

CAPITAL PUNISHMENT

THE ABOLITION CLASSICS

The texts that built the case against the death penalty

V. 23

CAPITAL PUNISHMENT

London, 1846

CHARLES DICKENS

Edited and Modernized by

JEFF HOOD

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COMPLICIT PRESS

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FOREWORD

Dickens was thirty-four when he wrote these letters — the same age, almost to the year, that Charles Burleigh was when he published the pamphlet that stands one volume before this one in the series. Burleigh wrote his from the edge of the abolitionist lecture circuit, a strange-looking man arguing in borrowed halls. Dickens wrote his as the most famous writer alive. He had just founded a newspaper, the *Daily News*, and had quit editing it after seventeen days because the chair made him miserable; and then, having walked away from the editor's desk, he sent the paper the best argument it would print that year. Letters against the gallows, addressed to his own editors, signed with the most valuable name in England.

What got me was not the statistics, though he has them. It was the handshakes. Dickens noticed that the newspaper account of every execution recorded who shook hands with the condemned man — and that nobody, ever, in any account, shook hands with the hangman. I have been a witness at thirteen executions. I can report that the observation holds. In the death house, everyone wants a last moment with the man who is about to die; nobody lingers with the people who kill him. Even the ones who believe in it don't want to touch it. Dickens saw that from the street outside Newgate and understood exactly what it meant: a law that all men instinctively revolt from, once they come near it face to face. His remedy was not to hide the law better. It was to change it.

The pages on Thomas Hocker are the ones I would hand to anyone who thinks this book is a period piece. A vain young man with no prospects decides that a murder — and the gallows behind it, because “short of that, it wouldn't be fame” — is his one available route to celebrity, and stages the whole thing like a play he is starring in. Dickens is describing, in 1846, the exact machinery we now spend conferences and grant money studying: the killer who does it for the coverage. He didn't have our vocabulary for it. He didn't need it. He

watched the crowds carry off fences in splinters as souvenirs of a murder scene, and drew the conclusion.

I have to say plainly that Dickens did not hold this line. Three years after these letters, after watching the Mannings hang outside Horsemonger Lane Gaol, he narrowed his public argument to the abolition of *public* executions — and once the killing moved behind prison walls, he mostly went quiet on the rest. People retreat. It doesn't unsay what he wrote here. These letters argue against the thing itself — not the crowd, not the spectacle, the thing — and the argument has not been answered since. It has only been relocated indoors.

He died in 1870, two years after England stopped hanging people in public and kept hanging them in private. I don't know what he'd make of a gurney, or a witness room with a curtain across the glass, or the fact that we now hide the face of the whole procedure and not just the struggling wretch at the center of it. I know what he'd make of the argument, because he already made it. I'm just the one passing it along.

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

EDITOR'S NOTE

THE AUTHOR

Charles Dickens (1812–1870) was born in Portsmouth, England, and by the time he wrote these letters was the most widely read novelist in the English language — already the author of *The Pickwick Papers*, *Oliver Twist*, and *A Christmas Carol*. His engagement with capital punishment was not theoretical. In July 1840 he attended the public hanging of François Courvoisier outside Newgate prison, standing in a crowd of tens of thousands, and the experience marked him; he returned to the subject in journalism and fiction for the rest of his career. In January 1846 he helped found the *Daily News*, a liberal reforming paper, and served as its first editor — for seventeen days, before resigning the chair. The following month he began sending the paper these letters.

In 1849, after watching the public execution of Frederick and Maria Manning, Dickens wrote two famous letters to *The Times* — but by then he had narrowed his aim to the abolition of public executions rather than of the punishment itself, a retreat from the position argued in this volume. Public executions ended in Britain in 1868. Dickens died two years later.

THE LETTERS

Dickens published his letters on capital punishment in the *Daily News* in February and March 1846, addressed “To the Editors” of the paper he had just stopped editing. The text presented here follows the form in which the letters were later collected in the *Works of Charles Dickens* (Gresham Publishing Company, 1912, Volume 19): three letters, taking up in turn the effect of the punishment on the commission of murder, its effect on the prevention of crime, and

the testimony of judges, the record of wrongful executions, and the appeal to scripture.

His sources were the common stock of the abolition movement of the 1840s: E. G. Wakefield's *Facts Relating to the Punishment of Death*, drawn from Wakefield's own imprisonment in Newgate; the parliamentary returns abstracted by Lord Nugent's committee at Aylesbury; and the 1841 New York legislative report of John L. O'Sullivan, from which Dickens takes his catalogue of wrongful convictions. Readers of this series will recognize both Wakefield and O'Sullivan from the Burleigh volume that precedes this one. The two books, written a year apart on opposite sides of the Atlantic, lean on the same witnesses.

THE MODERNIZATION

This edition presents the letters in modernized form. The originals run to roughly seventy-five hundred words in the long periodic sentences of Victorian journalism, including a catalogue of wrongful convictions quoted from the New York report as a single unbroken paragraph of nearly a thousand words. The present edition simplifies the sentence structures, breaks that catalogue into its individual cases, sets one statistical comparison as a table, and lightly modernizes the language inside quoted testimony, while preserving every case, every figure, every name, and the order of Dickens's argument. Nothing has been added to the record; the wit is his.

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. It is the twenty-third volume of the series and a close companion to the twenty-second: Burleigh's *Thoughts on the Death Penalty* appeared in Philadelphia in 1845, these letters in London in 1846, and between them they show the same case being built, from the same evidence, by a movement that had learned to talk across an ocean.

*“The law, afraid or ashamed of its own deed, hides the face of the
struggling wretch it slays.”*

— CHARLES DICKENS
The Daily News, 1846

THE LETTERS

CAPITAL PUNISHMENT

By Charles Dickens

London, 1846. First published in The Daily News. Modernized and condensed for this edition.

I

THE COMMISSION OF MURDER

It will have blood, they say: blood will have blood.

— Shakespeare, *Macbeth*

I will take for my subject the effect of capital punishment on the commission of crime — or rather of murder, the only crime, with one rare exception, to which it is now applied. Its effect in preventing crime I will save for a second letter, and a few of the more striking illustrations of both questions for a concluding one.

THE KINDS OF MURDER

Some murders are committed in hot blood and furious rage; some in deliberate revenge; some in terrible despair; some — but not many — for simple gain; some to remove a person who has become dangerous to the murderer's peace or good name; and some to win a monstrous notoriety.

