

REPORT IN FAVOR OF THE
ABOLITION
OF THE PUNISHMENT OF DEATH
BY LAW

THE ABOLITION CLASSICS

The texts that built the case against the death penalty

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**REPORT IN FAVOR OF
THE ABOLITION OF THE
PUNISHMENT OF DEATH
BY LAW**

New York State Assembly, April 14, 1841

JOHN L. O'SULLIVAN

Edited and Modernized by
JEFF HOOD

THE ABOLITION CLASSICS
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FOREWORD

In the spring of 1841, a twenty-seven-year-old assemblyman from New York City stood up before the New York State Legislature and delivered the most comprehensive argument for abolition of the death penalty that had yet been made in America. John L. O'Sullivan was not primarily an abolitionist. He was a Democrat, a journalist, a nationalist—the man who would coin the phrase “Manifest Destiny” four years later to describe American continental expansion. He was a man of enormous rhetorical energy and considerable political skill, and he had been appointed to chair a select committee of the Assembly examining capital punishment, formed in response to Governor William Seward's message to the Legislature. He took the assignment seriously. The report he produced ran to more than a hundred pages of argument, evidence, and legal and theological analysis. The Legislature ordered ten times the usual number printed.

O'Sullivan's report belongs in this series because it is, in many respects, the definitive American statement of the abolitionist argument in the pre-Civil War era. He knows everything. He has read Beccaria, he has read Livingston, he has read the British parliamentary testimony, he has read the European criminologists. He has obtained the actual records of every capital case tried in New York over the previous two years, and he analyzes them in detail. He has examined the scriptural arguments for capital punishment with more

thoroughness than almost any secular document before or since, and he dismantles them with methodical care. He understands the deterrence literature before deterrence research was a recognized field. He makes the argument from wrongful conviction with the precision that would not be widely available again until the Innocence Project began its work a hundred and fifty years later.

I came to O'Sullivan through the legislative history of abolitionism—through searching for the moments when the argument broke into formal public life, not just into philosophical essays and private correspondence, but into the chambers where laws are made. This report is one of those moments. It came close. The bill it accompanied carried the procedural vote ordering it to a third reading, fifty-seven to fifty-two. It failed on the final vote, forty-seven to fifty-two, taken at a late-night session when enough of its friends had gone home to turn the count. Five votes carried it forward and five votes killed it. Five votes, in 1841, might have made New York the first American state to abolish capital punishment—five years before Michigan did it, and eleven years before Rhode Island became the first state to abolish it for every crime.

What strikes me most, reading the report across nearly two centuries, is the quality of the outrage. O'Sullivan is not a sentimentalist. He frames his argument explicitly as a matter of policy rather than mercy, of "a wise and severe justice" rather than "a compassionating mercy." He knows that the legislative chamber is not the place for tears. But underneath the careful legal and empirical argument runs something that I recognize from my

own years on death row: the shock of someone who has looked directly at what the state is doing and cannot make himself stop seeing it. Eleven executions in two years. Eleven times a man was brought to the scaffold. Eleven times the image of God, as O'Sullivan puts it in a phrase that stops me cold, was desecrated.

He was writing to legislators who had the power to end this. He failed, narrowly, to persuade them. His report descended to those who came after, which is us. The argument is as complete and as sound in 2026 as it was in 1841. What has changed is the accumulation of evidence—two centuries more of data confirming every empirical claim he made. What has not changed is the fundamental situation: the state is killing people, and the question of whether it has the right to do so has not been adequately examined. O'Sullivan examined it. We are still not done answering him.

Rev. Dr. Jeff Hood
North Little Rock, Arkansas
2026

EDITOR'S NOTE

The Author

John Louis O'Sullivan (1813-1895) was a New York journalist, editor, Democratic Party operative, and political essayist who played a significant role in the intellectual life of Jacksonian America. He was the founder and editor of the *United States Magazine and Democratic Review*, which published early work by Nathaniel Hawthorne, Walt Whitman, Edgar Allan Poe, and Henry David Thoreau, among others. He is best known today for coining the phrase "Manifest Destiny" in 1845, though his broader significance lies as much in the progressive causes he championed before that phrase appeared.

O'Sullivan was elected to the New York State Assembly as a Democrat and served from 1841 to 1842. During his term he was appointed to chair the select committee on capital punishment, established in response to Governor William Seward's message to the Legislature. He threw himself into the work with characteristic intensity, producing a report of unusual depth and ambition. The report was accompanied by a bill to abolish capital punishment and replace it with life imprisonment at hard labor in solitary confinement, placed beyond the reach of executive clemency. The bill passed the first procedural vote by five votes, fifty-seven to fifty-two, and failed the final vote by the same margin, forty-seven to fifty-two,

the latter loss occurring at a late night session when many of its supporters had gone home.

O'Sullivan's subsequent career took him in other directions. He became deeply involved in the expansionist movements of the 1840s, coined the phrase Manifest Destiny, supported the annexation of Texas, and eventually became a diplomat and a Confederate sympathizer during the Civil War—a trajectory that sits uneasily alongside the moral seriousness of the 1841 Report. He died in New York in 1895, largely forgotten by the time of his death. The Report, meanwhile, had quietly become one of the foundational documents of the American abolitionist tradition.

The Report

The Report in Favor of the Abolition of the Punishment of Death by Law was submitted to the New York State Assembly on April 14, 1841. Ten times the usual number of copies were ordered printed, an indication of the significance the Legislature attached to the subject. A second edition followed later in 1841, accompanied by a preface describing the bill's narrow defeat. The text runs to approximately 130 pages of argument, evidence, quotation, and legislative analysis, followed by an appendix containing summaries of the capital cases reviewed by the committee. That appendix, a docket of two years of New York murder convictions with the committee's notes on each, is not reproduced here.

The report's structure is unusually comprehensive for a legislative document. O'Sullivan addresses, in turn: the scriptural

argument for capital punishment (the Mosaic code, the Noahic covenant, the New Testament passages); the philosophical argument from the social compact and the limits of delegated governmental authority; the moral effects of execution on society and on the jury system; the empirical evidence on deterrence, drawn from British parliamentary testimony and European criminological research; the problem of wrongful execution; the argument from ancient usage and the progressive reform of criminal law; and the harmony of mercy and justice as twin aspects of a single truth. Each section is exhaustive within its genre.

