March 2007

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THE POET AND DEATH: LITERARY REFLECTIONS ON CAPITAL PUNISHMENT THROUGH THE SONNETS OF WILLIAM WORDSWORTH

GREGG MAYER*

"[D]eeply moved we grieve,
In after thought, for Him who stood in awe
Neither of God nor man . . . ."¹

-William Wordsworth

"Suppose that what I write might one day be useful to others,- might make the Judge pause in his decision, and might save the wretched (innocent or guilty) from the agony to which I am condemned . . . ."²

-Victor Hugo

"Hard by the block stood the grim figure of the executioner, his visage being concealed in a tengallen pot with two circular perforated apertures through which his eyes glowered furiously. As he awaited the fatal signal he tested the edge of his horrible weapon by honing it upon his brawny forearm or decapitated in rapid succession a flock of sheep which had been provided by the admirers of his fell but necessary office."³

-James Joyce

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³ JAMES JOYCE, ULYSSES 309 (Garland Publishing 1984) (1922).
INTRODUCTION

No poet has more vigorously, thoroughly and eloquently defended the state’s right to execute than the great Romantic poet William Wordsworth. In 1841, fearing abolition of capital punishment when Parliament passed a bill eliminating the death penalty as punishment for 200 offenses, Wordsworth, then 71, composed a series of Sonnets Upon The Punishment of Death. These sonnets delve into topics as varied as the condemned’s last walk toward the scaffold, to meditations on whether God would approve of capital punishment. Unlike many other writers from his time, including Dickens, Thackeray, and Tolstoy, Wordsworth opposed total abolition of the death penalty; his sonnets provide a rare, versed defense for this authority. More broadly, his sonnets offer a literary doorway to other writers’ reflections on capital punishment, both from Wordsworth’s contemporaries and more modern authors.

Throughout history, there has been some form of capital punishment somewhere in the world. Executions have been performed by hanging, beheading, shooting, gassing, electrocuting, injecting, and innumerable other ways, some more
horrific than others. With that punishment came debate, and writers often reflected on capital punishment in their books and poems. In his own time, Wordsworth "thoroughly immersed" himself in the current events of his time, and capital punishment was hotly debated. However, Wordsworth never felt comfortable writing prose, so he turned to his poetry - a skill that by 1841 had proven he was a master at not just describing nature, but describing humans and their interaction with the world. His poetry resulted in a "spontaneous overflow of powerful feelings."

Capital punishment - typically by public hangings in 19th Century England - was being criticized by writers such as Thackeray, who witnessed a hanging, wrote of its horrors and called for its end. In 1836, a report by the Commissioners on

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9 See John P. Rutledge, *The Definitive Inhumanity of Capital Punishment*, 20 Whittier L. Rev. 283, 284 (1998) (listing a variety of execution methods, including "drowning, burning, drawing and quartering, pressing-to-death, crucifixion, gibbeting, and sawing-in-half.").

10 See, e.g., Lewis E. Lawes, *Man's Judgment of Death* 4 (1969) (noting "(c)apital punishment has always been discussed and debated; pamphlets, articles and books have been written, speeches have been delivered; men prominent in every walk of life have expressed their opinion . . . ."); see also Leigh B. Bienen, *What We Write About When We Write About The Death Penalty - A Review Of Recent Books And Literature On Capital Punishment*, 89 J. Crim. L. & Criminology 751 (1999) (reviewing a host of recent books on capital punishment).

11 Wordsworth was born on April 7, 1770, in Cockermouth, Cumberland, England. See *Merriam-Webster's Encyclopaedia of Literature* 1214 (Kathleen Kuiper ed., 1995). In 1797, Wordsworth began composing his lyrical poems for which he is most famous. *Id.* He composed the *Sonnets Upon The Punishment of Death* much later in his life during the period from 1839-1840. The sonnets are often criticized for not being as well-crafted as his earlier works. See William H. Galperin, *Revision and Authority in Wordsworth: The Interpretation of a Career* 236 (University of Pennsylvania Press) (1989). In 1843, Wordsworth was named poet laureate. See *Merriam-Webster's Encyclopaedia of Literature*, at 1214. His work has since been explored and studied in depth by various scholars. See generally Meyer H. Abrams, *The Mirror And The Lamp: Romantic Theory and Critical Condition* (Oxford University Press 1971) (1953).

12 Abrams, *supra* note 11, at 103.

13 See *id.* at 106 (stating that "Wordsworth is not an ideal expositer, and he complains frequently in his letters that writing prose came hard to him and induced muscular cramps, a nervous sweat and despondency of spirit.").


15 Abrams, *supra* note 11, at 47 (quoting Wordsworth). In Wordsworth's time, executions generally were by hanging in public, though Wordsworth himself had been to France as well and followed the French revolution, with its beheadings and the fall of the Bastille. See *Merriam-Webster's Encyclopaedia of Literature*, *supra* note 11, at 1214.

16 See William Makepeace Thackeray, *Going To See A Man Hanged*, in William Makepeace Thackeray, *Miscellanies* 417 (1968). Thackeray describes in detail the gathering crowd, the wait for the hanging, and then at the last moment records how he had to turn away because he could not stand to watch. *Id.* at 430. He concludes:
Criminal Law was put before the Parliament, resulting in the Whig Party initiating criminal law reform and removing 200 offenses from death eligibility by the next year; several crimes, however, remained capital offenses, including: high treason, murder, rape, arson, endangering life, piracies and robberies that were cruel or violent. 17 Wordsworth, a conservative, did not oppose the Whig measure, 18 but he worried the government was inching closer to abolishing capital punishment all together, a move he staunchly resisted. 19 He engaged in the debate over the death penalty's appropriateness, its fairness, and its morality. 20

In writing his sonnets, Wordsworth "skillfully touches on nearly every aspect of the debate . . ." 21 That debate continues today. 22

In the modern era, many countries, including England, have now abolished capital punishment. 23 In the United States, where it is still permitted, most states use the less-horrific lethal injection to kill the condemned, moving away from the more brutal methods of just a few decades ago. 24 Through the works of

I must confess . . . the sight has left on my mind an extraordinary feeling of terror and shame. It seems to me that I have been abetting an act of frightful wickedness and violence, performed by a set of men against one of their fellows; and I pray God that it may soon be out of the power of any man in England to witness such a hideous and degrading sight. Id. at 430–31.


18 See id.

19 See Setzer, supra note 4, at 427.

20 The first dissent in Parliament about capital punishment is recorded 1819, some twenty years before Wordsworth's sonnets. See David D. Cooper, Public Executions in Victorian England: A Reform Adrift, in EXECUTIONS AND THE BRITISH EXPERIENCE, supra note 14, at 149. The first effort to completely abolish the death penalty came in 1840, though that measure failed. Id. at 153. The last public execution in England took place in 1868. See Thesing, supra note 14, at 131.

21 Leyda, supra note 17, at 49.

22 See WALTER BERN'S FOR CAPITAL PUNISHMENT (Basic Books 1979) (opening with a brief survey of some of the great thinkers and arguments concerning the death penalty through time, as well as including an analysis of some of the great writers' literature); see also Symposium, Rethinking The Death Penalty: Can We Define Who Deserves Death?, 24 PACE L. REV. 107 (2003) (noting a panel discussion about the morality of the death penalty).

23 See Roger Hood, Review, 45 BRIT. J. CRIMINOLOGY 402 (2004) (reviewing CAPITAL PUNISHMENT: STRATEGIES FOR ABOLITION (Peter Hodgkinson and William A. Schabas eds., 2004)). In that review, Hood notes that at the end of 2003, 91 countries had rejected capital punishment and sixty-five countries have recorded executions in the last decade, including the United States. Id. In Europe, Italy abolished the death penalty in 1947. See Kristi Tumminello Prinzo, The United States - "Capital" of the World: An Analysis of Why the United States Practices Capital Punishment While the International Trend is Towards Its Abolition, 24 BROOK. J. INT'L L. 855, 857 (1999). In Germany, the penalty was abolished in 1949. Id. In France, the penalty was abolished in 1982. Id. In Britain, abolition was implemented in the 1950's. Id. at 887.

24 See, e.g., Atkins v. Virginia, 536 U.S. 304 (2002) (holding that the execution of mentally retarded criminals is unconstitutional); see Deborah W. Denno, Getting to Death: Are Executions
writers from Wordsworth and beyond, including today's films, we can discover insights and new perspectives to discuss the ongoing debate over capital punishment, see the death penalty in ways only poetry and fiction can offer, see the influences these reflections have on shaping public opinion, and ultimately better understand the death penalty itself.\textsuperscript{25}

In Part II, this paper will briefly discuss Law & Literature and how it relates to the debate over capital punishment. Then, using the sonnets of Wordsworth as a jumping off point, Part III of this paper will explore a variety of aspects surrounding capital punishment, categorizing Wordsworth's reflections on the death penalty, contrasting his work with other writers, and comparing how these writers choose to illustrate and focus their depictions of state executions. In Part IV, this paper concludes that Wordsworth offers a valuable voice to the debate over capital punishment; though often at odds with his fellow writers, he is never less important than them.

I. LAW & LITERATURE: THE DEATH PENALTY

Law and Literature is an interdisciplinary study using books and films about the law, as well as texts written by legal writers such as court opinions, to better understand our legal system today and how it fits with society.\textsuperscript{26} Literature about the criminal

\textit{Constitutional?}, 82 IOWA L. REV. 319, 325 (1997) (explaining a national consensus opposes use of electrocution and most states have chosen lethal injection as the preferred method of execution); see also Carol S. Steiker and Jordan M. Steiker, \textit{Sober Second Thoughts: Reflections on Two Decades of Constitutional Regulation of Capital Punishment}, 109 HARV. L. REV. 355, 357 (1995) (noting that despite, or because of, the constant interpretations of the constitutionality of the death penalty, "(v)irtually no one thinks that the constitutional regulation of capital punishment has been a success" and arguing that the U.S. Supreme Court has failed in its goal of rationalizing the death penalty).