RAGE, DESPAIR, AND GAIN

On murders committed in rage, in the despair of strong affection — as when a starving parent kills a starving child — or for gain, I believe the punishment of death has no effect whatsoever. In the first two cases the impulse is blind and wild, infinitely beyond the reach of any thought about punishment. In the last, there is little calculation beyond the absorbing greed for the money to be got.

Courvoisier, for example, could have robbed his master with greater safety, and with fewer chances of detection, if he had not murdered him. But his cal-

culations ran to the gain and not to the loss, and he had no room left in his mind for consequences. So with the woman hanged a few weeks ago for the murder in Westminster: it would have been safer and easier to rob her old companion in an unguarded moment — in her sleep, say. But her calculation went to the gain of what she believed was a bank note; the poor old woman was living between her and that gain; and so she murdered her.

MURDER IN DELIBERATE REVENGE

That leaves the murders committed in deliberate revenge, or to sweep an obstacle out of the murderer's path, or from an insatiable craving for notoriety. For these, is there reason to think the punishment of death acts as a direct incentive — an impulse toward the crime?

Consider a murder committed in deliberate revenge. The murderer takes no trouble to arrange his circumstances, makes little or no effort to escape, stays cool and collected, is perfectly content to hand himself over to the police, makes no secret of his guilt, and says boldly: "I killed him. I'm glad of it. I meant to do it. I am ready to die." There was such a case the other day. There was another not long ago. There are such cases constantly; it is the commonest first exclamation on being seized.

"LIFE FOR LIFE"

Now, what is this but a false argument, announcing a foregone conclusion — one that leads directly to the crime, and arises inseparably out of the punishment of death? "I took his life. I give up mine to pay for it. Life for life; blood for blood. I have done the crime, and I am ready with the atonement. I know all about it; it's a fair bargain between me and the law. Here I am to carry out my half of it — what more is there to say?" It is the very essence of this punishment that it sets life against life. And it is the very essence of a stupid, weak, or otherwise ill-regulated mind — a murderer's mind, in short — to find in that arrangement something that lessens the base and cowardly character of murder.

"In a pitched battle I, a common man, may kill my adversary — but he may kill me. In a duel a gentleman may shoot his opponent through the head — but the opponent may shoot him too, and that makes it fair. Very well. I take this man's life for a reason I have, or choose to think I have, and the law takes mine.

The law says, and the clergyman says, there must be blood for blood and life for life. Here it is. I pay the penalty."

A mind incapable or confounded in its perceptions — and you must reason about such a mind, or you could not have such a murder — can build on this ground not only an idea of strict justice and fair repayment, but a stubborn, dogged fortitude that satisfies it enormously. Whether this is really so, I would be content to rest entirely on the number of revenge murders in which exactly this is known, beyond dispute, to have been the prevailing demeanor of the criminal — in which such speeches and such absurd reasoning have been constantly on his lips. "Blood for blood" and "life for life," and other balanced jingles like them, have passed current in people's mouths, from legislators downward, until they have been corrupted into "tit for tat" — and acted on.

"THOUGH HE SHOULD BE HANGED FOR IT"

Next come the murders committed to sweep out of the way a dreaded or detested person. At the bottom of this class of crimes there is a slow, corroding, growing hate. Violent quarrels are usually found to have passed between the murdered person and the murderer, most often of opposite sexes. There are witnesses to old scenes of accusation and recrimination in which the two were the actors, and the murderer has been heard to say, in this or that coarse phrase, that he "wouldn't mind killing her, though he should be hanged for it." It is the commonest avowal in these cases.

There is a deeper meaning in that well-worn scrap of evidence, I believe, than is usually attached to it. I suspect it is a clue to the slow growth of the crime and its gradual development in the mind — more than that, a clue to the mental connection between the deed and the punishment attached to the deed, until the two, joined together, give birth to monstrous and misshapen murder.

The idea of murder, in such a case — like the idea of suicide in most instances — is not a new one. It may have first presented itself to the disturbed mind dimly and far off; but it has been there. After a quarrel, or under some heavy sense of irritation at the continuance of this life in his path, the man broods over the unformed desire to take it. *Though he should be hanged for it.* With the entrance of the punishment into his thoughts, the shadow of the fatal beam begins to attend — not on him, but on the object of his hate. At every new temptation it is there, stronger and blacker, trying to terrify him. When

she defies or threatens him, the scaffold seems to be her strength and vantage ground. Let her not be too sure of that — *though he should be hanged for it*.

So he begins to raise up, in the contemplation of death by hanging, a new and violent enemy to brave. The prospect of a slow, solitary expiation would have nothing in common with his wicked thoughts; but this throttling and strangling has. There is always before him an ugly, bloody, scarecrow phantom that champions her, as it were — and yet shows him, in a ghastly way, the example of murder. Is she very weak, or very trusting, or infirm, or old? The phantom gives a hideous courage to what would otherwise be mere slaughter; for there it is, always about her, darkly menacing him with a penalty whose murky secret holds a fascination for all secret and unwholesome thoughts. And when he struggles with his victim at last — *though he should be hanged for it* — it is a merciless wrestle not with one weak life only, but with that ever-haunting, ever-beckoning shadow of the gallows too, and with a fierce defiance to it, after their long survey of one another, to come on and do its worst.

Present this black idea of violence to a bad mind contemplating violence; hold up before a man remotely compassing another person's death the spectacle of his own ghastly and untimely death at human hands — and out of the depths of his own nature you will assuredly raise up the very thing that lures and tempts him on. The laws that govern those depths have never been studied or cared for by the maintainers of this law; but they are paramount, and they will always assert their power.

Of one hundred and sixty-seven people under sentence of death in England, questioned at different times over a course of years by an English clergyman in the performance of his duty, only three had never watched an execution.

MURDER FOR NOTORIETY

We come now to the murders committed, or attempted, with no object at all beyond the attainment of an infamous notoriety. That this class of crimes has its origin in the punishment of death we cannot question; because — as we have already seen, and will shortly prove by another example — great notoriety and public interest attach, and are generally understood to attach, only to criminals in danger of being executed.

THE CASE OF THOMAS HOCKER

One of the most remarkable instances of murder born of mad self-conceit — of a murderer playing his part in a repulsive drama, in which the law appears at enormous disadvantage to itself and to society, with a self-satisfaction that would be horribly ludicrous if it were not utterly revolting — is the case of Hocker.

Here is an insolent, flippant, dissolute youth: aping the man of intrigue; overdressed, overconfident, inordinately vain of his personal appearance; distinguished as to his hair, his cane, his snuff-box, and his singing voice — and, unhappily, the son of a working shoemaker. Bent on loftier flights than a poor house-swallow like a Sunday-school teacher can take, and having no truth, industry, or perseverance — no dull workaday quality — to fly with, he casts about in his jaunty way for some means of distinguishing himself. Some way of getting that head of hair into the print-shops; of having something like justice done to his singing voice and fine intellect; of making the life and adventures of Thomas Hocker remarkable. The stage? No — not feasible; there has always been a conspiracy against the Thomas Hockers in that line of effort. Authorship, in prose and poetry, has proved the same. Is there nothing else? A murder, now, would make a noise in the papers! There is the gallows, to be sure — but without the gallows it would be nothing. Short of that, it wouldn't be fame. Well! We must all die at one time or another; and to die game, and have it in print, is just the thing for a man of spirit. They always die game at the minor theatres and the saloons, and the people like it very much. Thurtell died very game, too, and made a capital speech at his trial — there's a whole book about it at the cigar-shop now. Come, Tom, get your name up! Let it be a dashing murder, one to keep the wood-engravers busy for the next two months. You are the boy to go through with it and interest the town!

The miserable wretch, inflated by this lunatic conceit, arranges his whole plan for publication and effect. It is an epitome of his experience of the domestic melodrama and the penny novel. There is the victim friend; the mysterious letter from the injured female to the victim friend; the romantic spot for the death-struggle by night; the unexpected appearance of Thomas Hocker before the policeman; the public-house parlour, with Thomas Hocker reading the paper to a strange gentleman; the family apartment, with a song by Thomas Hocker; the inquest room, with Thomas Hocker boldly looking on; the interior

of the Marylebone theatre, with Thomas Hocker taken into custody; the police office, with Thomas Hocker "affable" to the spectators; the interior of Newgate, with Thomas Hocker preparing his defence; the court, where Thomas Hocker, with his dancing-master airs, is put on trial and complimented by the judge; the prosecution, the defence, the verdict, the black cap, the sentence — each of them a line in any playbill, and how bold a line in the life of Thomas Hocker!

PLAYING THE PART TO THE END

It is worth remarking that the nearer he approaches the gallows — the great last scene toward which all these effects have been building — the more the overweening conceit of the poor wretch shows itself; the more he feels himself the hero of the hour; the more audaciously and recklessly he lies in support of the character. In public — at the condemned sermon — he carries himself as becomes the man whose autographs are precious, whose portraits are innumerable, in whose memory whole fences and gates have been carried off in splinters from the scene of the murder. He knows the eyes of Europe are upon him; but he is not proud — only graceful. He bows, like the first gentleman in Europe, to the turnkey who brings him a glass of water. In private — inside the condemned cell — every word and action of his waning life is a lie. His whole time is divided between telling lies and writing them. If he has any other thought, it is for his genteel appearance on the scaffold — as when he begs the barber "not to cut his hair too short, or they won't know him when he comes out." His second-to-last act is to write two romantic love letters to women who do not exist. His last act of all — less characteristic, but the only true one — is to swoon away miserably in the arms of the attendants, and be hanged up like a craven dog.

Is not such a history, from first to last, a revolting and disgraceful one? And can anyone who studies it believe that it could ever have taken place in any record of facts — that its miserable chief actor could ever have had a motive for his arrogant wickedness — but for the commentary and the explanation that the punishment of death supplies?

THE CASE OF OXFORD

It is not a solitary case, and it is not a freak of nature; it is a specimen of a class. The case of Oxford, who fired at the Queen in the park, will be found on exam-

ination to resemble it very nearly in its essential feature. There is no proven ground whatsoever for regarding him as mad — other than that he was, like this criminal, brimful of conceit and of a desire to become, even at the cost of the gallows (the only cost within his reach), the talk of the town. He had less invention than Hocker, and perhaps was not so deliberately bad; but his attempt was a branch of the same tree, and its root is in the ground where the scaffold stands.

HOW THE IMITATORS WERE STOPPED

Oxford had his imitators. Let it never be forgotten, in considering this part of the subject, how they were stopped. As long as such attempts carried the distinction of being in danger of death at the hangman's hands, the imitators kept springing up. When the penalty of death was removed, and a mean, humiliating punishment put in its place, the race came to an end, and ceased to be.

II

THE PREVENTION OF CRIME

The greater the number of executions, the greater the number of murders; the smaller the number of executions, the smaller the number of murders.

— *Magazine of Popular Information on Capital
and Secondary Punishment, Glasgow*

We come now to consider the effect of capital punishment in the prevention of crime. Does it prevent crime in those who attend executions?

THE CROWD AT THE SCAFFOLD

There never is — and there never was — an execution at the Old Bailey in London whose spectators do not include two large classes of thieves: one class who go as they would go to a dog-fight, or any other brutal sport, for the attraction and excitement of the spectacle; the other who treat it as a dry matter of business, and mix with the crowd solely to pick pockets. Add to these the dissolute, the drunken, the most idle, profligate, and abandoned of both sexes; some moody, ill-conditioned minds drawn there by a fearful interest; and some impelled by curiosity, most of them of an age and temperament that makes the gratification of that curiosity highly dangerous to themselves and to society — and you have the main elements of the crowd.

Nor is this assembly peculiar to London. It is the same in country towns, allowing for the different populations. It is the same in America. I was present at an execution in Rome, for a most treacherous and wicked murder, and not

only saw the same kind of crowd there, but — wearing what is called a shooting-coat, with a great many pockets in it — felt innumerable hands busy in every one of them, close to the scaffold.

WAKEFIELD'S TESTIMONY

I have already mentioned that of one hundred and sixty-seven convicts under sentence of death, questioned at different times by an English clergyman in the performance of his duty, only three had never watched an execution. Mr. Wakefield, in his *Facts Relating to the Punishment of Death*, works through this sum, as it were. His testimony is extremely valuable, because it is the evidence of an educated and observant man who, before he had personal knowledge of the subject and of Newgate, was entirely satisfied that the punishment of death should continue — but who, once he gained that experience, exerted himself to the utmost for abolition, even at the cost of constant public reference to his own imprisonment. “It cannot be egotism,” he reasonably observes, “that prompts a man to speak of himself in connection with Newgate.”

“Whoever will undergo the pain,” Wakefield writes, “of witnessing the public destruction of a fellow creature's life in London, must be perfectly satisfied that in the great mass of spectators, the effect of the punishment is to excite sympathy for the criminal and hatred of the law.” The criminals of London, he goes on — speaking of them as a class, and allowing for exceptions — take the same sort of delight in witnessing executions that the sportsman and the soldier find in the dangers of hunting and war. Few Old Bailey sessions pass, he is confident, without the trial of a boy whose first thought of crime occurred while he was watching an execution. And one grown man of great mental power and superior education, acquitted on a charge of forgery, assured him that the first idea of committing forgery occurred to him at the moment he happened to witness the execution of Fauntleroy — to which it may be added that Fauntleroy is said to have made precisely the same statement about the origin of his own criminality.

“WHY SHOULD IT?”

But one convict “who was within an ace of being hanged,” among the many Wakefield talked with, seems to me to have unconsciously put a question that the advocates of capital punishment would find very difficult indeed to answer.

"Have you often seen an execution?" Wakefield asked. "Yes, often." "Did it not frighten you?" "No. Why should it?"

It is easy and natural to turn away from this ruffian, shocked by the hardened retort. But answer his question: why should it? Should he be frightened by the sight of a dead man? We are born to die, he says, with a careless triumph. We are not born to the treadmill, or to servitude, or to banishment; but the executioner has done no more for that criminal than nature may do tomorrow for the judge — and will certainly do, in her own good time, for judge and jury, counsel and witnesses, turnkeys, hangman, and all. Should he be frightened by the manner of the death? It is horrible, truly — so horrible that the law, afraid or ashamed of its own deed, hides the face of the struggling wretch it slays. But does that fact naturally awaken terror in such a man — or defiance? Let the same man speak. "What did you think then?" Wakefield asked him. "Think? Why, I thought it was a shame."

Disgust and indignation, or recklessness and indifference, or a morbid tendency to brood over the sight until temptation is bred from it — these are the inevitable consequences of the spectacle, varying with the habits and disposition of those who behold it. Why should it frighten or deter? We know it does not. We know it from the police reports, and from the testimony of those with experience of prisons and prisoners; and we may know it by the evidence of our own senses at any execution, if we will endure the misery of using them for such a purpose. But why *should* it? Who would send his child or his apprentice — what tutor would send his students, what master would send his servants — to be deterred from vice by the spectacle of an execution? If it is an example to criminals, and to criminals only, why are the prisoners in Newgate not brought out to see the show at the debtors' door? Why, when they are made parties to the condemned sermon, are they rigidly shut out from the improving postscript of the gallows? Because an execution is well known to be a useless, barbarous, and brutalizing sight; and because the sympathy of every beholder who has any sympathy at all is always, and certainly, with the criminal — never with the law.

NO ONE SHAKES HANDS WITH THE HANGMAN

I learn from the newspaper account of every execution how Mr. So-and-so, and Mr. Somebody-else, and Mr. So-forth shook hands with the culprit — but

I never find them shaking hands with the hangman. All kinds of attention and consideration are lavished on the one; the other is universally avoided, like a pestilence. I want to know why so much sympathy is spent on the man who kills another in the vehemence of his own bad passions, while the man who kills him in the name of the law is shunned and fled from. Is it because the murderer is about to die? Then by no means put him to death. Is it because the hangman carries out a law that all men, once they come near it face to face, instinctively revolt from? Then by all means change the law. There is — there can be — no prevention in such a law.

It may be urged that public executions are not intended for the benefit of those dregs of society who habitually attend them. This is an absurdity, and the obvious answer to it is: so much the worse. If executions are not considered with reference to that class of persons — a class comprehending a great host of criminals in every stage of development — they ought to be, and must be. To lose sight of that consideration is irrational, unjust, and cruel. Every other punishment is devised with express reference to the rooted habits, propensities, and antipathies of criminals. Shall it be said, outside of Bedlam, that this last punishment of all is the single exception to the rule — even where it is shown to be a means of propagating vice and crime?

THOSE WHO ONLY READ OF IT

But perhaps there are people who do not attend executions, for whom the general fame and rumour of such scenes serves as an example, and a means of deterring from crime.

Who are they? We have seen that a fascination lingers around capital punishment, urging weak and bad people toward it, and lending an interest to everything connected with it — and with the criminals awaiting or suffering it — that even good and well-disposed people cannot withstand. We know that last dying speeches and Newgate calendars are the favourite literature of very low intellects. The gallows is not held up as an example in the instruction of the young (unless they are being trained for it); there are no condensed accounts of celebrated executions for use in the national schools. There is a story in an old spelling-book of a certain Don't Care who was hanged at last; it is not understood to have had any remarkable effect on crime or executions in the generation it belonged to, and it has passed away with that generation. Hogarth's idle

apprentice is hanged — but the whole scene, with its unmistakable stout lady, drunk and pious; its quarrelling, blasphemy, lewdness, and uproar; Tiddy Doll selling his gingerbread and the boys picking his pocket — is a bitter satire on the great example itself: as effective then as it is now.

THE PARLIAMENTARY RETURNS

Is it effective in preventing crime? The parliamentary returns demonstrate that it is not. I was making extracts from these documents when I found them so well abstracted in one of the papers published by the committee established at Aylesbury last year, through the humane exertions of Lord Nugent, that I will give the general results from its pages.

In 1843, a return was laid before the House of Commons showing the commitments and executions for murder in England and Wales over the thirty years ending in December 1842, divided into five periods of six years each. In the last six years, 1836 to 1842, there were only 50 executions — and the commitments for murder were fewer by 61 than in the six preceding years, which had 74 executions; fewer by 63 than in the six years ending 1830, with 75 executions; fewer by 56 than in the six years ending 1824, with 94; and fewer by 93 than in the six years ending 1818, when there were no fewer than 122 executions. In every period, as executions declined, murder declined with them.

