

# Econ Update

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## Making good[s] behind bars

### Inmate entrepreneurship



**B**y 5:00 A.M., April 16, 1980, trained snipers lined the perimeter walls of Maine State Prison, home for 365 inmates. Nearby, at the local headquarters of the Maine state police, approximately 150 riot-prepared police and national guardsmen awaited the order to move. So complete had been the secrecy surrounding the upcoming maneuver that only hours before they had been informed of their mission: a "lockdown" of the prison, with all inmates confined to their cells 24 hours a day and an extensive search and seizure operation carried out.

Outside the prison, a tense director of the Bureau of Corrections, Donald Allen, coordinated affairs via walkie-talkie. Shortly before the lockdown began, Allen persuaded a local television crew, who had somehow gotten wind of the impending move, to leave off their lights near the prison. Such lights, Allen warned, could alert the inmates behind the wall and cost lives.

At 6:00 A.M. the troops began their move, crossing first through the administrative area before fanning out through the rest of the prison. The ten-week lockdown of Maine State Prison had begun.

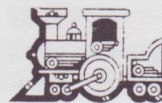


And what was the dramatic lockdown designed to accomplish? The end of a riot? The freeing of hostages?

No, the answer to that question is far less dramatic and far more fascinating. The lockdown of Maine State Prison, planned and prepared for months, was designed to impose state control of a market economy operating behind prison bars, controlled by the inmates, and centered around the production and sale to the public of wooden crafts and novelties. When the riot troops moved into the prison, what they found was not a life-threatening situation all the prisoners had been locked in their cells overnight, and most were just waking up when the invading army arrived but prisoner-made novelties, stacks and stacks of them, some

finished and some unfinished, piled into every bit of spare space in the prison; in the cells, in the industrial shops, in the recreation room, in the laundry, everywhere.

All told, the lockdown and changes wrought during the period destroyed entrepreneurial inmates' thriving businesses, some of which may have been netting their bosses in excess of \$30,000 a year; threw hundreds of inmates out of work; imposed idleness on a large portion of Maine State Prison's inmate population; and cost Maine's taxpayers at least \$700,000.



**W**orse than any of its other accomplishments, however, the lockdown represented the triumph of mainstream, paternalistic, costly bureaucratic correctional thinking and a failure of imagination on the part of Maine's correctional and political establishment. It wasn't called that, but Maine State Prison had a rehabilitation program that was *working*. And it could have pointed the way to a far better arrangement of who pays for crime in our society. But Maine officials were unable to see the situation as an exciting, if imperfect, glimpse of what today's troubled prisons could be.

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### The prison picture

Despite all the money spent to keep America's prisoners behind bars and to "rehabilitate" them while they're there, life in prison is far from the country club existence occasionally painted by critics. True, many prisoners now have their own televisions, stereos, or radios in their cells. On the other hand, today's prisoners are locked into those cells a greater number of hours per day than was true just a few years ago. Overcrowding in prisons is a well-documented problem, though it may well take more than its share of the blame for the troubles that plague our prisons.

Anyone who reflects on the situation must recognize that a bigger problem is this: that prisoners are regularly denied virtually every outlet for constructive expression of their identities, energies, and creativity. Visitation rights are severely circumscribed. Recreational and athletic facilities are limited. In most prisons there are not nearly enough jobs in the traditional state-run industries to keep more than a tiny fraction of the inmates busy. Moreover, there is almost no incentive to participate in those industries, because wages are either nonexistent or absolutely minimal — seldom topping one dollar per hour.

When combined with the general character of many inmates, idleness caused by the lack of constructive outlets makes prison a fearsome, and oftentimes violent, place.

Violence is an outlet for some prisoners; drugs, for others — and they are available, even if not readily or cheaply so, behind the walls. Black-market operations exist in virtually every American prison to supply the common but illicit wants of prisoners, drugs and weapons included.

This bleak picture of America's prisons should hardly startle anyone. What is disconcerting is the way prison officials attempt to deal with their charges.

While correctional experts seek



Aerial view of Maine State Prison

clues in criminals' past lives and in socio-economic conditions on the outside as a basis for rehabilitation, they ignore the single biggest positive change that could be made in prisoners' lives on the inside: allowing inmates to put their lives to constructive use. Meanwhile, prison officials must establish some sense of order and peacefulness behind the walls. There is little doubt that prison security staffs are undermanned and unable to solve problems by applying traditional, limited police methods. The result: with pressure to achieve both rehabilitation and security, prisons are almost universally run on a system of (usually) benevolent despotism that combines aspects of the welfare state and the Gulag Archipelago, with prison experts shrinking from any untraditional alternatives. This, I was to discover, is what the lockdown at Maine State Prison was all about.

