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- 1 Throughout recorded history, governments have executed citizens and subjects. In many instances, groups of persons were executed for the same offense. People have been executed because they have a specific trait (i.e., race, religion) and/or political beliefs that were believed to threaten the states, or an undesired trait may simply have increased the likelihood of execution for less political offenses. Threats to the state may also have affected the probability of mass execution of those charged with *mala in se* crimes, such as murder or rape.
- 2 Currently, a mass legal execution would be extremely unlikely in the United States, since the execution of any convicted prisoner is rare. The cost to taxpayers in the prosecution, defense, and appeals process, coupled with the delaying tactics of attorneys defending death row inmates has made any execution problematic. In addition, with the recent limitations on the use of the felony murder rule and the use of testimony by those involved in a crime against accomplices, it is unlikely that as many as two persons will be executed for the same crime in the United States, and difficult to imagine more than two being thus executed. It took a stretch of the American constitutional prohibition against double jeopardy to raise the possibility of a second person's eventually being executed for the 1995 Oklahoma City bombing, which killed 169 persons, and after ten Muslim terrorists were convicted of murdering six and injuring over a thousand in the 1993 World Trade Center bombing in New York City – a nearly successful effort to bring down the building and kill 10 000 to 20 000 persons – there were no initial sentences of death². That certainly suggests that the execution of four blacks for a murder in Arkansas in 1960 was the last mass execution³.
- 3 The concept of mass execution is easy enough to understand, with various works focusing on numerous such incidents over time⁴. An Internet search engine asked to look for «mass execution» will instantly find several thousand references, from a book about America's execution of seven German prisoners of war with the phrase in its subtitle, to

reports about mass executions of millions of persons⁵. Like mass murder or serial murder, it may be easier to understand the general idea than to come up with a working definition suitable for statistical analysis. Mass legal execution is here defined as the execution of four or more persons for the same criminal incident by government entities following some form of trial. Over time, of course, what constituted a trial and due process varied, with fairness varying even within the same time periods and in the same colonies or states.

- 4 The questions that remain are how frequent were mass legal executions in the United States during its history from colonial times on, and what a study of those executions reveals that more general studies about capital punishment will not. Ordinary executions reveal what crimes were being committed for which the death penalty was the normal, and accepted, sentence, and the sorts of persons – minorities, literal or societal outsiders – on whom such sentences were most likely to have been imposed. A decline in the number of persons executed singly for burglary or robbery as the eighteenth century progressed suggests that capital punishment was ceasing to be an accepted punishment for property related crimes, with juries declining to convict or governors eager to commute death sentences for those crimes, even before the law removed them from the list of capital offenses⁶.
- 5 The change in types of crimes subject to ordinary capital punishment certainly shows change. Through the eighteenth century, only three-eighths of those executed were convicted of murder; it accounted for an increasing percentage of those executed in the nineteenth century, over 90% of those executed during the first two-thirds of the twentieth century, and, for several decades now, the only crime for which criminals are executed. But murder was the primary offense for only 8% of those executed in groups of four or more through the eighteenth century⁷. There were three general types of behavior that led to mass executions. The first involved actions that were seen as such threats to the social order as to be sanctioned by both legal and extra legal execution, the latter with no fear of government punishment of the executioners. For these threats, executions following due process were generally outnumbered by less formal mass killings. In *antebellum* America, the three most common instances involved insurrections, uprisings, and treason or other war crimes – or the fear of such potential actions – by slaves, Indians, and supporters of the enemy. Less common were some perceived threats from religious and ethnic minorities, as well as from ordinary criminals prior to effective organization of courts⁸. For some of those offenders, mass legal executions sometimes had benefits for the victim beyond the perfunctory shriving time allowed condemned slaves. The most offensive actions by slaves were punished by hideous tortures without pretense of trials⁹. For this type of offense, just as criminologists often prefer to study homicide because that crime is more consistently reported than other offenses, so legal executions may provide the best hard data on matters of such concern to society as to be thought worthy of the ultimate sanction.
- 6 The second type of offenses were actions seen as generally group threats to organized society, but only punished by organized society. The most prominent example was a single American episode of witchcraft, but piracy was a more common example. The final category involved offenses of no apparent concern to the public at large, but of overriding concern to its leaders, who often thought anything short of mass execution would be an inadequate deterrent. Military leaders periodically found the threat of desertion or mutiny to require exemplary executions to restore proper discipline.

- 7 Capital punishment itself probably better indicated not just the crimes but the criminals society most feared. For example, when blacks and whites were both convicted in connection with slave insurrections, blacks – slave or free – were generally subject to capital punishment while whites were subject to corporal punishment and expulsion¹⁰. Similarly, blacks were much more likely to be executed for homicide alone, whereas whites were more likely hanged only for what would now be described as aggravated homicide: murder in the course of another felony such as robbery or rape¹¹. There were also differences in the way criminals were treated after sentencing. For example, from the seventeenth on into the early nineteenth century, persons condemned to die were often given two weeks or more to prepare their souls to meet their maker, but delays were generally relatively short for those executed in mass executions.
- 8 Mass executions could, however, serve as a bellwether of the crimes most likely to continue to be acceptable as capital offenses. From the seventeenth on early into the nineteenth centuries, the North may have more severely punished moral offenses and the South property offenses, but the last mass legal executions for such offenses occurred near the end of the seventeenth century in the North and early in the eighteenth century in the South, a century before they ceased to be capital offenses. Later in the eighteenth and into the nineteenth centuries, when capital punishment remained acceptable for civilians primarily just for violent crimes, mass executions occurred only for fatal offenses in the North and for fatal offenses plus slave revolts in the South. Finally, although it took until the final third of the twentieth century for capital punishment to be limited to aggravated murder, such a limitation had occurred, at least for Caucasian mass executions, by the final third of the nineteenth century¹². Offenses that failed to lead to mass executions suggested crimes that eventually would cease to be acceptable for any executions, or else ceased to occur as crimes.
- 9 In addition to indicating popular fears or concerns, others factors also affected trends in the numbers of mass executions over time. What constituted a capital offense varied over time, from place to place within the same period, or was dependent upon status. By the end of the eighteenth century, for example, the South had many more capital property offenses than the North, and felonies punishable with imprisonment of whites were capital offenses when committed by blacks, especially if they were slaves¹³. Even within a region, the time and place of executions for slave revolts indicated not simply general, but localized, fears of insurrection¹⁴.
- 10 Similarly, the extent of adversarial process varied over time and circumstance, with substantially less of an adversarial process for all trials before the late eighteenth century, and then still less due process afforded blacks and Indians than whites, and with lower levels of due process for military trials than in civilian courts. This study focuses on executions following due process of groups convicted for the same offense rather than just a common execution date and place, with some thoughts on why mass legal executions changed in nature and number in *postbellum* America.

Method

- 11 For several reasons, there is no complete record of mass legal executions in the United States. First, this has been an area that has not been researched by others. Specific instances may be famous and have been the focus of intense scholarship (e.g., the Salem

witch trials, the Lincoln assassination trial), but this is the first attempt to begin to quantify and compare them. Second, many instances of mass execution may have been lost to history. Third, even defining mass legal execution is no simple task; it is one of several terms or concepts for which the temptation is to repeat what American Supreme Court Justice Potter Stewart substituted for a precise definition of obscenity: «I know it when I see it.»

- 12 To impose a precise definition on a less precise concept, mass legal execution is here defined as the execution, by duly constituted authorities following some form of trial, of four or more persons for the same criminal incident, in what is now the United States (excluding territories). This definition of «mass» was fashioned after a fairly common criminological definition for mass murder as the criminal killing of four or more persons; this number was recently also used for a study of mass lynching¹⁵. A complicating factor is defining «incident» since the same fears that led to mass executions might involve a variety of specific charges, particularly where different evidence might exist as to the existence of witchcraft or a conspiracy of slaves to revolt. A cursory look at incidents in New York and nationally suggests that reducing the number executed from four to three – another popular number for criminological studies of mass murder – would increase the number of such executions but not change the sorts of crimes thus punished¹⁶. Reducing the number to two would, like single executions, tell more about the sorts of crimes and criminals subjected to capital punishment – that is, the willingness of society to use capital punishment – but rarely anything more. Executions by Indians of persons of European, African, or Asian descent are excluded regardless of whether tribal due process was observed, as are war related summary executions most commonly found in wars involving various Indian tribes and explorers and colonists from England, Spain, and France¹⁷.
- 13 One complicating factor for this definition is determining what constitutes due process of law. It is fairly clear that ordinary lynchings would not fall within this definition, even though some lynchings included at least the pretense of a trial. Yet some vigilance committees, acting regarding slave revolts and ordinary crimes, operated with more serious trials before executing those condemned than some judicial trials for slave revolts. For some executions, particularly military ones, it is not totally clear which executions were summary or followed courts martial, whether any court martial seriously considered evidence or simply ordered summary executions, or, for that matter, how many of those executed for the same incident had hearings and how many did not. A good example of such confusion, at least in reports, would be the termination of Bacon's Rebellion in 1676 Virginia, where the total number executed was probably 23, with some clearly summary executions, some possibly following courts martial, however seriously held, and some civil trials¹⁸.
- 14 In most studies dealing historically with capital punishment in America, any discussion of mass executions has been anecdotal or not really mentioned at all. Such executions are rarely featured in general studies of capital punishment in America, or in those works dealing only with limited aspects of capital punishment, such as the executions of assassins or military executions¹⁹. The few published studies of capital punishment in different states or territories have reports of mass executions in Pennsylvania and in New York, included in lists of everyone known to have been legally executed in those two states, and even there, mass executions were rare and constituted a small minority²⁰.

- 15 The major exception is in Herbert Aptheker's study of slave uprisings, where he noted the punishments meted out when the uprisings were put down, with some effort to distinguish between those executed by the authorities and those simply killed by either private parties or military or militia bodies. It is not certain that he was always able to make the distinction accurately, with flaws generally (but not invariably) exaggerating rather than minimizing the number lawfully executed. It is also not clear that the punishments were for actual conspiracies or revolts, or because of unfounded fears of possible revolt. As an indication of social fear, however, the reality of the conspiracy is not relevant²¹.
- 16 After reviewing the literature, the next step was to examine the list, compiled by M. Watt Espy, Jr., of legal executions from colonial times to the present. That list currently includes almost 19 000 executions, but there is access to only three fourths of it, generally referred to as the Espy File; that portion is available on-line from the Inter-university Consortium for Political and Social Research, and it is not always reliable because of coding errors. For example, the black slaves executed for a revolt in New York City in 1712 are all recorded as Caucasians²². Also, the data are incomplete²³. This might be partly because, until the 1820s and 1830s, newspapers rarely reported executions, which might be covered by broadsides instead, which are less likely to have survived to the present. Official local records have often disappeared in numerous courthouse fires, accidental and deliberate. For example, Philip Schwarz can document the death sentence for four slaves among a larger group charged with «stealing themselves» and a boat in an escape attempt, but the records of what followed are missing.²⁴ Newspaper coverage improved when executions changed from public areas to the privacy of prison yards²⁵. In addition, colonial records were often better at recording sentences of death than whether those sentences were carried out; commutations were fairly common in *antebellum* America²⁶. Overall, sources differ in the numbers of persons executed for the same incident, their ethnicity, the date of execution, and the offense for which persons were executed. For slave executions, variation in date is sometimes explainable by Espy's use of the date compensation was paid to the slaves' owners rather than the actual execution date, since compensation established greater certainty that a recorded death sentence was implemented.
- 17 In addition to ordinary problems, ideology affects some of the data. With slave owners fearing slave revolt, they may have seen activity as revolt where it had not actually occurred, but slave owners also thought it best to minimize incidents of possible revolt both to avoid inspiring additional revolts and to preserve the image of satisfied slaves. One result was to both perceive and punish possible revolt as simply murder. Herbert Aptheker, on the other hand, had his own ideological bias leading him to see uprising of the oppressed even where it may just have been murder. At the time of his initial research, the Communist Party, in which he was an active member, was tying itself to civil rights issues, and finding slave revolts helped both to show that blacks were not so docile as southerners pretended, and to encourage the idea of nascent revolutionary activity against an oppressive capitalist system. Similarly, the prominent Samuel Sewall's diary described killings by Indians in the Massachusetts Bay colony, followed by an execution of several of them²⁷. The Indians were involved in King Philip's war, but the colonists viewed many Indian conflicts as crimes, with trial and execution²⁸.
- 18 Espy's data are by no means definitive, and some other data sources have different numbers of persons executed at the same time and place for the same offense. In addition

to incompleteness, inconsistencies, and coding errors, there are two minor problems with the Espy data, making them suggestive but insufficient. First, listings alone cannot tell whether an offense qualifies as a mass execution for two reasons: a listing by dates might suggest that executions on the same date are related when they may not be, and the Espy File would fail to call attention to executions of persons for the same criminal incident that are spread out over time. The first was a problem primarily in the earlier years of the republic and prior colonial times, particularly in northern urban areas, where executions were done in groups even if the individuals had nothing in common beyond the day they died. A listing that four persons were executed for murder on a particular day in Philadelphia, for example, does not mean that they were involved in the same murder²⁹. This tendency is a potential problem primarily for mass executions for murder. It did not exist to the same extent in southern dealings with blacks, where there was less tendency to have regular hanging days or to be concerned about leaving sufficient shriving time. If four or more slaves were executed at the same time for the same offense in a rural county, particularly if they were owned by the same person, it is likely that it was a mass execution³⁰. Nor did the problem occur with other offenses more common in *antebellum* mass executions than ordinary executions. Pirates, witches, and Indians, for example, were not executed with criminals associated with different criminal incidents. Even for murder, the problem was minimized in most jurisdictions by the goal of staging the execution to maximize its deterrent value, often hanging the offender near the scene of the offense³¹.

- 19 The second problem, rare before 1866, is that persons might be executed for the same offense but on different dates, with the common tie lacking in broad listings of executions. Two *antebellum* examples would be that using a single date alone would separate the three groups and two individuals executed for witchcraft in Salem and would separate John Brown from the execution of most of his co-conspirators in the Harpers Ferry raid, who were executed two weeks later, and from an additional pair executed three months later³².
- 20 Various military sources and books about America's wars on American soil were used to find military executions; such instances are not systematically included in the Espy File, which is devoted to executions «under civil authority» (although he certainly lists some executions for desertion). A variety of sources, especially Aptheker's study of slave uprisings, but also general books on capital punishment, the Internet, and other sources, also have been used to attempt to find pre Civil War era legal executions. It would appear that of the nearly 20 000 legal executions in what is now the United States from the seventeenth century to the present, approximately 8% of those executed were involved in mass executions as here defined; mass executions accounted for over a quarter of those executed before the end of the Civil War and just 3% of those executed during the following century. As with all such percentages mentioned, this is approximate, since the complete list compiled by Espy has not been made public. A list of known pre 1866 mass legal executions is appended. One thing the data clearly indicate is that there was a dramatic change in the nature of mass legal executions following the conclusion of the Civil War, partly because of the nature of the crimes subject to capital punishment and partly because blacks were kept in their place not by slave patrols and the suppression of slave revolts but by Jim Crow laws and the use of lynching and other forms of intimidation.

Executions through 1865

- 21 The vast majority of America's mass legal executions occurred during a span of just over two centuries, as the population grew from about a quarter million to nearer forty million persons. Only about one eighth of the subjects of mass executions had been convicted of murder, currently the only crime for which persons are sentenced to death and that even then accounted for 60% of all executions. About one fifth of the mass executions involved crimes related to war (treason, desertion, mutiny, espionage), with about 9% involving piracy. If the small number of legal executions related to Indian uprisings are added to those related to slave revolts, mass executions for those two offenses by oppressed minorities against the ruling authority account for over half of the mass legal executions in those two centuries. Meanwhile, the most famous mass legal executions, resulting from the Salem witch trials, accounted for just 2% of the mass executions of the period prior to the end of 1865.
- 22 There were a number of reasons for more mass legal executions in the first centuries of European residency in America. Some crimes – slave revolt and piracy, for example – are group activities, inviting punishments of groups. In addition, the legal system made mass execution easier. Death was the mandatory sentence for some felonies. In the South, trials might be before a justice of the peace rather than a jury; when with a jury, slaveholders were overrepresented, further minimizing due process for accused slaves. The rules of evidence impaired the ability of slaves to defend themselves, while protecting whites since blacks could not testify against them. As a result, convictions were easier to obtain and appeals were almost nonexistent; even petitions for gubernatorial commutation might only be initiated by free men. Trials remained relatively rapid, with appeals relatively rare, throughout the nineteenth century³³.
- 23 On the other hand, as perceptions of what offenses warranted execution changed in the second half of the eighteenth century, there was a greater tendency for jury nullification, especially with property crimes, where the only sentence for the guilty was death. In addition, convicts might seek commutation of the sentence, generally from the governor, and arguments for commutation might include legal as well as other arguments; executive clemency prevented many executions from occurring. In the northern colonies, and later states, there might be weeks or months between conviction for most crimes and execution to allow the condemned to prepare his soul for God and to seek clemency on earth, although delays were sometimes minimal in the case of witches, pirates, and soldiers.
- 24 Indeed, one difference between normal executions and mass executions may have been the way culprits were perceived and thus the speed with which mass executions were carried out. The general seventeenth and eighteenth century view was that all men were sinners; those committing capital crimes subject to execution were seen as similar to other folks who, but for the grace of God, might have committed the same act. However, this perception did not apply to the crimes and criminals subject to mass executions; they were viewed more as the condemned generally in the nineteenth and twentieth centuries. There was less concern with allowing time for, and encouraging, penitence in the nineteenth century, as the view changed from one of all men being sinners to one that the law abiding were virtuous and the condemned more alien. In the southern colonies and later states, particularly when dealing with black defendants, there was less

concern with the condemned slaves' souls, and executions were conducted more promptly³⁴.

Piracy

- 25 Hanging pirates accounts for roughly 9% of the mass executions through 1865; there were ten incidents beginning with the first mass execution in 1661, with the last mass execution for piracy occurring in 1835. Piracy was a crime for which mass execution seems particularly feasible, and about two thirds of all persons executed for piracy were hanged in groups. Their offense was the most serious of property crimes, threatening as it did trade in which the government had a compelling interest and thus a crime more against the government than other property offenses. In the seventeenth century, Sir Edward Coke, probably the most important legal figure for colonial America, described a pirate as «an enemy of the human race»³⁵. In addition to being societal outsiders, with no ties to or defenders in the community, their arrest may well have involved the risk to, or actual loss of life of, the arresting body³⁶.
- 26 Pirate life was fairly democratic, with the captain first among equals, making it difficult for associates to claim either impressment or innocence, although some suspects did successfully claim compulsion or, essentially, apprenticeship status. The democratic nature of life as a pirate was in many ways more appealing than life in the navy or on ordinary merchant ships. In addition, relatively few pirates were actually captured. At any rate, on those occasions when pirates were captured and tried in a group, they also were hanged as a group, and fairly promptly, often less than ten days after conviction³⁷. In recounting a mere two day delay between sentence and execution of some pirates in the British West Indies, for example, Daniel Defoe recounted that, when the «Prisoners pray'd for longer Time to repent and prepare for Death,» their request was rejected. They were told that they should have been using the four weeks since their apprehension for that since from that date on «they ought to have accounted themselves as condemned by the Laws of all Nations»³⁸. Although not all pirates were male, all those hanged in mass executions in America were, and, where ethnicity was noted, the only minority reported was a group of five Hispanics, the final group of pirates hanged, in 1835³⁹.

Witchcraft

- 27 The Salem witch trials led to perhaps the best known of mass executions in colonial America. The Salem witch trial suspects included prominent persons as well as those in ill repute, and men and children in addition to women. With one of the leaders of the prosecutorial conspiracy a physician, the victims included midwives and a competing physician. Political, religious, economic, and even family feuding may have been distinguishing characteristics of the Salem trials, which could also be seen as an effort to explain and expiate whatever sins had led God to abandon the English colonists so that they were humiliated in a military attack on French (Canadian) colonists⁴⁰. The witch hunt eventually included about two hundred suspects in as an area with perhaps a thousand households.
- 28 The 20 men and women executed primarily on July 19, August 19, and September 22, 1692 – the last male, refusing to plea, was pressed to death on September 19 – constituted

57% of alleged witches executed in America. Four others died while imprisoned in Salem that year, including the infant daughter of one of those hanged, whose older sister, aged four, the youngest accused and imprisoned for witchcraft, was released on bail after her mother's death. The times between condemnation and execution varied. Although only a week passed between the first condemnation and execution, a group of five women executed in July had three weeks to prepare, those in August two weeks, and those in September included some given two weeks and some only five days⁴¹. Once the governor prohibited spectral evidence, most witchcraft trials ended in acquittal with the few convictions commuted. During the seventeenth century, an additional 13 persons (mostly women) were hanged as witches in Connecticut and Massachusetts, and one slave woman in Maryland in 1779⁴². Those selective hangings fail to indicate the same pervasive social fear as the Salem witch hunt.

Murder and other felonies

- 29 Only about one sixth of the persons included in mass executions during this period dealt with ordinary murders or the other felonies (especially robbery and burglary) for which capital punishment was commonly the sanction, at least through most of the eighteenth century. Whereas about 28% of all persons executed before 1866 were involved with mass executions, only about 7% of convicted murderers were thus dealt with. Several reasons help to explain this. One is that most such crimes probably included only one or two culprits. Another is that gang activities might still escape such punishment since, particularly in the North, two legal responses limited such executions. First, since the mandatory sentence for conviction of serious felonies was execution, juries occasionally simply acquitted those clearly guilty if they deemed death too severe a sentence for less culpable gang members. Second, executive clemency – commutation of sentences by the governor (or, in a few colonies or states, other bodies with pardoning power) – was fairly common, granted in one quarter to one half of death sentences as compared to one or two percent in twentieth century America.
- 30 By the nineteenth century, only the South retained capital punishment for large numbers of felonies less serious than murder, particularly for such crimes as sexual assaults, committed by slaves⁴³. Even with murder and serious offenses, mass execution was most likely when there was some aggravating factor, such as homicides committed in the course of robbery and/or by gangs – robbery related murder being considered into the nineteenth century, as it had been for centuries, as an especially heinous murder – or by slaves, Indians, Hispanics, and others considered to be outsiders⁴⁴.

War related executions

- 31 Approximately 20% percent of the massexecutions during the period were related to military activities, probably enhanced by the fact that two major wars of the eighteenth and nineteenth centuries were civil wars, where both sides were represented by American civilians. The number understates the actual figure. There were some summary military executions without use of courts martial. Also, executions following courts martial by British forces during the Revolutionary War would not have been viewed as following due process by the existing revolutionary authorities. The impact of war on executions can be shown by the fact that whereas a quarter of those executed *antebellum*

were subjects of mass execution, well over half of Civil War era executions occurred *en masse*.

- 32 A number of the war related mass executions appear to be related to popular concerns about disloyalty among fellow citizens and to concerns by military leaders about the relatively common problem of desertion and/or mutiny. The first such mass executions occurred when Sir William Berkeley, Virginia's governor, put down Bacon's rebellion in 1676-77, with 23 executed for treason, 14 of whom were after quick courts martial often presided over by the governor against whom they were rebelling but 9 were after civilian convictions⁴⁵. A few of the other mass executions were also related to more localized events such as two groups of deserters executed in New York in May 1756 during the French and Indian [Seven Years] War, and one group for treason in Louisiana in 1769, where the hope was for French rather than Spanish rule⁴⁶.
- 33 Desertion was a common problem in America's eighteenth and nineteenth century wars (French and Indian War, Revolutionary War, War of 1812, Civil War), as were executions for desertion, with the number executed increasing partly to frighten potential deserters from committing that offense; other means included rewards for capturing deserters and offers of pardons to deserters who returned fairly promptly to duty⁴⁷. Most executions for desertion – perhaps 60% of those so slain – were mass executions. In 1756, convicted New York deserters were split into two groups for execution to enlarge the sphere of deterrence, one group in Albany, where the court martial occurred, with another group sent to Schenectady for execution. During the War of 1812, General Winfield Scott ordered a court martial that had originally sentenced only one deserter to die, to reconsider and order all four convicts to be shot⁴⁸. The execution of deserters during these wars was actually imposed on only a fraction of the persons who were guilty of the offense, with the number chosen based on perceptions of what was needed to impose discipline.
- 34 Such mass executions were not based on social or popular concerns but on efforts by the military and political leaders to ensure compliance with orders. It may be indicative of a greater problem with desertion by Confederate forces, particularly in the later stages of the war, that led to more victims of mass execution for desertion in the Confederacy – 55 in three incidents, with 22 possibly not really deserters, versus 18 in four incidents of Union soldiers⁴⁹.
- 35 A complicating factor in some wars was determining which soldiers were deserting and which were merely fighting for the side other than the one for which they were expected to fight. The Confederacy executed for desertion 22 white males who had been fighting with Union forces, insisting the men were not Union soldiers, and thus prisoners of war, but Confederate deserters. The perceived execution of POWs led to formal protest and the threat of similar executions by Union forces of Confederate POWs should there be any repetition of the event⁵⁰. There were three instances of mass execution of black Union soldiers, not for desertion but for rape, murder, and mutiny, with all of the executions coming after General Robert E. Lee's surrender at Appomattox. There were no mass executions recorded of white Union or Confederate soldiers for violent offenses, except for Confederate soldiers executed primarily for desertion, but who also had murdered while resisting arrest for desertion⁵¹.
- 36 Some of the military related mass executions during America's wars for independence and preservation of the union involved perceptions of treason. Unlike desertion, the

executions of perceived enemies clearly indicated social fears along with strong popular views. Some Tory sympathizers were executed for treason, murder, and/or robbery, for acts they presumably saw as supportive of the legitimate government⁵². Again, similar actions against those supporting independence might not have been recorded as legal executions.

- 37 There were similar executions by both sides of the Civil War. For example, in north Texas where there was concern that relatively recent arrivals who were non slaveholders might be sympathetic to the Union side, there were not only mass executions of a total of 36 men immediately following a trial, but the lynching of another 14 and informal shooting of three others, with no trial or prior to a verdict from the «citizen's court»⁵³.
- 38 In war, some executions were related to battle. For example, at King's Mountain in the Revolutionary War (1780), the winning rebels reacted to perceived previous refusal of the loyalists to give quarter to defeated rebels by refusing to accept surrender and instead massacring many of the British troops and supporters. They followed the massacre with summary trials of some of the survivors, quickly followed by mass legal executions⁵⁴.
- 39 Espionage was another war related offense punished in mass executions. The most prominent incident served as the basis for two major films – *The General* (1926), with Buster Keaton, and *The Great Locomotive Chase* (1956). Two civilians and about 20 ununiformed Union soldiers stole a locomotive in Georgia with the intent of destroying railroad bridges on their escape through Tennessee. As the movies portray, the men were captured, but the fact that eight men were hanged was not featured in the films. Most of those soldiers were among the first men awarded the new Congressional Medal of Honor⁵⁵.

Indian uprisings

- 40 There were relatively few mass legal executions for Indian uprisings; most hostilities between European settlers and the native population did not involve even the pretense of judicial proceedings⁵⁶. The mass executions occurred primarily after settlements had been established, and trouble ensued as Indians reacted to what they perceived as mistreatment. The actual mass executions occurred only near the beginning and the end of the period in question. Massachusetts executed 8 Indians in 1676. After that, the next two recorded mass executions of Indians occurred during the Civil War, although it is possible that mass executions of Indians for murder in (Spanish) California in 1778, in Arkansas and Alabama in the 1830s, and in Oregon in 1850 were actually minor uprisings⁵⁷. In late 1862, the federal government, following a military tribunal and presidential review of the initial 300 death sentences, executed 38 Dakota Sioux in response to a series of massacres in Minnesota resulting in the deaths of about 800 civilians⁵⁸. Five Indians from the Nome Cult Reservation were executed in Mendocino County, California, the following year, in response to civilian complaints about «Indian outrages»⁵⁹.

Slave revolts

- 41 Almost half of the subjects of mass legal executions during the two centuries ending with the Civil War were involved in slave revolts, and almost all of those executed were blacks – mostly slaves but a few free men. Most of those executions occurred in the

nineteenth century prior to the start of the Civil War; there were relatively few during the eighteenth century, and during the Civil War there was decreased recourse to due process and greater use of troops to suppress insurrections. In the case of slaves and slave revolts, there were an undetermined number of killings without due process in addition to legal executions. Under some circumstances, slaveholders had the authority to kill their slaves, and, even where illegal, such actions were not apt to be punished by the state; but such punishment was generally of single slaves, not groups. Slaveholders, in general, preferred to let the courts deal with slaves' crimes, especially group offenses, since they could be reimbursed for executed slaves; the compensation was deemed necessary in part to prevent slaveholders from protecting their property from the criminal justice system. In the case of slave insurrections, many slaves were killed in putting down some of the larger revolts, particularly those led or inspired by Gabriel in 1800, Denmark Vesey in 1822, and Nat Turner in 1831⁶⁰.

- 42 Most slave revolts, as recorded by Aptheker, resulted in the apparently lawful execution of selected slaves rather than mere killing, although the total number executed was likely surpassed by the number slain without a trial. Both numbers would have been dramatically higher but for the economic pressures against destroying «property» and/or compensating owners for such «property». The extent of due process varied and could be minimal. The surviving record of a slave revolt in St. Peter's Parrish, Louisiana, seems limited to a teenager's recollection: «There was a rumor afloat of a threatened insurrection among the slaves. But like almost every other plot of the kind, the scheme failed. Information was given by one of the negroes, wiser, or more timid than the rest. The ringleaders were seized a few hours before the time appointed for the outbreak. They were tried without delay and ten, or a dozen, condemned to be hanged. Their heads were cut off, stuck on poles and set up along the highway leading from Purrysburg, the place of trial, to Coosawhatchie, the judicial capital of the District»⁶¹.
- 43 Most of the revolts resulted in relatively small numbers of slaves being executed, generally just a few ringleaders rather than the more numerous followers, although there were several with a dozen or more executions. Punitive focus on ringleaders may also help to explain the vast predominance of males among those executed for slave revolts. Only about 3% of the slaves executed were female. That focus also explains why most slave revolts did not result in mass executions. While Aptheker records over one hundred slave revolts – defined by him as involving more than merely killing as an owner or overseer, or attempting to escape, but a planned or attempted uprising, by 10 or more persons, against the system – only about one third of them resulted in mass legal executions. On the other hand, although the data are not too reliable, that third accounted for up to 80% of executions for perceived slave revolts. The relatively small number of slaves executed was not due to slaveholder or the state concern about black lives, but for two other reasons. To slaveholders, slaves constituted valuable property, not lightly to be destroyed, if selective executions were sufficient to assure compliant behavior in the future, then other participants might suffer severe corporal punishment (whippings, nailing an ear to a post and then removing it, etc.) and/or sale of some slaves out of state. In addition, the executions of slaves were costly to the states, since most state laws called for reimbursing slaveholders for property essentially taken by the state. There was thus a desire to balance the competing goals of deterrence and frugality or economy⁶². In addition – somewhat ironically in view of the lack of legal counsel for free

blacks facing capital charges after the Civil War – slaves were often entitled to counsel for capital trials⁶³.

- 44 Executions of blacks for all offenses, including slave revolts, were much more common than for whites in the South. Death was the standard sentence for slaves for a number of non lethal offenses for which the penalty for whites was only a few years' imprisonment⁶⁴. Unlike whites, who could at least appeal for commutation, any such appeal was sometimes precluded for blacks who were dependent upon whites to make such appeals on their behalf⁶⁵. Mass executions of blacks, however, were generally for life threatening offenses such as murder, attempted murder, and slave revolts. Although southern whites were occasionally executed or lynched for anti slavery or pro slave activity, whites were among those hanged in mass executions clearly related to anti slavery activity on only four occasions: the New York City slave revolt of 1741, aiding runaway slaves in Florida in 1846, John Brown's raid, and one white man hanged along with three blacks in a Georgia slave revolt during the Civil War⁶⁶.
- 45 In an effort to make the selective mass executions more effective as a future deterrent as well as, perhaps, to indicate their disapproval of the revolts, some of the methods of execution were more traumatic than hanging, the standard method of execution until the late nineteenth century (except for the firing squad used for some military executions). These included beheading slaves after execution, with the heads displayed as a permanent reminder to slaves as to what might happen to them if they revolted; using the gibbet, thus exposing the entire body rather than burying it; and burning, considered a sort of «super-capital punishment»⁶⁷.
- 46 Burning had two advantages for the state and slaveholder. First, it was a more painful death than hanging. Second, along with vengeance for the victims and the authorities, burning was thought to reduce the likelihood of salvation of the soul. Particularly during the seventeenth and eighteenth century, the execution of whites was an effort to punish without imposing eternal damnation on the soul of the person executed. Although trials might be relatively speedy, depending upon when the court regularly met relative to when a person was arrested for a crime, executions were often delayed to allow the convicts plenty of time to make their peace with God and to ready the soul⁶⁸. But there was less concern when slaves were executed. The delays were shorter – at most days instead of weeks or months – and, particularly with death by fire, there was a desire to humiliate the corpse and assure «the living that the culprit's remains would not rise whole on the Last Day of Judgment»⁶⁹.
- 47 Even for leaders of slave revolts such executions were rare, with the desecration of the body only imposed after death; there were still occasional recommendations that the offender spend his remaining days «making peace with the God who you have offended – Your crime must have been great but it has not placed you beyond the pale of forgiveness – God is merciful – Repent and save your immortal soul!»⁷⁰ The judge, after enthusiastically sentencing Nat Turner, leader of the largest slave revolt, to «be hung by the neck until you are dead! dead! dead!», immediately added «and may the Lord have mercy upon your soul»⁷¹. Whatever may have happened to Turner's soul, his postmortem body was reportedly skinned, with some of the skin turned into a money purse, the skeleton going to a doctor, and the rest of the body destroyed⁷².
- 48 The mass execution of slaves clearly demonstrated a social fear of a slave insurrection, although widespread reporting of most perceived revolts and executions was limited. Southerners may have feared insurrection, but they also feared that reports of

insurrection might encourage more revolts, and reports would undermine southern claims that slaves were satisfied with their lot. Differences between Aptheker's counts, based on newspaper and personal accounts, and those of Espy and others, based on legal documents where preserved, indicate that, when revolts were reported, the numbers executed may have been exaggerated, either for deterrent purposes or just expressive of a normal human tendency.

- 49 The most vicious punishments for convicted slaves, however, occurred outside the South and in Louisiana during the first half of the eighteenth century. Breaking on the wheel was used as the punishment for one or two slave revolts in Louisiana⁷³. When four slaves killed their owner's family in New York in 1708, execution was reportedly by torture, with the black female slowly burned⁷⁴.
- 50 The most painful executions were efforts to suppress revolts in New York City, first in 1712, and then in the better known revolt of 1741. The 1712 revolt resulted in far fewer executions. After arson, stabbing, and shooting killed 9 whites and injured another 7, about 20 black males were executed over a period of about three months after convictions on charges of murder or accessory to murder. The law did not specify the means of execution, so the governor opted for selective viciousness due to the fear the revolt had created among the populace. Several were just hanged, but one was hung in chains until he died of starvation, another broken on the wheel, and three burned. Tom, the slave of Nicholas Roosevelt – the last common ancestor of both Presidents Theodore and Franklin D. Roosevelt – was roasted slowly, the process reportedly taking more than 8 hours⁷⁵.
- 51 By the time about 32 persons were executed for the New York City revolt of 1741, the methods of execution were more limited, but the panic greater. Unlike most southern revolts, where the punishments for white conspirators were generally relatively light (whipping, banishment)⁷⁶, the New York City revolt was suppressed with the execution of 2 white females and 1 or 2 white males, all hanged. Of the 29 black males executed, 15 were burned. The white panic – leading to the banishing of 70 blacks and 7 whites in addition to over 30 executions in the city and 2 executions in New Jersey for arson⁷⁷ – is exemplified by the treatment of Johannes Roosevelt's slave, Quack. Part of the panic was caused by the burning of the governor's mansion (which the lieutenant governor believed to have been an accident) and various other buildings. Quack was convicted even though Roosevelt, a prominent New Yorker who had served on the grand jury indicting various slaves, provided the alibi that Quack was occupied at the time of the arson of which he was accused, and thus could not have been guilty. As Quack and another slave were prepared for execution by burning, Roosevelt suggested to Quack that his only hope was to say he was guilty and seek a reprieve, but the mob watching the execution refused to allow a delay for a reprieve to be considered, and the two slaves were burned⁷⁸.

Conclusion

- 52 From early colonial days to the end of the Civil War, the mass executions of slaves indicated the great concern of the white community over the possibility of insurrection by persons who constituted either a substantial minority (as in New York City in the first half of the eighteenth century and most southern states) or even a majority of the population of an area⁷⁹. Mass execution for piracy was related mostly to the nature of the crime and its occasional punishment, and for desertion was related to the need to establish military discipline. The other major contributors to mass executions – Indian

and slave uprisings and witchcraft – seem more indicative of great localized fears rather than just the frequency with which particular crimes were being committed. While Indian uprisings and the witch hunts were sharply limited in time and place, the fear of slave revolts was an overriding concern wherever slavery existed prior to the North's victory over the South.

- 53 Before the end of the Civil War, the study of capital punishment would show a greater use for moral offenses in the North and property offenses in the South, discrimination against outsiders everywhere, gradual declines in the use of the extreme sanction for non lethal offenses – more than made up for by its use against murderers – a greater perception of offenders as different from non offenders rather than just other sinners gone bad, and largely unsuccessful political efforts to reduce the use of the sanction, with its imposition instead just less likely to be at a public ceremony⁸⁰. Mass legal execution, on the other hand, showed limitation only for less frequently committed offenses (witchcraft, Indian uprisings, piracy), but greater use where social and/or political fears were greatest, related to slavery and war. For example, incidents of mass execution occurred roughly once every three years in the eighteenth century, twice every three years in the *antebellum* nineteenth century (a period of increasing numbers of real and feared slave revolts), and five times a year during the Civil War.
- 54 Following the Civil War, there was a dramatic decline in the use of mass legal execution. There are a number of reasons for that, related to the types of crimes that tended to be punished with mass execution and, for that matter, with capital punishment at all. The last execution for witchcraft took place in 1779, and the last execution for piracy in 1862. Slavery ended following the Civil War, although there remained fear of blacks and black equality in the South, and of immigrants and labor unrest throughout the country. But for southern blacks, this meant lynching and disproportionate use of ordinary, not mass, legal execution; nationally, blacks accounted for one third of those executed in mass executions, but about half of all executions, and almost three fourths of all lynchings (seven eighths of those in the South)⁸¹. During the half century heyday of lynching (1880-1930), approximately as many blacks were lynched as were legally executed. About 7% of those lynched were murdered in groups of four or more, less than the *antebellum* percentage but higher than the percentage of *postbellum* mass legal executions⁸². For the most part, in the final decades of the frontier, the final suppression of the Indians was conducted by the army rather than with the use of the judicial system, and other warfare on American soil all but ceased, and with it the need to suppress mutinies and desertions.
- 55 Various changes had occurred over the decades and centuries as well. It has been suggested that crimes became less group and more individual activities⁸³. After a century, attacks on capital punishment itself, while failing, had certainly limited the number of offenses for which persons were commonly executed. By the final third of the nineteenth century and throughout the twentieth, murder was almost the only crime for which whites were executed, and whites were rarely executed for murder alone, but for murder with aggravating circumstances, such as in the course of another crime, as part of a gang activity, and the like. Blacks were more susceptible to legal executions for rape and murder, even without aggravating circumstances, but rarely for other offenses⁸⁴. Mass executions have generally been limited to the crimes for which ordinary capital punishment is most supported, and which would remain constitutional even following late twentieth century U.S. Supreme Court decisions requiring findings of aggravating circumstances even for murder to warrant execution. Following the Civil War, there were

only two mass executions resulting from crimes that did not involve the loss of life: the execution of 6 Nazi saboteurs in 1942 and the execution of 7 blacks for rape in 1951.

- 56 In addition to the limited number of crimes subject to capital punishment, and especially mass execution, criminal suspects had greater rights both at trials and after, limiting the likelihood of a death sentence being imposed. There was also a change in the way cooperative criminals were treated. In the seventeenth and eighteenth centuries, cooperation did not necessarily mean exemption from execution, although the hope for clemency was a motive for cooperation. In the nineteenth and twentieth centuries, it was more common for those turning state's evidence to be assured at least lesser sanctions. Felony murder convictions gradually led to fewer executions of those who, while involved in murderous activity, did not personally take another person's life.
- 57 Finally, diminished political support of capital punishment itself renders mass executions even less appealing, even to supporters of death penalties, who would rather not have the sorts of executions that would likely increase opposition to all capital punishment. Until the last mass execution in 1960, and particularly for those prior to the end of the Civil War, however, mass legal executions helped to show not just which offenses were of great concern to the public or its leaders, but the types of crimes likely to survive as bases for ordinary executions as well, despite the growing opposition to capital punishment during the past two centuries.

List of mass legal executions in america up to 1865

Date	State ⁸⁵	Actual Offense ⁸⁶	Manner of execution ⁸⁷	Number, race, sex of executed	Sources,* Miscellaneous
1661	Mass.	Piracy	hanging	6 males	E
April 1671	Md.	Murder	hanging	3 white males, 1 black male	E, M. White servants and a slave killed aster ⁸⁸
Sept. 1676	Mass.	Indian uprising	shooting	8 males (1 black, 7 Indian)	E. S reports all as Indians
Nov. 1676-1677	Va.	Treason	hanging	23 white males	B. Bacon's rebellion; 14 military, 9 civil trials
Jan. 1689	Mass.	Piracy	hanging	8 males	E
July-Sept. 1692	Mass.	Witchcraft	Hanging pressing	14 white females 5 white males 1 white male	D, P, S. One, then one mass execution each of 3 months
June 1704	Mass.	Piracy	hanging	6 white males	E. T has 7
Aug. 1706	Va.	Burglary	hanging	5 black males	E, K. Slaves

Feb. 1708	N.Y.	Murder	torture	1 Indian male, 3 blacks (1 female)	H. Mass murder by slaves of owner's family
April-June 1712	N.Y.	Slave revolt	hanging, torture	20 blacks (2 females)	C, H
Nov. 1717	Mass.	Piracy	hanging	6 white males	E
Nov.-Dec. 1718	S.C.	Piracy	hanging	23 white males	E, N, O
1720	Va.	Piracy	gibbeting	4 white males	E
Summer 1720	S.C.	Slave revolt	hanging	14 black males	A
July 1723	R.I.	Piracy	hanging	26 white males	E, N
Sept. 1730	Va.	Slave revolt	hanging	5 black males	A, E, K. A and E have 4
1730	La.	Slave revolt	broken on wheel hanging	8 black males 1 black female	A
1732	La.	Slave revolt	broken on wheel hanging	4 black males 1 black female	A. Some suspicion same plot as above but misdated
Nov. 1738	R.I.	Piracy	hanging	4 white males	E
June 1740	S.C.	Slave revolt	hanging	50+ black males	A
May-July 1741	N.Y.	Slave revolt	17 hanging (3 gibbet) 15 burned	29 black males; 3 whites (2 female)	0 were among those hanged, with the male gibbeted. E has 1 additional white male
May 1756	N.Y.	Desertion	shooting	10 white males	H
1767	Va.	Poisoning	hanging	4 slaves	E. Sex unspecified
Dec. 1767- Jan. 1768	Va.	Slave revolt	hanging and beheading	8 black males	A
Oct. 1769	La.	Treason	shooting	6 white males	E. G says only 5, with a 6th dying in prison
Oct. 1769	N.C.	Felony	hanging	7 black males	E. Slaves, with compensation

June 1771	N.C.	Treason	hanging	6 white males	E, F. Frontiersmen/ guerrillas upset with corrupt officials after losing battle
Oct. 1773	Md.	Murder	hanging	4 males	E. Identified as convicts
March 1776	Va.	Running away/ Theft	hanging	4 black males	K, L. Slaves sentenced to hang, but actual execution uncertain
March 1777	N.C.	Murder	hanging	4 black males	E. Unnamed slaves
April 1778	Calif.	Murder conspiracy	shooting	4 Indian males	E
June 1778	N.Y.	Treason	hanging	7 white males	H. Tory guerrillas E says robbery
Jan. 1779	Va.	Murder	hanging	4 blacks (1 female)	E. Slaves
Jan./June 1779	N.Y.	Treason	hanging	7 white males	H. Tory marauders
Oct. 1780	N.C.	Military crimes	hanging	9 Tory soldiers	R. Followed massacre ending Battle of King's Mountain
March 1781	Pa.	Mutiny	hanging	4 white males	I
Oct. 1784	Pa.	Robbery	hanging	4 white males	T. Gang
Oct. 1789	Pa.	Murder	hanging	5 white males	T. Robbery gang
May 1792	Va.	Slave revolt	hanging	«considerable number» of black males	A
1793	N.C.	Unknown	hanging	4 white males	E. Sailors
Spring 1795	La.	Slave revolt	gibbeting	22 black males	A, E. Some whites banished
Dec. 1799	Va.	Slave revolt	hanging	4-10 black males	A, K
Sept.-Oct. 1800	Va.	Slave revolt	hanging	25+ black males	A, K. Gabriel's plot of about 1,000 slaves

1802	N.C.	Slave revolt	hanging	13 black males	E
April-July 1802	Va.	Slave revolt	hanging	5+ black males	E, K
1804	S.C.	Slave revolt	hanging and beheading	10-12 black males	A
Aug.(?) 1805	N.C.	Slave revolt	Hanging burning	3-4 black males 1 black female	A
April 1808	Md.	Murder	hanging	3 white males 1 black male	E. Escaped convicts
July 1809	Va.	Murder	hanging	4 black males	E. Slaves
Jan. 1811	La.	Slave revolt	hanging, shooting and beheading	16 black males	A
Jan. 1813	Md.	Murder	hanging	4 black males	E. Slaves
June 1814	N.Y.	Desertion	shooting	4 white males	H
Oct. 1814	N.Y.	Desertion	shooting	6 white males	H. Worst of 25 so sentenced
Feb. 1815	Ala.	Desertion	shooting	6 white males	J. Leaders of mutiny/desertion of about 200 serving under Andrew Jackson
March 1816	Va.	Slave revolt	hanging	5 black males	A, K
July 1816	S.C.	Slave revolt	hanging	6 black males	A
Feb. 1819	Mass.	Piracy	hanging	4 white males	E
June-Aug. 1822	S.C.	Slave revolt	hanging	35 black males	A, Q. Denmark Vesey revolt
March 1824	Ark.	Murder	shooting	7 Indian males	E
Nov. 1826	Ky.	Slave revolt	hanging	5 black males	A. Coded as murder by E
April 1827	Va.	Murder	hanging	7 black males	E, K. Slaves

Nov. 1829 May 1830	Ky.	Slave revolt	Hanging hanging	5 black males 1 black female	A. Coded as murder by E. Delayed due to pregnancy
Feb. 1830	S.C.	Murder	hanging	4 black males	E. Slaves
Sept. 1831	N.C.	Slave revolt	hanging	«many» black males	A. Nat Turner inspired revolt or fear of revolt
Aug.-Nov. 1831	Va.	Slave revolt	hanging	18-20 blacks (1 female; 3 free)	A, K. Nat Turner rebellion of Aug. 1831; perhaps 200 killed without trial
Sept.-Oct. 1831	Va.	Slave revolt	hanging	4 black males	A, K. Turner inspired revolt or fear of revolt
Oct. 1831	Ga.	Slave revolt	hanging	4 black males	A. Ditto
Nov. 1831	Va.	Murder	hanging	5 black males	E, L
June 1835 Sept. 1835	Mass.	Piracy	hanging	6 Hispanic males	E
Nov. 1836	Ala.	Murder	hanging	6 Indian males	E
Aug. 1837	La.	Slave revolt	hanging	12 black males (3 free)	A, E
March 1839	La.	?	hanging	5 black males	E. Slaves with compensation
June 1840	Ga.	Murder	hanging	5 black males	E. Slaves
Sept. 1840	La.	Slave revolt	hanging	21 black males	A, E
Sept. 1840	La.	Slave revolt	hanging	9 black males	A, E
Feb. 1843	Ala.	?	hanging	5 black males	E. Slaves, with compensation
Dec. 1843	Tenn.	Murder	hanging	4 black males	E. Slaves
Oct. 1846	Fla.	Aiding runaway slaves	hanging	4 white males	E
June 1850	Ore.	Indian uprising	hanging	5 Indian males	E, I ⁸⁹
Feb. 1852	Ala.	?	hanging	5 black males	E. Slaves, with compensation
Oct. 1855	La.	Murder	hanging	4 black males	E. And robbery by slaves

Dec. 1856	Tenn.	Slave revolt	hanging	4 black males	A
Dec. 1857	Ala.	Murder	hanging	5 black males	E. Slaves
Dec. 1859 March 1860	Va.	Treason	hanging	3 white males; 2 black males	E, I. John Brown's raid. Brown hanged 2 weeks before 4 colleagues; final 2 whites in March
Nov. 1860	Md.	Murder	hanging	4 black males	E. Robbery as well
April 1861	S.C.	Slave revolt	hanging	7 black males	A
June 1861	Miss.	Slave revolt	hanging	6 black males	A
Oct. 1861	S.C.	Murder	hanging	4 blacks (2 female)	E. Slaves
Early 1862	Va.	Slave revolt	hanging	17 black males (some free)	A
June 1862	La.	Burglary	hanging	4 males	E. Race unspecified
June 1862	Ga.	Espionage	hanging	7 white males	E, U, X. Ununiformed Union Army members
June 1862	La.	Housebreaking	hanging	4 males	E. Race unspecified
Oct. 1862	Tex.	Treason	hanging	36 white males	E, I. Executed as Union sympathizers (traitors) in four counties, in kangaroo vigilante courts; 17 others were lynched or shot. E only lists 5 as legal executions
Dec. 1862	Minn.	Indian uprising	hanging	38 Dakota Sioux males	D, F. Tried by military commission
May 1863	Va.	Murder	hanging	6 blacks (3 female)	E, L. Slaves, with compensation
June 1863	Calif.	Indian uprising	hanging	5 Indian males	I. E has it in July
Aug. 1863	Va.	Desertion	shooting	5 white males	W. Union soldiers; foreigners hired as substitutes
Aug. 1863	Va.	Murder	hanging	4 black males	E, L. Slaves

Sept. 1863	Ky.	Desertion	shooting	5 white males	W. Union soldiers
Sept. 1863	Va.	Desertion	shooting	4 white males	W. Union soldiers
Sept. 1863	Va.	Desertion	shooting	11 white males	I. Confederate soldiers, also murder resisting arrest
1864	Ga.	Slave revolt	hanging	3 black males, 1 white male	P
Feb. 1864	N.C.	Desertion	hanging	22 white males ⁹⁰	I. By Confederate army, but status (deserters vs. POWs) disputed by Union army
May 1864	Ga.	Desertion	shooting	14 white males	I. Confederate soldiers
July 1864	Ark.	Murder	shooting	4 white males	E. Guerillas
August 1864	Ga.	Slave revolt	hanging	1 white male, 3 black males	A, V
Dec. 1864	Va.	Desertion	shooting	4 white males	W. Union soldiers
May 1865	N.C.	Rape	shooting	4 black males	W. Union soldiers
May 1865	Miss.	Murder	hanging	7 black males	W. Union soldiers
July 1865	D.C.	Assassination	hanging	3 white males, 1 white female ⁹¹	D, F. Lincoln assassination plot
Dec. 1865	Fla.	Mutiny	shooting	6 black males	W. Union soldiers

58 SOURCES: At least one source is noted for each incident, keyed below. Where A (Aptheker) is the sole source, while one may be confident that there were executions for perceived slave conspiracies or revolts, less confidence may be warranted for the precise date and number executed, and regarding whether due process was observed.

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NOTES

2. Lane (1997, pp. 317-318).
3. Espy, Smykla (1994).
4. Whittingham (1971).
5. Banner (2002, pp. 54-56, 90-91).
6. Espy, Smykla (1994); Bowers (1984).
7. Aptheker (1993); Stamp (1989); Steele (1994); Lane (1997); Brown (1991); Newton, Newton (1991); Gilje (1996); Grimsted (1998); Blackman (2003).
8. For example, Frey (1991, p. 237).
9. Aptheker (1993); Stamp (1989).
10. Espy, Smykla (1994).
11. Banner (2002, pp. 16-18).
12. Banner (2002, pp. 6-9, 94-100); Espy, Smykla (1994); Bowers (1984).
13. Banner (2002, pp. 6-9, 140-141).
14. Aptheker (1993, pp. 18-52).
15. Levin, Fox (1985); Wexler (2003).
16. Hearn (1997); Espy, Smykla (1994); Petee, Padgett, York (1997).
17. E.g., Parkman (1985, pp. 111-114, 133-136); Newton, Newton (1991); Steele (1994).
18. Aptheker (1993); Washburn (1957); Morgan (1975, chapter 13).
19. Masur (1989); Mencken (1942); Drimmer (1990); Laurence (1960); Lentz (1988); Alotta (1989).
20. Teeters (1963); Hearn (1997).
21. Aptheker (1993); Schwarz (1998, pp. 86-87, 323-334); Wyatt-Brown (1982, pp. 427-434); Elkins (1968, pp. 218-222).
22. Espy, Smykla (1994).
23. Banner (2002, p. 313).
24. Schwarz (1998, p. 135, and personal communication, March 21, 2003).
25. Masur (1989, p. 114).

26. Banner (2002, p. 54); Schwarz (1998, pp. 311, 328, and personal communication, January 3, 2003).
27. Aptheker (1993); Thomas (1973, pp. 76-77).
28. Steele (1994, pp. 228-229).
29. Teeters (1963, part 1, pp. 64-65).
30. Espy, Smykla (1994); personal communication from Paul Finkelman, December 27, 2002, and Philip Schwarz, January 3, 2003.
31. Banner (2002, pp. 10-13).
32. Hill (2000, pp. xv-xxii); Drimmer (1990, pp. 226-228) John Brown: The Conspirators (n.d.); John Brown Articles in the *Valley Spirit* (n.d.); Espy, Smykla (1994).
33. Banner (2002, pp. 9, 16); Stamp (1989, pp. 30, 225-227); Morris (1997); Schwarz (1996, pp. 73-74).
34. Banner (2002, pp. 16-18, 22, 54-56, 90-91); Hill (2000, pp. xv-xxii); Thomas (1973, pp. 248-249, 290-301, 503-510); Alotta (1989, pp. 16-36); Aptheker (1993).
35. Schwarz (1971, pp. 17-19); Black (1891, p. 898); Espy, Smykla (1994).
36. Thomas (1973, pp. 248-249); Hughson (1894, p. 77); Defoe (1999, pp. 99-106).
37. Defoe (1999, pp. 319-323, 449); Gottschalk, Flanagan (2000, pp. 6-10); Thomas (1973, pp. 248-249, 503-510).
38. Defoe (1999, p. 657).
39. Espy, Smykla (1994).
40. Hill (2000); Robinson (1991); Steele (1994, pp. 144-145).
41. Hill (2000, pp. xv-xxii); Drimmer (1990).
42. Espy, Smykla (1994).
43. Espy, Smykla (1994); Banner (2002, pp. 54, 90-91, 291).
44. Lane (1997, pp. 55-56).
45. Washburn (1957, p. 119); Morgan (1975, pp. 272-276).
46. Hearn (1997, p. 14); Taylor (1976, pp. 21-22).
47. Hickey (1990, pp. 76, 222, 407).
48. Letters (1756a, 1756b); Hearn (1997, pp. 14, 33).
49. Alotta (1989); Collins (1999); Foenander (2000).
50. Collins (1999).
51. Collins (1999); Foenander (2000); Alotta (1989).
52. Hearn (1997, pp. 20-21); Espy, Smykla (1994).
53. McCaslin (2001).
54. Brown (1969, pp. 100-105).
55. Dyer (1999).
56. Steele (1994); Newton, Newton (1991).
57. Espy, Smykla (1994).
58. Drimmer (1990, pp. 175-178).
59. Nome Cult Trail (n.d.).
60. Espy, Smykla (1994); Aptheker (1993, pp. 13, 75-76); Banner (2002, p. 142); Stamp (1989, pp. 132-140).
61. Grayson (1948, pp. 29-30).
62. Aptheker (1993); Espy, Smykla (1994); Schwarz (1996, pp. 86-87).
63. Schwarz (1996); Ayers (1982, p. 176).
64. Schwarz (1996, pp. 71-75); Stamp (1989, p. 210).
65. Schwarz (1996, pp. 73-74).
66. Espy, Smykla (1994); Wyatt-Brown (1982, pp. 421-422); Hearn (1997, pp. 10-11); Bryan (1953, p. 127).
67. Banner (2002, p. 71).

68. Banner (2002, pp.16-22, 53-87).
69. Wyatt-Brown (1982, p. 400).
70. CONSPIRACY! (1819).
71. Aptheker (1993, p. 302).
72. Dabney (1971, p. 226).
73. Aptheker (1993, pp. 181-182), noting what he considered the unlikely possibility that the second reported Louisiana incident was really the same as the first, with some reporting delayed.
74. Hearn (1997, pp. 5-6).
75. Hearn (1997, pp. 6-7); Miller (1979, pp. 42-43); Aptheker (1993, pp. 172-173); Banner (2002, p. 57).
76. Morris (1997).
77. Higginbotham (1978, pp. 134-135); Hearn (1997, pp. 10-12), Espy, Smykla (1994).
78. Miller (1979, pp. 50-53).
79. Stamp (1989, p. 32).
80. Banner (2002).
81. Bowers (1984); Espy, Smykla (1994); O'Brien (1989, p. 233), Tolnay, Beck (1995, pp. 271-272).
82. Tolnay, Beck (1995, pp. 271-272); Espy, Smykla (1994).
83. Cooney (2004).
84. Espy, Smykla (1994).
85. «State» here refers to where the place of execution would currently be found, regardless of whether, at the time of the execution, it was a colony or territory, and regardless of whether the trial was by state, federal, or military authorities.
86. All slave revolts are classified as slave insurrection regardless of whether the actual criminal offense was murder, arson, robbery, conspiracy, etc., and regardless of the involvement of slaves. On a smaller scale, killing a master might be tried as petit treason, but is here murder, as is robbery-murder. A mass murder or other violence by Indians against white settlers is categorized as an Indian uprising.
87. Gibbet is hanging with the body not promptly removed; here gibbet or beheading indicate post-mortem actions to display (part of) the deceased as a possible deterrent. Torture involved such things as breaking on the wheel, roasting alive, and gibbeting alive.
88. A fifth slave was acquitted of the crime, but was ordered to hang the four convicted.
89. Officially, for murder by Cayuse Indians of Presbyterian missionary/physician for witchcraft (Indian medicine men, too, were subject to execution for bad magic), and of his wife and others, following a brief war between settlers and natives. With competing missionaries, the hanged Indians rejected Presbyterian rites opting instead for those of the Catholics.
90. There were also about 50 executions of white males by firing squad – the less insulting punishment for desertion – but it is not clear that all were for desertion or any other single criminal incident.
91. Mary Surratt was probably innocent, and was executed in part due to presidential defiance of a last-minute writ of habeas corpus, in addition to earlier recommendations for leniency. Drimmer (1990, pp. 265-272).

ABSTRACTS

Through recorded history, governments have executed persons, sometimes in groups for the same offense. In the United States, most post trial mass executions, defined as executing four or more persons for the same incident, occurred prior to 1866. This unstudied aspect of capital punishment is interesting for what it tells us about the social climate of the era (colonial days through the end of the American Civil War) in which those executions occurred and the leading fears of the society and/or its leaders. Following the American Civil War, mass executions not only declined in number and rate, but also matched more the trends in capital punishment overall. A detailed list of mass legal executions in America up to 1865 is appended to this article.

Les archives montrent que tout au long de l'histoire, les gouvernements ont pratiqué la peine de mort, et ce parfois collectivement. Aux États-Unis, la plupart des exécutions judiciaires de masse – entendues comme la mise à mort de quatre personnes au moins pour un même crime – sont survenues avant 1866. Cet aspect inexploré de la peine capitale est intéressant pour ce qu'il nous révèle du climat social de l'époque (de la période coloniale à la fin de la guerre de Sécession) des principales peurs régnant dans la société ou des craintes des dirigeants. Après la guerre de Sécession, le nombre d'exécutions de masse a décliné en nombre et en taux, se rapprochant des tendances de la peine de mort ordinaire. Une liste détaillée des exécutions judiciaires de masse jusqu'en 1865 est annexée à l'article.

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