

Buried Lives

Incarcerated in Early America

edited by

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“He is a man buried alive; to be dug out
in the slow round of years.”

—CHARLES DICKENS, *American Notes* (1842)

Introduction

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HENRY MILLS WAS EXECUTED at half past two in the afternoon on July 15, 1816. He had been sentenced to die for murdering his wife, a woman he had long suspected of faithlessness, and their five young children. Angry, exultant, and thoroughly unrepentant when first apprehended, Mills's demeanor had changed dramatically ever since the judge had passed down the capital verdict and set the date of his execution. According to visitors to the jail in Galesboro, Pennsylvania, the prospect of his own impending death wrought a complete change of character in the prisoner. Now Mills spent his days hunched over in prayer or absorbed in religious reading, looking for all the world like the very model of a “person truly penitent.” In conversations with the earnest clergymen who visited him in the jail, Mills quickly began to acknowledge the depths of his prior depravity and paranoia. He could soon be heard explaining to anyone who would listen that “Sabbath breaking and his disobedience to his parents, were the first inlets to the great sin, for which he was to suffer an ignominious death.”¹

Brought to the scaffold in chains, Mills used his last words to express his sincere hope that everyone assembled to watch him swing that July

day would learn from his own “dreadful example” (see figure 1). Then, “with a firm step,” the condemned man took his final position, launching himself into eternity. He would hang there for three-quarters of an hour, the crowd watching in awed silence, before the sheriff cut down his body and delivered it to Galesboro’s sexton for interment.²

The proceedings of the day had unfolded precisely as planned. Everyone—the sheriff, the jailer, the local ministers, the townspeople, and even the prisoner himself—acted their parts perfectly. Justice had been served; power had been displayed; forgiveness had been begged; and lessons had been learned. In the weeks to come, a pamphlet distilling the affecting moral messages this execution had summoned for all those gathered in Galesboro would make the rounds, dramatizing Mills’s journey toward judgment for readers farther afield.

There was only one problem: Henry Mills did not exist. He was a fictional character—a phantom. Anyone who had attended a real execution, or read about others in newspapers or in one of the many moralizing pamphlets this account subtly parodied, knew that execution days rarely went off so smoothly. Mills’s idealized performance had never happened; it was too good to be true. In fact, Mills had been dreamed up by an anonymous author to help parents in Massachusetts—not a make-believe town in Pennsylvania—teach their sons and daughters “to regard their future welfare” and develop the proper respect for state power and socially sanctioned codes of conduct. Although the pamphlet telling the story of Mills’s life and death may have fooled some children, savvy parents were surely in on the hoax and recognized the tale for the didactic fantasy it was.³

In reality, messages about obedience to parents, to God, and to the law were easily obscured or overlooked during these grisly justice rituals. Gathered in town squares and city commons across colonial and early national America, spectators were rarely so reverent or easily awed. On the contrary, they often found something in the condemned man’s history or demeanor to arouse their sympathy, causing them to boo as the hangman did his work or to jeer at him if the rope snapped unexpectedly. Even ministers were unreliable: despite the polish of the execution sermons they often corrected, revised, and published after the fact, in person they often lost their train of thought or mumbled their words. Some ministers bored spectators with their tedious scolding, while others infuriated their audiences with their puffed-up sanctimony.

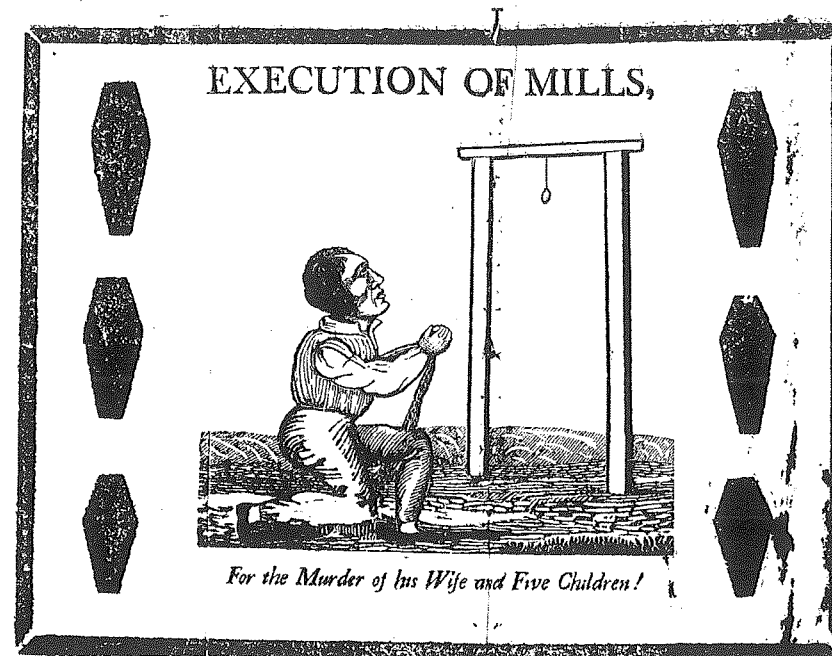


FIGURE 1. Anon., *Narrative of the Pious Death of the Penitent Henry Mills* (Boston: H. Trumbull, 1817). Courtesy of Historical & Special Collections, Harvard Law School Library.

Most commonly of all, it was the prisoners themselves who disrupted these highly scripted morality plays. In jail awaiting execution, many refused visitors and hurled abuse at clergymen who ventured in to counsel them. Others tried to escape or to commit suicide at some point during their desperate final weeks. What’s more, on execution day itself, confessions and sincere pledges of repentance like those offered up by Henry Mills were actually quite rare; more likely, the condemned prisoner would weep with terror at the sight of the scaffold or beg in vain for mercy. Others were defiant to the last, using their final breath to spit into the crowd or to curse God, the sheriff, and all the people gathered to gawk at them.

Nor was execution day the only early American penal ritual to be compromised by its central actors. Wherever one looked, the practice of punishment was messy, contested, and thoroughly unpredictable. Take Eastern State Penitentiary, a purpose-built, genuinely state-of-the-art reformatory opened on the outskirts of Philadelphia on October 23,

1829. Boosters had secured state funding for this massive project on the promise that its pioneering system of "separate confinement" and surveillance would replace public executions, prevent the contaminating mingling of inmates common in other early national prisons, and transform the city's most recalcitrant criminals into docile bodies and malleable souls. In a deluge of promotional literature, reformers had trumpeted the penitentiary's tomblike cell design, assuring skeptics that its architecture would prevent convicts from even "the least association" with one another. The prisoner would instead be "abandoned to that salutary anguish and remorse which his reflections in solitude must inevitably produce."⁴

The power of this vision bore little resemblance to the clamor and chaos that consumed Eastern State soon after its opening. According to Jennifer Lawrence Janofsky, whose examination of the penitentiary's internal records is included in this collection, prisoners routinely ignored work assignments; rejected religious counseling; defaced and eviscerated moralistic reading material; tapped out messages to one another through heating ducts; sent packages and gifts through watercourses; drove wedges between penitentiary personnel; and gossiped with, complained about, and often attacked their keepers.

Across America, prisoners rarely behaved as justice officials and reformers anticipated. Indeed, their often insistent resistance to the penal regimes that tried to control and subdue them belies doctrinaire rhetoric about the totalizing power of the death penalty, the penitentiary, and allied disciplinary institutions like the almshouse and the workhouse.

Despite this essential tension, scholars who have examined the history of the American penal state have tended to ignore the behavior and minimize the testimony of prisoners, preferring instead to focus almost exclusively on the political and ideological underpinnings of power. In large measure, this is due to the outsize influence of three seminal texts first published in America in the 1970s—David J. Rothman's *The Discovery of the Asylum: Social Order and Disorder in the New Republic* (1971), Michel Foucault's *Discipline and Punish: The Birth of the Prison* (1977, trans. Alan Sheridan), and Michael Ignatieff's *A Just Measure of Pain: The Penitentiary in the Industrial Revolution, 1750–1850* (1978). Each of these vigorously argued books took the techniques of domination as its subject, a decision that rendered inmates as powerless

figures caught within a matrix designed to carefully manage and control them. In Michel Foucault's analysis, for instance, the prisoner's body is trapped in a nexus of power relations that "invest it, mark it, train it, torture it, force it to carry out tasks, to perform ceremonies, to emit signs."⁵

This tendency to focus on the machinery of control has had a blinkering effect, obscuring the widespread, various, and often creative means by which those confined in America's carceral institutions have contested, compromised, and transformed the workings of penal power. The traces that their lives leave in historical and literary records are, to be sure, often difficult to access or interpret. Texts authored by condemned men or incarcerated women are necessarily vexed and mediated ones, complicated by the dialectic between the body and the state. However, careful work can pay great dividends. As the ten essays collected here demonstrate, studying the history of penal practice can illuminate infrapolitical struggles that require us to rethink the hegemonic nature of early American disciplinary regimes.

Buried Lives: Incarcerated in Early America examines the rise of the American penal state from this unfamiliar vantage point. The essays in this volume explore the many aspects of the carceral experience from the perspectives of those confined at its center. Interdisciplinary in nature, this collection investigates several carceral institutions in order to interrogate the dynamic relationships between confinement and identity, politics, and imagination in early America. Together, the scholars of this volume expand the conventional understanding of incarceration, considering not only prisons and penitentiaries as carceral settings but also scaffolds, almshouses, workhouses, family-run jailhouses adjoining slave plantations, and floating prison-ships.

The sources for this endeavor thus veer far from the familiar treatises of Italian jurist Cesare Beccaria and Philadelphia physician Benjamin Rush. Instead, they encompass warden logs, petitions, execution sermons, physicians' clinical notes, poetry, memoirs, confessions, private letters, newspaper articles, runaway slave advertisements, and legal documents. In their pages, we find the many voices of the captive and imprisoned in early America: vicious men, calculating women, diffident drunks, runaway slaves, immigrant workers, homeless children, victims of domestic abuse and sexual assault, and, above all, the vagrant, the poor, and the enslaved.⁶

Discipline and Punish

In *Discipline and Punish*, Michel Foucault describes the redistribution of the economy of punishment that took place in Europe and the United States between 1760 and 1840. Over the course of eighty years, the penitentiary displaced the scaffold as the preeminent institution of penal power. Accordingly, detention and surveillance replaced pain and spectacle as the instruments of punishment; the soul displaced the body as the target of punishment; keepers and wardens replaced executioners as the technicians of punishment; and reformation replaced vengeance as the purpose of punishment.⁷

For Foucault, the birth of the modern penitentiary did not reflect any diminishment of the power of the state to punish citizen-subjects, or any loss of appetite to exercise that power. On the contrary, Foucault understood the rise of the penitentiary as an impulse “not to punish less, but to punish better . . . to insert the power to punish more deeply into the social body.” In his view, the spread of cellular technology and disciplinary correction marked an important change in penological grammar, but it did not alter the fundamental function of the penal system. “It remained,” writes literary scholar Caleb Smith, “a ritual practice of performing the myths of submission on which the political order was founded.”⁸

Historians have largely validated the basic outline of this broad and suggestive conceptualization of change over time. However, several have taken issue with Foucault’s decision to emphasize the ways in which disciplinary ideology pervaded every corner of the social system, a decision that led him to refuse to identify the active agents in this dramatic transformation and to adopt the passive voice. Monographs by his contemporaries—notably David J. Rothman and Michael Ignatieff—sought greater specificity. In *The Discovery of the Asylum*, a wide-ranging account of the rise of several corrective institutions in the northern states of antebellum America that anticipated many of Foucault’s broad conclusions, Rothman told a story in which anxious patriarchs, alarmed by rising immigration and urbanization, crumbling social deference and the spread of market capitalism, took on the mantle of philanthropic reformers. In *A Just Measure of Pain*, Ignatieff told a similar tale, identifying the influence of a shifting coalition of politically powerful, propertied men in England who were eager to recalibrate the criminal justice system to the task of disciplining a new breed of “masterless” men produced by the

first stirrings of industrialization. Indeed, while Foucault had explained the move away from sanguinary punishments as merely a ruse of power, Rothman and Ignatieff offered a more nuanced portrait. Both authors noted the religious convictions of many of the proponents of penal reform and argued that the institutions they devised reflected the mutually constitutive properties of benevolence and social control.⁹

Despite such differences of emphasis, Foucault, Rothman, and Ignatieff agreed on a great deal. They each took what legal scholar David Garland has termed “the ideological genesis of modern punishment” as their focus and sought to relate the origins of carceral correction to the rise of liberal democracy, industrial capitalism, and the concomitant development of other coercive instruments of social reform, notably the asylum, the almshouse, and the workhouse. Most strikingly of all—given the number of high-profile prison riots in America and Europe throughout the early 1970s and the outspoken activism of political prisoners such as Angela Davis and George Jackson—these scholars banished matters of penal practice and inmate resistance to dependent clauses and footnotes. It is testimony to the length of their combined shadow cast within the academy that the same priorities and preoccupations have shaped the work of subsequent scholars, notably Thomas L. Dumm (1987), John Bender (1987), Adam J. Hirsch (1992), and Mark E. Kann (2005).¹⁰

While many scholars continue to conflate design with implementation and idea with practice, the last two decades have witnessed a long-overdue surge of interest in the apparently quotidian struggles between officials and prisoners that went on behind bars. In part, this realignment reflects the degree to which social history has come to permeate academic research agendas. Marginalized at the edges of the profession in the 1960s and 1970s, scholars interested in the political lives of long-silenced subjects, such as slaves, beggars, and working women, captured the center during the 1980s. Beyond the ivory tower, the 1990s saw the dramatic escalation of the “War on Drugs” and the passage of “three-strikes” laws in twenty-three states—developments that together drove the number of incarcerated Americans above one million for the first time. This unwelcome milestone served to focus media attention on the conditions within grossly overcrowded state prisons and, encouraged by shifting priorities within the academy, seems to have spurred a number of scholars to examine the historical experience of incarceration with unprecedented interest and enthusiasm.¹¹

In July 1994, in the midst of these events, the Philadelphia Historical Commission published a two-volume *Historic Structures Report* intended to guide ongoing preservation efforts at Eastern State Penitentiary, which had been closed and abandoned since 1971. Alongside assessments of the complex's architectural significance and its signature role in the realization of competing penal theories in nineteenth-century America, a section of the report authored by Leslie C. Patrick-Stamp turned to the question of penal practice at Eastern State prior to the Civil War. Assessing the historiography, Patrick-Stamp noted that "none of the otherwise excellent secondary literature on Eastern State . . . acknowledges the presence and perspectives of people who lived (and sometimes died) behind those massive walls." Using a small sampling of institutional records, Patrick-Stamp set out a research agenda for future scholars of penal practice to pursue, an agenda centered upon the study of interactions among inmates as well as between inmates, their keepers, and the world beyond their walls.¹²

The same agenda informed the work of Michael Meranze, whose *Laboratories of Virtue: Punishment, Revolution and Authority in Philadelphia, 1760–1835* (1996) should be regarded as a landmark book in the penological history of the United States. *Laboratories of Virtue* marks the first attempt by a historian working in the intellectual tradition of Foucault, Rothman, and Ignatieff to integrate the practice and performance of power within carceral institutions into an investigation of penal ideology. By taking the opening of Eastern in 1829 as its endpoint and limiting itself to a single city and a narrow time frame, Meranze's study of early national Philadelphia succeeded in demonstrating how inmate action consistently shaped and reshaped the transformation of punishment in the unsettling aftermath of the American Revolution.

More recently, Rebecca M. McLennan's *Crisis of Imprisonment* (2008) has extended the study of penal practice—and the role of prisoner labor, in particular—over a much longer period, linking the founding of early national penitentiaries like Auburn (1816) and Sing-Sing (1826) in New York State to the development of the prison-industrial complex in the twentieth century. Placing prisoners' traditions of protest and evasion at the center of her analysis, McLennan argues that "a long continuum of episodic instability, conflict, and political crisis has characterized prison-based punishment in the United States," and that "prisoners and their keepers were often at the forefront of these various struggles to remake and control the prison and the penal arm of the state."¹³

Buried Lives exhibits a deep debt to the path-breaking work of Patrick-Stamp, Meranze, and McLennan. Indeed, the following brief history of the early American penal state rejects the Foucauldian focus on penal institutions as totalizing forms of social control. Building upon the most recent scholarship, this new outline embraces the study of penal practice and examines the shaping, destabilizing, and oppositional influence of inmates on the exercise of disciplinary power in early America. In this retelling, we hope to refocus the familiar story of the transition from scaffold to penitentiary upon the incarcerated Americans whose patterned defiance provided an important impetus for each successive wave of penal reform and innovation.

Toward a History of Penal Practice

Throughout the colonial period, the scaffold reigned supreme. Forceful and spectacular, it served as a powerful, theatrical tool to display state power and to try to exert social control. Whether in England, in its mainland American colonies, or in the Caribbean, the rituals of execution day were remarkably consistent and changed little between the early seventeenth century and the first decades of the nineteenth century. The day began with a procession from the jail through the streets toward a market square or well-trafficked crossroads. Hundreds of people usually gathered to watch along the route, while thousands more sometimes waited at the place of execution (see figure 2). At the scaffold, the condemned was allowed a final opportunity to voice his repentance to the assembled multitude, and to the legal and religious officials ceremoniously grouped before him, or to have a clergyman speak on his behalf. Soon enough, the hangman—sometimes a fellow convict—would fasten the noose around the criminal's neck and make the rope take his weight.¹⁴

Until the late eighteenth century, statutes compelled judges to hand down death sentences for a broad range of crimes, ensuring that execution day maintained its status as a regular feature of the secular calendar. In Georgia and South Carolina, for example, murder was one of more than 160 crimes punishable by death. In Pennsylvania, eighteen crimes were capital offenses, with assaults on persons (rape, sodomy) and property (arson, counterfeiting, burglary) accounting for a large share of all death sentences. In New England, New York, and New Jersey, laws similar to those in Pennsylvania led to the execution of 402 people between

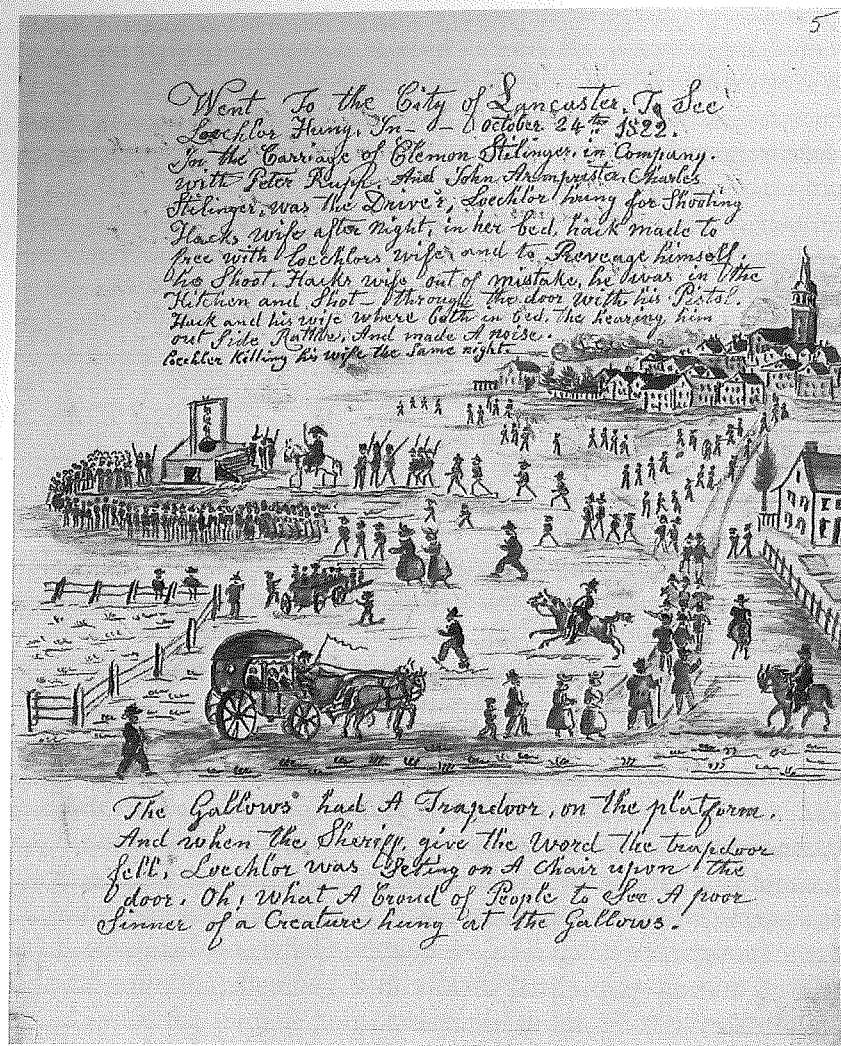


FIGURE 2. Lewis Miller, *The Hanging of John Lochlor at Lancaster, 1822*. Courtesy of the York County Heritage Trust.

1700 and 1773, more than half of whom (234) were convicted of crimes other than murder.¹⁵

Lesser offences warranted other types of ignoble public punishment. In Philadelphia, the pillory and the whipping post shared a prominent site at the corner of Third and Market streets. They were pressed into service several times a year, usually on Wednesdays and Saturdays when the city's busy market provided a ready crowd of spectators, many of whom thought nothing of hurling abuse at the humiliated criminals on display there before continuing with their shopping. In the South, where planters favored painful, shaming deterrents that did not impair a slave's ability to work for very long, whipping (thirty-nine lashes was the scriptural limit), branding (H for hog-stealers, T for thieves), and even ducking ponds served secondary functions in the penal system.¹⁶

Despite their obvious differences, these brutal and humiliating punishments shared much in common with the scaffold. Whether the outcome was death or disfigurement, the colonial justice system exerted its will by attacking the integrity of the criminal body. It did so in carefully staged rituals designed to display to the public the rude power of the law. "Visibility and corporality were the true coin of that penal realm," writes Michael Meranze.¹⁷

The dramas of transgression and punishment these symbolic inflictions enacted typically unfolded in and around the colonial jail. The jail housed the suspected felon while he or she awaited trial or interrogation. If found guilty of a capital crime, the prisoner would remain confined there until the date of execution. Jails also housed witnesses, debtors, drunks, ne'er-do-wells, prisoners of war, and runaway slaves who had been captured by slave patrols but were not yet returned to their masters. Debtors, Indian war captives, and a few fugitive slaves aside, most stays were short, lasting only a few days or weeks. Indeed, imprisonment for the purpose of punishment was rare in the colonial period. It was typically limited to those convicted of social offenses such as vagrancy and disturbing the peace; indeed, the names of the same men and women often stud the intake records of mid-century almshouses.¹⁸

Whether in the North or the South, colonial jails were understaffed, family-run affairs. Often housed in rundown buildings converted on the cheap, seventeenth- and eighteenth-century lockups typically comprised little more than a single room in which up to thirty inmates mixed freely

(see figure 3). Only the most dangerous were shackled. These confined spaces were foul, fetid, loud, and overcrowded, usually without heating or ventilation. In one Georgia jail, the only conveniences consisted of a straw bed and a chamber pot. Walls were thin, sometimes wooden. Escapes were common and visitors frequent. Jailers' fees were paid by the inmates themselves, and many keepers and their families developed an easy familiarity with their charges. As essayists Jason T. Sharples and Jodi Schorb demonstrate in their contributions to this volume, signs of authority and penitence were hard to find.¹⁹

The chaotic conditions inside colonial jails mirrored the conflicts, crises, and general instability that plagued the exercise of public punishment. Far from being the orderly, awesome spectacle imagined for Henry Mills, public executions were, by the late eighteenth century, more commonly associated with disorder and disarray. Prisoners regularly acted out, taking the scaffold in ways that manifested their contempt or indifference. The more willful and defiant the condemned, the more likely it was that the crowd too would refuse to play the part assigned to it. Indeed, in some corners of the colonies, mid-century authorities were growing increasingly concerned that rather than drawing spectators closer to the rule of law, the severity and finality of public executions often seemed to set the two at odds with one another.²⁰

Concern about sanguinary punishments only intensified after the outbreak of the American Revolution. After all, the war had kept hangmen very busy: sedition, mutiny, treason, espionage, desertion, marauding, looting, and counterfeiting accounted for the lion's share (152 of 232) of the legal executions carried out in New England, New York, New Jersey, and Pennsylvania between 1775 and 1781. In its aftermath, as patriots and lawmakers struggled to define the principles that the citizens of the new republic should live by, the use of the death penalty to deter such a dazzling array of crimes became the subject of sustained scrutiny. Embracing elements of a larger transatlantic conversation about the purpose of punishment in enlightened society, many revolutionaries now passionately condemned the scaffold as a barbaric relic of monarchical rule entirely unsuited to the task of deterring crime. "It lessens the horror of taking away human life, and thereby tends to multiply murders," Philadelphia doctor and activist Benjamin Rush wrote when he tried to make the case for its total abolition.²¹

Determining an appropriate and effective alternative to capital punishment proved more difficult. With no working model of effective

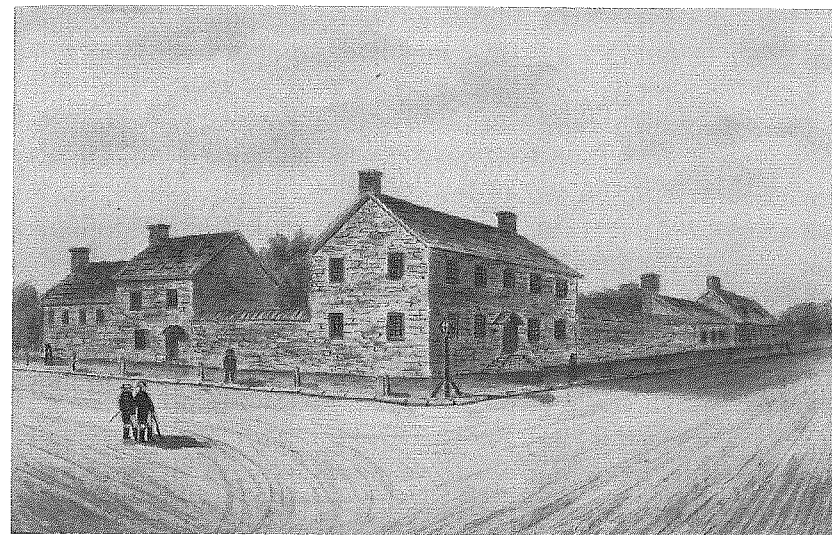


FIGURE 3. Benjamin Evans, *Stone Prison S.W. Cor. 3rd & Market St., 1723*. Built in 1718, this building, situated at the corner of Third and Market streets, combined the functions of both jail and workhouse before its inmates were removed to the new Walnut Street Jail in 1775. Courtesy of the Historical Society of Pennsylvania.

republican government to draw upon, northeastern legislators were forced to experiment. In the region's largest city, Philadelphia, reformers found inspiration in a recent scheme to extract productive labor from recipients of welfare. The opening of a workhouse—or "bettering-house," as its boosters tellingly referred to it—in this bustling port city in 1766 had marked an important shift in the way urban elites perceived connections between poverty, degeneracy, and crime. Agitated by evidence of crumbling deference, surging unemployment, and widespread indigency coincident with the arrival of waves of runaway slaves and poor European migrants, city leaders had recently set about criminalizing poverty, herding the "idle" poor into this new workhouse where they might be compelled to cobble shoes, weave cloth, pick oakum, or fashion nails.²²

As essays by Jacqueline Cahif, Simon P. Newman, and Billy G. Smith illustrate, by the 1780s, Philadelphia public officials were forcing vagrants off of the streets in ever-greater numbers, restraining and regulating them in the workhouse and also, increasingly, in the city's almshouse and jail. Indeed, a man who had known the inside of all of these carceral

institutions—each of which enforced codes of conduct, lock-in times, and constant surveillance—was often dubbed a “gentleman of three inns.”

It was this same paternalistic belief in the rehabilitative virtue of discipline, surveillance, and labor productivity that guided the course of penal reform in this period. In Philadelphia, a deluge of petitions from Benjamin Rush and his allies persuaded state legislators to institute a more moderate, proportional system of punishments than that afforded by public hanging. In 1786, officials passed what came to be known as the “wheelbarrow” law. This new provision spared the lives of convicted felons but sentenced them instead to humiliating terms of hard labor on public works projects intended to transform their habits and, in time, mend their morals. Shaven-haired prisoners in brightly colored uniforms would now be set to work on highly visible sanitation projects throughout the city, all the while remaining under close supervision. Curtailing freedom and constraining movement rather than degrading the body directly, the wheelbarrow law marked a significant step away from sanguinary punishment and indicated a recognition of the revulsion the scaffold now commonly inspired. Indeed, related legislation passed by the Pennsylvania General Assembly in 1786 eliminated the death penalty as punishment for robbery, burglary, and sodomy, a precedent emulated in several other northeastern states over the following years.²³

Of course, in practice, enforcement of the new public labor law unfolded quite differently than boosters like Rush had expected. While small crowds gathered daily in Philadelphia to watch the wheelbarrow men, it was not, newspapers quickly noted, in order to soak up respect for state power or to be reminded of the grinding ignominy that might await those convicted of serious crimes. Instead, many spectators taunted and jeered at the prisoners as they worked; others tossed them coins in unanticipated exhibitions of solidarity. Nor did many convicts show any sign of contrition or reformation. On the contrary, their keepers faced a daily struggle to keep order as wheelbarrow men acted out in violent and often drunken displays of insolence and noncooperation. Escapes were common—thirty-three on a single day in 1788—leading newspapers to warn that marauding thieves and thugs stalked city streets after dark. “Far from embodying the rational, humane, deterrent workings of the law,” writes historian Rebecca M. McLennan, “the wheelbarrow men

quickly came to signify a weak and failing criminal legal system, and all that was unrepublican, lawless and ugly.”²⁴

Casting around for an alternative that would not spur unwarranted sympathy (or vicious contempt) for the criminal, Rush and other members of the newly founded Philadelphia Society for Alleviating the Miseries of Public Prisons (Philadelphia Prison Society) went back to the drawing board. Despite mounting evidence that other coerced labor schemes were running aground—in the workhouse, managers now complained that most of its indigent residents worked too slowly and unprofitably, while others “are entirely dead Weight”—they eventually settled upon a scheme that would preserve the use of labor while removing the exercise of punishment from the public gaze. In an influential pamphlet published in 1787, Rush recommended that convicted offenders should, in future, endure an extended period of confinement in a “house of repentance,” inside which the prisoner could be carefully supervised and habituated to a routine of daily labor. “Within its confines all inmates could be made subjects of the same diagnostic and curative processes,” explains political theorist Thomas L. Dumm. “The environment would be controlled, the inmates would be controlled, and reform would follow from control.” In Rush’s latest vision, punishment would now be privatized; any direct links between prisoners and the public would be cut. Citizens beyond the walls of these new reformatories would know little about what went on inside; it would be left to their imaginations.²⁵

As reports that crime was rising continued to proliferate, in 1790 the Pennsylvania General Assembly took up the petitions put forward by Rush and the members of the Philadelphia Prison Society. While murderers would continue to take the scaffold, those found guilty of offenses such as robbery, burglary, sodomy, horse-stealing, bigamy, or receiving stolen goods would, the assembly decreed, now be committed for a fixed term of years to a new facility built inside the perimeter of a jail on Walnut Street. This new “penitentiary house” promised higher standards of hygiene and diet than those found in a typical jail. Following in the footsteps of urban almshouses and workhouses—institutions that increasingly treated indigents as if poverty was their crime and discipline and labor their punishment—the complex would also include workshops where convicts would be set to work in manufacturing industry, as well as a number of large common rooms in which they

would sleep for the duration of their sentences (see figure 4). A block of six-by-eight-foot cells intended for solitary confinement was added later, but only as an occasional tool with which to punish “the more hardened and atrocious offenders.”²⁶

Like the wheelbarrow law, this experiment with penitentiary confinement did not run smoothly or as planned. The first inmates of the Jail and Penitentiary House at Walnut Street, as it was officially named after 1790, refused to cooperate, making it clear that they would not submit to being treated like slaves. On the very first night it opened, the new building almost suffered a massive prison break. Over the next few years, the convicts incarcerated there engineered a never-ending series of riots, mutinies, disobediences, and property damages that made a mockery of attempts to institutionalize a daily routine conducive to moral reform. And, like apprentices and journeymen on the other side of the prison’s walls, the inmates laid down tools each Monday, refusing to work. On Sundays, they ignored attempts to focus their minds on the state of their souls and instead shouted lewd songs, gambled, and fought.²⁷

Similar disciplinary problems proved to be endemic to other experiments with penitentiary punishment across the northern states over the

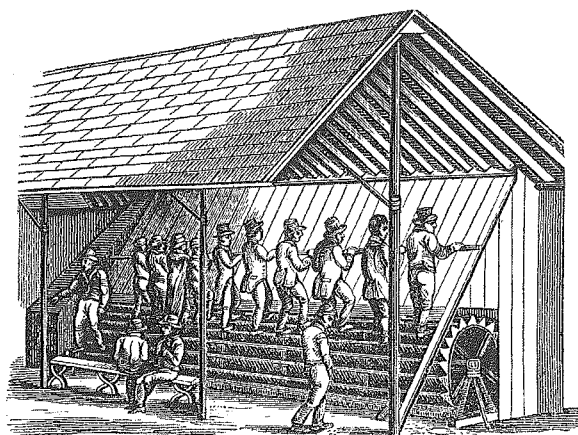


FIGURE 4. “Proposed Treadmill for the Baltimore Almshouse,” in Stephen Allen, *Reports on the Stepping or Discipline Mill, at the New York Penitentiary* (New York: Van Pelt and Spear, 1823). Entering almshouses and workhouses required inmates to forfeit various freedoms and submit to disciplinary regimes similar to those of the new penitentiaries. Courtesy of the Library of Congress.

next three decades. At Newgate Prison in New York, inmates often sabotaged machinery and slept at work. In 1799, several dozen convicts there even took their keepers hostage—an act of resistance they repeated a few months later. Within twenty years, disciplinary problems had escalated dramatically and mass breakouts were increasingly common. The more overcrowded these early penitentiaries became, the more strength inmates seemed to draw from their growing numbers. Between 1817 and 1821, Walnut Street suffered through four crippling riots and the murder of a black inmate by other prisoners, while in 1823 prisoners in Charlestown, Massachusetts, threatened violence to keepers there who tried to flog one of their number.²⁸

As early as 1820, the overcrowded and patently dysfunctional penitentiaries at Walnut Street, Newgate, and Charlestown had become symbols of the failure to keep order behind bars. Many newspapers now described them as incubators of vice, places where hardened criminals initiated novices into the habits of law-breaking. Prisoners had thoroughly undermined the labor requirement; standards of diet and hygiene had fallen precipitously; prisons were understaffed; and keepers lived in fear. “For the duration of its existence,” writes Rebecca M. McLennan, “the penitentiary house remained an unstable, crisis-prone institution—one that resembled the orderly repentance house of Benjamin Rush’s fertile imagination in name more than in fact.”²⁹

By this time, Rush and many other Revolutionary-era activists had long since passed from the scene. Thus it fell to a new generation of penal reformers and northeastern lawmakers to decide how to proceed. The experience of the past few years had thoroughly eroded confidence in public labor schemes, and with use of the death penalty now limited only to murder in the first degree in most northern states, there was no turning back to the widespread use of sanguinary punishments. So instead, reformers sought to reform the penitentiary itself, focusing their energies on designing new institutions that could amplify the authority of keepers and make inmates’ experience of confinement more isolating, more uniform, and more exacting.³⁰

In New York State, authorities attempted to achieve isolation by imposing a regime of silent labor upon the prisoners. The plans for Auburn Penitentiary, to be constructed on the banks of the Hudson River just north of Manhattan, called for small solitary cells in which prisoners would sleep. During the days, prisoners would be corralled into large industrial workshops where they would eat and work in utter silence

under the watchful eye of guards trained to intercept even the subtlest attempts at communication. “While confined here,” the Auburn warden, Gershom Powers, informed his charges in 1826, “you are to be literally buried from the world.” Even a whisper might elicit a whipping or an iron gag. Yet, despite its monastic routines, the Auburn model took no interest in the state of the convict’s soul. On the contrary, it emphasized embodied authority and strict hierarchy and, like the workhouse model it was based upon, placed its hopes in the habits of hard, productive labor and the threat of corporal punishment as the basis of correction.³¹

In Pennsylvania, authorities set out to establish corrective isolation by alternate means: by investing in architecture and the promise of spatial control. In the plans for Eastern State Penitentiary at Cherry Hill on the outskirts of Philadelphia, the English-born architect John Haviland envisaged a radial arrangement of 252 solitary cells (see figure 5). Much larger than the sleeping cells at Auburn, each twelve-by-eight-foot cell would be equipped with its own heating, plumbing, and exercise yard so that prisoners need never leave its confines or find opportunity to mix, conspire, or riot with other criminals. Instead, prisoners would be left alone in perpetual seclusion so that they could confront the memory of their crimes and examine their consciences, all the while living under a circular skylight intended to represent “the eye of God.” They were to be distracted from the task of penitence only by light labor tasks that could be accomplished from within their cells, such as spinning, shoe-making, or weaving, and by occasional visits from religious instructors. Here, then, was a plan to train prisoners in more than the habits of obedience. Vastly more optimistic (and idealistic) than the silent system practiced in New York, the solitary system developed in Pennsylvania embodied a bold, uncompromising Quaker vision in which even the most heinous sinners could be reformed and reborn. “Auburn was society itself reduced to its bare essentials,” Foucault concluded after reviewing the promotional literature. “Cherry Hill was life annihilated and begun again.”³²

The inhabitants of early American penitentiaries, of course, had visions of their own. While there is much that historians do not yet understand about penal practice behind the hulking Gothic façade of Eastern State, this much is clear: within a few years of its 1829 opening it was in crisis and disarray. A report commissioned by the Pennsylvania General Assembly and published in 1835 reproduced a torrent of prisoner testimony to the brazen corruption in the warden’s office and among the

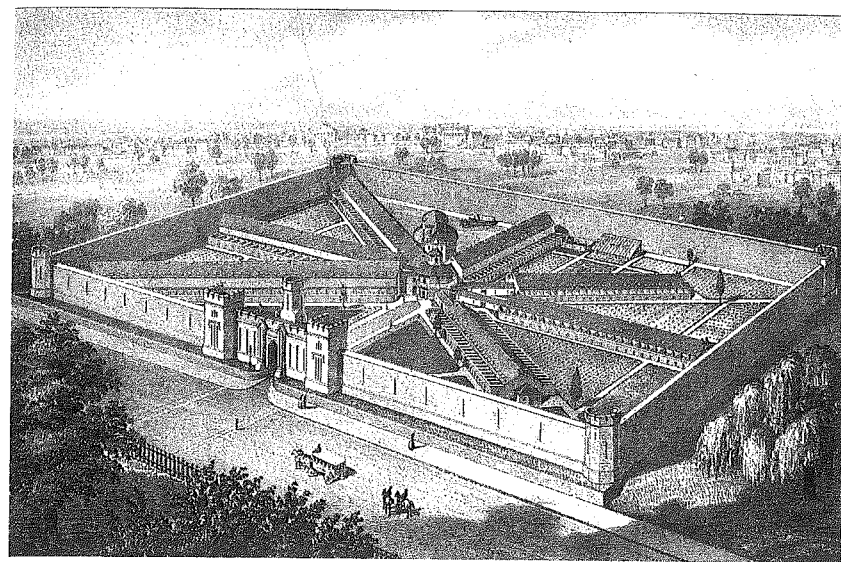


FIGURE 5. Samuel Cowperthwaite, *The State Penitentiary, for the Eastern District of Pennsylvania* (Philadelphia: P. S. Duval, 1855). Courtesy of the Library Company of Philadelphia.

guards (or “overseers” as they were known). Guards stole building materials and tools, threw parties, entertained friends, and pulled convicts from their cells to serve as waiters and cooks for their guests. Inmates also claimed that their keepers indulged in all sorts of extralegal penalties. They cut food rations arbitrarily and banned use of the exercise yards Haviland had ingeniously attached to each cell. Some inmates were apparently forced to wear straitjackets; others were beaten repeatedly and sometimes at random. One prisoner, Mathias Maccumsey, asphyxiated after being made to wear a gag.³³

The warden and his men defended their conduct as necessary responses to the deficiencies of Haviland’s design and the naïveté of the Christian vision that had guided it. Indeed, while many European visitors to Eastern State had cautioned that the long-term effects of penal isolation upon inmates might be counterproductive—“There really is no torture more severe, even to a virtuous mind, than absolute solitude,” Basil Hall, a Scottish naval officer, protested after inspecting the construction site in December 1827—they need not have worried. As it turned out, thick walls and solitary cells were not sufficient to prevent

inmates from communicating. Nor were convicts content to dwell calmly and peacefully on the state of their souls from dawn to dusk, seven days a week. On the contrary, many grew agitated and violent, and overseers who abided by the prison's rule banning the carrying of clubs or weapons into cells did so at their peril.³⁴

In New York, things weren't much better. Enforcing the silent system was a daily struggle and hugely labor intensive. Though Gustave de Beaumont and Alexis de Tocqueville would claim after a visit to Auburn in 1831 that "the cases of infraction are so rare that they are of little danger," others observed structural frailties at every turn. W. A. Coffey, an ex-prisoner, published *Inside Out; or, an Interior View of the New-York State Prison . . . by One Who Knows* in 1826 (see figure 6). The daily regime he described to readers of this pungent exposé was structured not only by the factory-style routines of lock-smithing and comb-making, but also by the noise of convicts "conversing unrestrainedly" during "intervals of leisure." By way of proof, he recalled a prolonged, shouted exchange between a Scotsman and a Vermonter about which of their native lands was superior. Nor, Coffey claimed, were offenders at Auburn set apart from distracting and potentially corrupting external influences. He described all manner of visitors, even children, and noted that the keepers, often drunk and abusive, set a terrible example. "The prison has failed to promote the object of its institution," this ex-inmate concluded. It is a "sink of corruption."³⁵

Coffey's warnings—much like the warnings of other inmates analyzed in essays by Daniel E. Williams and Caleb Smith—were widely ignored. Throughout the antebellum period, jurisdictions across the country and throughout the Atlantic world embraced the prospect of carceral punishment and began to experiment with their own variations of Pennsylvania's separate system or New York's silent system. Several European nations rushed to build penitentiaries modeled after Eastern State, as did legislatures in Maine, Rhode Island, and New Jersey. Yet, the great expense associated with Haviland's radial design and the necessity of building capacious solitary cells and adjoining individual exercise yards persuaded many penurious states to reject the Pennsylvania system in favor of the cheaper congregate-labor model pioneered at Auburn. Between 1825 and 1850, impoverished legislatures in New Hampshire, Vermont, Massachusetts, Connecticut, Maryland, Virginia, Tennessee, Missouri, Illinois, Ohio, and the District of Columbia each approved congregate-labor designs in which poor, predominantly white convicts

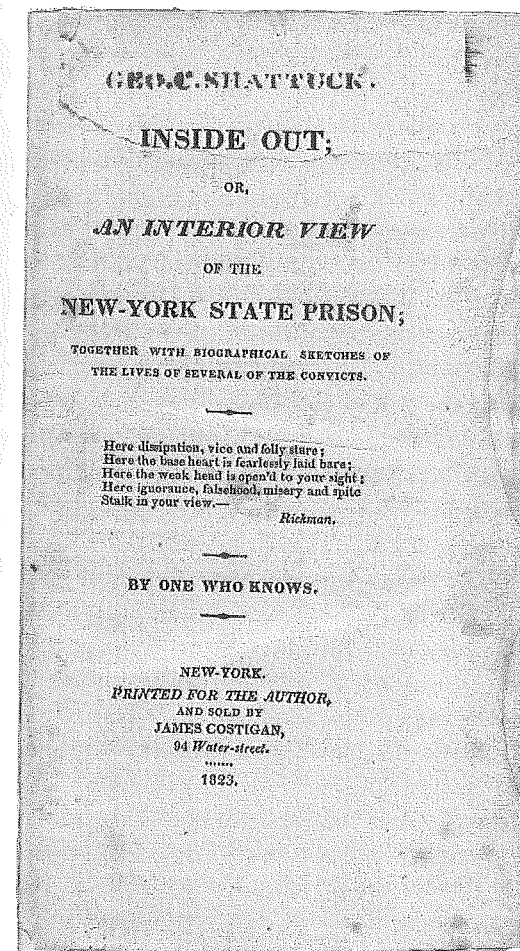


FIGURE 6. W. A. Coffey, *Inside Out; or, An Interior View of the New-York State Prison* (New York: J. Costigan, 1823). Courtesy of the Harvard College Library.

would work to offset the cost of their incarceration by engaging in larger-scale industrial manufacturing. Of course, the rise of the industrial penitentiary did not spell the end of the local jail. As essayists Matthew J. Clavin and Susan Eva O'Donovan remind us, in the Deep South town and county jails persisted in serving as sites of corporal punishment for chattel slaves throughout the antebellum era. Nonetheless, in the ever-expanding prison-industrial complex, an important shift was underway. By the eve of the Civil War, contractual penal servitude had eclipsed reformative isolation almost completely within the greater United States.³⁶

Although state after state embraced the Auburn model in hopes that their own personnel could prevent recurrence of the disciplinary problems experienced in New York, inmates had other ideas. Silent system penitentiaries across America were daily violated by “the shrieks, and groans and pleadings,” as one Missouri prisoner recorded in his 1847 diary. Whether in Missouri, Ohio, or Alabama, the incarcerated found ways to protest three-to-a-cell overcrowding and to retaliate against guards who continued to play favorites, to steal the clothes and money of their charges, and to brawl at all times of the day and night. In response, antebellum penitentiary inmates—the vast majority of whom were poor whites—tricked some keepers into bending the rules, belted out obscene songs on Sundays, and, in the words of a report to the Georgia Senate, “embezzl[ed] the goods committed to their charge.”³⁷

The most determined among them went much further, staging riots and setting fires designed to facilitate escape attempts and damage the buildings and capital upon which many self-financing congregate-labor prisons depended. In Mississippi, convicts tore to pieces the textile factory in one prison, wielding loom-weights as weapons and fighting their way to the gate before guards opened fire. In Georgia, the Milledgeville penitentiary suffered one breakdown after another—in 1826, 1831, and 1837—as inmates set fire to wooden buildings, somehow secured weapons and ammunition, and mounted the walls. As a direct result, the state legislature passed an act closing the twenty-year-old penitentiary until it could be properly rebuilt with fireproof structures and also entertained debate about returning to a system based exclusively on corporal punishment.³⁸

Buried Lives

In the midst of a vicious pamphlet war between ideologues advocating for the supremacy of one or the other of these two competing penitentiary systems, Charles Dickens paid a visit to Eastern State. In his famous account of that depressing experience, *American Notes for General Circulation* (1842), Dickens searched for an image to convey his compassion for the inmates he had met—prisoners whose vitality, individuality, and near-constant battles with wardens and guards seemed to have been concealed or overlooked by boosters eager to convince skeptics of the perfection of one carcerative model or the other. “He is a man buried alive; to be dug out in the slow round of years,” Dickens wrote.³⁹

Many decades later, much digging remains to be done. The ten essays that comprise this collection, eight of which began life at a conference held in Philadelphia to mark the 180th anniversary of the opening of Eastern State in 1829, endeavor to advance this excavation. While Philadelphia’s several carceral institutions thus loom appropriately large—the city, after all, is a pivotal site in America’s penal history—the ten essays gathered here encompass numerous jurisdictions in mainland Anglo-America and the British Caribbean from the earliest years of the seventeenth century to the eventual triumph of the Auburn system in the 1850s.

The essays have been divided into two groups. Part One, “Brokering Power behind Bars,” comprises five essays, arranged in broad chronological order, that introduce the research methods of historians of penal practice. Using an array of often neglected or misunderstood social history texts, these authors interrogate the ways by which confined men and women asserted themselves amid regimes of subjection within the jails, almshouses, workhouses, and penitentiaries of early America. Taken together, they offer a corrective to scholarship that has too long dismissed the agency of those punished, supervised, surveilled, corrected, and controlled by systems of power.

We begin at the heart of the eighteenth-century British Empire, on the sugar island of Antigua. This first essay reconstructs the ways in which the shared experience of congregate incarceration gave shape to the testimony elicited from black suspects implicated in an island-wide slave revolt in 1736. According to its author, Jason T. Sharples, the slaves thrown together in a makeshift lockup in St. John’s turned their common confinement to their advantage by colluding to concoct and disseminate faulty knowledge about the alleged conspiracy that they hoped would trick informants, satisfy investigators, and save their lives.

The next two essays examine movements in and out of several carceral institutions in early national America. Using Philadelphia as a case study, Simon P. Newman and Billy G. Smith examine the consequences of municipal efforts to get rising numbers of the impudent poor off the streets at the turn of the century. Once inside the city’s almshouse, workhouse, or jail, assertive inmates steadfastly resisted efforts to forcibly instill in them the values of hard work and self-control, and instead set about appropriating institutional resources to help them survive harsh winters, provide for loved ones, and, on occasion, turn the expense of

their incarceration into a bargaining chip by which they might be released from bondage and servitude.

Some inmates had entered these often-punitive institutions voluntarily. The venereal sex workers who talked their way into the city's almshouse in search of medical treatment during the 1790s were, Jacqueline Cahif reports, a self-confident lot. Brash and sometimes brazen, this remarkable group of women exploited the resources of the almshouse as if it was designed to cater to their wants and needs, brushing off efforts to render them submissive and industrious, and then absconding before the almshouse officials could exact any work from them in lieu of payment.

Thirty years later, in 1829, Eastern State received its first inmates, providing authorities with an important new tool in the management of urban disorder. Yet, prisoners soon challenged the code of silence and segregation envisioned by proponents of the Philadelphia system. As Jennifer Lawrence Janofsky argues, isolation was continually compromised, and suicide and self-mutilation were as frequent as reformation. Despite the limits placed upon them by Haviland's architecture, inmates at Eastern State found unusually creative means to contest the nature of power, affect the corrective regime, and define the texture of daily life.

In contrast to institutions such as Eastern State, in the Lower South, most penitentiary prisoners tended to be poor whites. According to political leaders there, black slaves had no place behind their bars because, as chattel, they had no character worthy of reformation and no freedom to be curtailed. Instead, planters kept order by perpetuating the use of vicious corporal punishments, often co-opting local jailers to do their dirty work. In consequence, Susan Eva O'Donovan writes, the South's shabby county jails were bustling places in which blacks enjoyed unfettered contact and communication with one another and with the many itinerant northern abolitionists who ran afoul of local laws from time to time. These interactions often proved formative, providing conduits for the brokering of advice, information, and encouragement that contributed to some of the most notorious acts of black empowerment in American history.

Part Two, "Writing the Carceral Experience," returns to the questions posed by Henry Mills's narrative. Specifically, what special burdens do incarcerated authors bear? How should scholars treat oral testimony solicited from prisoners and transcribed and edited by ministers or justice

officials? What is the nature of the relationship between the pen and the penal state? In answer, the five essays presented here probe prisoners' attempts to develop their literacy skills, their acts of self-fashioning and representation, their graphic and disturbing descriptions of confinement, and their newly evolved "rhetoric of authenticity."

Surveying the confessional literature produced by condemned prisoners between 1693 and 1770, Jodi Schorb argues that prisoner literacy was fundamental to the theatrics of public execution throughout the eighteenth century. Yet, in practice, authorities such as Cotton Mather found that controlling and directing prisoner literacy toward suitable reading and appropriate writing created unforeseen problems that only served to deepen doubts about the use of the death penalty and heighten broader anxieties about the expansion of print literacy throughout the colonies.

The prisoners of war at the heart of Judith I. Madera's essay engaged in their own collective acts of self-determination. Holed up in the fetid prison hulks moored in New York Harbor for the duration of the Revolutionary War, American privateers captured by the British later authored a cohort of memoirs that reveal how this beleaguered population elaborated a system of by-laws and disciplinary mechanisms to maintain community healthfulness and integrity in the face of pervasive squalor, disease, and repeated efforts to impress them into the British Navy.

As the last of these veterans laid down their pens, Ann Carson was taking up her own. By the early 1820s, Carson—a convicted accessory to murder, a bigamist, an adulterer, and a would-be bomber and kidnapper—was the most notorious female inmate in America. Yet, in his analysis of her 1822 autobiography, Daniel E. Williams finds Carson playing the victim, recasting her reckless and defiant conduct behind bars at Philadelphia's Walnut Street Prison as a series of misunderstood struggles against a ruthless, arbitrary power.

Twenty years later, in 1844, the voice of another Philadelphia prisoner found its way into print. George Ryno, an inmate at Eastern State, published a book of poetry ostensibly dedicated to rebutting Charles Dickens's recent attacks on the provocative and peculiar Pennsylvania system of prison discipline. Yet, as Caleb Smith explains, beyond a gushing preface in which Ryno, writing under the pen name Harry Hawser, describes his incarceration as "the happiest moment of my life," the verses themselves speak more candidly and liken the experience of solitary confinement to being buried alive—"fated to a living tomb."⁴⁰

While Ryno engaged in a transatlantic dispute about prison conditions at Eastern State, one thousand miles further south, in Pensacola, Florida, an incarcerated abolitionist was taking careful notes of the violence perpetrated by a jailer against slaves brought in for correction. After his release in 1844, Jonathan Walker authored a whistle-blowing memoir in which he describes the Pensacola jail as a brutal extension of plantation power. Walker framed his observations, Matthew J. Clavin demonstrates, as further proof of the Slave Power's control over every aspect of southern society, using his own carceral experience to propel northern readers to outrage and action.

Together, the ten essays that comprise *Buried Lives* evidence the range of strategies inmates developed to defend against external control of their bodies and souls. No matter the setting, inmates' defiance—prompted by a variety of motives—often thwarted the purpose of punishment. At times, their behavior served to exacerbate existing structural weaknesses, exposing fault lines that could bring penal institutions to the verge of collapse. On other occasions, inmates imposed their own disciplinary imperatives to contrast and compete with those forced upon them by their keepers. Time and again, their acts of resistance—whether small victories or great disturbances—proved sufficiently challenging enough to regimes of power that they reset the course of American penal history.

Indeed, the essays gathered here recover such urgent connectivity and sustained vitality among the incarcerated that the equivalence scholars once assumed between civil death and social death requires revision. In common with recent scholarship on the experience of enslaved people in America, we find no evidence of social death behind bars. On the contrary, inmates formed new social bonds both within carceral institutions and beyond them, giving the lie to notions that early American jails and prisons formed impermeable barriers between society and its discontents.

By placing these long-buried lives at the center of analysis, *Buried Lives* argues for a new history of penal practice that is vastly more complex and multifaceted than that implied by the eventual triumph of the New York penitentiary model. Indeed, we hope that this volume will suggest new opportunities to apply historical and literary perspectives to the task of understanding America's continuing obsession with incarceration.

NOTES

1. *Narrative of the Pious Death of the Penitent Henry Mills, Who Was Executed at Galesboro's, Penn, on the 15th of July Last, for the Murder of His Wife and Five Children* . . . (Boston: H. Trumbull, 1817), 3–4.

2. *Ibid.*, 6, 8.

3. *Ibid.*, 3–4. No record of Mills's life, crimes, or execution appear in the tens of thousands of papers indexed in the Readex database of America's Historic Newspapers or in the catalog of legal public executions compiled by Negley K. Teeters. Negley K. Teeters, *Scaffold and Chair: A Compilation of Their Use in Pennsylvania, 1682–1962* (Philadelphia: Philadelphia Prison Society, 1963), 44–67; Louis P. Masur, *Rites of Execution: Capital Punishment and the Transformation of American Culture, 1776–1865* (New York: Oxford University Press, 1989), 105. Other deceptive fictions include *A Faithful Account of the Massacre of the Family of Gerald Watson* (Boston: N. Coverly, 1819).

4. Roberts Vaux, *Letter on the Penitentiary System of Pennsylvania. Addressed to William Roscoe, Esquire, of Toxteth Park, near Liverpool* (Philadelphia: Jesper Harding, 1827), 2; George Washington Smith, *Description of the Eastern State Penitentiary* (Philadelphia: C. G. Childs, 1829), 7. For similar claims as to the transformative effects upon prisons of the “Pennsylvania system,” see Roberts Vaux, *Notices of the Original, and Successive Efforts, to Improve the Discipline of the Prison at Philadelphia, and to Reform the Criminal Code of Pennsylvania: With a Few Observations on the Penal System* (Philadelphia: Kimber and Sharpless, 1826).

5. David J. Rothman, *The Discovery of the Asylum: Social Order and Disorder in the New Republic* (Boston: Little, Brown, 1971); Michel Foucault, *Discipline and Punish: The Birth of the Prison*, trans. Alan Sheridan (New York: Vintage, 1995); and Michael Ignatieff, *A Just Measure of Pain: The Penitentiary in the Industrial Revolution, 1750–1850* (New York: Columbia University Press, 1978). Quote is taken from Foucault, *Discipline and Punish*, 25.

6. This inclusive definition of incarceration owes a debt to David Rothman's work on the concomitant rise of various institutions engaged in confinement and reformation in Jacksonian America. See Rothman, *Discovery of the Asylum*.

7. Foucault, *Discipline and Punish*, passim. For an astute summation of Foucault's thesis, see David Garland, *Punishment and Modern Society: A Study in Social Theory* (Chicago: University of Chicago Press, 1990), 133–36.

8. Foucault, *Discipline and Punish*, 82; Caleb Smith, *The Prison and the American Imagination* (New Haven: Yale University Press, 2009), 14.

9. Ignatieff, *Just Measure of Pain*, 11; Michael Meranze, *Laboratories of Virtue: Punishment, Revolution and Authority in Philadelphia, 1760–1835* (Chapel Hill: University of North Carolina Press, 1996), 14; Michael Ignatieff, “The State, Civil Society and Total Institutions: A Critique of Recent Social Histories of

Punishment," in *Social Control and the State*, ed. Stanley Cohen and Andrew Scull (New York: St. Martins, 1983); David Garland, "Foucault's 'Discipline and Punish'—an Exposition and Critique," *American Bar Foundation Research Journal* 11, no. 4 (1986): 870. These three works were in dialogue not only with one another but also with earlier work that had drawn connections between capitalism and the rise of the penal state in the West, notably George Rusche and Otto Kirchheimer, *Punishment and Social Structure* (1939; reprint, New York: Russell and Russell, 1968); Douglas Hay et al., *Albion's Fatal Tree: Crime and Society in Eighteenth-Century England* (New York: Pantheon, 1975).

10. Garland, *Punishment and Modern Society*, 144; Thomas L. Dumm, *Democracy and Punishment: Disciplinary Origins of the United States* (Madison: University of Wisconsin Press, 1987); John Bender, *Imagining the Penitentiary: Fiction and the Architecture of Mind in Eighteenth-Century England* (Chicago: University of Chicago Press, 1987); Adam J. Hirsch, *The Rise of the Penitentiary: Prisons and Punishment in Early America* (New Haven: Yale University Press, 1992); Mark E. Kann, *Punishment, Prisons and Patriarchy: Liberty and Power in the Early American Republic* (New York: New York University Press, 2005). For commentary on the evolving meaning of "social control," see David J. Rothman, "Social Control: The Uses and Abuses of the Concept in the History of Incarceration," in *Social Control and the State*, ed. Stanley Cohen and Andrew Scull (New York: St. Martins, 1983), 106–17. On the impact of *Discipline and Punish*, see Garland, "Foucault's 'Discipline and Punish,'" 865–68. Foucault, Ignatieff, and Rothman each gestured briefly toward matters of penal practice: Foucault acknowledged that penitentiaries produce delinquents, Ignatieff admitted the opposition penal reformers encountered from "the lower sort," and Rothman called for subsequent scholars to recover prisoners' social history. While each author thus displayed healthy skepticism about the efficacy of successive reform efforts, they eschewed concerted engagement with the questions of agency, identity, and negotiation provoked by the daily workings of power behind bars. Foucault, *Discipline and Punish*, 266–67; Garland, *Punishment and Modern Society*, 157–75; Rothman, "Social Control," 116–17.

Prison riots at Long Island City Prison, in New York, and Folsom, San Quentin, Soledad, and the Men's Colony at San Luis Obispo, all in California, made front-page news in 1970. At Folsom, prisoners wrote and distributed a political manifesto condemning American prisons as "fascist concentration camps" and demanding an "end to the injustices suffered by all prisoners, regardless of race, creed or color." Phil Scraton, "Protests and 'Riots' in the Violent Institution," in *The Violence of Incarceration*, ed. Phil Scraton and Jude McCulloch (New York: Routledge, 2009), 63; Angela Y. Davis, *If They Come in the Morning: Voices of Resistance* (New York: Third Press, 1971), 22, 144. In his preface, Michael Ignatieff acknowledged that "nearly a decade of hostage-takings, demonstrations, and full-scale uprisings" had, in combination with other factors, "broken

the fragile order inside the [contemporary] prison." Ignatieff, *Just Measure of Pain*, xi–xii.

11. Landmark scholarship on the lives of unwelcome and unfortunate Americans prior to the Civil War includes Billy G. Smith, *The "Lower Sort": Philadelphia's Laboring People, 1750–1800* (Ithaca, N.Y.: Cornell University Press, 1990); Billy G. Smith, ed., *Down and Out in Early America* (University Park: Pennsylvania State University Press, 2005); Billy G. Smith and Susan E. Klepp, eds., *The Infortunate: The Voyage and Adventures of William Moraley, an Indentured Servant* (University Park: Pennsylvania State University Press, 1992); Ruth Wallis Herndon and John E. Murray, eds., *Children Bound to Labor: The Pauper Apprentice System in Early America* (Ithaca, N.Y.: Cornell University Press, 2009); Ruth Wallis Herndon, *Unwelcome Americans: Living on the Margin in Early New England* (Philadelphia: University of Pennsylvania Press, 2001); Seth Rockman, *Scraping By: Wage Labor, Slavery, and Survival in Early Baltimore* (Baltimore: Johns Hopkins University Press, 2009); Alfred F. Young, *The Shoemaker and the Tea Party: Memory and the American Revolution* (Boston: Beacon, 1999); Myra C. Glenn, *Campaigns against Corporal Punishment: Prisoners, Sailors, Women, and Children in Antebellum America* (Albany: State University of New York Press, 1984), 85–101.

12. Marianna Thomas, ed., *Eastern State Penitentiary: Historic Structures Report* (Philadelphia: Philadelphia Historical Commission, 1994), Sections 1-E, 6-H, 6-I, 7. See also Leslie C. Patrick-Stamp, "Numbers That Are Not New: African Americans in the Country's First Prison, 1790–1835," *Pennsylvania Magazine of History and Biography* 119, nos. 1/2 (1995): 95–128.

13. Rebecca M. McLennan, *The Crisis of Imprisonment: Protest, Politics, and the Making of the American Penal State, 1776–1941* (New York: Cambridge University Press, 2008), 2, 3. For a recent study of penal practice in Gilded Age Philadelphia, see Kali N. Gross, *Colored Amazons: Crime, Violence, and Black Women in the City of Brotherly Love, 1880–1910* (Durham, N.C.: Duke University Press, 2006), 125–49.

14. Meranze, *Laboratories of Virtue*, 21; Masur, *Rites of Execution*, 25–49; Hay et al., *Albion's Fatal Tree*, 65–117.

15. Meranze, *Laboratories of Virtue*, 21; Daniel Allen Hearn, *Legal Executions in New York State: A Comprehensive Reference, 1639–1963* (Jefferson, N.C.: McFarland, 1997), 5–18; Hearn, *Legal Executions in New England: A Comprehensive Reference, 1623–1960* (Jefferson, N.C.: McFarland, 1999), 1–160; Hearn, *Legal Executions in New Jersey: A Comprehensive Registry, 1691–1963* (Jefferson, N.C.: McFarland, 2005), 5–34. On the expansion of capital offenses to cover a greater share of property crimes in Anglo-American criminal law after 1688, see Hay et al., *Albion's Fatal Tree*, 17–63.

16. Meranze, *Laboratories of Virtue*, 21, 45–6; Michael S. Hindus, *Prison and Plantation: Crime, Justice, and Authority in Massachusetts and South Carolina, 1767–1878* (Chapel Hill: University of North Carolina, 1980), 38, 99–102, 45; Raphael Semmes, *Crime and Punishment in Early Maryland* (Montclair, N.J.:

Patterson Smith, 1970), 35; Donna Spindel, *Crime and Society in North Carolina, 1663-1776* (Baton Rouge: Louisiana State University Press, 1989), 122-25.

17. Meranze, *Laboratories of Virtue*, 24, 53-54; Foucault, *Discipline and Punish*, 45.

18. Meranze, *Laboratories of Virtue*, 175; Hirsch, *Rise of the Penitentiary*, 6-11; Sally E. Hadden, *Slave Patrols: Law and Violence in Virginia and the Carolinas* (Cambridge, Mass.: Harvard University Press, 2001), 60.

19. Bender, *Imagining the Penitentiary*, 13-16; Hirsch, *Rise of the Penitentiary*, 9; Pieter Spierenburg, "The Body and the State: Early Modern Europe," in *The Oxford History of the Prison: The Practice of Punishment in Western Society*, ed. Norval Morris and David J. Rothman (New York: Oxford University Press, 1998); Spindel, *Crime and Society*, 120-21; Semmes, *Crime and Punishment*, 33-37; James C. Bonner, "The Georgia Penitentiary at Milledgeville, 1817-1874," *Georgia Historical Quarterly* 55 (1971): 305.

20. Meranze, *Laboratories of Virtue*, 38, 54. For demonstrations of the bond between the prisoner and the public in England at this time, see Hay et al., *Albion's Fatal Tree*, 65-117.

21. Benjamin Rush, *Essays Moral, Literary, and Philosophical* (Philadelphia: Thomas and F. Bradford, 1798), 164; Hearn, *Legal Executions in New York State*, 18-23; Hearn, *Legal Executions in New England*, 1-160; Hearn, *Legal Executions in New Jersey*, 35-53; McLennan, *Crisis of Imprisonment*, 18-23; Masur, *Rites of Execution*, 50-70.

22. Gary B. Nash, "Poverty and Poor Relief in Pre-Revolutionary Philadelphia," *William and Mary Quarterly* 33, no. 1 (January 1976): 20. Also see John K. Alexander, *Render Them Submissive: Responses to Poverty in Philadelphia, 1760-1800* (Amherst: University of Massachusetts Press, 1980); Rothman, *Discovery of the Asylum*; Simon P. Newman, *Embodied History: The Lives of the Poor in Early Philadelphia* (Philadelphia: University of Pennsylvania Press, 2003); Smith, "Lower Sort"; and Bruce Dorsey, *Reforming Men and Women: Gender in the Antebellum City* (Ithaca, N.Y.: Cornell University Press, 2002). On the limited scope and slow pace of reform in the South, see Edward L. Ayers, *Vengeance and Justice: Crime and Punishment in the 19th Century American South* (New York: Oxford University Press, 1984), 42-43; Hindus, *Prison and Plantation*, 101-2.

23. McLennan, *Crisis of Imprisonment*, 32-33; Negley K. Teeters, *The Cradle of the Penitentiary: The Walnut Street Jail at Philadelphia, 1773-1835* (Philadelphia: n.p., 1955), 28; Masur, *Rites of Execution*, 71-92; Meranze, *Laboratories of Virtue*, 55, 69, 71-72, 84.

24. McLennan, *Crisis of Imprisonment*, 33-35, quote on 35; Masur, *Rites of Execution*, 76-79; Meranze, *Laboratories of Virtue*, 87-90, 126-27.

25. Almshouse Managers' Minutes, Nov. 3, 1775, quoted in Nash, "Poverty and Poor Relief in Pre-Revolutionary Philadelphia," 28; Benjamin Rush, *An Enquiry into the Effects of Public Punishments upon Criminals, and upon Society*

(Philadelphia: Joseph James, 1787), 12; Dumm, *Democracy and Punishment*, 94; McLennan, *Crisis of Imprisonment*, 35-37; Meranze, *Laboratories of Virtue*, 131-33.

26. J. T. Mitchell and Henry Flanders, eds., *The Statutes at Large of Pennsylvania from 1682 to 1801* (Harrisburg, Pa.: Harrisburg Publishing, 1896-1908), 13:515; McLennan, *Crisis of Imprisonment*, 37; Meranze, *Laboratories of Virtue*, 167-68; Dumm, *Democracy and Punishment*, 97, 104; Smith, *Prison and the American Imagination*, 99. For scholarship that highlights the punitive and disciplinary aspects of confinement within the growing numbers of almshouses and workhouses to be found in urban centers, see Rothman, *Discovery of the Asylum*, 180-205; Rockman, *Scraping By*, 194-230; Monique Bourque, "Poor Relief 'without Violating the Rights of Humanity': Almshouse Administration in the Philadelphia Region, 1790-1860," in Smith, *Down and Out in Early America*, 198; Alexander, *Render Them Submissive*, 61-85; Michael B. Katz, *In the Shadow of the Poorhouse: A Social History of Welfare in America* (New York: Basic, 1986), 15-23; Smith, "Lower Sort"; Dorsey, *Reforming Men and Women*; and Newman, *Embodied History*.

27. McLennan, *Crisis of Imprisonment*, 44-46. On the comparisons between penal confinement and slavery, see Hirsch, *Rise of the Penitentiary*, 71-111.

28. McLennan, *Crisis of Imprisonment*, 44-46. By 1804, similar institutions had opened in Trenton, New Jersey, and Baltimore, Maryland. Dumm, *Democracy and Punishment*, 106-7.

29. McLennan, *Crisis of Imprisonment*, 49; Howard O. Sprogle, *The Philadelphia Police: Past and Present. Illustrated with Portraits and Etchings* (Philadelphia: Printed for the Author, 1887), 62-63; Meranze, *Laboratories of Virtue*, 219; Dumm, *Democracy and Punishment*, 105. By 1828, Philadelphia officials had also dismantled what was left of the colonial poor relief system and had moved the almshouse out of sight, to the outskirts of the city.

30. McLennan, *Crisis of Imprisonment*, 48; Smith, *Prison and the American Imagination*, 83; Gustave de Beaumont and Alexis de Tocqueville, *On the Penitentiary System in the United States, and Its Application in France; with an Appendix on Penal Colonies, and also Statistic Notes* (Philadelphia: Carey, Lea & Blanchard, 1833), 22.

31. De Beaumont and de Tocqueville, *On the Penitentiary System*, quote on 32; Foucault, *Discipline and Punish*, 238; Dumm, *Democracy and Punishment*, 119; Gershom Powers, *A Brief Account of the Construction, Management, & Discipline of the New York State Prison at Auburn* (Auburn, N.Y.: U. F. Doubleday, 1826); W. David Lewis, *From Newgate to Dannemora: The Rise of the Penitentiary in New York, 1796-1848* (Ithaca, N.Y.: Cornell University Press, 1965).

32. Foucault, *Discipline and Punish*, 239, 47-48; de Beaumont and de Tocqueville, *On the Penitentiary System*, 23-24; Meranze, *Laboratories of Virtue*, 217, 28; Dumm, *Democracy and Punishment*, 108, 22; Norman Johnston, Kenneth Finkel, and Jeffrey A. Cohen, *Eastern State Penitentiary: Crucible of Good Intentions*

(Philadelphia: Philadelphia Museum of Art, 1994), 31-45; G. W. Smith, *A View and Description of the Eastern Penitentiary of Pennsylvania* (Philadelphia: Philadelphia Society for Alleviating the Miseries of Public Prisons, 1830).

33. Meranze, *Laboratories of Virtue*, 305-11; Thomas B. McElwee, *A Concise History of the Eastern Penitentiary of Pennsylvania, Together with a Detailed Statement of the Proceedings of the Committee, Appointed by the Legislature, December 6th, 1834* (Philadelphia: Neal & Massey, 1835).

34. Basil Hall, *Travels in North America in the Years 1827 and 1828*, 3 vols. (Edinburgh: Andrew Shortreed, 1830), 2:352; Meranze, *Laboratories of Virtue*, 312-13.

35. De Beaumont and de Tocqueville, *On the Penitentiary System*, 2; W. A. Coffey, *Inside Out; or, An Interior View of the New-York State Prison: Together with Biographical Sketches of the Lives of Several of the Convicts* (New York: J. Costigan, 1823), ix-xi, 19, 52, 70-74, 93, 134.

36. McLennan, *Crisis of Imprisonment*, 4, 53-86; Dumm, *Democracy and Punishment*, 127; Smith, *Prison and the American Imagination*, 106; Ayers, *Vengeance and Justice*, 34-35.

37. George Thompson, *Prison Life and Reflections* (Hartford, Conn.: A. Work, 1857), 119-20, 29-32, 51, 56, 96, quote on 19; Martha A. Myers, *Race, Labor, and Punishment in the New South* (Columbus: Ohio State University Press, 1998), 14; Bonner, "Georgia Penitentiary," 307.

38. Ayers, *Vengeance and Justice*, 59-61; Bonner, "Georgia Penitentiary," 309; Thompson, *Prison Life*, 155; Myers, *Punishment in the New South*, 14.

39. Charles Dickens, *American Notes for General Circulation* (New York: Harper and Brothers, 1842), 40.

40. Harry Hawser, *Buds and Flowers, of Leisure Hours* (Philadelphia: G. W. Johnson, 1844), 70.