Wife-Killers and Evil Temptresses: Gender, Pardons and Respectability in Florida, 1889-1914

Vivien Miller

Wife-Killers and Evil Temptresses: Gender, Pardons and Respectability in Florida, 1889-1914

by VIVIEN MILLER

FLORIDA'S State Board of Pardons, created by the state constitution of 1868, was a necessary component of the state's criminal justice system in the late 19th and 20th centuries due to the general inadequacy of the penal arrangements,[1] the frequency with which judges imposed death penalties on those convicted of first-degree murder, and the absence of any probation or parole facilities. Letters to the pardoning board, to successive governors and to newspapers such as the *Florida Times Union* and the *Tampa Tribune,* indicate accord among diverse sections of Florida society on the need for harsh punishment for those who committed violent acts. Circuit judges imposed sentences of death or life imprisonment in accordance with the state's statutes relating to murder (divided into three degrees of severity),[2] the decisions of all-male juries, and to placate public opinion.[3] The existence of the Board of Pardons allowed them to do this and then recommend leniency at a later date, even following an unsuccessful appeal to the state Supreme Court. Further, in the interests of justice an alternative tribunal to consider the grievances and petitions of offenders was needed to uphold the equal protection clause of the 14th Amendment. It is important to point out, however, that the vast majority of prisoners

Vivien Miller is Lecturer in American Studies, Middlesex University, London.

1. During Governor Drew's administration (1877-1881), the dilapidated state prison at Chattahoochee had been converted into an institution for the mentally ill, and state convicts were contracted out to the highest bidder, thus relieving the state of the burden of feeding, housing and clothing its prisoners. In an effort to slash government expenditure, the governor looked to the convict lease system to save the state of Florida an annual expense of $20,000. The prison farm at Raiford did not become fully operational until 1914. See Charlton W. Tebeau, *A History of Florida* (Coral Gables, FL, 1971), 276.
2. Ken Driggs (comp.), "Florida Executions List," Unpublished list, 1993, 52-67. Driggs lists 105 executions for murder and eleven for rape for the period 1890-1910.
3. Paul S. George, "The Evolution of Miami and Dade County's Judiciary, 1896-1930." *Tequesta* 36 (1976), 28-29.

incarcerated in Florida's state prison system in the years 1889-1914 were discharged only on the expiration of their sentence, thus pardons affected a minority of convicts.[4]

The Board of Pardons was composed of the Governor, three Supreme Court justices, and the state's attorney general until 1896, when judges were replaced by the secretary of state, comptroller, and commissioner of agriculture. Empowered to commute punishments and grant pardons to convicted felons and misdemeanants, it was the final appellant body in such matters. Members of the Board of Pardons in the period 1889-1914 were with few exceptions lawyers– usually graduates of southern law schools; wealthy landowners and planters and/or members of Florida's rising industrial commercial elite; Methodists, Baptists and Episcopalians; Democrats; Masons, Elks, and Knights of Pythias; and usually enjoyed long careers in state and local politics. For example, William H. Ellis, attorney general (1904-1909) during Governor Napoleon Bonaparte Broward's administration, and James Bryan Whitfield, private secretary to Governor Edward A. Perry, state treasurer (1897-1903) and attorney general (1903-1904), went on to become justices of the Supreme Court of Florida. Whitfield served as Chief Justice in 1905 and 1909-1913. Secretary of agriculture (1900-1911) Benjamin E. McLin had business interests in milling, crate manufacturing, and orange cultivation. His predecessor Lucien B. Wombwell was a land agent for the Pensacola and Atlantic Railroad Company during the 1880s. Dr. John J. Crawford, a Wakulla county landowner and planter, served as secretary of state continuously from 1881 to 1902. Following his death in 1902, Crawford's son, Henry Clay Crawford was elected secretary of state in his own right in 1904.[5] The

4. State Pardon Board, *Pardon, Commutation, and Remission Decrees, 1869-1909,* Vols. l-4, RG 690, Series 158, FSA. For example: In 1893, 7 convicts were pardoned (1 convicted of murder), 27 died during the year, and 218 were discharged upon expiration of their sentence. Five hundred thirty remained "on hand" on December 31, 1893. In 1903, 42 convicts were pardoned (12 of whom had been convicted of murder), 18 had died during the year, and 295 were discharged upon expiration of their sentence. There were 1,523 prisoners "on hand" on December 31, 1903. *Report of the Commissioner of Agriculture 1893-1894,* 69, 72, and *1903-1904,* 315, 340, 47-48.

5. For biographical information on board members see Homer E. Moyer, ed., *Who's Who and What to See in Florida: A Standard Biogaphical Reference Book of Florida* (St. Petersburg, 1935), 99-100; Joseph H. Reese, *Florida Flashlights* (Miami, 1917), 101, 102, 114; James Bryan Whitfield (comp.), *An Offiicial Directory of the State Government* (Tallahassee, 1885), 79; George M. Chapin, *Florida 1513-1913, Past, Present and Future, Four Hundred Years of Wars and Peace and Industrial Development* (Chicago, IL, 1914), 656, Henry Gardner Cutler, *History of Florida Past and Present,* Vol. III (Chicago and New York, 1923), 3, 123.

Board of Pardons thus embodied an array of personalities with extensive political and judicial experience.

Most of the board members who served during the period 1889-1914 were born during the middle decades of the 19th century and received their educations during the turbulent post-war and Reconstruction years. They held political office in a period of significant social and economic change as Florida underwent rapid expansion and development partly as a consequence of railway investment and construction, resulting in the development of a significant urban-industrial base by the early 20th century. The thriving Atlantic port city of Jacksonville, with a population of 28,429 in 1890 rising to 57,699 in 1910, was Florida's largest city and railroad hub.[6] It was also the commercial center for Florida's turpentine, lumber, and naval stores industries– industries which were reliant to a large extent on convict labor.

Amid these profound economic and social changes, traditional southern values of white supremacy, black inferiority, and strict patriarchy prevailed in the New South and regulated social relations throughout the state of Florida. Further, strict adherence to rigid standards of personal conduct and belief, for example, patriotism, love of the South, the supremacy of the Democratic Party, Christianity and chivalry for white women, were not only expected but demanded of the white population.[7] "Noblesse oblige" or an obligation to demonstrate generosity, chivalry, benevolence, and exhibit responsible behavior to the less fortunate characterized male attitudes toward "respectable" white women, and black women perceived to be subservient and non-threatening, while hostility and violence were sanctioned for those who stepped beyond the confines of the private sphere. "Honor," a gendered code of conduct and set of values specifically for adult white males,[8] was also central to the post-war belief system imbued by white Floridians. Edward Ayers argues: "In reconstructing the workings of Southern honor and violence, it is crucial to understand that

6. U.S. Bureau of Census, *Twelfth Census of the United States,* Vol. II, (Washington, DC, 1913), 298.
7. James R. McGovern, *Anatomy of a Lynching: The Killing of Claude Neal.* (Baton Rouge, 1982), 33.
8.. See Bertram Wyatt-Brown, *Southern Honor: Ethics and Behavior in the Old South* (Oxford, 1982).

Southern white men among all classes believed themselves 'honorable' men and acted on that belief."[9] Anthropologist Julian Pitt-Rivers describes honor as a multifaceted notion open to interpretation by different classes within any society, but which "stands as a mediator between individual aspirations and the judgment of society" and as "not only the internalization of the values of society in the individual but the externalization of his self-image in the world."[10] It is perhaps most useful to view the members of the Board of Pardons in terms of the "notion of a community of honorable men" mediating between the individual aspirations of offenders seeking clemency and the judgment of Florida society on their criminal acts. At the same time the decisions of this "community of honorable men" inevitably reflect the imposition of the dominant white middle class male evaluations of the criminal behavior of lower class, black and female offenders.

Research into the decision-making process of Florida's Board of Pardons is hampered by the absence of information on the actual deliberations of the board members, as no official minutes were recorded before 1909. It is necessary to reconstruct the decision-making process from the application case files which contain copies of court testimony, records of sentence, letters of recommendation for applicants seeking pardons, commutations and reprieves, petitions, and the applications for pardon themselves. Applicants were required to publish notice of their intention to apply for pardon for at least ten days, and any application had to include a record of conviction, as well as recommendations from the sentencing judge and prosecuting attorney.[11] Contemporary newspaper accounts provide additional details about offenders and their criminal acts. These often sensational accounts must of course be treated with extreme caution. A wealth of information is

9. Edward L. Ayers, *Vengeance and Justice: Crime and Punishment in the 19th-Century American South* (Oxford, 1984), 13.
10. Julian Pitt-Rivers, "Honor" in David L. Sills, ed., *International Encyclopedia of the Social Sciences* (London: 1968, reprint, 1972), Vols. 5 & 6, 503-504, 507; and J. G. Peristiany and Julian Pitt-Rivers, *Honor and Grace in Anthropology* (Cambridge, 1992), 5.
11. D. Lang to C. J. Hardee, Madison, FL, September 30, 1897, Outgoing Correspondence, Vol. 3, 27.

also contained in the Board's correspondence files and in the missives of the pardoning board secretary.[12]

Reasons for granting pardons and commutations to offenders convicted of murder may be summarized in three forms, relative to the crime, the court trial, and the defendant. Firstly, board members might have serious reservations about the facts of the case, for example, the degree of premeditation, whether the offender was an accessory to murder rather than the actual perpetrator, or the issue of provocation by the victim. Secondly, board members might express dissatisfaction with the court procedure. They might consider that the defendant had been deprived of the right to a fair trial, had been convicted on perjured evidence, or they might display doubts about the legality of the court term. Lastly, the board might wish to take account of the defendant's status or character. Factors such as the defendant's previous good record, evidence of mental deficiency or insanity, intoxication at the time of the crime, or the deteriorating health of the offender while in the prison system were important. The board's decision to commute a death sentence or reduce a term of imprisonment was based not only on the circumstances and context of a murder act, but also depended on the perceived character and respectability of the offender and/or victim, hence the importance of perceptions of gender, as well as race and class.

Demographic distribution ensured that the "Negro Problem" of the late 19th century belonged mainly to the South. Urban growth made the "Negro Problem" more visible and this engendered an increasingly negative impression among white Floridians who sought to blame rising crime rates on Florida's black population. In his report of 1903 Commissioner of Agriculture, Benjamin E. McLin complained: "the negro population is crowding into our cities and towns, leaving the quiet country home where industrial pursuits kept him [sic] from the evil effects of street loafers and the immoral dens of vice, which are fed from the idle class."[13] Jackson-

12. David Lang took over as pardoning board secretary in 1893 and served in that capacity until 1909. He also served as private secretary to Governors Mitchell and Bloxham, 1893-1901. Fred L. Robertson (comp.), *Soldiers of Florida in the Seminole Indian-Civil and Spanish-American Wars* (Live Oak, FL, c1903, 335-336; Cutler, *History of Florida,* Vol. 1, 144.

13. *Report of the Commissioner of Agriculture 1903-1904,* 318.

ville was one of four southern cities in 1900 with more black inhabitants than white.[14] White Floridians sought to exert control over a group of people whose presumed natural tendencies toward immorality and crime made social equality unimaginable. Such views were not unique to the 1900s. In his discussion of Florida's post-war "Black Codes," Joe M. Richardson describes these restrictive and punitive laws as "products of the baneful heritage" of slavery which rooted in the southern mind false ideas of the Negro, including biological inferiority and innate criminality.[15] In the late 19th century, new scientific theories of Anglo-Saxon superiority linked crime, race and hereditary characteristics, and hardened the view of white society toward its black and lower class criminals. Southern whites in the late 1880s and 1890s believed that growing numbers of blacks had adopted a "criminal attitude" that was increasingly directed at the white community.[16]

Amid increasing racial polarization following the end of Reconstruction, one of the features of the New South was the rise of a new class of African Americans; black vagrants, both male and female, in part because of economic dislocation and in part because of the implementation and enforcement of stricter vagrancy statutes throughout the New South. There are numerous references to "shiftless" or "loafing" negroes in Florida's white newspapers at the time.[17] In the same period, W. E. B. DuBois and other black leaders noted that the post-war black community had produced "a class of black criminals, loafers, and ne'er-do-wells who are a menace to their fellows, both black and white."[18] Yet, growing numbers of educated and wealthy blacks were achieving high standards of respectability by the 1880s.[19] Lawrence Friedman argues that in a century marked by social and physical mobility, there existed "at

14. Edward N. Akin, "When a Minority Becomes the Majority: Blacks in Jacksonville Politics, 1887-1907," *Florida Historical Quarterly* 53 (October 1974), 145. Fifty-seven percent of Jacksonville's population was black, affected by low socio-economic status and high mortality rates. James B. Crooks, "Jacksonville in the Progressive Era: Response to Urban Growth," *Florida Historical Quarterly* 65 (July 1986), 60. The black mortality rate was 28 per 100,000 in 1900.
15. Joe M. Richardson, "Florida Black Codes," *Florida Historical Quarterly* 47 (April 1969), 365.
16. Ayers, *Vengeance and Justice,* 236.
17. *Tampa Tribune,* January 10, 1897.
18. Quoted in Ayers, *Vengeance and Justice,* 252.
19. Edward L. Ayers, *The Promise of the New South: Life After Reconstruction* (New York, 1992), 140.

the very core" of the 19th-century criminal justice system "a profound distrust of men without settled connection."[20] In response to the perception of a rising black "dangerous class," rigorous vagrancy laws were enacted in Florida as in other states by the 1890s, while the South in the late 1880s and early 1890s saw an epidemic of lynching and "whitecapping," extreme forms of "rough musics." These were usually directed against persons suspected of sexual misconduct and interracial killing.[21] Lynching, kidnapping, forced departures from the city, and other forms of vigilante violence orchestrated by the Tampa business elite and executed by "citizen's committees" were directed primarily at selected labor "agitators" within the cigar industry and were carried out with support from the local community and official complicity as demonstrated by an unwillingness to investigate or effect prosecutions of vigilantes.[22]

Black Floridians were disfranchised and segregated from all public facilities by custom and state law.[23] In the county jails, offenders and suspects were incarcerated in cells according to race. Segregation also prevailed in the prison system and the convict lease system. Officers of the law who fastened white male or female prisoners to black prisoners could face fines of $100 or a six-month jail term. After 1900 stricter enforcement of these laws became evident, as in the rest of the South during the Progressive Era.[24]

Paternalism was demonstrated toward "good negroes," but indifference or hostility was exhibited toward assertive black men and women. As the pardoning files reveal, black offenders sought protection and help from white men in the form of recommendations from employers, convict camp supervisors, and camp guards, as well as from judges and other prominent white citizens. Black

20. Lawrence M. Friedman, *Crime and Punishment in American History* (New York, 1993), 201. "Florida has increased in population more rapidly than the country as a whole during every decade since 1830." U.S. Bureau of Census, *Twelfth Census of the United States,* Vol. 2, (Washington, DC, 1913), 298.
21. Ayers, *Vengeance and Justice,* 260-261. The Jacksonville *Florida Times Union* of March 27, 1896 carried a report of "the first White Cap warning ever known" in Suwannee Shoals, Florida, directed at a black family suspected of barn burning.
22. Ingalls, *Urban Vigilantes* (1993), 75, 114, 205, 212.
23. Charles D. Farris, "ReEnfranchisement of the Negro in Florida," *Journal of Negro History,* 39 (October 1954), 263. Kenneth R. Johnson, "The Woman Suffrage Movement in Florida," (Ph.D. diss., Florida State University, 1966), 161.
24. C. Vann Woodward, *The Strange Career of Jim Crow* (New York, 1974), 23, 50, 84, 85, 97, 102; and Jerrell H. Shofner, "Custom, Law and History: The Enduring Influence of Florida's 'Black Code,'" *Florida Historical Quarterly* 55 (January 1977), 289.

women appealed to middle class white women's sense of "noblesse oblige" to effect their release from the convict lease system. In May 1906 Josephine Howard was convicted of murder in the second degree and imprisoned at Raiford prison farm, where she spent the next eleven years. In 1917 she came to the attention of Lucia Sharpe Alvarez, a "Christian lady of Starke," who, motivated by a "sense of humanity and justice," successfully took Howard's case before the Board of Pardons.[25]

Women of the New South were largely excluded by law and custom from business, higher education, the professions, and politics.[26] The Florida Constitution of 1885 specified that only male persons could be qualified voters, and Florida was especially hostile to the woman suffrage movement gathering steam in the northern states during the Progressive Era. Domesticity was perceived to be women's proper sphere. However, as Edward Ayers argues, white southern women had often contradicted "the stereotypes of languid Southern womanhood" by working in farms, businesses, shops, often in positions of ownership and responsibility, especially after the Civil War, while black women had never enjoyed that luxury. Post-war economic realities challenged traditional roles, while women themselves assumed a more active public role as illustrated by the growth of the black and white women's club movements, missionary societies and church benevolent groups.[27] The Women's Christian Temperance Union was active in lobbying the Florida legislature to prohibit the sale of liquor and to raise the female age of consent.[28] Floridian women enjoyed some legal advantages with respect to property rights. A married woman's property law had been enacted in 1828 and strengthened by the 1885 constitution.[29] Coverture was already in decline by the mid-19th century, yet as Lucia Zedner argues, in the context of Victorian British society, in the absence of real political or economic power, "the main-

25. Judge Willis to Board of Pardons, July 3, 1917, Board of Pardons. RG690, Series 443, box 42, file 2672, Application Case Files, FSA (hereinafter Application Case Files).
26. Marjorie Spruill Wheeler, *New Women of the New South: The Leaders of the Woman Suffrage Movement in the Southern States* (New York, 1993), 6-7.
27. Ayers, *Promise of the* New *South,* 28-29. See Anne Firor Scott, "Most Invisible of All: Black Women's Voluntary Associations," *Journal of Southern History* 56 (February 1990), l-22; and Cynthia Neverdon-Morton, *Afro-American Women of the South and the Advancement of the Race, 1895-1925* (Knoxville, 1989).
28. Johnson, 152.
29. Ibid., 154-55.

tenance of respectability became crucial for a woman who wished to maintain her status in society."[30]

Economic realities aside, if a white woman in the post-Civil War South wished to be considered "respectable" she had to adhere to her traditional domestic and subordinate roles, continue as the source of the "superior morality of Southern society," and rely upon "chivalrous Southern men to represent her interests in the outside world." All of this was, of course, incongruous for poor and lower class women, whether black or white.[31] Because 19th-century middle class women were invested with moral superiority, Nicole Hahn Rafter observes that one of the effects of "gender-stereotyping" was such that: "criminal females were considered more depraved than males and hence less deserving."[32] Nineteenth-century sociologists and criminologists such as Havelock Ellis and Caesar Lombroso characterized criminal women as morally and mentally degenerate, atavistic, over-sexed, overtly masculine, and serious dangers to public morality. Similar labels were applied to non-criminal black women.[33] Yet, as Roger Chadwick points out, scientific explanations for female behavioral disorder were "only relevant when they reinforced existing presuppositions about 'normal' female behavior. When women stepped outside the normal parameters of such conduct both officialdom and their own communities found little room for mercy or science."[34]

Between 1889 and 1914 women appeared before Florida's State Board of Pardons in many roles. Some were wives who killed their husbands to escape abuse or for money. Others were the cause or instigator of disputes between drinking companions engaged in card games. Still others appeared as dedicated champions of their convicted husbands' innocence and release. There are nu-

30. Lucia Zedner, *Women, Crime, and Custody in Victorian England* (Oxford, 1991), 12.
31. Wheeler, 4, 19, 25.
32. Nicole Hahn Rafter, *Partial Justice: Women in State Prisons, 1800-1935* (Boston, 1985), xxv.
33. Caesar Lombroso and William Ferrero, *The Female Offender* (London, 1959), ch. 12; R. Emerson Dobash and Russell P. Dobash, *Women, Violence and Social Change* (London and New York, 1992), 158. "Degeneracy is apt to show most in the weaker individuals of any race; so negro women evidence more nearly the popular idea of total depravity than the men do . . ." The writer, a Southern woman, could not imagine "such a creation as a virtuous black women." *Independent* (March, 1904), 10, as quoted in Anne Firor Scott, "Most Invisible of All."
34. Roger Chadwick, *Bureaucratic Mercy: The Home Office and Treatment of Capital Cases in Victorian Britain* (New York and London, 1992), 289.

merous documented appeals and impassioned pleas from women imploring governors and other members of the pardoning board to free their convicted and imprisoned husbands, brothers, lovers, and sons. Governors reiterated their unwillingness to bend the rules pertaining to pardons, or to tamper with court judgments. They reasoned that their first duty was toward the fair and proper administration of the criminal justice system, and the protection of the public from convicted killers. For many women, involvement in Florida's criminal justice system was a bewildering and frightening affair, not least because it was administered exclusively by men. All judges and legislators were male, as were jurors and police officers. Nearly all were white.

The applications for pardons in general, and the cases examined in the following pages in particular, illustrate that the character and appropriate behavior of women as victims and as perpetrators were important whether the individuals were devoted wives driven to violence and deserving of clemency, or were evil adulteresses and temptresses who contributed to their own deaths. For example, 19-year-old Joe Walton had his death sentence commuted to life imprisonment at hard labor in June 1907 partly because of his age (he could furnish the state with 40 years of free labor through the convict lease system), but more importantly, because his lover and victim, Lizzie Johnston, was described as "one of the most notorious characters in La Villa" and a woman of "very bad character." She had previously been arrested for fighting and disorderly conduct, and "had recently been convicted of a murderous assault on her husband."[35]

Black convict Belle Williams secured recommendations from several of her former employers, all of whom attested to her good character, honesty and exemplary deportment. Belle's employer, G. W. Varn, formerly a turpentine operator in Rye, Florida, described her as the "best servant I have ever had in my home."[36] J. F. Nutter, foreman of the jury which had convicted her, wrote that the evidence against her and her accomplice Archie Covington (her lover) had not warranted a conviction of murder (of Belle's husband, Jim Williams), and he had reluctantly concurred with the

35. Jacksonville *Florida Times Union*, November 29, 1906, 4. State Board of Pardons, Application Case Files, FSA.
36. G. W. Varn, Valdosta, GA to the pardoning board, July 8, 1908. Application Case Files, box 91, file 1173, FSA.

other members of the jury in the guilty verdict. He declared that she had borne a good character before her conviction. Of equal importance was the fact that both Williams' parents were "respectable" and "well-liked by white people."[37] After seven years in prison, Belle Williams received a conditional pardon in October 1908.

Homicide cases involving women in Florida as either victims or perpetrators reveal a high incidence of domestic abuse. The 19th century witnessed a shift in attitudes toward wife-beating and wife-killing, illustrated by the passage of several state laws that made wife-beating a misdemeanor.[38] Although Florida apparently did not enact such a law, the existence of domestic violence seems to have been acknowledged by state authorities. Nevertheless, there was a reluctance to intervene in familial affairs partly because of community customs and partly because of the problem of determining when reasonable chastisement became excessive violence. The police and the criminal justice system appear to have intervened in cases of domestic abuse only when an assault was reported or when a homicide resulted. For the abused wife or the dissatisfied husband in turn-of-the-century Florida, murder and/or violent assault were utilized as methods of dealing with marital problems.

In August 1901 in Tampa's Ybor City, a 70-year old Italian immigrant, Leopoldo Castellano, shot his wife, Antonia, in the back of the head as she was leaving home to go to church. She died instantly. He later testified that he had objected to her going out. Castellano's lawyers, Macfarlane & Raney, with the consent of the state's attorney, Colonel Peter O. Knight, entered a plea of "guilty" to a reduced charge of manslaughter. Had there been a trial the defense was planning to enter a plea of temporary insanity, presumably brought on by Antonia Castellano's disregard of her husband's wishes. As Leopoldo Castellano did not understand English, Judge Wall's sentence was relayed to the defendant through an interpreter: "The maximum penalty for this offense is twenty years in the penitentiary. Owing to your advanced age, the court will make your sentence five years. I am satisfied that this will be equivalent to a life sentence."[39] Three years later, however, Le-

37. J. F. Nutter, Supt. of the Logging Dept. of Geo. Wood Lumber Company, Caryville, FL to the pardoning board, July 28, 1908, ibid.

38. Friedman, *Crime and Punishment*, 222-23; Elizabeth Pleck, *Domestic Tyranny: The Making of Social Policy Against Family Violence from Colonial Times to the Present* (New York and Oxford, 1987), 109-110.

39. *Tampa Tribune,* December 12, 1902.

opoldo Castellano was granted a conditional pardon on May 16, 1904, for reasons of deteriorating health.[40]

Robert Henry assaulted his wife with an axe on the night of February 26, 1896. Mary Henry was discovered five hours later lying on a "cheap" bed in a blood-stained nightgown with blood and brain matter 'oozing' from the left side of her head. It was optimistically surmised in the *Times Union* that the operation of trephining (the drilling of holes in the skull to relieve the brain of pressure from a build-up of brain fluid) would facilitate a partial recovery. Three days later it was reported that "medical skill and the wonderful vitality of Mary Henry may save Robert Henry from being a murderer in deed, though not in heart." Mary Henry was to be known as the "woman with the curtailed conscience" as she would have "one-third less of that portion of her brain supposed to be the seat of higher mental faculties, than is assigned to mortals of her calibre;" however, her injuries proved fatal a few days later. The Board of Pardons declined to commute the sentence and "wife-killer" Robert Henry was executed on September 3, 1897.[41]

That it was much harder successfully to prosecute a wealthy and respected member of the white community in Florida in the early 20th century was to be expected. In May 1901, Charles R. Armstrong, a well-known Jacksonville grocery merchant, upstanding member of the white Jacksonville community, and trustee and steward of St. Matthew's Episcopal Church, fired three bullets from his .38-calibre Smith and Wesson revolver into his wife's back. Armstrong was reported as having been intensely jealous of his wife, and three weeks before the shooting, had used a pistol to force her out of the family home. In March 1901, Maria Armstrong had instituted proceedings for divorce on the grounds of cruelty and attempted murder. Divorce was an option for the abused wife in 19th- and 20th-century Florida but was perhaps an alternative many women could not afford either emotionally or financially. Maria Armstrong's attorneys estimated the value of her husband's estate at $25,000 and his monthly income at $300. They petitioned for maintenance money, suit money, counsellor's fees, and medical expenses.[42]

Maria Armstrong died four agonizing weeks after the shooting. The attack had left her paralyzed from the waist down, and her in-

40. *Report of the Commissioner of Agriculture, 1903-1904,* 369.
41. Jacksonville *Florida Times Union,* February 29, 1896, September 4, 1897.
42. Jacksonville *Florida Times Union,* June 4, 1901.

juries had been severely aggravated when she was moved several times because of the May 1901 fire which destroyed Jacksonville. Charles Armstrong was indicted for the willful murder of his wife. At his trial in December 1901, defense counsel Major Alex St. Clair Abrams called 30 witnesses to support the claim that, "Armstrong was not a sane man after he had made the discovery of the alleged infidelity of his wife on the occasion, when she is said to have left for Palatka, accompanied by a negro." The defense was then allowed to introduce as testimony a number of letters written by Maria Armstrong and whose content was said to be "shocking."[43] The alleged adultery of the defendant's wife was a common line of defense for defendants facing murder charges, but the allegation was usually based on circumstantial evidence. Nevertheless, Mrs. Armstrong's reputation as a loyal wife and her credibility as a victim were damaged beyond repute. In acquitting Armstrong on the grounds of temporary insanity, the message of the court was that adultery justified domestic violence if a white man's honor was at stake.

The majority of applications from female murderers to the board involve cases originally classified as petit treason under English common law; that is, murders committed by wives against their husbands. Sirena Jackson was found guilty of first-degree murder with a recommendation for mercy by a Pensacola jury in January 1899. She was sentenced to life imprisonment. She had been indicted on two counts of murder by an Escambia county grand jury in July 1898. The indictment resulted from allegations that she struck Ben Jackson, her husband, on the head with an axe, and had strangled him with a small rope. During the court trial, neighbors, Ben and Mary Green, testified that on many occasions they had heard Jackson beating his wife, and that Sirena feared her husband might kill her. The two further testified that Sirena Jackson had disappeared on the night of July 5, 1898. Two days later they had looked through a broken window to see Ben Jackson lying on the floor in a pool of blood. Escambia county deputy sheriff F. D. Saunders arrested Sirena Jackson on a train leaving Pensacola. When the case came to trial in December 1898, Sirena Jackson pleaded "not guilty" to the willful murder of her husband. She claimed her actions were justified because they were for the purpose of saving her life. She had acted in self-defense.[44]

43. Jacksonville *Florida Times Union*, December 6, 1901
44. Application Case Files, box 43, file 1002, FSA.

Application for pardon was made on May 2, 1907. Charles H. Alston, a prominent black lawyer from Tampa, was retained as attorney for the petitioner. Alston had been admitted to the Florida Bar in 1894 and according to his biography was eventually "identified in more than 11,000 criminal cases, including 2 of rape, 31 murder, and [the] death sentence was never executed on a single case handled."[45] Sirena Jackson's file contains letters of recommendation from seven jury members, two camp superintendents, the prosecuting attorney, and Judge Evelyn Croome Maxwell who had sentenced her. Nine years later Judge Maxwell wrote,

> The testimony showed a deliberate murder on her part and the verdict of the jury was entirely warranted, if not demanded by the evidence. The evidence, however, showed a persistent course of cruelty and persecution on the part of the murdered man following her from county to county and continuing the same oppression. The woman had tried to leave him and in this way escape his abuses, but [he] would not permit this and followed her from point to point until as a last resort in order to prevent him from making her life unbearable she killed him.[46]

In another letter to the pardoning board, Captain F. D. Saunders felt that there must have been some "great provocation" as to why a woman would commit such a "heinous murder." He concurred that the punishment already inflicted was sufficient for the circumstances of the crime.[47] Sirena Jackson received a conditional pardon in November 1907, "it appearing that the offence was committed under great provocation."

The crime of poisoning, historically associated with female offenders, was considered to be particularly horrific because it was unpredictable and obviously premeditated. A woman could strike at any time. Sociologist Hans Gross wrote in 1911:

45. Randall K. Burkett, Nancy Hall Burkett, Henry Louis Gates, Jr., eds., *Black Biography 1790-1950: A Cumulative Index*, Volume 1 (Alexandria, VA, 1991), xxvi, 166.
46. Judge E. C. Maxwell to the pardoning board, March 16, 1907, Application Case Files, box 43, file 1002, FSA.
47. F. D. Saunders, Deputy Sheriff, Escambia County to the pardoning board, March 20, 1907, ibid.

> Now, every murder, save that by poison, requires courage, the power to do, and physical strength. As a woman does not possess these qualities, she spontaneously makes use of poison. Hence, there is nothing extraordinary or significant in this fact, it is due to the familiar traits of women [cruelty, dishonesty, lack of reason, hypocrisy and a predisposition to cheat at cards]. For this reason, when there is any doubt as to the murderer in a case of poisoning, it is well to think first of a woman or of a weak, effeminate man.[48]

Administering poison was one of four types of offenses made punishable by death under Florida's "Black Codes."[49] Black women who where found guilty of poisoning their husbands, even in the postwar period, had to be punished both to alleviate societal fears and as a means of deterrence, as illustrated by the case of Mary Mozeak.

In October 1897, Mary Mozeak, a 22-year old black woman, was found guilty of poisoning her husband James with a well-known form of arsenic known as "Rough on Rats" and sentenced to life imprisonment. It was later revealed that the state's main witness, Adeline Traeger, had been paid by an unknown party to testify that she had witnessed a fight between husband and wife, in which Mary Mozeak threatened to kill her husband. She also claimed to have witnessed Mary Mozeak buy the rat poison and administer it to James Mozeak.[50] Even though the conviction appeared to have hinged on perjured evidence, the Board of Pardons was not moved to act and Mary Mozeak remained in the convict camps as a domestic servant for ten years.

Black women such as Mary Mozeak and Belle Williams sought the favor of the pardoning board through recommendations from prominent white citizens, often camp supervisors, under whom they had worked as domestic servants. In 1903 B. B. King, superintendent of the convict camp at Dunnellon, "cheerfully" recommended to the board that Mary Mozeak be pardoned, as she was obedient, faithful, thoroughly trustworthy, [and] of a good disposi-

48. Hans Gross, *Criminal Psychology: A Manual for Judges, Practitioners, and Students.* Translated by Horace M. Kallen. (Boston, 1911), 346, 357.
49. The other three were burglary, rape of a white woman and inciting insurrection. Richardson, 374.
50. Attorneys for the applicant, 1903; Mary Mozeak to Hodges & Hodges, January, 1903, in statement of application presented by Hodges & Hodges. Application Case Files, box 63, file 620, FSA.

tion."[51] In May 1903 Mrs. G. H. Martin wrote the board stating that, "among the white people at Clermont, Fla, her [Mozeak's] conviction was considered a miscarriage of justice." Mary Mozeak's application was refused in 1903, but granted in November 1907.[52]

Female offenders such as Mary Mozeak, Sirena Jackson, and Belle Williams were punished to deter other women from following their criminal paths. A loyal wife and ideal woman, black or white, simply did not kill her husband. At the same time, however, Mozeak, Jackson, and Williams were not sentenced to death, partly because of evidence of domestic violence, partly because of the paternalism of the jury members, and because Florida was not in the habit of executing women. Still, since all three were black they had less claim to self-defense because in the eyes of white jurors and white judges, they were not real "ladies."[53] Nevertheless, jury members felt they were acting honorably because they could later recommend leniency; and pardoning board members acted in an honorable way when they exercised clemency.

Roger Chadwick argues that gender alone was never an exculpatory factor in serious crime, rather "establishment" perceptions of femininity shaped judgements by officials with regard to women both as perpetrators and victims of murder.[54] The murderous acts of Mozeak, Jackson, and Williams were not justified, but were later pardoned after they had spent between seven and ten years working as domestic servants in the convict camps reclaiming their place within woman's proper sphere, and re-establishing their respectability as non-threatening and submissive domestics. Maria Armstrong, on the other hand, was perceived to have mounted a more serious challenge to her social position, as a white woman defying her husband's position and right to chastise her in the divorce courts, and then by allegedly committing adultery. In killing her, Charles Armstrong had acted in an honorable way to uphold his manhood and power. Lucia Zedner has noted a tendency on the part of 19th-century observers "to assess female crime not according to the act committed or to the damage alone but according to how far a woman's behavior contravened the norms of

51. B. B. King, Supt., Florida State Prison HQ camp, Dunnellon, FL to pardoning board, N.D., ibid.
52. Mrs. G. H. Martin, Neusho, Missouri to pardoning board, May 30, 1903, ibid. *Report of the Commissioner of Agriculture 1907-1908*, 478.
53. Ann Jones, *Women Who Kill* (London, 1991), 336.
54. Chadwick, *Bureaucratic Mercy*, 289.

femininity."[55] A similar argument can be applied to female victims. Maria Armstrong's perceived behavior contravened the standards of respectable behavior in turn-of-the-century Florida and the precepts of the male members of the state Board of Pardons. In a state where the woman suffrage movement made little progress until the second decade of the 20th century, the loyal wife and ideal mother remained important community standards. The idea that a female victim who was not considered "respectable" was in some way deserving of cruelty and death, reflected the South's chivalric code and the continued equation of female sexual purity / marital fidelity and male honor, and conversely female sexual misconduct and male dishonor, notions not exclusive to southern society.[56]

Etta Lee was shot twice by Wyatt Brewer as they were travelling in a hack cab in Jacksonville on June 9, 1906. Wyatt Brewer was described by the *Florida Times Union* as a 19-year old "bright mulatto" and a blacksmith by trade (most black offenders were given the ubiquitous description of "laborer"). Etta Lee, married with two children, made her living as a prostitute or "sporting woman." Black prostitutes as part of the rising "dangerous classes" remained on the very margins of southern society. Lee was further described as a dissolute woman who drank profusely and used excessive bad language, and "appeared to exert an extraordinary influence for evil and held him [Wyatt Brewer] completely under her domination."[57]

In spite of an operation to remove the bullets, Etta Lee died on June 10, and Brewer was charged with first-degree murder. Upon the findings of the coroner's jury, hack driver Harry Williams was also charged with aiding and abetting in the murder,[58] but became the state's chief witness against Wyatt Brewer when the case was brought to trial. At the trial in Duval circuit court, Brewer's initial defense attorney, George U. Walker, unsuccessfully relied upon an explanation of accidental shooting. He and Brewer maintained that Etta Lee had been fatally shot in the cab during a scuffle for possession of the revo1ver.[59] The jury clearly did not accept this explanation of events when on July 15, 1906, Wyatt Brewer was found guilty of first-degree murder with no recommendation to mercy. A

55. Lucia Zedner, *Women, Crime, and Custody,* 28.
56. Julian Pitt-Rivers, "Honor," 506.
57. Walter M. Davis to Dr. J. D. Love, Jacksonville, October 13, 1908. Application Case Files, box 9, file 1222, FSA.
58. Jacksonville *Florida Times Union,* June 15, 1906.
59. Jacksonville *Florida Times Union,* July 17, 1906.

sentence of death was pronounced on July 24.[60] Brewer was confined in Duval County jail to await Governor Napoleon Bonaparte Broward's signature on the death warrant. An appeal to the Florida Supreme Court was unsuccessful and Wyatt Brewer's execution was eventually set for October 30, 1908.

Following the Supreme Court's decision to uphold the conviction,[61] Calvin H. Brewer had employed attorney Walter M. Davis to represent his son. Davis's strategy was two-fold: to attack the credibility of the victim and to create grave doubt in the minds of members of the board as to Wyatt Brewer's sanity, thus rendering him an unfit subject for the gallows. Over 50 affidavits were collected to give credence to this strategy.[62] At a meeting of the pardoning board on October 21, 1908, Calvin H. Brewer petitioned for a commutation of his son's sentence from death to life imprisonment. Three reasons were given. First, Calvin Brewer believed that at the time of the killing his son was "demented, insane, mentally irresponsible, and that such is his present mental status." Davis informed members of the Board of Pardons that Wyatt Brewer had inherited the streak of insanity associated with the female side of the family, which was attributable to miscegenation when the Brewers were slaves on the Calhoun plantation in South Carolina. A number of aunts and Brewer's maternal grandmother were said to be quite demented. Calvin Brewer reported that following the birth of their third child (Wyatt) his wife Anne had become violent, subject to "excesses", and finally died a "maniac."[63] Wyatt Brewer apparently exhibited similar inherited symptoms. In a letter to Walter M. Davis in October 1908, Mr. A. D. Williams lamented, "to hang that man seems a pity; a poor, demented, unfortunate, diseased creature, that, I am sure, does not realize the conditions that threaten him, now, or the enormity of the crime committed.[64]

60. Jacksonville *Florida Times Union,* July 24, 1906.
61. Jacksonville *Florida Times Union,* September 10, 1908.
62. J. S. Geter swore that Brewer's father, a respected black businessman, had been vigorously opposed to his son's association with Etta Lee. Calvin Brewer had even tried sending his son to Atlanta to remove him from her "evil" influence. Etta Lee ostensibly sent Wyatt Brewer the money to return to Jacksonville against his father's wishes. See affidavit of J. S. Geter, "blacksmith in Jacksonville since 1885," July 22, 1907, Application Case Files, box 9, file 1222, FSA.
63. Calvin Brewer, application for pardon, ibid.
64. Letter of Walter M. Davis, October, 1908, Application Case Files, box 9, file 1222, FSA.

Furthermore, the principal state witness, Harry Williams, alias Henry Williams, had himself been convicted of a double homicide in Georgia in December 1895. After being sentenced to life imprisonment he had escaped. He was thus a fugitive from justice, and his testimony could not be taken seriously." Finally,

> . . . the woman, alleged to have been killed, was a worthless, degenerate prostitute who, by her acts and conduct, conduced [sic], largely, to her own death; that she had exerted a strong influence and domination, over said defendant, for evil; and, because of his weak-minded condition, had largely conduced [sic] to the dethronement of his reason and, by such means, contributed to her own death.[66]

Calvin Brewer, a respectable and respected member of Jacksonville's black community, was described by black and white neighbors and acquaintances as an honest, industrious, and law-abiding man who was devoted to his family.[67] He remained steadfastly loyal to his son throughout the trial and continued to visit him every day in jail. Many people sympathized with the old man in his desperate efforts to save his son from the gallows.[68]

Whether Wyatt Brewer was criminally insane was never proven, but the Board of Pardons did vote to commute his sentence to life imprisonment on October 28, 1908, two days before the scheduled hanging.[69] Because Wyatt Brewer was not sent to the state mental hospital at Chattahoochee, but to the convict lease system, one can argue that while the issue of mental deficiency may have influenced the board members' decision, other factors such as the character of the victim, Etta Lee, and her alleged influence over the defendant, as well as the "respectability" of Calvin Brewer, were important. Wyatt Brewer was eventually granted a conditional pardon on August 1, 1917.[70]

65. W. H. Berrie, Sheriff of Glynn County, Georgia to H. M. Harris, April 25, 1907, May 2, 1907, June 19, 1907. Application Case Files, box 9, file 1222, FSA.
66. Application for pardon. Application Case Files, box 9, file 1222, FSA.
67. Affidavit of Daniel E. Vandross, "barber and Jacksonville citizen since 1872," Application Case Files, box 9, file 1222, FSA.
68. Jacksonville *Florida Times Union,* October 29, 1908.
69. Ibid.
70. *Report of the Commissioner of Agriculture, 1919-1920,* 34, Application Case Files, box 9, file 1222, FSA.

In his discussion of pardons as an integral part of the "ideology of mercy" in 18th-century England, Douglas Hay asserts: "The grounds for mercy were *ostensibly* that the offense was minor, or that the convict was of good character, or that the crime he had committed was not common enough in that county to require an exemplary hanging."[71] In other words, these were not real grounds; rather they constituted a "smokescreen." However, as John H. Langbein has countered: "In an age before probation and large-scale penal imprisonment, the existence of family and employment relationships was highly relevant to the decision whether or not to release an offender into the community."[72] In other words, these were not ostensible reasons but the real reasons for the issuance of pardons. A similar argument can be applied to Florida in the 1890s and early 1900s. Wyatt Brewer was saved from the gallows because his act of violence was contained within the black community and involved a common prostitute, part of a rising black criminal class. The contrast between the social status of the victim and that of the accused justified the decision of the board to act in a paternalistic manner and commute Brewer's sentence to life imprisonment. The Brewer case, and that of Otis D. Smith below, illustrates the relationship between notions of acceptable behavior and respectability, paternalism, and the "criminality" of an act of murder.

In July 1908, under the front-page headline DEPRAVITY AND DEGENERACY MARK THE STORY OF HORROR HEAPED ON HORROR, the *Florida Times Union* announced,

> . . . the State of Florida formally demanded that Otis D. Smith, a white man, be sent to the gallows to give his own miserable, sin-stained life as some little expiation for that other life he had first ruined and then destroyed. It was the most misery-laden, horror-frightened, sin-scarred story that has ever been told in the annals of the circuit court.[73]

71. Douglas Hay, "Property, Authority and the Criminal Law" in Douglas Hay, et al., *Albion's Fatal Tree: Crime and Society in Eighteenth Century England* (New York, 1975), 43-44.
72. John H. Langbein, "Albion's Fatal Flaws," *Past & Present* 91 (1983), 111. "Even today, if a convict can get respectable people to support him, sentencing officers are inclined to give weight to that evidence on the grounds that it has predictive value as to the likelihood of successful resocialization."
73. Jacksonville *Florida Times Union,* July 14, 1908.

It was rare for a white offender to receive a sentence of death, and even more exceptional for such sentence to be executed. In fact, Otis D. Smith was reported as being the first white man to be hanged in Duval County for 30 years.[74]

In the late afternoon of May 6, 1908, four gun shots were heard in the streets of Jacksonville. Witnesses rushed to a house on West Adams Street to find a woman stretched full length in a pool of blood with wounds to the head, left chest, and left forearm. A man was standing over the dead woman with a smoking pistol in his hand.[75] The victim was Cora Belle Smith, a "pretty" 23-year old press feeder, one of a growing number of white working women in the New South.[76] Her assailant was her brother, 31-year-old Otis D. Smith, a pressman who had recently lost his job with the Industrial Record Printing Company. The general consensus of opinion was that Smith had shot his sister while either "intoxicated or in a fit of rage." He had a prior record of arrests for disorderly conduct and fighting, and was reported to be acutely jealous of his sister who he had previously threatened with physical violence and beaten "unmercifully." Smith claimed that on the afternoon of the shooting his sister had insulted him and there had been a scuffle for the pistol during which Cora Belle Smith had been shot accidentally.[77]

While in custody, Smith sought to damage his sister's reputation by relating several stories about her immoral lifestyle, one of which linked her to a prominent businessman in Atlanta. He claimed that he had vainly tried to encourage his sister to "lead a better life."[78] However, public indignation soared when it was revealed by an obliging *Times Union* that the young woman had unwittingly given her brother the money to buy the pistol which he used to murder her. Smith had bought the .38-calibre Harrington-Richardson gun for three dollars in the afternoon prior to the shooting, and had rented the room on West Adams Street around four o'clock on the fatal day. Cora Belle Smith had been in the room only 20 minutes when the shots were heard at 4:45p.m.[79]

74. Jacksonville *Florida Times Union,* June 9, 1909.
75. Jacksonville *Florida Times Union,* May 7, 1908.
76. Ayers, *Promise of the New South,* 77.
77. Jacksonville *Florida Times Union,* May 7, 1908, May 9, 1908.
78. Ibid., May 7, 1908.
79. Ibid., May 8, 1908, July 6, 1908.

Smith engaged defense attorney Gordon R. Broome and determined to plead "not guilty" to all charges. At the trial in Duval circuit court, Broome wavered between presenting a plea of "guilty" to accidental shooting during a struggle for the weapon; a denial that the victim and her killer were related; and a plea of temporary insanity. All remaining sympathy for Smith promptly evaporated and further sensation was created when rumors of incest surrounded Smith.[80] The prominent (and married) businessman from Atlanta, allegedly responsible for Cora Belle Smith's "downfall," arrived at the court with an affidavit signed by the victim "to the effect that her brother had morally ruined her."[81]

On July 15, 1908, as expected, a verdict of "guilty" was returned against Otis D. Smith by a jury which, perhaps unexpectedly, did not include one native Floridian. The jurors were reportedly originally from North and South Carolina, Virginia, Illinois, New York, Massachusetts, Ohio and Northern Europe.[82] This was not exactly a jury of Smith's peers and underlined the assumption that no Florida jury would convict in such a case. Broome requested a new trial and then announced his intention of appealing to the Florida Supreme Court to reverse the verdict. However, many commentators believed this would prove futile and they were right. The *Times Union* reported with certainty that, "even the overwhelming tendency of the present Board of Pardons to grant commutation and complete pardons will be checked in this atrocious case, and the man will be compelled to meet the penalty his base heartlessness has so richly earned."[83]

Three months later, in October 1908, Smith was reported as being bereft of money and friends to help fight his case further. He filed an affidavit of insolvency, placing the burden of his court costs on Duval County, and expressed dissatisfaction with his attorney, Gordon R. Broome. Attorneys Scarborough & Scarborough took over the case, declared new evidence had come to light, and announced their determination to save the life of this "unfortunate young man."[84] However, on February 16, 1909, the Florida Su-

80. Ibid., July 14, 1908.
81. Ibid., August 22, 1908.
82. Ibid.. July 16, 1908.
83. Ibid., July 17, 1908.
84. Ibid., February 18, 1909.

preme Court affirmed the decision of the lower court, and Governor Albert Gilchrist set the date of Smith's execution as May 7.[85]

At a meeting of the Board of Pardons on the eve of Smith's scheduled execution, M. M. Scarborough applied to have Smith's sentence commuted to life imprisonment, and presented a considerable volume of evidence on his client's behalf. The board asked Governor Gilchrist to stay the execution until June 11, 1909 in order that "it might give proper consideration to the new evidence before it."[86] In response to news of the reprieve, the Reverend J. T. Boone of Jacksonville's First Christian Church, Smith's spiritual adviser, "offered prayers while the ladies of the church sang hymns.[87] At a second meeting of the Board of Pardons on May 21, 1909, a letter from Judge Rhydon M. Call to Governor Gilchrist was read to members of the board. Judge Call wrote, "The impression left on my mind from the testimony of the witnesses sworn and subject to cross-examination, is that this is not a case for leniency."[88] The refusal of Judge Call to endorse the application for commutation of sentence seems to have been the decisive factor in Smith's case. At the third meeting of the board, specially called to discuss the case on June 3, the board finally and unanimously decided against any commutation of the death sentence.[89] Otis D. Smith was executed on June 11, 1909.

Judge Call had imposed a death sentence on Otis D. Smith following the verdict of the jury, in response to community opinion, and in accordance with the statute relating to first-degree murder. He chose not to recommend leniency at a later date, and in doing so reflected a consensus among the Jacksonville population as to the need for harsh punishment of offenders convicted of inter-family killing. Public disapproval and opinion, especially in an election year such as 1908 and during the first months of Governor Gilchrist's term in office in 1909, undoubtedly did much to regulate the board's decision not to exercise clemency. Further, it may have been necessary occasionally to execute a white man in order to demonstrate that due process of law existed for offenders of both

85. Ibid., April 6, 1909.
86. Board of Pardons, minutes, May 6, 1909, 8.
87. Jacksonville *Florida Times Union*, May 7, 1909.
88. Board of Pardons, minutes, May 21, 1909, 11.
89. Ibid, June 3, 1909, 17.

races in Florida and that the 14th Amendment was being upheld. In 1760, at Tyburn, Lawrence Shirley, Lord Ferrers, was "the wicked aristocrat who met a just end on the scaffold."[90] In 1909, in the Duval county jail yard, Otis D. Smith was the wicked white man who met his just end on the scaffold.

Lawrence Friedman argues that the shape of a criminal justice system is defined by social structure and cultural norms– the way society is organized and people's ideas, customs, habits and attitudes– their belief system.[91] Florida's criminal justice system was defined by a biracial and multi-ethnic society based on inequality and patriarchy, and according to the belief system of respectable white male members of that society. The law was an ideological instrument for white middle class males to reinforce dominance, and to restrict black and lower class freedom,[92] but this is not to say that black, lower class or female Floridians did not possess agency within the system. Letters of recommendation and petitions point to a process of bargaining for mercy, a process in which a small group of offenders convicted of murderous acts, with the financial resources to pay for legal assistance, and a network of family, friends, and acquaintances willing to put pressure on the board, could effect their release. The foregoing cases emphasize the fluidity of Florida race relations in the late 19th and early 20th centuries before systematic racial separation became firmly entrenched. Gender and race relations in the context of Florida's Board of Pardons seem marked by personal, interclass, and interracial ties which could be paternalistic and patronizing, yet ultimately invaluable. Letters of recommendation from employers, white persons of social standing, camp guards and superintendents, had weight with the board, especially when the applicant's good character and respectability were emphasized.

By the turn of the century the board "granted nearly all pardons on the condition that the one receiving the pardon shall thereafter lead a sober, peaceable, law-abiding life, and that he shall be re-incarcerated upon his failure to comply with these con-

90. Douglas Hay, "Property," 33.
91. Friedman, *Crime and Punishment,* 6.
92. Between 1890 and 1910 the ratio of black to white prisoners in Florida's jails and convict lease system never fell below 85 percent. See *Reports of the Commissioner of Agriculture 1889-1910.*

ditions.[93] There existed a belief in reformation and rehabilitation for offenders with roots in the community, but the Board of Pardons measured the potential for reformation in terms of the perceived character, status, and respectability of each applicant. The decisions by Florida's Board of Pardons to extend or withhold clemency to offenders convicted of murderous acts provides a discourse on the parameters of acceptable and respectable behavior in Florida 1889-1914; on the limits of reformation; and on the perceived depravity of offenders such as Robert Henry and Otis D. Smith. In the context of their times, pardon board members thought they were acting in an honorable, humanitarian and proper way.

93. D. Lang to Max Lederer, November 12, 1908, State Pardon Board, Incoming Correspondence, Box 1, Folder 1, FSA.