

Grant Allen's "Jerry Stokes": Detective Fiction, the Death Penalty, and the Scene of Writing

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Although the *Strand Magazine* published a wide range of articles and genres of writing (including science fiction, popular science, celebrity culture, and, in its earlier years, fiction in translation), the magazine became particularly known as a venue for detective fiction, to the extent that when the publication was revived in 1998, it was as a specialist crime writing magazine. The *Strand's* symbiotic relationship with the genre is usually dated from the appearance of Sherlock Holmes in the magazine in July 1891, though in addition to Arthur Conan Doyle the *Strand* featured a wealth of detective fiction in the 1890s by authors such as Arthur Morrison, Grant Allen, L. T. Meade, Robert Eustace, and Preston Muddock (writing as Dick Donovan). This article, however, focuses primarily on the text that acts as a point of origin of this history: the first detective story to appear in the *Strand*, in the third issue (March 1891), Grant Allen's "Jerry Stokes." Though Allen had already provided a story for the magazine's first issue (the romantic adventure "A Deadly Dilemma" (1891)), it was "Jerry Stokes" that inaugurated his characteristic contributions to the *Strand*; Allen subsequently published detective and crime serials including *An African Millionaire* (1896–97), *Miss Cayley's Adventures* (1898–99), and *Hilda Wade* (1899–1900). In providing detective fiction at an early stage where the *Strand* was still finding its particular focus, Allen played a decisive part in determining the magazine's subsequent direction.

On the surface, the story has a relatively simple plot. Stokes is the provincial hangman of Ontario, Canada, who sees his job as "a useful, a respectable, and a necessary calling" connected to constitutional power (as the opening sentence states, "Jerry Stokes was a member of Her Majesty's civil service").¹ Stokes is intrigued by a high profile murder case in which a lawyer, Ogilvy, is accused of poisoning his wife. During the trial Stokes becomes

certain that Ogilvy is innocent on the basis that he does not look like any murderer he has previously encountered. Stokes's intuitive suspicions fall instead on the family doctor, Wade, who has been giving evidence but who has, to Stokes's eye, the appearance of a murderer. Ogilvy is convicted and sentenced to death, but on the appointed morning Stokes refuses to execute him. During the delay caused by Stokes's refusal, Wade confesses to the murder, prompted to do so by a guilt-inducing letter he has received from Stokes. The story ends with Stokes resigning from his position, doubting the usefulness of the death penalty.

The story occupies a paradoxical position: this ordinary text is concerned more with what happens *after* the events of the conventional detective story, with processes of law and punishment. The demands of the genre appear to elide the death penalty, as does the pervasive Foucauldian paradigm through which detective fiction is often read (in which the spectacularity of punishment is replaced with a disciplinary regime of surveillance). As Derrida argues in his seminars on *The Death Penalty*, the persistence of execution challenges the Foucauldian model (Derrida arguing that capital punishment always already implies spectacular visibility); reading detective fiction with particular attention to execution, therefore, offers a way into questioning disciplinary readings of the genre.² More specifically, my claim is that "Jerry Stokes" is exceptional in its confrontation of the death penalty (the abject other of *fin-de-siècle* detective fiction) and in its implications that the detective figure is himself the real criminal of the story. I examine these ideas through the way in which the text thematises writing, and the role of delay in the death penalty. Allen's story, I suggest, makes disturbingly explicit what subsequent *Strand* detective fiction could only render implicit: the relationship of the detective to a concept of sovereignty based in the ability to command the death of subjects.

Late-Victorian Death Penalty Debate

My wider claim is that “Jerry Stokes” is an exceptional narrative; certainly so in the context of the *Strand*, where Allen’s abolitionist story is out of step with the magazine’s tendency to avoid controversial subject matter. Despite the magazine’s fascination with crime and detection, it stayed resolutely away from the question of the death penalty, a matter for ongoing debate even with the abolition of public executions in 1868. There is insufficient space here to offer a comprehensive overview of the Victorian death penalty debate (such as those offered by V. A. C. Gatrell and Gregory James), but a few salient texts illustrate the position of the debate at the *fin de siècle*. Josiah Oldfield’s *The Penalty of Death* (1901) combined legal, criminological, and sociological theory to call for abolition. Oldfield claimed that popular arguments for the death penalty were “based on a wrong conception of the function of law” and rooted more in a desire for irrevocable revenge than rehabilitation.³ Drawing on determinist criminology and discourses of criminal insanity, Oldfield noted that the reluctance to execute murderers found to be insane therefore suggested that the penalty could not be inherently connected to the crime.⁴ Ultimately, Oldfield argued that the death penalty was not an effective deterrent, since “in civilised and settled states capital punishment tends to increase crime, and to brutalise, instead of to repress crime”; conversely, that “when it has been abandoned in certain communities, the crime for which it was inflicted has become reduced.”⁵ More contemporary with “Jerry Stokes,” John MacMaster’s *The Divine Purpose of Capital Punishment* (1892) was less typical in its deployment of theological arguments against execution (as John Cyril Barton notes, in the American context at least, religious arguments for and against the death penalty had been replaced in the later nineteenth century with sociological, criminological, and statistical approaches).⁶ MacMaster suggested that “the necessity for capital punishment was swept away by the atonement of our Lord and Saviour Jesus Christ,” spending considerable time on arguing against the “So-called Noahic Statute” of Genesis 9.6 (“Whoso sheddeth man's blood, by man shall his blood be shed: for in

the image of God made he man”), frequently cited in the nineteenth century as divine justification for execution.⁷

