

*The Last Day of
a Condemned Man*

Victor Hugo

Translated by Christopher Moncrieff



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The Last Day of
a Condemned Man

Preface to the 1832 Edition

EARLY EDITIONS OF THIS WORK, initially published without the author's name, began with just the following few lines:

There are two ways of taking account of this book's existence. Either to see it as a bundle of rough, yellowed sheets of paper on which the last thoughts of a poor wretch were found written down one by one; or as the work of a man, a dreamer who spends his time observing nature in the name of art, a philosopher, a poet – who knows – from whose imagination this idea came and who seized upon it, or rather let himself be seized by it, and could only shake it off by putting it into a book.

Of these two explanations the reader will choose whichever one he wishes.

As can be seen, at the time of the book's first publication the author did not feel it was the right moment to say everything that was on his mind. He preferred to wait until it was understood, to see if it would be. It was. The author can now reveal the political idea, the social idea that he wanted to make public in this frank and innocent literary guise. So he states, or rather openly admits, that *The Last Day of a Condemned Man* is nothing other than an appeal – direct or indirect, however you wish to see it – for the abolition of the death penalty. What his intention was, what he would like future generations to see in this work, if they ever interest themselves with so minor a thing, is not the specific defence of some particular criminal, some defendant of his own choosing, which is always both simple and short-lived: it is an overall and ongoing plea for every defendant now and in the future; it is the great point of law of humanity put forward in a loud, clear voice to that great Court of Appeal called society; it is the hour of reckoning for point-blank refusals, *abhorrescere a sanguine*,* set up for all time before every criminal trial; it is the sombre and fatal question that pulses obscurely deep down inside every vital cause,

beneath that triple layer of pathos that shrouds magistrates' blood-soaked rhetoric; it is a question of life and death I tell you, naked, laid bare, stripped of the high-sounding artifices of the public prosecutor, dragged brutally up to date and put where it can be seen, where it should be, where it actually is, in its proper place, its hideous place, not in the courtroom but on the scaffold, not before the judge but before the executioner.

This is what he wanted to do. If in the future he were to be praised for having done so, something he dare not hope for, then he could not wish for any other laurels.

So he states it, repeats it, makes it his business in the name of every defendant, before every court, every bench, every jury, every form of justice. This book is addressed to each and every judge. And for the appeal to be as far-reaching as the cause – and this is why *The Last Day of a Condemned Man* is the way it is – he had to prune his subject matter of anything unpredictable, of the accidental, the particular, the special, the relative, the changeable, the episode, the anecdote, the special event, the proper name, and confine himself (if that is what it is to confine yourself) to pleading the cause of any condemned man executed on any day for any crime. Happy if, with no assistance other than that of his thoughts, he has delved deep enough to draw blood from the heart of the magistrate beneath his *ææs triplex!** Happy if he has shown that those who think themselves just are pitiful! Happy if by scratching the surface of a judge he has occasionally managed to find a man!

When this book was published three years ago a few people thought it worthwhile to question whether it was the author's idea. Some of them assumed it was an English book, others that it was American. It seems strange to go a thousand miles to look for the origins of something, to find the source of the stream that runs past your door in the River Nile. Sadly this is neither an English book, nor American, nor Chinese. The author didn't get the idea for *The Last Day of a Condemned Man* from a book, he is not in the habit of travelling all that distance to get ideas, but somewhere where all of you can get them – perhaps where you did get them (for who has not lived or dreamt *The Last Day of a Condemned Man?*) – quite simply, on the Place de Grève.* That is where, walking past one day, he found this fatal idea lying in a pool of blood beneath the reddened stumps of the guillotine.

Ever since then, every time the day came when, according to the whim of those mournful Thursdays in the Court of Appeal, the cry of a death sentence being announced was heard in Paris; every time the author heard those hoarse yells that draw onlookers to La Grève go by under his window; every time that painful idea came back to him, seized hold of him, filled his head with policemen, headsmen and crowds, described the final sufferings of the wretched dying man to him hour by hour – at this moment he is making his last confession, at this moment they are cutting his hair, at this moment they are binding his hands – summoned him, the poor poet, to tell all this to a society that was going about its business while this monstrous thing was being carried out, urged him, drove him on, shook him, dragged the lines from his mind when he was in the midst of writing them and killed them off barely drafted, blocked out all his work, got in the way of everything, besieged him, haunted him, assailed him. It was torture, a torture that began at daybreak and lasted, like that of the poor wretch who was being tortured at the same moment, until *four o'clock*. Only then, once the grim voice of the clock called out the *ponens caput expiravit*,* did the author breathe, regain some independence of thought. Finally one day, as far as he can remember it was the one after Ulbach's execution,* he began to write this book. After that he felt better. Whenever one of those State crimes that go by the name of legal executions was committed, his conscience told him he was no longer part of it, and he no longer felt on his forehead that drop of blood which spurts from La Grève onto the head of every member of society.

But it was not enough. Washing your hands is good, preventing blood from flowing would be better.

Then would he not have the highest, holiest, most noble aim: to contribute to the abolition of the death penalty? For does he not wholeheartedly endorse the wishes and efforts of those high-minded men from every country who have been trying to topple that sinister tree for years, the only tree that revolutions do not uproot? So he is delighted to take his turn, he who is so puny, to strike his blow, to do his best to deepen the incision that, sixty-six years ago, Beccaria* made into the old gibbet that has loomed over Christianity for centuries.

