

# *Before 13<sup>th</sup>*

## The Origin of Convict Leasing

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In her best-selling book, *The New Jim Crow*, Michelle Alexander discusses how the 13<sup>th</sup> amendment facilitated a transition from slavery to for-profit prison labor, or convict leasing. This argument is the basis for Ava Duvernay's Oscar-nominated Netflix documentary, *13<sup>th</sup>*. In "Before 13th," I show that convict leasing did not begin with formerly enslaved African Americans in the years following emancipation. It began in the antebellum era with white inmates at the Kentucky Penitentiary.

When Kentucky began as an outpost of Virginia in the years following the American Revolution, legislators promoted a vision for criminal justice reform that Thomas Jefferson had designed but was not able to institutionalize in his native state. Kentuckians wanted criminal statutes that were more humane—where the punishment fit the crime instead of being an opportunity to enact vengeance. Instead, Kentucky would institutionalize the nation's first convict-lease system three decades before it was replicated in southern states searching for ways to extract profits from the formerly enslaved.

Convict leasing is widely seen as an effort to preserve the southern plantation system. But, those Kentuckians who owned slaves usually did not have very many by comparison. The crops harvested in this state were not conducive to plantation agriculture and Kentuckians were adamant that enslaved workers not compete with free citizens for industry jobs. As such, in "Before 13th," I demonstrate that convict leasing was not an outgrowth of plantation justice but the byproduct of a liberal reform project that intersected with new possibilities for profit in the first few decades of the nineteenth century.