\textsuperscript{25} See Greene, supra note 6, at 555. Greene writes, "[t]he literature of capital punishment brings us closer to the problem of the death penalty: death itself. The literature establishes that the story of life is the story of loss, the loss of its details (even before we know it), and ultimately the loss of self . . . ." See Norman L. Greene, \textit{Pictures and Punishment in Western Culture: The Aesthetic Image of Public Execution and Its Impact on Criminal Justice}, 15 CARDOZO STUD. L. & LIT. 231 (2003), writing:

Good death penalty literature sets the context honestly. The best literature rejects euphemism or fine words in all forms. It refuses to cover up what is going on with nice phrases - it refuses to cover the guillotine with gauze, as Victor Hugo once said. This honest exposition of brutality is especially important as the dramatic forms of execution are dying out and being replaced by a device almost medical in aspect - lethal injection.

\textit{Id.} at 231.

\textsuperscript{26} See Bruce L. Rockwood, \textit{Introduction: On Doing Law and Literature}, in \textit{LAW & LITERATURE PERSPECTIVES} I (Bruce L. Rockwood ed., 1996) (explaining law and literature is still an emerging field, examining through an interdisciplinary study "fundamental issues from the humanities, the social
justice system, specifically the death penalty, is voluminous. This paper, beginning with Wordsworth’s sonnets, is concerned with the literature and films depicting differing perspectives on the death penalty, including its impact on individuals, its importance to state authority and its relation to man and God. Primarily, the works included are fictional; however, some non-fiction essays and newspaper accounts are also excerpted to further expand the scope of the writers considered.

The literature of capital punishment gets to “the core problems of our lives and perhaps what we fear most... the loss of life. . . .” Additionally, literature can help “in the creation of myths” that shape the criminal justice system, specifically in death penalty sentencing. Few in society ever experience death penalty litigation up close; instead, most people witness the criminal justice system through books and film, so the power of literary influence can be immense in shaping societal attitudes, and prejudices, toward the death penalty.


One of the richest, most fascinating literary subjects is that of crime and the court of law . . . Ordinary homicides or even judicial murders can be the focal point, as can trials, judges and executioners, crime and punishment, the formal administration of justice, and human (or rather cosmic) justice.

Id. See also Michael H. Hoffheimer, Observing Capital Punishment in Arnold Bennett’s the Old Wives Tale, 69 MISS. L.J. 441, 442–43 (1999) which states that “[e]arly twentieth-century writers devoted special attention to the public desire to observe the infliction of capital punishment, representing this observing of death as both pleasurable and repulsive, gratifying and self-destructive.”

28 See Greene, supra note 25, at 233 (explaining that “[f]ilms add the perhaps less powerful voice of popular culture to the understanding of the ultimate penalty.”).

29 See Richard H. Weisberg, Wigmore’s “Legal Novels” Revisited: New Resources For The Expansive Lawyer, 71 NW. U.L. REV. 17 (1976). One article divides the study of fictional works about the law as follows: (1) Literature depicting the full legal procedure, (2) Literature with a lawyer as the central figure, (3) Literature focusing on a specific body of law, and (4) Relationship of the individual, law, and justice. In considering the death penalty in this paper, the latter two categories are most relevant. Additionally, in some cases, the literary works considered in this paper are fictional accounts about real-life events. Id.

30 Greene, supra note 6, at 555.

31 DAVID GUEST, SENTENCED TO DEATH: THE AMERICAN NOVEL AND CAPITAL PUNISHMENT 169 (Univ. Press of Miss. 1997).

32 See Craig Haney, The Social Context of Capital Murder: Social Histories and the Logic of Mitigation, 35 SANTA CLARA L. REV. 547, 552 (1995). Haney is critical of the media influence on social attitudes towards capital punishment, writing “films sensationalize the nature of criminality, pander to the worst conceivable popular stereotypes, and are similarly uninformed by any realistic analysis of social context and personal history.” He asserts that fictional books similarly “extend the same distorted mass media images that pander to an identical set of popular stereotypes.” Id. at 553.
The availability of a near-illimitable supply of books, films, essays, short stories, and a variety of other prose works regarding the literary accounts of the death penalty make it nearly impossible to include all of these works in a single article, or even book. With crime novels continuing to be popular to modern readers, the list of books grows yearly and dozens of films are released each year. Some selection, therefore, is necessary. As such, this paper is not comprehensive in its scope, and it does not capture all the literary influences that might have an impact shaping public attitudes toward the death penalty. Instead, the depictions chosen are picked with an intention of representing a wide net of literature, looking for literary counterpoints to the sonnets of Wordsworth, ranging from antiquity to modern day novelists such as Norman Mailer. In examining these selections, a general picture of the contrasts emerge in literary focus, differing not just between those writers favoring the death penalty and those who are opposed, but also between those writers on the same side of the debate. Wordsworth, writing more than 150 years ago, offers arguments for the death penalty as relevant today as they were when they were first published.

II. THE SONNETS

Wordsworth’s fourteen Sonnets Upon The Punishment Of Death are generally concerned with defining and defending the state’s authority in carrying out executions. The poet, however, also explores more personal aspects of the death penalty and its impact on the condemned. In categorizing these poems, this paper seeks to explore Wordsworth’s depictions of (1) the condemned’s last walk to the scaffold, (2) the impact of the death penalty on the individual, (3) the need for the death penalty as a deterrent, (4) the appropriateness of the death penalty as retribution, and (5) whether the death penalty is against God’s will. Other writers have addressed these topics as well, many

33 See Hoffheimer, supra note 27, at 442-43; Holdheim, supra note 27, at 117. In both works, scholars note the increasing prevalence of capital punishment in popular literature.

34 This categorization is by no means the only, or even best, way to consider Wordsworth’s sonnets. Leyda, in her excellent and rare examination of these sonnets, categorized them into groups as follows:
in distinctly different ways than Wordsworth. Taken together, this broad consideration of literary reflections offers a unique picture of the death penalty and its relation to the individual and social order.

A. The Last Walk - Sonnets I and XII

“Their first look - blinded as tears fell in showers
Shed on their chains . . . .”

The image of the condemned in his final hours before death is perhaps one of the most moving ways to depict the finality of the death penalty. There is no shortage of literature describing this moment, often as a way to bring the humanity of the condemned to the forefront - to emphasize a living person, a breathing person, is about to be killed. Wordsworth, in contrast, used this moment to describe the “salvation” awaiting the condemned after he is executed.

Wordworth’s Sonnet I begins by describing a landscape so fair it “fill(s) [t]he heart with joy and gratitude to God / For all his bounties upon man bestowed . . . .” But then, focusing our attention to a specific view, the poet tells us the place is called “Weeping Hill,” where thousands of condemned, bound in chains, pass by on their walk to Lancaster Towers to be hanged; they have all seen its beauty on their path to death. And, as they look upon the hill, they begin to cry, blinded by their own tears which

1. Sonnets I, II, III- “Why bears it then the name of ‘Weeping Hill’?” 2. Sonnets IV, V- “Is Death . . . the thing that ought / To be most dreaded?” 3. Sonnets VI, VII, VIII- “And ye, Beliefs! . . . How shall your ancient warnings work for good . . . .”) 4. Sonnets IX, X, XI, XII- “What is a state?” Leyda, supra note 17, at 48. In this paper, all of the sonnets but Sonnet XIV are considered and applied to the categorizations. In Sonnet XIV, or the Apology sonnet, Wordsworth expresses his hope that regardless of which side a person falls in the death penalty debate, “all may move / Cheered with the prospect of a brighter day.” WORDSWORTH, supra note 1, XIV.

35 WORDSWORTH, supra note 1, I. 36 See Lockett v. Ohio, 438 U.S. 586, 604 (1978) (“in capital cases the fundamental respect for humanity underlying the Eighth Amendment . . . requires consideration of the character and record of the individual offender and the circumstances of the particular offense as a constitutionally indispensable part of the process of inflicting the penalty of death.” (quoting Woodson v. North Carolina, 428 U.S. 280, 304 (1976))). 37 See Setzer, supra note 4, at 430 (noting that Wordsworth turns “the tears of prisoners condemned to death into a sign of Christian salvation . . . .”). 38 WORDSWORTH, supra note 1, I.
fall on their chains. Although the image seems grim in Sonnet I, Wordsworth tells us in his Sonnet XII these are “tears of salvation”:

... Welcome death! while Heaven
Does in this change exceedingly rejoice;
While yet solemn heed the State hath given
Helps him to meet the last Tribunal’s voice
In faith, which fresh offences, were he cast
On old temptations, might for ever blast.

The condemned kneels as a Penitent, and his heart “softens” as he sees hope in his dying. In short, Wordsworth concludes, the condemned is joyous, not fearful.

Not surprisingly, Wordsworth’s image of the condemned is quite different from how other fictional characters face their imminent execution, often waiting in terror during the hours and minutes beforehand, never crying for joy. In Victor Hugo’s Last Days of a Condemned Man, the narrator writes a series of 46 papers leading up to his execution. Awaiting his death, the condemned sleeps in an eight-foot prison cell on straw cast to the floor; he has no window to see outside. Names of other condemned who have long since perished are scratched on the walls. Hugo details the sickness the condemned suffers as his execution nears:

The following are my sensations at present: a violent pain in my head, my frame chilled, my forehead burning. Every time that I rise, or bend forward, it seems to me that there is a fluid floating in my head, which makes my brain beat violently against the bone. I have convulsive startings, and from time to time my pen falls from my hand as if by a galvanic

39 See Leyda, supra note 17, at 49. Creating sympathy for the condemned in his opening sonnet is a “master stroke,” Leyda argues, and it took “unusual courage” for Wordsworth to do so. Id. “[T]he chains of the ‘Thousands’ of weeping prisoners speak to us not only of what man has done to man, but of the evil that pervades and mars all earthly life.” Id.

40 WORDSWORTH, supra note 1, XII.

41 HUGO, supra note 2, at 395. Hugo, a French romantic writer of the 19th Century, is best known for works such as THE HUNCHBACK OF NOTRE DAME (1831) and LES MISERABLES (1862). See MERRIAM-WEBSTER’S ENCYCLOPEDIA OF LITERATURE, supra note 11, at 567. A liberal, he fought against restrictions on free press and the death penalty. Id. Another excellent work of literature dealing with a similar event is ARTHUR KOESTLER, DARKNESS AT NOON (Daphne Hardy trans., Macmillian Co. 1941) (1941), which chronicles the final days of a condemned man in the throes of the Russian revolution.
shock. My eyes ache and burn, and I suffer greatly in all my limbs. In two hours and three-quarters hence, all will be cured.”