We have just said the scaffold is the only edifice that revolutions do not tear down. It is true that revolutions are rarely abstemious when it comes to human blood, and given that they exist to prune, lop, to

deadhead society, the death penalty is one implement that they find it most difficult to part with.

Yet we admit that if ever a revolution appeared capable and worthy of abolishing the death penalty, it was the July Revolution. It really seemed to fall to the most humane popular movement of modern times to do away with the barbaric punishment of Louis XI, Richelieu and Robespierre, to stamp the inviolability of human life into the law's brow. 1830 deserved to break the blade of '93.

For a moment we hoped. In August 1830 there was so much kindness and compassion in the air, the masses had such a spirit of gentleness and civilization, you could feel your heart swell at the sight of such a fine future, that we thought the death penalty had been abolished then and there by natural right, by unanimous and tacit consent like all the other bad things that had been upsetting us. The people had just made a bonfire with the rags of the Ancien Régime. This one was the blood-soaked rag. We thought it was in the pile. We thought it had been burnt with the rest. And for a few weeks, confident and trusting, we had faith in a future where life was as inviolable as liberty.

And it is true that barely two months went by before an attempt was made to turn Cesare Bonesana's magnificent legal utopia into a reality.

Sadly it was a clumsy attempt, ill-considered, almost hypocritical, and done for motives other than that of the general good.

In October 1830, if we remember rightly, a few days after issuing an order of the day to set aside the proposal to bury Napoleon under the column,* the entire Chamber began to weep and wail. The question of the death penalty was raised – we'll say a few words about the actual circumstances in a moment – and it was as if the legislators' very souls had suddenly been seized by a wonderful spirit of forgiveness. Everyone competed to speak, to groan, to raise their hands to heaven. The death penalty? Good God! How appalling! An elderly public prosecutor, white in his red robes, who had eaten bread dipped in the blood of arraignments all his life, suddenly put on a shamefaced expression and called the gods to witness that he found the guillotine an affront. For two days the gallery was full of tearful mob orators. It was a lament, a myriology,* a concert of mournful psalms, a *Super flumina Babylonis*, a *Stabat Mater dolorosa*, a great symphony in C with choirs played by this orchestra of speakers who fill the front benches of the Chamber

and produce such fine sounds on big days. One had a bass voice, another a falsetto. Nothing was lacking. You could not have asked for anything with more pathos and poignance. The evening session was particularly emotional, well-meaning and heart-rending like a last act by La Chaussée. The members of the public, who couldn't understand a word, had tears in their eyes.*

So what was it about? Abolishing the death penalty?

Yes and no.

Here are the facts:

Four gentlemen,* four upstanding men, the sort of men you might meet in a drawing room and with whom you may have exchanged a few polite words; four of these men, I tell you, had tried to stage one of those daring coups in the upper reaches of government which Bacon calls a *crime* and Machiavelli a *venture*. But whether crime or venture, the law, which is savage with everyone, punishes it with death. And there they were, the four of them, prisoners, captives of the law, guarded by three hundred tricolour cockades beneath the lovely arches of Vincennes. What to do and how? You realize it is impossible to send them to La Grève in a tumbril, bound disgracefully with rough cord, back to back with that public servant who simply must not be named, not four men like you and me, four *gentlemen*? Even more so if there is a mahogany guillotine waiting there!

Well then! All we have to do is abolish the death penalty!

And with that the Chamber got to work.

But note, Messieurs, that only yesterday you were calling this abolition utopia, a theory, a dream, madness, a piece of poetry. Note that this is not the first time we have tried to draw your attention to the tumbril, to the rough cords and the terrible scarlet machine, and so it is odd that this hideous contraption should suddenly be so obvious to you.

So that is what this is really about! It is not for you, the people, that we are abolishing the death sentence, but for us, deputies who might become ministers. We can't have Guillotin's machine biting the upper classes. We will smash it. All the better if it suits everybody, but we were only thinking of ourselves. Ucalegon is burning.* Put out the fire. Quick, get rid of the executioner, change the penal code.

And that is how a self-seeking hotchpotch distorts and debases the very finest social schemes. It is the black vein in white marble; it gets

everywhere, appears under your chisel at any moment without warning. Your statue has to be redone.

There is naturally no need to say that we were not among those who demanded the four ministers' heads. Once these hapless individuals were arrested, our angry indignance at their attempted coup changed to heartfelt pity, as it did for everyone else. We remembered the prejudices that some of them had been brought up with, the limited mind of their leader, a stubborn and relapsed fanatic left over from the conspiracies of 1804, hair turned prematurely white from the damp darkness of prison, the deadly necessities of their position, the impossibility of halting the rapid downwards slide on which the monarchy had launched itself flat out on 8th August 1829, the influence of royalty which up till then we had taken too little account of, especially the dignity that one of them spread over their misfortune like a purple cloak. We were among those who genuinely wanted them to be spared, and were prepared to devote ourselves to that. If by some remote chance a scaffold had ever had to be set up for them on La Grève, we are in no doubt – and if we are deluding ourselves we don't wish to stop – we are in no doubt there would have been a riot to tear it down, and the writer of these lines would have been among that holy riot. Because, and this has to be said as well, during any social crisis, of all scaffolds the political scaffold is the most monstrous, the most harmful, the most pernicious, the one that most needs eradicating. That type of guillotine takes root under the pavements and soon shoots up everywhere.

