The jute grain sacks and other fabrics and products manufactured at the state penitentiary shall be sold directly to the farmers, oyster growers or wool growers of the state of Washington, who are actually engaged in farming, oyster culture and wool growing, and no sacks shall be sold within the state of Washington to any person not engaged in farming or oyster culture and wool growing. But

the state board of control may sell such products on the open market at such prices as best benefit the state, between the first of June and the first of January.

7 Remington's Rev. Stats. Ann. (1932) sec. 5847-1. "The selling, offering, keeping, exposing or displaying for sale on the open market within this state of any goods . . . manufactured . . . by convicts or prisoners, except convicts or prisoners on parole or probation, is hereby prohibited."

West Virginia. Code Ann. (1937) sec. 2773 (r). "It shall be unlawful to sell or offer for sale on the open market of this state any article or products manufactured or produced, wholly or in part, in this or any other state, by convicts or prisoners," except convicts on parole or probation.

Wisconsin. Stats. (1941) sec. 56.01. License plates and highway signs may be sold to other states, but "no monumental" (sic) "articles shall be manufactured and sold in the open market."

Sec. 56.22. "No goods, excepting farm machinery, farm implements and tools, cordage rope and ply goods, and binder twine, manufactured wholly or in part by convicts, prisoners . . . shall be offered for sale on the open market," except those already stocked prior to March 1, 1940.

Wyoming. Rev. Stats. (1931) sec. 108-816. Articles may be sold on open market, "provided, however, that no materials furnished for the erection of buildings shall be in competition with established local industries."

Federal. 18 U. S. C. A. sec. 396a ff. It is unlawful to ship or knowingly to transport in interstate commerce, convict-produced goods, other than those produced for legitimate institutional use.