On the day of execution, the condemned is put into a room to wait before he is taken to his death, and the narrator tells us he worried about fainting: his “last vanity.” The condemned thinks about his daughter and wonders who is going to love her and play with her when he is dead. Minutes before the executioner comes, he writes it is too horrible to die in this manner, and he begs a government official for five more minutes to live, to wait for a reprieve. Then, suddenly, he records his last moment by writing he hears someone coming up the stairs. Hugo concludes, as a signal of execution, by writing: FOUR O’CLOCK. There is no salvation, or joy, for this man.

Similarly, in a non-fictional recording of a hanging in Burma in the 1930’s, George Orwell expresses the uneasy, resilient final moments as the condemned is led to the scaffold. First, Orwell explains how the condemned are kept in “small animal cages,” squatting at the bars with blankets wrapped over them. There are no beautiful hills in the distance to make them weep. On the day of execution, Orwell walks behind the guards as they take one man to the scaffold. In watching this final march, Orwell sees the condemned, despite the firmness of the guards’ grip on him, step “slightly aside to avoid a puddle on the path.” At that moment, Orwell realizes this man is alive, thinking, breathing, and about to be no more. Orwell realizes an “unspeakable wrongness” is about to occur. As the condemned is prepared to

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42 Hugo, supra note 2, at 423. Consider also Albert Camus, who writes: “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 worst than the second, though the culprit has killed but once.” Albert Camus, Reflections on the Guillotine, in THE WORLD OF LAW II: THE LAW AS LITERATURE 532 (Ephraim London ed., 1960).

43 Hugo, supra note 2, at 428. “Then I endeavoured to confuse myself into being blind and deaf to all, except to the Priest, whose words I scarcely heard amidst the tumult. I took the Crucifix and kissed it.”

44 See George Orwell, A Hanging, in THE ORWELL READER: FICTION, ESSAYS, AND REPORTAGE BY GEORGE ORWELL 9 (Doubleday 1994) (1956). Orwell was born in India and later traveled to Burma (now Myanmar) to work with the police department; he recounted some of his life and experiences there in a variety of expository prose. See Merriam-Webster’s Encyclopedia of Literature, supra note 11, at 842.

45 See Borowitz, supra note 7, at 1016 (explaining that Orwell recreated “the horror of the scene with a novelist’s eye for cumulative physical detail . . . (and) recalled a minute action of the convict that brought home to him the meaning of what was being done.”).
be hanged, he calls out the name of his God, "Ram! Ram! Ram!" over and over again. Orwell wishes for it to end, and when it does, Orwell and the guards go back to the prison camp and about their business. Again, unlike Wordsworth, there is little illustration of salvation for the executed, but there are terrifying moments throughout.

In another painful recounting, Norman Mailer's *The Executioner's Song* uses 157 pages for just the final forty-eight hours of Gary Gilmore's life. Gilmore, a parolee who kills a service station attendant and a hotel worker, was the first person executed in the United States after the reinstatement of the death penalty in 1976 with the landmark case *Gregg v. Georgia*. Unlike the condemned in Wordsworth's poetry who finds salvation, or the reluctant convicts in Hugo and Orwell, Gilmore, at 36 years old, puts himself on the fast-track to execution, waiving his rights to appeal. He lives only fourteen weeks between his sentencing and death. In Mailer's novel, Gilmore is portrayed as "intelligent and articulate." He despises the justice system, calling it silly, and by the book's end he becomes almost a "martyred victim."

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47 See GUEST, supra note 31, at 132. Guest notes more than 10 pages are used for the few minutes Gilmore is strapped in the execution chair, sitting before the firing squad. *Id.*

48 428 U.S. 153 (1976). Four years prior to *Gregg*, the U.S. Supreme Court invalidated a death penalty scheme in Georgia under the Eighth Amendment, expressing concern over the arbitrariness of death penalty convictions. See *Furman v. Georgia*, 408 U.S. 238, 239–40 (1972). This invalidation brought a halt to executions across the country. In *Gregg*, the court considered a new scheme requiring a bifurcated trial along with the addition of aggravating and mitigating factors; the court upheld the state's power to execute, reinstating executions across the country, including Utah. See *Gregg*, 428 U.S. at 153–54.

49 See GUEST, supra note 31, at 141. As Guest writes:

He admits to his crimes but refuses to apologize for them or to elaborate on his motivations. Instead of appealing his sentence, he accepts it and seems to welcome death. In short, he plays to the hilt the role of hardened convict - despised and feared by prison authorities, admired and feared by fellow inmates. He styles himself a brutal, emotionally detached stoic, a man acting in accordance with a personal agenda both separate from and superior to society's laws.

*Id.* at 135.


51 *Id.*
In graphic detail, Mailer writes how Gilmore struggles between reluctance as the final hours approach (fighting with the guards as they pull him out of his cell to go to the death house, not unlike Hugo's condemned) and Gilmore's complacency, even "courage," as he is strapped into the chair. In the chapter of the execution, Mailer titles it: "The Turkey Shoot," since Gilmore will be executed by firing squad. Mailer describes the execution chair: "no more than a little old office chair, and behind it was an old filthy mattress backed up by sandbags (to catch the bullets). Gilmore's final words - which are not of salvation, or of begging for a few more minutes or shouting the name of his god - are: "Let's do it." When the executioners fire, they use steel-jacketed bullets so the body will not "jump" as it is riddled with bullets; Gilmore's head falls forward, and blood pools in his lap. Intentionally or not, Wordsworth never addresses this horror of the actual execution. He never writes of the hanging body, or the decapitated murderer, or of any sickness spectators might feel in watching it. Wordsworth's focus, instead, is on the salvation awaiting the condemned, not the brutal road he has to take to get there.

B. The Death Penalty and the Individual: The Victim and The Accused - Sonnets II and III

"...sympathy with the unforewarned, who died Blameless..."57

In literary considerations of the death penalty and its relation to the individual, the focus is often on the condemned, on his last days, on his regret, or on his conversion to religion.58 In Sonnet
II, Wordsworth reminds us, among other things, to not forget the victim of the crime, someone to whom the condemned has shown no mercy or compassion. Further, Wordsworth reminds us the victim may someday be us. In the beginning of Sonnet II, Wordsworth writes it is natural to feel sympathy for the criminal. But in line 7, shifting the focus, Wordsworth recalls “the victim groaned under the steel” and he urges us to restrain compassion, to believe a “higher source” is in sympathy with the victim, the “unforewarned” who died “blameless.” At least we know the criminal has done some wrong to deserve his punishment; the victim never did. This focus on the victim, and not the criminal, illustrates the impact of executions from the perspective not always seen in other works of literature.

In Sonnet III, Wordsworth broadens the idea of “the harmed” from the individual to all of society, writing of the Roman Consul Lucius Junius Brutus who correctly chooses to condemn his own sons to death for treason instead of allowing his fatherly compassion to stand in the way. Duty to society comes before family, or even our natural instincts. Taken together, the two sonnets serve not just to solicit our sympathy for the harmed, but

“innocent” individual condemned to die. See, e.g., STEPHEN KING, THE GREEN MILE (Signet Books 1996); MARY SHELLEY, FRANKENSTEIN (Penguin Books 1992) (1818). In Shelley’s classic horror novel, the innocent Justine Moritz is executed wrongly for the death of young William, who was actually killed by the monster created by Victor Frankenstein. Id. Justine had falsely confessed under threats of excommunication. Id. In the U.S. Supreme Court’s modern jurisprudence, consideration of the individual characteristics and mitigating circumstances during a sentencing phase of capital trial are constitutional requirements. See Lockett v. Ohio, 438 U.S. 586, 608 (1978).

See WORDSWORTH, supra note 1, 11. “Tenderly do we feel by Nature’s law / For worst offenders . . . ” Id. Wordsworth explains it is part of being human to feel sympathy for the condemned; in fact, we “grieve” for “Him who stood in awe [n]either of God nor man . . . “ Id. For another literary example, in JOHN GRISHAM, THE CHAMBER (1995), the author evokes sympathy for the Ku Klux Klan’s Sam Cayhall, a racist convicted for murder, before Cayhall is executed in the gas chamber.

See WORDSWORTH, supra note 1, II. Wordsworth argues it is impossible to know for sure whether God sanctions capital punishment, but it is better for society - under man’s law - to impose capital punishment to keep order. Id.

Id. “By shifting the emphasis to the groaning victim, the poet prepares us for the reversal of feeling . . . “ Leyda, supra note 17, at 49.

Id. “In place of an aloof judge, Wordsworth makes Duty a refuge and support, calming the very agony it helps to conflict. For the reader, Brutus retains his humanity rather than becoming a monster of unfeeling rationality.” Leyda, supra note 17, at 49 In short, the Roman “embodies the social and personal values Wordsworth hopes will always characterize man’s actions.” Id. at 50.

See GALPERIN, supra note 11, at 239-40. Galperin argues Sonnet III demonstrates an inherent problem in Wordsworth’s sonnets: our duty to society, as explained in this sonnet, is unnatural, leading to “the overkill that culture warrants.” Id. “By way of justifying the punishment of these acts as absolutely necessary, Wordsworth’s poem ironically justifies the acts themselves in terms of the arbitrariness they otherwise redress.” Id. at 240.
to remind us that harm may come our way too, and that harm can be a threat to society in general. Moreover, when we consider the death penalty’s impact on an individual, we should not forget the individual who has already suffered, remembering our duty to protect the innocent is greater than our pity for the condemned.