During any revolution beware the first head that rolls. It gives the people an appetite.

So personally we agreed with those who wanted to spare the four ministers, agreed in every way for emotional as well as political reasons. But we would have preferred the Chamber to find a different occasion to suggest abolishing the death penalty.

If they had suggested this desirable abolition, not in the case of four ministers who fell from the Tuileries into Vincennes, but that of the first highwayman to come along, or one of those wretches whom you barely notice when they pass you in the street, whom you don't speak to, whose dusty clothes you instinctively avoid brushing against; unfortunates who spent their ragged childhood barefoot in muddy streets, shivering on the embankments in winter, warming themselves outside the kitchen windows at Monsieur Véfour's where you have dinner, rooting out a

crust here and there from piles of refuse and cleaning it up before eating it, scratching about in the gutter all day with a nail to find a farthing, having no other amusement except the free entertainment on the King's birthday and executions on the Place de Grève, that other free show; poor devils whom hunger drives to stealing, and stealing to everything else; the deprived children of a cruel mother society whom the workhouse takes at twelve, the penal colony at eighteen, the scaffold at forty; wretches whom with schooling and a trade you could have turned to the good, made virtuous, useful, but whom you don't know what to do with, shedding them like a useless burden, either to the ants' nest at Toulon or the silent enclosure at Clamart,* cutting off their lives after taking away their freedom. If it had been for one of these people you suggested abolishing the death penalty, then oh how truly honourable, great, holy, magnificent, revered your session would have been! Ever since the venerable Fathers at Trent invited heretics to the Council in the name of God's vital organs, *per viscera Dei*, in the hope they would be converted, *quoniam sancta synodus sperat hæreticum conversionem*,* never has a gathering of men offered a more sublime, splendid, more merciful sight to the world. It has always been for those who are truly strong, truly great, to show concern for the poor and weak. It would be a fine thing for a committee of Brahmins to take up the outcast's cause. And in this case the outcast's cause was the people's cause. By abolishing the death penalty for its own sake, without waiting till you were personally involved with the matter, you would be performing more than a political task: you would be performing a social task.

Yet you did not even perform a political task by trying to abolish it: it was not to abolish it but just to save four unfortunate ministers who had been caught red-handed in a coup d'état!

And what happened? Well, since you were not genuine we became suspicious. When people realized you were trying to put them off the scent they lost their temper with the whole idea and, extraordinary thing, fought for the death penalty although they are the ones who bear the brunt of it. That is what your blunder led to. By approaching the matter from the wrong angle, and insincerely, you jeopardized it for a long time to come. You put on an act. You got booed.

Despite this hoax a few people were good enough to take it seriously. Straight after the famous session, an order was given to public prosecutors by a minister of justice, a decent man, to suspend all

executions indefinitely. On the face of it it was a great step forwards. The opponents of the death penalty could breathe again. But their illusions were short-lived.

The ministers' trial came to its conclusion. I don't know what the verdict was. Their lives were spared. Ham* was chosen as a compromise between death and liberty. Once the various arrangements had been made the men in government forgot any fear they had had, and with fear went humanity. There was no longer any question of abolishing capital punishment; and once there was no need of it, utopia became utopia again, theory theory, poetry poetry.

Yet there were still a few unfortunate common convicts who had been pacing round exercise yards for five or six months, breathing the fresh air, minds at rest, confident of living and taking their reprieve as a pardon. But wait.

To be honest the executioner had been very afraid. The day he heard the lawmakers talking humanity, philanthropy, progress, he had thought he was lost. The wretch hid himself away, huddled up under his guillotine, as uneasy in the July sunshine as a nightbird in the daytime, trying hard to be forgotten, putting his hands over his ears and not daring breathe. He was not seen for six months. He gave no sign of life. Yet in his dark place he gradually felt reassured. He had been listening outside the Chamber and had not heard his name mentioned again. No more of those grand high-sounding words that gave him such a fright. No more bombastic statements from *On Crimes and Punishments*.* They were attending to quite different things now: a serious social interest, some byroad, a subsidy for the Opéra-Comique or a heavy loss of a hundred thousand francs out of a frenzied budget of fifteen hundred million. No one was thinking about him now, the head-chopper. Seeing this, the man's mind is put at rest, he pokes his head from out of his hole and looks round; he takes a step, then two, like a mouse from La Fontaine,* then ventures all the way out from under his scaffold, then leaps onto it, repairs it, restores it, polishes it, strokes it, gets it working, makes it shine, begins to grease again the rusty old mechanism that is out of order from lack of use; all of a sudden he turns round, grabs the hair of one of the ill-fated wretches in the nearest prison who is expecting to live, drags him over, strips him of his wordly possessions, ties him up, fastens him down, and there you go: executions begin all over again.

All this is terrible, but it is part of history.