Abolitionists were faced by retentionists such as W. S. Lilly, who in the *New Review* in 1894 argued that “life imprisonment is merely a more cruel and more cowardly mode of inflicting the death penalty,” and condemned the growing international trend for abolition as “a token of decreasing virility, of moral cowardice, of an unwillingness to look the stern truths of human existence in the face.... as an indication, not of progress, but of decadence.”⁸ Lilly’s attack was an updated version of the longstanding retentionist argument that abolitionism was rooted in sentimentality, recasting this in *fin-de-siècle* terms of degeneration and decadence (and although the more libertarian Lilly was sceptical of determinist ideologies, much of his article demonstrates how contemporary proponents of criminal anthropology called for the absolute elimination of “unadaptable” offenders).⁹ Oldfield countered this line of thought by arguing that “We do not perpetuate capital punishment for its *hardening* effect. We do not abolish it out of *sentiment*. If capital punishment, when put upon its trial, upon the grounds upon which criminal law is based, is declared to be the fitting penalty for any crime, let it be perpetuated; but if not, let it be terminated.”¹⁰ Rather than abolitionists being sentimental, for Oldfield it was retentionists who were misled by degenerationist nostalgia: “There are always a section who clamour for the good old times of slavery and bull-baiting and stag-hunting and prize-fighting... They are always ready to cry that the country is going to the d---l, and is being ruled by milksops and babies; but none the less the world moves on towards a higher level age by age, and as acts become less barbarous, less cruel penalties become equally efficacious.”¹¹ Oldfield’s progressive model of history is, of course, as questionable as Lilly’s degenerationist one, but the point is that the capital punishment debates of the *fin de siècle* took place within the terms of progression and degeneration that Allen had staked out in his writing.

The political liveliness of this debate in the 1890s makes it surprising that the culturally conservative *Strand* should intervene. As I have noted elsewhere, George Newnes saw the *Strand* as a continuation of his previous successes in popular writing that was edifying rather than sensationalist, and informative rather than polemic, making the arrival of detective fiction in the magazine by way of reference to a contentious debate somewhat exceptional.¹² In other words, the moment at which the genre that would come to define the *Strand* first appeared in its pages was also the moment when the magazine moved against its stated editorial stance, challenging attempts to reduce it to a monolithic ideology. This partially accounted for the special attention paid to “Jerry Stokes” by reviews of the March 1891 number. It was singled out by the *Derby Mercury* as the strongest story of that issue of the *Strand*, while other reviewers vacillated between dismissing it as a (strangely) humorous sketch and noting its rhetorical power.¹³ *The Staffordshire Chronicle* gave a measured account encompassing both reactions: “Written in his [Allen’s] fascinating style, humorous and pathetic by turns, it winds up with an expression of doubt as to the expediency of capital punishment, or the usefulness of hanging, which finds plenty of food for thought.”¹⁴ The reviewer’s ventriloquism of Stokes’s closing words (quoted below) suggests a sympathy with the hangman’s aims.

Yet, as Barton suggests, we should be alert to the potential slippage of identifying the politics of anti-gallows characters with their authors.¹⁵ However, events almost exactly twelve months prior to the appearance of “Jerry Stokes” offer an insight into Allen’s attitudes towards crime and punishment. In a letter to the *Pall Mall Gazette* of March 26, 1890, Allen had intervened in the febrile public debate over the sentencing of two young men in Crewe, Richard and George Davies, for the murder of their father. The crime had been prompted by the father’s abuse of the sons and his wife, leading to Allen’s commentary on their behalf:

The verdict and sentence against the two poor lads, goaded by intolerable tyranny into open revolt, at Crewe, are no doubt in consonance with the existing state of English law. But law is only an expression of the feelings of the majority—most often of a dead and past majority—and if the mass of English people still approve of such law as that, it is only one more proof of the painfully low sense of public morality existing among us. Unless those two poor lads had risen and struck we should never have known the hideous tyranny under which they groaned. The misapprehension of the nature of crime involved in their condemnation seems to me almost incredible. The real criminal was obviously the man who made their revolt a necessary consequence from all the ordinary laws of human psychology.¹⁶

While Allen's call for reprieve received support from figures as prominent as William Morris, the wider response was more sceptical, with one editorial noting that the logic of Allen's defence of the Davies brothers was "as fantastic as some of his fiction."¹⁷ Other *Pall Mall Gazette* correspondents asked if the logic of crime as making social conditions evident would apply equally to the 1888 Whitechapel murders, and said of Allen's intervention that "a more ill-advised or wrong-headed advocacy I have seldom seen."¹⁸ The *Gazette* received such an amount of correspondence on the matter that the issue of April 3, 1890 asked "Should the Crewe Murderers Be Reprieved?," setting out selected letters for and against Allen's position. Ultimately, Richard Davies was hanged on April 8, 1890, while George's sentence was commuted to imprisonment at Parkhurst until 1905.

The appearance of "Jerry Stokes" almost precisely a year after Allen's public advocacy for reprieve gives the story a specific cultural context; more broadly, detective fiction in the *Strand* first appeared in dialogue with an ongoing debate about ethics, criminality, and punishment (debates often invoked in the magazine not only through fiction,

but a range of articles about criminal practices and detection, most notably the series “Crimes and Criminals” (February–June 1894)). Stokes himself is a dialogic figure, consciously drawing on previous representations of executioners, yet providing a paradoxical reassessment of criminological thought (particularly of determinist and biological modes of criminology). The character of the hangman turned abolitionist found a real-life model in James Berry, “who has hanged two hundred persons, [and] is a strong opponent of capital punishment, and expresses a hope that he may live to see the day when it will be expunged from the statute-book.”¹⁹ The hangman had long been a physical type, as depicted in Kenny Meadows’s *Heads of the People, or, Portraits of the English* (1839); the roughness of feature and coarseness of hand in Meadows’s caricature clearly forms a model for the late-Victorian Stokes.²⁰ Physical form is important here: Stokes *knows* that Ogilvy is innocent because he does not *look* like a murderer: “I never saw a murderer like him in my born days afore... I’ve turned off square dozens of ’em in my time, in the province; and I know their looks. But hanged if I’ve come across a murderer yet like this one, any way!”²¹ The spectre of Lombroso hangs over this invocation of criminal appearance, the more so since Havelock Ellis’s popularisation of Lombroso, *The Criminal* (1890), had only been published the previous year. But the story puts a paradoxical spin on this reference to determinist criminology; if we are to believe that there is such a thing as criminal appearance, then Jerry Stokes himself fits that bill: “a short and thick-set person, very burly and dogged-looking; he had a massive square head, and a powerful lower jaw, and a coarse, bull neck, and a pair of stout arms.”²² Indeed, Stokes’s letter prompts another confession: that of Stokes himself. He ends the story with a resignation speech:

I ain’t so sure of my trade as I used to be once.... I always used to hold that it was a useful, a respectable, and a necessary trade, and of benefit to the community. But I’ve begun to doubt it. If the law can string up an innocent

man like this, and no appeal, except for the exertions of the public executioner, why, I've began to doubt the expediency, so to speak, of capital punishment. I ain't so certain as I was about the usefulness of hanging. Dr Wade, I think somebody else may have the turning of you off.²³

At this point, the story actually says little to critique execution on absolute grounds; Stokes's horror arises not so much from execution itself as from the fact that the wrong person might be hung. As the text says earlier: "Had he been in the habit of doing innocent men to death for years? Was the law, then, always so painfully fallible? Could it go wrong in all the dignity of its unsullied ermine? Jerry could hang the guilty without one pang of remorse. But to hang the innocent!"²⁴ This is partially a matter of the soft conservatism of the *Strand Magazine*, which also accounts for the deferral of setting the story in Canada rather than the UK, avoiding any direct critique of British penal policy (and even conceivably providing an alibi for the *Strand* in having published an abolitionist story; as Gregory James notes, the Society for the Abolition of Capital Punishment did not press for abolition overseas in the nineteenth century, but focused almost entirely on the British situation).²⁵ Yet having earlier suggested that execution might still be valid if the criminal is guilty, at the story's conclusion Stokes nonetheless refuses to hang Wade. In this exceptional story, Stokes realises that state death cannot be exceptional. "Jerry Stokes" thus updates the Oedipus narrative: the detective finds that *he* is the murderer.

Scenes of Writing (From the Heart)

Just as Stokes makes an unlikely detective physically and morally, his method is more intuitive than rational. His strategy to bring Wade to justice is not to provide an unassailable chain of deductions and evidence, but rather to become a writer and provoke a confession. In this, he echoes a correlation between literature and abolition, anticipating the argument of

Jacques Derrida's *The Death Penalty* seminars that whereas the institution of philosophy has tended to argue in favour of capital punishment, that of literature has tended to oppose it (though not without exceptions, most famously Wordsworth and Ruskin).²⁶ Likewise, James notes the careers of several notable mid-Victorian members of the Society for the Abolition of Capital Punishment in bookselling, publishing, editing, and related areas.²⁷ It is unsurprising, then, that at a striking moment in *The Penalty of Death* Oldfield makes a sudden swerve to literary reference:

It is the lonely woman who in her hour of agonised shame has destroyed her new-born child. Hang her, and she will never do it again. It is the husband who has found the adulterer in his own bed, and in his wrath has slain him as he lies. Hang him, and he will never do it again. It is the kind and gentle husband who, in a fit of partial temporary insanity caused by heredity or influenza, has cut the throats of his wife and children. Hang him, and he will never do it again.... It is Bill Sykes [*sic*] who has killed his faithful sweetheart in brutal wantonness. Never mind; hang him all the same, and he will never do it again.²⁸

The move from hypothetical real-life situations to an ostentatiously fictional one seems an odd strategy, especially as the circumstances of Sikes's actual execution in *Oliver Twist* are accidental rather than state-managed. Oldfield's rhetoric here instead demonstrates the proximity of abolitionist arguments with the institution of literature.

"Jerry Stokes" takes the argument further, by dramatising the scene of writing itself: Stokes writing the letter to Wade that will provoke his confession. Yet in the scene where Stokes writes this letter, Allen emphasises the cost of such work:

That night he sat long in his room by himself, in the unwonted throes of literary composition. He was writing a letter—a letter of unusual length and

surprising earnestness. It cost him dear, that epistle; with his dictionary by his side, he stopped many times to think, and bit his penholder to fibre. But he wrote none the less with fiery indignation, and in a fever of moral zeal that positively astonished himself. Then he copied it out clean on a separate sheet, and folded the letter when done, with a prayer in his heart.²⁹

In A. Pearse's illustration (figure 1), Stokes is literally gagged by his pen, the symbol of a law he seeks to question. Yet there is also a curious parallel between Stokes's act of writing and Allen's. While Stokes's difficulty in writing bears no comparison to Allen's prolificity, both of their texts have the same aim: to elicit a reaction of guilt and confession of murder; Stokes from a literal murder, and Allen from retentionists who see the death penalty as an exception to moral laws of murder.

The comparison between Allen's mode of writing and Stokes's is made even more apparent by the paratextual circumstances of the story's appearance. The reader of the *Strand* would have encountered the first page of "Jerry Stokes" on the right-hand page, but on the left-hand page appears a facsimile of the first page of Allen's manuscript copy, covering about a paragraph and a half of the typeset copy (figure 2). This was, in fact, the final page of the preceding article, "How Novelists Write for the Press," a short piece consisting of reproductions of manuscript pages by William Black, Walter Besant, Bret Harte, and Allen, the piece as a whole exemplifying the *Strand's* characteristic interest in articles built around cultural artefacts. The manuscript shows Allen's changes and alterations (for instance, inserting the subclause in the opening sentence about Stokes being "a member of her Majesty's civil service," raising questions of state and sovereignty central to debates about the death penalty), and while clearly Allen is a more comfortable writer than Stokes, the parallel with the story's crucial scene of writing and revision is striking.³⁰ Just as the story turns on a scene of writing and rewriting, readers of the *Strand* are given privileged insight

into the same process as undertaken by Allen, and again by the production processes of converting handwriting into print and adding illustrations. The reprinting of Allen's manuscript in landscape orientation, while seemingly an incidental detail, means that the two versions of the story cannot be equally appreciated at once; the printed copy takes precedence over the handwritten copy, which requires a turning of the page and therefore a physical interruption of the process of reading. Of course, the reader could also turn his head, though this would be to literally adopt the stance of one of Stokes's victims.

Katharine Brombley reads "How Novelists Write for the Press" as part of the *Strand's* project of making processes of writing and publication more accessible to a general readership, setting the scene for an emergent Holmesian fandom that would eventually write its own contributions to the Sherlockian textual universe.³¹ With regard to Allen, however, the manuscript's drawing attention to processes of writing has specific thematic significance for "Jerry Stokes." Allen contrasts the death penalty with the act of writing, anticipating Anne Norton's suggestion that "The execution of the condemned marks the boundary dividing writing from violence."³² That is, the death penalty is the point where the writing of law must give way to physical violence. This point is taken up by Derrida, not least his quotation of an 1862 piece of Victor Hugo's that anticipates "Jerry Stokes" in setting, the role of writing, and the aesthetics of delay:

[I]n Guernsey, in 1854, a man named Tapner was sentenced to the gallows; I intervened, an appeal for pardon was signed by six hundred notables of the island, the man was hanged ... a few European newspapers that printed the letter I wrote to the citizens of Guernsey to prevent the execution made their way to America in time for this letter to be reprinted usefully by American newspapers; they were going to hang a man in Quebec, a certain Julien; the people of Canada rightly considered the letter I had written to the people of

Guernsey to be addressed to them and, by a providential counter-blow, this letter saved ... not Tapner whom it intended, but Julien whom it did not intend.³³

Derrida uses this incident of displaced Canadian reprieve as the starting point for what he calls the right of the writer to challenge the death penalty. Unlike the institution of philosophy, it is literature whose practitioners must “give themselves the *sacred* right to make the law above the laws, to make themselves the representatives of eternal justice above law and thus of divine justice.”³⁴ This is not that writers invent a new law; rather, for Derrida, this is divine law that has already been spoken. The writer “does not invent or produce a new code of law except by listening, by knowing how to listen *in his heart* to a divine law that already speaks.”³⁵

This figure of the heart shapes Jerry Stokes’s detection, an intuition that exceeds the rational deduction of a Sherlock Holmes; Stokes has “all the profound force of unreasoned conviction” and feels “intuitively certain” of his claims.³⁶ Just as Derrida exhorts the writer to resist the discourse of the death penalty “in his heart,” Stokes writes from the same place as his internal conviction, “with a prayer in his heart”; when the verdict is given, “Stokes sat and listened with a sickening heart.”³⁷ Peggy Kamuf, examining the deployment of the heart in Derrida’s seminars, argues that philosophy “cannot deploy only cold reason *against* the death penalty, this spectacle of cruelty. For the death penalty enacts reason at its coldest, its most unforgiving, its most rigorously calculating. Its most heartless. Philosophy cannot reason with the death penalty; it must also let its heart beat with the other’s.... Philosophy against the death penalty must break at that place called the heart, whatever, whoever we call ‘my heart.’”³⁸ The death penalty represents the outcome of an economic reasoning that measures crimes against punishments. While an effective critique of capital punishment can of course be reasoned, Derrida and Kamuf provocatively suggest that a wholly rational critique of

capital punishment must at some level remain within execution's economic language. The critique of the death penalty must, at some level, be (in a term frequently used in reviews of "Jerry Stokes") pathetic in its narrowest sense. The intuitive method of Stokes may limit his powers as a detective (unusually for the *Strand*, Stokes is a one-off sleuth), but they anticipate later philosophical arguments against the death penalty.

The questions of writing and interpretation raised by Stokes's scene of writing become central to the story's ending. The passage where the Sheriff reacts to Stokes's refusal to hang Ogilvy is worth examining:

"No reprieve has come. The prisoner is to be hanged without fail today in accordance with his sentence. It says so in the warrant: 'wherein fail not at your peril.' ... Your conduct is most irregular, Stokes," [The sheriff] said at last, stroking his chin in his embarrassment. "If you had a conscientious scruple against hanging the prisoner, you should have told us before. Then we might have arranged for some other executioner to serve in your place. As it is, the delay is most unseemly and painful: especially for the prisoner." ...

But Jerry only looked back at him with an approving nod. The sheriff had supplied him, all inarticulate that he was, with suitable speech. "Ah, that's just it, don't you see," he made answer promptly, "it's a conscientious scruple. That's why I won't hang him. No man can't be expected to go agin his conscience. ... If *I* don't hang him... it's *your* business to do it with your own hands. 'Wherein fail not at your peril.' And I give you warning beforehand, sheriff, if you *do* hang him—why, you'll have to remember all your life long that you helped to get rid of an innocent man, when the common hangman refused to execute him."

To such a pitch of indignation was he roused by events that he said it plump out, just so, “the common hangman.” Rather than let his last appeal lack aught of effectiveness in the cause of justice, he consented so to endorse the public condemnation of his own respectable, useful, and necessary calling!³⁹

The illustration makes the importance of textuality clear: the sheriff points to the warrant bearing the disputed phrase “Wherein fail not at your peril,” while just behind the chaplain bears a Bible open for the last rites (but also reminiscent of Genesis 9:6). But what is important here is the way in which Stokes’s appeal turns the language of the state against itself: the repetition of “Wherein fail not at your peril” and “conscientious scruple.” The passage concludes with a final example of borrowed language: Stokes describes himself as the “common hangman,” rendering ironic the language of respectability and utility. Yet there is also an irony about the narrator’s insistence that Stokes is prompted to use the phrase “common hangman” in the excitement of the moment, since on the following page Wade reads an extract from the letter Stokes had written: “If you let this innocent man swing in your place, I, the common hangman, will refuse to execute him.”⁴⁰ In his letter, Stokes has *already* taken on the position of the “common hangman,” endorsing and internalising public condemnation (though at this point in the story, Stokes ironically becomes an uncommon hangman). The narrator is actually a step behind in suggesting that Stokes’s acceptance of this view of his trade is a matter of momentary passion.

This belatedness of the narrator illustrates the concern of the story, and of the death penalty more widely, with the aesthetics of delay. As Austin Sarat notes, delay is inherent to capital punishment, and often technologised in popular representations of execution: “juxtaposed against the seemingly inexorable movement of time—the clock on the wall—is the prospect of last-minute legal, or executive, intervention. Set against time is law itself, death-doing but also potentially life-saving.... For every clock, there is a telephone, the

silence of which affirms the stillness of death, but which may, at any moment, come alive to end that stillness.”⁴¹ Execution always implies a communications network, which in turn implies delay. Allen’s story is fully aware of this; his manuscript reveals that the story’s original title was “The Law’s Delay.” The title is somewhat ambiguous; while the story emphasises the ten-minute delay caused by Stokes’s refusal to perform the hanging, the title also refers to the six-week period leading to the appointed date, during which Stokes must decide to act as detective and writer. Likewise, in terms of communication networks, it takes time for Stokes to write his letter, but still further time for it to be sent and a response received. Even when the letter is delivered promptly, its effect may be deferred, as in Hugo’s letter to the people of Guernsey, which did not save Tapner, but did save the Canadian Julien. And, as noted above, there is the parallel between Stokes’s letter and Allen’s story; the inclusion of the manuscript makes clear the delay that takes place between the act of writing a story by hand and its appearance as typeset in the *Strand*.⁴²

Detective Fiction and the Death Penalty

What, then, is the special claim of “Jerry Stokes” in terms of the development of detective fiction in the pages of the *Strand*? While I have discussed its importance as the magazine’s inaugural detective story, this risks an overly teleological reading, since of course in March 1891 it could not have been known as such. Rather, I suggest that the tale is exceptional in its moral confrontation of a topic that can be traced as an abject other of *fin-de-siècle* detective fiction. Despite the genre’s thematisation of processes of justice and detection, 1890s detective fiction rarely features state execution. This partly arises, of course, from the demands of the genre; punishment takes place only after the epistemological questions of the crime have been resolved. Yet the death penalty remains at the edge of the Victorian detective story, often enacted not by the state but by wider moral agencies.

In this regard, “Jerry Stokes” responds to the pre-*Strand* Sherlock Holmes, whose early adventures obsessively skirt around capital punishment but stop short of attributing this power to government. Holmes’s first adventure, *A Study in Scarlet* (1887), foreshadows the Derridean question of the way in which the death penalty (as an exception to murder underwritten by the state) raises the question of exactly where the limit of the state is located, and even if such a limit is thinkable. As retribution for the death of his fiancée, Jefferson Hope offers Enoch Drebber the choice of two pills, one of which is poisoned, arguing that God will decide who dies. Hope’s talionic justice expressly thematises the boundaries of state power, repaying in England a crime committed in America (furthermore, the state-within-a-state of the Mormon community). The device of the pills becomes an inversion of procedures that mitigate personal responsibility for death by having multiple executioners perform the action, only one of whom is effective (a technique with a history contemporary with *A Study in Scarlet* in the form of the single live bullet of the firing squad). Hope’s eventual fatal burst aneurysm, too, acts as another form of capital punishment, with responsibility again displaced onto providence rather than the state, but with Watson employing the language of state justice: “A higher Judge had taken the matter in hand, and Jefferson Hope had been summoned before a tribunal where strict justice would be meted out to him.”⁴³

Likewise, hanging and the image of the rope haunt the first two Holmes novels. *A Study in Scarlet* takes its title from Holmes’s observation that “There’s the scarlet thread of murder running through the colourless skein of life,” referring not only to blood but to the proprietorial scarlet line woven into all Royal Navy ropes, and although Holmes goes on to say that his work unravels this skein, the executions of the murderers he uncovers mark a metaphorical recreation of the rope.⁴⁴ The image recurs frequently in *The Sign of Four* (1890), starting with Holmes warning Watson that “the most winning woman I ever knew was hanged for poisoning three little children.”⁴⁵ Jonathan Small declares that he cares

“nothing for the gallows” and “would rather swing a score of times... than live in a convict’s cells”; indeed, in India Small is condemned to death, but his sentence is commuted.⁴⁶ The merchant Achmet is robbed of the Agra treasure in a conspiracy to save it falling into government hands, since Achmet will be “hung or shot” anyway if captured.⁴⁷ The novel’s paradigmatic image of suspension is the Andaman islander Tonga, who uses a rope to gain access to Bartholomew Sholto’s attic and kill him; the rope is then used as a threatened tool of corporal punishment for the murder when Small “[makes] at him with the rope’s end.”⁴⁸ It is this same rope which marks the limit of Holmes’s powers: “There is nothing at all new to me in the latter part of your narrative except that you brought your own rope. That I did not know.”⁴⁹

Holmes’s adventures became less bloody when he moved to the *Strand* in 1891, and while many of the stories (as with wider detective fiction in the *Strand*) focus on crimes against property, the economics of capital punishment are never far away. While Watson notes that only three of the first six *Adventures* deal with legally defined crime, from as early as “A Case of Identity” the imagery of bodily punishment becomes increasingly prominent.⁵⁰ The ending of “Identity” presents physical punishment as not necessarily dependent on crime in its narrowest sense, when James Windibank points out that Holmes cannot imprison him at Baker Street:

“The law cannot, as you say, touch you,” said Holmes, unlocking and throwing open the door, “yet there never was a man who deserved punishment more. If the young lady has a brother or a friend, he ought to lay a whip across your shoulders. By Jove!” he continued, flushing up at the sight of the bitter sneer upon the man’s face, “it is not part of my duties to my client, but here’s a hunting crop handy, and I think I shall just treat myself to—” He took two swift steps to the whip, but before he could grasp it there was a wild clatter of

steps upon the stairs, the heavy hall door banged, and from the window we could see Mr James Windibank running at the top of his speed down the road.⁵¹

Sidney Paget's illustrations foreground the scene, in one of the few examples of the original Holmesian *Strand* images acting sequentially (the image of Holmes barring the door at Baker Street is followed by Windibank escaping). Of course, the punishment is not really intended; Windibank's cowardice is demonstrated through his comedic fleeing from the performed threat of violence rather than violence itself. Likewise, Holmes's threatened sanction is corporal, rather than capital, punishment (though late-Victorian associations such as the Humanitarian League often treated these similarly).⁵² But Holmes immediately connects the two: "There's a cold blooded scoundrel! That fellow will rise from crime to crime until he does something very bad, and ends on a gallows."⁵³ The *Strand's* page layout is crucial here, with Paget's image interposed into the text at the point of execution; the reader is momentarily forced to suspend "ends on a," with the sentence resuming on "gallows" in a small, severed portion of text in the bottom right corner (figure 3). Given the multiple modes of bodily punishment on display in this passage, it is tempting to view the diagonal cut of the bottom of Paget's image as a guillotine blade, merging magazine form with textual content.

If, as Elizabeth Rottenberg has argued, the scene of execution is the mirror stage of sovereignty (in that, following Locke, sovereignty is ultimately located in the power to put subjects to death), then I would suggest a different psychoanalytic position in the relationship between detective fiction and the death penalty.⁵⁴ From "A Case of Identity" onwards, capital punishment becomes the abject of the Holmes *Strand* stories, that which is continually rejected to make the stories social—that is, publishable in the *Strand*—but which remains as an unsettling presence at the margins. Watson may note that relatively few of Holmes's early cases are concerned with legal crime, but by *The Hound of the Baskervilles* (1901–02)

Holmes notes that he has been involved with no fewer than “five hundred cases of capital importance,” suggesting at the very least either a morbid exaggeration by Holmes, or an unseen editorial process by Watson.⁵⁵ One of these capital cases is the story that follows the invocation of the gallows in “A Case of Identity,” “The Boscombe Valley Mystery.” Holmes investigates the murder of Mr McCarthy, apparently by his son James. Holmes makes the stakes of the case explicit when Watson comments that “Many men have been hanged on far slighter evidence”; “So they have. And many men have been wrongfully hanged.”⁵⁶ The threat of the gallows has already cost James his wife (“the barmaid, finding from the papers that he is in serious trouble, and likely to be hanged, has thrown him over utterly”).⁵⁷ Holmes tracks the real murderer, John Turner (an acquaintance of McCarthy’s from Australia) and makes him sign a confession which will only be used if James is convicted. Fortunately, Holmes raises enough doubt to acquit James, rendering the confession unnecessary, and Turner dies of diabetes. As Holmes says to Turner (echoing Watson’s ending of *A Study in Scarlet*), “you will soon have to answer for your deed at a higher Court than the assizes.”⁵⁸ The state-enforced death penalty which hangs over the story is ultimately entirely elided, and the text shares the critique of “Jerry Stokes” by implying that the death penalty is something to be thwarted by Holmes’s involvement.

To conclude, there is an important distinction between Doyle and Allen. Whereas Allen’s critique of the death penalty is primarily moral, Doyle’s is political. If, as Martin Wiener suggests, the Victorian private detective valorises individualist agency over state power (detectives like Holmes standing for “individualized solutions to crime over against the uniform routine of the police”), then such stories cannot afford to have the death penalty, being the very image of sovereign power, reintroduced at the end.⁵⁹ Holmes’s claim to have been involved with five hundred capital cases thus becomes strange; are these all matters of acquitting the falsely accused, or are there several instances when the previously

individualistic Holmes serves the state in delivering criminals for execution? In this reading, state capital punishment marks the limit of the detective's individualistic authority; no wonder, then, that stories such as "The Boscombe Valley Mystery" serve to eliminate it. So while later *Strand* detective fiction developed Allen's initial criticism of the death penalty, it shifted the terms of that critique away from emotive moral terms (in Derrida's terms, writing from the heart) to questions of the individual reach of the state, or more abstract ideas of natural justice. This, in turn, made the death penalty less visible in the *Strand's* detective fiction, and easier to overlook the fact that the genre had arrived in the magazine as part of an emotive, embodied debate. If Doyle's stories avoid directly looking at capital punishment, or do so by aestheticising it as the working of fate, then Allen's "Jerry Stokes" reminds readers that the death penalty is not carried out by god or machines, but by specific men.

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¹ Allen, "Jerry Stokes," 299.

² Derrida, *Death Penalty*, 43.

³ Oldfield, *Penalty of Death*, xx, xxi.

⁴ Ibid., xx.

⁵ Ibid., xx, xxi.

⁶ Barton, *Literary Executions*, 10.

⁷ MacMaster, *Divine Purpose*, xv, 14.

⁸ Lilly, "Praise of Hanging," 200, 193.

⁹ Ibid., 195.

¹⁰ Oldfield, *Penalty of Death*, original emphasis, 36.

¹¹ Ibid., 37.

¹² Pittard, *Purity and Contamination*, 63–104.

¹³ "Literature," 6.

¹⁴ "Strand Magazine," 6.

¹⁵ Barton, *Literary Executions*, 258–59.

¹⁶ Allen, "Crewe Murder," 2.

¹⁷ Morris, "Crewe Parricide," 3; "Waiting for a Reprieve," 10.

¹⁸ Page, "Correspondence," 3; Barrett, "Crewe Murder," 2.

¹⁹ Oldfield, *Penalty of Death*, 117.

²⁰ Meadows, *Heads*, 360.

²¹ Allen, "Jerry Stokes," 301.

²² Ibid., 299.

²³ Ibid., 307.

²⁴ Ibid., 304.

²⁵ James, *Victorians*, 58.

²⁶ Derrida, *Death Penalty*, 105.

²⁷ Ibid., 76.

²⁸ Oldfield, *Penalty of Death*, 49.

²⁹ Allen, “Jerry Stokes,” 304.

³⁰ “How Novelists Write,” 298.

³¹ Brombley, “Possessions and Obsessions,” 47–49.

³² Norton, “After the Terror,” 27

³³ Derrida, *Death Penalty*, 105.

³⁴ *Ibid.*, 108.

³⁵ *Ibid.*, 108.

³⁶ Allen, “Jerry Stokes,” 301.

³⁷ *Ibid.*, 302.

³⁸ Kamuf, “At the Heart,” 249.

³⁹ Allen, “Jerry Stokes,” 305–06.

⁴⁰ *Ibid.*, 307.

⁴¹ Sarat, “Cultural Life,” 242–43.

⁴² This self-reflexive moment in the *Strand* also raises questions of narrative form, which there is insufficient space to fully consider here. Barton emphasises “the novel [form]’s free indirect discourse as well as its narratological and rhetorical strategies in representing or responding to the death penalty, an event whose complex structure and dramatic unfolding demand an analysis from a plurality of voices and perspectives that novelistic discourse puts into play” (Barton, *Literary Executions*, 7). But there is another temporality at work in the death penalty: the instant. As Gwynne Fulton notes, “the sovereign masters death in a single moment. The hallmark of sovereign power is thus zero-time; so long as the condemned dies in the *blink of an eye*, the death penalty remains proper to the dignity of man” (Fulton, *Phantasmaties*, 76, 81). In this sense, the death penalty is profoundly non-novelistic, the zero-time moment of execution more resembling the short story; D. H. Lawrence’s description of the latter as making “a sudden, swift impression” equally describes the ideological moment of

the death penalty (Liggins, Maunder and Robbins, *British Short Story*, 8–9). Of course, the short story is not actually instantaneous, any more so than execution takes place in the blink of an eye. My point is that the paradoxical delay/instant dialectic of execution central to the death penalty also underlines the *Strand Magazine*, combining brief formats with the extended regularity (and delays) of monthly publication.

⁴³ Doyle, *Study*, 130.

⁴⁴ *Ibid.*, 44.

⁴⁵ Doyle, *Sign*, 21.

⁴⁶ *Ibid.*, 133, 113, 127.

⁴⁷ *Ibid.*, 121.

⁴⁸ *Ibid.*, 136.

⁴⁹ *Ibid.*, 137. *The Sign of Four* also opens and closes with another image of capital punishment: the hypodermic syringe. The use of morphine injection as means of execution was first proposed by the New York physician J. Mount Bleyer in 1887, not least as a cost-saving option (“The cost of erecting the gallows is considerable; that of a hypodermic syringe and morphine insignificant” (Bleyer, “Best Method,” 436)).

⁵⁰ Doyle, “Carbuncle,” 74.

⁵¹ Doyle, “Identity,” 258.

⁵² James, *Victorians*, 181.

⁵³ Doyle, “Identity,” 258.

⁵⁴ Rottenberg, “New Primal Scene,” 195.

⁵⁵ Doyle, *Hound*, 48. As Nicholas Utechin notes, “capital” is to be understood in the legal sense of a crime eligible for the death penalty. Utechin, “Capital Cases,” 32.

⁵⁶ Doyle, “Boscombe,” 404.

⁵⁷ *Ibid.*, 409.

⁵⁸ Ibid., 415.

⁵⁹ Wiener, *Reconstructing the Criminal*, 336.