It might be objected that this substitutes cause for effect — that in each successive period the murders decreased because of the example of the executions in the period before. That might carry some colour of truth if the comparison rested on two successive periods only. But the comparison runs across five successive periods, with the result gradually and constantly moving in the same direction; and that settles the relation of the facts beyond any ground for dispute. The number of these crimes diminished as the number of executions diminished. It is all the more striking when we remember what else those decades held. Immediately after the first period — the one with the most executions and the most murders — the reduction of the army and navy suddenly cast great numbers of men loose upon the country without employment; there followed times of severe distress and disturbance in the agricultural and manufacturing districts; and it was during the later periods that the most important mitigations of the law took effect, removing the punishment of death not only for crimes of stealth such as cattle-stealing, horse-stealing, and forgery — for

which the statistics show a corresponding decrease — but for crimes of violence tending toward murder, such as many of the incendiary offences, highway robbery, and burglary.

CERTAIN DEATH, MORE MURDER

Another return laid before the House at the same time bears on the argument still more conclusively. It compares the years since 1810 in which every person convicted of murder was executed with an equal number of years in which the smallest proportion of the convicted were executed.

—	Convicted of murder	Executed	Commitments for murder, next four years
Years when every convicted murderer was executed	66	66	270
Years when most sentences were commuted	83	31	222

After the years of unsparing execution, the commitments for murder in the four years immediately following numbered 270. After the years in which little more than a third of the convicted were executed, they numbered 222 — forty-eight fewer. Measured against the years before them, the figures say this: immediately after the examples of unsparing execution, murder increased nearly 13 per cent; after commutation became the practice and capital punishment the exception, it decreased 17 per cent.

LONDON AND MIDDLESEX

The same parliamentary return gives an account of the commitments and executions in London and Middlesex across thirty-two years ending in 1842, divided into two periods of sixteen years each. In the first, 34 people were convicted of murder, and every one of them was executed. In the second, 27 were convicted and only 17 executed. The commitments for murder in the second long period, with 17 executions, were less than half what they had been in the first, with exactly double that number. This seems as conclusive as any statisti-

cal illustration can be for any argument that places successive events in the relation of cause and effect. How justly, then, does that able and useful periodical now publishing at Glasgow, the *Magazine of Popular Information on Capital and Secondary Punishment*, put it: "The greater the number of executions, the greater the number of murders; the smaller the number of executions, the smaller the number of murders. The lives of Her Majesty's subjects are less safe with a hundred executions a year than with fifty; less safe with fifty than with twenty-five."

Similar results have followed wherever public executions have been made rarer — in Tuscany, in Prussia, in France, in Belgium. Wherever capital punishments diminish in number, crimes diminish in number too.

"BECAUSE IT FAILS, KEEP IT"

But the very same advocates of the punishment of death who contend, in the teeth of all facts and figures, that it prevents crime, contend in the same breath against its abolition because it does not. "There are so many bad murders," they say, "and they follow in such quick succession, that the punishment must not be repealed." Why, is that not a reason — among others — for repealing it? Does it not show that the punishment fails as an example, fails to prevent crime, and is wholly powerless to stop that imitation, or contagion, call it what you please, which brings one murder on the heels of another?

FORGERY

Forgeries once crowded on one another's heels in exactly the same way, when the same punishment attached to that crime. Since the punishment was removed, forgery has diminished to a most remarkable degree. Yet within the last thirty-five years Lord Eldon, with tearful solemnity, asked the House of Lords to shudder at the possibility that some visionary and morbid person might one day propose abolishing the punishment of death for forgery. And when it was proposed, Lords Lyndhurst, Wynford, Tenterden, and Eldon — all law lords — opposed it.

The same Lord Tenterden manfully said, on another occasion and another question, that he was glad the subject of law reform had been taken up by Mr. Peel, "who had not been bred to the law; for those who were, were rendered dull, by habit, to many of its defects." I would respectfully extend the text: a

criminal judge is an excellent witness against the punishment of death, but a bad witness in its favour. I will reserve that point for a few remarks in the next, concluding, letter.

III

JUDGES, ERRORS, AND SCRIPTURE

“This could never be so established in England but that it must needs bring the weal-public into great jeopardy and hazard” — and as he was thus saying, he shaked his head, and made a wry mouth, and so he held his peace.

— the lawyer of Sir Thomas More's *Utopia*,
on a proposal against capital punishment

The last English judge, I believe, to give public and judicial expression to an opinion in favour of the punishment of death is Mr. Justice Coleridge, who, charging the grand jury at Hertford last year, took occasion to lament the serious crimes on the calendar, and to say that he feared they were traceable to the comparative infrequency of capital punishment.

With the utmost deference and respect for an authority so eminent, it must be said that in this Mr. Justice Coleridge was not supported by the facts — quite the reverse. He went out of his way to build a general assumption on very limited and partial grounds, and even on those grounds he was wrong. Among the few crimes he instanced, murder stood prominently forward. But people found guilty of murder are more certainly and unsparingly hanged now, as the parliamentary returns demonstrate, than such criminals ever were; so how can any decline in executions affect that class of crimes? As for people who commit murder and are not found guilty of it by juries — they escape precisely *because* there are many public executions, not because there are none or few.

WHY A JUDGE IS A BAD WITNESS

But when I submit that a criminal judge is an excellent witness against capital punishment and a bad witness in its favour, I do so on broader grounds than this error of fact and deduction — so I presume to consider it — on the part of the distinguished judge in question. And they are grounds that carry no offence to judges as a class, than whom no authorities in England are more deserving of general respect and confidence, or more possessed of it. They apply alike to all men, in their several degrees and pursuits.

It is certain that men contract a general liking for the things they have studied at great cost of time and intellect — the things their proficiency in which has made them distinguished and successful. It is certain that out of this feeling arises not only a passive blindness to their defects, of which Lord Tenterden's example was quoted in the last letter, but an active disposition to advocate and defend them. If it were otherwise — if it were not for this spirit of interest and partisanship — no pursuit could hold the attraction for its devotees that most pursuits, in time, establish. So legal authorities are usually jealous of innovations on legal principles. So the lawyer in the introductory discourse to *Utopia*, hearing a proposal against capital punishment, declared it could never be established in England without bringing the commonwealth into jeopardy — then shook his head, made a wry mouth, and held his peace. So the Recorder of London, in 1811, objected to “the capital part being taken off” the offence of picking pockets. So the Lord Chancellor, in 1813, objected to removing the penalty of death for stealing five shillings' worth of goods from a shop. So Lord Ellenborough, in 1820, predicted the worst effects from there being no punishment of death for stealing five shillings' worth of wet linen from a bleaching-ground. So the Solicitor General, in 1830, defended the punishment of death for forgery, and claimed “the satisfaction of thinking” — in the teeth of mountains of evidence from bankers and other injured parties, a thousand bankers alone — “that he was deterring persons from the commission of crime, by the severity of the law.” So Mr. Justice Coleridge delivered his charge at Hertford in 1845. So there stood in the criminal code of England, in 1790, one hundred and sixty crimes punishable by death. And so the lawyer has said, generation after generation, that any change in such a state of things must bring the commonwealth into jeopardy and hazard — and has, all through the dismal history, shaken his head, and made a wry mouth, and held his peace. Ex-

cept — a glorious exception! — when lawyers like Bacon, More, Blackstone, and Romilly, and, let us gratefully remember, in later times Mr. Basil Montagu, have striven, each in his day, to the utmost limit of what the mistaken feeling of the people or the legislature of the time would endure, to champion and maintain the truth.

THE DRAMA OF A CAPITAL TRIAL

There is another and a stronger reason still why a criminal judge is a bad witness in favour of the punishment of death. He is a chief actor in the terrible drama of a trial where the life or death of a fellow creature is at issue. No one who has seen such a trial can fail to know, or can ever forget, its intense interest. I do not care how painful that interest is to the good, wise judge upon the bench; I admit its painful nature, and the judge's goodness and wisdom, to the fullest extent. But I submit that his prominent share in the excitement of such a trial, and in the dread mystery involved, tends to bewilder and confuse a judge on the general subject of the penalty. I know the solemn pause before the verdict; the hush and stifling of the fever in the court; the solitary figure brought back to the bar, standing there, watched by all the outstretched heads and gleaming eyes, to be struck dead, as one might say, the next minute among them. I know the thrill that goes round when the black cap is put on; the shrieks that break out among the women, and someone carried out in a swoon; and, as the judge's faltering voice delivers sentence, how awfully the prisoner and he confront each other — two mere men, destined one day, however far removed from each other now, to stand alike as suppliants at the bar of God. I know all this. I can imagine what the office costs the judge in the execution of it. But I say that in these strong sensations he is lost — unable to abstract the penalty, as a preventive or an example, from an experience of it, and from associations surrounding it, which are, and can be, his and his alone.

I will not press the point that no amount of wig or ermine can change the nature of the man inside; nor that a judge's nature, like the dyer's hand, may be subdued to what it works in, and grow too used to this punishment of death to consider it quite dispassionately; nor that it may possibly be inconsistent to accept, as calm authorities in favour of death, judges who have been constantly sentencing people to it. On the grounds already stated alone, I contend that a judge — and especially a criminal judge — is a bad witness for the punishment

but an excellent witness against it: because in the latter case his conviction of its uselessness has been strong enough to beat down and conquer every one of these adverse influences. I state the position without scruple, because, for anything I know, the majority of the excellent judges now on the bench may have overcome them, and may be opposed to the punishment of death under any circumstances.

THE POSSIBILITY OF MISTAKE

I said I would devote part of this letter to a few prominent illustrations of each head of objection to the punishment of death. The recorded cases are so numerous that selection is extremely difficult; but on the possibility of mistake, and the impossibility of repair, one case is as good — I should rather say as bad — as a hundred, and if there were none but Eliza Fenning's, that would be sufficient. Indeed, if there were none at all, this alone would sustain the objection: that men of finite and limited judgment inflict, on testimony that admits of doubt, an infinite and irreparable punishment. But there are numerous instances of mistake on record. Many of them are widely known, and will be immediately recognized in the following summary of cases, which I take from the New York report already referred to.

A CATALOGUE OF ERRORS

There have been cases, the report records, in which groans were heard in the room of the crime, drawing the steps of those on whose testimony everything afterward turned — and when they reached the spot, they found a man bending over the murdered body, a lantern in his left hand, the knife still dripping in his blood-stained right, his face horror-stricken, his lips seeming to refuse, in the presence of the dead, to deny the crime in whose very act he had been surprised. Many years later — when only his memory could benefit from the discovery — that man was proven not to have been the murderer.

There have been cases in which two people were alone in a house, and one of them was murdered; in which circumstance after circumstance fastened the deed upon the other; and in which every apparent means of access from outside was found closed from within — the demonstration seemingly complete of the guilt for which that other suffered the doom of the law. Suffered it innocently.

There has been a case in which a father was found murdered in an out-house, the only person at home being a son — sworn by his own sister to have been dissolute, undutiful, and eager for his father's death and the family property. The track of the son's shoes ran through the snow from the house to the place of the murder; the hammer that did it, known to be his own, was found on a search in the corner of one of his private drawers, the bloody evidence of the deed only imperfectly wiped away. The son was innocent. Years afterward, on her deathbed, the sister confessed herself the killer of her father — and, by her silence, of her brother too.

There have been cases in which men were hanged on the most positive testimony to identity, given by people familiar with their appearance and aided by many suspicious circumstances — testimony that afterward proved a grievous mistake, grown out of a remarkable personal resemblance.

There has been a case in which two men, old enemies, were seen fighting in a field; one was found dead, killed by a stab from a pitchfork known to belong to the other, who had been carrying it; the pitchfork lay beside the murdered man. The owner of the pitchfork was hanged for the murder it had committed — and the true murderer sat on the jury that tried him.

There has been a case in which an innkeeper was charged by one of his servants with the murder of a traveller — the servant swearing he had seen his master on the stranger's bed, strangling him and afterward rifling his pockets; another servant swearing she had watched the master come down at a very early hour, steal into the garden, take gold from his pocket, wrap it carefully, and bury it in a particular spot. The ground there was found loose and freshly dug, and thirty pounds in gold buried exactly as described. The master, who confessed to burying the money, and who hesitated and stumbled with every appearance of guilt, was hanged, of course — and proved innocent only too late.

There has been a case in which a traveller was robbed on the highway of twenty guineas he had taken the precaution of marking. One of them turned up, paid away by a servant of the inn the traveller reached that same evening. The servant was about the height of the robber, who had been cloaked and disguised; his master testified that he had lately been unaccountably extravagant and flush with gold; and when his trunk was searched — the servant asleep at the time, half drunk — the other nineteen marked guineas and the traveller's purse were found inside it. He was convicted and hanged, of course, for the crime of which his master was the author.