Yes, a six-month reprieve was granted to unfortunate prisoners whose punishment was gratuitously worsened by making them take up their lives again; then, for no reason, unnecessarily, without really knowing why, *for the pleasure of it*, one fine morning the reprieve was revoked and all these human beings were cold-bloodedly handed over to be systematically felled. My God! I ask you, what was it to us if these men lived? Isn't there enough air in France for us all to breathe?

For some mere clerk in the chancellery, who didn't feel strongly about it, to get up from his desk one day and say: "Well then! No one's thinking of abolishing the death penalty any more. It's time to start guillotining again!" – something quite monstrous must have happened deep down inside that man.

And to be frank, never had executions taken place in more appalling conditions than since the revoking of reprieves in July, never had stories from La Grève been more disgusting or greater justification for loathing the death penalty. This even greater wave of horror was just punishment for the men who reinstigated the law of blood. May they be punished by their own work. It serves them right.

Here I should give two or three examples of what was appalling and ungodly about some executions. We have to upset the crown prosecutors' wives. A wife is sometimes a conscience.

In the Midi, towards the end of last September, we can't quite remember the place, the day, or the condemned man's name, but if you disagree we can get the details – we think it was at Pamiers.* Anyway, around the end of September they come and get a man in prison where he was peacefully playing cards; they inform him he is to die in two hours' time, which sets him shaking all over, because for the last six months he had been forgotten, he wasn't expecting death any more; they shave him, cut his hair, tie him up, hear his confession, then cart him off through the crowd between four policemen to the place of execution. So far so good. That's the way it's done. At the scaffold, the executioner takes him over to the priest, brings him back, ties him to the bascule, *shoves him in the oven* to use the popular expression, and then releases the blade. The heavy iron triangle barely moves, it jolts down its runners, and now the horror starts, it gashes the man open without killing him. The man gives a terrible scream. Disconcerted, the executioner raises the blade and lets it drop again. The blade bites into the sufferer's neck a second time but still doesn't sever it. The

sufferer howls, the crowd as well. The executioner hauls the blade up yet again, hoping for the best with the third go. No good. The third blow sends a third stream of blood spurting from the condemned man's neck but doesn't take his head off. To get to the point: the cutter rose and fell five times, five times it bit into the condemned man, five times the condemned man shrieked from the blow and shook his still-living head, begging for mercy! Infuriated, the people picked up stones and exercised their right by stoning the wretched headsman. The executioner took refuge under the guillotine and hid behind the police horses. But we aren't finished yet. Finding he was alone on the scaffold the victim got up from the plank and there, upright, horrifying, streaming with blood, supporting his half-removed head which was dangling on his shoulders, with feeble cries he asked for it to be cut off. The crowd, filled with pity, were about to force their way past the police to help this wretch who had been subjected to the death sentence five times over. At this point one of the executioner's assistants, a young man of twenty, climbs onto the scaffold, tells the sufferer to turn round so he can untie him and, taking advantage of the position of the dying man who was surrendering himself unsuspectingly, leaps onto his back and starts to cut through what was left of his neck with a butcher's knife. It happened. It was witnessed. Yes.

According to the law, a judge should have been present at the execution. He could have stopped everything with a sign. So what was this man doing inside his coach while they butchered another man? What was this punisher of murderers doing while they committed murder in broad daylight, under his nose, under his horses' noses, under the window of his carriage?

And the judge was not judged! The executioner was not judged! No court investigated this effacement of every law concerning the sacred person of one of God's creatures!

In the seventeenth century, that barbaric age of the *code criminel* under Richelieu, under Christophe Fouquet, when Monsieur de Chalais was put to death outside Le Bouffay prison in Nantes by a clumsy soldier who, instead of a single sword blow gave him thirty-four* with a cooper's axe, at least the parliament in Paris found it irregular; there was an enquiry and a trial, and if Richelieu was not punished, if Christophe Fouquet was not punished, the soldier was. No doubt unjust, but there was justice at the base of it.

But here, none. This thing took place after July, a time of progress and gentle mores, a year after the famous lament in the Chamber about the death penalty. Well! The event passed quite unnoticed. The Paris press reported it as trivia. No one had been alarmed. All they knew was that the guillotine had been deliberately tampered with by someone *who wanted to harm the enforcer of honourable works*.* It was an executioner's assistant who, thrown out by his master, had taken revenge by playing a spiteful trick on him.

It was just a prank. Let's continue.

Three months ago in Dijon they executed a woman. (A woman!) Dr Guillotin's blade failed to do its job properly this time as well. The head wasn't completely cut off. So the enforcer's assistants grabbed hold of the woman's feet and, to the accompaniment of the poor devil's screams, they tugged and jerked the head from her body.

In Paris we have gone back to covert executions. Since they have not dared do any beheading at La Grève since July, since they are frightened, since they are cowards, this is what they do. They took a man from Bicêtre* recently, a condemned man – I think his name was Désandrieux – they put him in a sort of basket on two wheels, completely sealed, locked and padlocked; then with a policemen in front and a policeman at the rear, with little fuss and no crowds they delivered the package to the deserted toll gate at Saint-Jacques. When they arrived it was eight in the morning, barely daylight, there was a brand new guillotine set up and, for an audience, about a dozen little boys gathered on piles of stone round the unexpected apparatus; they quickly pulled him out of the basket and, without giving him time to draw breath, furtively, slyly, shamefully they had his head off. This is what goes by the name of a solemn public act of high justice. Unspeakable mockery!

