

Reflections on the Guillotine, Albert Camus

Shortly before World War I, a murderer whose crime was particularly shocking (he had killed a family of farmers, children and all) was condemned to death in Algiers. He was an agricultural worker who had slaughtered in a bloody delirium, and had rendered his offense still more serious by robbing his victims. The case was widely publicized, and it was generally agreed that decapitation was altogether too mild a punishment for such a monster.

I have been told this was the opinion of my father, who was particularly outraged by the murder of the children. One of the few things I know about him is that this was the first time in his life he wanted to attend an execution. He got up while it was still dark, for the place where the guillotine was set up was at the other end of the city, and once there, found himself among a great crowd of spectators.

He never told what he saw that morning. My mother could only report that he rushed wildly into the house, refused to speak, threw himself on the bed, and suddenly began to vomit. He had just discovered the reality concealed beneath the great formulas that ordinarily serve to mask it. Instead of thinking of the murdered children, he could recall only the trembling body he had seen thrown on a board to have its head chopped off.

This ritual act must indeed be horrible if it can subvert the indignation of a simple, upright man; if the punishment which he regarded as deserved a hundred times over had no other effect on him than to turn his stomach. When the supreme act of justice merely nauseates the honest citizen it is supposed to protect, it seems difficult to maintain that this act is intended—as its proper functioning should intend it to confer a greater degree of peace and order upon the city. Justice of this kind is obviously no less shocking than the crime itself, and the new "official" murder, far from offering redress for the offense committed against society, adds instead a second defilement to the first.

This is so apparent that no one dares speak openly of the ritual act itself. The officials and the journalists whose responsibility it is to speak of it, as if conscious of the simultaneously provocative and shameful aspects of such justice, have devised a kind of ceremonial language for dealing with it, a language reduced to the most stereotyped formulas. Over breakfast we may read, on some back page of our newspaper, that the condemned man "paid his debt to society," that he "expiated his crime," or that "at five o'clock this morning justice was done." Officials deal with this man as "the accused," "the patient," or merely refer to him as the C.A.M. (Condamné à mort).

Capital punishment, one might say, is written about only in whispers. In a highly organized society such as ours we acknowledge a disease is serious by the fact that we do not dare speak of it openly. In middle-class families, it was long the rule to say that the oldest daughter had a "weak chest," or that Papa suffered from a "growth": to have tuberculosis or cancer was regarded as something of a disgrace. This is even more certainly true in the case of capital punishment: everyone does his best to speak of it only in euphemisms.

The death penalty is to the body politic what cancer is to the individual body, with perhaps the single difference that no one has ever spoken of the necessity of cancer. Yet we do not usually hesitate to describe the

death penalty as a regrettable necessity, justifying the fact that we are killing someone because it is "necessary," and then not speaking of what we are doing because it is "re-grettable."

My intention, on the contrary, is to speak of it crudely. Not out of a taste for scandal, and not, I think, because I am morbidly inclined. As a writer I have always abhorred a certain eagerness to please, and as a man I believe that the repulsive aspects of our condition, if they are inevitable, must be confronted in silence. But since silence, or the casuistry of speech, is now contributing to the support of an abuse that must be reformed, or of a misery that can be relieved, there is no other solution than to speak out, to expose the obscenity hiding beneath our cloak of words.

France shares with Spain and England the splendid distinction of being among the last countries on this side of the iron curtain to retain the death penalty in its arsenal of repression. This primitive rite survives in our country only because an ignorant and unconcerned public opinion has no other way to express itself than by using the same ceremonial phrases with which it has been indoctrinated: when the imagination is not functioning, words lack the resonance of their meanings and a deaf public scarcely registers a man's condemnation to death. But expose the machinery, make people touch the wood and the iron, let them hear the thud of heads falling, and a suddenly aroused public imagination will repudiate both vocabulary and punishment alike.

When the Nazis staged public executions of hostages in Poland, they first gagged their prisoners with rags soaked in plaster so they could not cry out some final word of liberty or rebellion. It may seem an effrontery to compare the fate of these innocent victims with that of our condemned criminals, but apart from the fact that it is not only criminals who are guillotined in France, the method is the same: we gag our guilty with a stuffing of words, though we cannot justly affirm the legitimacy of their punishment unless we have first considered its reality. Instead of saying, as we always have, that the death penalty is first of all a necessity, and afterwards that it is advisable not to talk about it, we should first speak of what the death penalty really is, and only then decide if, being what it is, it is necessary.

Speaking for myself, I believe the death penalty is not only useless but profoundly harmful, and I must record this conviction here before proceeding to the subject itself. It would not be honest to allow it to appear as if I had arrived at this conclusion solely as a result of the weeks of inquiry and investigation I have just devoted to the question.

But it would be equally dishonest to attribute my conviction to sentimentality alone. I stand as far as possible from that position of spineless pity in which our humanitarians take such pride, in which values and responsibilities change places, all crimes become equal, and innocence ultimately forfeits all rights.

I do not believe, contrary to many of my illustrious contemporaries, that man is by nature a social animal; the opposite, I think, is probably nearer the truth. I believe only that man cannot now live outside a society whose laws are necessary to his physical survival, which is a very different thing. I believe that responsibility must be established according to a reasonable and effective scale of values by society itself.

But the law finds its final justification in the benefit it provides, or does not provide, the society of a given place and time. For years I have not been able to regard the death penalty as anything but a punishment intolerable to the imagination: a public sin of sloth which my reason utterly condemns. I was nevertheless prepared to believe that my imagination in-fluenced my judgment. But during these weeks of research, I have found nothing which has modified my reasoning, nothing which has not, in all honesty, reinforced my original conviction.

On the contrary. I have found new arguments to add to those I already possessed; today I share Arthur Koestler's conclusion without qualification: capital punishment is a dis-grace to our society which its partisans cannot reasonably justify.

It is well known that the major argument of those who support capital punishment is its value as an example. We do not chop off heads merely to punish their former owners, but to intimidate, by a terrifying example, those who might be tempted to imitate their actions. Society does not take revenge—society merely protects itself. We brandish the newly severed head so that the next prospective murderer may therein read his future and renounce his intentions. All of which would indeed be an impressive argument if one were not obliged to remark:

(1) That society itself does not believe in the value of this much advertised example.

(2) That it has not been ascertained whether capital punishment ever made a single determined murderer renounce his intentions, while it is certain that its effect has been one of fascination upon thou-sands of criminals.

(3) That the death penalty constitutes, from other points of view, a loathsome example of which the consequences are unforeseeable.

First of all, then, society does not believe its own words. If it did, we would be shown the heads. Executions would be given the same promotional campaign ordinarily reserved for government loans or a new brand of apéritif. Yet it is well known on the contrary, that in France executions no longer take place in public—they are perpetrated in prison yards before an audience limited to specialists. It is less well known why this should be so, and since when it has been so. The last public execution took place in 1939—the guillotining of Weidmann, a murderer several times over whose exploits had brought him much notoriety.

On the morning of his execu-tion, a huge crowd rushed to Versailles; many photographers attended the ceremony and were permitted to take photo-graphs from the time Weidmann was exposed to the crowd until the moment he was decapitated. A few hours later Paris-Soir published a full page of pictures of this appetizing event, and the good people of Paris were able to discover that the lightweight precision instrument used by their executioner was as different from the scaffold of their history books as a Jaguar is from an old de Dion-Bouton. The officials con-nected with the event and the government itself, contrary to every hope, regarded this excellent publicity in a very dim light, declaring that the press had only appealed to the most sadistic impulses of its readers. It was therefore decided that the public would no longer be permitted to witness executions, an arrangement which, shortly afterwards, made the work of the Occupation authorities considerably easier.

Logic, in this case, was not on the side of the lawmakers. Logically, in fact, they should have voted a medal to the editor of Paris-Soir and

encouraged his staff to do still better next time. If punishment is to be exemplary, then the number of newspaper photographs must be multiplied, the instrument in question must be set up on a platform in the Place de la Concorde at two in the afternoon, the entire population of the city must be invited, and the ceremony must be televised for those unable to attend. Either do this, or stop talking about the value of an example. How can a furtive murder committed by night in a prison yard serve as an example?

At best it can periodically admonish the citizenry that they will die if they commit murder; a fate which can also be assured them if they do not. For punishment to be truly exemplary, it must be terrifying. Tuaut de la Bouverie, representative of the people in 1791 and a partisan of public execution, spoke more logically when he declared to the National Assembly: "There must be terrible spectacles in order to control the people."

Today there is no spectacle at all—only a penalty known to everyone by hearsay and, at long intervals, the announcement of an execution couched in soothing formulas. How shall a future criminal, in the very act of committing his crime, keep in mind a threat which has been made increasingly abstract by every possible effort? And if it is really desirable that the incipient murderer preserve a vision of his ultimate fate that might counterbalance and ultimately reverse his criminal intent, then why do we not burn the reality of that fate into his sensibility by every means of language and image within our power?

Instead of vaguely evoking a debt that someone has paid to society this morning, would it not be more politic—if we are interested in setting an example—to profit by this excellent opportunity to remind each taxpayer in detail just what sort of punishment he can expect? Instead of saying, "If you kill someone you will pay for it on the scaffold," would it not be more politic—if we are interested in setting an example to say instead: "If you kill someone, you will be thrown into prison for months or even years, torn between an impossible despair and a constantly renewed fear, until one morning we will sneak into your cell, having taken off our shoes in order to surprise you in your sleep, which has at last overcome you after the night's anguish. We will throw ourselves upon you, tie your wrists behind your back, and with a pair of scissors cut away your shirt collar and your hair, if it should be in the way. Because we are perfectionists we will lash your arms together with a strap so that your body will be arched to offer unhampered access to the back of your neck.

Then we will carry you, one man holding you up under each arm, your feet dragging behind you, down the long corridors, until, under the night sky, one of the executioners will at last take hold of the back of your trousers and throw you down on a board, another will make sure your head is in the lunette, and a third one will drop, from a height of two meters twenty centimeters, a blade weighing sixty kilo-grams that will slice through your neck like a razor." ¹

1 Notes for this essay are given on pages 54-55.

For the example to be even better, for the terror it breeds to become in each of us a force blind enough and powerful enough to balance, at the right moment, our irresistible desire to kill, we must go still further. Instead of bragging, with our characteristic pretentious ignorance, that we have invented a swift and humane² means of killing those condemned to

death, we should publish in millions of copies, read out in every school and college, the eyewitness accounts and medical reports that describe the state of the body after execution. We should particularly recommend the printing and circulation of a recent communication made to the Academy of Medicine by Doctors Piedelièvre and Fournier.

These courageous physicians, having examined, in the interests of science, the bodies of the condemned after execution, have considered it their duty to sum up their terrible observations thus: "If we may be permitted to present our opinion on this subject, such spectacles are horribly painful. The blood rushes from the vessels according to the rhythm of the severed carotids, then coagulates. The muscles contract and their fibrillation is stupefying. The intestine undulates and the heart produces a series of irregular, incomplete, and convulsive movements.

The mouth tightens, at certain moments, into a dreadful grimace. It is true that the eyes of a decapitated head are immobile, the pupils dilated; fortunately, they cannot see, and if they exhibit no signs of disturbance, none of the characteristic opalescence of a cadaver, they at least have no capacity for movement: their transparency is that of life, but their fixity is mortal. All this may last minutes, even hours, in a healthy subject: death is not immediate. . . . Thus each vital element survives decapitation to some extent. There remains, for the physician, the impression of a hideous experiment, a murderous vivisection followed by a premature burial."³

I doubt that many readers can read this dreadful report without blanching. We can, in fact, count on its power as an example, its capacity to intimidate. What is to prevent us from adding to it the reports of witnesses that further authenticate the observations of medical men. If the severed head of Charlotte Corday is supposed to have blushed under the executioner's hand, we shall hardly be surprised after examining the accounts of more recent observers.

Here is how one assistant executioner, hardly likely to cultivate the sentimental or romantic aspects of his trade, describes what he has been obliged to see: "There was one wild man, suffering from a real fit of delirium tremens, whom we had to throw under the knife. The head died right away. But the body literally sprang into the basket, where it lay struggling against the cords that bound it. Twenty minutes later, in the cemetery, it was still shuddering." ⁴

The present chaplain of La Santé, the reverend father Devoyod, who does not appear to be opposed to the death penalty, tells, nevertheless, the following remarkable story in his book *Les Délinquants*⁵ (which renews the famous episode of a man named Languille whose severed head answered to its name⁶): "The morning of the execution, the condemned man was in a very bad humor, and refused to receive the succor of religion. Knowing the depths of his heart and his true regard for his wife, whose sentiments were genuinely Christian, we said to him, 'For the love of this woman, commune with yourself a moment before you die.'

And the condemned man consented, communing at length before the crucifix, and afterwards scarcely seemed to notice our presence. When he was executed, we were not far from him; his head fell onto the trough in front of the guillotine, and the body was immediately put into the basket. But contrary to custom, the basket was closed before the head could be put in. The assistant carrying the head had to wait a moment until the basket was opened again. And during that brief space of time, we were able to see the two eyes of the condemned man fixed on us in a

gaze of supplication, as if to ask our forgiveness. Instinctively we traced a sign of the cross in order to bless the head, and then the eyelids blinked, the look in the eyes became gentle again, and then the gaze, which had remained expressive, was gone. . . ." The reader will accept or reject the explanation proposed by the priest according to his faith. But at least those eyes that "remained expres-sive" need no interpretation.

I could cite many other eyewitness accounts as hallucina-tory as these. But as for myself, I hardly need or know how to go further. After all, I make no claim that the death pen-alty is exemplary: indeed, this torture affects me only as what it is—a crude surgery practiced in conditions that deprive it of any edifying character whatsoever. Society, on the other hand, and the State (which has seen other tortures) can easily bear such details; and since they favor preaching ex-amples, they might as well make them universally known so that a perpetually terrorized populace can become Franciscan to a man.

For who is it we think we are frightening by this example constantly screened from view; by the threat of a punishment described as painless, expedient, and on the whole less disagreeable than cancer; by a torture crowned with all the flowers of rhetoric? Certainly not those who pass for honest (and some are) because they are asleep at such an hour, to whom the great example has not been revealed, and who drink their morning coffee at the hour of the premature burial, informed of the operation of justice, if they happen to read the newspapers, by a mealy mouthed bulletin that dissolves like sugar in their memory.

Yet these same peaceful creatures furnish society with the largest percentage of its homicides. Many of these honest men are criminals without knowing it. According to one magistrate, the overwhelming majority of the murderers he had tried did not know, when they shaved themselves that morning, that they were going to kill someone that night. For the sake of example and security alike, we should brandish rather than disguise the agonized face of our victim before the eyes of every man as he shaves himself in the morning.

This is not done. The State conceals the circumstances and even the existence of its executions, keeps silent about such reports and such accounts. It does not concern itself with the exemplary value of punishment save by tradition, nor does it trouble to consider the present meaning of its act. The crim-inal is killed because he has been killed for centuries, and furthermore he is killed according to a procedure established at the end of the eighteenth century.

The same arguments that have served as legal tender for centuries are perpetuated as a matter of routine, contradicted only by those measures which the evolution of public sensibility renders inevitable. The law is applied without consideration of its significance, and our condemned criminals die by rote in the name of a theory in which their executioners no longer believe. If they believed in it, it would be known, and above all it would be seen.

But such publicity, beyond the fact that it arouses sadis-tic instincts of which the repercussions are incalculable and which end, one day or another, by satisfying themselves with yet another murder, also risks provoking the disgust and revolt of public opinion itself. It would become more difficult to execute by assembly line, as we do in France at this very moment, if such executions were translated into the bold images of popular fantasy.

The very man who enjoys his morning coffee while reading that justice has been done would certainly choke on it at the slightest of such details. And the texts I have quoted may go far toward supporting the position of certain professors of criminal law who, in their evident incapacity to justify the anachronism of capital punishment, console themselves by declaring with the sociologist Tarde that it is better to kill without causing suffering than it is to cause suffering without killing.

Which is why we can only approve the position of Gambetta, who as an adversary of the death penalty nevertheless voted against a bill proposing the exclusion of the public from executions, asserting: "If you do away with the horror of the spectacle, if you perform executions in the prison yards, you will also do away with the public reaction of revolt which has shown itself in recent years, and thereby establish the death penalty all the more firmly."

We must either kill publicly, or admit we do not feel authorized to kill. If society justifies the death penalty as a necessary example, then it must justify itself by providing the publicity necessary to make an example. Society must display the executioner's hands on each occasion, and require the most squeamish citizens to look at them, as well as those who, directly or remotely, have supported the work of those hands from the first.

Otherwise society confesses that it kills without consciousness of what it does or what it says; or that it kills yet knows, too, that far from intimidating belief, these disgusting ceremonies can only awaken a sense of criminality, and thoroughly undermine public morale. Who could be more explicit than a judge at the end of his career?—Counselor Falco's courageous confession deserves careful attention: "On only one occasion during my years on the bench I recommended a verdict in favor of execution of the accused and against the commutation of his punishment; I decided that despite my position I would attend the ceremony with complete objectivity, of course.

The man in question was not at all sympathetic, not even interesting; he had brutally murdered his little daughter and then thrown her body down a well. Nevertheless, after his execution, for weeks, and even for months, my nights were haunted by this memory. . . . I served in the war like everyone else, and I saw an innocent generation killed before my eyes; yet confronted with the memory of that dreadful spectacle, I still can say I never once experienced the same kind of bad conscience I felt as I watched the kind of administrative assassination known as capital punishment."⁷

But after all, why should society believe in the value of such an example, since it does not affect the incidence of crime, and since its effects, if they exist at all, are invisible? For capital punishment cannot intimidate a man who does not know he is going to commit murder, who decides on it in an instant and prepares his action in the heat of passion or an *idée fixe*; cannot intimidate a man who starts off for an assignation carrying with him a weapon to frighten his faithless mistress or his rival and then, at the last minute, makes use of it, although without any such intention—or without thinking he had any such intention. In short, capital punishment cannot intimidate the man who throws himself upon crime as one throws oneself into misery. Which is to say that it is ineffective in the majority of cases. It is only fair to point out that in France, at least, capital punishment is rarely applied in cases

of "crimes of passion." Yet even "rarely" is enough to make one shudder.

But does the death penalty act as a deterrent, at least, upon that "race" of criminals it claims to affect—those who live by crime? Nothing is less certain. Arthur Koestler reminds us that in the period when pickpockets were punished by hanging in England, other thieves exercised their talents in the crowds surrounding the scaffold where their fellow was being hanged. Statistics compiled during the past fifty years in England show that out of 250 men hanged, 170 had previously attended one or even two public executions.

Even as late as 1886, out of 167 men condemned to death in the Bristol prison, 164 had attended at least one execution. Figures corresponding to these cannot be ascertained in France because of the secrecy which surrounds executions here. But those we have remind us that in that crowd my father stood among to watch a public execution, there must have been a considerable number of future criminals who did not run home and vomit. The power of intimidation operates only on those timid souls who are not dedicated to crime, and gives way before precisely those incorrigibles whom it is concerned to correct.

Yet it cannot be denied that men fear death. The deprivation of life is certainly the supreme punishment, and arouses in each of us his decisive fear. The fear of death, rising from the obscurest depths, ravages the self; the instinct for life, when threatened, panics and flounders among the most dreadful agonies. The legislator may with some justice assume that his law affects one of the most mysterious and powerful motives of human nature. But the law is always simpler than nature. When, in its attempt to establish its sovereignty, the law ventures into the blind realms of being, it runs a terrible risk of being impotent to control the very complexity it attempts to set in order.

Indeed if the fear of death is one kind of evidence, the fact that this same fear, no matter how great it may be, has never sufficed to discourage human passions, is still another. Bacon was right: no passion is so weak that it cannot confront and master the fear of death. Vengeance, love, honor, grief, even fear of something else—all are victorious over the fear of death in one circumstance or another. And shall cupidity, hatred, or jealousy not accomplish all that love or patriotism or the human passion for liberty are able to achieve? For centuries the death penalty, often accompanied by various barbarous refinements, has tried to restrain the incidence of crime; yet crime persists. Why?

Because the instincts which confront and war against each other within man are not, as the law would have them, constant forces in a state of equilibrium. They are variable forces that die and triumph one after another, whose successive imbalances nourish the life of the mind in the same way that electrical oscillations, occurring with sufficient frequency, establish a current. Consider the series of oscillations passing from desire to satiation, from decision to renunciation, which all of us experience in a single day and then multiply these variations to infinity and we may form an idea of the extent of our psychological proliferation. These imbalances, these disequilibria are generally too fugitive to permit any one force to gain control of the entire self. Yet it sometimes happens that a single element of the soul's resources can break free and occupy the entire field of consciousness; no instinct, even that of self-preservation, can then oppose the tyranny of this irresistible force. In order that the death penalty be really intimidating, human nature itself would have to be different from what it

is, would have to be as stable and serene as the law itself. It would no longer be life, but still-life.

But life is not still-life, is not stable, not serene. Which is why, surprising as it may seem to those who have not observed or experienced in themselves the complexity of the human situation, the murderer for the most part considers himself innocent when he commits his crime. Before being judged, the criminal acquits himself. He feels he is if not entirely within his rights—at least extenuated by circumstances. He does not reflect; he does not foresee; or if he does, it is only to foresee that he will be pardoned—altogether or in part. Why should he fear what he regards as highly unlikely? He will fear death after being judged, not before his crime. Therefore, in order to intimidate effectively, the law must permit the murderer no escape, must be implacable in advance, must admit no possibility of an extenuating circumstance. Who among us would dare to demand this?

And even if we did, there is still another paradox of human nature to consider. The instinct of self-preservation, if it is a fundamental one, is no more so than that other instinct less often discussed by academic psychologists: the death instinct which at certain times demands the destruction of the self or of others. It is probable that the desire to kill frequently co-incides with the desire to die or to kill oneself.⁸ The instinct of self preservation thus finds itself confronted in variable proportions by the instinct for self destruction.

The latter is the only means by which we can altogether explain the numerous perversions which from alcoholism to drug addiction lead the self to a destruction of which it cannot long remain ignorant. Man desires to live, but it is vain to hope that this desire can control all his actions. He desires to be annihilated as well—he wills the irreparable, death for its own sake. It so happens that the criminal desires not only his crime, but the misery that accompanies it, especially if this misery is un-bounded and inordinate. When this perverse desire grows until it gains control of the self, the prospect of being put to death is not only impotent to restrain the criminal, but probably deepens even further the abyss into which he plunges: there are situations in which one kills in order to die.

Such singularities suffice to explain how a punishment that seems calculated to intimidate the normal mind has in reality nothing whatever to do with ordinary psychological processes.

All statistics show, without exception—in the countries which have abolished it, as well as in the others—that there is no connection between the death penalty and the incidence of crime.⁹ This incidence, in fact, neither rises nor falls. The guillotine exists; crime exists: between them there is no other apparent connection than that of the law. All we are entitled to conclude from the figures provided by statisticians is this: for centuries crimes other than murder were punished by death, and this supreme punishment, deliberately repeated, caused none of these crimes to disappear. For several centuries these crimes have no longer been punished by death, yet they have not increased in number, and the incidence of some has even diminished. Similarly, murder has been punished by capital punishment for centuries, yet the race of Cain has not disappeared from the earth. In the thirty-three nations that have abolished the death penalty or no longer impose it, the number of murders has not increased. How can we therefore conclude that the death penalty is really intimidating?

Its partisans can deny neither these facts nor these figures. Their only and ultimate reply is significant; it explains the paradoxical attitude of a society which so carefully conceals the executions it claims as exemplary: "It is true that nothing proves that the death penalty is exemplary; it is even certain that thousands of murderers have not been intimidated by it. But we cannot know who has been intimidated by such a penalty; consequently, nothing proves that it does not serve as an example."

Thus the greatest of all punishments, the penalty that involves the ultimate forfeiture of the condemned man and concedes the supreme privilege to society, rests on nothing more than an unverifiable possibility. Death, however, does not admit of degrees of likelihood; it fixes all things blame and body alike in its definitive rigidity. Yet it is administered in our country in the name of a possibility, a calculation of likelihood. And even if this possibility should be reasonable, would it not have to be certitude itself to authorize certain and absolute extinction? Yet the man we condemn to die is cut in two not so much for the crime he has committed as for the sake of all the crimes that might have happened, but which have not happened—which could occur, but somehow will not occur. Hence, the greatest possible uncertainty appears to authorize the most implacable certitude of all.

I am not the only one to be astonished by this dangerous contradiction. The State itself disapproves, and its bad conscience explains in turn all the contradictions of the official attitude. This attitude suppresses the publicity of executions because it cannot affirm, faced with the facts, that they have ever served to intimidate criminals. It cannot escape the dilemma which Beccaria had already pointed to when he wrote: "If it is important to show the people frequent proof of power, then executions must be frequent; but in that case crimes must be frequent too, which will prove that the death penalty is far from making the desired impression; thus this penalty is at the same time useless and necessary."

What can the State do about a punishment both useless and necessary, except conceal it without abolishing it? And so it will be preserved in obscurity, continued with perplexity and hesitation, in the blind hope that one man at least, one day at least, will be intimidated by consideration of the punishment that lies ahead, and will abandon his murderous intent, thereby justifying, though no one will ever know it, a law which has no support in reason or experience. To persist in its claim that the guillotine is exemplary, the State must raise the incidence of real murders in order to avoid an unknown murder of which it cannot be sure (will never be sure) that it would ever have been committed at all. Is it not a strange law, that recognizes the murder it commits, and remains forever ignorant of the crime it prevents?

But what will remain of this power of example, if it is proved that capital punishment has another power, this one quite real, which degrades men to the worst excesses of shame, madness, and murder?

The exemplary effects of these ceremonies can readily be traced in public opinion—the manifestations of sadism they reveal, the terrible notoriety they arouse in the case of certain criminals. Instead of an operative nobility of attitude at the foot of the scaffold, we find nothing but disgust, contempt, or perverse pleasure. The effects are well known. Propriety too has had its share in effecting the removal of the scaffold from the square in front of the city hall to the city walls, and from the

walls to the prison yard. We are less well informed about the sentiments of those whose business it is to attend this kind of spectacle.

Let us listen to the words of the director of an English prison, who speaks of "an acute sense of personal shame," of a prison chaplain who speaks of "horror, shame, and humiliation";¹⁰ and let us consider especially the feelings of the man who kills because it is his trade—I mean the executioner. What shall we think of these civil servants of ours, who refer to the guillotine as "the bike," the condemned man as "the client" or "luggage," except, in the words of the priest Bela Just, who served as prison chaplain for more than thirty executions, that "The idiom of the executors of justice yields nothing in point of cynicism or vulgarity to that of its violators."¹¹ Here, furthermore, are the reflections of one of our assistant executioners on his official travels across the country: "When it came time for our trips to the provinces, the real fun began: taxis, good restaurants, everything we wanted!"¹²

The same man, boasting of the executioner's skill in releasing the knife, says: "One can indulge oneself in the luxury of pulling the client's hair." The depravity expressed here has other, more profound aspects. The clothing of the condemned man belongs, by custom, to the executioner. We learn that old father Deibler hung all the clothing he had collected in a shack and that he used to go look at his collection from time to time. There are more serious examples. Here is our assistant executioner again: "The new executioner has guillotine fever. Sometimes he stays at home for days at a time, sitting in a chair, ready to go, his hat on his head, his overcoat on, waiting for a summons from the public prosecutor."¹³

And this is the man of whom Joseph de Maistre said that his very existence was accorded by a special decree of divine power and that without him, "order gives way to chaos, thrones collapse, and society disappears." This is the man by means of whom society gets rid of its culprit, and once the executioner signs the prison release, he is permitted to walk out, a free man. The honorable and solemn example, as conceived by our legislation, has had one certain effect, at least—it perverts or destroys the human quality and reason of all who participate in it directly.

It will be objected that we are discussing only a few exceptional creatures who make a living out of such degradation. There might be fewer protests if it were known that there are hundreds of men who offer their services as executioner without pay. Men of my generation, who have survived the history of our times, will not be surprised to learn this. They know that behind the most familiar, the most peaceful face lies the instinct to torture and to kill. The punishment which claims to intimidate an unknown murderer unquestionably provides a number of known monsters with their vocation as killers. Since we are not above justifying our cruellest laws by considerations of probability, let us not hesitate to admit that out of these hundreds of men whose services are refused, one, at least, has satisfied in some other way the bloody impulses which the guillotine awakened within him.

If we are to maintain the death penalty, let us at least be spared the hypocrisy of justification by example. Let us call by its right name this penalty about which all publicity is suppressed, this intimidation which does not operate upon honest men to the degree that they are honest, which fascinates those who have ceased to be honest, and which degrades and disorders those who lend their hands to it. It is a punishment, certainly, a dreadful physical and moral torture, but one offering no certain example save that of demoralization.

It forbids, but it prevents nothing—when it does not in fact arouse the will to murder itself. It is as if it were not, except for the man who suffers it—in his soul for months or years, and in his body during the desperate and violent moment when he is cut in two without being altogether deprived of life. Let us call it by a name which, lacking all patents of nobility, at least provides that of truth—let us recognize it for what it ultimately is: a revenge.

Punishment, penalizing rather than preventing, is a form of revenge: society's semiarithmetical answer to violation of its primordial law. This answer is as old as man himself, and usually goes by the name of retaliation. He who hurts me must be hurt; who blinds me in one eye must himself lose an eye; who takes a life must die. It is a feeling, and a particularly violent one, which is involved here, not a principle. Retaliation belongs to the order of nature, of instinct, not to the order of law. The law by definition cannot abide by the same rules as nature.

If murder is part of man's nature, the law is not made to imitate or reproduce such nature. We have all known the impulse to retaliate, often to our shame, and we know its power: the power of the primeval forests. In this regard, we live—as Frenchmen who grow justifiably indignant at seeing the oil king of Saudi Arabia preach international democracy while entrusting his butcher with the task of cutting off a thief's hand—in a kind of middle ages ourselves, without even the consolations of faith. Yet if we still define our justice according to the calculations of a crude arithmetic,¹⁴ can we at least affirm that this arithmetic is correct, and that even such elementary justice, limited as it is to a form of legal revenge, is safeguarded by the death penalty?

The answer must again be: No. We scarcely need to point out how inapplicable the law of retaliation has become in our society: it is as excessive to punish the pyromaniac by setting his house on fire as it is insufficient to punish the thief by deducting from his bank account a sum equivalent to the amount he has stolen. Let us admit instead that it is just and even necessary to compensate the murder of the victim by the death of the murderer. But capital punishment is not merely death.

It is as different, in its essence, from the suppression of life as a concentration camp from a prison. It is undeniably a murder which arithmetically cancels out the murder already committed; but it also adds a regularization of death, a public premeditation of which its future victims are informed, an organization which in itself is a source of moral suffering more terrible than death. There is thus no real compensation, no equivalence.

Many systems of law regard a premeditated crime as more serious than a crime of pure violence. But what is capital punishment if not the most premeditated of murders, to which no criminal act, no matter how calculated, can be compared? If there were to be a real equivalence, the death penalty would have to be pronounced upon a criminal who had forewarned his victim of the very moment he would put him to a horrible death, and who, from that time on, had kept him confined at his own discretion for a period of months. It is not in private life that one meets such monsters.

Here again, when our official jurists speak of death without suffering, they do not know what they are talking about, and furthermore they betray a remarkable lack of imagination. The devastating, degrading fear imposed on the condemned man for months or even years¹⁵ is a punishment more

terrible than death itself, and one that has not been imposed on his victim. A murdered man is generally rushed to his death, even at the height of his terror of the mortal violence being done to him, without knowing what is happening: the period of his horror is only that of his life itself, and his hope of escaping what-ever madness has pounced upon him probably never de-serts him.

For the man condemned to death, on the other hand, the horror of his situation is served up to him at every moment for months on end. Torture by hope alternates only with the pangs of animal despair. His lawyer and his con-fessor, out of simple humanity, and his guards, to keep him docile, unanimously assure him that he will be reprieved. He believes them with all his heart, yet he cannot believe them at all. He hopes by day, despairs by night.¹⁶ And as the weeks pass his hope and despair increase proportionately, until they become equally insupportable.

According to all accounts, the color of his skin changes: fear acts like an acid. "It's nothing to know you're going to die," one such man in the Fresnes prison said, "but not to know if you're going to live is the real torture." At the moment of his execution Cartouche remarked, "Bah! a nasty quarter of an hour and it's all over." But it takes months, not minutes. The condemned man knows long in advance that he is going to be killed and that all that can save him is a reprieve which operates, so far as he is concerned, like the will of heaven itself. In any case he cannot intervene, plead for himself: he is no longer a man, but a thing waiting to be manipulated by the execu-tioners. He is kept in a state of absolute necessity, the condi-tion of inert matter, yet within him is the consciousness that is his principal enemy.

When the officials whose trade is to kill such a man refer to him as "luggage," they know what they are saying: to be unable to react to the hand that moves you, holds you, or lets you drop—is that not the condition of some package, some thing, or better still, some trapped animal? Yet an animal in a trap can starve itself to death; the man con-demned to death cannot. He is provided with a special diet (at Fresnes, diet No. 4 with extras of milk, wine, sugar, preserves, and butter); he is encouraged to eat well—if neces-sary he is forced to eat.

The animal must be in good condition for the kill. The thing—the animal—has a right only to those corrupted privileges known as caprices. "You'd be surprised how sensitive they are!" declared one sergeant at Fresnes with-out a trace of irony. Sensitive? Unquestionably—how else recover the freedom and dignity of will that man cannot live without? Sensitive or not, from the moment the death sen-tence is pronounced, the condemned man becomes part of an imperturbable mechanism. He spends several weeks within the cogs and gears of a machine that controls his every gesture, ultimately delivering him to the hands that will lay him out on the last device of all. The luggage is no longer subjected to the operations of chance, the hazards that dominate the existence of a living being, but to mechanical laws that permit him to foresee in the minutest perspective the day of his decapitation.

His condition as an object comes to an end on this day. During the three-quarters of an hour that separates him from his extinction, the certainty of his futile death overcomes everything: the fettered, utterly submissive creature experiences a hell that makes a mockery of the one with which he is threatened. For all their hemlock, the Greeks were humane: they provided their criminals a relative liberty at least, the possibility of postponing or advancing the hour of their own death; and of choosing between suicide and execution.

For reasons of security, we carry out our justice by ourselves. Yet there could not be real justice in such cases unless the murderer, having made known his decision months in advance, had entered his victim's house, tied him up securely, informed him he would be put to death in the next hour, and then used this hour to set up the apparatus by which his victim would be despatched. What criminal has ever reduced his victim to a condition so desperate, so hopeless, and so powerless?

This doubtless explains the strange quality of submission that is so often observed in the condemned man at the moment of his execution. After all, those who have nothing to lose by it might make a last desperate effort, preferring to die by a stray bullet or to be guillotined in a violent struggle that would numb every sense: it would be a kind of freedom in dying. And yet, with very few exceptions, the condemned man walks quite docilely to his death in dismal impassivity. Which must be what our journalists mean when they tell us the condemned man died courageously. What they really mean, of course, is that the condemned man made no trouble, no attempt to abandon his status as luggage, and that we are all grateful to him for his good behavior.

In so disgraceful a business the accused has shown a commendable sense of propriety in allowing the disgrace to be disposed of as soon as possible. But the compliments and character references are just another part of the general mystification that surrounds the death penalty. For the condemned man often behaves "properly" only to the degree that he is afraid, and deserves the eulogies of our press only if his fear or his despair are sufficiently great to sterilize him altogether. Let me not be misunderstood: some men—political prisoners or not—die heroically, and we must speak of them with the admiration and respect they deserve.

But the majority of those condemned to death know no other silence than that of fear, no other impassivity than that of horror, and it seems to me that the silence of fear and horror deserves still more respect than the other. When the priest Bela Just offered to write to the relatives of one young criminal only a few minutes before he was to be hung, and received these words in answer: "I don't have the courage, not even for that," one wonders how a priest, at such a confession of weakness, could keep from falling on his knees before what is most miserable and most sacred in man. As for those who do not talk, those who show us what they have gone through only by the puddle they leave in the place they are dragged from, who would dare say they died as cowards? And by what name shall we call those who have brought these men to their "cowardice"? After all, each murderer, at the moment of his crime, runs the risk of the most terrible death, while those who execute him risk nothing, except perhaps a promotion.

No—what the condemned man experiences at this moment is beyond all morality. Neither virtue, nor courage, nor intelligence, not even innocence has a share in his condition at that moment. Society is reduced at one blow to that condition of primitive terror in which nothing can be judged and all equity, all dignity, have vanished. "The sense of his own innocence does not immunize the executed man against the cruelty of his death. . . . I have seen terrible criminals die courageously, and innocent men walk to the knife trembling in every limb."¹⁷ When the same witness adds that, in his experience, such failures of nerve are more frequent among intellectuals, he does not mean that this category of men has less courage than any other, but that they have more imagination.

Confronted with an inescapable death, a man, no matter what his convictions, is devastated throughout his entire system.¹⁸ The sense of powerlessness and solitude of the fettered prisoner, confronted by the public coalition which has willed his death, is in itself an unimaginable punishment. In this regard, too, it would be far better if the execution were held in public: the actor that is in every man could then come to the aid of the stricken animal, could help him keep up a front, even in his own eyes. But the darkness and the secrecy of the ceremony are without appeal: in such a disaster, courage, the soul's consistency, faith itself—all are merely matters of chance. As a general rule, the man is destroyed by waiting for his execution long before he is actually killed.

Two deaths are imposed, and the first is worse than the second, though the culprit has killed but once. Compared to this torture, the law of retaliation seems like a civilized principle. For that law, at least, has never claimed that a man must be blinded in both eyes to pay for having blinded his brother in one.

This fundamental injustice, moreover, has its repercussions among the relatives of the man who is executed. The victim has his relatives too, whose sufferings are generally infinite and who, for the most part, wish to be revenged. They are revenged, in the manner I have described, but the relatives of the executed man thereby experience a misery that punishes them beyond the bounds of all justice. A mother's or a father's expectation during the endless months, the prison parlor, the awkward conversations which fill the brief minutes they are allowed to spend with the condemned man, the images of the execution itself—all are tortures that have not been inflicted on the relatives of the victim.

Whatever the feelings of the latter, they cannot require their revenge to exceed the crime to such an extent, and torment those who violently share their own grief. "I have been reprieved, Father," writes one man condemned to death, "and I still don't really believe in my good luck. The reprieve was signed April 30, and they told me Wednesday, on my way back from the parlor. I sent them to tell Papa and Mama, who had not yet left the prison. You can imagine their happiness."¹⁹ We can imagine their happiness only to the degree that we can imagine their unceasing misery until the moment of the reprieve, and the utter despair of those who receive another kind of news, the kind that unjustly punishes their innocence and their misery.

As for the law of retaliation, it must be admitted that even in its primitive form it is legitimate only between two individuals of whom one is absolutely innocent and the other absolutely guilty. Certainly the victim is innocent. But can society, which is supposed to represent the victim, claim a comparable innocence? Is it not responsible, at least in part, for the crime which it represses with such severity? This theme has been frequently developed elsewhere, and I need not continue a line of argument which the most varied minds have elaborated since the eighteenth century. Its principal features can be summed up, in any case, by observing that every society has the criminals it deserves.

As far as France is concerned, however, it is impossible not to draw attention to circumstances which might make our legislators more modest. An swering a questionnaire on capital punishment in Figaro in 1952, a colonel declared that the establishment of perpetual forced labor as the supreme penalty amounted to the same thing as the establishment of schools of crime. This superior officer seems to be unaware—and I am happy for his sake—that we already have our schools of crime, which

differ in one particular from our reformatories—that fact that one can leave them at any hour of the day or night: they are our bars and our slums, the glories of our republic. And on this point, at least, it is impossible to express oneself with moderation.

According to statistics, there are 64,000 overcrowded living accommodations (three to five persons to a room) in the city of Paris alone. Now of course the man who murders children is a particularly unspeakable creature, scarcely worth working up much pity over. It is probable, too (I say probable), that none of my readers, placed in the same promiscuous living conditions, would go so far as to murder children: there is no question of reducing the guilt of such monsters. But would such monsters, in decent living conditions, have an occasion to go so far? The least one can say is that they are not the only guilty parties: it is difficult to account for the fact that the right to punish these criminals is given to the very men who prefer to subsidize sugar beets rather than new construction.²⁰

But alcohol makes this scandal all the more striking. It is well known that the French nation has been systematically intoxicated by its parliamentary majority for generally disgraceful reasons. Yet even with such knowledge in our grasp, the determined responsibility of alcohol for crimes of blood is still astounding. One lawyer (Guillon) has estimated that it is a factor in 60 per cent of all such cases. Dr. Lagriffe sets the rate somewhere between 41.7 and 72 per cent.

An investigation conducted in 1951 at the distribution center of the Fresnes prison, among inmates guilty of breaches of common law, revealed 29 per cent were chronic alcoholics and 24 per cent had alcoholic backgrounds. Finally, 95 per cent of all murderers of children have been alcoholics. These are all fine figures, but there is one we must consider which is still finer: that of the apéritif manufacturer who declared a profit of 410,000,000 francs in 1953.

A comparison of these figures authorizes us to inform the stockholders of this company, and the assemblymen who voted for sugar beets rather than for buildings, that they have certainly killed more children than they suspect. As an adversary of capital punishment, I am far from demanding the death penalty for these individuals. But to begin with, it seems to me an indispensable and urgent duty to conduct them under military escort to the next execution of the murderer of a child, and at the conclusion of the ceremony to present them with a table of statistics which will include the figures I have been discussing.

When the state sows alcohol, it cannot be surprised if it reaps crime.²¹ And it is not surprised, after all—it merely restricts itself to chopping off the same heads for which it poured out so much alcohol. It imperturbably executes its justice and sets itself up as a creditor: its good conscience is not affected. Hence we have one representative of the interests of alcohol indignantly answering the Figaro questionnaire: "I know what the most outspoken abolitionist of capital punishment would do if he were suddenly to discover assassins on the point of killing his mother, his father, his children, or his best friend . . .

Alors!" This "Alors!" seems a little drunk already. Naturally the most outspoken abolitionist of capital punishment would fire, and with every justification, at the assassins, and without affecting in the slightest his reasons for outspokenly urging the abolition of capital punishment. But if his ideas led to consequences of any value, and if the same assassins smelled a little too much of alcohol, would he not subsequently

turn his attentions to those who make it their business to intoxicate our future criminals?

It is even a little surprising that the parents of victims of alcoholic crime have never had the notion of requesting a few elucidations from the floor of the Assembly itself. But the contrary is the rule, and the State, armed with the confidence of all, with the full support of public opinion, continues to punish murderers, even and especially when they are alcoholics, somewhat the way a pimp punishes the hard-working creatures who provide his livelihood. But the pimp doesn't preach about his business.

The State does. Its jurisprudence, if it admits that drunkenness occasionally constitutes an extenuating circumstance, is unaware of chronic alcoholism. Drunkenness, however, accompanies only crimes of violence, which are not punishable by death, whereas the chronic alcoholic is also capable of pre-meditated crimes, which gain him the death penalty. The State thus maintains the right to punish in the very case in which its own responsibility is profoundly involved.

Does this come down to saying that every alcoholic must be declared nonresponsible by a State which will strike its breast in horror until the entire populace drinks nothing but fruit juice? Certainly not. No more than it comes down to saying that the facts of heredity eliminate responsibility and guilt. A criminal's real responsibility cannot be determined exactly. All calculation is powerless to take into account the total number of our ancestors, alcoholic or not.

At the other end of time, such a number would be 1022 times greater than the number of inhabitants of the earth at present. The total of diseased or morbid tendencies which could be transmitted is thus incalculable. We enter the world burdened with the weight of an infinite necessity, and according to logic must agree on a situation of a general nonresponsibility. Logically, neither punishment nor reward can be distributed accurately, and therefore all society becomes impossible.

Yet the instinct of self-preservation, in societies and individuals alike, requires, on the contrary, the postulate of individual responsibility; a responsibility that must be accepted, without day-dreaming of an absolute indulgence which would coincide with the death and disappearance of any society whatsoever. But the same line of reasoning that compels us to abandon a general nonresponsibility must also lead us to conclude that there is never, on the other hand, a situation of total responsibility, and consequently no such thing as absolute punishment or absolute reward. No one can be rewarded absolutely, not even by the Nobel prize. But no one must be punished absolutely if he is found guilty, and with all the more reason if there is a chance he might be innocent.

The death penalty, which neither serves as an example nor satisfies the conditions of retaliative justice, usurps in addition an ex-orbitant privilege by claiming the right to punish a necessarily relative guilt by an absolute and irreparable penalty.

If, in fact, the death penalty serves as a questionable example of our gimcrack justice, one must agree with its supporters that it is eliminative: capital punishment definitively eliminates the condemned man. This fact alone, actually, ought to exclude, especially for its partisans, the discussion of all the other dangerous arguments which, as we have seen, can be ceaselessly contested.

It would be more honest to say that capital punishment is definitive because it must be, to point out that certain men are socially irrecoverable, constituting a permanent danger to each citizen and to the social order as a whole, so that, before anything else, they must be suppressed. No one, at least, will question the existence of certain beasts in our society, creatures of incorrigible energy and brutality that nothing seems capable of subduing. And although the death penalty certainly does not solve the problem they present, let us at least agree that it goes a long way towards eliminating it.

I will return to these men. But first, is capital punishment confined only to them? Can we be absolutely certain that not one man of all those executed is recoverable? Can we even swear that one or another may not be innocent! In both cases, must we not admit that capital punishment is eliminative only to the degree that it is irreparable? Yesterday, March 15, 1957, Burton Abbott, condemned to death for the murder of a 14-year-old girl, was executed in California: it was certainly the Mud of crime that I imagine would class him among the irrecoverables. Although Abbott had constantly protested his innocence, he was condemned. His execution was scheduled for March 15 at 10 in the morning. At 9:10 a reprieve was granted to allow the defense to present an appeal.²²

At 11 o'clock the appeal was rejected. At 11:15 Abbott entered the gas chamber. At 11:18 he began to breathe the first fumes of gas. At 11:20 the secretary of the reprieve board telephoned the prison: the board had changed its decision. The governor had been called first, but he had gone sailing, and they had called the prison directly. Abbott was removed from the gas chamber: it was too late. If the weather had been bad the day before, the governor of California would not have gone sailing. He would have telephoned two minutes earlier: Abbott would be alive today and would perhaps see his innocence proved. Any other punishment, even the most severe, would have permitted this chance. Capital punishment, however, permitted him none.

It may be thought that this case is exceptional. Our lives are exceptional too, and yet, in the fugitive existence we have been granted, this exception occurred not ten hours by plane from where I am writing. Abbott's misfortune is not so much an exception as it is one news item among many others, an error which is not at all isolated, if we examine our newspapers (for example, the Deshay case, to instance only the most recent). The jurist Olivecroix, applying a calculus of probabilities to the chance of judiciary error, concluded in 1860 that approximately one innocent man was condemned out of every 257 cases.

The proportion seems low, but only in relation to moderate punishment. In relation to capital punishment, the proportion is infinitely high. When Hugo wrote that he preferred to call the guillotine Lesurques,²³ he did not mean that every man who was decapitated was a Lesurques, but that one Lesurques was enough to wipe out the value of capital punishment for ever. It is understandable that Belgium definitely abjured pronouncing capital punishment after one such judiciary error, and that England brought up the question of its abolition after the Hayes case.

We can readily sympathize with the conclusions of that attorney general who, consulted on the petition for reprieve of a criminal who was most probably guilty but whose victim's body had not been recovered, wrote as follows: "The survival of X assures the authorities the possibility of effectively examining at their leisure every new sign that may subsequently be discovered of the existence of his wife (the victim, whose body had not been recovered). . . ."

On the other hand, his execution, eliminating this hypothetical possibility of ex-amination, would give, I fear, to the slightest evidence of her still being alive a theoretical value, a pressure of regret which I consider it inopportune to create." The man's feeling for both justice and truth are admirably expressed, and it would be advisable to cite as often as possible in our assize courts that "pressure of regret" which sums up so steadfastly the danger with which every juryman is confronted. Once the innocent man is dead, nothing more can be done for him except to re-establish his good name, if someone is still interested in asking for such a service. His innocence is restored actually he had never lost it in the first place. But the persecution of which he has been the victim, his dreadful sufferings, and his hideous death have been acquired forever.

There is nothing left to do but consider the innocent men of the future, in order to spare them such torments. It has been done in Belgium; but in France, apparently, there are no bad consciences. Why should our consciences be bad if they are based on our conception of justice: has not this conception made great progress, does it not follow in the footsteps of science itself? When the learned expert gives his opinion in the assize courts, it is as if a priest had spoken, and the jury, raised in the religion of science—the jury nods. Nevertheless several recent cases—particularly the Besnard affair—have given us a good idea of the comedy such expertise can provide. Guilt is not better established because it can be demonstrated in a test tube.

Another test tube can prove the contrary, and the personal equation will thereby maintain all its old significance in such perilous mathematics as these. The proportion of scientists who are really experts is the same as that of judges who are really psychologists—scarcely more than that of juries that are really serious and objective. Today, as yesterday, the chance of error remains. Tomorrow another expert's report will proclaim the innocence of another Abbott. But Abbott will be dead, scientifically enough, and science, which claims to prove innocence as well as guilt, has not yet succeeded in restoring the life it has taken.

And among the guilty themselves, can we also be sure of having killed only "irrecoverables"? Those who like myself have had to attend hearings in our assize courts know that a number of elements of sheer accident enter into a sentence, even a death sentence. The looks of the accused; his background (adultery is often regarded as an incriminating circumstance by some jurors: I have never been able to believe that all are completely faithful to their wives and husbands); his attitude (which is only regarded as being in his favor if it is as conventional as possible, which usually means as near play-acting as possible); even his elocution (one must neither stutter nor speak too well) and the incidents of the hearing sentimentally evaluated (the truth, unfortunately, is not always moving)—all these are so many accidents that influence the final decision of a jury.

At the moment the verdict recommending the death penalty is pronounced, one can be sure that this most certain of punishments has only been arrived at by a great conjunction of uncertainties. When one realizes that the verdict of death depends on the jury's estimation of the extenuating circumstances, particularly since the reforms of 1832 gave our juries the power to admit undetermined extenuating circumstances, one can appreciate the margin left to the momentary humors of the jurors. It is no longer the law which establishes with any precision those cases in which the death penalty is recommended, but the jury which, after the

event, estimates its suitability by guesswork, to say the least. As there are no two juries alike, the man who is executed might as well have been spared. Irrecoverable in the eyes of the honest citizens of île-et-Vilaine, he might well be granted the shadow of an excuse by the good people of Var. Unfortunately, the same knife falls in both departments. And it is not concerned with such details.

The accidents of the times combine with those of geography to reinforce the general absurdity. The communist French worker who was just guillotined in Algeria for having planted a bomb, discovered before it could explode, in the cloakroom of a factory was condemned as much by his act as by the times, for in the Algerian situation at present, Arab public opinion was to be shown that the guillotine was made for French necks too, and French public opinion, outraged by terrorist activities, was to be given satisfaction at the same time. Nevertheless, the minister in charge of the execution counted many communist votes in his constituency, and if the circumstances had been slightly different, the accused would have got off lightly and perhaps one day, as his party's deputy, might have found himself drinking at the same bar as the minister.

Such thoughts are bitter and one might wish they remained fresh a little longer in the minds of our governors. These gentlemen should be aware that times and manners change; a day comes along when the criminal who was executed too quickly no longer seems quite so guilty. By then it is too late, and what can you do but repent or forget? Naturally, one forgets. But society is nonetheless affected: one unpunished crime, according to the Greeks, infects the whole city. Innocence condemned to death, or crime excessively punished, leaves a stain no less hideous in the long run. We know it, in France.

Such is the nature of human justice, it will be said, and despite its imperfections, after all, even human justice is better than the operation of despotism or chance. But this rueful preference is tolerable only in relation to moderate punishment. Confronted by death sentences, it is a scandal. A classic work on French law excuses the death penalty from being subject to degree in the following words: "Human justice has not the slightest ambition to insure proportion of this nature. Why? Because it knows itself to be imperfect." Must we therefore conclude that this imperfection authorizes us to pronounce an absolute judgment, and that society, uncertain of realizing justice in its pure state, must rush head-long with every likelihood of error, upon the supreme injustice? If human justice knows itself to be imperfect, might not that knowledge be more suitably and modestly demonstrated by leaving a sufficient margin around our condemnations for the eventual reparation of error?²⁴

This very weakness in which human justice finds extenuating circumstances for itself in every case and on every occasion—is it not to be accorded to the criminal himself as well? Can the jury in all decency say, "If we condemn you to death by mistake, you will surely forgive us in consideration of the weaknesses of the human nature we all share. But we nevertheless condemn you to death without the slightest consideration of these weaknesses or of this common nature"?

All men have a community in error and in aberration. Yet must this community operate in behalf of the tribunal and be denied to the accused? No, for if justice has any meaning in this world, it is none other than the recognition of this very community: it cannot, in its very essence, be separated from compassion. Let it be understood that by compassion I mean only the consciousness of a common suffering, not a frivolous

indulgence that takes no account of the sufferings and rights of the victim. Compassion does not exclude punishment, but it withholds an ultimate condemnation. It is revolted by the definitive, irreparable measure that does injustice to man in general since it does not recognize his share in the misery of the common condition.

As a matter of fact, certain juries know this well enough, and often admit the extenuating circumstances of a crime which nothing can extenuate. This is because they regard the death penalty as too extreme and prefer to punish insufficiently rather than to excess. In such cases, the extreme severity of the punishment tends to sanction crime instead of penalizing it. There is scarcely one session of the assize courts of which one cannot read in our press that a verdict is incoherent, that in the face of the facts it appears either insufficient or excessive. The jurors are not unaware of this. They simply prefer, as we should do ourselves, when confronted with the enormity of capital punishment, to appear confused, rather than compromise their sleep for nights to come. Knowing themselves imperfect, at least they draw the appropriate consequences. And true justice is on their side, precisely to the degree that logic is not.

There are, however, great criminals that every jury will condemn, no matter where and when they are tried. Their crimes are certain, and the proofs elicited by the prosecution correspond with the admissions of the defense. What is abnormal and even monstrous in their crimes unquestionably determines their category as pathological, though in the majority of such, cases psychiatrists affirm the criminal's responsibility. Recently, in Paris, a young man of rather weak character, but known for the sweetness and affection of his nature and his extreme devotion to his family, described him self as being annoyed by his father's remarks on the lateness of the hours he had been keeping.

The father was reading at the dining-room table. The young man took an axe and struck his father several mortal blows with it from behind. Then, in the same fashion, he struck down his mother, who was in the kitchen. He removed his bloody trousers and hid them in the closet, changed his clothes, and after paying a visit to the family of his fiancée without revealing the slightest discomposure, returned to his own house and informed the police his parents had been murdered. The police immediately discovered the bloody trousers, and easily obtained the parricide's unperturbed confession.

The psychiatrists agreed on his responsibility for these "murders by irritation." The young man's strange indifference, of which he gave other indications in prison (rejoicing that his parents' funeral had been so well attended: "Everyone liked them," he said to his lawyers), can nevertheless scarcely be considered as normal. But his reason was apparently intact.

Many "monsters" offer a countenance just as impenetrable. They are therefore eliminated upon consideration of the facts alone. Because of the nature or the degree of their crimes it is inconceivable that they would repent or even wish to change their ways. In their case, a recurrence is what must be avoided, and there is no other solution than to eliminate them. On this—and only this—aspect of the question is the discussion of the death penalty legitimate.

In all other cases the arguments of its partisans cannot withstand the criticism of its opponents. At this point, in fact, at our present level of ignorance, a kind of wager is established: no expertise, no exercise

of reason can give the deciding vote between those who think a last chance must always be granted to even the last of men and those who consider this chance as entirely illusory. But it is perhaps possible, at this very point, to over-ride the eternal opposition between the partisans and oppo-nents of the death penalty, by determining the advisability of such a penalty at this time, and in Europe, With considerably less competence, I shall attempt to parallel the efforts of professor Jean Graven, a Swiss jurist who writes, in his remarkable study of the problems of capital punishment: ". . .

Regarding the problem that once again confronts our conscience and our reason, it is our opinion that the solution must be based not upon the conceptions, the problems, and the arguments of the past, nor on the theoretical hopes and promises of the future, but on the ideas, the given circum-stances, and the necessities of today."25

One could, in fact, argue forever about the advantages or devastations of the death penalty as it has been through the ages or as it might be contemplated in some eternity of ideas. But the death penalty plays its part here and now, and we must determine here and now where we stand in relation to a contemporary executioner. What does the death penalty mean for us, half-way through the twentieth century?

For the sake of simplification, let us say that our civiliza-tion has lost the only values that, to a certain degree, could justify the death penalty, and that it suffers, on the contrary, from every evil that necessitates its suppression. In other words, the abolition of the death penalty should be demanded by the conscious members of our society on grounds of both logic and fidelity to the facts.

Of logic, first of all. To decide that a man must be defi-nitely punished is to deny him any further opportunity whatsoever to make reparation for his acts. It is at this junc-ture, we repeat, that the arguments for and against capital punishment confront one another blindly, eventuating in a fruitless checkmate. Yet it is exactly here that none of us can afford to be positive, for we are all judges, all party to the dispute. Hence our uncertainty about our right to kill and our impotence to convince others on either side. Unless there is absolute innocence, there can be no supreme judge.

Now we have all committed some transgression in our lives, even if this transgression has not put us within the power of the law and has remained an unknown crime: there are no just men, only hearts more or less poor in justice. The mere fact of living permits us to know this, and to add to the sum of our actions a little of the good that might partially compen-sate for the evil we have brought into the world. This right to live that coincides with the opportunity for reparation is the natural right of every man, even the worst.

The most aban-doned criminal and the worthiest judge here find themselves side by side, equally miserable and jointly responsible. Without this right, the moral life is strictly impossible. None among us, in particular, is entitled to despair of a single man, unless it be after his death, which transforms his life into destiny and admits of a final judgment. But to pronounce this final judgment before death, to decree the closing of accounts when the creditor is still alive, is the privilege of no man. On these grounds, at least, he who judges absolutely condemns himself absolutely.

Barnard Fallot of the Masuy gang, who worked for the Gestapo, confessed to the entire list of terrible crimes of which he was accused, and later went to his death with great courage, declaring himself beyond hope of reprieve: "My hands are too red with blood," he said to one of his fellow prisoners.²⁶

Public opinion and that of his judges certainly classified him among the irrecoverables, and I would have been tempted to put him in that category myself, had I not read one astonishing piece of evidence: after having declared that he wanted to die bravely, Fallot told the same prisoner: "Do you know what I regret most of all? Not having known sooner about the Bible they gave me here. If I had, I wouldn't

be where I am now." It is not a question of surrendering to the sentimentality of conventional imagery and conjuring up Victor Hugo's good convicts. The age of enlightenment, as it is called, wished to abolish the death penalty under the pretext that man was fundamentally good. We know, of course, that he is not (he is simply better or worse). After the last twenty years of our splendid history we know it very well.

But it is because man is not fundamentally good that no one among us can set himself up as an absolute judge, for no one among us can pretend to absolute innocence. The verdict of capital punishment destroys the only indisputable human community there is, the community in the face of death, and such a judgment can only be legitimated by a truth or a principle that takes its place above all men, beyond the human condition.

Capital punishment, in fact, throughout history has always been a religious punishment. When imposed in the name of the king, representative of God on earth, or by priests, or in the name of a society considered as a sacred body, it is not the human community that is destroyed but the functioning of the guilty man as a member of the divine community which alone can give him his life. Such a man is certainly deprived of his earthly life, yet his opportunity for reparation is preserved. The real judgment is not pronounced in this world, but in the next.

Religious values, especially the belief in an eternal life, are thus the only ones on which the death penalty can be based, since according to their own logic they prevent that penalty from being final and irreparable: it is justified only insofar as it is not supreme.

The Catholic Church, for example, has always admitted the necessity of the death penalty. It has imposed the penalty itself, without avarice, at other periods. Today, its doctrines still justify capital punishment, and concede the State the right to apply it. No matter how subtle this doctrine may be, there is at its core a profound feeling which was directly expressed by a Swiss councilor from Fribourg during a discussion of capital punishment by the national council in 1937; according to M. Grand, even the worst criminal examines his own conscience when faced with the actuality of execution.

"He repents, and his preparation for death is made easier. The Church has saved one of its members, has accomplished its divine mission. This is why the Church has steadfastly countenanced capital punishment, not only as a means of legitimate protection, but as a powerful means of salvation. . . . [My italics.] Without becoming precisely a matter of doctrine, the death penalty, like war itself, can be justified by its quasi-divine efficacy."

By virtue of the same reasoning, no doubt, one can read on the executioner's sword in Fribourg the motto "Lord Jesus, thou art the Judge." The executioner is thereby invested with a divine function. He is the man who destroys the body in order to deliver the soul to its divine judgment, which no man on earth can foresee. It will perhaps be considered that such mottos imply rather outrageous confusions, and certainly those who confine themselves to the actual teachings of Jesus will see this handsome sword as yet another outrage to the body of Christ.

In this light can be understood the terrible words of a Russian prisoner whom the executioners of the Tsar were about to hang in 1905, when he turned to the priest who was about to console him with the image of Christ and said: "Stand back, lest you commit a sacrilege." An unbeliever will not fail to remark that those who have placed in the very center of their faith the overwhelming victim of a judicial error should appear more reticent, to say the least, when confronted by cases of legal murder.

One might also remind the believer that the emperor Julian, before his conversion, refused to give official posts to Christians because they systematically refused to pronounce the death sentence or to aid in administering it. For five centuries Christians believed that the strict moral teaching of their master forbade them to kill. But the Catholic faith is derived not only from the teachings of Christ, it is nourished by the Old Testament, by Saint Paul, and by the Fathers as well. In particular the immortality of the soul and the universal resurrection of the body are articles of dogma.

Hence, capital punishment, for the believer, can be regarded as a provisional punishment which does not in the least affect the definite sentence, but remains a disposition necessary to the terrestrial order, an administrative measure which, far from making an end of the guilty man, can promote, on the contrary, his redemption in heaven. I do not say that all believers follow this reasoning, and I can imagine without much difficulty that most Catholics stand closer to Christ than to Moses or Saint Paul. I say only that the belief in the immortality of the soul has permitted Catholicism to formulate the problem of capital punishment in very different terms, and to justify it.

But what does such a justification mean to the society we live in, a society which in its institutions and manners alike has become almost entirely secular? When an atheist—or skeptic—or agnostic judge imposes the death penalty on an unbelieving criminal, he is pronouncing a definitive punishment that cannot be revised. He sits upon God's throne,²⁷ but without possessing God's powers and, moreover, without believing in them. He condemns to death, in fact, because his ancestors believed in eternal punishment.

Yet the society which he claims to represent pronounces, in reality, a purely eliminative measure, destroys the human community united against death, and sets itself up as an absolute value because it pretends to absolute power. Of course society traditionally assigns a priest to the condemned man, and the priest may legitimately hope that fear of punishment will help effect the condemned man's conversion.

Yet who will accept this casuistry as the justification of a punishment so often inflicted and so often received in an entirely different spirit? It is one thing to believe and 'therefore know not fear,' and another to find one's faith through fear. Conversion by fire or the knife will

always be suspect, and one can well understand why the Church renounced a triumph by terror over infidel hearts.

In any case, a secularized society has nothing to gain from a conversion concerning which it professes complete disinterest: it enacts a consecrated punishment, and at the same time deprives that punishment of its justification and its utility alike. Delirious in its own behalf, society plucks the wicked from its bosom as if it were virtue personified. In the same way, an honorable man might kill his son who had strayed from the path of duty, saying, "Really, I didn't know what else I could do!" Society thus usurps the right of selection, as if it were nature, and adds a terrible suffering to the eliminative process, as if it were a redeeming god.

To assert, in any case, that a man must be absolutely cut off from society because he is absolutely wicked is the same as saying that society is absolutely good, which no sensible person will believe today.

It will not be believed—in fact, it is easier to believe the contrary. Our society has become as diseased and criminal as it is only because it has set itself up as its own final justification, and has had no concern but its own preservation and success in history. Certainly it is a secularized society, yet during the nineteenth century it began to fashion a kind of ersatz religion by proposing itself as an object of adoration. The doctrines of evolution, and the theories of selection that accompanied such doctrines, have proposed the future of society as its final end. The political Utopias grafted onto these doctrines have proposed, at the end of time, a Golden Age that justifies in advance all inter-mediary enterprises.

Society has grown accustomed to legalizing whatever can minister to its future, and consequently to usurping the supreme punishment in an absolute fashion: it has regarded as a crime and a sacrilege everything that contradicts its own intentions and temporal dogmas. In other words, the executioner, formerly a priest, has become a civil servant. The results surround us. Half-way through the century, our society, which has forfeited the logical right to pronounce the death penalty, must now abolish it for reasons of realism.

Confronted with crime, how does our civilization in fact define itself? The answer is easy: for 30 years crimes of state have vastly exceeded crimes of individuals. I shall not even mention wars—general or local—although blood is a kind of alcohol that eventually intoxicates like the strongest wine. I am referring here to the number of individuals killed directly by the State, a number that has grown to astronomical proportions and infinitely exceeds that of "private" murders.

There are fewer and fewer men condemned by common law, and more and more men executed for political reasons. The proof of this fact is that each of us, no matter how honorable he is, can now envisage the possibility of someday being put to death, whereas such an eventuality at the beginning of the century would have appeared farcical at best. Alphonse Karr's famous remark, "Let my lords the assassins begin," no longer has any meaning: those who spill the most blood are also those who believe they have right, logic, and history on their side.

It is not so much against the individual killer that our society must protect itself then, as against the State. Perhaps this equation will be reversed in another thirty years. But for the present, a legitimate defense must be made against the State, before all else. Justice and the

most realistic sense of our time require that the law protect the individual against a State given over to the follies of sectarianism and pride. "Let the State begin by abolishing the death penalty" must be our rallying cry today.

Bloody laws, it has been said, make bloody deeds. But it is also possible for a society to suffer that state of ignominy in which public behavior, no matter how disorderly, comes no where near being so bloody as the laws. Half of Europe knows this state. We have known it in France and we risk knowing it again. The executed of the Occupation produced the executed of the Liberation whose friends still dream of re-venge.

Elsewhere, governments charged with too many crimes are preparing to drown their guilt in still greater massacres. We kill for a nation or for a deified social class. We kill for a future society, likewise deified. He who believes in omni-science can conceive of omnipotence. Temporal idols that demand absolute faith tirelessly mete out absolute punishments. And religions without transcendence murder those they condemn en masse and without hope.

How can European society in the twentieth century survive if it does not defend the individual by every means within its power against the oppression of the State? To forbid putting a man to death is one means of publicly proclaiming that society and the State are not absolute values, one means of demonstrating that nothing authorizes them to legislate definitively, to bring to pass the irreparable.

Without the death penalty, Gabriel Péri and Brasillach would perhaps be among us still; we could then judge them, according to our lights, and proudly speak out our judgment, instead of which they now judge us, and it is we who must remain silent. Without the death penalty, the corpse of Rajk would not still be poisoning Hungary, a less guilty Germany would be received with better grace by the nations of Europe, the Russian Revolution would not still be writhing in its shame, and the blood of Algeria would weigh less heavily upon us here in France.

Without the death penalty, Europe itself would not be infected by the corpses accumulated in its exhausted earth for the last twenty years. Upon our continent all values have been overturned by fear and hatred among individuals as among nations. The war of ideas is waged by rope and knife. It is no longer the natural human society that exercises its rights of repression, but a ruling ideology that demands its human sacrifices. "The lesson the scaffold always provides,"

Francart wrote, "is that human life ceases to be sacred when it is considered useful to suppress it." Apparently it has been considered increasingly useful, the lesson has found apt pupils, and the contagion is spreading everywhere. And with it, the disorders of nihilism. A spectacular counter-blow is required: it must be proclaimed, in institutions and as a matter of principle, that the human person is above and beyond the State.

Every measure which will diminish the pressure of social forces on the individual will also aid in the decongestion of a Europe suffering from an afflux of blood, will permit us to think more clearly, and to make our way toward recovery. The disease of Europe is to believe in nothing and to claim to know everything. But Europe does not know everything, far from it, and to judge by the rebellion and the hope in which we find ourselves today, Europe does believe in something: Europe believes that

the supreme misery of man, at its mysterious limit, borders on his supreme greatness.

For the majority of Europeans faith is lost, and with it the justifications faith conferred upon the order of punishment. But the majority of Europeans are also sickened by that idolatry of the State which has claimed to replace their lost faith. From now on, with divided goals, certain and uncertain, determined never to submit and never to oppress, we must recognize both our hope and our ignorance, renounce all absolute law, all irreparable institutions. We know enough to be able to say that this or that great criminal deserves a sentence of perpetual forced labor. But we do not know enough to say that he can be deprived of his own future, which is to say, of our common opportunity for reparation. In tomorrow's united Europe, on whose behalf I write, the solemn abolition of the death penalty must be the first article of that European Code for which we all hope.

From the humanitarian idylls of the eighteenth century to its bloody scaffolds the road runs straight and is easily followed; we all know today's executioners are humanists. And therefore we cannot be too suspicious of humanitarian ideologies applied to a problem like that of capital punishment. I should like to repeat, by way of conclusion, that my opposition to the death penalty derives from no illusions as to the natural goodness of the human creature, and from no faith in a golden age to come. On the contrary, the abolition of capital punishment seems necessary to me for reasons of qualified pessimism, reasons I have attempted to explain in terms of logic and the most realistic considerations.

Not that the heart has not made its contribution to what I have been saying: for anyone who has spent several weeks among these texts, these memories, and these men, intimately or remotely, connected with the scaffold—there can be no question of leaving their dreadful ranks unaffected by what one has seen and heard. Nevertheless, I do not believe there is no responsibility in this world for what I have found, or that one should submit to our modern propensity for absolving victim and killer in the same moral confusion. This purely sentimental confusion involves more cowardice than generosity, and ends up by justifying whatever is worst in this world: if everything is blessed, then slave camps are blessed, and organized murder, and the cynicism of the great political bosses—and ultimately, blessing everything alike, one betrays one's own brothers. We can see this happening all around us.

But indeed, with the world in its present condition the man of the twentieth century asks for laws and institutions of convalescence that will check without crushing, lead without hampering. Hurling into the unregulated dynamism of history, man needs a new physics, new laws of equilibrium. He needs, most of all, a reasonable society, not the anarchy into which his own pride and the State's inordinate powers have plunged him. It is my conviction that the abolition of the death penalty will help us advance toward that society.

In taking this initiative, France could propose its extension on either side of the iron curtain; in any case she could set an example. Capital punishment would be replaced by a sentence of perpetual forced labor for criminals judged incorrigible, and by shorter terms for others. As for those who believe that such punishment is still more cruel than capital punishment itself, I wonder why, in that case, they do not reserve it for Landru and his like and relegate capital punishment to secondary offenders.

One might also add that such forced labor leaves the con-demned man the possibility of choosing his death, whereas the guillotine is a point of no return. On the other hand, I would answer those who believe that a sentence of perpetual forced labor is too mild a punishment by remarking first on their lack of imagination and then by pointing out that the privation of liberty could seem to them a mild punishment only to the degree that contemporary society has taught them to despise what liberty they have.²⁸

That Cain was not killed, but bore in the sight of all men a mark of reprobation is, in any case, the lesson we should draw from the Old Testament, not to mention the Gospels, rather than taking our inspiration from the cruel examples of the Mo-saic law. There is no reason why at least a limited version of such an experiment should not be attempted in France (say for a ten-year period), if our government is still capable of redeeming its vote for alcohol by the great measure in behalf of civilization which total abolition would represent.

And if public opinion and its representatives cannot renounce our slothful law which confines itself to eliminating what it cannot amend, at least, while waiting for a day of regeneration and of truth, let us not preserve as it is this "solemn shambles" (in Tarde's expression) which continues to disgrace our so-ciety. The death penalty, as it is imposed, even as rarely as it is imposed, is a disgusting butchery, an outrage inflicted on the spirit and body of man. This truncation, this living severed head, these long gouts of blood, belong to a barbarous epoch

that believed it could subdue the people by offering them de-grading spectacles. Today, when this ignoble death is secretly administered, what meaning can such torture have? The truth is that in an atomic age we kill as we did in the age of steelyards: where is the man of normal sensibility whose stomach is not turned at the mere idea of such clumsy surgery? If the French state is incapable of overcoming its worst impulses to this degree, and of furnishing Europe with one of the remedies it needs most, let it at least reform its means of administering capital punishment. Science, which has taught us so much about killing, could at least teach us to kill decently.

An anesthetic which would permit the accused to pass from a state of sleep to death, which would remain within his reach for at least a day so that he could make free use of it, and which in cases of refusal or failure of nerve could then be administered to him, would assure the elimination of the criminal, if that is what we require, but would also provide a little decency where today there is nothing but a sordid and obscene exhibition.

I indicate these compromises only to the degree that one must sometimes despair of seeing wisdom and the principles of civilization impose themselves upon those responsible for our future. For certain men, more numerous than is supposed, knowing what the death penalty really is and being unable to prevent its application is physically insupportable. In their own way, they suffer this penalty too, and without any justification. If we at least lighten the weight of the hideous images that burden these men, society will lose nothing by our ac-tions. But ultimately even such measures will be insufficient. Neither in the hearts of men nor in the manners of society will there be a lasting peace until we outlaw death.

The end

Notes:

1. A description of the actual procedure in French prisons. Cf. the movie We Are All Murderers.—Translator.

2. According to the optimistic Dr. Guillotine, the condemned man would feel nothing at all—at most a "slight coolness at the back of his neck."

3. Justice sans bourreau, No. 2, June, 1956.

4. Published by Roger Grenier, in Les Monstres, Gallimard. 5. Editions Matot-Braine, Reims.

6. In 1905, in Loiret.

7. The magazine Réalités, No. 105, October, 1954.

8. One can read week, after week in our press about criminals who wavered between killing others and killing themselves.

9. Vide the report of the English Select Committee of 1930 and of the Royal commission which has continued this study recently: "All the figures that we have examined confirm our statement that the abolition of the death penalty has provoked no increase in the number of crimes committed."

10. Report of the Select Committee, 1930.

11. Bela Just, La Potence et la croix, Fasquelle. 12. Roger Grenier, op. cit.

13. Ibid.

14. Several years ago I urged the reprieve of six Tunisians who had been condemned to death for the murder of three French police-men in a riot: the circumstances during which the killing had occurred made responsibility difficult to determine. A note from the office of the President of the Republic informed me that my petition was being considered by the appropriate authorities. Unfortunately, by the time this note was in the mail I had already read that the sentence had been carried out two weeks before. Three of the condemned men had been put to death, the other three reprieved. The reasons for reprieving the latter rather than those who were executed had not been decisive. I conclude that because there were three victims there had to be three death penalties.

15. Roemen, condemned to death at the time of the Liberation, remained in chains 700 days before being executed: a scandal. Those condemned by common law wait, as a general rule, three to six months until the morning of their death. Yet if one wishes to preserve their chances of reprieve, it is not advisable to shorten the delay. I can bear witness, moreover, that the examination leading to a recommendation of mercy is conducted in France with a gravity that does not exclude an evident willingness to reprieve to the full extent that law and public opinion will allow.

16. Since there are no executions on Sunday, Saturday night is al-ways a good night in death row.

17. Bela Just, op. cit.

18. A great surgeon, himself a Catholic, told me that he had learned never to tell his patients, even when they were believers, that they were suffering from an incurable cancer. The shock, he believed, was too dangerous, and even risked jeopardizing their faith.

19. Devoyod, op. cit. It is impossible to read objectively the petitions for reprieve presented by fathers and mothers who evidently can-not comprehend the punishment that has suddenly fallen upon them. 20. France ranks ahead of all other nations in consumption of alcohol, fifteenth in construction.

21. At the end of the last century, the partisans of capital punish-ment made much of an increase in the incidence of crime after 1880, which seemed to parallel a diminution in the application of the death penalty. It was in 1880, however, that the law permit-ting retail liquor establishments to set up shop without previous authorization was promulgated. Such facts are not difficult to in-terpret!

22. It should be pointed out that it is the custom in American prisons to conduct the condemned man to a new cell on the eve of his execution, thus informing him of the ceremony that awaits him. 23. The name of an innocent man guillotined in the Courrier de Lyon case.

24. Satisfaction was expressed over the recent reprieve of Sillon, who killed his four-year-old daughter in order to keep her from her mother, who had asked for a divorce. During his detention it was discovered that Sillon was suffering from a brain tumor that could account for the insanity of his action.

25. Revue de Criminologie et de Police technique, Geneva, special number, 1952.

26. Jean Bobognano, Quartier des fauves, prison de Fresnes, Édition du Fuseau.

27. The decision of the jury is preceded by the formula "before God and my conscience. . . ."

28. See also the report on the death penalty made by Representative Dupont to the National Assembly on May 31, 1791: "He [the as-sassin] is consumed by a bitter, burning temper; what he fears above all is repose, a state that leaves him to himself, and to es-cape it he continually faces death and seeks to inflict it; solitude and his conscience are his real tortures. Does this not tell us what kind of punishment we should impose, to what agonies he is most sensi-tive? Is it not in the very nature of the disease that we must seek the remedy which can cure it?" I italicize this last sentence, which makes this little-known Representative a real precursor of our modern psychological theories.