### Enterprising changes

Maine State Prison (MSP) is a red-brick fortress located in Thomaston, Maine — a town of 2,000-3,000 along Interstate Route 1. Originally built in the late 19th century, MSP is Maine's only maximum-security prison. Less than a mile beyond its easternmost wall is the shimmering Atlantic Ocean, an appropriate symbol of the freedom of which those behind the walls have been legitimately deprived.

MSP's crafts and novelties program dates back almost 40 years. At that time, prison administrators, seeking to encourage inmate participation in

the zero-paying state-run prison industries (chiefly license-plate and furniture manufacturing) offered inmates who worked in those industries the opportunity to use state-owned machinery in their spare time to produce hobby and craft items. Many prisons have a hobby and craft program, but MSP's novelty went beyond those in other prisons in two important respects.

First — unlike their counterparts elsewhere, who are hampered by restrictive laws — MSP inmates have easy access to an excellent market for their goods. Inmates can sell their products at a prison-owned store located about 60 yards up the road from MSP on Maine's heavily traveled summer tourist route. Crafts sales to tourists are an important part of the region's economy, and many tourists seem not to mind paying the premium prices charged at the prison store. After all, how many people can say that their living rooms are decorated with lamps, wooden ships, or anchors built by conmen, armed robbers, or murderers? Tour buses frequently made it a point to stop at the prison store.

Second, MSP inmates may hire one another to perform work, allowing for specialization. Until the lockdown, there was a legitimate, transferable currency with which inmates could pay one another for finished work: canteen coupons, which could either be spent at the prison canteen or banked in the prison's business of-

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fice. In most prisons, on the other hand, an inmate may sell only those goods that are entirely self-produced, and there is no legalized currency (though prisoners inevitably create their own currencies — often cigarettes).

Until the last half of the '70s, the craft and novelty program remained a constant but minor feature of MSP life, providing spending money for many inmates but little more. Prison administrators limited both inmate earnings and productivity. In the early '70s, a single inmate could take in no more than \$4,500 annual gross revenue through the sale of a maximum of four designs of crafts or novelties.

With the appointment of Richard Oliver as MSP warden in 1976 (Oliver later resigned rather than carry out the lockdown), the novelty program was transformed. Oliver appointed a Novelty Committee, dominated by inmates, to oversee the program. By the time of the lockdown, it had evolved into a group of inmates elected by MSP's "residents." To protect individual novelty makers, the committee awarded "patents" that gave the designers of novelty patterns the exclusive right to produce items according to those designs. The committee also collected a five percent surcharge on the price of all novelty items sold. The proceeds went into an Inmate Benefit Fund that was used to purchase goods or services not provided by the prison administration, including, among others, recreational and athletic equipment and a huge TV antenna to serve all the inmates, and new equipment for novelty production.

More important than the Novelty Committee, however, under Oliver the caps on inmates' economic activities were significantly raised in an effort to reduce idleness at the prison and to create a constructive outlet for their energy. From \$5,000 and five patterns in 1976, the caps increased to \$10,000 and 10 patterns in 1977 and again to \$15,000 and 15 patterns in 1978.

With Oliver's changes, crafts and

novelties production at Maine State Prison took off. In the year prior to the lockdown, \$550,000 worth of inmate-produced items were sold through the prison store. Nearly two-thirds of all MSP inmates were participating in the novelty program as employers, employees, or occasionally both. With abundant work and income opportunities, there had developed inside the prison a miniature economy.

There were people who excelled as entrepreneurs. A group of five or six of the largest novelty operators came to be known as the "novelty kings." To a man, they had arrived at MSP without business experience. The novelty program tapped their latent talents.

The novelty program was quite a success from the inmates' point of view. Every one of those I interviewed, from sporadic employees to novelty kings, agreed that the vast majority of inmates benefited greatly from the program. Some, it is true, were the targets of retaliatory action by the larger novelty operators, who, having gained considerable influence among the inmates, acted to counteract theft, the breaking of agreements be-

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### **The early self-supporting prison, however, succeeded not by granting economic liberty to prisoners but by making slaves of them.**

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tween employers and employees, and general thuggism. Inmates who minded their own business, however, and refrained from violating the rights of others could freely take advantage of the economic opportunities created by the novelty program, earn wages determined by a competitive labor market, and escape the regimen of enforced idleness that characterizes most American prisons. Perhaps most important of all, they had control over and were permitted to take responsibility for an important aspect of their lives.

It was a unique program with unique results. It went a significant

step further than any other prisoner work program in the history of U.S. prisons.

### **Prisoners' work history**

Since at least the time of Robert Stroud — the famous Birdman of Alcatraz — built his first canary cage while confined in prison, it has been generally understood that work can be a creative outlet and pastime for prison inmates. (Indeed, had Stroud been confined at Maine State Prison in the late 1970s, my guess is that he would have been a major inmate entrepreneur. Stroud and others like him, however, have for years labored under the burden of stifling rules and anti-competitive laws.

It wasn't always thus. Inmate labor once played a central role in the American correctional scene. Prisons were originally intended to be self-supporting, and, as a 1940 Department of Justice report noted, "the success or failure of many wardens depended on their ability to meet this test, and many of them met it successfully, even though they may have failed in all else."

The early self-supporting prison, however, succeeded not by granting economic liberty to prisoners but by making slaves of them. The unfair competition created by the exploitation of prisoner labor generated political opposition from unions and businesses. As early as 1801, New York passed legislation restricting the use of convict labor and the goods that it could be used to produce. Similar restrictive laws became increasingly common following the Civil War.

Not until the Great Depression, however, was the blanket of restrictive laws limiting the market for prisoner labor completed. Nearly every state now has laws or even constitutional provisions controlling the sale and marketing of all but a few types of prisoner-made items. A common arrangement is to permit such goods to be sold only to state agencies.

The federal government has restrictive laws of its own. The most significant of these complements the state laws by prohibiting interstate

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commerce in prisoner-made articles where the recipient state has local laws against commerce in those same goods. Other federal laws prevent private industries from using prisoner labor to fulfill government contracts and require careful labeling of prisoner-made items as such.

The effect of all these statutes was virtually to wipe out the market for prisoner labor and for prisoner-made goods. Even if such a market existed, it would be difficult to satisfy it; prison regulations typically permit prisoners to sell only those goods that they themselves have produced in their entirety.



**A**n interesting demonstration of the untapped productivity of convict labor occurred during World War II, when many of the federal restrictions on the sale and transport of prisoner-made goods were lifted by executive order in order to get prison industries to help the war effort. Statistics available for the period 1942-43 show that state prison industries produced nearly \$10 million worth of war matériel—mostly clothing—during that year. Not coincidentally, it is reported that prison morale rose significantly during the war years. But when the war ended the restrictions on prisoner-made goods were reinstated.

As a result of the anticompetitive laws and regulations, in virtually every prison the only work opportunities are in the traditional prison industries—the making of license plates being, of course, the classic example—and in prison maintenance and custodial work. In almost every case these positions are low-paying, and in spite of that the industries involved are almost everywhere

moneylosers. Few prisons have sufficient facilities to permit more than a small fraction of their inmates to participate.

### Why the lockdown?

Why, despite the tremendous success of the novelty program in channeling inmates' energies into constructive activities, was the prison locked down? Donald Allen, director of Maine's Bureau of Corrections, admitted to me that for every example of problems with the situation at MSP there were undoubtedly numerous examples of benefits. So why did he personally, with the approval of the governor, plan, order, and coordinate the lockdown?

Lockdowns at prisons are not uncommon. Relatively frequently, prisoners will be locked in their cells while prison guards comb through the cells searching for and seizing contraband, usually weapons and drugs. Occasionally, lockdowns are used to foil rumored or suspected riots.

What was extraordinary about the lockdown of Maine State Prison was not the painstaking searches of the cells—which resulted in 50 dump-truck loads of inmates' personal property being carted away, inventoried, and stored. Nor was it the fact that three inmates were transferred to federal penitentiaries in connection with the lockdown. Though one can quibble with the choice of those relocated, such transfers often occur in conjunction with lockdowns.

Rather, what was extraordinary about the lockdown was its duration—10 weeks—and the complete about-face in prison policies during that period. Warden Richard Oliver had resigned in protest. Donald Allen took his position on an interim basis. A classification committee was set up, and each and every prisoner was reviewed so that his security risk could be assessed and his living situation and privileges designed accordingly. Lock-up time increased from about ten hours per day prior to the lock-

down to an average of about 17 now.

The biggest changes, though, were made in the prison's economy. Permitted levels of novelty activity were cut almost in half; from a high of \$15,000 in 1980, the cap on an individual's gross income was slashed to \$8,000. More important than this change (since inmates had always before found their ways around the caps), state control over intra-inmate economic activity became much tighter. Prison canteen coupons were declared nontransferable; thus, the only legitimate form of currency in the prison—individual prisoners' accounts in the prison's business office—rested under state control.

Moreover, to add red tape to inefficiency, inmates who wish to hire other inmates to perform novelty work must now sign a staff-approved contract with the intended employee. Staff must approve wage levels and determine that the intended employer has sufficient funds to pay the promised wages *even before work on any novelties has begun!* Thus, employers cannot promise to pay inmates out of expected profits from sale of the novelties. Too risky, say the authorities; the employee may never get paid. Better, they implicitly say, that he remain unemployed.

An afternoon spent with Donald Allen and other staff members at what was then the Bureau of Corrections convinced me that the reason for the lockdown was a failure of imagination. The situation at Maine State Prison before the lockdown simply did not fit within the traditional American model of corrections in which Maine's prison administrators are trained. It frightened them.

In the final analysis, Maine State Prison was locked down because it didn't fit into the correctional experts' picture of prison life. There is simply no place in ACA [American Correctional Association, an influential prison-accrediting group] standards for inmates roaming around more or

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less freely within a prison or for prisoner-made products to be stacked haphazardly throughout it. Even more telling, there is no place for ambitious and talented individuals finding a way around bureaucratic restriction on their activities, for prison workers' wages being determined other than by administrative fiat, for some inmates benefiting from others' desires for haircuts, laundry services, loans, or anything else. In short, the MSP lockdown occurred, because they did not have control over the *economic lives* of the inmates.

Had the authorities responsible for MSP's lockdown realized that they were sitting on a potential gold mine, would they have carried it out with such dispatch? Had they seen the possibilities for making their prison into a showcase, might they have thumbed their noses at the tradition-bound experts and done all in their power to improve the freed-up novelty pro-

gram instead of scaling it back?

When Chief Justice Warren E. Burger made a news-breaking speech in December 1981 calling for converting the nation's prisons into "factories with fences," MSP's administrators could have stepped forward with a real-world demonstration of the potential productivity of American prisoners under a program with real-world economic incentives. They could have pointed out the importance of a ready market for prisoner-made goods, thus backing up Burger's injunction to federal and state lawmakers to abolish all the existing restrictions on the production and sale of prisoner-made items. And they could have offered living proof of his claim that a program for prison production offers "a better chance to release from prison a person able to secure gainful employment."

What they could not have done, of course, is nodded their heads in

agreement with Burger's promise that his proposal could take soaring prison costs "off the backs of the American taxpayers." For Maine's correctional authorities never tapped the financial bonanza that lay before them. While MSP's inmates reaped the benefits of their economic liberty, they never had to pay, nor even contribute toward, the costs of their crimes. Had their miniature economy included that eminently justifiable feature, perhaps it would have been more palatable to the bureaucrats, and on that day in April 1980, no riot troops would have gathered outside the prison walls to put a lock on a unique experience with business behind bars.

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## Novelty king

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Probably the most successful, and certainly the most flamboyant, of the novelty kings was Aaron M. "Jack the Griz" Harrelson (so named because while in college he wrestled a circus grizzly bear to earn tuition money). Convicted of aggravated assault in 1975, Harrelson turned to the novelty business in 1977 in order to, in his words, "give the inmates something to do."

Harrelson proved himself a quick study in the business. He bought up patents on patterns from inmates leaving prison and, along with his talented step-son and fellow inmate, Andre Beaudoin, invented new patterns. A number of these were put in the name of other inmates (in exchange for a share of the profits) in order to avoid the official limits on novelty production. To make items under his many patterns, Harrelson hired a work force that numbered (estimating conservatively) between 30 and 50 inmates at the time of the lockdown.

Harrelson soon diversified his busi-

ness. One of his operations, a TV rental business, was discovered at the time of the lockdown, when state officials confiscated over 100 Harrelson-owned television sets from cells all over the prison.

Another of his endeavors was management of the prison canteen, originally a state-run money-loser. Harrelson turned the operation around and by the time of the lockdown, Maine's taxpayers were no longer subsidizing inmate purchases of candy, cigarettes, and razor blades. It was from the canteen, too, that Harrelson ran another of his businesses: money lending.

The P.T. Barnum of Maine State Prison, Harrelson's finest hour came when, following prison administrators' announcement that they intended to tax novelty sales in order to subsidize the unprofitable prison-run industries, he offered to buy out the state operations and state-owned equipment, to employ inmates to produce prison-industry goods on a profit-sharing basis (at the time, in-

mates working in these industries were paid nothing for their work), and even to pay the salaries of the shop's supervisory staff! Although prison administrators didn't doubt Harrelson's ability to keep his promise one called him the "most brilliant businessman I've ever seen" they rejected his offer.

Shortly after the lockdown, Jack Harrelson was transferred to a federal penitentiary in Indiana, where he served out the remaining months of his sentence. Currently, he operates a lucrative wholesale novelty business several miles from MSP. His factory is a small, two-story house in Waldoboro, Maine, stocked from floor to ceiling with woodworking equipment and novelties in every stage of completion. He hires former inmates to perform most of the work. In a true ironic touch, one of the directors of his business is a former prison guard making him, he says an "equal opportunity employer." Harrelson's business is accredited by Maine's Better Business Bureau.