And there has been a case in which a father and daughter were overheard in violent dispute — the words “barbarity,” “cruelty,” and “death” heard repeatedly from the daughter — after which the father went out, locking the door behind him. Groans were heard, and the words: “Cruel father, thou art the cause of my death!” When the room was opened she lay dying of a wound in her side, the knife that made it beside her; asked whether she owed her death to her father, her last motion before she died was a sign of assent. The father, on returning, showed the usual evidences of guilt. He too was hanged, of course. Nearly a year passed before conclusive evidence established that his daughter had died by her own hand — whereupon the public authorities made his memory the vain reparation of waving a pair of colours over his grave, in token of his innocence.

HOW MANY MORE?

More than a hundred such cases, the report says, are known in English criminal jurisprudence alone. The same report gives three striking cases of supposed criminals unjustly hanged in America, and five more in which people whose innocence was never afterward established were put to death on evidence as purely circumstantial, and as doubtful, as any held sufficient in this general summary of legal murders. Mr. O’Connell defended, in Ireland, within the last twenty-five years, three brothers who were hanged for a murder of which they were afterward shown to be innocent. I cannot lay my hand on the reference at this moment, but I have seen it stated on good authority that but for the exertions of, I believe, the present Lord Chief Baron, six or seven innocent men would certainly have been hanged. These are the wrong judgments that are known to us. How many more there may be — where the real murderers never disclosed their guilt and were never discovered, and where the odium of great crimes still rests on guiltless people long since resolved to dust in their untimely graves — no human power can tell.

THE SCAFFOLD TEACHES KILLING

The effect of public executions on those who witness them needs no better illustration, and can have none, than the scene any execution presents, together with what every police office knows of the crimes arising out of them. I have stated my belief that the study of such scenes leads to disregard of human life,

and to murder. Since writing that, I have made inquiry into the very last trial for murder in London, and am assured that the youth now under sentence of death in Newgate, for the murder of his master in Drury Lane, was a vigilant spectator of the three last public executions in this city. What a daily increasing familiarity with the scaffold, and with death upon it, produced in France in the great Revolution, everybody knows. On this very question of capital punishment, Robespierre himself — before he was “in blood steeped in so far” — warned the National Assembly that in taking human life, and displaying scenes of cruelty and the bodies of murdered men before the eyes of the people, the law awakened ferocious prejudices that gave birth to a long and growing train of their own kind. How much reason there was in the warning, let his own detestable name bear witness. And if we would know how callous and hardened even a peaceful, settled society becomes toward public executions when they are frequent, we need only recollect how few voices were raised against the dreadful Monday-morning spectacles — men and women strung up in a row, for crimes as different in their degree as our whole social scheme is different in its component parts — which, within some fifteen years, made human shambles of the Old Bailey.

BOMBAY AND THE BANK

There is no better way of testing the effect of public executions on those who do not behold them, but who read of them and know of them, than to ask how effective they are in preventing crime. In this they have always failed — in every country, according to every fact and every figure. In Russia, in Spain, in France, in Italy, in Belgium, in Sweden, in England, there has been one result. In Bombay, during the recordership of Sir James Mackintosh, there were fewer crimes in seven years without a single execution than in the preceding seven years with forty-seven — despite a greatly increased population, and a large addition of the ignorant and licentious soldiery with whom the more violent offences originated. And during the four wickedest years of the Bank of England — 1814 to 1817, when the one-pound-note capital prosecutions were most numerous and most shocking — the number of forged one-pound notes detected by the Bank steadily rose, from a gross amount of £10,342 in the first year to £28,412 in the last. On every branch of this part of the subject — the powerlessness of capital punishment to prevent crime, and its power to produce it — the

body of evidence, had I space to quote or analyse it here, is overpowering and irresistible.

THE APPEAL TO SCRIPTURE

I have deliberately deferred until now the one objection urged against abolition that claims to rest on scriptural authority.

It was excellently said by Lord Melbourne that no class of persons can be shown to be very miserable and oppressed but some supporter of things as they are will immediately rise up and assert — not that those persons are moderately well off, not that their lot in life has a reasonably bright side — but that they are, of all sorts and conditions of men, the happiest. In just the same way, when some proceeding or institution is shown to be very wrong indeed, there is a class of people who rush to the fountainhead at once, and will have no less an authority for it than the Bible, on any terms.

So we have the Bible appealed to on behalf of capital punishment. So we have the Bible produced as a distinct authority for slavery. So American representatives find their country's title to the Oregon territory distinctly laid down in the Book of Genesis. So, in course of time, we shall perhaps find the repudiation of debts expressly commanded in the sacred writings.

It is enough for me to be satisfied, on calm inquiry and with reason, that an institution or a custom is wrong and bad — and from that to feel assured that *it cannot be* part of the law laid down by the Divinity who walked the earth. Though every man who wields a pen should turn himself into a commentator on the Scriptures, all their united efforts, pursued through all our united lives, could never persuade me that slavery is a Christian law; nor — with one of these objections to an execution in my certain knowledge — that executions are a Christian law. My will is not concerned in it. In my veneration for the life and lessons of our Lord, I could not believe it. If any text appeared to justify the claim, I would reject that limited appeal, and rest upon the character of the Redeemer, and the great scheme of his religion — where, in its broad spirit made so plain, and not in this or that disputed letter, we all place our trust.

“BY MAN”

But happily, such doubts do not exist; the case is far too plain. The Reverend Henry Christmas, in a recent pamphlet on this subject, shows clearly that in

five important versions of the Old Testament — to say nothing of versions of less note — the words “by man,” in the often-quoted text “Whoso sheddeth man's blood, by man shall his blood be shed,” do not appear at all. We know that the law of Moses was delivered to certain wandering tribes in a peculiar social condition, perfectly different from that which prevails among us now. We know that the Christian dispensation distinctly repealed and annulled portions of that law. We know that the doctrine of retributive justice, of vengeance, was plainly disavowed by the Saviour. We know that on the only occasion when an offender liable by law to death was brought before him for his judgment, his judgment was not death. We know that he said: “Thou shalt not kill.” And if we are still to inflict capital punishment because of the Mosaic law — under which it was not the outcome of a legal proceeding at all, but an act of vengeance by the next of kin, which our own later laws would surely discourage if it revived today — then it would be equally reasonable to establish the lawfulness of a plurality of wives on the same authority.

