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Notes and Abstracts

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NOTES AND ABSTRACTS

Capital Punishment, 1910-1925 (A Selected Bibliography), by Mary L. Henderson.—Submitted as one of the Requirements for the Diploma of the Library School of the University of Wisconsin.

INTRODUCTION

A new interest in capital punishment has been aroused recently by prominent murder cases, particularly by the Loeb-Leopold trial in the Middle West, and there has been a nation-wide discussion over the methods of punishment of criminals.

The material in this bibliography has been carefully selected, to give those who are interested in this problem the best available references, and includes the best material which could be found in the libraries in Madison. Prices have been given when they could be found. Volume numbers could not be found for several of the periodical references since they were taken from clipping files, where the magazines themselves could not be obtained.

CAPITAL PUNISHMENT, 1910-1925

BIBLIOGRAPHIES

Bye, R. T. *Capital Punishment in the United States*. 1919. Phil. Committee on philanthropic labor.

Bibliography on pp. 102-104. Lists books and periodicals, including some foreign publications.

Fanning, C. E. *comp.* *Selected Articles on Capital Punishment*. 1917. Wilson, \$1.25.

Bibliography given in introductory paging, 13-26. Lists bibliographies, general works, and magazine articles which are subdivided into general, affirmative and negative references.

Lyon, L. S. *Elements of Debating*. 1913. University of Chicago Press, \$1.00.

Briefs and references from periodicals are found on pp. 128-129.

Massachusetts. Commission to Compile Information and Data for the Use of the Constitutional Convention. *Abolition of Capital Punishment in the United States and foreign countries* (in its Bulletin, No. 25. 1918. Vol. 2, pp. 281-282).

More than half of the entries are dated earlier than 1910.

National Committee on Prisons and Prison Labor. *Handbook on Capital Punishment* (in Prison leaflets, No. 38. 1916. Pp. 27-29).

Bibliography of general works on criminology, and books and periodical articles on capital punishment.

Oregon University. *Capital Punishment*. Bulletin, Oct., 1911, vol. 9, pp. 19-20.

Lists briefs, books and periodical articles.

Oregon University. *Capital Punishment*. Bulletin, Aug., 1913, vol. 11, pp. 25-27.

Lists briefs and bibliographies, books and pamphlets, and periodical articles. Material is dated earlier than 1912.

Parsons, M. P. Death Penalty: Debate. Independent, May 10, 1915, vol. 82, p. 264.

Lists bibliographies, general references and references for affirmative and negative arguments. Includes books and periodicals.

Robbins, E. C. High School Debate Book. 1911. McClurg, \$1.00.

Briefs, in addition to references from books, documents, pamphlets, and periodicals, will be found on pp. 44-49.

Selected List on Capital Punishment. Cambridge (Mass.) Public Library Bulletin April, 1913, vol. 18, pp. 62-64.

Lists books and magazine articles, in favor and opposed.

Shurter, E. D. and Taylor, C. C. Both Sides of 100 Public Questions Briefly Debated. 1913. Hinds, \$1.25.

Affirmative and negative arguments stated and references given for both sides of the question on pp. 32-33.

U. S. Library of Congress. Bibliography division. Select list of references on capital punishment. 1912. Wash. Govt. Printing Office.

Lists books including foreign ones, and periodicals.

———. List of References on Capital Punishment. 1924. Supplements the printed list of 1912 above.

Bibliography of books and periodicals, both American and foreign. Mimeographed.

GENERAL REFERENCES

Books and Pamphlets

Beeman, L. T. Capital Punishment. 1925. Wilson. (Handbook series.)

Announced, June, 1925. Will doubtless contain selected articles on capital punishment and a bibliography.

Darrow, Clarence, and Talley, A. J. Resolved That Capital Punishment Is a Wise Public Policy. 1924. N. Y. League for Public Discussion, \$1.00.

The debate as given by Darrow, negative, and Judge Talley, affirmative.

Fanning, C. E. *comp.* Selected Articles on Capital Punishment. 1917. Wilson, \$1.25.

Selected articles from magazines for both affirmative and negative arguments.

Governor's Conference. Discussion of Papers on Capital Punishment (in their Proceedings. 1915. Pp. 182-191).

General discussion for and against capital punishment, based upon the papers given by Governors Dunne and Hunt.

Higgins, H. A. Shall We Have Capital Punishment (in Massachusetts Prison Association, No. 69. Jan. 9, 1925). Pam.

Discusses subject from both sides, though the author is opposed to capital punishment.

Lawes, L. E. Man's Judgment of Death. 1924. Putnam, \$2.00.

An analysis of the operation and effect of capital punishment based on facts, not sentiment. *Subtitle.* Included without examination on account of the authority of the author who is warden at Sing Sing prison.

Map Showing Capital Punishment Situation up to Feb., 1917 (in Public Affairs Information Service. Bulletin, April 28, 1917).

- Map reprinted from Fanning, C. E. *Selected Articles on Capital Punishment* (1917).
- Massachusetts. Commission to compile information and data for the use of the Constitutional Convention. *Abolition of capital punishment in the United States and foreign countries* (in its Bulletin, No. 25, 1918. Vol. 2). Contains discussion of and tabulation of penalties for murder and other serious crimes in the states and territories. Statutory provisions abolishing capital punishment are given.
- Parmelee, M. F. *Death Penalty* (in his *Criminology*. 1918. Pp. 410-420. Macmillan, \$2.00). States arguments for and against capital punishment and discusses the problem of abolition and methods of capital punishment.
- Robinson, L. N. *Other Forms of Punishment* (in his *Penology in the United States*. 1921. Pp. 242-256. Phil. Winston, \$3.00). Discussion presents both sides of the question but favors the negative.
- Westermarck, E. A. *Blood-Revenge and Compensation—the Punishment of Death* (in his *Origin and Development of the Moral Ideas*. 1912. Vol. 1, pp. 490-496. Macmillan, \$4.50). Presents both sides of the question.
- Wigmore, J. H. *The Judge's Sentence in the Loeb-Leopold Murder*. Wisconsin University, Extension division. 1924. Typewritten. Prepared for the Department of Debating and Public Discussion. Discussion taken from the *Illinois Law Review*, Nov., 1924. Advocates the deterrent theory.
- Wisconsin. Board of Control. *Brief History and Comment on the Operation of Capital Punishment in Wisconsin*. 1912. Madison. Typewritten copy of a letter issued by the board of control for the University Extension Division, Department of Debating and Public Discussion.
- . *Statistics*. 1924. Madison. Typewritten copy of statistics concerning capital punishment in Wisconsin, prepared by H. H. Williams, statistician for the University Extension Division, Department of Debating and Public Discussion.
- Wisconsin University. Extension Division. *Brief for debate on the question: Resolved, That Capital Punishment Should Be Abolished*. 1912. Madison. Typewritten copy of brief and references prepared for the Department of Debating and Public Discussion.
- Wisconsin University. Extension Division. *Lawes and Love clash by radio in debate on capital punishment*. 1924. Madison. Mimeographed copy of the debate prepared for the Department of Debating and Public Discussion.

Articles in Periodicals

- Capital Punishment*. *Justice of the Peace*, Jan. 13-April 14, 1923, vol. 87, pp. 39, 239-240, 259-260. General discussion presenting arguments for and against the question.
- Capital Punishment*. *National Corporation Reporter*, Feb. 10, 1910, vol. 39, pp. 837-838. Brief discussion of advisability of allowing juries to "decide in favor of imprisonment or be confined to capital punishment with acquittal as

alternative." Juries would be more apt to convict if the penalty were imprisonment.

Capital Punishment. *New Republic*, Jan. 14, 1925, vol. 41, p. 205.

An unfavorable review of *Man's Judgment of Death* by L. E. Lawes.

Capital Punishment. *Survey*, June 27, 1914, vol. 32, p. 353.

Brief discussion for and against the question. Written in form of letters to the editor.

Capital Punishment; symposium. *Forum*, March, 1925, vol. 73, pp. 436-441.

Quotes opinions for and against capital punishment.

Capital Punishment and Prison Reforms. *Survey*, March 10, 1917, vol. 37, pp. 670-671.

Gives list of states debating the issue of capital punishment, and reform bills.

Death Penalty. *Law Times*, Jan. 11, 1913, vol. 134, p. 252.

Discussion of the infliction of the death penalty on youths.

Death Penalty: A Debate. *Forum*, Feb., 1925, vol. 73, pp. 156-168.

Negative argument in article *Thou Shalt Not Kill*, by T. M. Osborne, and affirmative in *Capital Punishment Protects Society*, by R. E. Crowe.

Defense of Capital Punishment. *Living Age*, Jan. 14, 1911, vol. 268, pp. 111-114.

Symposium on executions, pp. 107-111. Arguments for and against.

The latter part of the reference refutes the arguments opposing capital punishment as given by Mr. Benson in the symposium.

Kendall, B. G. Capital Punishment. *Law Times*, Jan. 1, 1910, vol. 128, pp. 199-202.

General discussion of punishment justifying capital punishment, but also presents opposing arguments.

Lewis, O. F. Should the Death Penalty Be Abolished? *Journal of the American Institute of Criminal Law and Criminology*, Nov., 1910, vol. 1, pp. 622-623.

Brief excerpts quoted from other articles stating arguments for both sides of the question.

Longford, J. H. *Iford Crime and Capital Punishment*. *Fortnightly Review*, Feb., 1923, vol. 119, pp. 252-264.

Cites cases of infliction of capital punishment and gives general discussion but does not prejudice the reader to either side.

Parsons, M. P. Death Penalty: Debate. *Independent*, May 10, 1915, vol. 82, p. 264.

Gives briefs for argument, both affirmative and negative.

Romance of the Suburb. *Nation and the Athenaeum*, Dec. 16, 1922, vol. 32. See index for paging.

General discussion but not of great consequence.

Shall We Abolish the Death Penalty? *Outlook*, Oct. 18, 1916, vol. 114, pp. 360-361.

Brings the question before the reader but does not answer it.

Vallette, M. F. *Old Time Punishments and Ordeals*. *American Catholic Quarterly Review*, Aug., 1919, vol. 44, pp. 262-280.

Discussion of punishments since the beginning of the world and descriptions of them. Very little material on capital punishment as we have it today.

Wheeler, E. P. Capital Punishment. *Outlook*, Oct., 1923, vol. 13, pp. 283-285.

Statements of facts showing that punishments for crimes in the United States are neither adequate nor efficient.

REFERENCES IN FAVOR

Books and Pamphlets

Burnstead, E. W. Upholds the Death Penalty. Boston Common, April 27, 1912. Pam.

Contends that it is necessary to keep the death penalty on account of its deterrent influence.

Capital Punishment at Option of Jury. Civic Alliance Bulletin, April, 1915, vol. 2, No. 1. Pam.

Favors capital punishment on account of its deterrent effect as well as the inequality of judgment of juries.

Chamberlain, H. B. Importance of the Death Penalty for Murder (in American Prison Association. Proceedings. 1922. Pp. 355-362).

Strong arguments in favor of capital punishment. The author believes it is necessary, reasonable, and just.

Evans, Arthur. States Restore Gallows After Abandoning It.

Typewritten sheets giving statistics (taken from the Chicago Tribune) which seem to show that capital punishment is deterrent. Accounts for Wisconsin's low homicide rate by the fact that punishment is inevitable and swift.

Irvine, L. H. By Right of Sword. 1915. Baker, \$1.00.

Included without examination.

"A defense of capital punishment, based on a searching examination of history, theology, and philosophy." *Subtitle.* Two pamphlets advertising Irvine's book have been published by Baker. One arouses feeling in favor of capital punishment and advertises some of the arguments of the book. The other gives an analysis of the book by chapters.

Lombroso, Cesare. The Death Penalty (in his Crime: Its Causes and Remedies. 1911. Pp. 426-428. Little, \$4.50).

Justifies capital punishment in brief treatment.

Lombroso-Ferrero, Gino. Capital Punishment (in her Criminal man. 1911. Pp. 208-209. Putnam, \$2.00).

Brief treatment justifying capital punishment.

Tarde, Gabriel. Death Penalty (in his Penal Philosophy. 1912. Pp. 528-567. Little, \$5.00).

In favor of retaining the death penalty if it is administered in some other way than by the guillotine.

Articles in Periodicals

Brannan, W. W. Paper read before the West Virginia Bar Association on Capital Punishment. American Law Review, Jan., 1913, vol. 47, pp. 115-120.

Quotes Scripture to prove both sides of the question, but the author emphasizes the arguments for retaining capital punishment.

Capital Punishment. Law Notes, Oct., 1924, vol. 28, p. 126.

Very brief discussion of reasons for abolishing capital punishment.

States that as long as it has a deterrent effect it should be retained.

Capital Punishment. Spectator, Dec. 10, 1910, vol. 105, pp. 1017-1018.

Quotes Mr. A. C. Benson's arguments and ridicules them, justifying capital punishment.

Capital Punishment—Shall It Be Abolished? *American Law Review*, Jan., 1913, vol. 47, pp. 114-120.

In favor of retaining the death penalty. Quotes W. W. Brannan of West Virginia.

Death Penalty. *Saturday Review*, Jan. 13, 1923, vol. 135, pp. 41-42.

Expresses the idea that time has not come for abolishing capital punishment.

Death Penalty. *Survey*, Feb. 21, 1920, vol. 43, pp. 619-620.

Brief discussion of why we have capital punishment.

Elliot, H. S. R. Punishment and Crime. *Nineteenth Century and After*, Aug., 1911, vol. 70, pp. 309-317.

Same in *Living Age*, Sept. 16, 1911, vol. 270, pp. 709-715.

Argues that the "four canons of punishment—Segregation, Deterrence, Reformation, and Humanity—are met by capital punishment in an almost ideal manner and that its removal from the statute book would be, from every point of view, a most profound and unfortunate mistake."

Horror of the Gallows. *Living Age*, Feb. 4, 1911, vol. 268, pp. 300-303.

Same in *Blackwood's Magazine*, Jan., 1911, vol. 189, pp. 125-129.

Ridicules Arthur Benson's arguments against capital punishment.

Is the Death Penalty Christian? *Literary Digest* March 16, 1912, vol. 44, p. 538.

A clergyman's belief that Christian love is the chief deterrent but also indicates that capital punishment is a deterrent.

Justification of Capital Punishment. *American Magazine*, June, 1914, vol. 77, p. 75.

Advocates capital punishment on same grounds that others condemn it, such as grounds of humanity.

MacDonald, Arthur. Death Penalty and Homicide. *American Journal of Sociology*, July, 1910, vol. 16, pp. 88-116.

Considers a wide range of statistics from different countries. Conclusion is that the death penalty has a deterrent effect. Includes tables and statistics.

Paget, J. B. Death Penalty in Time of War. *English Review*, Sept., 1923, vol. 37, pp. 309-311.

Contends that the death penalty is necessary in time of war and insinuates that it would be just as deterrent in civilian life.

Punishment for the Weak Wits. *Literary Digest*, July 19, 1924, vol. 82, p. 32.

States Sir Oliver Lodge's beliefs that if we have capital punishment it should be inflicted on insane as well as sane, if cases are doubtful.

Real Horror of Executions. *Outlook* (Lond.), Jan. 13, 1923, vol. 51, pp. 25-26.

Expresses the idea that perhaps capital punishment should be retained but decency and respect for womanhood will demand some other form of punishment for women.

Reasons for Retaining the Death Penalty. *National Corporation Reporter*, Feb 16, 1911, vol. 42, p. 21.

Quotes Mr. MacDonald's reasons, as given in the *American Journal of Sociology*.

Sutherland, E. H. Murder and the Death Penalty. *Journal of the American Institute of Criminal Law and Criminology*, Feb., 1925, vol. 15, pp. 522-529.

Statistics comparing homicide rates of different states. To a certain extent justifies capital punishment.

Wheeler, E. P. Capital Punishment. Chicago Legal News, Nov. 15, 1923, vol. 56, p. 135.

Cites murder cases and justifies the death penalty to a great degree, but states that punishment of crime and criminals in the United States is neither adequate nor efficient.

REFERENCES OPPOSED

Books and Pamphlets

Bye, R. T. Capital Punishment in the United States. 1919. Phil. Committee on philanthropic labor.

Thesis advocating that capital punishment be abolished. Traces the evolution of capital punishment, gives the modern theory, the arguments for and against the deterrent theory, the errors of justice, and the conclusion.

Darrow, C. S. Capital Punishment (in his Crime: Its Causes and Treatment. 1922. Pp. 166-171. Crowell, \$2.50).

A somewhat psychological discussion against capital punishment.

Dunne, E. H. Abolition of Capital Punishment (in Governor's Conference. Proceedings. 1915. Pp. 147-159).

Contains some historical discussion in arguing against capital punishment. Enumerates states and foreign countries which have abolished it.

Hunt, G. W. P. Abolition of Capital Punishment (in Governor's Conference. Proceedings. 1915. Pp. 130-146).

Includes some history of capital punishment in addition to his arguments against it.

Kirchwey, G. W. Death Penalty (in American prison association. Proceedings. 1922. Pp. 363-377).

Same in the National society of penal information. Bulletin, No. 5. 1923.

Author states and refutes arguments in favor of capital punishment and supports arguments against it. Pages 377-381 give a continuation of the discussion by members present at the session.

McCall, S. W. Penalty of Death (in National committee on prisons and prison labor. Pp. 25-26). Pam.

Same in Delinquent, June, 1917, vol. 7, pp. 5-6.

Governor's message to the Senate and House, giving brief history of capital punishment and recommending that it be abolished.

Miller, Spencer, Jr. Presenting Argument Against Capital Punishment (in Governor's Conference. Proceedings. 1916. Pp. 9-95).

Pages 96-98, 103-104, continue the discussion against capital punishment. Arguments are advanced by Governors McCall and Capper.

Minnesota. Crime Commission. Report of committee on capital punishment (in its Report. 1923. Pp. 19-21).

Brief statement of the reasons of the committee for not wanting capital punishment restored in Minnesota.

National Committee on Prisons and Prison Labor. Handbook on Capital Punishment (in Prison leaflets, No. 38. 1916).

Contains history and discussion of both sides of the question, with a map showing its status in the states of the United States. The main part of the discussion is against capital punishment.

Phillipson, Coleman. *Three Criminal Reformers: Beccaria, Bentham, Romilly*. 1923. Dutton, \$7.00.

See index for paging.

Arguments are presented in form of general discussion by these three reformers.

Tingley, Katherine. *To Abolish Capital Punishment*. 1914. Point Loma, Cal. Men's and Women's International Theosophical Leagues of Humanity. Pam.

Extracts from her address. Includes some theosophy in connection with the discussion.

Vasaly, C. E. *Intermediate Sentence and Capital Punishment* (in Minnesota, Board of Control. *Proceedings of the state conference of social work*. 1922. Pp. 33-36).

Enumerates seven arguments against capital punishment.

Articles in Periodicals

Barbour, J. J. *Efforts to Abolish the Death Penalty in Illinois*. *Journal of the American Institute of Criminal Law and Criminology*, Feb., 1919, vol. 9, pp. 500-515.

Cites cases which the author handled personally, and shows that there should be a better solution for punishment of the guilty than the death penalty.

Barry, J. D. *When the Hangman Lost His Nerve*. *Current Literature*, Nov., 1912, vol. 53, pp. 599-600.

Story of a hangman's refusal to do his duty after the victim was in place. Creates a feeling against capital punishment.

Bohemian Idea of Our Executions. *Literary Digest*, June 27, 1914, vol. 48, p. 1538.

Bohemian editor feels that capital punishment as administered in America lowers respect for American culture. Describes an execution.

Capital Punishment. Death Sentences and the Age Limit. *Solicitors' Journal and Weekly Reporter*, June 3, 1922, vol. 66, pp. 531-532.

Brief statements expressing doubt in regard to the wisdom of retaining capital punishment.

Capital Punishment in Theory and Deed. *Survey*, June 20, 1914, vol. 32, p. 317.

Brief one-act play showing unwillingness of people to do the executing after the sentence has been pronounced.

Capitalizing Capital Punishment in Mississippi. *Literary Digest*, Aug. 21, 1916, vol. 51, p. 338.

Cites case of public execution in Starkville, Mississippi, depicting enjoyment of spectators. Described as encouraging murder.

Chillingworth, H. R. *Sentimentalism and Hanging*. *Westminster Review*, Aug., 1911, vol. 176, pp. 177-179.

Arouses feelings against capital punishment. "What are we to think of work which no decent man would do?"

Civilization and the Gallows. *Chautauquan*, March, 1911, vol. 62, pp. 16-17.

- Quotes Arthur Benson, essayist, who claims that capital punishment as administered is inhuman. Would substitute easier death in privacy.
- Davis, H. L. *Death by Law*. Outlook, July 26, 1922, vol. 131, pp. 525-528.
Same in Ohio Legislative History, 1921-1922, pp. 71-88.
Statistics showing that capital punishment is not a deterrent to crime, but as long as law prescribes it, the governor feels it his duty to carry it out. Gives a long discussion.
- Death Penalty No Cure for Murder. Literary Digest, June 28, 1924, vol. 81, pp. 32-33.
Lewis E. Lawes, warden of Sing Sing, claims that capital punishment fails as a deterrent measure. Recommends life sentence with long minimum.
- Dunne, F. P. *Majesty of the Law*. American Magazine, Feb., 1914, vol. 77, pp. 12-16.
Impressions of a boy of seventeen at a hanging. Not in sympathy with capital punishment.
- End of Capital Punishment. Nation and the Athenaeum, Jan. 13, 1923, vol. 32, pp. 571-572.
Argument against capital punishment. Deals particularly with case of Mrs. Thompson (in England).
- Execution That Made Me Hate the Law. American Magazine, June, 1914, vol. 77, p. 77.
A prisoner's testimony that his hatred for law was instilled by the witnessing, during childhood, of a public hanging.
- Fogarty, J. A. *Considerations Against Capital Punishment*. Catholic Review, March, 1925.
Advocates abolition of capital punishment.
- From the Death House: Appeal by Three Sing Sing Prisoners. Forum, May, 1915, vol. 53, pp. 627-628.
Prisoners' appeal to people of New York state that capital punishment be abolished.
- Gilman, R. W. *Eye for an Eye*. Cosmopolitan, April, 1911, vol. 50, pp. 704-707.
Story relating the ordeal through which a man passes on the night before he is executed.
- Goldstein, Jacob. *Shall Capital Punishment Be Abolished?* Outlook, May 2, 1917, vol. 116, pp. 18-19.
Author gives his reasons for wanting the death penalty abolished and also states views of others.
- Hanley, J. F. *Ex-Governor's Views of Capital Punishment*. American Magazine, June, 1914, vol. 77, p. 74.
A brief discussion of why he opposes capital punishment.
- Harley, Herbert. *Segregation vs. Hanging*. Journal of the American Institute of Criminal Law and Criminology, Feb., 1921, vol. 11, pp. 512-527.
Advocates segregation instead of hanging as wisest treatment for criminals since most of them are feeble-minded.
- Holmes, J. H. *Capital Punishment*. Survey, May 1, 1915, vol. 34, pp. 122-123.
States modern idea of penology—that punishment must be primarily reformatory in character.
- Howells, W. D. *Capital Punishment*. Harper, March, 1915, vol. 130, pp. 634-637.

General discussion against capital punishment.

Is Capital Punishment Futile? *Current Opinion*, Aug., 1924, vol. 77, p. 214.

Brief statement of Warden Lawes' view of the death penalty.

Kassel, Charles. Recent Death-Orgies; Study of Capital Punishment. *South Atlantic Quarterly*, Oct., 1924, vol. 23, pp. 295-309.

Accounts of historical and present-day public executions and their effects upon the spectators. Creates a feeling that capital punishment is not a wise policy.

Leopold-Loeb Decision. *New Republic*, Sept. 24, 1924, vol. 40, pp. 88-89.

Discusses the wisdom of the decision and the step taken toward abolishing capital punishment.

Levick, M. B. Why I Have Lost Faith in Capital Punishment. *Outlook*, Aug. 15, 1923, vol. 134, pp. 589-591.

An interview with the warden of Sing Sing.

Perkins, J. C. A Most Extraordinary Case. *Case and Comment*, Aug., 1917, vol. 24, pp. 222-224.

Story of an unusual case in which a man pleaded guilty to a charge of murdering his wife and was sentenced to life imprisonment. It was discovered later that he was not guilty.

Plea to Women. *Freeman*, Feb. 21, 1923, vol. 6, p. 557.

Statement that the matter of capital punishment should be investigated.

Schuster, A. F. Capital Punishment: the Case for Abolition. *Nineteenth Century and After*, Oct., 1912, vol. 72, pp. 732-744.

A long article presenting arguments against capital punishment. Includes some statistics.

Shipley, Mayard. Should Capital Punishment Be Abolished? *Journal of the American Institute of Criminology*, May, 1911, vol. 2, pp. 48-55.

The problem of the hour in France. *Subtitle*. Quotes statistics and attempts to show that capital punishment should be abolished.

Should Capital Punishment Be Abolished? *Review of Reviews*, April, 1913, vol. 47, pp. 501-502.

Arguments against capital punishment in Germany.

Some Facts Regarding Capital Punishment. *Justice of the Peace*, June 9, 1923, vol. 87, pp. 452-453.

Statistics showing which of the European countries have abolished capital punishment and which states of the United States. Also gives statistics of homicide rates and tends to show that it would be safe to abolish capital punishment.

Van Pelt, G. W. Why Theosophy Opposes Capital Punishment. *Lawyer and Banker*, Aug., 1912, vol. 5, pp. 272-276.

Long article giving theosophic viewpoint.

White, F. M. Function of State. *Outlook*, Oct. 18, 1916, vol. 114, pp. 388-392.

Description of an execution, followed by definite objections to capital punishment by Warden Osborne and his secretary, Mr. Miller.

Willcocks, M. P. Death Penalty in Time of Peace. *English Review*, Dec., 1923, vol. 37, pp. 745-752.

States that the death penalty "creates the morbid hysteria that conduces to crime."

Women on Capital Punishment. *Literary Digest*, April, 1914, vol. 48, p. 1000.

States that murderer's impulses should be analyzed and treated accordingly. Would abolish capital punishment.

SOURCES CONSULTED

CARD CATALOGS

Madison Free Library.
Racine Public Library.
Wisconsin Historical Society.
 Document catalog.
 General catalog.
Wisconsin University Library.
Wisconsin Library Commission.
 Legislative Reference Library.
 Library School
 Card catalog.
 Bibliography index.
 State Library.
 Traveling Library.

PERIODICAL INDEXES

Index to Legal Periodicals.
International Index and current numbers.
Public Affairs Information Service.
Readers' Guide to date.

TRADE AND SELECTED BIBLIOGRAPHIES

Book Review Digest. Subject index.
Cumulative Book Index.
Library Journal.
United States Catalog and Supplements.

Adult Probation (A Bibliography), by Augusta Nielsen.—Submitted as one of the Requirements for the Diploma of the Library School of the University of Wisconsin.

INTRODUCTION

This bibliography supplements the *List of recent references on probation and juvenile courts* published by the Library of Congress in 1921. The greater part of the material listed here has been personally verified; material not available in Madison for examination has been listed in the Addenda.

The compiler wishes to thank the New York state probation commission, the Magistrates' courts of the city of New York, and Mr. Frederick Rex of the Chicago Municipal Reference Library for their courtesy in sending material.

ADULT PROBATION

BIBLIOGRAPHY

U. S. Library of Congress. Bibliography division. List of recent references on probation and juvenile courts. 1921. Washington, Government Printing Office. Pam.

A selected bibliography on probation, with special reference to juvenile probation.

PROBATION

Books, Pamphlets, and Documents

Abbott, E. M. Report of the Committee on Criminal Research and Statistics (in National probation association. Social Service of the Courts. 1923. Pp. 171-175).

Some suggestions for the betterment of the probation service.

American Statistical Association. Massachusetts Probation System. 1907. Boston, published by the association. Pam.

The administration of the probation law is shown by several interesting tables.

Astredo, J. C. State Supervision and Organization of Probation Work (in National Probation Association. Social service of the courts. 1923. Pp. 188-192).

A review of probation work in the United States.

Backus, A. C. Address (in National Probation Association. Social service of the courts. 1923. Pp. 203-206).

Covers the use of probation, and the use of the influence of religion in probation cases.

Barrows, S. J. Organization of Probation Work (in National Prison Association. Proceedings. 1906. Pp. 100-106).

The question of state supervision, especially as regards New York state, is discussed.

Bronner, A. F. Value to the Probation Officer of Study of the Offender (in National Probation Association. Social service in the courts. 1920. Pp. 86-89).

A discussion of the work of the probation officer in preventing repetition of offenses and efforts at constructive betterment by understanding the problem involved in the delinquency of each individual, and knowing the potentialities in each individual, his assets and his handicaps.

Brusstar, K. H. Report on Rural Probation (in National Probation Association. Social treatment of the delinquent. 1922. Pp. 103-104).

A description of the probation system of Montgomery County, Pennsylvania.

Chute, C. L. Annual Report of the Secretary (in National Probation Association. Social treatment of the delinquent. 1922. Pp. 9-18).

Contains report of work done, future work and needs.

———. Crime Wave and Probation (in National Probation Association. Social treatment of the delinquent. 1922. Pp. 30-34).

That the crime wave is not the result of probation is proved by Mr. Chute. He advocates emphasizing discrimination in the selection of probation cases, and the need for trained, adequate probation staffs.

———. Discussion (in National Probation Association. Probation and the prevention of delinquency. 1924. Pp. 68-71).

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- The value of probation, the law, the extent to which probation is used in England and Wales, some statistics on the amount of work probation officers can handle, are discussed.
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- Advocates extension of probation system and care in its administration.
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ADULT PROBATION

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The problem of probation for women arrested for drunkenness is discussed.

Backus, A. C. Adult Probation System and the Duty We Owe to the Erring (in National Probation Association. Social treatment of the delinquent. 1922. Pp. 70-75).

Probation is treated from the viewpoint of a public duty to be performed.

Bennett, J. W. Adult Probation (in Minneapolis Academy of Social Sciences. Proceedings. 1910. Pp. 65-82).

A hopeful view of the system of adult probation.

Chicago, Illinois. City Council. Committee on Crime. Statistics Relating to Adult Probation (in its Report. 1915. Pp. 60-72).

Report is for the years 1911-1912; 1912-1913, and the first six months of 1913-1914. Covers number of persons on probation, offenses for which they are convicted, a comparison with adult probation in New York City, results of probation, earnings of probationers, duties of the probation officer, the provisions of the adult probation law of Chicago.

Chicago, Illinois. Municipal Reference Library. Payment of Fines in Installments by Offenders. 1914. Chicago, published by the library. Pam.

The use of probation in the payment of fines in Boston, Buffalo, Chicago, Cleveland, Illinois, Indianapolis, Kansas City, Massachusetts, New York and Pennsylvania.

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Its possibilities and limitations. *Subtitle.*

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Various state probation officers give their experience.

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Opinions of various probation officers are given.

———. Probation for Adults (in its Report. 1906. Pp. 12-24, 45-54).

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The advantages of probation listed briefly.
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- Contains arguments in favor of thorough investigation of cases before deciding upon probation, rather than limiting the right to enjoy probation by legal determination, admitting only those who have committed certain crimes.
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Greene County, N. Y., Makes History in Criminal Court Field. County Judge William E. Thorpe Adopts Policy of Psychiatric Examination as Basis of Dealing with Criminal Court Cases—Results Prove Wisdom and Economy of the Plan.—(The following communication is from Dr. Clinton P. McCord, Consulting Psychiatrist of Albany, N. Y., who examined the group of cases for Greene County; the cases, requiring commitment to a hospital or institution, were then examined jointly with Dr. C. J. Patterson, Superintendent of Marshall Sanatorium, Troy, N. Y., and the necessary certifications were made. Dr. McCord felt that the affair was of such importance to the cause of scientific administration of justice that it warranted immediate report as a matter of encouragement to other court officials who, in open-minded and fearless fashion, strive to meet their problems in a progressive and constructive manner.)

At a term of the County Court held in and for the County of Greene, New York, on the 8th of December, 1924, there were ten criminal cases before the Court for disposition. These cases came to the County Court from an earlier term of the Supreme Court held in and for said county, where Hon. G. D. B. Hasbrouck was the presiding Justice. Judge Hasbrouck stated that he believed

these cases should go over to the County Court for disposition to enable County Judge William E. Thorpe to enlighten himself with reference to the sentence to be imposed, if such there should be, and to generally determine from the knowledge which he should gain what character of disposition should be made of the several cases then under consideration.

As a result of this suggestion, County Judge Thorpe directed the District Attorney of the county to arrange for Dr. Clinton P. McCord, a psychiatrist of Albany, to come to Greene County and to make an examination of each and every one of the above number of criminal individuals, which was done, in the presence of the County Judge, at the Grand Jury Room, in the Court House, and covered a period of approximately three days and evenings. At all of these examinations and in each and every instance County Judge Thorpe was present, participated in the examination and was a careful observer of every method adopted by the psychiatrist in the examinations made.

This was a new field which the general public could not readily comprehend and naturally caused a great deal of adverse criticism, primarily because of the expense incurred in securing the services of the psychiatrist, and the reason therefor could not by the general layman be understood. After the examinations had been held and the Court convened and the several cases were disposed of in accordance with the general suggestions made by the psychiatrist, Judge Thorpe was interviewed by one of the reporters for the local press and was questioned as to the advisability of the recent procedure and why the same should be necessary in order to give the Court information to dispose of what were apparently ordinary cases of grand larceny or crime of like character. The reply of Judge Thorpe to the reporter was, in substance, as follows:

"Having been present at each one of these examinations, having carefully noted the degree of detail and the numerous branches of medical, mental and psychological research adopted by the expert it was readily apparent to me and demonstrated beyond the peradventure of any doubt that without this examination there would have been one of the most serious and regrettable dispositions of each of these cases that had ever happened within the confines of a County Court in this county.

The character of examination immediately developed so that the ordinary lay individual could ascertain the mental process of the criminal, his power to co-ordinate, to execute, to plan, or on the other hand, his latent possibilities and likewise clearly demonstrated his inability to plan, his impulsiveness and how having done a thing, it was done on the impulse and then there was a backward step and a desire to change the whole method of procedure, and clearly indicated how unstable and lacking in the proper degree of mentality the individual was.

The examination also developed the suggestibility of the mind of the criminal and how easily he might be led into byways and forbidden paths in contravention of the law, when he would suddenly stop to find himself entrapped in a mesh from which it was impossible for him to extricate himself. The suggestibility demonstrated by the examinations also taught me the possibilities of letting these men associate with acknowledged criminals as to the period of time that needs to elapse, which in every instance would have been short, to have had these same criminals absorb the criminal suggestion of a criminal mind of a superior to be tractable for the commission of further crimes and

in the event of their being sent to a reformatory or prison would have brought them into the civilized world confirmed and educated criminals, ready to do the bidding of the master mind, should they come in contact with, and up to all the tricks of the trade.

If we went to the doctor's office and informed him that one of the members of our family was ill, and should he respond by saying, "Give him a dose of paregoric," we would consider the doctor was either grossly negligent, unwilling to perform the duties of the position he occupied in society, or lacking in sound common sense and good judgment. Yet, on the other hand, the tax-paying public are asking the judicial officers before whom criminals are arraigned and who have the power of disposition as to their future to not diagnose the disease but to furnish the remedy for a disease that they do not know the character of and which in instances of this kind there can be but one remedy for, and that is reformatory or prison. The asininity of such a method of performance is clearly apparent when we wouldn't have a doctor treat without *any* diagnosis. On the one hand, it is the health of the individual that will be affected, while on the other hand, where the Judge enters into the situation, it means the future of the criminal and his relation to society and the peace and harmony of the society in which he shall later mingle, all of which are in the hands of the judicial officer, and the public have heretofore demanded or expected disposition of these cases on his part without any knowledge of the disease.

It has developed in these examinations that a gross injustice would have been done and I realize that there will be many criticisms of the expense and of my attitude in the disposition of these cases; it may be said it requires nerve to buck public opinion, but not if you have the courage of your own convictions, and in this case my conscience has dictated to me that I should know the disease before I prescribe the remedy therefor.

The procedure adopted here in Greene County perhaps is among the first, if not the first, adopted in any Court of this kind in the entire United States, particularly true perhaps as to New York State, but it has been recommended a long time since by the American Bar Association and prominent criminal lawyers all over the country are repeatedly rallying to the standard whose insignia is no longer, "An eye for an eye and a tooth for a tooth," but is rather that justice shall be tempered with mercy and that no prescription shall be given in the way of a sentence until the disease calling for the prescription shall have been thoroughly diagnosed and a perfect analyzation made so that there may be chance of a recovery or at least full protection to society from the future crimes of these same individuals.

This method rectifies the constitutional ailment of the individual and returns him, *if he is ever returned*, to society, cured or further advanced mentally and physically than would ever have been possible under any other circumstances. It saves him and his future to the better element of society.

While the first expense incurred for examinations of this kind may seem large, I feel safe in saying that this expense which saves the criminal to society is infinitesimal as compared with the expense that the taxpayers will incur in taking care of him and his progeny after he shall have been treated *without* diagnosis, committed to an institution, permitted to associate with criminals, absorbing their ideas and their suggestions, and allowed to propagate and bring up offspring which shall become a menace to society and a disgrace to civili-

zation generally. This latter class is the one which today is causing our prisons to be filled, is causing expenses of peace officers and trials running into the millions, while the other class will not be permitted to roam at large until they shall have proven that the recovery is complete and that they are safe to mingle with society and be the character of citizen that might be a credit to any town, county or state in which they might reside.

Human nature has its inherency and its failings in every individual, and judges are no exception to the rule. My idea of a judge is that he shall be a man who shall first learn what his duty is, not only to the criminal but to society, who shall act according to the knowledge that he has, shall acquire all the information he can, act according to the dictates of his conscience, and leave the ultimate result to that infinite power that governs the world, confident that the result obtained in that way, while perhaps expensive in the first instance, shall redound to the honor and glory of our legal system as it shall be later revised and put upon a plane that it has never occupied before, by adopting an enlightened method of procedure with reference to the disposition of all criminal cases.

Thus on December 8th, just passed, in the historic court house at Catskill, N. Y., was staged a demonstration of what criminal court proceedings *might be* if all persons concerned with the machinery of justice were free from prejudice and traditionalism and had the courage and vision to insist that real justice must be based upon "the *truth*, the *whole* truth and nothing but the truth." The demand to know the whole truth about the Greene County cases and the disposition of these cases in the light of this truth marked the action of the Greene County Judge as scientific and distinctly superior. Judge Thorpe and District Attorney Coffin are not novices in the field of criminal law. Besides some years in connection with the office of the State Attorney General, Judge Thorpe had served as District Attorney and had enjoyed a large and varied criminal law experience before he came to the bench. Mr. Coffin's talents have been enlisted in many criminal cases, at least two of which have excited national notice because of their intricate legal aspects. This is of interest in order that critics may not seek to belittle the action of these officials by suggesting that they are "soft-hearted reformers," "uplifters," etc. These men are experienced, hard-headed, conservative lawyers who have, as a result of years of experience, both as prosecuting attorneys and as defending counselors, been stripped of mawkish sentimentality and have come to know the power of truth. The Judge, in answering the criticism of a prominent citizen that such examinations cost the county money, said: "Yes, it has cost something; but the results show that it would cost the county a great deal more not to have so investigated them." The reference was directed specially to one of the cases who had served a prison sentence and had entailed much expense to the county and to the community, all of whose crimes have evidently been determined by his mental disease, and who would again have received a prison sentence had it not been for the aid of psychiatry; the State Hospital for the Criminal Insane assures the man humane and decent treatment for his disease and the community is free from the expense of his criminal activities, not for a three- or five- or ten-year period, but until such time as his mental state no longer renders him a menace to said community; thus, two wise and constructive purposes are served completely instead of beholding the usual feeble attempt at punishment and correction.

In a few centers, as in the Municipal Court of Chicago under Chief Justice Olson, the value of psychiatry as an aid in the disposition of cases has been appreciated and definite provision has been made along this line. The provision available through the Judge Baker Foundation in Boston for the study of juvenile offenders is notable. In other places judges have appointed psychiatrists to inquire into the mental condition of certain cases when in the judgment of the magistrate the facts of the case pointed toward the presence of a mental ailment; but this last procedure is usually only in confirmation of what the public has concluded for itself, and, of course, it never comprehends the condition of a much larger number of cases with a psychiatric aspect that are never suspected by the public nor by the judge and prosecuting attorney.

In other situations we find the undignified proceeding of contradictory expert testimony with scant chance of an impersonal and unbiased picture being presented to the jury and the presiding judge. Certain agencies have endeavored to bring about a change along this line and the American Institute of Criminal Law and Criminology, composed of leading authorities in both the legal and mental medicine fields, has made definite recommendation for reform along these lines. We believe that the Greene County Judge is the first county official to take a decisive step in the matter—actually to *declare a policy* in reference to *criminal court cases* in line with the best scientific thought on the subject in both the law and medicine. Late in November, last, with the term of criminal court approaching, Judge Thorpe declared the following policy:

"We are facing the disposition of ten criminal cases, ranging in age from eighteen to fifty-eight years, all indicted for felonies; we know nothing of the mental condition of these men nor have we any explanation that satisfies us as to the reason for their conduct; before a doctor treats a case he should make a diagnosis; we intend to have a diagnosis made in each case here; we have no purpose to serve except that which means real justice to the prisoners and full protection to the community; we are not seeking the praise or gratification of the public—we have only our own conscience to satisfy; when a doctor has an intricate legal paper to be drawn up he comes to the lawyer; when the lawyer wishes information on the mental constitution of an individual, he should go to a psychiatrist; we are adopting the policy of having our criminal cases examined completely and shall base our action in regard to the disposition of these cases on the results of such examination and analysis."

In brief, the attitude of the Judge was so frank, earnest and sincere that it was quickly communicated to the lawyers who represented the various cases; everything was open and impartial; the examinations took place in the Grand Jury Room and the lawyers for the defense in each case were given full opportunity to observe, to ask questions and to realize the absolutely impersonal and unbiased character of the examination.

The Judge and District Attorney were present throughout the examinations which covered three days and evenings and included complete physical, neurological, psychological and psychiatric consideration of each individual. The results of these examinations in detail will be reported in a paper now in process of preparation. We are here concerned and now with the stimulating fact, that, given a magistrate with unselfish zeal in the line of duty and with the vision and courage that lead to action in the cause not of precedent nor present expediency but in the cause of ultimate good, we are sure to find lawyers of superior character rising to the challenge. The lawyers for these ten felons

were given copies of the psychiatric reports and had a chance to study them together with the recommendations for disposition before court opened. The prisoners were arraigned as a group. The Judge addressed them as a group and then the individual cases were called. Interesting to relate, the defending attorneys changed their pleas of "not guilty" to "guilty," and in each case spoke in terms of agreement with the recommendations of the psychiatric report. Eight of the men were first offenders; seven of these were sentenced to Elmira Reformatory and the sentence was suspended and they were instructed upon certain probationary provisions to be complied with in line with psychiatric opinion; one of the eight was feeble-minded and was committed on court order to the Rome State School. Considering the other two prisoners—one was psychotic and was committed to the Mattewan State Hospital for the Criminal Insane, and the other man was feeble-minded and was committed to the Rome State School.

Quite the most striking feature of the occasion was a statement from Judge Thorpe to the effect, that, without the results of the examination of these men he would have sent every one to the reformatory or to state prison; this action, as he pointed out, would have done grave injustice to at *least* three (30%) who would have come out at the expiration of their sentences just as feeble-minded and just as mentally diseased as they now are, and each one a further potential source of crime and expense to the community; he then indicated how much more humane and sensible and economical is a disposition based on the *needs of the individual*.

A great lamp has been lighted in Greene County by Judge Thorpe; let us hope its beams may light up many benighted courts. When judges and prosecuting attorneys everywhere approach their tasks with truly open minds and the desire to know the *truth*, however upsetting it may be, provision will be made in every county and large municipality for an impartial psychiatric consideration of all criminal cases.