So how do magistrates understand the word civilization? Where do we stand with it? Justice reduced to subterfuge and trickery! The law to machinations! Appalling!

It is an utterly dreadful thing for society to take a condemned man and treat him like that!

But to be fair the execution was not a total secret. That morning they proclaimed the death sentence at every crossroads in Paris and sold copies as usual. Apparently there are people who make a living from selling them. Do you hear? They turn some hapless individual's crime, his punishment, his torments, his death throes into a commodity, a

piece of paper they sell for a sou. Can you imagine anything more repulsive than that sou, smothered in blood? And who pockets it?

Enough facts. More than enough. Isn't all this terrible? What excuse can you find for the death penalty?

We are asking a serious question; we are asking it in order to get an answer; we are asking criminal lawyers, not the chattering classes. We know there are people who find the pre-eminence of the death penalty a fascinating subject to study, just like any other. There are others who only like the death penalty because they hate someone who challenges it. For them it is almost a literary question, a question of personalities, proper names. These are envious people who no more find fault with legal experts than they do with great artists. The Filangieris aren't short of Joseph Grippas any more than Michelangelos are short of Torregianos, or Corneilles of Scudéry's.*

It is not them we are talking to but the lawyers proper, the philosophical debaters, the thinkers, those who love the death penalty for the death penalty, for its beauty, its kindness, its mercy.

So let's hear their reasons.

Those who judge and pass sentence say the death penalty is necessary. Firstly because it is important to remove from the social body a member that has harmed it once and might harm it again. If it were simply a question of that, then life imprisonment would be sufficient. What use does death serve? You argue that people can escape from prison. You had better go and take a look at one. If you think the iron bars are not strong enough then how come you have zoos?

No need for an executioner when there is a jailer.

But let's continue. Society must take revenge, punish. It is neither one nor the other. Revenge is for the individual, punishment for God.

Society falls between the two. Punishment is above it, vengeance beneath. Neither something so great nor something so small befits it. It should not "punish to take revenge": it should correct in order to improve. Change the criminal lawyers' terminology to that and we will understand it, we will subscribe to it.

Which leaves the third and final reason, the theory of example. We have to set an example! We have to terrify with the sight of what fate has in store for criminals those who would be tempted to imitate them! There you have it! Almost word for word, the eternal phrase of which every summing-up speech for the prosecution in the five hundred public

prosecutor's departments in France is just more or less another high-sounding variation. Well! Firstly we refuse to accept that it acts as an example. We refuse to accept that the sight of executions has the effect you think. Far from edifying people it demoralizes them, destroys any higher feelings they have, and consequently any morals. There is plenty of evidence, although it would get in the way of our argument to quote it. Nonetheless we will quote one incident among thousands, because it is the most recent. At the time of writing it was just ten days ago. It was on 5th March, the last day of carnival. At Saint-Pol, straight after the execution of an arsonist called Louis Camus, a group of people wearing masks danced round the still-steaming scaffold. So, make examples. The Mardi Gras laughs in your face.

But if despite experience you stick to your usual theory of example, then let's bring back the sixteenth century, that would be marvellous; bring back Farinacci,* bring back torturer-jurors; bring back the gallows, the wheel, the stake, the strappado, cutting off ears, quartering, burying alive, boiling alive; bring back the executioner's monstrous stall at every crossroads in Paris, continually stocked with fresh meat, just one more shop among the rest. Bring back Montfaucon,* its sixteen stone pillars, its crude assizes, its cellar filled with bones, its beams, its hooks, its chains, its rows of skeletons, its plaster knoll dotted with crows, its branched gibbets and the smell of corpses which the north-east wind carries in great gusts across the Faubourg du Temple. Bring back the Paris executioner's gigantic shed in all its permanence and power. There's a fine idea! There's an example on a grand scale. There's the death penalty and no mistake. There's a system of execution with a bit of proportion. There's something which is horrible, no, dreadful.

Or do what they do in England. In England, that mercantile nation, they catch a smuggler on the coast at Dover, they hang him as an example; as an example they leave him on the gallows; but since the inclement weather might damage the corpse they carefully wrap it in canvas smeared with tar so as not to have to replace it so often. O land of thrift! Tarring the hanged!

Yet it has logic. It is the most humane way to view the theory of example.

But you, do you seriously think you are making an example when you slit the throat of some poor man wretchedly and in the most deserted recesses of the outer boulevards? At La Grève in broad daylight is one

thing; but at the gates of Saint-Jacques! At eight o'clock in the morning! Who will come past? Who will be going that way? Who knows you are killing a man there? Who is going to think you are setting an example? An example to whom? To the trees on the boulevard apparently.