In another work of literature considering the victims, *In Cold Blood*, Truman Capote depicts the gruesome, real-life slayings of a Kansas family. Unlike, for example, Orwell’s witnessing of the hanging and telling us only of the actual execution and nothing of what led to the condemned being there, Capote details how Perry Smith and Richard Hickock went to the Clutter home in Holcomb, Kansas, looking for money to steal, found none and then stabbed and shot four of the family members in a horrific slaughter. In contrast, at the novel’s end, the executions are “reduced to a few sentences, most of which describe the sounds and glimpses of dangling feet.” Unlike Mailer’s gory depiction of Gilmore’s execution, Capote leaves us with the remembrance of

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65 “The novel depicts killers so dangerous that they must never be released. The psychological profile that Capote constructs bears a striking resemblance to homicidal monomaniacs. . . . The novel . . . relies instead on the term ‘psychopath.’” Guest, supra note 31, at 112. Guest explains Capote’s depictions of the murderers may be based on Flannery O’Connor’s Misfit from the short story “A Good Man Is Hard to Find” as the model psychopath. Id. at 129. Like Capote’s focus on the criminal, two more recent movies focus on criminals and how society should deal with them: *Dead Man Walking* (Polygram Filmed Entertainment 1996) and *Last Dance* (Touchstone Pictures 1996). The films call our attention to “individual responsibility and its utility in explaining the causes of, as well as directing our responses to, crime.” Austin Sarat, The Cultural Life of Capital Punishment: Responsibility and Representation in Dead Man Walking and Last Dance, 11 Yale J.L. & Human. 153, 161 (1999). *Dead Man Walking* is the story of Matthew Poncelet, convicted of murdering two teens in the woods, and his relationship with Sister Helen Prejean during Matthew’s time on death row. Id. at 165. *Last Dance* is the story of Cindy Liggitt, who is on death row for killing two people with a crowbar. Id.

Punishment, as represented in *Last Dance* and *Dead Man Walking*, demands that we know who the criminals and the victims are, and that we know the difference between them. It refuses contingency and interdependence and insists that the conditions of failure that accompany brutality are irrelevant to the question of responsibility.


66 Guest, supra note 31, at 131. It is worth noting that in addition to portraying the horrific murders, Capote also evokes a certain “heroic” element to the killers, particularly Perry Smith, creating sympathy for a criminal outsider who is too evil to be released again. See Phelps, supra note 50, at 1448. [The reader comes to see Perry less as cold-blooded murderer and more as a hapless victim undone by life.” Id. at 1451.]
the gory attack and murder on the Clutter family.\(^67\) The unprovoked attack leaves us with a sense of vulnerability.\(^68\) Like the condemned in Wordsworth’s sonnet, these killers showed no mercy and yielded to their own “proud temptations.”\(^69\) Also, like Wordsworth suggests, the Clutter family were innocents like we are innocents, and the state has a duty to impose its ultimate punishment to protect us.

In a novel considering the individual on death row and the reason he is there, Richard Wright’s *Native Son\(^70\)* is the story of a young man, poor and scared, who is ultimately driven to murder ruthlessly.\(^71\) Having grown up in a Chicago ghetto, Bigger Thomas works as a chauffeur for a wealthy, white family. One night, the daughter of the family secretly goes to meet her boyfriend and gets drunk. When Bigger takes her home, the daughter’s blind mother comes into the bedroom looking for her. Bigger, wanting to protect her, covers the daughter’s face with a pillow to keep her quiet. Unable to breath, the daughter dies. Bigger, fearful no one will believe his story (and they would not), burns the body in a coal furnace. Later, the fugitive Bigger murders his own girlfriend, this time in cold blood. At his trial, Bigger’s attorney pleads Bigger guilty in hopes of making an impassioned Leopold-and-Loeb-like defense to save Bigger from the death penalty.\(^72\) He fails, and the book ends before the execution is carried out.

\(^67\) Capote himself was opposed to the death penalty. See GUEST, supra note 31, at 110. In a 1968 interview, Capote explained the death penalty process was too slow and arbitrary, failing to act as a deterrent. See TRUMAN CAPOTE: CONVERSATIONS 124–25 (M. Thomas Inge, ed., 1987). Capote’s concern that executions take too long to carry out has troubled other writers for some time. In the 18th Century, Henry Fielding, in his *An Enquiry Into the Causes of the Late Increase of Robbers*, writes there should be no pardons or delays in carrying out executions; the ultimate goal, he argued, is that eventually society will no longer have need for executions because of the deterrent effect of swift hangings. See Borowitz, supra note 7, at 1011.

\(^68\) See Meade, supra note 26, at 739.

\(^69\) WORDSWORTH, supra note 1, II.

\(^70\) RICHARD WRIGHT, NATIVE SON (1940). Wright, a Mississippi-born writer, persistently fought against racism throughout his work in novels. See BENET’S READER’S ENCYCLOPEDIA OF AMERICAN LITERATURE, supra note 46, at 1165–66.

\(^71\) See GUEST, supra note 31, at 77 (proposing that Bigger Thomas is not a “born murderer” but “a man made murderous by his society’s ability to define him as such and by the harsh conditions under which he has lived.”).

\(^72\) See LADIES AND GENTLEMEN OF THE JURY: GREATEST CLOSING ARGUMENTS IN MODERN LAW (Michael S. Lief, H. Mitchell Caldwell, and Ben Bycel eds., 1998). Attorney Clarence Darrow defended more than 100 accused murderers during his career, but almost none compares in fame to his emotional defense in 1924 of the two young boys Nathan Leopold Jr. and Richard Loeb for murder. Id. Darrow, pleading for mercy as “the highest attribute of man,” successfully saved the boys from being hanged. Id.
At the heart of *Native Son* is an assumption of racial bias in the criminal justice (and ultimately capital punishment) system: being black means Bigger is more likely to be convicted and the death penalty imposed. It is an issue that has been up before the U.S. Supreme Court. No one would have believed Bigger was trying to help the wealthy, white daughter when he accidentally smothered her in a pillow. But Bigger is also unwilling to let people know he is afraid to come forward with the truth - to admit "that he walks in terror in the white world," so he embraces becoming a murderer. Arguably then, the underlying reason Bigger is on death row is because of his race.

Further, this willingness to not believe Bigger because of his race is not an uncommon problem throughout the criminal justice system, illustrated by the infamous "Scottsboro Boys" rape trials in Alabama, later depicted in the poems of Langston Hughes. Nine black youths, ranging in age from 13 to 19, were accused of raping two white women while traveling on a train from Tennessee to Huntsville, Alabama; all but the youngest of them were sentenced to death. Eventually, all of the convictions were reversed, though the state continued to seek retrials despite

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at 208. Similarly, Bigger’s attorney “suggests that the public’s desire for the death penalty reflects a dangerous, shortsighted lust for blood ....” GUEST, supra note 31, at 78.  
73 See McCleskey v. Kemp, 481 U.S. 279, 286–87 (1987). In McCleskey, several studies were put before the court demonstrating racial bias in the sentencing of black offenders to death. Id. The Court rejected the challenge to the death penalty on this basis, however, explaining at best it showed a correlation with race that did not rise to the level of constitutional significance. Id. at 287–89.  
74 GUEST, supra note 31, at 95 (finding that “Bigger would rather be seen as a diabolical, cold-blooded murderer and rapist than as the scared, bungling servant and small-time hood that he is.”).  
75 As Guest explains:

The (Scottsboro Boys) case is relevant to *Native Son* because it deals with racial bias in the courts, with the use of the criminal justice system to perform a kind of lynching, and with the defense by Communists of African-Americans in capital cases. By telling the public that accusations of rape - even incredible, recanted accusations - were always believed in cases involving black men and white women, the Scottsboro case also validated Bigger’s assumption that no one would believe the true story of Mary’s death. The Scottsboro defendants, like Bigger, were guilty because the crime of which they were accused, according to the mythology, exactly expresses the essence of their beings.  

Id. at 89 (emphasis added). In a more generalized criticism of the criminal justice system’s arbitrariness and corruption, American writer Theodore Dreiser tells the story of Clyde Griffith who is convicted for the murder of a woman he may or may not have killed by knocking her off a boat. See THEODORE DREISER, AN AMERICAN TRAGEDY (1925). “The novel attacks not so much capital punishment ... as the mistakes made in administering it.” GUEST, supra note 31, at 69.  
76 See BENET’S READER’S ENCYCLOPEDIA OF AMERICAN LITERATURE, supra note 46, at 497 (stating that Hughes, during his time of writing poetry of the middle 20th Century, was perhaps “the most representative black American writer.”).  
77 See Powell v. Alabama, 287 U.S. 45, 72–73 (1932) (reversing the convictions of the youths for the trial judge’s failure to appoint proper defense attorneys).
one of the victims recanting her story. Hughes, using short, staccato lines, wrote two poems about the Scottsboro incident, the first, “Scottsboro”, looking at the injustice of boys’ convictions and the mob-like quality of the town ready to convict.\footnote{Hughes writes: 8 Black Boys in a Southern jail World, Turn Pale! 8 black boys and one white lie. Is it much to die? \textit{HUGHES, Scottsboro, in LANGSTON HUGHES, THE COLLECTED POEMS OF LANGSTON HUGHES 142 (Arnold Rampersad ed., 1995).}} Guilt is unimportant when the mob is coming. In a second poem, “The Town Of Scottsboro”, Hughes focuses in four, short lines on the town’s legal system unwillingness to do what is right.\footnote{In full, the poem “The Town of Scottsboro” is: Scottsboro’s just a little place: No shame is writ across its face - Its court, too weak to stand against a mob, Its people’s heart, too small to hold a sob. \textit{Id. at 168.}} In Wordsworth’s time, if there was any concern of racial bias as a problem in capital sentencing, it was not at the forefront of the debate; the poet never addresses the issue. In a third Hughes’s poem, continuing to look at the reason an individual is on death row, Hughes tells the story of a condemned in “Ballad of the Killer Boy”:

Bernice said she wanted
A diamond or two.
I said, Baby,
I’ll get 'em for you.

... 

The cashier trembled
And turned dead white.

He tried to guard
Other people’s gold.
I said to hell
With your stingy soul!
There ain't no reason  
To let you live!  
I filled him full of holes  
Like a sieve.  

In this poem, Killer Boy is in “the death house” for murder committed because of his devotion to a woman. Like Wright andMailer, Hughes draws our attention to the condemned as an individual, focusing on the reason for him being condemned and not on the victim. Of course, there is little sympathy to be garnered from Killer Boy’s explanation for his crimes, and he expresses little regret. But at least there is a reason why Killer Boy committed the murder beyond pure cold-bloodedness. When we understand an individual’s reasons, we come to know him better. In a way, Killer Boy is the victim of himself - a victim of his love for Bernice. We never get such a complete picture of the condemned from Wordsworth’s sonnets, only his picture of the victim.

C. Death Penalty as Deterrence and Moral Preservation

SONNETS V, VI, VII, IX AND XIII

“... all authority in earth depends  
On Love and Fear....”

In several sonnets, Wordsworth articulates the necessity of the death penalty to deter crime and preserve moral order. In Sonnet V, Wordsworth cautions lawmakers not to abolish capital punishment, explaining even the “humblest functions of the

80 HUGHES, Ballad of Killer Boy, supra note 78, at 254.
81 In contrast to the lack of sympathy for love-struck Killer Boy, the 1950’s film I Want To Live! (Metro-Goldwyn-Mayer / United Artists 1958) presents us with a condemned “twice victimized: first, by conniving cohorts ... and second, by a system thirsty for sensationalism and vengeance.” See Teree E. Foster, I Want To Live! Federal Judicial Values in Death Penalty Cases: Preservation of Rights or Punctuality of Execution?, 22 OKLA. CITY U.L. REV. 63, 78 (1997). “The film’s assumption that Barbara (Wood Graham) was a guiltless victim who was wrongfully executed - lends unspeakable poignancy to her death.” Id.
82 WORDSWORTH, supra note 1, V.
83 The argument for a need to preserve the morality of citizens through the death penalty continues today. See, e.g., BERNS, supra note 22, at 142. “[T]he necessity to preserve the moral habits of the people by supporting the institutions that inculcated them was recognized by the Founders of the United States as well as by the statesmen who followed them.” Id.
State” would be harmed once the government determines it will no longer impose its most severe punishment. Authority turns on fear, and capital punishment instills fear. In Sonnet VI, Wordsworth analogizes the “Fiends” tormenting a criminal in the same way “hovering Angels” protect the innocent. Wordsworth is grappling with the inner psychological aspects of human personalities, and urges that throughout time man has relied on the death penalty to keep in check those tormented by “Fiends,” warning of the danger if that ceases to be.

In Sonnet VII, Wordsworth first notes the long history of the use of capital punishment, its naturalness to keeping order, and further argues that forbidding the death penalty is “(m)aking social order a mere dream.” He writes:

BEFORE the world had past her time of youth
While polity and discipline were weak,
The precept eye for eye, and tooth for tooth,
Came forth . . .
But lamentably do they err who strain
His mandates, given rash impulse to control
And keep vindictive thirstings from the soul,
So far that, if consistent in their scheme,
They must forbid the State to inflict a pain,
Making of social order a mere dream.

In Sonnet IX, Wordsworth explicitly writes deterrence is a function of imposing death, but further carries forward the theme of preserving societal order by explaining the use of death in

84 Wordsworth, supra note 1, V. Fear, in fact, is a more effective way to guide men’s actions than love. See Leyda, supra note 17, at 50.
85 Wordsworth, supra note 1, VI. “Joining ‘Fiends’ and ‘Angels’ in simile, Wordsworth calls attention to the fact that conscience is an enduring human concept which man has embodied in various shapes and emanations at different times in his history.” Leyda, supra note 17, at 50.
86 See Wordsworth, supra note 1, VII. In her analysis of the sonnets, Setzer argues that Wordsworth specifically chose the sonnet form to cast his arguments of the death penalty because of the long literary history of the sonnet. See Setzer, supra note 4, at 431. Wordsworth “aligned his voice” with tradition, distancing himself from the “populist literature of reformers . . . .” Id.
87 Wordsworth, supra note 1, VII.
88 Id. Both The Executioner’s Song and In Cold Blood also illustrate the death penalty as needed to preserve social order. Meade writes:

These pro-death penalty narratives provide insight into the role that capital punishment plays in America: it is an attempt to create a feeling of social order in an increasingly violent world. Murders spawns a feeling of chaos which instills fear in a community. The execution of the condemned, according to this cultural narrative, acts as a symbolic return to order.

Meade, supra note 26, at 742.
punishing crime as necessary to “fortify the moral sense of all.”\textsuperscript{89} Moreover, in Sonnet XIII, Wordsworth pleads to leave the death penalty in place. In time, he argues, through the death penalty’s deterrent effect in stopping the worst crimes, society may “leave it thence to drop for lack of use.”\textsuperscript{90}

In all of these sonnets, Wordsworth depends on the tradition of executions in preserving society and protecting innocents to bolster his defense of the state’s use of capital punishment. Other writers have challenged whether deterrence and moral preservation are in fact the fruits of execution. Notably, the modern writer Albert Camus, in his classic essay \textit{Reflections on the Guillotine}\textsuperscript{91} challenges the necessity of the death penalty, and further attacks it for its brutality and harmful effects on most of society.\textsuperscript{92} Camus argues executions (by his time done behind prison walls) must be done publicly if they are to be done at all; otherwise, they fail to serve the purpose of deterrence.\textsuperscript{93} He writes: “We must either kill publicly, or admit we do not feel authorized to kill.”\textsuperscript{94} But, executions will likely never again be public, so there is no deterrence and only the “disgusting butchery” carried out behind closed doors:

\begin{quote}
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
\end{quote}

\textsuperscript{89} Wordsworth, supra note 1, IX.
\textsuperscript{90} Wordsworth, supra note 1, XIII. Leyda explains: “If we look within ourselves, scrutinize our own nature, we will be wise and courageous enough to acknowledge this necessity…” Leyda, supra note 17, at 52.
\textsuperscript{91} Camus, supra note 42, at 512. The French novelist and essayist Camus received the Nobel Prize in literature in 1957. See \textsc{Merriam-Webster’s Encyclopedia of Literature}, supra note 11, at 203.
\textsuperscript{92} Camus, supra note 42, at 512.
\textsuperscript{93} The insistence that executions be public in order to serve their purpose is not new to Camus. Samuel Johnson, an 18\textsuperscript{th} Century poet and essayist, similarly argued that for executions to serve their deterrent purpose, the public should see them happen. See Borowitz, supra note 7, at 1012. Fielding expressed concern that public hangings, while necessary, should not be cause for public celebrations for fear of making heroes of the condemned. \textit{Id.} at 1011. Arthur Koestler, in his \textit{Reflections on Hanging}, suggested “that the force behind retention of the death penalty is a desire for vengeance…” \textit{Id.} at 1017.
\textsuperscript{94} Camus, supra note 42, at 520. In considering whether the fear of the death penalty might keep men from committing crimes, Camus acknowledged that men do fear death, but he believed that fear “could be overmastered by human passion or neutralized by the criminal’s instinctual optimism - that he will not be caught, will not be found guilty, will not be sentenced, or will not be executed.” Borowitz, supra note 7, at 1018.
could subdue the people by offering them degrading spectacles. Today, when this ignoble death is secretly administered, what meaning can such torture have? 95

In Wordsworth’s time, executions were public, meeting Camus’s criteria for the spectacle, 96 though Camus additionally rejected the death penalty for its deteriorating effect on those who witnessed it. 97 Charles Dickens, who went to a handful of executions in his lifetime, believed they “barbarized” the community. 98 Dickens, who wrote about capital punishment twice in letters to the London Times and twice in a series of articles for the Daily News, 99 described:

95 Camus, supra note 42, at 551. Instead of capital punishment, Camus suggested forced life-term labor, which is possibly worse than death itself. Id. at 550.
96 For a literary reflection capturing both the spectacle and horror of an execution, refer to the “Cyclops” episode of Joyce, supra note 3, at 306–10 Joyce writes:

The last farewell was affecting in the extreme. From the belfries far and near the funereal deathbell tolled unceasingly while all around the gloomy precincts rolled the ominous warning of a hundred muffled drums punctuated by the hollow booming of pieces of ordnance. The deafening claps of thunder and the dazzling flashes of lightning which lit up the ghastly scene testified that the artillery of heaven had lent its supernatural pomp to the already gruesome spectacle.

Hard by the block stood the grim figure of the executioner, his visage being concealed in a tengallen pot with two circular perforated apertures through which his eyes glowered furiously. As he awaited the fatal signal he tested the edge of his horrible weapon by honing it upon his brawny forearm or decapitated in rapid succession a flock of sheep which had been provided by the admirers of his fell but necessary office.

The nec and non plus ultra of emotion were reached when the blushing bride elect burst her way through the serried ranks of the bystanders and flung herself upon the muscular bosom of him who was about to be launched into eternity for her sake.... (S)he kissed passionately all the various suitable areas of his person which the decencies of prison garb permitted her ardour to reach .... She swore that she would never forget her hero boy who went to his death with a song on his lips .... That monster audience simply rocked with delight.

Id. See DON GIFFORD WITH RICHARD J. SEIDMAN, "ULYSSES" ANNOTATED: NOTES FOR JAMES JOYCE’S "ULYSSES" 333 (University of California Press 2d rev. ed. 1988). Joyce is parodying the newspaper coverage of the real-life execution of Robert Emmet, which was a well-attended public occasion. Id.

97 In his moving opening passages of this essay, Camus describes how his father went to see an execution but came home, threw himself on the bed, and vomited. See Camus, supra note 42, at 512. "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." Id.

98 See Borowitz, supra note 7, 1014. Similarly, in the poetry of Coventry Patmore, a 19th Century English poet and essayist, the focus is on the “London mob” that results from the viewing of a public execution: “(t)he mob disperses into individual figures (both male and female) who leave the scene one by one to commit violent crimes of their own.” Thesing, supra note 14, at 130.

99 See F.S. Schwarzbach, "All the Hideous Apparatus of Death": Dickens and Executions, in EXECUTIONS AND THE BRITISH EXPERIENCE, supra note 14, at 94. Schwarzbach notes Dickens witnessed both hangings and beheadings. Id. at 94, 108, n.3.
No sorrow, no salutary terror, no abhorrence, no seriousness; nothing but ribaldry, debauchery, levity, drunkenness, and flaunting vice in fifty other shapes. I should have deemed it impossible that I could have ever felt any large assemblage of my fellow-creatures to be so odious.\textsuperscript{100}

Dickens believed the public executions served more to bring notoriety to the condemned rather than deter future conduct, all but defeating its purpose.\textsuperscript{101} However, Dickens' stance on capital punishment was never exactly clear in his lifetime; at one point he insisted on total abolition, but later in life suggested "the desire for total abolition was premature . . ."\textsuperscript{102}

Thackeray, on the other hand, explicitly denounced capital punishment as a moral preserver, and he tells of a particularly poignant moment after he witnessed an execution. As Thackeray leaves the crowd of spectators who watched a man hang, he sees two little girls. Thackeray writes:

[O]ne of them was crying bitterly, and begged, for Heaven's sake, that someone would lead her from that horrid place. This was done, and the children were carried into a place of safety. We asked the elder girl - and a very pretty one - what brought her into such a neighbourhood? The child grinned knowingly, and said, "We've koom to see the mon hanged!" Tender law, that brings out babes upon such errands, and

\textsuperscript{100} Dickens, in an article for the Daily News, quoted in Borowitz, supra note 7, at 1014; cf. In John Steinbeck's short novel The Cup of Gold he writes that the first time a person witnesses an execution it is difficult, but eventually the person gets used to it. See JOHN STEINBECK, CUP OF GOLD 59 (Penguin 1984) (1936). A plantation owner, talking to a young Henry Morgan, the pirate, tells him about the execution of a slave that Henry saw "hanging limply by his crooked neck":

\begin{quote}
I know it is bad the first time . . . When I first saw it, I did not sleep for a good while. But after a little, when you have seen five-ten-a dozen-go out this way, you will have come to have no feeling about it, and no more thought of it than of a chicken flopping about with a wrung neck.
\end{quote}

\textit{Id.} at 58–59.

\textsuperscript{101} See Borowitz, supra note 7, at 1015 (noting that exhibitionist murders will capitalize on the "attendant notoriety" and provide an incentive rather than a deterrent); see also Schwarzbach, supra note 99, at 95 (commenting that Dickens "labeled public executions one of the worst sources of general contamination and corruption in this country" and he pleaded for executions to be carried out behind prison walls).

\textsuperscript{102} Schwarzbach, supra note 14, at 95. In his fiction, Dickens was similarly ambiguous. \textit{Id.} at 99. For example, in Oliver Twist, Dickens at once depicts Fagin, a villain by any measure, as "evil incarnate" and then garners sympathy for him as the execution nears. \textit{Id.} Dickens makes the reader feel Fagin deserves to die, then he sways the reader back. \textit{Id.} "In the end, at the prospect of Fagin's end, a reader might well be forgiven some confusion about how one is meant to feel about it all." \textit{Id.}
provides them with such gratifying moral spectacles!

In Vladmir Nabokov’s *Invitation To A Beheading*, a surreal novel focusing on the condemned Cincinnatus C., the authority of the state to punish is taken to its extreme in sentencing Cincinnatus to death for the crime of “gnostic turpitude.” However, in only a few pages at the end of the novel, Cincinnatus refuses to be executed after he is taken up to the platform, covering the back of his neck with his hands to deny punishment. After pausing for a moment, Cincinnatus rises and walks away. The executioner, shocked, confusingly tries to stop him, telling Cincinnatus he can not do that, that he will disrupt social order. But Cincinnatus just brushes him aside, and the executioner can not carry out the law. The death penalty in Nabokov’s novel, in contrast to preserving state authority, leads to the undermining of the state’s power, even illustrating the frailty of an ordered society. In one sense, this

103 THACKERAY, supra note 16, at 433–34.
105 See Ed Morgan, On Art and the Death Penalty: *Invitation to a Beheading*, 15 CARDOZO STUD. L. & LIT. 279, 281 (2003). Leading up to the execution, Cincinnatus is terrified: “It makes me ashamed to be afraid, but I am desperately afraid- fear, never halting, rushes through me with an ominous roar, like a torrent, and my body vibrates like a bridge over a waterfall, and one has to speak very loud to hear oneself above the roar.” NABOKOV, supra note 104, at 192. Adding to other literary illustrations of executions as spectacles, Nabokov writes as Cincinnatus is taken to the stage to be beheaded, the deputy city director, standing before the crowd, reminds them of a furniture exhibit nearby and the opening of a new opera, Socrates Must Decrease. Id. at 220.
106 NABOKOV, supra note 104, at 221–22. Nabokov writes that Cincinnatus thinks, “why am I here? Why am I lying like this? And [then] having asked himself these simple questions, he answered them by getting up and looking around. All around there was a strange confusion.” Id. at 222.
108 See NABOKOV, supra note 104, at 223. Nabokov writes, “Everything was coming apart. Everything was falling.” Id.
109 See Horwitz, supra note 107, at 275–76; see also Robert Batey, Naked Lunch for Lawyers: William S. Burroughs on Capital Punishment, Pornography, the Drug Trade, and the Predatory Nature of Human Interaction, 27 CAL. W. INT’L L.J. 101, 110–11(1996) (explaining that “[r]eading this passage as a criticism of capital punishment, one can only conclude that causing the death of another,
falling apart of state power is exactly the point Wordsworth is trying to make when he argues a state can not abandon its powers to execute. When Cincinnatus leaves and is not executed, the state loses control. In an ironic, though absurd way, Nabokov supports Wordsworth.

D. Death Penalty as Retribution - Sonnets VIII and XI

"... for each peculiar case
She plants well-measured terrors in the road
Of wrongful acts."110

"Fit retribution," Wordsworth argues in Sonnet VIII, is beyond the "moral code" of the "State's embrace." But the government plants "well-measured terrors" in the criminal's path, including executions, and without having this punishment available, societal disorder might bring about worse results:

And, guilt escaping, passion then might plead
In angry spirits for her old free range,
And the 'wild justice of revenge' prevail.111

In Sonnet XI, Wordsworth cautions that if we fail to punish with death those convicted of the worst crimes, then we leave open the possibility of a "relapsing penitent" boasting of more crimes in his future.112 Thus, "mercy" for us, and for the criminal, demands he be executed, "Leaving the final issue in 'His' hands / Whose goodness knows no change . . . ."113 Both of these sonnets illustrate the need for society to not just punish the convicted, but to execute him as a necessary retribution; otherwise "wild . . . revenge" might take hold and the criminal, not paying the full price for his first crime, likely will commit more.

110 WORDSWORTH, supra note 1, VIII.
111 Id. Setzer points out the inherent contradiction between Sonnet VIII's description of the death penalty as the "main fear" in controlling criminals, up against his comment in Sonnet IV, suggesting the death penalty might not be the worst punishment that could be inflicted, and Sonnet XI's argument that death is more merciful than life in prison. Setzer, supra note 4, at 433–35.
112 See WORDSWORTH, supra note 1, XI. Put another way, it "simply provides a criminal with another opportunity for relapse." Leyda, supra note 17, at 51.
113 WORDSWORTH, supra note 1, XI.
Missing from Wordsworth's sonnets, however, is a picture of the condemned actually being executed - the measure of the punishment exacted, or, put differently, the experience of suffering and the dying at the state's hands. It is one thing to write the punishment is necessary, but it is another to actually see it carried out. Other writers have not failed to capture this point. For example, in Oscar Wilde's "The Ballad of Reading Gaol," the poet horrifically describes the execution of a man who killed his lover.

They hanged him as a beast is hanged:
They did not even toll
A requiem that might have brought
Rest to his startled soul,
But hurriedly they took him out,
And hid him in a hole.

[The warders] stripped him of his canvas clothes,
And gave him to the flies:
They mocked the swollen purple throat,
And the stark and staring eyes:
And with laughter loud they heaped the shroud
In which the convict lies.

The Chaplain would not kneel to pray
By his dishonoured grave:
Nor mark it with that blessed Cross
That Christ for sinners gave,
Because the man was one of those
Whom Christ came down to save.114

114 Oscar Wilde, "The Ballad of Reading Gaol" (1898), http://emotionalliteracyeducation.com/classic_books_online/rgaol10.htm, provides two versions of the poem, but the quotes for this paper are taken from the first version. The poem is Wilde's last published work, and was inspired by two years he spent in jail in Reading, England. See MERRIAM-WEBSTER'S ENCYCLOPEDIA OF LITERATURE, supra note 11, at 101. In this ballad, the mocking of the condemned, who murdered the one he loved in bed, calls into question the morality of the punishment. See Wilde, supra. Wilde makes us see the condemned is given "to the flies," his throat swells and turns purple, and as he hangs, those around laugh. Id. It is brutal retribution. Wilde further writes:

For Man's grim Justice goes its way,
And will not swerve aside:
It slays the weak, it slays the strong,
It has a deadly stride:
With iron heel it slays the strong,
The monstrous parricide!
The brutality of the punishment hardly seems fitting, regardless of the crime.\textsuperscript{115}

In an even more graphic telling of execution, Franz Kafka’s \textit{In The Penal Colony}\textsuperscript{116} describes a fictional, but merciless machine of death called “The Harrow.” Made of glass for better viewing, “The Harrow” is a bed where the condemned, who is naked, is strapped down, a gag put in his mouth, and then needles inscribe on his flesh the “Commandment” the condemned disobeyed, piercing him over and over again for twelve hours until death.\textsuperscript{117}

On top of the gruesomeness of the machine, Kafka writes the reason the man is being executed is because he did not salute his captain’s closed door every hour on the hour, including in the...
middle of the night, as he was ordered to do. The punishment of In the Penal Colony is the fictional representation of the state's power to execute taken to its ultimate extreme. In one sense, the story is asking can any crime be worth such a punishment? In another, Kafka shows us the bizarre, brutal extremity to which state executions may go. Camus, as discussed above, found the death penalty to be as horrid as the murder for which the condemned was punished. The appropriate and better punishment, he writes, is perpetual labor. Mailer, similarly discussed above, noted the first time the doctor checked Gilmore following the execution, he was not dead, but Gilmore's heart continued to beat after his body was torn with bullets. The doctor let Gilmore sit for another twenty seconds, tried again, and nodded to the guards the heart finally stopped.

In Anton Chekhov's The Bet, a group of men debate the virtues and appropriateness of whether the state should execute felons or sentence them to life in prison. The majority of men, including the "journalists and intellectual men," thought the death penalty was wrong, "out of date, immoral, and unsuitable for Christian States." But the host, a banker, argues the death penalty is more "humane" than life imprisonment, which leaves a man to rot slowly. A young lawyer in the group considered both punishments immoral, but said a life imprisonment is better

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118 In this case, the message to be inscribed on the condemned is "Honor Thy Superiors!" KAFKA, supra note 116, at 96.
119 In the end, the officer, who is dismayed the explorer does not like his machine, frees the condemned and puts himself in it. Id. at 125.
120 Camus, supra note 42, at 529. Camus writes "[t]here 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?" Id. In a response to Camus, essayist Berns writes:

A moral community is not possible without anger and the moral indignation that accompanies it, which is why the most powerful attack on capital punishment was written by a man, Albert Camus, who denied the legitimacy of anger and moral indignation by denying the very possibility of a moral community in our time.

BERNS, supra note 22, at 156.
121 See Camus, supra note 42, at 550.
122 See MAILER, supra note 46, at 987.
124 CHEKHOV, supra note 123, at 61.
125 Id.
than death: “To live anyhow is better than not at all.”

In testing this theory, the young man, dared by the banker, agreed to a bet for him to spend fifteen years in solitary confinement within the banker’s garden; in exchange, if he stayed the full 15 years, the young man would get two million dollars. However, upon his release from the long, solitary confinement, the young man had grown contemptuous of the world, despising “earthly life,” and calling man’s existence “worthless, fleeting, illusory, and deceptive, like a mirage.” One may argue Chekhov’s conclusion here is that life imprisonment results in a belief that life is meaningless, arguably worse than the immediacy of execution. To use a double-negative: any life is not better than no life at all, and there are punishments worse than death. Wordsworth, believing execution is salvation for the condemned, would likely agree with Chekhov’s banker: death is more humane.

**E. Death Penalty as Crime Against Humanity and the Soul**

*Sonnet X*

“Our bodily life, some plead, that life the shrine
Of an immortal spirit, is a gift . . . .”

Wordsworth broaches an unanswerable problem in Sonnet X: Is the death penalty against God’s will? Wordsworth, realizing he can not definitively answer that God approves of the death penalty, argues neither can anti-death penalty advocates argue God disapproves of it. Our “earthly sight,” he writes in a short couplet at the poem’s end, is incapable of understanding “Infinite Power, perfect intelligence.” The answer lies in a “world whose

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126 *Id.* at 62.
127 *Id.* at 62.
128 *Id.* at 65.
129 *Wordsworth, supra* note 1, X.
130 *Id.*
veil no hand can lift / For earthly sight.”  
In short, neither side can claim victory on this point.

Elsewhere in literature, the Bible offers passages that both support and disapprove of the death penalty, depending on where the reader chooses to look. For example, death penalty supporters may turn to the Old Testament and Leviticus, where it is written: “If anyone takes the life of a human being, he must be put to death,” or turn to Exodus, where the law states there shall be an “eye for eye.” There is also the passage of Genesis saying a man who has shed blood shall have his own blood shed. In the New Testament, the book of Romans tells us to obey rulers and those who are criminals should feel “terror” from the governing authorities. In contrast, the New Testament books of Matthew and John both seem to disapprove of the death penalty as a punishment. Most major religious groups in the United States today are opposed to the death penalty. Ironically, despite religious opposition today, it has been argued that it is because of the deep religious roots of capital punishment that the state’s power to execute has such a central role in society.

131 Id. In the earlier Sonnet VII, Wordsworth seems to contradict whether one can actually determine what is on the “Paternal mind.” For example, Wordsworth explains the teachings of Christ are for the inner, moral side, but should not diminish the necessity for the state to execute, to hold “fear,” over criminals as a means to control crime; to do otherwise “would be a distortion, not a copy of the Paternal mind.” Leyda, supra note 17, at 51.

132 Use of the Bible in the death penalty debate is hardly on the downslide. For example, prosecutors still use passages of the Bible in sentencing phases of trial to urge jurors to sentence convicted murderers to death, despite some courts finding such use improper, even reversible. See Andrea D. Walker, Comment, “The Murderer Shall Surely Be Put To Death”: The Impropriety of Biblical Arguments in the Penalty Phase of Capital Cases, 43 WASHBURN L.J. 197 (2003).

133 Leviticus 24:17 (New Int’l Version).
137 See John 8:1-11 (New Int’l Version) (describing when Jesus intervenes to stop the execution of an adulteress); see also Matthew 5:38 (New Int’l Version) (rejecting “eye for eye.”).

If death had not been so strikingly represented as a divinely ordained penalty for dozens of human misdeeds in the Hebrew Bible, the practice of executing wayward fellow human beings would never have gained the kind of central position that it did in Christian history.

See Camus, supra note 42, at 544–45. Camus argues that deterrence is no effective in behind-the-wall executions and therefore it is only on religious principles that the death penalty proponents can even argue to justify its use. Id.
Further considerations of divine disapproval of the death penalty are illustrated in books about those carrying out the executions. In Stephen King's *The Green Mile*, Paul Edgecombe, head of an execution team, knows he is about to execute an innocent man. He is complying with his duty at the prison, but Edgecomb fears even though he is carrying out the state's order, it will "not save him on his own judgment day." As discussed by Professor David Dow:

> God will want to know how (Edgecomb) could have killed one of His miracles, and what will (Edgecomb) say? That he was just doing his job? And yet, though he must be prodded by his assistant to give the order to carry out the execution, in the end (Edgecomb) does so. He shuffles over to Coffey and clandestinely shakes his hand. Then he gives the order, and Coffey is electrocuted.

Edgecomb chooses societal order over justice, and risks his own spiritual self for the sake of the state.

In *Dead Man Walking*, a film based on the book written by Sister Helen Prejean, Matthew Poncelet, a fictional composite of a number of different murderers, is facing execution for the brutal rape and murder of two high school seniors in a secluded wooded area. Prejean is a nun who ministers to those on death row. Prejean opposes the death penalty not because of her religion, but because she believes executions "erode the dignity of the executioner," in a way perhaps Edgecomb feared for himself. Poncelet is not innocent, and is as terrible a criminal as

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140 *King*, *supra* note 58. In this novel, John Coffey is wrongfully convicted of murdering two girls in Louisiana during the Depression era. Coffey is a huge black man with extraordinary supernatural gifts to heal. Like Bigger from Wright's *Native Son*, Coffey is a black man feared by white society. By novel's end we know Coffey is innocent, but the execution is carried out anyway.

141 *Greene*, *supra* note 6, at 549.


143 *Id.* at 532 (stating that "[Edgecomb] is pulled between justice and order, and, in the end, he embraces order.").

144 *Dead Man Walking* (Polygram Filmed Entertainment 1996). *See supra* text accompanying note 65.

145 *See Dow*, *supra* note 142, at 543 (explaining the murderous character in the movie is not a particular person, rather he is a collection of identities of different murderers, not all of whom are in Prejean's book).

146 *See id.*
Perry Smith or Gary Gilmore. But his innocence has nothing to do with whether it is acceptable to execute him, but whether the state should be in the business of killing at all. The inquiry is whether, in fact, the state’s execution is any different from his murders.\textsuperscript{147} If it is not, how can it not be equally reprehensible? Thus, the real debate, as explained by Professor Dow, hinges on the following:

Death row is full of guilty men, but they are yet men: human beings who committed vile and despicable acts, yet still human beings. We in society have the legal power to kill these men when we act through the fiction of the state, but we cannot elude moral restraints by funneling our actions through that fiction. If it is wrong for the men (and women) on death row to have killed, it is wrong for us to kill; if it is wrong for us to kill, it is wrong for us to have the state kill on our behalves.\textsuperscript{148}

Unlike Wordsworth, \textit{Dead Man Walking} does not question whether God approves or disapproves of the death penalty; instead, it lays out the basic moral principle of the wrongness of murder: if they can not kill, why can we? Wordsworth addresses this problem throughout his sonnets by arguing the preservation of the state compels executions. He illustrates this premise in his Sonnet III about the Roman consul condemning his own sons, which pleas to the sacredness of human life can be answered by realizing it is impossible to know what the divine authority may ultimately feel about the matter.\textsuperscript{149}

\textsuperscript{147} \textit{See id.} at 549 (commenting that "[i]n the movie’s penultimate scene, Poncelet says in his final words that killing is wrong, regardless of whether the killer is Poncelet or the State of Louisiana, yet the faces of Hope and Walter, superimposed on the glass partition . . . remind us that although all killing may well be wrong, there are still degrees of evil.").

\textsuperscript{148} \textit{Id.} at 552–53.

\textsuperscript{149} \textit{See Leyda, supra} note 17, at 51. Leyda notes that "[Wordsworth] devastates this appeal to 'heaven-born light' in the final couplet of Sonnet X." \textit{Id.} Additionally, Leyda states that:

The heart of Wordsworth’s conservatism is \textit{balance} - a realistic view of human limitations that encompasses the wise, subtle recognition that man is made up of reason and feeling, morals and passion, heroic and criminal actions, and that the State, legislating in time with an authority based on Love and Fear, must not lose sight of eternity. It is the \textit{balance of wisdom} that Wordsworth preaches.

