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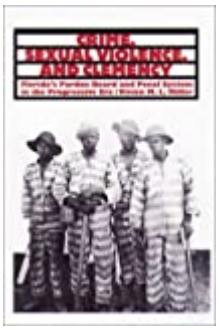

Vivien M. L. Miller. *Crime, Sexual Violence, and Clemency: Florida's Pardon Board and Penal System in the Progressive Era.* Gainesville: University Press of Florida, 2000. xiv + 366 pp. $49.95 (cloth), ISBN 978-0-8130-1808-9.

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Lawyers, Guns, and Money

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American popular culture abounds with images of the judicial and penal systems of the South. Paul Newman, Eddie Murphy, Rod Steiger, Sidney Poitier, even Woody Allen and Jane Fonda have starred in films depicting the brutality, racism, and corruption of Southern courts, jails, prison camps, and road gangs. The stereotype of the sadistic "red-neck" sheriff and the illiterate young black convict have become a staple of film, television, and pulp novels. Vivien Miller's interesting monograph moves past these pictures to paint a nuanced portrait of a state's response to crime in a society both obsessed with and divided by race. In a straightforward style, she manages to both reinforce our existing views of Southern criminal justice and subtly change them. By analyzing the Byzantine nature of Florida's Pardon Board in the years surrounding the turn of the nineteenth century, Miller reveals a system where race, culture, tradition, and law all constrain judicial decision making. In the end, Miller's story may be more disturbing than the one viewed on the silver screen where all the villains are clearly defined.

Progressive Era Florida was an anomalous place. Much of the state remained a frontier area, with extractive industries and subsistence farming the norm. Yet, Florida also had the South's highest rate of urbanization and most polyglot population, with European and Caribbean migrants filling factory slots in Tampa and Jacksonville. By the end of World War I, Florida stood on the edge of a tourism and real estate boom that would radically reshape the state and presage the Southern shift from cotton fields to Sun Belt. In spite of this *sui generis* status, Florida remained a quintessentially Southern state with regards to its criminal justice system. Florida, in ways similar to its fellow Southern states, used the convict lease system to punish criminals, keep state spending at a minimum, and provide an inexpensive labor force for the state's turpentine and phosphate industries. The vast majority of criminals adjudicated through the convict lease system were black, thus providing another function for the criminal justice system–maintaining and reinforcing the strict Jim Crow color line established in the South by both legal and informal means. Miller cites statistics showing that black males constituted 80 percent of those incarcerated in 1889, 88 percent in 1906, and 70

percent in 1916 (p. 31). She concludes that "Florida's criminal justice system was defined by a biracial and multiethnic society based on inequality, patriarchy, and white supremacy, and according to the belief system of respectable white male middle-class members of that society" (pp. 263-264).

Much of the story Miller tells is old news. The excesses of the convict lease, the brutality and racism of a system designed to maximize profits with little concern for the human costs, and the sheer terror involved in that process have been ably chronicled by, among others, Edward Ayers, Alex Lichtenstein, Matthew Mancini, and David Oshinsky.[1] Miller, however, focuses on an overlooked and more bureaucratic portion of the Florida criminal justice system–the pardon process initiated through the governor and cabinet. By centering her attention on this area, Miller views the state's criminal justice system as a series of brokering agencies, in which personal connections, public apologies, sheer serendipity, and notions of honor, respectability, and responsibility were paramount. Her description of the workings of the Pardon Board itself, and the men who served on it in its various forms, provides a strong point for the book's analysis. The State Board of Pardons was a constitutionally created agency established by Florida's Reconstruction government in 1868. A five-member panel, the Board consisted of the governor, the attorney general, and the state's three state supreme court justices. In 1896, the Board was reconstituted with three popularly elected Cabinet officers–the secretary of state, the comptroller, and the commissioner of agriculture–replacing the justices. State convicts were adjudicated through leasing to private companies until 1919, when Florida ended the practice on the state level (most Florida counties leased their prisoners until 1923). Miller uses her analysis of the Pardon Board to ask broader questions about the meanings of freedom and justice in Florida during the Progressive Era.

Miller provides a parallel analysis of two diverse groups of individuals. The first group composed Florida's power brokers and leaders. In a fine chapter, Miller gives readers a group biography of the white, rural, middle-aged lawyers who became the state's judges, sheriffs, legislators, governors, and cabinet officers. Consumed by a sense of honor and civic responsibility, these men saw their public duties as simultaneous selfless service to their state and region as well as opportunities for personal advancement and wealth. Their participation in the criminal justice system reinforced ideas about class and race, ideas that viewed poor, black males as dangerous and in need of constant supervision. The process of pardons allowed members of the elite class to maintain personal control of a part of the criminal justice system. Miller concludes that "the hegemony of the ruling elite, or 'best men,' was not, however, challenged by the pardon process; rather, the pardon process helped safeguard this hegemony" (p. 24). At the other end of the pardon process were Florida's convicts, overwhelmingly poor, black, young males with little education and even less opportunity for advancement. Mostly rural sharecroppers or urban laborers, these individuals lived in a world of violence and degradation far removed from that of the state's monied elite. Much of this violence was imposed from above, Miller asserts, as "white southerners of all classes felt the African American community in the late nineteenth and early twentieth centuries was lapsing into indolence and immorality, fears intensified by the equation of blacks with savage natures and animalistic passions" (p. 114). These two starkly different groups met through the workings of Florida's criminal justice system. The Pardon Board provided a mechanism by which individual offenders could petition to shorten their sentences without threatening the existing white-controlled power structure. While the number of pardons each year was small, the process remained the only legal means for prisoners to serve less than the sentence handed down by the trial judge.

Pardons were an incredibly discretionary process. The numbers of pardons issued depended on a series of variables, from the make-up of the Pardon Board and the interests of the governor to the crafting of the pardon application itself. Miller's best chapter examines the strategies prisoners utilized to attempt to achieve pardons and have their sentences ended or shortened. The formalized process of pardon application was lengthy and costly, and therefore many prisoners required help from kin, friends, patrons, and even lawyers, judges, and prison officials to sustain the appeal. The process represented the understanding of power relations in Progressive Era Florida–that poor (often black) prisoners would have to sound contrite, submissive, and remorseful in order for the pardon application to have even a chance of success. In Miller's words, "The language of supplication and appeal to the merciful executive … was necessary rather than that of confrontation or expectation, and implies conscious acknowledgement of the locus of social and political power" (pp. 139-140). Pardons were often granted in cases where impaired mental capacity or medical necessity made continued incarceration problematic. The Pardon Board looked more favorably upon appli-

cations supported by influential community and church members, so it is not surprising that prisoners attempted to craft petitions that showed backing from members of the same class as government officials. Especially influential were letters attesting to the positive character of the applicant and his ability to become self-supporting and positive within his community upon release.

While focusing on the pardon process itself, Miller also looks at the broad scope of the Florida penal system. She examines the small number of female inmates and finds their plight especially troublesome to a state in which gender roles were extraordinarily rigid. She also analyzes the two major categories of serious violent crime that caused individuals to be placed in the lease system–murder and rape. She concludes, with little surprise, that race played a large role in determining the seriousness of the charge, the adjudication of the charge through trial, and the sentencing itself. While whites believed blacks to be more inclined to daily violence, they could not tolerate such violence as a means to violate the parameters of a racially divided society. This especially applied to the crime of inter-racial rape, a crime that violated all the boundaries of Southern society. Rape was also a gendered offense, one in which the alleged victim was often stigmatized and dishonored. Miller concludes that "in Florida, rape victims seem to have been branded with an invisible 'CP,' for 'common prostitute,' the permanency of which is evident in the way the demeanor of prosecuting witnesses was assessed long after the event" (pp. 184-185). For Miller, the double standard, "in which black men were held to a lesser account if they raped black women," was a particularly egregious example of the problems of Florida's criminal justice system (p. 216).

Vivien Miller has written a interesting and troubling account of Florida's criminal justice system. By centering her analysis on the role of pardons, she highlights the personalized nature of the system itself. She also brings to light the subtle racist and gendered underpinnings of a system in which role-playing (the supplicant black prisoner and the patriarchal white dispenser of pardons) becomes paramount. There are problems however with Miller's analytical framework. Her use of theoretical literature, especially the obligatory nod to Michel Foucault, seems added on and cobbled together. Instead of integrating this work with her examples and analysis, her use of theory stands apart from Florida and adds little to her overall story. She also fails to place Florida's pardon system in a regional or national context. How does Florida's idiosyncratic pardon system compare to those in other Southern states using the convict lease system? How and when do national ideas about the professionalization of parole and probation begin to affect Floridian notions about the efficacy of pardons? Finally, while Miller's centering her analysis on pardons is unique and intriguing, one has to remember that pardoned prisoners constituted a very small percentage of those incarcerated through Florida's lease system. How typical of all Florida prisoners were the cases Miller cites? Why does an examination of this pardon system shed light on broader issues concerning Florida's prison system, the convict lease, and the professionalization of penology? In spite of these concerns, Vivien Miller has written an important and informative book–one that will have to be reckoned with in any examination of Florida in the Progressive Era.

Note

[1]. See especially Edward Ayers, *Vengeance and Justice: Crime and Punishment in the Nineteenth-Century American South* (New York and Oxford: Oxford University Press, 1984); Alex Lichtenstein, *Twice the Work of Free Labor: The Political Economy of Convict Labor in the New South* (London: Verso, 1996); Matthew Mancini, *One Dies, Get Another: Convict Leasing in the American South, 1866-1928* (Columbia: University of South Carolina Press, 1996); and David Oshinsky, *"Worse than Slavery": Parchman Farm and the Ordeal of Jim Crow Justice* (New York: Free Press, 1996).

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