The report is also, at the level of prose, one of the finest pieces of abolitionist writing in the American tradition. O'Sullivan was a professional man of letters, and the Report shows it. The description of a hanging in the opening pages—the scaffold, the condemned man, the image of God desecrated—is as powerful as anything in the literature. The analysis of the deterrence evidence is as rigorous as a modern empirical argument. The scriptural exegesis is careful and learned. And the original closes on an image of Christianity and democracy as fair twin sisters walking hand in hand over the earth, a peroration of the kind a Senator might have given on the floor. The present edition ends where the committee ended its own argument instead, with the recapitulation.

The Modernization

This edition presents O'Sullivan's Report in modernized form. The original text is dense with

the rhetorical conventions of early nineteenth-century American political writing: very long sentences, elaborate subordinate clauses, frequent quotation in Latin and French, and the assumption of a classical education that the reader may or may not bring. The present edition simplifies the sentence structures, translates the foreign-language passages, provides context for the historical references, and reorganizes the text under explicit section headings that make the argument's structure more visible to a contemporary reader. The Report's arguments, positions, and evidence are preserved, with the single exception noted below; otherwise only the presentation has been updated.

The original text also contains lengthy quotations from British parliamentary testimony, European legal writers, American legislators, and scriptural commentators, all of which are woven into O'Sullivan's argument. Most of these passages have been condensed and paraphrased with attribution, both to clarify the structure of the argument and to keep the reader's attention on O'Sullivan's own voice rather than on the voices he marshals as evidence. Where the exact words of a witness carry weight that paraphrase would lose—the Governor's message, the testimony of the Ordinary of Newgate, Lafayette's formulation before the Chamber of Deputies—the quotation has been retained.

Two features of the original require comment rather than silent modernization. The first is O'Sullivan's treatment of the Jewish people. In arguing that the Mosaic code cannot bind a modern legislature, he reaches for the supersessionist

commonplaces of his century, characterizing the Jews of the biblical period as a people at an early and savage stage of moral development and offering that supposed backwardness as the reason their law was severe. Those characterizations have been removed from this edition. They are not incidental to the sentences they appear in, but they are incidental to the argument, which stands entire without them: a legal code written for one people in one century, under conditions of war and scarcity, does not thereby govern another people in another. O'Sullivan needed no slander to make that point, and this edition does not print his.

The second is a tension the reader will find in the deterrence argument and should not be talked out of. Sections III and IV hold that the passions producing grave crimes are not the passions of calculation, and that the man in the grip of rage or desperation is not weighing penalties at all. Section IV then argues that perpetual imprisonment deters better than death because the criminal, asked to choose, would take death. The second claim assumes the weighing that the first denies. Livingston's answer, which O'Sullivan adopts, is that a sufficiently concrete and durable suffering speaks to the passions in terms they can hear even when reason is not consulted. Whether that answer holds is a question the Report leaves open. It is left open here.

The Series

This volume is part of The Abolition Classics, published by Complicit Press to make the essential texts of the abolitionist tradition available in

contemporary language. O'Sullivan's Report belongs in this series because it is the most comprehensive legislative abolitionist argument produced in America before the Civil War, a document that came within five votes of making New York the first state to abolish execution, and that has influenced every subsequent American abolitionist argument whether or not its authors knew its name.

*“The divine impression of the image of
God, stamped on the humanity of which
the murderer partakes in common with
his executioner, his judge, and his
legislator, has been desecrated.”*

— John L. O’Sullivan

*Report in Favor of the Abolition of the Punishment of
Death by Law, 1841*

THE REPORT

**REPORT IN FAVOR OF THE
ABOLITION OF THE
PUNISHMENT OF DEATH BY LAW**

*Made to the Legislature of the State of New
York, April 14, 1841, by John L. O'Sullivan,
Member of the Assembly from the City of
New York. Second Edition.*

PREFACE TO THE SECOND EDITION

A second edition of this Report being called for by public demand, it seems right to add a brief account of what happened to the bill it accompanied.

The great press of business before the Assembly made it impossible to bring the bill up for consideration until within a few days of adjournment. The same pressure forced its supporters to allow it to go to the vote without debate—without even a reply to three speeches in opposition, which were calculated to do serious harm to its prospects. Despite these difficulties, the first procedural vote, ordering the bill to its third reading, passed in the affirmative, fifty-seven to fifty-two.

The bill could not then be brought to the final vote until a late hour of a night session, when the physical exhaustion of many members had thinned the attendance severely. It was lost by the same margin of five votes: forty-seven in favor, fifty-two against. Among those absent, the friends of the bill outnumbered its opponents substantially. Had the House been full, it would have passed by a clear majority.

These facts are mentioned to prevent discouragement among those who care about this reform. Every reason exists to expect the bill's passage in the next session, and to that end it is earnestly hoped that as many citizens as possible will petition the next Legislature in its favor.

New York, October 1st, 1841.

OPENING

The Solemn Magnitude of the Question

The select committee of the Assembly, charged with examining the Governor's message on capital punishment and the petitions of citizens praying for the repeal of all laws authorizing death as a punishment, submits the following report.

Profoundly aware of the gravity of the subject, the committee has approached its task with the most earnest desire to understand, and to present correctly to the Legislature, the full force of the arguments and evidence bearing upon it—arguments drawn from revelation, reason, and experience alike. The committee has endeavored to lay aside prejudice, and to set aside those natural feelings of sympathy and sensibility which, however common to all, ought not to intrude into the chambers of legislation when a subject of such vital consequence to human life is under consideration.

The portion of the Governor's message referred to the committee is worth quoting at length:

Sixteen convictions for murder have been reported to me within the last two years. Of these, one conviction was reversed on appeal; one convict was pardoned because, though he had pleaded guilty, the court certified he was insane when the crime was committed; three sentences were commuted to life

imprisonment on the grounds of doubt about the justice of the conviction or of mitigating circumstances; nine have suffered the penalty prescribed by law; and two are now awaiting the same fearful punishment. While many citizens deny the absolute right of government to inflict capital punishment, all agree that its too great frequency operates as an encouragement rather than a preventive of crime.

The question the Governor thus raises, whether the frequency of execution is itself a cause of crime, is, when its full implications are drawn out, nothing more nor less than the question of whether capital punishment ought to be totally abolished. If all agree that too great a frequency encourages rather than deters crime, it becomes a pressing question whether any frequency at all can serve the purpose punishment is meant to serve.

The two persons awaiting execution at the time of the Governor's message have since been put to death. Eleven persons, therefore, have been sent to their final account by the penal justice of this State within two years. Eleven times the gloomy and revolting spectacle has been re-enacted—the gathering of the law's agents and representatives around the bound and helpless man, his forced ascent of the scaffold steps, the fatal cord adapted to his neck by the reluctant hands of another human being. Eleven times the shuddering shock has run through the community, that the divine image of God, stamped upon the humanity of the murderer no less than upon that of his executioner, his judge, and his legislator, has been desecrated.

The sacred breath of life has been trampled out in the dust, and a living soul sent to a future state of which the imagination shrinks back appalled from venturing to conjecture.

The committee's conclusion, after the most mature and careful investigation it could bring to the subject, is that the punishment of death by law ought to be forthwith and forever abolished by the State of New York. The substitute proposed is life imprisonment with labor, in solitude, placed permanently beyond the reach of executive clemency. The committee proceeds now to set out the reasons—reasons it presents as more of policy than of sentiment, of wise and severe justice rather than of compassionating mercy—which have brought it to that conclusion.

I

The Scriptural Argument Examined

The first question the committee is bound to address is the scriptural aspect of the subject. The opinion is widely held, among those who have not specifically investigated the question, that the practice of capital punishment has not only the sanction but the express command of Scripture—and this opinion is the basis of nine-tenths of the opposition one encounters, in ordinary society, to abolition. If this opinion were well-founded, if Scripture truly enjoined death as the punishment of murder in terms obligatory not only on the ancient nation to which the injunction was first addressed but on the more advanced civilization of our own age, the committee would consider its task at an end, and would not presume to go further in consulting the uncertain conclusions of human reason.

But after the fullest investigation in their power, the committee has been brought to the opposite conclusion: that so far from any such mandate being found in the pages of Holy Scripture, the very reverse is there impressed, in both its earliest and latest portions, in terms that have been too long obscured by inveterate errors of translation and application.

The Mosaic Code

The defenders of capital punishment rest their case, in the Old Testament, primarily on the Mosaic code and on the Noahic covenant. It is not disputed that the code of laws given through Moses to the Jewish people recognized, and for certain offences prescribed, the punishment of death. The authorization of death for the crime of deliberate murder is perfectly clear. But who at this day would look to that extraordinary code—framed under the most peculiar circumstances, for purposes awfully mysterious in their distant working out—as a model for the institutions of a Christian nation?

The code of Moses was hardly less sanguinary than the code of Draco, which history remembers as having been written in blood. It was framed for a particular people, in a particular century, under conditions of scarcity, danger, and constant war that no legislature of our own day has to govern, and it carries the severity those conditions produced. It is worth being specific about what the Mosaic code actually prescribed death for, since its defenders frequently cite only the murder prohibition:

Death was the prescribed penalty for idolatry; for enticing others to idolatry; for intermarriage with idolaters; for false prophecy; for witchcraft; for consulting witches; for blasphemy; for the violation of the Sabbath, including the “gathering of sticks” on the day of rest; for striking or cursing a father or mother; for being a “stubborn and rebellious son, a glutton and a drunkard”; for adultery; for incest and other offences of similar character; for kidnapping; for perjury involving life; for allowing a dangerous ox to kill someone after its viciousness was known; for a priest’s daughter’s

unchastity; for any woman's lack of chastity before marriage; for eating blood; and in general for breaking any commandment or disobeying any priestly judgment.

This catalogue is a long one. And if the authority of the Mosaic code is divine and binding upon us who live under the Christian dispensation, it is equally binding with respect to all of these offences, not merely the one of murder. Who among us would now dream of applying the death penalty to witchcraft, to violation of the Sabbath, to being a rebellious son, to adultery? The universal moral sense of all Christian nations would regard such applications as insanity. But the argument from the Mosaic code proves nothing by proving a great deal too much: if its authority extends to the murder provision, it extends to all the rest equally; and if all the rest are properly set aside as belonging to a particular people at a particular moment of their development, why should the murder provision alone be extracted and perpetuated?

There is a further point about the Jewish institution of blood vengeance that is essential to this discussion. Among the Jews, the execution of the murderer was not, as with us, an act of the society in the administration of impassioned penal justice. It was the act of the next of kin, the "Avenger of Blood," in the licensed exercise of private revenge. The Mosaic institution had direct reference to the peculiar theological idea, pervading the entire Mosaic theocracy, of defilement and expiation rather than to any principle recognized by modern civilization as the proper basis of punishment. Blood spilled worked a

pollution of the land, an “uncleanness,” which was to be purified by the sacrifice of retribution.

When we consider the conditions under which that code was framed, together with the restrictions it placed upon this private right of vengeance, the institution should be regarded as an attempt to mitigate a practice that was irrepressible rather than as the original sanction of the practice itself. It was a mitigation—the utmost mitigation practicable under those conditions—of the blood feud. It was not a model for Christian legislation two thousand years later.

The Noahic Covenant

The second scriptural authority invoked by the defenders of capital punishment is the covenant made with Noah and his descendants: “Whoever sheds the blood of man, by man shall his blood be shed.” This is presented as a universal and perpetual command binding all nations and all ages.

The committee’s analysis of this passage leads to a different conclusion. The most careful reading of the text finds in it not a command but a prophecy, a declaration of what will generally happen rather than an instruction for what must. The form of expression is identical to that used in other passages that no one reads as mandatory commands: “He who leads into captivity shall go into captivity.” “He who takes the sword shall perish by the sword.” No one argues that these passages bind any magistrate to act; they are understood as descriptions of the natural

consequences of certain courses of conduct, or as divine warnings rather than human prescriptions.

But even if the Noahic passage be taken as a command, the context explains and limits it. In the infancy of the world, after the flood, there existed no organized society capable of punishing murder by confinement. The available options were death or impunity. Under those conditions, God may have permitted the lesser evil of retributive killing to prevent the greater evil of lawless violence. The precept belongs to that moment of human history. It does not bind societies that possess every other means of addressing violent crime, including secure and permanent confinement.

The New Testament

The defenders of capital punishment occasionally cite passages from the New Testament as collateral support for their reading of the Old, though these passages are fewer and less directly on point. The committee has examined the principal ones, and finds that on careful reading they rather support the abolitionist position than undermine it.

Paul's statement in Romans 13 that the governing authority bears the sword as "the servant of God" to execute judgment on wrongdoers is the most frequently invoked. But that statement follows immediately upon Paul's injunction, at the close of the preceding chapter, that we must "never avenge ourselves, but leave room for the wrath of God, for it is written, Vengeance is mine, I will repay, says the Lord." Vengeance belongs to God. The passage that is cited to authorize human execution is immediately

preceded by a passage that reserves vengeance to the divine. The two cannot be read in isolation from each other.

The thief on the cross, who acknowledges that he receives a “just” punishment in his execution, is sometimes cited as a New Testament endorsement of capital punishment. But this proves only that death was the punishment prescribed by Roman law, not that such prescription is approved by the gospel. The same logic would make the Roman use of crucifixion for slaves a divinely approved method of punishment.

The Character of Cain

Perhaps the strongest scriptural argument in favor of the abolitionist position is the one that its defenders most rarely discuss: the response of God himself to the first murder in human history.

Cain killed his brother Abel. God confronted him with this: “The voice of your brother’s blood cries out to me from the ground.” And then God’s judgment was pronounced. What was that judgment? Not death. Cain was expelled from the agricultural life he had known, condemned to be a wanderer, marked with a sign that would prevent anyone from killing him. God himself—the injured party, the one whose creature Abel was—declined to impose the death sentence. More than that, God actively prevented others from imposing it, declaring that whoever slew Cain would face sevenfold vengeance.

If the proper response to the first murder in biblical history is exile, labor, the torment of a guilty conscience, and divine protection of the

murderer's life from those who would avenge the victim, this seems like stronger evidence of God's will on the subject than any number of passages from the Mosaic code.

II

The Right of Society to Take Life

The Social Compact

Having examined the scriptural question, the committee turns to the philosophical. Does society possess the right to take the life of any of its members? If it does, from what source does this right derive?

The theory of government that has prevailed among the most enlightened political thinkers of the modern era is that of the social compact: that organized society originates in an agreement, express or implied, among its members for their mutual protection and benefit. The authority of the government thus constituted is derived from and limited by that compact. The powers it possesses are those, and only those, which the individuals who constitute it have delegated to it.

The critical question, then, is what powers individuals actually possess in the state of nature which they may have transferred to the government they created. Does any individual, in the natural condition, possess an absolute power over his own life? Does he possess a right to consent to his own destruction, or to authorize another to destroy him? The answer, on any serious examination, must be no. No rational individual, entering into the social compact, would consent to

a condition in which his life itself was subject to forfeiture for any violation of law. He enters society precisely to secure his life against destruction, not to expose it to a new risk of destruction at the hands of the government he is creating.

The Limits of Delegated Authority

The power of a government is bounded by the authority conferred upon it. If individuals possess no absolute right over their own lives—and they do not, for the very premise of the social compact is the desire to preserve life—then no assembly of individuals can delegate to a government a power that none of them singly possesses. A million people cannot collectively grant what none of them individually possesses. The right to destroy, which would in individuals be the right of murder, cannot become legitimate simply because it is exercised by the social will acting through the machinery of law.

The committee acknowledges that governments have always, in practice, claimed and exercised this power. But practice is not right, and long practice is not ancient right. The practice of slavery was universal; its universality did not make it legitimate. The practice of torture was universal; its universality did not make it right. The question of whether the state possesses the right to take life is not answered by observing that states have always taken life. It requires an examination of the foundations of governmental authority and the conditions under which the compact establishing that authority can legitimately authorize this ultimate act.

The compact theory of government, properly understood, supports abolition. A government created to preserve life, whose authority rests on the consent of people who joined together precisely to protect themselves from violent death, cannot consistently claim a general power to kill its own members as an instrument of policy. The emergency case—killing in immediate defense of another's life—is different in kind from the institutional practice of executing prisoners who are already captured, confined, and rendered harmless. The gap between these cases is one of principle, not merely of degree.

III

The Moral Effect on Society

The Corruption of Witnesses and Juries

Capital punishment does not merely fail to prevent crime. It actively produces conditions that make the prosecution of crime more difficult and less reliable. The moral revulsion that most people feel, however suppressed it may be by habit and familiarity, at the prospect of being directly responsible for the death of a fellow human being, is a constant and powerful force working against the effectiveness of the criminal justice system whenever death is the penalty at issue.

Witnesses are reluctant to testify in capital cases with the same candor and completeness they would bring to a case involving lesser penalties. The knowledge that their testimony may send a person to the gallows causes them to qualify, to hesitate, to soften, to find in memory a more charitable version of what they actually observed. This reluctance is not dishonesty; it is the natural operation of a moral instinct that the law has planted in every human heart, that instinct against becoming the instrument of another person's death.

Juries are subject to the same influence, and with even greater force. The uncertainty of conviction by jury in capital cases has grown almost into a proverb, and no experienced criminal lawyer in this State will dispute it. Even after every juror

who has expressed a principled objection to capital punishment has been removed from the panel by challenge, juries are always powerfully swayed, in their judgment as well as their feelings, by the horror of sending a man to his death. In the clearest cases, it is constantly seen that juries will not convict; the criminal, however heinous and however certain his guilt, is singularly unfortunate if an able defense counsel cannot find some point, great or small, on which to press such appeals to the hearts or the imagination of the jury as cannot be answered by the sober voice of truth and justice.

The result is a systematic distortion of the administration of justice. The penalty that was intended to be the most severe and most certain response to the gravest crimes becomes, in practice, the least certain of all penalties. Juries that would readily convict if the penalty were life imprisonment refuse to convict when the penalty is death. Defendants who are guilty, sometimes dangerously guilty, are set free because the jury cannot bring itself to impose the ultimate sanction. The community is thus exposed to greater risk from these individuals than it would have been under a system of certain non-lethal punishment.

This is not a correctable imperfection of the jury system; it is a permanent feature of human nature. The laws of God have planted the horror of directly causing another person's death too deeply in the hearts of ordinary people for any law of man to eradicate it, however that law may weaken it. And the jury that will not send a man to the gallows will often convict him of a lesser offense carrying a lesser penalty, or acquit him altogether on grounds that any candid juror will acknowledge, in private,

to be flimsy—technical deficiencies of evidence that the same juror would disregard in a case not involving death. The death penalty thus produces exactly the opposite of what its defenders intend. It reduces rather than increases the effective severity of the law's response to the worst crimes, by making conviction for those crimes less likely.

The Execution as Public Spectacle

The public execution was intended, by its architects, to convey reverence for the law and to deter, by vivid example, those who might be contemplating similar crimes. The committee's examination of the evidence reveals that it accomplishes neither purpose, and accomplishes instead the reverse of both.

Far from inspiring reverence for the law, executions have been documented, repeatedly, to be occasions at which crime is committed. It is a well-established observation that pickpockets regularly work the crowds that gather to watch hangings, and are active at the very moment when the crowd's attention is fixed on the scaffold. The Ordinary of Newgate, the prison chaplain who attended condemned men to their deaths for decades, testified before a parliamentary committee that executions produce, in their spectators, "shock and horror at the moment, upon the inexperienced and young; but immediately after, forgetfulness altogether." Among older criminals, the effect was even less: they regarded the condemned man's fate as simply bad luck, no different from their own risks, and returned to their occupations unimpressed.

The committee heard testimony from a clergyman of this city who described a meeting in which the question of the deterrent efficacy of executions was under discussion, when a newspaper arrived carrying an account of the recent execution in England of two persons convicted of pickpocketing. Forty arrests for that same crime were made in the crowd that gathered to watch. The thieves went to work while the two men hanged above them, and the hanging was the warning the crowd had supposedly come to receive.

More alarming still are the documented cases of persons who first conceived the idea of committing a crime while watching an execution for that very crime. The banker Fauntleroy, executed for forgery in 1824, is said to have first turned the thought over on his way home from an execution he had come upon by chance in the street outside Newgate, where another forger was being hanged. One of the jurors who convicted and sentenced the unfortunate Dr. Dodd to death for forgery was himself subsequently tried and executed at the same court and on the same gallows, for the same offence, within two years.

These are not isolated anecdotes. They reflect a pattern that the evidence consistently shows: the spectacle of execution does not deter, and may actively attract, those already inclined toward the crimes for which execution is the penalty. There is something in the nature of certain minds that, rather than being restrained by the threat of a grim penalty, is drawn toward it, the penalty investing the forbidden act with a fascination that the imagination cannot resist brooding upon until it

generates a temptation more powerful than the deterrent threat intended to prevent it.

The Effect on the Criminal Class

Among hardened criminals, the evidence is even clearer. Prisoners in Newgate, interviewed about the effects of executions on their own thinking, consistently reported that the prospect of death held no particular terror for them. Their characteristic responses were variants of "we must all take our chance" and "I never thought it would fall on me." They were not deterred by what they had seen; they were not even particularly impressed. The schoolmaster of Newgate testified that in the days following an execution, a common amusement among the boys in the prison was to act out the scene—one boy playing the condemned man, another the chaplain, a third the sheriff, a fourth the hangman—sometimes while the bodies of the hanged men were not yet removed from the scaffold.

Among those whose criminal activity tends toward lesser offenses, execution may actually produce a hardening effect. Criminals who have watched friends and associates die on the gallows and have not been deterred from their own crimes have demonstrated to themselves that the threat of death is not, in practice, a barrier to conduct. Having survived that demonstration, they carry forward a certain recklessness that makes them more dangerous, not less, than they would have been had the execution not occurred.

IV

The Inefficacy of Death as Deterrence

Evidence from Parliament and the Courts

The committee has gathered extensive testimony on the question of whether the death penalty actually deters crime. This testimony comes from sources that would not ordinarily be suspected of sympathy for abolition: prison administrators, criminal court magistrates, parliamentary witnesses, and the recorded observations of those who had the most sustained contact with the criminal world.

Montesquieu had observed that highway robbery, which had been suppressed for a time by the introduction of a particularly severe punishment, returned to its former frequency shortly afterward when the severity of the punishment became familiar. He noted the same pattern with desertion from the military: the introduction of death as the penalty for desertion did not reduce the incidence of desertion, and when a later administration substituted six years' imprisonment, the rate did not increase. The experiment of substituting a non-lethal penalty for death demonstrated, in a controlled setting, that the death penalty was not necessary to maintain the same or better compliance with military discipline.

British parliamentary testimony from those with the most direct experience of the criminal justice system is even more specific. One solicitor who had practiced in the criminal courts for more than twenty years testified that "the punishment of death has no terrors for the common thief; it is much more the subject of ridicule among them than of serious deliberation." He described a client the day before his execution who, when the solicitor offered condolences, replied with an air of complete indifference that players at bowls must expect rubbers, and characterized death as only a few minutes, a kick and a struggle, and all was over.

A London magistrate, asked by a parliamentary committee whether capital punishment had much tendency to deter criminals from crime, answered simply that he did not think it did. He then described sitting as a magistrate while three persons were brought before him for circulating forged banknotes. In the course of the investigation he discovered that the forged notes had been obtained from a room in which the body of a man named Wheller lay, a man who had been executed the preceding day for the same offence, the notes being delivered for circulation by the woman with whom he had been living.

The English one-pound banknote forgery prosecutions of the 1810s provide perhaps the clearest statistical evidence of all. During the period of these prosecutions, the Bank of England discovered forged notes in the amounts of ten thousand pounds in 1814, fourteen thousand in 1815, twenty-one thousand in 1816, and twenty-eight thousand in 1817, an almost threefold increase over four years of active prosecution and

execution. The faster the government executed forgers, the more rapidly the supply of forgeries increased. There is no cleaner refutation of the deterrence hypothesis than this sequence of numbers.

Life Imprisonment as Superior Deterrent

If the fear of death does not reliably deter, what does? The committee has found extensive evidence and argument, particularly in the work of Edward Livingston, the Louisiana legislator and criminal law reformer, that the answer is sustained, certain, and visible suffering—not the quick and sometimes almost dignified death of the scaffold, but the unremitting, perpetual, laborious imprisonment that offers no escape and no relief.

The committee puts this question plainly to every member of the Legislature: if you were to present to any criminal contemplating a grave crime the choice between being sentenced to death and being sentenced to life imprisonment at hard labor, in solitary confinement, with no possibility of pardon or release, which fate would he prefer? The answer is not in doubt. Every criminal who has encountered the question answers it the same way: give me death rather than that. The very opponents of this reform, who exclaim against the cruelty of a “philanthropy” that would spare the criminal from death only to plunge him into such a fate, make precisely the argument for the committee’s position. They concede, by their objection, that life imprisonment is the more feared of the two penalties.

Livingston's analysis of this point is worth developing at some length. The passions that drive men to great crimes, he observes, are not the passions of rational deliberation but of the moment: ambition, avarice, rage, desperation. A man maddened by a sense of intolerable insult, or driven by consuming greed, or goaded beyond endurance by accumulated injury, is not, at the moment of decision, performing the rational calculation that the deterrence theory assumes. What he may be able to feel, even in the grip of these passions, is the prospect of a specific and concrete suffering more powerful and more durable than any he has yet experienced. Life imprisonment at hard labor, in isolation from every person and pleasure that gave his former life its meaning, is such a suffering. It speaks to the passions rather than to the reason, and it speaks to them in terms they can hear.

There is another dimension to the deterrent comparison. The certainty of punishment matters more than its severity. A criminal who knows with near-certainty that he will face a long imprisonment is more deterred than one who knows there is a significant chance of acquittal followed by the small chance of death. And the uncertainty of conviction in capital cases, as the committee has already shown, is very high. Weighing the severity of a punishment against the likelihood of ever suffering it, the criminal has less to fear under a capital system than under a system of certain but non-lethal punishment. The death penalty, by making conviction less probable, reduces the deterrent effect of the criminal law rather than increasing it.

V

The Occasional Execution of the Innocent

All human judgment is fallible. This is not a contested proposition; it is the premise of every system of appellate review, of every doctrine allowing the modification of sentences, of every provision for the correction of judicial error. Legal systems have always been designed, however imperfectly, on the assumption that the judgments they produce will not all be correct, and that some mechanism must exist for identifying and remedying the incorrect ones.

The death penalty is absolutely incompatible with this premise. An executed person cannot be exonerated. An innocent person killed by the state's machinery cannot be restored to life, cannot be compensated, cannot be given back what was taken. The only form of remedy available, the posthumous acknowledgment that the execution was wrong, is an acknowledgment that comes too late to do the person killed any good, and serves primarily to multiply the injustice by adding the acknowledgment of irreparable error to the original act.

That innocent people have been executed is not a hypothesis but a fact of historical record. In every period of active capital punishment, in every jurisdiction, the evidence of wrongful execution accumulates. The committee has been informed of

specific cases, in this State and in England, in which executions were carried out on perjured testimony, and in which the perjury was discovered only afterward, in some cases the perjurer having fled the jurisdiction before justice could reach him, leaving behind the death of the person his false testimony had condemned.

Edward Livingston, whose work on criminal law reform the committee has relied upon throughout this Report, witnessed such a case directly. He observed a condemnation under what he believed to be a false construction of the law or perjured testimony, a sentence that would have been reversed, he writes, if the unfortunate sufferer had remained within the reach of mercy. He heard the prisoner's earnest asseverations of innocence, made in tones that no art could imitate, and listened with awe to what he describes as a "dreadful adjuration," the prisoner summoning his false accuser and mistaken judge to meet him before the throne of God. The perjury was discovered; the witness fled; the prisoner was dead.

Lafayette, speaking in the French Chamber of Deputies in 1830, put the matter with characteristic directness: "Till the infallibility of human judgments shall have been proved to me, I will persist in demanding the abolition of the punishment of death." The committee can add nothing to this formula. Infallibility of human judgment has not been proved; it cannot be proved; it is contrary to all experience and to every principle of jurisprudence. Therefore the punishment of death cannot be justified by any system of justice that acknowledges, as all serious

systems do, the fallibility of those who administer it.

There is a further practical consequence of the occasional execution of the innocent that the committee wishes to note. Every known instance of a wrongful execution casts doubt, in the public mind, on the entire system of capital justice. A single innocent man executed is remembered long after twenty merited executions are forgotten. When such an event becomes known, the best impulses of the public, its horror at the destruction of innocent life and its indignation at the failure of the legal system to prevent it, are arrayed against the law rather than in its support. The authority of the law is damaged, not reinforced, by each wrongful execution that comes to light. And those that do not come to light, because no one continues to investigate after the sentence is carried out, are an unknown and unknowable addition to the toll.

VI

Ancient Usage and the Progress of Reform

It is sometimes urged in behalf of capital punishment that the ancient and universal usage of all nations speaks in its favor. The committee will not spend much time on an argument whose legitimate extension would require the restoration of idolatry and human sacrifice in religion, of despotism in government, and of torture in jurisprudence. If ancient and universal usage is the standard of legitimacy, these practices have stronger claims than capital punishment, for they were more widely practiced and more durably maintained.

The history of human progress is a history of the slow and successive conquest of reason over error. The strongest resistance that error has always made against reform is the appeal to the authority of venerable antiquity. This has been the argument against every amelioration of criminal law that we now celebrate as progress. Torture was ancient and universal before it was abolished. The burning of heretics was ancient and universal. The practice of executing people for theft, for debt, for dozens of offences now treated as misdemeanors or not crimes at all—all of this was ancient and universal before it was reformed away. The appeal to antiquity has never yet established the legitimacy

of any practice that reason and experience condemned.

In England, at the beginning of the present century, a very great number of separate offences—by the common reckoning of the reformers, above two hundred, and by some counts nearer three hundred—carried the death penalty. That number has since been reduced, by successive legislative reforms, to a very small fraction of what it was. Each of these reductions was resisted with the argument that the practice was ancient and had served its purpose; and each reduction has been followed, not by an increase in the offences thus affected, but by improvements in the administration of justice. The committee is unaware of any proposal, in any jurisdiction that has reduced the scope of capital punishment, to restore the penalty to the offences from which it was removed. The reductions have been universally regarded, after the fact, as improvements. What reason can there be to suppose that the completion of this process, the removal of capital punishment from the last remaining offences, would produce different results?

The State of New York has itself been in the vanguard of this progressive reform. The number of capital offences recognized by our law has been steadily reduced over the course of the State's history, and each reduction has been accompanied by improvement rather than deterioration in public order. If we had restored capital punishment to those offences from which we removed it, public opinion would regard us as having returned to barbarism. We see no reason why the extension of

the same reform to its logical completion should be regarded differently.

The specific objection to change, that it is untried and therefore dangerous, is fairly answered by Livingston: all punishments are but experiments to determine what will best prevent crime. The punishment of death has been tried for six thousand years, across the full variety of forms that human ingenuity could devise, in every culture and legal system. And by the admission of its own defenders, it has not succeeded. The more severe and spectacular the execution, the more crime has followed it. The experiment has been run; it has failed; the evidence has accumulated. What is proposed is not a new and untried experiment but the abandonment of an old and failed one.

VII

The Harmony of Mercy and Justice

The committee has endeavored throughout this Report to present the case for abolition as a matter of policy, of evidence, and of justice rather than of sentiment. The Legislature is not a court of appeals to human feeling but a body charged with the administration of law for the public good, and the committee has attempted to address it in those terms. It therefore refrains, now that its argument is substantially complete, from dwelling at length on the agonies of the families and friends of the condemned, the parents, brothers, wives, and children upon whom the shame and grief of execution falls as heavily as upon those who die. The case has been made without recourse to these considerations, and the committee trusts it is the stronger for it.

But having said this, the committee wishes to challenge the assumption that mercy and justice are distinct and potentially opposed qualities, that the abolitionist argument is an appeal from justice to mercy, from the requirements of reason to the promptings of sentiment. This distinction, the committee believes, is false. Justice and mercy are not antagonists. They are twin aspects of a single truth.

Franklin put the point simply: "The virtues are all parts of a circle. Whatever is humane is wise;

whatever is wise is just; and whatever is wise, just, and humane will be found to be the true interest of states." Humanity and reason are never ultimately at variance with each other. Nothing that is contrary to the principles of eternal justice can be sustained by any argument of real utility. The abolition of capital punishment is just, in the sense that it removes from the law a practice that lacks adequate foundation in right and produces demonstrable harm. It is also humane, in the sense that it prevents the deliberate destruction of human beings who bear the image of God no less than their executioners do. And it is wise, in the sense that it will improve the administration of criminal justice, increase the certainty of conviction, and produce a more effective deterrent against serious crime.

These three qualities—just, humane, and wise—are not in tension with each other in this case. They point in the same direction. The committee has found, in the course of its work, that every serious examination of this question arrives at the same place from whichever side it begins, and that the moral examination arrives there last and hardest: a society whose legal system maintains the practice of deliberate killing corrupts itself in ways it does not fully recognize, until the capacity for mercy that is the highest expression of civilized life has been so habituated to death that it no longer recognizes what it has lost.

The committee is not unaware that this reform will face opposition: from those who believe, however incorrectly, that Scripture commands the practice; from those who have not examined the deterrence evidence; from those who confuse the vengeance that is natural to the human heart with

the justice that is the law's proper object; and from those who simply find it difficult to believe that a practice so ancient and so universal can be wrong. To all of these the committee commends the evidence and arguments it has assembled. It trusts that those who differ with its conclusions will at least offer a satisfactory reply to its reasoning—for the subject is too important, the lives at stake too precious, and the risk of irreversible error too great, for the argument to be settled by anything less than the full force of careful thought.

CONCLUSION

Summary of the Argument

The committee offers the following recapitulation of the leading conclusions of this Report.

Scripture does not require the death penalty. The authority of the Mosaic code, invoked to justify capital punishment for murder, is equally authoritative for practices—executing witches, stoning Sabbath-breakers—that no Christian nation would now contemplate. The Noahic covenant is properly read as a description of consequences rather than as a legislative command. The weight of the New Testament, read as a whole, points toward mercy, forgiveness, and the sanctity of human life. The character of God's response to the first murder in the biblical narrative is not death but exile and conscience. The scriptural argument for capital punishment, examined fully, fails.

The right of society to take life cannot be derived from the social compact. The compact is made precisely to protect life from violent destruction. No individual enters it with an unconditional power over his own life to transfer to the government he is creating. A government cannot possess, by delegation, what none of its constituent members individually possessed. The power to kill a captured and confined human being as an instrument of policy is not among the legitimately delegated powers of a government created to preserve life.

Capital punishment does not effectively deter crime. The evidence from the criminal courts, from parliamentary testimony, from the records of criminal behavior at executions, and from the comparative history of jurisdictions that have modified or abolished the penalty, consistently shows that the threat of death does not reliably arrest those impulses—of passion, desperation, or recklessness—from which the gravest crimes proceed. The certainty of sustained, visible, permanent suffering, the fate of the person imprisoned for life, deters more effectively than the prospect of a brief death. The death penalty, by making conviction less certain, reduces the expected severity of the law's response to capital crimes rather than increasing it.

Capital punishment produces systematic injustice. It makes witnesses reluctant to testify. It makes juries reluctant to convict. It allows dangerous criminals to escape punishment or to plead to lesser charges, returning them to society less securely confined than they would have been under a non-lethal system. It corrupts the moral imagination of society by normalizing the deliberate destruction of human life. And it creates, inevitably and irreparably, the occasional execution of persons who are innocent, an error that no subsequent act of justice can undo.

The proposed substitute—imprisonment for life at hard labor, in solitude, beyond the reach of executive clemency—accomplishes every legitimate goal of criminal justice. It permanently removes the offender from society. It provides a punishment genuinely feared by those who might contemplate serious crime. It allows for the

correction of wrongful convictions. It is consistent with the foundation of governmental authority in the social compact. And it is consistent with the teachings of Scripture, with the demands of justice, and with the requirements of mercy, which are, when properly understood, the same requirements.

The State of New York has the honor and the opportunity to complete the progressive reform of criminal law that every civilized nation is in the process of accomplishing. The abolition of capital punishment from its remaining few applications is the logical culmination of a series of reforms that this State, like every other, has already substantially made. There is no rational stopping point between the reduction of capital offences from hundreds to a handful, and the reduction from a handful to none. The committee recommends the bill that accompanies this Report, and prays that the Legislature will give the argument the consideration that the gravity and sacredness of the subject demands.

DEFINITIONS AND TERMS

John L. O’Sullivan (1813-1895): New York journalist, editor, and Democratic politician. Founder of the United States Magazine and Democratic Review, which published early work by Hawthorne, Whitman, Poe, and Thoreau. Member of the New York State Assembly 1841-1842, during which he chaired the select committee on capital punishment and produced the Report that is the subject of this volume. He later coined the phrase “Manifest Destiny” (1845) and became a diplomat and, controversially, a Confederate sympathizer during the Civil War. The Report of 1841 is his most lasting contribution to American public life.

The Select Committee: The legislative committee appointed by the New York State Assembly in 1841 to examine the Governor’s message on capital punishment and to consider petitions from citizens for the repeal of laws authorizing the death penalty. O’Sullivan chaired the committee and wrote the Report. The accompanying bill passed the first procedural vote fifty-seven to fifty-two and failed the final vote forty-seven to fifty-two, the latter defeat occurring when exhaustion and late hour had depleted the chamber of the bill’s supporters.

Governor William H. Seward (1801-1872): Governor of New York from 1839 to 1842, later United States Senator and Secretary of State under Lincoln. His message to the Legislature reported

the State's recent capital convictions and questioned whether the frequency of execution encouraged rather than prevented crime. That message, referred to a select committee, is the immediate occasion of this Report.

The Mosaic Code: The system of laws given through Moses to the Jewish people, recorded in the first five books of the Hebrew Bible. O'Sullivan devotes extended attention to the Mosaic code in his scriptural analysis, arguing that its authority cannot be selectively invoked for capital punishment without also applying it to the dozens of other offences—idolatry, witchcraft, Sabbath-breaking, filial disobedience—for which it prescribed death and which no Christian nation would now execute.

The Noahic Covenant: The covenant recorded in Genesis 9:6: "Whoever sheds the blood of man, by man shall his blood be shed." Defenders of capital punishment invoke this passage as a universal and perpetual divine command. O'Sullivan argues it is better read as a prophecy or a description of natural consequences, not a legislative mandate, and that even if it were a mandate, it belongs to the specific conditions of a world without organized law rather than to a society possessing every other means of addressing violent crime.

The Social Compact: The theory, associated with Locke and Rousseau among others, that organized government originates in an agreement among individuals for mutual protection. O'Sullivan uses social compact theory to argue that the state

cannot possess, by delegation from its members, any power that those members did not individually possess, and that no individual possesses an unconditional right to surrender his own life, or to authorize the government to take it, since preservation of life is the very purpose for which the compact is made.

Edward Livingston (1764-1836): American statesman, jurist, and criminal law reformer. Livingston produced comprehensive proposed criminal codes for the State of Louisiana (1821-1826) that were among the most advanced criminal law reforms in the world at the time. His work on capital punishment anticipated many of the arguments O'Sullivan makes in the Report, and O'Sullivan draws on him extensively. Livingston also served as Secretary of State and Minister to France under Andrew Jackson. His *Argument Against Capital Punishment* appears as V. 6 of this series.

Avenger of Blood: The Hebrew institution by which the nearest male relative of a murder victim possessed the right and responsibility to kill the murderer. O'Sullivan argues that this institution, which forms the basis of the Mosaic authorization of death for murder, was not a model of public justice but a licensed form of private revenge, an attempt to mitigate the blood feud that was irrepressible in the social conditions of the time, rather than a foundation for modern criminal law.

The Ordinary of Newgate: The chaplain who attended condemned prisoners at Newgate Prison

in London, staying with them before their executions and recording their final statements. The Ordinary had unparalleled access to the criminal world and served as a source of testimony before parliamentary inquiries into the effects of capital punishment. Several Ordinaries testified that executions had no reliable deterrent effect on either the prisoners they attended or the crowds that gathered at the hangings.

Henry Fauntleroy (1784-1824): London banker executed for forgery in 1824, one of the last high-profile capital forgery cases in England. His case circulated widely in abolitionist literature, both as evidence of the penalty's indiscriminate reach and, in the anecdote O'Sullivan repeats, as evidence that the spectacle of execution can suggest the crime rather than prevent it.

Deterrence: The theory that punishment prevents crime by creating a rational calculation in potential offenders that the risk of punishment outweighs the anticipated benefit of the crime. O'Sullivan's Report anticipates the findings of modern criminology: the certainty of punishment matters more than its severity; most serious crimes are committed under conditions of passion or desperation that do not permit rational calculation; and the evidence consistently fails to show that capital punishment reduces the crimes for which it is imposed.

FURTHER READING

ON O’SULLIVAN AND THE 1841 REPORT

O’Sullivan, John L. Report in Favor of the Abolition of the Punishment of Death by Law. New York: J. & H. G. Langley, 1841. Second edition. The original text, available through Google Books and the Harvard University Library Digital Collections. The second edition includes the preface describing the bill’s narrow defeat.

Sampson, Robert D. John L. O’Sullivan and His Times. Kent, OH: Kent State University Press, 2003. The standard biography of O’Sullivan, covering his journalistic career, his role in Manifest Destiny, and the political career that produced the 1841 Report.

RELATED VOLUMES IN THE ABOLITION CLASSICS

Plato. The Apology. V. 1. Edited and modernized by Jeff Hood. Complicit Press, 2026. The founding document of the tradition O’Sullivan inhabits. His Report is, among other things, a Socratic document: it examines a universal assumption that has never been adequately questioned and finds it wanting.

Pelli, Giuseppe. Against the Death Penalty. V. 3. Florence, c. 1760–1761. Recreated, edited, and modernized by Jeff Hood. Complicit Press, 2026.

The earliest known systematic abolitionist treatise in Western history, predating both Beccaria and O'Sullivan. The structural parallels between Pelli's thirteen numbered proofs and O'Sullivan's sections of argument are striking.

Rush, Benjamin. Considerations on the Injustice and Impolicy of Punishing Murder by Death. V. 4. 1792. Edited and modernized by Jeff Hood. Complicit Press, 2026. The founding document of American abolitionism, written fifty years before O'Sullivan's Report. O'Sullivan stands in direct continuity with Rush.

Beccaria, Cesare. An Essay on Crimes and Punishments. V. 5. 1764. Edited and modernized by Jeff Hood. Complicit Press, 2026. The foundational Enlightenment argument for abolition. O'Sullivan knew Beccaria and works within the tradition his essay established.

Livingston, Edward. Argument Against Capital Punishment. V. 6. 1833. Edited and modernized by Jeff Hood. Complicit Press, 2026. The single source O'Sullivan draws on most heavily. Livingston's account of the passions that drive great crimes, and his argument that perpetual imprisonment is the more feared penalty, run through Sections IV and V of the Report.

Romilly, Samuel. Observations on the Criminal Law of England. V. 7. 1810. Edited and modernized by Jeff Hood. Complicit Press, 2026. The English parallel to O'Sullivan's work: a legislator making the case for reducing capital offences to a parliamentary audience. O'Sullivan relies on

Romilly and on the parliamentary investigations that followed him.

Montagu, Basil. The Opinions of Different Authors Upon the Punishment of Death. V. 8. 1809–1813. Edited and modernized by Jeff Hood. Complicit Press, 2026. The anthology that assembled the English case against the gallows and shaped the debate O’Sullivan inherited.

Spear, Charles. Essays on the Punishment of Death. V. 10. 1844. Edited and modernized by Jeff Hood and Kat Bodrie. Complicit Press, 2026. The American argument that follows O’Sullivan’s by three years, carrying the case out of the legislature and into the churches.

Darrow, Clarence. An Eye for an Eye. 1905. Edited and reset by Jeff Hood. Complicit Press, 2026. The companion fiction volume. O’Sullivan’s Report provides the legislative argument; Darrow’s novella provides the human face of the condemned man to whom the argument applies.

ON AMERICAN CRIMINAL JUSTICE HISTORY

Banner, Stuart. The Death Penalty: An American History. Harvard University Press, 2002. The definitive historical account of capital punishment in the United States. Covers the antebellum reform movement of which O’Sullivan’s Report was a part, and traces the argument’s long aftermath.

Masur, Louis P. Rites of Execution: Capital Punishment and the Transformation of American Culture, 1776-1865. Oxford University Press, 1989. Examines the period during which O'Sullivan was writing, tracing how public attitudes toward execution changed and how the reform movement he contributed to eventually succeeded in moving executions from public spectacle to private ceremony.

Friedman, Lawrence M. Crime and Punishment in American History. Basic Books, 1993. A broad history of American criminal law that situates O'Sullivan's reform effort in the context of the antebellum reform movement more generally.

COMPLICIT PRESS

THE ABOLITION CLASSICS

The texts that built the case against the death penalty