So can't you see your public executions are being done on the sly? Can't you see you are hiding? That you are afraid, ashamed of your deeds? That you are absurd, spluttering your *discite justitiam moniti*?* That deep down you are shaken, unsettled, anxious, uncertain of being right, filled with doubts, cutting off heads as a matter of course without really knowing what you are doing? Deep down do you not at least feel you have lost the moral and social awareness of the bloody mission that your predecessors, those old members of parliament, carried out with such a clear conscience? Do you not you toss and turn in bed at night more than they did? Others before you ordered people to be executed, but they considered what they were doing to be right, just, good. Jouvanel des Ursins thought he was a judge; Élie de Thorrette thought he was a judge; Laubardement, La Reynie and Laffemas* thought they were judges; but in your heart of hearts you are never quite sure that you aren't murderers!

You forsake La Grève for the gates of Saint-Jacques, the crowd for isolation, daylight for twilight. You are not doing things with firmness any more. You are hiding, I tell you!

So all the reasons for the death penalty are demolished. All the public prosecutor's syllogisms are brought to naught. All these wood shavings of summings-up are swept away, reduced to ashes. The slightest contact with logic makes all false arguments disintegrate.

Just let the magistrates come asking us for heads again, us members of the jury, us men, imploring us in a cajoling voice in the name of protecting society, maintaining public convictions, making examples. It's all rhetoric, pomposity and emptiness! One pinprick in their grandiloquence and it deflates. Beneath their honeyed verbosity you just find hard-heartedness, cruelty, barbarity, the desire to demonstrate their zeal, the need to earn fees. Silence, mandarins! Under the judge's velvet glove we feel the claws of the executioner.

It is difficult to think calmly about what a criminal crown prosecutor is. He is a man who earns a living by sending others to the scaffold. He is the official purveyor to every Place de Grève. Not only that, he is a gentlemen with pretensions to style and literature, a fine speaker,

or thinks he is, who if needs be will trot out a line or two of Latin before deciding on death, who tries to create an impression, who is fascinating to his personal sense of self-esteem – O woe! – who, where other people’s lives are at stake, has his models, his appalling examples to live up to, his classics, his Bellart, his Marchangy,* like one poet has Racine and another Boileau. During the proceedings he fights on the guillotine’s side; it is his role, his profession. His summing-up is his work of literature, he decks it with metaphors, perfumes it with quotations; it has to be good for the audience, it has to appeal to the ladies. He has his stock of commonplaces that are still brand new to provincials, his ornamental turns of phrase, his affectations, his writerly refinements. He hates the simple word almost as much as the tragic poets of the school of Delille. Have no fear he will call things by their proper name. Bah! For each idea which would disgust you in its naked form, he has disguises complete with epithets and adjectives. He makes Monsieur Sanson* presentable. He veils the blade. He blurs the bascule. He wraps the red basket in circumlocutions. You don’t know where you are any more. Everything is rose-tinted and respectable. Can you picture him at night in his study, at leisure, doing his best to work up the harangue that in six weeks’ time will have a scaffold built? Do you see him sweating blood to make the defendant’s head fit into the deadliest article of the criminal code? Do you see him sawing through a poor wretch’s neck with a badly made law? Do you see how he injects two or three poisonous passages into a muddle of tropes and synecdoches so that, with much ado, he can squeeze out, extract the death of a man from it? Is it not true that under the desk as he writes he probably has the executioner crouching at his feet in the shadows, and that he puts down his pen now and then to say to him, like a master to his dog: “Hush! Quiet now! You’ll get your bone!”

What’s more, in his private life this public servant might be a decent man, a good father, a good son, a good husband, a good friend – like it says on all the headstones in Père-Lachaise.

Let us hope the day is coming when the law will abolish these doleful duties. At some point the very air of our civilization must wear out the death penalty.

One is sometimes tempted to think that supporters of the death penalty have never really thought about it. But just weigh in the balance, against some crime or other, this outrageous right that society

assumes to take away something it did not give, this punishment, the most irreversible of all irreversible punishments.

There are two possibilities:

Either the man you strike down has no family, no relatives, no one he is attached to in the world. In which case he has had no education, no upbringing, no one to take care of his mind or his feelings; so by what right do you kill this miserable orphan? You are punishing him for a childhood that crept along the ground as it grew, without stem or stake! The offence you accuse him of is the isolation to which you abandoned him! You turn his misfortune into his crime! No one taught him to know what he was doing. This man doesn't know. It is not him who is the owner of his misdeed – his fate is. You are striking down an innocent.

Or the man has a family; so do you think the blow with which you cut his throat will hurt just him? That his father, his mother, his children will not bleed because of it? No. By killing him you decapitate his entire family. And again you strike down the innocent.

Blind and clumsy penalty which strikes the innocent whichever way it turns.

This man, this guilty man with a family, lock him away. In prison he will still be able to work for his loved ones. But how will he provide for them from the grave? Can you think without shuddering about what will become of the little boys, the little girls whose father you have taken, in other words their bread? In fifteen years' time, will you be depending on the men of this family to supply the penal colony, the women the common dance hall? Oh! Poor innocents!

In the colonies, when a slave is executed by warrant the man's owner gets a thousand francs' compensation. What! You reimburse the master but not the family! Here too are you not taking a man from those he belongs to? Is he not, in a sacred way quite different from that of a slave in relation to his master, his father's property, his wife's possession, his children's asset?

We have already convicted your law of murder. Now it is convicted of theft.

And another thing. Do you stop to think of this man's soul? Do you know what state it is in? Do you dare dispose of it so lightly? At least in the past the people had some faith; at the hour of reckoning the breath of religion in the air could soften the most hardened heart;

a sufferer was also a penitent; the moment society closed one door on him, religion opened another; every soul was conscious of God; the scaffold was merely the gateway to heaven. But what hopes can you place on the scaffold now the masses no longer believe, now all religions are riddled with dry rot like those old ships that languish in our ports, yet which long ago may have discovered new worlds? Now that children poke fun at God? By what right do you cast the darkened souls of the condemned, souls such as Voltaire and Monsieur Pigault-Lebrun* created, into a place whose existence you yourselves question? You hand them over to your prison chaplain – without doubt a splendid old man, but does he believe and inspire belief? Does he not make a meal of his exalted task as if it were a chore? Do you take him for a priest, this fellow who rubs shoulders with the headsman in the tumbrel? A talented and noble writer has already said: “It is a terrible thing to keep the executioner after you have dispensed with the confessor.”

These are probably just “sentimental reasons”, as scornful people call them, whose logic comes only from their heads. In our eyes they are the best. We often prefer reasons of sentiment to reasons of reasoning. And anyway, let’s not forget that these two trains of thought are connected. *On Crimes and Punishments* is an offshoot of *On the Spirit of the Laws*. Montesquieu fathered Beccaria.

Reason is on our side, feelings are on our side, experience is on our side as well. In model states, where the death penalty has been abolished, the number of capital offences goes down progressively each year. Give that some thought.

However, for the moment we are not asking for a sudden and total abolition of the death penalty, like the Chamber of Deputies so rashly committed themselves to. On the contrary, what we would like is every sensible attempt, precaution, tentative step. Besides, we do not just want the death penalty abolished, we want a complete revision of all forms of punishment from top to bottom, from prison bars to the blade, and time is one of the elements that must be included in such an undertaking if it is to be done properly. We also intend to develop what we feel is the relevant conceptual approach to this subject. But over and above partial abolitions for forgery, arson, aggravated theft, etc., we ask that from now on, in every capital case the judge should have to put this question to the jury: “Did the defendant act out of passion or

self-interest?" And if the jury reply: "The defendant acted out of passion," there should be no death sentence. This would spare us a few atrocious executions at least. Ulbach and Debacker would be saved. We would no longer guillotine Othello.

What's more, and let us not deceive ourselves, the matter of the death penalty evolves every day. It will not be long before the whole of society is of the same mind as us.

The criminal lawyers had best take heed, the death penalty has been declining for a century. It has almost become gentle. A sign of decay. A sign of weakness. A sign of approaching death. Torture has disappeared. The wheel has disappeared. The gallows has disappeared. What a strange thing! The guillotine is a form of progress.

Monsieur Guillotin was a philanthropist.

Yes, the hideous, toothed, ravening Themis of Farinacci and Vouglans, of Delancre and Isaac Loisel, of Oppède and Machault* is wasting away. She is getting thinner. She is dying.

Already La Grève wants no more to do with it. La Grève is changing her image. The old bloodsucker behaved herself in July. She wants to lead a better life from now on, be worthy of her last good deed. She who prostituted herself to every scaffold for three hundred years has come over bashful. She is ashamed of her former profession. She wants to lose her bad name. She renounces the headsman. She is washing down her paving stones.

Even now the death penalty has moved out of Paris. And let us say this here, to leave Paris is to leave civilization.

All the indications are on our side. It seems, too, that this repulsive machine, or rather that monster made of wood and steel that is to Guillotin what Galatea was to Pygmalion, is discouraged, baulking. In some ways the horrifying executions we described earlier are a good sign. The guillotine is hesitating. It misses its target. All the old apparatus of the death penalty is breaking down.

This vile machine will leave France, we are counting on it, and God willing it will leave with a limp, because we will make sure to give it a few hefty blows.

Let it seek hospitality elsewhere, from some barbaric race, but not Turkey, which is becoming civilized, not from the savages,* who wouldn't have it; let it go down a few more rungs on the ladder of civilization, to Spain or Russia.

The social structure of the past rested on three pillars: the priest, the king, the executioner. It is a long time now since a voice said: "The gods are dying!" Recently another voice cried out: "The kings are dying!" Now it is time for another voice to say: "The executioner is dying!"

Thus the old society will vanish stone by stone, and in this way destiny will complete the collapse of the past.

To those who missed the gods we could say: there is always God. To those who miss the King we can say: there is always the homeland. To those who will miss the executioner we have nothing to say.

But public order will not disappear along with the executioner; never believe that. The vault of future society will not collapse for lack of that one monstrous keystone. Civilization is no more than a series of transformations. So what is it you are about to witness? The transformation of the system of punishment. The gentle law of Christ will finally penetrate the penal code and extend its influence across it. Crime will be seen as a disease, and this disease will have doctors instead of judges, hospitals instead of penal colonies. Liberty and health will be the same thing. Balm and oil will be poured on where once steel and fire were applied. The evil that was treated with anger will be treated with charity. It will be simple and sublime. The cross in place of the gallows. That is all.

15th March 1832

A Comedy about a Tragedy*

Dramatis Personae

Madame de Blinval

The Chevalier

Ergaste

An elegiac poet

A philosopher

A fat gentleman

A thin gentleman

Women

A footman

A salon

AN ELEGIAC POET: (*reading*)

*“The next day, through the forest a-heading,
A dog roamed the riverbank a-barking;
And when the gracious young girl, in tears
Sat down once again, her heart full of fears,
On the old old tower of the ancient ch atel,
She heard the moans of the water, sad Isaura,
But no longer the mandora
Of the sweet minstrel!”*

THE WHOLE COMPANY: Bravo! Charming! Delightful!

(*They clap their hands.*)

MADAME DE BLINVAL: There’s an inexpressible mystery in the ending that brings tears to the eyes.

ELEGIAC POET: (*modestly*) The catastrophe is concealed.

THE CHEVALIER: (*nodding*) “Mandora”, “minstrel”, that’s so romantic!

ELEGIAC POET: Yes Monsieur, but reasonable romanticism, true romanticism. What do you expect? One has to make a few allowances.

CHEVALIER: Allowances! Allowances! That’s how one loses one’s sense of taste. I’d give all the romantic poetry in the world for this one quatrain:

*“From Kythira and Pindus,
Sweet Bernard word did receive*

*That the Art of Love on Saturday eve
Must dine with the Art to Please."*

That's real poetry! "The Art of Love dining on Saturday with the Art to Please!" It's frightfully good! But nowadays it's "the mandora", "the minstrel". They don't write *ephemeral poetry* any more. If I were a poet I would write *ephemeral poetry*; but I'm not a poet.

ELEGIAC POET: Nonetheless, elegies...

CHEVALIER: *Ephemeral poetry*, Monsieur. (*Aside to Madame de Blinval:*)
And anyway, *château* isn't French; we say *castel*.

SOMEONE: (*to the elegiac poet:*) An observation, Monsieur. You say "ancient *château*", why not "Gothic"?

ELEGIAC POET: One doesn't say *Gothic* in verse.

SOMEONE: Ah! So it's different.

ELEGIAC POET: (*continuing*) So you see, Monsieur, one has to know one's limits. I'm not one of those who wants to play havoc with French verse and take us back to the time of the Ronsards and the Brébeufs. I'm a Romantic, but restrained. It's the same with emotions. I prefer them gentle, dreamy, melancholy, no blood, no horrors. Conceal the catastrophe. I know there are some people, madmen, frenzied imaginations that... I say, ladies, have you read that new novel?

LADIES: Which novel?

ELEGIAC POET: *The Last Day*...

A FAT GENTLEMAN: Enough, Monsieur! I know the one you mean. The title alone troubles my nerves.

MADAME DE BLINVAL: Mine too. It's a ghastly book. I have it here.

LADIES: Let us see. (*The book is passed round.*)

SOMEONE: (*reading*) *The Last day of...*

FAT GENTLEMAN: Madame, I beg you!

MADAME DE BLINVAL: It really is an appalling book, a book that gives one nightmares, a book that makes one ill.

A WOMAN: (*aside*) I must read it.

FAT GENTLEMAN: It must be said that morals deteriorate every day. My Lord, what a horrible thought! To uncover, dig up, analyse one by one without overlooking a single one, every physical suffering, every mental torment that a man condemned to death must feel on the day of his execution! Isn't it appalling? Can you imagine it ladies, there was a writer to have this idea and members of the public to read this writer?

CHEVALIER: Indeed, it's monumentally impertinent.

MADAME DE BLINVAL: Who is the author?

FAT GENTLEMAN: There wasn't a name on the first edition.

ELEGIAC POET: It's the one who has already written two other novels... goodness, I've forgotten their titles. The first one begins in the Morgue and ends at La Grève. In every chapter there's an ogre who eats a child.

FAT GENTLEMAN: You've read it, Monsieur?

ELEGIAC POET: Yes, Monsieur; it's set in Iceland.

FAT GENTLEMAN: Iceland, that's awful!

ELEGIAC POET: What's more he's written odes, ballads or whatever, where there are monsters with *blue bodies*.

CHEVALIER: (*laughing*) Odds bodkins!* That must make a ripping poem.

ELEGIAC POET: He has also published a play – they call it a play – in which there is this handsome line:

*“Tomorrow the twenty-fifth of June sixteen hundred and fifty-seven.”**

SOMEONE: Ah, that line!

ELEGIAC POET: Although it could be written in figures, you see, ladies:

“Tomorrow, 25th June 1657.”

(*He laughs. They laugh.*)

CHEVALIER: It’s quite particular, poetry these days.

FAT GENTLEMAN: Absolutely! He can’t write verse, this man! What’s his name, actually?

ELEGIAC POET: His name is as hard to remember as it is to pronounce. There’s something of the Goth, the Visigoth, the Ostrogoth in it. (*He laughs.*)

MADAME DE BLINVAL: He’s a nasty man.

FAT GENTLEMAN: A frightful man.

A YOUNG WOMAN: Someone who knows him told me—

FAT GENTLEMAN: You know someone who knows him?

YOUNG WOMAN: Yes, they say he’s a gentle man, simple, who lives quietly and spends all day playing with his children.

ELEGIAC POET: And all night dreaming up works of darkness... it’s remarkable – that line just came to me. But that’s what poetry is: