Journal of Criminal Law and Criminology

Volume 9 | Issue 4 Article 5

1919

Efforts to Abolish the Death Penalty in Illinois

James J. Barbour

Follow this and additional works at: https://scholarlycommons.law.northwestern.edu/jclc

Part of the Criminal Law Commons, Criminology Commons, and the Criminology and Criminal Justice Commons

Recommended Citation
James J. Barbour, Efforts to Abolish the Death Penalty in Illinois, 9 J. Am. Inst. Crim. L. & Criminology 500 (May 1918 to February 1919)

This Article is brought to you for free and open access by Northwestern University School of Law Scholarly Commons. It has been accepted for inclusion in Journal of Criminal Law and Criminology by an authorized editor of Northwestern University School of Law Scholarly Commons.

EFFORTS TO ABOLISH THE DEATH PENALTY IN ILLINOIS[1]

JAMES J. BARBOUR[2]

The Illinois branch of the Institution of Criminal Law and Criminology assembles once again with the purpose and hope of making valuable contribution to the solution of that most absorbing world problem of how to deal exact justice to all mankind.

The blood that has been shed on the battle fields of Europe is bringing forth a harvest, and more emphatically is it becoming conceded every day that violation of law and offenses against civilization, whether the act of an individual, or a community, or a nation, must be followed by such treatment of the offender as will protect society from a recurrence of that particular form of disturbance, to say nothing of the deterrent effect upon others like criminally minded.

These just ends which we seek in the administration of the criminal law, on the surface appear simple of accomplishment, but on closer study we find ourselves almost baffled in our efforts to discover who are the real offenders in some instances, and what is the proper treatment or medicine that is to be applied to effect a cure.

Much of our thought will be given today to the suggestions from distinguished speakers who will discuss the question of the moral responsibility of offenders. This does not mean that anyone here will suggest a slackening of the efforts to protect society, or to make crime hideous, or to strike terror into the heart of the evil disposed. Rather will the purpose be to seek some humane plan to take the weak or evil disposed in hand before offenses are committed, with the view of safeguarding the public and developing to the point of the highest possible efficiency the elements of good that are inborn, though sometimes very faintly, in every human being.

No matter how abhorrent violence and crime are to us, we will always be conscious of the fact that people are in prisons, often as the result of inherited weaknesses, poverty, drunkenness and other misfortunes rather than from real vicious inclinations, and if we can

[1]President's Address before the Illinois Branch of the American Institute of Criminal Law and Criminology, Chicago, Dec. 28, 1918.

[2]Illinois State Senator and President of the State Branch of the American Institute of Criminal Law and Criminology.

help them and people like them to better living, we are doing a positive good to the welfare and peace of society in general.

The May-scents down the nightland
Blew wild and cool and far,
And a free sweet air flung leaves to where
Swung a little free white star
By the long wall and weary
Where the Prison-People are.

They were the foolish children
Who could not find their way
From out their night to any light,
Nor knew that there was day.
And the evil night-roads called them,
And their weak feet went astray.

They were the crippled brothers
Who could not tread so fast
The paths of wrong as the swift and strong
Who did their deeds and passed;
But blundered in their sinning
And were trapped and bound at last.

They stay shut close from wandering
And we go free outside;
There must be bars—yet oh, the stars
So high and the world so wide,
So near the little darkened cells
Where the Prison-People bide!

How can we tell the evil?
How can we tell the right?
How shall we part, who see no heart,
The darkness from the light?
We only know that free we go
And they lie still in night.

The felonious killing of a human being has always been regarded as the most serious offense against society that can be committed, because we put a value on human life far greater than is given to property rights. We are as much concerned today as ever to protect life, but so long as people are killed and murders are committed the efficiency of existing preventive measures will always be debatable.

The doctrine of a life for a life goes far back to antiquity, but while in a number of states in this country capital punishment is the mandatory penalty for murder, in an increasingly large number of states the death penalty has been abolished. In Illinois the alternative penalties which juries are allowed to impose stand as a slight concession to that feeling of repugnance that is in almost every breast against the taking of human life, even by judicial sentence.

So great is the sentiment against the extreme penalty that a bill abolishing capital punishment passed in both houses of the Fiftieth Assembly in our State, and only failed of enactment because of the veto by the present Governor.

An attempt was previously made in the forty-ninth assembly, but the bill there failed of passage. The movement had the strong endorsement of Governor Dunne, who on various occasions, official and otherwise, had given his reasons for opposition to capital punishment.

The movement in this state has its strongest support from those of pronounced ideas, who believe that it is morally wrong to take human life under any circumstances short of self defence, or war. These people are the pioneers who, as years come and go, will, as have pioneers in other great moral movements, be more and more respected, and eventually gratefully lauded for bringing the effort to complete success.

A strong element that is now adding support to this effort are the alienists, psychologists, and practical workers in the field of criminology who insist that the culprit should be dealt with in the way of punishment only to the degree of responsibility and that there must be an end to the sickening attempt to hang imbeciles and defectives from whom oversight and necessary mental and physical and material treatment have too long been withheld.

A strong influence against these righteous efforts is the notion in the minds of many of our prosecutors, unconscious of its presence though the particular individual may be, that the ability and success of the State's Attorney is measured by the number of verdicts of hanging that he turns in. In giving my own observation and experience with reference to this subject, I quarrel with no one, nor take any adverse position on the question that society has a right to protect itself, and that certain offenses may be of so horrible a nature and the heart of the actor may be so malignant, that death should inevitably follow. I have not arrived at the point where I could not conscientiously vote the death penalty were I on the jury. I am will-

ing to withhold my inclinations to discuss or to consider society's responsibility to itself for taking human life until such time as the indifferent public knows more of the futility of capital punishment and the danger in its application, than they do now. While referring to the suggestions often made of the benefit that accrues to society in having this penalty remain upon the statute books, let us recall the fact that the Senator who made the strongest argument in the Fiftieth Assembly against the passage of the bill to abolish the death penalty made an admission, the truth of which must sooner or later be recognized. I call attention to the statement of Senator Jewell, Senate Debates A. D. 1917—336; "In the great city of Chicago, by reason of its enormous population, and by reason of its complex condition, and by reason of its people and its different nationalities and customs, murder is frequent. The infliction of the death penalty does not stop it. The infliction of any penalty won't stop it. It never will be stopped as long as the world stands, whether this law is taken off the books or whether it is not taken off." When it is realized, and fairly acknowledged by society that the taking of human life is to some extent an incident in the grouping of peoples in large communities and happens regardless of penalties to be visited upon the offender, we will have approached very near to the point where the propriety of the extreme penalty can be sanely and judicially determined.

For the present, however, we will confine ourselves to the discussion of the following propositions:

1. There is a sharp distinction between being convinced to a moral certainty and beyond a reasonable doubt of the guilt of a man, in a case where the death penalty is to be inflicted, and in a case where the punishment is for a term of years, or for life.

2. The danger of convicting innocent men in cases where the prosecution is doing its utmost to respond to the excitement and prejudice aroused because of the commission of an atrocious crime is a reality, and not a conjecture.

3. The measure of punishment in this State where guilt is certain is dependent upon no fixed standard, but is left to the whim of an uninstructed and unenlightened jury, and is usually governed by impressions resulting from the color, or race, or sex of the prisoner, his poverty, or apparel, his friendships and family connections, the astuteness and ability of his counsel, or the lack of it, the mental attitude of the prosecutor, the judge and the bailiffs, and innumerable other things which might be mentioned. all of which have no relation

to the real question as to whether or not the killing is of that extreme degree of premeditation or viciousness which it was the intention of the framers of our laws should be the only excuse for resorting to the death penalty.

4. The lawlessness of our police, their connivance with vice and liquor forces, their military code of conduct with reference to themselves which makes the administration of an oath seem farcical, all of which create a distrust warranted by the facts disclosed in innumerable police prosecutions in many of the large cities of the country, and warranted also by the observation of everybody in touch with criminal procedure, is another factor which contributes to the great danger of unjust or excessive punishment being meted out in murder trials.

Necessarily this paper will be the result of personal experiences during five years as a prosecutor in probably the busiest office in America—an experience based on the personal handling of as many as seventy-five murder trials, and observation of procedure both before and since that official service.

Take the first point, that one can be fully convinced of guilt if only imprisonment is to follow, where doubt would arise if the death penalty was to be imposed.

Juries returned death verdicts against three prisoners whom I prosecuted. In each instance the court and prosecutor were convinced that the conditions warranted the changing of the sentence to life imprisonment. The jurors in each case had done their full duty, and from their knowledge, confined as it was solely to the evidence before them, they returned the only verdict that conscientious men in such a case could return. In the first case three men were on trial for killing a saloon-keeper as an incident to a robbery. At the end of the State's case there was absolutely no evidence against one man, who we had strong reason to believe was the one that had fired the fatal bullet. The identification of the other two defendants rested solely upon the testimony of a Hebrew bartender, with some slight corroboration as to identification of these two defendants as being the parties seen near to the tragedy. It was known to the jury that the young men had sometime previously been involved in another robbery, and had been confined in the Bridewell, and perhaps elsewhere. As against this single identification, convincing as it was to the prosecution, there were the denials of the defendants, an alibi sworn to by eighteen witnesses, and the knowledge that the most active police officer in the case was a heavy drinker, and frequently

accused of misusing prisoners. Subsequently he was discharged from the force. The defendants and their relatives accused this man of persecuting the boys and their families for years. The prosecuting witness was necessarily much in the company of the police before he announced his positive identification of the defendants. There was in this case some slight error as to the admissibility of testimony, which would have served as an excuse for the reversal of the case, had the Supreme Court felt that the proof of guilt was not of that overwhelming nature which is more satisfactory in a death case. This was a case that undoubtedly would have invited activity by clergy and others who might have become overenthusiastic in their desire to save a human life without reference to the evidence.

Let me say that while those two men have been in the penitentiary for years, and will probably dies there, my conscience is clear, and I feel convinced of their guilt; yet I feel that to have allowed those men to have been hung on that evidence would have been monstrous, and I would have always been haunted by the fear that the Hebrew was mistaken, or had been overpersuaded in making the identification.

In another case two Italians were at enmity. They were both habitués of one of the foulest and most notorious houses of ill-fame in the city. They were both enamored with an inmate. One day one was seen pursuing the other in the streets, and when he reached him he shot him in the back and stood over him and continued to shoot until the man was dead. There was no doubt that the man committed the act, and that is was murder. In this prosecution I had the uninvited aid of an attorney, in the employ of the keeper of the resort, who himself was in court, a very interested participant in the trial. The defendant was absolutely friendless, and could speak English none too easily. Counsel had to be assigned to him. They did the best they could, which wasn't saying a great deal. The jury, governed by the light that they had, did the only thing possible, and imposed the penalty of death, but the prosecution had no way of determining the causes that led up to the killing. It might have been that the prisoner was in danger of assassination—that there were intrigues against him growing out of all kinds of criminal conspiracies and associations within the walls of an institution which the police should have long prior thereto suppressed. The distinguished judge who tried the case died before a motion for a new trial was heard, and we were glad, after negotiation, to reduce the penalty to life imprisonment, especially as before the trial commenced the prosecution's suggestion of a plea of

guilty with a penalty of twenty years had been rejected.

Society was no better or worse off by reason of this man's being allowed to live, but we have the satisfaction of knowing that one of the worst offenders in the city of Chicago against law and decency, whose corrupting influence and venalty has made him for long years notorious, did not have the satisfaction of directing the course of justice in that case.

It is hard to believe that the death penalty is justifiable, when in one instance a jury renders a verdict of death, and later on, another jury on a subsequent trial in passing on the same evidence imposes a term of years only, or in some instances a verdict of not guilty. Law can hardly invite veneration, when we realize the injustice that might have been done to an individual by sustaining a verdict of death, when subsequently on a new trial twelve equally conscientious men return a verdict of not guilty. Very hurriedly I am going to cite some cases of local renown, where the uncertainty of guilt or the liability of the imposition of an extreme and unjust penalty was so great as to have almost made the state itself guilty of murder.

Let me direct your attention to the case of Nick Marzen, who was convicted in Cook County and sentenced to be hung. The Supreme Court reversed the case for error. He was tried again and sentenced a second time, and the case was reversed. The third time the jury fixed the punishment at thirty years in the penitentiary.

In the case of Thomas Synon, who was convicted of the murder of his wife, and sentenced to be hung, the Supreme Court reversed the cause and on a retrial the defendant was acquitted by a jury.

In the case of one Jocko Briggs, tried in Cook County, and sentenced to be hung, a new trial was granted by the Supreme Court, and Briggs was acquitted. Opinion is very much divided now as to whether or not the man was guilty. A captain of police has told me more than once, that he knew absolutely that Briggs was innocent.

In the case of one Billik who was convicted and sentenced to be hung, and the sentence affirmed, many people claimed that he was innocent. I thought he was guilty. It was proven that one of the State's witnesses had committed perjury. The sentence was commuted by Governor Deneen. Later Governor Dunne released the man, the pardon being granted on the ground that the man was innocent.

I stood at the bedside of a policeman named Mooney, who had been shot on the street while on duty. In the same room was Mrs. Mooney; also the Assistant Chief of Police, since then a chief of police.

There was also present, an inspector and a captain, and a young man in custody was brought into the room. Mooney looked at him, and in his dying statement—he died three hours after that—he said "That man is the man that shot me. I know him, I have arrested him before, and I have had him up in the police court. I don't know why he should shoot me, but he did." Within a week the inspector that stood there and heard that statement arrested somebody else, who confessed that he was the man who shot Mooney, and who was afterwards tried, pleaded guilty and sentenced to the penitentiary.

This case alone is sufficient warrant for me in always standing against the death penalty. The Chief of Police was my personal friend, a well meaning man, who while he lived enjoyed the confidence of the people more than anyone who has ever held that office. It was necessary that Mooney should assert that he knew that he was at the point of death. His responses to my vague questioning leading up to such an avowal were unsatisfactory, in that they suggested that he didn't appreciate his critical condition. Whereupon the Chief of Police stepped to his bedside, and towering far above him, gave him the military salute, adding "We are here with the State's Attorney for a statement. You know what is necessary. Go ahead and make the answers." With this injunction he readily answered that he knew he was about to die. I had personal knowledge of what led him to make that statement, but I had no way of ascertaining what caused him to say that he positively recognized the prisoner as his murderer. When asked by the State's Attorney on returning to the office as to whether I had gotten a good statement, I reported that the statement was a very good one, but there would be no trial, so far as I was concerned, unless better evidence could be obtained.

In the case of one Muetch, the father of a family, Muetch, while insane, killed his two children. The State's Attorney sent two physicians to examine him. They both came back and stated that the man was insane and didn't understand the nature of his act. A verdict was rendered which, instead of reciting the fact that the man was insane at the time of the commission of the act, as well as at the time of the trial, simply recited that he was insane at the time of the trial. The man was sent to the insane hospital. He afterwards fully recovered his reason. Another State's Attorney succeeded to the office. He was a bit peeved at his predecessor and so this man Meutch, when he had recovered his sanity, was placed on trial, and on two different occasions, before different judges, the man who was insane when he

killed his two children was convicted and the death penalty imposed, and each time the judge gave a new trial. The State tried him a third time, and finally the pressure from the judges themselves was such that the State's Attorney had to stop trying to convict that man. The crime was so atrocious that any jury was ready to hang the man, regardless of whether the evidence showed he was sane or insane.

Here is a case, right here in Illinois, happening in 1909, of which there is an abundance of proof. Neil Shumway, and Illinois boy, went to Nebraska to visit his brother. While there he sought for work on the farm of a man named Martin. Martin's wife was afterwards found murdered, and Shumway was accused of the crime and tried and convicted. Although he stoutly protested his innocence, he was hung in the Nebraska State Penitentiary in 1909. Three years afterwards, Martin, the wealthy farmer, died, and on his deathbed confessed to having murdered his wife, and to having permitted the conviction and execution of Shumway for the crime.

A Chicago paper in a Sunday issue in 1917 had this dispatch from Columbia, Mississippi:

"A death-bed confession by Joseph Beard, a farmer, announced to-day by the sheriff's office, cleared of suspicion William Purvis, who twenty-five years ago escaped death by hanging after conviction for murder, only because the noose about his neck slipped when the scaffold trap was sprung. Purvis was found guilty of killing from ambush one, William Buckley. When he fell from the scaffold unharmed, spectators who thought it an intervention of providence, induced the authorities to put him back in jail, and an appeal to the Governor brought a commutation of sentence. Several years later Purvis was pardoned. He now lives in Lamar County. Beard, dying of pneumonia, confessed that he and two other men killed Buckley."

The most recent Illinois case that we recall where the probability that an innocent man has been convicted is almost apparent, is that of Ernest Wallace, a colored man, sentenced to death in the Criminal Court of Cook County, which sentence was reversed in the case of *People* v. *Wallace,* 279 Illinois, 139. Wallace was indicted jointly with one, Edgar Butler, for the murder of Jacob Levin, a saloon-keeper, who was killed in a holdup in his saloon. The defendant's guilt depended absolutely upon the accuracy and the truthfulness of the testimony as to identification by three witnesses, all of them colored, none of whom had ever seen the defendant prior to the tragedy. Let us at the outset call attention to the first ear-mark of police so-called efficiency as shown in the statement in the Supreme Court's opinion that "the indictment was *nollied* as to Butler, and no circumstance appears in the evidence connecting him, even remotely, with the crime."

The known inability of colored people intelligently to comport themselves and make observations following the discharge of a revolver

in an attempt to commit murder, at once suggests the unreliability of the testimony in this case. One witness was a colored man named Porter, and as to him the court says:

"Porter had testified that he was standing at the bar . . . when a man ran in with a revolver in his hand, which he pointed at the bar-tender . . . Porter saw the flash of the revolver and heard the shot. He dropped down, crawling toward the door, and fell over somebody at the door. On the trial he pointed out the plaintiff in error as the man he saw fire the revolver in the saloon. Porter had never seen the defendant before, he knew nobody else who was in the saloon, and on the trial he failed to recognize any of the witnesses as persons who were in the saloon at the time of the shooting. . . . .

"Porter's memory of events occurring after he left the saloon is so uncertain and obscure, and his testimony as to what he did, where he went and who was with him is so indistinct and confused, that no intelligent account of his actions or whereabouts can be derived from his statements."

Able counsel, for small compensation, defended this man and were able to convince the public finally that Wallace was absolutely innocent. Wallace denied his guilt, denied being at the scene of the robbery and denied having met any of the witnesses. He said he spent the afternoon and evening miles away, at Butler's pool room, 3138 State street. Three other persons with whom he played "craps" at that place corroborated him as to the time, place and manner of spending the evening. In reversing this case on the ground of improbability of guilt, the court said:

" Recognizing the rule that the question of the credibility of witnesses is within the peculiar province of the jury and that a verdict in a criminal case will not be set aside unless there is clearly a reasonable doubt of the defendant's guilt, it is still the duty of the court of review to determine this question, and we do not regard the evidence in this record as sufficient to remove all reasonable doubt and create an abiding conviction that the defendant is guilty. Reprobation of the crime will not justify conviction of the accused upon evidence which fails to remove every reasonable doubt of his guilt."

In Cook County it is the poor and improperly defended upon whom the death penalty is easiest to impose. Take a person who is defective and who commits a crime, just the kind of a crime that a defective will commit; a crime that is more or less heinous and atrocious; and the jury and the courts are ready to hang that person, and they have been doing it to some extent.

This notwithstanding the criminal code of this State, provides

that one to be responsible for crime must have the mentality of at least a fourteen year old boy. The provisions are as follows:

"A person shall be considered of sound mind who is neither an idiot nor a lunatic, nor affected with insanity, and who hath arrived at the age of fourteen years, or before that age if such person knows the distinction between good and evil . . . . An infant under the age of ten years shall not be found guilty of any crime or misdemeanor."

This is what the Chief Justice of the Municipal Court of Chicago said in an address before the New York State Bar Association, January 12, 1917, with reference to defectives and the crimes they commit, and their treatment.

"Several months ago a young man nineteen years of age was accused of murdering a woman. He has since been found guilty by a jury and sentenced to hang, which was modified to life imprisonment by the judge. This young man was in the Boy's Court two years previous to this crime, and found to have the mentality of a child between ten and eleven years. He had prior to that time been in the Juvenile Court. The director of the laboratory predicted to one of the judges, when the defendant was in on a minor charge, that he would become a serious offender. Our judge bound him over to the Criminal Court on a felony charge. The Criminal Court judge released him on probation, having no suspicion of the dangerous character of the boy. The fact that records are made in many instances before the crime, the findings are free from suspicion of having been made to meet the emergencies of a particular case."

Very recently in the state of New York where there is no alternative for first degree murder than the death chair, the Governor of the State was compelled to commute the sentence of a choir boy, who was only sixteen years of age when he fell into evil ways and murdered a shop keeper, whose store he was burglarizing. That boy gave way to extreme impulses coming at a period in life that is experienced by every boy. The acts committed in such a period very rarely have any relation to the subsequent life of the boy, where his environment is all that it should be. . . In other words, I make the assertion that we, ourselves, and our children, have reason to thank Almighty God that through the accident of environment, or for other causes, our lapses in the adolescent period were not more serious in the nature and consequences.

The present Governor of this State, who is preeminent because of the conservatism, sanity and wisdom of his official acts, saw fit to veto the bill which had been passed, annulling the death penalty. He gave as justification for his veto, the fact that we are now at war, and that this was no time to discard long established laws dealing with

crime. But the good Governor has since had brought to his attention the unsatisfactory workings of this law, especially in the case of one, Chicken Joe Campbell, convicted of the murder of the wife of a former warden of the penitentiary, and sentenced to be hung. This case, depending as it does upon circumstantial evidence, is worthy of some comment, especially as it is a fair illustration of the possibility of error in imposing the extreme penalty. Let me assert at the outset that a discussion of this case can be had without reflecting in any way upon the character of any of the chief actors in the tragedy, other than the prisoner. The student or analyst of crime, upon the first reading of the tragedy in the newspapers could conceive of any number of people who might have committed the deed, and of any one of a number of motives that might have actuated them. The victim was a second wife. The husband was out of town. The persons in the immediate family circle bore relationship to the husband and the deceased wife that might have made them feel very antagonistic to the second wife. I mention this circumstance, having in mind the famous Lizzie Borden case in Fall River, Massachusetts. Several prisoners had access to the living quarters of the warden, and were in the vicinity at the time of the tragedy. The prior professional career of the victim, before her marriage to the warden, was naturally one of the incidents about the tragedy that led to careless conclusions on the part of those who did not have the benefit of an acquaintance with the lady, whom by the way, everybody having knowledge spoke of in terms of highest esteem. The prisoner absolutely denied his guilt, and the conviction rests entirely upon circumstantial evidence. The most satisfactory solution of this tragedy, after a consideration of the evidence adduced, is that Campbell was the guilty party. The fact that this was also the most desirable solution injects into the case an element of uncertainty, and provides the possibility of a motive governing not a police, but a prison made case. Conceding the guilt of this man, everybody must admit that the situation in which he was placed by the warden, the unusual freedom and privileges that were accorded him, all tended to make this crime unavoidable, and to that extent a case in which the infliction of the death penalty was improper. The one most bereaved being at the same time the representative of the law, was censurable and guilty of contributory negligence to a degree that made a modification of the penalty highly advisable. This conclusion is forced upon us upon a reading of the

summary, made by the distinguished jurist who wrote the opinion in the Supreme Court.

People v. *Campbell,* 282 Ill., 614, 625:

"The defendant was an applicant for parole, and his application had been continued several times. The parole board was to meet on Monday, the 21st, and Mrs.————had assisted him to some extent in reference to the parole, for which he would naturally have some gratitude, but there was evidence that he said he was going to get off the job whether he was paroled or not; that Mrs.————had made him run his legs off and was too hard to please. The fact, however, that he entertained feelings of gratitude towards Mrs.————for her kindness is not inconsistent with a belief that in the situation and under the conditions existing in the bedroom on that Sunday morning, in the stress and sway of an overmastering passion, nature harked back to primal instincts, and in the recession gratitude to the one who had befriended him, regard for the law, the unspoken pledge implied by honor from the liberty allowed to him, and even pity for the helpless victim, had no restraining power and the crime was committed. That is the only conclusion that can be drawn from the evidence, which proved defendant guilty beyond all reasonable doubt and to a moral certainty."

Without disputing the correctness of the conclusion of guilt which the record of the testimony presents, we insist that here is an instance where the death penalty added greatly to the task of administrating that exact justice that will leave the conscience of the community satisfied that the final result was eminently proper.

The verdict that was rendered in the Campbell case by the twelve sturdy farmers residing outside of the city where the offense was committed did not reflect the sentiment of many people in the community who had given thought both before and after the tragedy to the peculiar situation that existed. Nor did it reflect the sentiment and opinion of police and prosecuting officials outside of the county. The Governor who had appointed that particular warden felt impelled to send his personal representative to the prison to take charge of affairs and to see that the rigor of the third degree and the solitary confinement was suspended. Our present Governor, after the case had been affirmed, and the Supreme Court had fixed a new date for the imposition of the penalty of death, saw fit to commute this sentence. The Governor was well and fully advised of every circumstance that indicated guilt, and yet to his mind the case in its result was a very unsatisfactory one, with features which appealed to him so strongly as to make the commutation of the sentence imperative. In this decision the Governor was justified by many things that were brought to his attention, each one standing alone of so little moment, perhaps, as

to have no place as, or to rise to the dignity of, evidence in a trial. Our present Governor went further, and following the course inaugurated by his predecessor in interfering in the management of the prison, Governor Lowden directed that the prisoner be removed from Joliet, and that he serve out his life sentence in the Chester Penitentiary, which is located in the extreme southern end of the state.

In contemplating these instances which have been given of the peculiar workings of the law as to the death penalty in the State of Illinois, one is impressed with the thought that chance plays too important a part in the matter of verdicts and in the eventual decision as to who shall be hung and who shall not. Further it suggests to the speaker, with his known insistence at all times on the punishment of the guilty, that the present law is not an aid to the administration of justice, and does not tend to bring about a reverence and respect for law and faith in its justice and fair dealing.

It is respectfully urged that in this age of humanity there should be some better solution for the problem of the just punishment of the guilty, and in this connection we assert that the working of the law in those states where the death penalty has been abolished is much more satisfactory than in Illinois. Surely in these other states justice moves more swiftly, punishment is more certain, and law and order are as well, if not better, maintained than in Illinois, and we submit that this survey shows strong justification of the action of a majority of the representatives in the Fiftieth Assembly in voting to change the present punishment imposed for the crime of murder.