Here I leave this aspect of the question. I would not have treated it at all in the columns of a newspaper, but for the possibility of being unjustly supposed to have given it no consideration in my own mind.

CONCLUSION

In bringing these letters to a close — on a subject about which, happily, there is very little that is new to be said or written — I ask to be understood as advocating the total abolition of the punishment of death, as a general principle, for the advantage of society and the prevention of crime, and without the least reference to, or tenderness for, any individual malefactor whatsoever. In most cases of murder, indeed, my feeling toward the culprit runs strongly and violently the other way.

I am the more anxious to be understood this way after reading a speech made by Mr. Macaulay in the House of Commons last Tuesday night, in which that accomplished gentleman hardly seemed to recognize the possibility of anyone holding an honest conviction of the uselessness and bad effects of capital punishment in the abstract — founded on inquiry and reflection — without being the victim of “a kind of effeminate feeling.” Without pausing to ask what is especially manly and heroic in the advocacy of the gallows, or to express my admiration of Mr. Calcraft, the hangman, as doubtless one of the most manly specimens now in existence, I would simply hint a doubt, in all good humour, whether this is the true Macaulay way of meeting a great question. One of the instances of effeminate feeling quoted by Mr. Macaulay was, I have reason to think, not quite fairly stated: I mean the petition in Tawell's case. I had neither hand nor part in it myself; but unless I am greatly mistaken, it set forth pretty clearly that Tawell was a most abhorred villain — and that the House might judge how strongly the petitioners opposed the punishment of death, when they prayed for its non-infliction even in such a case as his.

DEFINITIONS AND TERMS

Charles Dickens (1812–1870): English novelist, the most widely read author of his age, and a lifelong critic of the scaffold. These letters, written for the *Daily News* in 1846, are his fullest direct statement against capital punishment; his later, narrower campaign against public executions is discussed in the Foreword and Editor's Note.

The Daily News: London daily newspaper founded in January 1846 with Dickens as its first editor — a post he held for seventeen days before resigning. He continued to contribute, and these letters, addressed “To the Editors,” appeared in its columns in February and March 1846.

E. G. Wakefield: English writer whose *Facts Relating to the Punishment of Death* drew on his own imprisonment in Newgate, where he observed condemned prisoners at close range. His testimony supplies much of the evidence in the second letter — and much of the evidence in the Burleigh volume of this series, published one year before these letters.

Thomas Hocker: A young Londoner hanged in 1845 for a murder committed, by every appearance, chiefly to be noticed. Dickens's portrait of him in the first letter is the era's most penetrating study of murder for notoriety.

François Courvoisier: Swiss valet hanged in 1840 for the murder of his employer, Lord William Russell. Dickens attended the public execution outside Newgate in a crowd of tens of thousands — the experience that first drew him into this argument.

Edward Oxford: The eighteen-year-old who fired at Queen Victoria in 1840 and was acquitted as insane and confined. Dickens, like many contemporaries, regarded the verdict as mistaken and the motive as pure craving for

notoriety; his point in the first letter is that Oxford's imitators stopped only when the death penalty — and its fame — was taken off the offence.

Eliza Fenning (1793–1815): London cook hanged for the attempted poisoning of the family she served, on evidence widely doubted at the time and ever since. Her case became the century's byword for wrongful execution; for Dickens, her name alone is argument enough.

John Tawell: Hanged in 1845 for murder, and the first criminal apprehended by means of the electric telegraph. The petition against his execution — which Macaulay mocked as “effeminate feeling” — is defended in Dickens's conclusion.

Sir James Mackintosh (1765–1832): Scottish jurist who, as chief judicial officer of Bombay, went seven years without a single execution and watched crime fall — the same experiment cited at greater length in the Burleigh volume of this series.

Lord Nugent (1788–1850): Reforming member of Parliament whose committee at Aylesbury abstracted the parliamentary returns on executions and murder that Dickens quotes in the second letter.

The New York Report: John L. O'Sullivan's 1841 *Report in Favor of the Abolition of the Punishment of Death by Law*, from which Dickens takes his catalogue of wrongful convictions. It appears as V. 12 of this series, and is one of the two chief sources of the Burleigh volume as well.

William Calcraft: The public hangman of England for more than forty years. Dickens's ironic tribute to him as “doubtless one of the most manly specimens now in existence” closes the letters.

FURTHER READING

ON DICKENS AND THE 1846 LETTERS

- Dickens, Charles.** Letters on capital punishment. *The Daily News*, London, February–March 1846. The original texts.
- Dickens, Charles.** *Works of Charles Dickens*, Volume 19. Gresham Publishing Company, 1912. Transcribed by David Price. The edition from which this text was prepared.
- Dickens, Charles.** Letters to *The Times* on the Manning execution, November 1849. Dickens's later, narrower campaign against public executions — the retreat discussed in the Foreword.

RELATED VOLUMES IN THE ABOLITION CLASSICS

- 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.
- Beccaria, Cesare.** *An Essay on Crimes and Punishments*. V. 5. 1764. Edited and modernized by Jeff Hood. Complicit Press, 2026. The foundational Enlightenment argument against the death penalty.
- Livingston, Edward.** *Argument Against Capital Punishment*. V. 6. 1833. Edited and modernized by Jeff Hood. Complicit Press, 2026. On the psychology of deterrence and the disgrace of public execution.
- Spear, Charles.** *Essays on the Punishment of Death*. V. 10. 1844. Edited and modernized by Jeff Hood and Kat Bodrie. Complicit Press, 2026. Case examples of wrongful and near-wrongful executions.

O'Sullivan, John L. *Report in Favor of the Abolition of the Punishment of Death by Law*. V. 12. 1841. Edited and modernized by Jeff Hood. Complicit Press, 2026. The "New York report" quoted at length in the third letter.

Burleigh, Charles C. *Thoughts on the Death Penalty*. V. 22. 1845. Edited and modernized by Jeff Hood. Complicit Press, 2026. Published one year before these letters, drawing on the same witnesses; the immediate companion to this volume.

COMPLICIT PRESS

THE ABOLITION CLASSICS

The texts that built the case against the death penalty