

A LAW LIBRARIAN REVIEWS “*VOICES OF THE DEATH PENALTY DEBATE: A CITIZEN’S GUIDE TO CAPITAL PUNISHMENT*” BY RUSSELL G. MURPHY

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If I were asked, as a librarian, for one book to recommend on the subject of capital punishment, it would be Professor Murphy’s *Voices*. This is a straightforward, unbiased report on the subject based on public hearings in New York State “on every aspect of death penalty practice and policy.” [p. 1] Professor Murphy has masterfully stitched together the testimony in the following categories: Justification for capital punishment (retribution, deterrence, incapacitation and rehabilitation), costs and the prosecutorial process, race, mental illness, and innocence. He also provides death penalty facts and figures, constitutional principles, and an international view of the subject. The volume has an index to witness statements, and lists Assembly Committee Chairs and Appearances. See Professor Rustad’s review essay on this book, “Why the Death Penalty Should be Abolished” (draft copy at the time of reading).

What impresses me most about the book is the demeanor of the witnesses. There are no politicians here looking for votes. Here are people looking for answers that have been sought since at least the Crucifixion. Read Scott Turow, Barry Scheck, Robert Morgenthau, Robert Meeropol and other witnesses and you find people looking for answers not proselytizing. And compare that Governor Dukakis may have lost the Presidency on the issue of capital punishment with an item in the New York Times (9/3/10, p. A16) about a man whose wife and children were murdered and is seeking the death penalty for the guilty parties (a much used hypothetical come to life that is used in testimony in Professor Murphy’s book). Mr. Dooley wrote that the Supreme Court follows the election returns and a responsible citizenry needs books to educate the voters. The issue demands the attention Professor Murphy has given it.

What Professor Murphy’s book does is ask the reader to expand his horizon. His book should be on any shelving on the subject that might include: *Actual Innocence- Five Days to Execution and Other Dispatches from the Wrongly Convicted*. Jim Dwyer (2000); *Actual Innocence: When Justice Goes Wrong and How to Make it Right*. Jim Dwyer, Peter Neufeld, Barry Scheck (2001); *The Airman and the Carpenter: The Lindbergh Kidnapping and the Framing of Richard Hauptman*. Ludovic Kennedy (1985); *All Things Censored. Mumia Ab-Jamal*. N. Hanrahan, ed. (2000); *Dead Man Walking: An Eyewitness Account of the Death Penalty in the U.S.* (1993, 1994); *Dead Wrong: A Death Row Lawyer Speaks Out Against Capital Punishment*. Michael A. Mello (1997); *The Death Penalty*. Mark Tushnet (1994); *Death Penalty in America: Current Controversies*. Hugo Adam Bedau, ed. (1997 anthology); *Divided Passions: Public Opinion on Abortion and the Death Penalty*. Kimberly J. Cook (1998); *The Encyclopedia of Capital Punishment in the U.S.* (2001); *A Handbook on Hanging*. Charles Duff. Christopher Hitchens introduction (1961, 2001); *In Spite of Innocence: Erroneous Convictions in Capital Cases*. Michael L. Rodelot, H.A. Bedau and C. E. Putnam (1992); *Is the Death Penalty Dying* Austin Sarat (2008); *Just Revenge: Costs and Consequences of the Death Penalty*. Mark Costanzo (1997); *The Killing State: Capital Punishment in Law, Politics, and Culture*. Austin Sarat (1999); *A Murder: From the Chalk Outline to the Execution Chamber*. Greg Fallis (1999); *Proximity to Death*.

William S. McFeeley (2000 – Georgia and capital punishment); *Sentenced to Death: The American Novel and Capital Punishment (1937)*; *Sentenced to Death-Capital Punishment in American*. Raymond Paternoster (1991); *When the State Kills: Capital Punishment and the American Condition*. Austin Sarat (2001); *Who Owns Death? Capital Punishment, The American Conscience, and the End of Executions*. Robert J. Lifton and Greg Mitchell (2000). For additional books, check the Suffolk Law School catalog under “Death Penalty.”

Professor Murphy’s book suggests that capital punishment should not be left to the experts. In “Just Trying to be Human in This Place” *Storytelling and Film in the First-Year Law School Classroom*, Kate Nace Day and Russell G. Murphy, 39 *Stetson Law Review* 247 (2009) write that storytelling and film should be an integrated part of the law school curriculum. And certainly capital punishment and fiction are bedfellows as the following list indicates: *American Tragedy* by Theodore Dreiser; *Anatomy of a Murder* by Robert Traver; *Billy Budd* by Herman Melville; *Ethel-The Fictional Autobiography of Ethel Rosenberg* by Tema Nason; *Executioner’s Song* by Norman Mailer; *In Cold Blood* by Truman Capote; *The Lottery* by Shirley Jackson; *McTeague* by Frank Norris; *Measure for Measure* by William Shakespeare; *Native Son* by Richard Wright; *The Ox Bow Incident* by Walter Von Tilburg Clark; *A Tale of Two Cities* by Charles Dickens; *Winterset* by Maxwell Anderson. While many of these novels and plays have been made into movies, in many instances they lose something in the script writing.

Professor Murphy’s book is a thinking person’s *vade mecum*. It is vital for the American people to be informed by people without rancor and just as you should not leave war to the generals you should not leave this issue to the politicians. This country needs more Sydney Cartons than the knitting Madame Defarges. I have not made a division in this listing of books as to what philosophy you would take from reading any one of them. Like Russell Murphy in his classic book, I leave it to the reader. You are the jury.

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