\textit{Id.} at 52.
CONCLUSION

As poetry, Wordsworth’s Sonnets Upon The Punishment Of Death are arguably not of the same crafted caliber as his masterpiece, The Prelude. But, in some respects, these sonnets are equally as valuable. Wordsworth offers the counterpoint to the vast amount of literature championing for the abolition of the death penalty. Where Victor Hugo writes of the terror a man suffering as he awaits execution, Wordsworth responds the man faces salvation and should be joyous. Where Orwell writes of the resilience, even courage, of the condemned as he walks to the scaffold, sidestepping a puddle despite the guards holding him firm, Wordsworth reminds us of the victims the condemned has killed, having shown no mercy to the innocent life lost. Where Camus writes the death penalty serves no purpose toward deterrence, Wordsworth argues it is essential; in fact, it is only through the “Fear” of the death penalty society maintains order. Where Kafka writes of the awful terror “The Harrow” exacts on the condemned, Wordsworth argues the death penalty is necessary a retribution to prevent “wild... revenge” from taking over. Though Wordsworth never addresses the actual killing of the individual in the context of the death penalty, except from the perspective of the victim, he does address the callousness that the death penalty requires. If a Roman consul has a duty to condemn his own sons for treason, then that duty must be broad across society. Wordsworth even acknowledges that such a responsibility seems unnatural, but it is a necessary responsibility nevertheless. Moreover, Wordsworth offers the counterargument to those who claim the death penalty is against the divine will. Man lacks the capacity to know an infinite mind,

150 WILLIAM WORDSWORTH, THE PRELUDE: THE 1805 TEXT (Oxford 1970). Wordsworth’s latter years as a poet are often criticized for failing to meet the same standards of works such as The Prelude. See, e.g., GALPERIN, supra note 11.
151 See supra text accompanying notes 40, 42.
152 See supra text accompanying notes 45, 60.
153 See supra text accompanying notes 84, 94.
154 See supra text accompanying notes 110, 111 and 116.
155 See WORDSWORTH, supra note 1, II (discussing the “groan(ing)” of the victim “under the steel” of the killer).
156 See supra text accompanying note 62.
157 See id.
he argues, so there is no way to know whether there is divine approval or not.158

When he wrote Sonnets Upon The Punishment Of Death, Wordsworth was not surprised when there were critics who raised "an outcry" about his work.159 He knew then they were controversial. The arguments he presents are no less controversial today. But it is only by understanding all of the arguments to a debate that the best answers can be discovered. Through literature, we can explore aspects of the death penalty in ways that no other medium provides. Great literature, like many of the works excerpted in this paper, provides us with the best insights to aid in our understanding, to help us see a complete picture of how the death penalty fits in with our society. Wordsworth, in his fourteen sonnets, offers an important literary contribution to our ongoing debate, helping us discuss the death penalty's appropriateness, its fairness, and its morality.

158 See supra text accompanying note 129.
159 See Setzer, supra note 4, at 428.
APPENDIX*

SONNETS UPON THE PUNISHMENT OF DEATH

I.
Suggested By The View Of Lancaster Castle (On The Road From The South)

THIS spot - at once unfolding sight so fair
Of sea and land, with yon grey towers that still
Rise up as if to lord it over air -
Might soothe in human breasts the sense of ill,
Or charm it out of memory; yea, might fill
The heart with joy and gratitude to God
For all his bounties upon man bestowed:
Why bears it then the name of 'Weeping Hill'?
Thousands, as toward yon old Lancastrian Towers,
A prison's crown, along this way they past
For lingering durance or quick death with shame,
From this bare eminence thereon have cast
Their first look - blinded as tears fell in showers
Shed on their chains; and hence that doleful name.

II.
Tenderly do we feel by Nature's law
For worst offenders: though the heart will heave
With indignation, deeply moved we grieve,
In after thought, for Him who stood in awe
Neither of God nor man, and only saw,
Lost wretch, a horrible deviceenthroned
On proud temptations, till the victim groaned
Under the steel his hand had dared to draw.
But oh, restrain compassion, if its course,
As oft befalls, prevent or turn aside
Judgments and aims and acts whose higher source
Is sympathy with the unforewarned, who died
Blameless - with them that shuddered o'er his grave,
And all who from the law firm safety crave.

III.
THE Roman Consul doomed his sons to die
Who had betrayed their country. The stern word
Afforded (may it through all time afford)
A theme for praise and admiration high.
Upon the surface of humanity
He rested not; its depths his mind explored;
He felt; but his parental bosom's lord
Was duty, - Duty calmed his agony.
And some, we know, when they by willful act
A single human life have wrongly taken,
Pass sentence on themselves, confess the fact,
And, to atone for it, with soul unshaken
Kneel at the feet of Justice, and, for faith
Broken with all mankind, solicit death.

IV.
IS 'Death', when evil against good has fought
With such fell mastery that a man may dare
By deeds the blackest purpose to lay bare?
Is Death, for one to that condition brought,
For him, or any one, the thing that ought
To be 'most' dreaded? Lawgivers, beware,
Lest, capital pains remitting till ye spare
The murderer, ye, by sanction to that thought
Seemingly given, debase the general mind;
Tempt the vague will tried standards to disown,
Nor only palpable restraints unbind,
But upon Honour's head disturb the crown,
Whose absolute rule permits not to withstand
In the weak love of life his least command.

V.
NOT to the object specially designed,
Howe'er momentous in itself it be,
Good to promote or curb depravity,
Is the wise Legislator's view confined.
His spirit, when most severe, is oft most kind:
As all authority in earth depends
On Love and Fear, their several powers he blends,
Copying with awe the one Paternal mind.
Uncaught by processes in show humane,
He feels how far the act would derogate
From even the humblest functions of the State;
If she, self-shorn of Majesty, ordain
That never more shall hang upon her breath
The last alternative of Life or Death.

VI.
YE brood of conscience - Spectres! that frequent
The bad Man’s restless walk, and haunt his bed -
Fiends in your aspect, yet beneficent
In act, as hovering Angels when they spread
Their wings to guard the unconscious Innocent -
Slow be the Statutes of the land to share
A laxity that could not but impair
‘Your’ power to punish crime, and so prevent.
And ye, Beliefs! coiled serpent-like about
The adage on all tongues, ‘Murder will out,’
How shall your ancient warnings work for good
In the full might they hitherto have shown,
If for deliberate shedder of man’s blood
Survive not Judgment that requires his own?

VII.
BEFORE the world had past her time of youth
While polity and discipline were weak,
The precept eye for eye, and tooth for tooth,
Came forth - a light, though but as of daybreak,
Strong as could then be borne. A Master meek
Proscribed the spirit fostered by that rule,
Patience ‘his’ law, long-suffering ‘his’ school,
And love the end, which all through peace must seek.
But lamentably do they err who strain
His mandates, given rash impulse to control
And keep vindictive thirstings from the soul,
So far that, if consistent in their scheme,
They must forbid the State to inflict a pain,  
Making of social order a mere dream.

VIII.
FIT retribution, by the moral code  
Determined, lies beyond the State’s embrace,  
Yet, as she may, for each peculiar case  
She plants well-measured terrors in the road  
Of wrongful acts. Downward it is and broad,  
And, the main fear once doomed to banishment,  
Far oftener then, bad ushering worse event,  
Blood would be spilt that in his dark abode  
Crime might lie better hid. And, should the change  
Take from the horror due to a foul deed,  
Pursuit and evidence so far must fail,  
And, guilt escaping, passion then might plead  
In angry spirits for her old free range,  
And the ‘wild justice of revenge’ prevail.

IX.
THOUGH to give timely warning and deter  
Is one great aim of penalty, extend  
Thy mental vision further and ascend  
Far higher, else full surely shalt thou err.  
What is a State? The wise behold in her  
A creature born of time, that keeps one eye  
Fixed on the statutes of Eternity,  
To which her judgments reverently defer.  
Speaking through Law’s dispassionate voice the State  
Endues her conscience with external life  
And being, to preclude or quell the strife  
Of individual will, to elevate  
The grovelling mind, the erring to recall,  
And fortify the moral sense of all.

X.
OUR bodily life, some plead, that life the shrine  
Of an immortal spirit, is a gift  
So sacred, so informed with light divine,
That no tribunal, though most wise to sift
Deed and intent, should turn the Being adrift
Into that world where penitential tear
May not avail, nor prayer have for God's ear
A voice - that world whose veil no hand can lift
For earthly sight. 'Eternity and Time,'
'They' urge, 'have interwoven claims and rights
Not to be jeopardised through foulest crime:
The sentence rule by mercy's heaven-born lights.'
Even so; but measuring not by finite sense
Infinite Power, perfect Intelligence.

XI.
AH, think how one compelled for life to abide
Locked in a dungeon needs must eat the heart
Out of his own humanity, and part
With every hope that mutual cares provide;
And, should a less unnatural doom confide
In life-long exile on a savage coast,
Soon the relapsing penitent may boast
Of yet more heinous guilt, with fiercer pride.
Hence thoughtful Mercy, Mercy sage and pure,
Sanctions the forefeiture that Law demands,
Leaving the final issue in 'His' hands
Whose goodness knows no change, whose love is sure,
Who sees, foresees; who cannot judge amiss,
And wafts at will the contrite soul to bliss.

XII.
SEE the Condemned alone within his cell
And prostrate at some moment when remorse
Stings to the quick, and, with resistless force,
Assaults the pride she strove in vain to quell.
Then mark him, him who could so long rebel,
The crime confessed, a kneeling Penitent
Before the Altar, where the Sacrament
Softens his heart, till from his eyes outwell
Tears of salvation. Welcome death! while Heaven
Does in this change exceedingly rejoice;
While yet the solemn heed the State hath given
Helps him to meet the last Tribunal's voice
In faith, which fresh offences, were he cast
On old temptations, might for ever blast.

XIII. Conclusion
YES, though He well may tremble at the sound
Of his own voice, who from the judgment-seat
Sends the pale Convict to his last retreat
In death; though Listeners shudder all around,
They know the dread requital's source profound;
Nor is, they feel, its wisdom obsolete -
(Would that it were!) the sacrifice unmeet
For Christian Faith. But hopeful signs abound;
The social rights of man breathe purer air,
Religion deepens her preventative care;
Then, moved by needless fear of past abuse,
Strike not from Law's firm hand that awful rod,
But leave it thence to drop for lack of use:
Oh, speed the blessed hour, Almighty God!

XIV. Apology
THE formal World relaxes her cold chain
For One who speaks in numbers; ampler scope
His utterance finds; and, conscious of the gain,
Imagination works with bolder hope
The cause of grateful reason to sustain;
And, serving Truth, the heart more strongly beats
Against all barriers which his labour meets
In lofty place, or humble Life's domain.
Enough; - before us lay a painful road,
And guidance have I sought in duteous love
From Wisdom's heavenly Father. Hence hath flowed
Patience, with trust that, whatsoever the way
Each takes in this high matter, all may move
Cheered with the prospect of a brighter day.
* Sonnets appear as published on: