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## Book Reviews

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## BOOK REVIEWS

ATTORNEY GENERAL'S STUDY OF RELEASE PROCEDURES. Wayne L. Morse, Editor-in-Chief. Washington, D. C.: Department of Justice, 1939. Vol. I, Digest of Federal and State Laws on Release Procedures. Pp. xviii+1228. \$1.50. Vol. II, Probation. Pp. ix+481. \$.60. Vol. III, Pardon. Pp. ix+323. \$.45. Vol. IV, Parole. Pp. viii+663. \$.45.

These volumes, and the fifth one which is to appear shortly are the product of the Attorney General's Survey of Release Procedures, a monumental W.P.A. project set up to provide the facts on release from prison in America.

A consideration of the volume titles and the number of pages contained in each will indicate that the authors have taken a very broad conception of the task before them and have presented a series which might justly have born the title "American Penological Practice." A one man review of this tremendous work is certain to be inadequate to a greater or less degree.

There follows a brief statement of the content of the volumes followed by a general criticism of the first, second and fourth. For the third, because of its somewhat special nature, criticism and statement of content are presented without segregation.

VOLUME I—DIGEST OF LAWS provides background for the succeeding studies. The material on the various jurisdictions is arranged in the form of a series of digests of State codes and administrative regulations annotated by references to court decisions, statutes, notes on previous procedures, etc. The general topic of suspension of sentence is discussed in its historical setting. Then Probation, Parole, Executive Clemency, Good Time deductions and expiration of sentence are considered from historical, legal, and administrative points of view. These digests represent by all odds the most complete and effective summaries of State procedures available.

VOLUME II—PROBATION. This volume is a thorough, detailed, annotated discussion

beginning with the early history of this device and continuing through present practices and recommendations for the future. The legal aspects of the problem are very thoroughly treated. Relatively few statistical tables are presented; primarily because of the scarcity and incomparability of the data. In one chapter which will be most interesting to the workers in the prediction field an attempt is made to determine the prognostic significance of various personal characteristics of probationers. The implications for criminal procedure of the reported attitudes of judges as developed by an elaborate interview technique are most enlightening.

VOLUME III—PARDON. This is a text volume. It contains only 2 tables, both in an Appendix on "The Extent of Pardon." The 7 page bibliography is divided into three sections—books, articles, case notes; the first would be more useful if definite references were given. Who, for instance, is going to read *De Bello Gallico* in search of its references to pardons?

The volume is an indexed and thoroughly documented study of the history and procedures of pardon. It covers the various jurisdictional idiosyncrasies in considerable detail and so points out many curious facts such as (p. 280) that in Idaho a pardon is necessary to restore the convict the right to contract, including the right to contract marriage.<sup>1</sup>

It is said (p. 295) that "Among release procedures, pardon is a patriarch." It might well have been added that to a considerable school of modern thought it has become a pariah. Its patriarchial status clearly arises from his history as the oldest form of clemency and legal ancestor of parole. Its pariah role comes from its abuse either as a patronage device or as a routine means of terminating prison servitude or civil disabilities attached to felony conviction. The authors strongly recommend the maintenance of pardon, but feel it should be confined to unusual circum-

stances notably to correct abuses arising from periods of war hysteria and similar political crisis. "The whole field of conditional release as a regular penal practice belongs to parole." (p. 302). Until it is possible to correct our court procedure so as to provide reversals of conviction on grounds of innocence, we should retain pardon for innocence but such a pardon should be clearly differentiated from pardons for the purposes of mitigating penalties or restoring civil rights, according to the authors. It is recommended that parole and pardon functions be entirely separated and that the governor retain direct control of pardon.

It is to be regretted that in spite of the recognition (p. 145) that "In practice pardons granted after expiration of sentence, for the purpose of restoring rights of citizenship, constitute one of the most important forms of pardon." The final chapter on "Conclusions and Recommendations" discusses pardon as a release procedure without any very adequate consideration of the problems of restoration of citizenship through pardon to those who have been discharged from prison or parole.

VOLUME IV—PAROLE follows the organizational plan of the Probation volume rather closely. Notably are the chapters on preparation for parole, the extent of parole and a 188 page chapter on "Some Factors Associated with Parole." There is nothing comparable to the study of judges' attitudes presented in the Probation volume.

For all its many excellencies there are a number of criticisms which may be made of the Attorney General's Survey and because they refer to details they require more words in the telling than do the excellencies.

This series might be discussed from three points of view: what it is, what it's not, and what it might have been. The most important is what it is.

WHAT IT IS. *Evaluation.* Incontestably and incomparably it is the most complete picture of American Release Procedures. As such, it must command a place on every criminologist's ready reference shelf and must stand through time as a basic turning point in American penology. It is very un-

likely that any new release study of comparable scope will be undertaken in the foreseeable future. On the other hand, it does not claim to be wholly complete nor entirely reliable. In part this is, as the study itself says, due to the fact that "Many of the shortcomings of this study are traceable . . . to the fact that the truth about release procedures is not written in the records." (Vol. I, p. xii).

*Organization.* Granted the scope of the study, the arrangement of the material is all one might have expected. The historical presentations are excellently done. The omission of indices is a limitation in what are essentially reference books, but this defect is at least partially made up by the tables of contents which, except in Volume I (where there is none at all) go into considerable topical detail. As has been indicated, the study is comprehensive and where a complete picture is presented, there is little occasion to question selection. In other situations, however, we find the practice of documentation having a negative effect. Thus (Vol. II, p. 241) instead of a generalization that probationers are generally required to be at home at an early hour in the evening, we are told that "in Colorado they may be required to stay off the streets late at night. In Wilmington probationers must be indoors by 11 in the evening." Why select these two items alone from the mass which were available?

*Point of View.* The authors have had no hesitation in expressing their opinions on what should and should not be done. Often these expressions are in distinctly forceful terms. While this reviewer agrees with a majority of the conclusions states he feels that they tend to reflect the point of view of an idealistic professional social worker with something less than the understanding of the viewpoint of the prison administrator and of jurisdictional differences than might have been hoped for. Several of the procedures advocated seem notably vulnerable from the point of view of public relations. And public relations are the weakest point in the defense of competent penological treatment in America.

It is the discussion of parole and parole board practice that disregard of public relations policy is most conspicuous. We are

told (Vol. IV, p. 165) that "Last and most important, the parole board should consist of competent officials with training and experience." Just what does that mean? Apparently it means psychiatrists, professional social workers or the like; for parole is treated exclusively on a treatment program. On this basis it is decided (p. 162) that "The presence of (interested parties) is objectionable" since "there would be no need for a public hearing if there were a thorough pre-parole investigation in the course of which all pertinent facts were brought to the attention of the board." This reviewer feels that there is a definite value in allowing interested parties to make a statement to the responsible authorities. He also feels that it is the job of the professionally trained worker to present the complete picture, but that the parole authority should represent not a professional viewpoint, but that of enlightened laymen weighing the interests and attitudes of the community against the individual situation as presented by the experts. To be specific, a particular parole might be seriously damaging to the whole institution of parole because it undermined public confidence in the whole institution even though it might be indicated as the best treatment procedure for the individual concerned.

*Prediction* — The probation and parole volumes present "Some factors associated with outcome and (for paroles only) selection." There are 19,171 individuals in 24 units in 16 states considered in the probation material and 85,633 individuals in 32 states considered in the parole material. The conclusions drawn from this material are limited. Selected items are considered with respect to each jurisdiction. Statistical tests of significance are set up and outcomes classified as Favorable, Unfavorable and Neutral or indeterminate. When it is found that the overwhelming tendency of a particular factor is to be on one side, where determinate at all, guarded generalizations are made. No actual prediction tables are attempted.

This reviewer recognizes the fact that it was necessary to omit actual violation rates from the study because of the misuse which might be expected to be made of them by

agencies unable or unwilling to recognize limitations in comparability. He cannot refrain from lamenting the necessity which deprives others of information which would have been both interesting and useful. One point seems questionable: "The probationer was considered a violator whether or not his probation was revoked" if he violated the terms of the probation "because the primary objective was to discover the essential association between the various characteristics of probationers and conduct on probation, rather than to analyze the revocation practices of the various departments." This seems to assume some consistency of reporting. There are certainly jurisdictions where technical violations are not on the record except as a basis for a revocation move.

*WHAT THE STUDY IS NOT.* As has already been implied, the study is not, nor could it have been considering the sources of data, a really complete nor completely accurate picture. What was in the records was frequently formalistic and legalistic rather than a picture of actual practices. In other cases it was simple misrepresentation to cover up bad situations.

The reviewer also feels that it is not entirely realistic. The authors generally show a highly developed critical sense when evaluating both their data and their own treatment of it. However, they seem to have been gullible at points. For instance (Vol. 2, p. 85-86), they say, "Inasmuch as probation work is basically social case work, its professional qualification standards should be no lower than those of professional social work. The standard requirements of education, professional training, experience, and performance established for membership in the American Association of Social Workers indicate the most representative 'minimum equipment for the profession of social work.' The memberships requirements (are) 'graduation from a 4 year college plus completion of a 2 year graduate course in an approved school of social work' or 'completion of at least 2 years work in an approved college' and '5 additional years in general education, technical training or employment in an approved agency.'"

Granted that professional training is a vital necessity, the standards quoted are distinctly unrealistic especially with the added requirement of many agencies that the workers be men with a minimum age of 25 and that they work for salaries seldom in excess of \$2,000. The experienced 25 year old male social worker with a 2 year graduate degree back of him simply is not available at the salary offered—not if he is any good.

It follows that for all the unquestionable place this work has as a reference work and despite its tremendous contribution to penology it cannot safely be relied upon as an absolute authority in matters of fact nor as a necessarily safe guide to programs of improvement and reformation. In particular, it cannot safely be presented to undergraduates who will tend to accept unquestioningly the evaluations and programs of the editors.

WHAT THE STUDY MIGHT HAVE BEEN—is perhaps, known only to those who spent the tremendous sum of money that went into the project. They speak for themselves in the introduction (Vol. 1, p. x), "The objectives and scope of the study as originally planned would have required several years for completion. Unfortunately the W.P.A. was unable to approve projects for longer than a one year period at a time and when after one year funds were not available to continue the research . . . changes . . . have to be made."

As originally conceived the statistical share of the survey was planned as a "prediction study." Because the data are collected from that point of view it has been impossible to obtain from the survey statistics the desired quantitative material, and hence other sources have been relied on for much of this type of data."

Courtlandt C. Van Vechten.

Wayne University.

THE ATTORNEY GENERAL'S SURVEY OF RELEASE PROCEDURES, Vol. V, "Prisons." Washington, D. C., Department of Justice, 1940. Pp. xii + 478. \$1.50.

Our age is, in many respects unique. It has been called the Machine Age, the New Era, the Age of Science and the Twentieth, Greatest of Centuries. By whatever title

we use in referring to it, it is nevertheless an age in which efficiency and definitive action has a place. The manufacturer, the retailer and the consumer are all interested in learning the most modern and efficient manner of procedure and to ascertain whether the approach to the solution of a problem should be changed for the interest of all concerned. Such an analysis is made of the administration and procedure of 88 State Prisons and Reformatories in this study under the auspices of the Attorney General of the United States. This is the fifth in a series dealing with various aspects of the treatment of the convicted offender, the previous volumes being, (1) Digest of Federal and State Laws on Release Procedure, (2) Probation, (3) Pardon, (4) Parole.

The publication separates the prison program into all of its constituent elements and then discusses each one at length. It could have been a dry, boring work but it is not. In fact, it is written in an interesting and frank manner and designed to be informative to penologist and layman alike.

The American Prison is not now as antiquated and as inefficient as the National Commission of Law Observance and Enforcement found it to be in 1931. However, the Attorney General's report reveals that 30,000 prisoners are in farm and road camps constituting in the most part, unhealthful and insanitary detention centers. Idleness and housing of prisoners in many such instances is deplorable. Likewise, the presence of political influence in prison administration is revealed. The inadequacy of compensation to prison officers is also discussed.

On the other hand, the tendency to centralize control of prisons into the hands of directors chosen for their qualifications is growing. Also, more satisfactory compensation is provided for trained men, e.g. psychiatrists, social workers, dentists, physicians and wardens. Other signs of improvement are the classification of prisoners, the establishment of various types of institutions, special services for prisoners and their families as well as improved medical and religious programs. Though unemployment among incarcerated men continues, possibilities of locating jobs

for them after discharge are gradually being broadened. This has been done by the establishment of educational programs to train inmates for specialized placement, and the addition of staff members as employment placement directors has, in a few instances, brought about favorable results.

Sizeable profits were reported from the road camps in several states; yet the prisoners whose labor gained the profits are not being dealt with in keeping with approved standards and procedures. This state of affairs should not be long tolerated. It is only fair that a small share of the profits be used for the care of the prisoners in question. Inmates might then be aided in every sense rather than to continue to be punished, for progress in rehabilitation is impossible if it is characterized by punishment alone. Overcrowding makes the training of the inmate a farce in many institutions. It makes for injury to moral and physical health of those who, in most cases, are already suffering in that respect. Service bureaus to work with employers in the interests of prisoner employment is certainly a progressive step. However, there is much room for improvement in this regard.

A detailed discussion of the Federal Prison System, its attention to classification, segregation, parole, probation and industrial training completes the survey.

Certainly, one can glean from this discussion a variety of procedures suitable for application in any or all penal institutions.

True enough, the volume runs the full range of prison activities from chapel services to riots; but, only by understanding the complete situation can we effect true rehabilitation.

To the Federal Government and the cooperating agencies that contributed their time and effort to the success of this study, a debt of gratitude is owed. It is a factual document establishing the progress of the prison system, and in revealing its shortcomings and inadequate features extends a challenge for continued improvement and efficient procedure.

E. R. CASS.

General Sec., American Prison Association,  
New York.

GEM OF THE PRAIRIE. By Herbert Asbury.  
New York: Alfred A. Knopf, 1940.  
Pp. xix + 377. \$3.50.

Recipe: Take unlimited portions of alcohol and sex; add gradually increasing numbers of professional gamblers, freebooters, thieves, killers, grifters, racketeers, reformers, white slavers, fixers, politicians, pimps, and hoodlums; season with rape; garnish with millions of greenbacks, ventilate at intervals with volleys of pistol and machine-gun fire, stir frequently with a nightstick, and allow to simmer turbulently in its own juices for a little more than a century—taking care, of course, that the lid does not blow off too frequently. The resulting succulent ollapodrida is the Chicago underworld.

Mr. Asbury serves it up steaming and potent. His attitude is that of the raconteur rather than the research historian, though it must be obvious to even the most casual reader that he has spared no pains in collecting his material. His easy-going style and sly humor, along with his knack of dramatizing the sordid, will make the book palatable to the layman while, at the same time, they do not in any way invalidate for the student of the social sciences a vast and informing tableau of Sin and the City.

The pattern of the book is, roughly, chronological. In 1833 the voters delegated to the first Board of Trustees the power to "abate nuisances, gambling and disorderly conduct; to prevent fast driving and enforce police regulations; to license shows, control markets, take charge of the streets and sidewalks, and protect the town against fire." For more than a century this Board and its successors battled to achieve these seemingly simple ends, each successive Board leaving the ring battered and groggy, while crime remained champion. However, no one can say that the Law was not game, and from the perpetual battle it has—and does—put up, the author has culled such bloody and spectacular rounds as the struggle with the gamblers in the 1840's, the attacks of the desperados during the 1860's and '70's, the invasion of the scarlet sisters, Reformer Gipsy Smith's march on the Levee in the early 1900's, and an admirable though brief summary of the rise of the modern Big Shots in the Chicago

underworld. Each round is saturated with a wealth of colorful anecdote and peopled with mobs of ribald Rabelaisians, unbelievable folk whom only an American underworld could spawn.

Few flaws mar this "informal" history. Perhaps the most noticeable is that the author leans too heavily upon the sensational and highly colored articles which characterize the American press. No doubt this dependence upon sources more flamboyant than accurate may account for the inclusion of such pure fiction as the legend of the origin of the Mickey Finn. Then, too, the writer characteristically centers his attention upon those twins of depravity, the saloon and the brothel, leaving relatively untouched, and even unmentioned, the vast army of professional criminals in other equally important fields who quietly made their headquarters in many a hangout (including Hinky Dink's two famous places, which are not mentioned) and populated Chicago with the most impressive array of professional skill ever seen in any city at any time. If the writer has more than a general knowledge of these remarkable gentry—the really solid citizens of any prosperous underworld—he carefully conceals it, as for example in his comments on confidence men: "There was a difference between a confidence man and a bunco man. The former operated all kinds of swindles, while the bunco man specialized in playing banco, sometimes called bunco . . . etc."

Mr. Asbury has attempted the impossible, a one-volume "Informal History of the Chicago Underworld." Affably confessing the inadequacy of his study, he has nevertheless succeeded in doing a remarkably adequate piece of work, one which will undoubtedly become a standard popular chronicle of Chicago's delinquents.

DAVID W. MAURER.

University of Louisville.

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ADULT PROBATION LAWS OF THE UNITED STATES. By Gilbert Cosulich. New York: National Probation Association, 1940. Pp. vi + 107. \$1.25.

In a book of 107 pages, with a brief introduction by Charles L. Chute, the National Probation Association has published a

clear, informative and succinct digest of the Adult Probation Laws of the United States. Gilbert Cosulich, the author who is legal assistant to the National Probation Association, has succeeded in presenting his material with a minimum of legal terminology and in language which the probation practitioner and even the layman can readily grasp.

The pamphlet is divided into two parts—Part One is a revision of a pamphlet on Adult Probation Laws which was written by Francis H. Hiller, Field Director of the National Probation Association, and published by the Association in 1933. Part Two, written by Mr. Cosulich, presents a summary of the salient provisions of the adult probation statutes of each American state, territory and dependency, alphabetically arranged.

The topical summary, which constitutes the text of Part One, enables the reader to secure, at a glance, an understanding of the fundamental factors upon which the practice of probation is based.

The section begins with a brief sketch of the historical development of probation from the days of John Augustus in 1841 to the enactment of interstate compacts for probation and parole in 1940. The reader is then presented with a brief discussion, augmented by the use of tables, of Probation versus Suspension of Sentence and the statutory restrictions governing the use of probation. The reader is acquainted with the offenses to which probation is applicable and the type of offender to whom it is denied.

Many interesting statutory limitations are brought to light, viz; the State of Iowa forbids the use of probation for persons having a venereal disease; the laws of New York and Vermont require that medical care be made part of the probationary treatment of venereally infected persons; in California and Michigan imprisonment may be made part of the probationary treatment, etc.

Wide discrepancies are present in the various state laws with respect to limits on the duration of probation, revocation and termination of probation, provisions for the tenure and appointment of probation officers and their qualifications for the

position. Apropos of the question of educational qualifications, it is an interesting commentary that New York is the only state which prescribes by statute the educational qualifications for probation officers and, even in this state, probation officers are only required to have the equivalent of a high school education.

The second section of the pamphlet, with its state by state summary, provides the reader with excellent reference material regarding the various statutes which govern the administration of probation. No attempt has been made to outline the extent of enforcement and administration and only the main features of the laws, briefly stated, have been included. In his foreword, Mr. Chute points out that upon request, the National Probation Association is prepared to furnish more detailed information concerning these laws.

Two appendices, the first dealing with statute references—the second presenting a draft of a model law for adult probation—will be of especial interest to administrators, legislators and others who are attempting to further the uniform development of probation in this country.

Not only does the pamphlet provide a fund of data which is essential to the intelligent practice of probation but it presents a challenge to the leaders in the field. Squarely upon the shoulders of these leaders is placed the responsibility of securing legislative enactments which will insure the development of a uniform probation system based upon adequate standards and freed from the cancer of political interference.

IRVING W. HALPERN.

Chief Probation Officer, Court of General Sessions, New York City.

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A STATE ADMINISTERED ADULT PROBATION AND PAROLE SYSTEM. New York: National Probation Association, 1940. Pp. 37.

In response to an obvious need, the National Probation Association has published a draft for a model act for a State Administered Probation and Parole System. The draft is the result of intensive study and research. Mr. Francis H. Hiller, Field Director of the Association, prepared

the original draft which was then submitted to leading administrators and experts in the field of probation and parole. The published draft is the final result of the work of this committee.

Despite the apparent difficulty of devising a bill which would meet with the entire approval of any group, the committee has succeeded in preparing a comprehensive, highly satisfactory and practical instrument. The National Probation Association does not take the position that a bill of this character should be recommended for adoption in every State, but it appears to be the most practical method of developing both systems in a growing number of States, especially those where there seems to be little prospect of developing probation service adequately on a local basis.

The act as published by the National Probation Association consists of seven Articles, namely, Probation, State Board, Indeterminate Sentence, Parole, Executive Clemency, Employees and Application of Act. Each of these articles are broken down into sections and each section is fully annotated so that the reader will clearly understand the thinking which formed the basis for the specific section. The act is as all-inclusive as circumstances permit and covers practically all exigencies.

Limitations of space do not permit a discussion of the many important details of the act. One salient feature is the all-important one of delegating administrative control to a qualified board of three salaried members whose tenure and freedom of action is protected by law. Another interesting and essential section forbids members of the staff from engaging in political activities and provides that any person found guilty of violating this section is guilty of a misdemeanor.

An interesting section is the one dealing with "participation of counties and municipalities." This permits the board, with the written consent of the Governor, to enter into an agreement with the governing officials of any county or municipality for the payment by a county or municipality of part of the cost of probation and parole services within the area. The explanatory note to this section reveals that at least one member of the committee strongly opposed this financial participation on the

ground that local control would interfere with the State's efforts to maintain desirable standards, a question which lends itself to considerable discussion.

In keeping with the stand of the Association, the act provides for the exclusion of juvenile offenders from criminal courts. The model bill specifies that the provisions of the act shall not apply either to juvenile probationers or parolees.

The model act is of inestimable value to States contemplating the establishment of a State Administered Adult Probation and Parole System. Its use, however, does not end there. The act should be "required reading" to all who are interested in probation and parole, and can be utilized as a gauge by which administrators can measure the quality and efficacy of the standards under which their own agencies operate.

This model draft and the publication on Adult Probation Laws, represent concrete contributions to the body of knowledge in the field of criminology. Reflected in these publications is the realistic and progressive thinking which has been consistently characteristic of the National Probation Association.

IRVING W. HALPERN.

**BANK ROBBERING MADE EASY.** By John F. Kavanagh. New York: New Era Publishing Company, 1940. Pp. 153.

This is an attorney's description of the failure of a private bank in New York City in June, 1929, together with the failure of the state banking department and of the proceedings in receivership and bankruptcy. The case involved several prosecutions and shows the wide ramifications of behavior which was reprehensible but did not result in criminal prosecution. This description is written from a legal point of view, with a rather unsuccessful attempt at dramatization.

EDWIN H. SUTHERLAND.

Indiana University.

**AGENT OF DEATH; THE MEMOIRS OF AN EXECUTIONER,** by Robert G. Elliott, with Albert R. Beatty. New York: E. P. Dutton and Co., Inc., 1940. Pp. 315 \$3.00.

Those who may not have had their fill

of the grisly newspaper detail that accompanies an execution will find much in this book to hold their interest. After all, who could give a more accurate picture of the last moments of Sacco and Vanzetti, Ruth Snyder and Judd Gray, or Bruno Hauptmann, than the man whose own hand turned on the current to the death chair? The life story of the late Robert G. Elliott, official executioner for six states, contains a great deal of sensational material of this type,—how the condemned acted and looked in his last moments, whether the execution proceeded smoothly or was marred by a hitch of some sort. No honest reader will deny that his morbid curiosity is aroused by material of this kind, matter-of-fact tho the writing may be, and yet he will be repelled at the same time. It is pretty lurid stuff, and except for a closing chapter or two, is on a par with the Sunday newspaper supplement.

It is interesting that never, at any time, did Elliott regard his job as anything but the last in the series of jobs connected with executing a man. He considered himself no more responsible for a man's death than the attorney who demanded the death penalty, the jury that complied with that demand, the judge who passed sentence, or the prison officials who kept the condemned in their custody. Elliott's views on capital punishment, coming from one who was so intimately connected with it for many years, have some significance. He is very definitely against the use of capital punishment, his reasons being those usually given,—the impossibility or righting the wrong should the condemned afterwards be proved innocent, the fact that capital punishment is no deterrent to further crime, the opportunity a notorious case gives for a splurge of sensationalism, and the element of revenge inherent in capital punishment. Life imprisonment should be the substitute for it, in Elliott's opinion. He closes his book with the suggestion that if the ordinary citizen had to appear at executions, and were chosen for that duty in much the same manner that he is picked to sit on a jury, there would soon be created a popular feeling against legal killing that would eventually result in its being outlawed in the United States.

A. R. L.