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CALEB SMITH

THE **Prison**
AND THE **American**
Imagination

YALE UNIVERSITY PRESS NEW HAVEN & LONDON

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For J. M.

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Introduction

THE POETICS OF PUNISHMENT

Not so real

The Cheek of Liberty—

As this Phantasm Steel—

Whose features—Day and Night—

Are present to us—as Our Own—

And as escapeless—quite—

—EMILY DICKINSON, "A prison gets to be a friend" (652)

IN THE 1860S, Emily Dickinson slowly withdrew from the world, into her family's home in Amherst, Massachusetts. Outside was the sound and fury of a country reckoning with slavery, Indian Removal, and other horrors; in the enclosed, protected space of the homestead, Dickinson quietly tended her garden and wrote her thousands of letters and poems. As the years went by, her seclusion was more and more complete—in the last decades of her life, they say, Dickinson usually declined to receive even the visits of her closest friends. Instead, she might send a pressed flower or a few lines of verse downstairs: "The Soul selects her own Society," she wrote, "Then—shuts the Door."¹ Dickinson's poems, almost none of them published while she lived, record the exquisitely refined reflections of a mind long held in narrow confines.

In nineteenth-century Massachusetts, Emily Dickinson became a legend, the "nun of Amherst," shrouded in mystery and a white dress. After her death, when her poems began to circulate, readers and critics took up the legend, Dickinson came to represent a Romantic myth, the poet who, in a radical solitude, discovers a private and visionary sensibility.² Declaring that "Publication—is the Auction / Of the Mind of Man" (709), she stands for the genius that removes itself from, and finally

transcends, the public world of commerce and war and the man-made law. The legend is compelling, and almost any reader of Dickinson's poetry will testify to the feeling of encountering a most peculiar spirit. And yet, in recent decades, scholars have begun to doubt the perfection of Dickinson's solitude.³ Even the sanctuary of the Dickinson homestead, it seems, was open to newspapers and literary movements, visited by lawyers and reformers and people of letters, among them the Philadelphia preacher Edward Wadsworth and the Concord sage Ralph Waldo Emerson. Many guests, many voices intruded upon Dickinson's private life. Listening closely to her verses, then, we might not hear only the musings of some new-world anchorite; we might also hear the sound and fury of the age. We might hear a culture's various and conflicting accounts of what it means to live a life confined.

As she explored her own removal from the world into the privacy of the home, Dickinson often imagined herself as a prisoner. She depicted the walls of her chamber as those of a cell, her seclusion as a kind of solitary confinement. Imprisonment, however, was an ambiguous condition for Dickinson, sometimes oppressive but also sometimes mysteriously liberating. Indeed, her verses present two apparently contradictory versions of the confined self. In "A prison gets to be a friend," Dickinson writes of "this Phantasm Steel—/Whose features—Day and Night—/Are present to us—as Our Own." Here, the poet takes up a trope with a long history in discourse about incarceration. According to the rhetoric of those who designed and defended the first great penitentiaries, the stone walls of the cell were not supposed only to confine the offender's body. Instead, the reformers imagined that the walls would become the mirrored surfaces of *reflection*, leading convicts to reckon with themselves and their crimes. The influential English minister and reformer Jonas Hanway, for example, was one of many who argued that the prisoner in solitary confinement would discover "the true resemblance of [his] mind, as it were in a mirror." The French magistrates Gustave de Beaumont and Alexis de Tocqueville, in their 1831 *Report on the Penitentiary System in the United States, and Its Application in France*, used the same imagery: "In solitude," wrote Beaumont and Tocqueville, "[the prisoner] reflects. Placed alone, in view of his crime, he learns to hate it."⁴ (In the published works of the reformers who designed the prison, the inmate was almost always represented as a man; both the rigors of prison life and

the power of self-discipline were assumed to be inappropriate for women.)⁵ To the champions of reform who brought the penitentiary into being, solitary confinement provided an architecture of reflection, the first step toward penitence.

As if meditating on the meaning of solitary confinement, Dickinson in another poem depicts a soul divided against itself: "Since Myself assault Me—/How have I peace," the speaker asks, "Except by subjugating Consciousness [?]" (642). Split into two conflicting parts, the "self" becomes its own antagonist. It lives in a state of painful conflict, and it imagines that peace will come only when one side of the self, or "Consciousness," is subdued by the other. There is a misery in these lines, but the self suffers with the promise of a reconciliation: its "subjugating" discipline might lead to a redeemed integrity. Reflecting and self-conquering, it carries out its own correction. This is the poetry of what Michel Foucault, a century later, would call the disciplinary "soul." Through incarceration, reflection, and supervision, the various and unpredictable tendencies of the mind are forged into a unified subjectivity: "Captivity," as Dickinson writes elsewhere, "is Consciousness" (384).

But this vision of solitude is haunted by another. In poems like "Doom is the House without the Door," the fantasy of penitent self-correction meets the nightmare of live burial. "There is a pain—so utter," writes Dickinson, "It swallows substance up—/Then covers the Abyss with Trance" (599). Here, the cell does not inspire spiritual reflection; it imposes an alienating, deathlike captivity:

There is a Languor of the Life
More imminent than Pain—
'Til Pain's Successor—When the Soul
Has suffered all it can—

A Drowsiness—diffuses—
A Dimness like a Fog
Envelops Consciousness—
As Mists—obliterate a Crag. (396)

The speaker doomed to captivity persists in a melancholy condition, bereft of the fullness of life. "The Nerves sit ceremonious, like Tombs," and "The Feet, mechanical, go round," but the soul seems already to

have expired (341). "I have so much to do—" says Dickinson, "And yet—Existence—some way back—/Stopped—struck—my ticking—through" (443). The speaker of such stammering, dissolute lines is no reflexive, self-disciplining soul; she is an empty shell. Consciousness has been obliterated by a misty languor. Subjectivity has given way to a cadaverous inhumanity.

Dickinson's two versions of the imprisoned self—one reflexive and self-disciplining, the other reduced to a soul-numbered living death—might stand for two opposing accounts of the prison developed by critics over the past two hundred years, especially since the late twentieth century. According to the first, the prison is an exemplary institution of modern power structures that dominate subjects at the level of consciousness or the soul. The great theorist of this subject-making discipline is the French philosopher Michel Foucault, whose *Discipline and Punish* (1975) is easily the most important work on punishment for scholars in literary and cultural studies. To Foucault, the prison is an "apparatus for transforming individuals"—through isolation and surveillance, it trains its inmates to discipline themselves, turning its assembly of malefactors into a congregation of docile and submissive subjects.⁶ The "spectacle of the scaffold" of the previous age exercised and dramatized sovereign power by mutilating the offender's body. The modern institution works, more subtly but perhaps more insidiously, on the soul, making prisoners responsible for the government of their own appetites and actions.

While the analysis of the prison as a subject-making institution is most readily associated with Foucault, it had been explored before his work, and it has been elaborated and expanded by many other writers. Some emphasize the place of the penal institution in the industrializing economy, showing how its architecture and timetables, reproducing those of the factory, train convicts to become alienated and obedient workers in a modern, capitalist system.⁷ Others connect the prison to the changing political order, demonstrating how the solitary confinement cell creates the radically individuated and inward-looking citizens of liberal democracy.⁸ They see the inmate as the "virtual image" of the free subject at large, and the "radical isolation" of the cell as "the specter which outlines the existence of man in the modern world."⁹ For them, as for Foucault, the prison dominates by subjugating consciousness.

Against these interpretations of the prison as an exemplary scene of modern subject formation, a second critical tradition depicts its cells as brutal dungeons of torture and dehumanization. In the early 1840s, a Philadelphia prisoner-poet calling himself "Harry Hawser" depicted Pennsylvania's Eastern State Penitentiary—probably the most famous monument of enlightened prison reform in its day—as "a living tomb."¹⁰ Over the past two hundred years, Hawser's vision has often recurred. The twentieth-century writer and activist Jimmy Santiago Baca describes his own descent, after a long period in solitary confinement in an Arizona penitentiary, into a living death—"I was empty," he writes; "I had no connection to this life."¹¹ The sociologist Erving Goffman depicts "total institutions" such as the prison as sites of a ritualized "mortification."¹² And the literary scholar Colin Dayan, whose illuminating recent work on the law has greatly informed my own, argues that the legal "fiction" of "civil death," which strips away the convict's human rights, finds its "materialization" in the solitary cells of the modern prison, a space of terror and ghostly half-life.¹³

Of course, Foucault and his followers are deeply skeptical about reformers' promises of "correction." They see the inmate's subjectivity as an effect of his subjection, of inescapable regimes of surveillance and control. But in the historical narrative they tell, the prison represents a new age, a modernity in which "the soul," in Foucault's phrase, becomes "the prison of the body." Critics belonging to the other group, meanwhile, tend to understand the prison not as a manifestation of modernity but as a remnant of uncivilized cruelty, a catacomb of abjection whose inmates are divested of rights, even of humanity, and persist in a shadowy living death. For them, the prisoner is not the counterpart of the citizen-subject but a figure of dehumanization or "bare life" akin to the other most famous captive in Jacksonian America, the plantation slave. While Foucault presents the prison as exemplary of mechanisms and techniques that are reproduced throughout society at large, the others argue that the prison is really a different world, excluded from or buried beneath the modern society of citizen-subjects. Their penitentiary has little in common with the school, the office, or other institutions of ordinary civil life, but it may help to explain the deep history of today's sprawling warehouse prisons, and the notorious violence at Guantánamo and Abu Ghraib. It may lead to the conclusion that the new war prisons and

carceral warehouses are not “exceptions” to the rule of law and order but the most scandalous contemporary incarnations of what the American prison has been from the beginning.

In the literature and critical scholarship of the American prison, then, we confront two starkly opposed figures: a reflecting, self-governing soul and a cadaverous, dehumanized body. Each is fundamental to the carceral imagination of the past two centuries, yet the two seem almost irreconcilable. How can the prisoner represent the perfect subjectivity of the modern citizen and, at the same time, the abject body outcast from the circle of rights-bearing humanity? How, in other words, can the same captive stand at once for self and other? This book argues that the poetics of the penitentiary—developed by reformers, theorists, and literary artists in the late eighteenth and early nineteenth centuries—were organized around a narrative of rebirth, and that the narrative required, as a precondition, the convict’s virtual death. The prison adapted ancient myths of resurrection to the demands of a post-Revolutionary social contract. It was a “living tomb” of servitude and degradation as well as the space of the citizen-subject’s dramatic reanimation. Its legal codes divested the convict of rights; its ritualized disciplinary practices stripped away his identity; it exposed him to arbitrary and discretionary violence at the hands of his keepers; it buried him alive in a solitary cell. But it also promised him a glorious return to citizenship and humanity. It mortified the body, but it also claimed to renovate the soul. Its ideal subject was one who, in the words of one great Philadelphia reformer, “was dead and is alive.”¹⁴

In search of the complex origins and far-reaching consequences of this ideal, I return to the era of the prison’s conception and to the archive of texts that first gave it meaning. As the prison began to emerge from the ruins of older structures like the scaffold and the pillory, the new paradigm in punishment was an institution of ambiguous and contested significance. What exactly happened in the secluded space of the prison interior? Who was the new protagonist of punishment, the prisoner? Legal and political theorists, reformers and ex-convicts, novelists and poets all turned their attention to the prison’s cells, developing a poetics of punishment for the modern age and creating a fascinating archive that records the long and often painful engagement between the hard realities of confinement and the transcendent dream of liberty in a new world.

To understand the prison’s narrative of resurrection, we have to see how punishment in the age of the penitentiary remained, at a deep level, what punishment had already been in the earlier age of the scaffold and the pillory: a theater for the performance of its society’s founding political myths. The modern prison was born in the late eighteenth century, when European and American authorities lost faith in openly violent punishments such as whipping and branding, humiliation and the gallows. These spectacles had once seemed to display the righteous power of princes over their subjects, and to teach the public the terrible consequences of crime. As many historians have shown, the scaffold was not merely an implement of bodily violence. It was a stage for the performance of a political allegory, a drama of domination and submission. Its exquisitely planned rituals, manifesting the “symbolic force of the law,” had “bolstered the power of monarchs and magistrates and made it concretely visible” to the public.¹⁵ The “spectacle of the scaffold” was “a ceremonial” designed “to make everyone aware, through the body of the criminal, of the unrestrained presence of the sovereign.”¹⁶ It involved a “dramaturgy” of “intense physical pain.”¹⁷ The execution in the seventeenth century was a kind of stage play, directed by the sovereign and by his magistrates, in which the condemned and the crowd must perform their assigned roles—the condemned as the sovereign’s defeated antagonist, the crowd as the audience that reflected and appreciated the killing’s allegorical lesson.

In the European capitals, the procession to the gallows moved through the most densely populated quarters while all the churches rang their bells. The scaffold was often ornately decorated, a deliberately crafted setting for the “theater of righteousness and repentance.”¹⁸ On many occasions, condemned criminals addressed the assembled spectators, reading confessions composed under the supervision of magistrates or clergymen.¹⁹ Punishment in colonial America, importing English and European legal concepts, followed a similar script. The government of early eighteenth-century Virginia, for example, depended on the “public rituals” of whipping, branding, and the pillory to “warn the immoral” and fortify the “legitimacy” of power.²⁰ “The aim” of colonial justice, according to the legal historian Lawrence Friedman, “was not just to punish, but to teach a lesson,” and “theatrical elements came out with special force at hangings.”²¹ State discipline, then, was not only an exercise of power against a condemned body but also a public spectacle with a carefully

managed system of meanings and values. Surrounding the act of violence, even shaping it, were symbols of power and subjection, an elaborate *poetics of punishment*.

The execution was a political ritual, dependent on the obedient participation of the condemned and of the crowd. In this dependence, however, lay the potential subversion of the spectacle. Historians of punishment in Britain record that, by the mid-eighteenth century, "the procession to Tyburn had been turned into a travesty. Prisoners in the tumbril were no longer a dolorous and fearful spectacle but impious and brave."²² Throwing off the mask of the defeated villain, convicts on parade adopted instead "the posture of heroes."²³ The drunken blasphemy of the condemned threatened the whole carefully produced scene, "distorting the dramatic meaning of public execution."²⁴ And worse—the raucous disobedience appeared to be a kind of contagion, spreading from the condemned to the spectators themselves. "Instead of taking a moral lesson to heart, [the crowds] approached the spectacle of execution with irreverence and sometimes even showed admiration for bold men who were about to die fearlessly." Spectators began to cheer the condemned, to offer them a drink and a word of encouragement, to join in "merriment" and "mockery of the law."²⁵ Execution day became a carnival, a holiday for drunks and pickpockets—the very authority that aimed to impress itself upon the people seemed instead to be suspended. When the crowd's sympathy for the convict was fortified by class solidarity or a common political cause, the menace of open rebellion swelled. In a few cases, minor uprisings took shape as crowds physically interyened to spare the lives of the condemned.

By the time of the Atlantic revolutions, authorities had begun to call for revisions in the art of punishment. In London, magistrates abolished the procession from Newgate Prison to the gallows at Tyburn in 1783; throughout Western Europe, public torture and maiming waned, and the death penalty was applied in a narrower range of cases.²⁶ In the newly independent United States, as the historian Michael Meranze notes, reformers "condemned public punishments for their uncontrollable and contradictory meanings and argued that public penalties disseminated violence and criminality."²⁷ Post-Revolutionary American critics associated the scaffold with the tyranny of the old world, and opposition took on a radical, patriotic tone. In 1787, the influential Philadelphia reformer

Benjamin Rush—physician, man of letters, and signer of the Declaration of Independence—argued that "public punishments, so far from preventing crimes by the terror they excite in the minds of spectators, are directly calculated to produce them."²⁸ The theater of punishment was in crisis.

Reformers and the scholars who study them have given many reasons for the decline of public punishments in the late eighteenth century. Perhaps the crowds of modernizing cities—places of industry and commerce, secularism and debauchery—were no longer suited to such solemn rituals. Perhaps the poor, in times of shortage or when revolution was stirring, were ever more inclined to feel their common cause with criminals hanged or burned or butchered by the agents of government.²⁹ Perhaps, in an American society increasingly dependent on plantation slavery and the racialized distinction between captive black bodies and free white minds, spectacular violence directed at white convicts looked more and more like a shocking offense against "humanity."³⁰ All of the various local outcries against torture and killing expressed aspects of a deeper common problem: the spectacle of the scaffold, perfected in the age of monarchies based on divine right, was unsuited to the modernizing political order. The all-powerful sovereign whose force was on display at the scaffold was giving way to the social contract and the citizen-subject. As the Italian legal theorist Cesare di Beccaria argued in his widely circulated *Of Crimes and Punishments* (1764), Enlightenment conceptions of humanity and natural rights required the reform of penal codes, from the foundations of the law's legitimacy to the techniques of correction. When criminals were dragged into the public square and exposed to open violence at the hands of the sovereign's magistrates, they were enacting an obsolescent ideal of political submission.

While the movement for reform was transatlantic, an important part of broad shifts in the political order of Euro-American modernity, the United States in the early Republican and Jacksonian periods became a central proving ground for new penal systems.³¹ The founders of the U.S. political order—men of enlightenment including Rush, Benjamin Franklin, and Thomas Jefferson—felt that the new nation, with its social contract based on the liberty of the individual citizen-subject, required laws and punishments commensurate with its radical political vision. They called for a rational code that would coordinate the severity of punishments with the severity of crimes; that would respect the human and

civil rights of accused offenders; and that would promise many convicts the possibility of being restored to citizenship in the body politic. Punishment, they supposed, should not only mark and mar the body of the transgressor—it should go deeper, to the soul. It should lead the fallen convict to penitence, and ultimately to redemption. To these ends, the reformers conceived of the “house of corrections,” a secluded institution of chastisement and training from which, in time, a remade citizen-subject would emerge into the social world: It was Benjamin Rush who wrote that the redeemed convict would be greeted as one who “was lost and is found—was dead and is alive.”

By the early nineteenth century, reform had ascended to authority in the United States. “Every day,” Beaumont and Tocqueville observed during their tour of the country in the early 1830s, “punishments which wound humanity, become supplanted by milder ones.”³² Virginia and Pennsylvania were among the first states to build great model prisons, sentencing most convicts to a discipline of penitence in solitary confinement. In New York, solitude by night was joined to congregate labor by day in factory-like workshops. The two great penitentiary “systems” of Pennsylvania and New York took shape, and the rivalry between them became one of the defining controversies of the Jacksonian period, through which Americans contested the meaning of citizenship and humanity in the Republic.³³ The Pennsylvania reformers insisted that only full-time solitary confinement could lead the fallen convict through the purifying discipline of reflection and repentance to redemption. The New York faction argued that, with unblinking supervision and the strict enforcement of silence, solitude could be made compatible with collective labor in prison workshops modeled on the industrializing factory. Although much was made of the differences, however, the two systems were built on a common set of assumptions—about the corrective aims of punishment, about the human rights of criminals and the limits of state power, and especially about the character of the individual citizen-subject. The solitary confinement cell, the central unit of all modern penitentiaries, manifested in concrete a deeply held belief in the redeemable private soul.

The story of the passage from the scaffold to the penitentiary is familiar to any student of punishment, recounted by many historians and monumentalized in Foucault’s *Discipline and Punish*. But as an account

of the origins of the prison system in the United States, the story is incomplete. In reality, whipping, branding, and killing were not fading from the American social landscape as the penitentiary took shape. The Jacksonian age was a violent time of ongoing war and expanding slavery. Beaumont and Tocqueville, in their *Report*, simply declined to discuss the South at all. “In every place where one-half of the community is cruelly oppressed by the other,” they wrote, “we must expect to find in the law of the oppressor, a weapon always ready to strike nature which revolts or humanity that complains. Punishment of death and stripes—these form the whole penal code for the slaves.”³⁴ As a few critics have recognized, Foucault’s periodization of “classical” and “modern” disciplines, attending mainly to the changing character of punishment in the metropole, seems to have overlooked the ongoing bodily violence that characterized power relations on colonial peripheries and plantations.³⁵ The difference between the spectacle of the scaffold and the privacy of the cell was, at least in the American context, a matter not so much of chronology as of race and geography.

The history of the American prison is not only an extension of European reforms, and its particular conditions may help to explain some of the contradictions that continue to haunt it. Since the first encounters between European colonists and the native peoples of the Americas, life in the new world had been imagined through stories and images of captivity. Indeed, the “captivity narrative” is often understood as the first distinctly American literary genre. In published accounts of their time as captives among Indians whom they saw as devils and savages, white colonists such as Mary Rowlandson had contributed to the development of the new world’s conceptions of freedom and of civilization. Their tales of bondage, suffering, and redemption may have been among the many ideological sources for the penitentiary. By the Jacksonian period, when the prison was entering its golden age, Indian wars were again remaking the American landscape, as military campaigns and relocation programs drove out some of the last of the great Eastern tribes and confined the survivors on Western reservations. It was the period of the Trail of Tears and of several notorious massacres. Often, authorities conceived of Native Americans as sovereign enemies of the United States, foreign powers to be encountered in war, and their long-term captivity would be imagined and structured in militarized ways.

On the fertile lands confiscated through Indian Removal, and throughout the South and West, the slave plantation was rapidly expanded and refined. Slavery had of course been a part of the American economic and political order for centuries, but the plantation, with its spectacles of extreme violence, reached its fullest and most grotesque development in the United States in the 1830s.³⁶ Slavery was the great national scandal of the antebellum age, and the reformers who built the penitentiary—many of them sentimentalists and humanitarians who belonged to antislavery circles—defined their institution against the brutality of the plantation. They represented the discipline of slavery as a dehumanizing violence, and their own punishments, by contrast, as a set of refined chastisements that prepared the convict for freedom and self-governance. At the same time, however, the penitentiary systems depended on the legal power to strip away the convict's civil rights, and their programs of labor and silence were enforced with the lash and other weapons. Enduring their forms of living death, the convict approached "the condition of a Slave."³⁷

Drawing from the sociologist Orlando Patterson, Toni Morrison's *Playing in the Dark* provides the best-known account of how the history of captivity enabled dreams of liberty in the United States. The "Africanist presence" of slaves, writes Morrison, "highlighted freedom—if it did not in fact create it."³⁸ From Jefferson's Enlightenment ideal of inalienable rights to Emerson's Romantic call for self-reliance, she suggests, the liberated American "self" emerged in opposition to a conspicuously bound and embodied "other," the black slave. Morrison develops a compelling poetics of American history and the forms of identity it produces: a stark, intractable opposition between light and shadow, white and black. But plantation slaves were not the only figures of unfreedom in Jacksonian America. The convict in the penitentiary was also shackled, chastised, and exiled from the body politic. Divested of rights, convicts were at the mercy of wardens and guards armed with whips. They labored with no hope of self-sufficiency or gain. Their ties to family and community were severed, and they lived in a dismal solitude. Their civil death, then, brought them very close to the "social death" of the slave.³⁹ The crucial difference was that many convicts, unlike slaves, were offered the promise of a new life in the world at large. Through an ascetic discipline of self-abasement and penitent reflection, they might pass from

the darkness of abjection into the light of subjectivity. Unlike the savage enemy or the unredeemable slave, the convict bore a temporary abjection, imposed so that it might be transcended. He embodied *in a single figure* the opposition between bondage and freedom. The prisoner was neither only an ideal "self" nor an excluded "other"; he inhabited a threshold, a tunnel of passage. He performed the sacrifice of life through which the citizen-subject's transcendent humanity was born.

From one point of view, the myth of death and rebirth may seem to be an old-fashioned superstition with no place in the Enlightenment schemes of the penitentiary's founders. In contrast to the old theater of wounding and shame, the timetables and labor disciplines of the prison might appear to have done away with such dark, fantastic rituals. Some scholars interpret the decline of the scaffold and the rise of the prison as part of a larger story of progressive secularization.⁴⁰ As we shall see, however, the reformers drew explicitly from ancient and medieval Christian imagery, as well as from contemporary Protestant traditions, in their conception of the solitary cell. They adapted the old monastic chamber to the demands and ideals of their modernity. Penal law and policy did not abandon their claims on the soul or their power to unmake and remake humanity. Indeed, as the penitentiary became the great solution to the crisis of the scaffold, its proponents used a narrative of death and resurrection to understand the cell as the scene for a new political ritual, a drama of power and subjection for the modern social contract.

Jean-Jacques Rousseau, in *The Social Contract*, had written that the foundation of political society transforms each subject "from a stupid, limited animal into an intelligent being and a man."⁴¹ In similar terms, the great English legal theorist Sir William Blackstone defined the entry into the social contract as a "sacrifice" of "wild and savage liberty" for the security of the civil state.⁴² Attending to the symbols and imagery of these authors of the Enlightenment, we can begin to understand how the great epochal shift in the history of punishment, from the spectacle of the scaffold to the penitence of the prison cell, reflects a deeper shift in the political order. The social contract, as it was conceived in the enlightened and sentimental discourses of the late eighteenth and early nineteenth centuries, required the figurative sacrifice of natural (or animal) life as a precondition for the acquisition of the citizen's spiritual (or human) subjectivity. The civil state was founded through a process of mortification

and reanimation. This was the new political myth that would be played out in the rituals of the new institution of punishment. The old scaffold had displayed the sovereign's control over the living and dying bodies of his or her subjects. In the modern age, the penitentiary would enact the abjection of the body and the birth of the citizen's refined, self-governing soul—it would sacrifice the “stupid, limited animal” and conjure, from its remains, “an intelligent being and a man.”

Thus while the prison was emerging from the rubble of the scaffold and the pillory—or, rather, displacing them into other worlds—the function of punishment endured: it remained a ritual practice of performing the myths of submission on which the political order was founded. The difference, and the driving force behind the revolution in punishment, was that the new age required a new distribution of power and a remaking of the social imaginary. The philosopher Charles Taylor has analyzed how the social contract, originally a theory of political legitimacy, developed and expanded its range to become a “social imaginary” in the eighteenth and nineteenth centuries. “In the course of this expansion,” writes Taylor, the idea “moved from being a theory, animating the discourse of a few experts, to becoming integral to our social imaginary, that is, the way our contemporaries imagine the societies they inhabit and sustain.” What began as a controversial set of concepts becomes both more widely accepted and, in a sense, less visible as it is absorbed into the norms, common sense, and everyday practice of modern life. It undergirds our sense of “how we continuously stand . . . in relation to others and to power.” Whether or not we acknowledge or subscribe to the theory of the social contract, then, it is there in our institutions and in our ways of understanding our world. Thus it “is not expressed in theoretical terms, but is carried in images, stories, and legends.” It is the background, perhaps only dimly perceived, from which modern senses of the self and the community, of humanity and power, emerge into the imagination.⁴³

Central to the conception of a new order and a new kind of citizen-subject were the penitentiary and the variously imagined, deeply contested figure at its center, the prisoner. The penitentiary was much more than an innovation in penal policy. It stood for a revolution in the relationship between the people and the powers that governed them. Developing his ideas in conversation with Taylor's theory of Western modernity, the anthropological theorist Talal Asad argues that the reformist narra-

tive of a “progressive prohibition of cruel, inhuman, and degrading practices” that led to the prison is “part of a secular story of how one becomes truly human.”⁴⁴ As I have already suggested, the penitentiary was not, in any narrow sense, a secular space. It often included a chapel and employed a chaplain, and its program of death and resurrection was a kind of modern, Protestant revision of ancient Catholic ideals. But the most sanguine humanitarians did believe that the institution represented a passage away from cruel tyranny, into enlightenment and civil society—a new age for “humanity” itself.

By the mid-nineteenth century, the American prison had captured the attention of reformers and writers around the Atlantic world. It was visited by such foreign dignitaries as Alexis de Tocqueville, Harriet Martineau, and Charles Dickens. It was promoted by such guiding lights as Margaret Fuller, Louis Dwight, and Francis Lieber. And in the writings of Emily Dickinson and Ralph Waldo Emerson, Herman Melville and Edgar Allan Poe, it helped to shape the literary imagination of the age. The work of defining the carceral institution at the heart of a new society devoted to liberty was not done by political theorists and penal reformers alone. It was undertaken by many other writers around the United States, as the living death and rebirth of penitentiary life was “carried in images, stories, and legends.”

The narrative of the prison's founding, the passage from the spectacle of the scaffold to a secret discipline aimed at the soul, would be taken up in the most famous American literary depiction of punishment, Nathaniel Hawthorne's *The Scarlet Letter*. “The founders of a new colony,” writes Hawthorne with a touch of irony in the novel's first chapter, “whatever Utopia of human virtue they might originally project, have invariably recognized it among their earliest practical necessities to allot a portion of the virgin soil as a cemetery, and another portion as the site of a prison.”⁴⁵ The story of the outcast Hester Prynne, sentenced to wear a red badge of shame, is set in a colonial past, but Hawthorne uses it to explore the pressing issues of the penitentiary age: on the one hand, the vulnerability of public punishments to creative subversion by the offender; on the other hand, the secret and penitential turnings of a mind condemned to solitude.⁴⁶ Its deep and motivating problems arising from the history of penal reform, *The Scarlet Letter* can be understood as an allegory for the decline of the scaffold and the rise of the prison on the American scene.

In the opening pages of the narrative, the adulteress is paraded through the streets of Boston by magistrates who trust in the "venerable and awful" power of "public discipline" to instill shame in the sinner and righteousness in the assembled crowd. Indeed, some in the audience curse Hester Prynne and fantasize about inflicting worse harms than the pillory or the scarlet letter. Yet Hester is able, in Hawthorne's story, to turn the occasion of her humiliation into a show of controlled defiance. She emerges from the prison with an air of "natural dignity and force of character" (48-49). The scarlet A she has sewn for herself is elaborate and bright, suggestive of aesthetic sensuousness rather than ascetic penance. Hawthorne writes that the badge has "the effect of a spell, taking [Hester] out of the ordinary relations with humanity, and enclosing her in a sphere by herself" (51). Later, as she considers her life as an outcast, she recalls that the "procession and spectacle" of her ritualized shame were not so crushing as the prospect of unending toil and exile—in fact, she sees her performance on the scaffold as a "lurid triumph" over the Puritan magistrates who have tried to humiliate her (71). The worst nightmares of Benjamin Rush and his fellow reformers are realized, as the convict, with an artist's resourcefulness, subverts power and adopts the posture of a heroine.

The story of Hester's partner in crime, the young minister Dimmesdale, follows a different pattern. As the years go by, Hester regains a measure of respect and fellow feeling from the community (139-145). Dimmesdale, meanwhile, suffers through a slow and secret torment. He is preyed upon by the cuckold Chillingworth, recently redeemed from captivity among the Indians, a European-trained physician who claims to be his healer but who leads him through a "popish" discipline of ascetic self-mortification. Day and night punishing himself for a transgression known only to a few conspirators, Dimmesdale wastes away. His body grows thin and pale; his "nerve seem[s] absolutely destroyed"; there is a "morbid energy" in his speech and manner. His keeper "cause[s] him to die daily a living death," and the "terrible machinery" of his propenitentiary regime turns him into a "ghost" (145, 139, 142). Dimmesdale needs no magistrate to drag him through the streets—he devotes himself to his own punishment, and, in the end, he climbs the scaffold steps burning with the desire to expose himself to shame. After years of regret and self-chastisement, his mortal body expires, but his soul is

redeemed. Through the juxtaposed stories of Hester and Dimmesdale, Hawthorne dramatizes the failure of public punishments and the emergence of a private realm of "conscience" where a more intractable discipline can be instilled. The old spectacle of the scaffold is overturned by Hester's "lurid triumph," but Chillingworth, mixing modern science and the ascetic faith that Dimmesdale has learned in his study of Christian texts, introduces an alternative. He devises a punishment that leaves the body alone and, in private, goes all the way down to the soul.

Thus an institution conceived by jurists and political theorists and perfected by reformers becomes, in Hawthorne's novel, part of an origin myth of American society. In the capacious and contested cultural territory of the American imagination, the figure of the prisoner inhabits three major fields: legal and political treatises, the documents circulated by prison reformers, and literary texts. In the chapters that follow, I move among the three, exploring how each conceives of the prisoner's character. The criminal law is ordinarily understood as a code of crimes and consequences, but as many legal scholars have shown, the law also establishes a set of possible selves. "Law is a resource in signification that enables us to submit, rejoice, struggle, pervert, mock, disgrace, humiliate, or dignify."⁴⁷ It dictates who belongs to, and who is excluded from, the body politic, and it creates "characters in relation to each other," "roles and positions from which, and voices with which, to speak."⁴⁸ Undergirding the penitentiary system, it establishes how the convict may be divested of rights and exposed to discretionary violence—and, in some cases, how the redeemed criminal may be restored to law's protections.

The manifestos and pamphlets of prison reform, meanwhile, script the rituals of prison life: convicts' initiation into the dark and alienating tomb of the cell and the discipline of penitence through which they might hope to be resurrected from it. In the writings of such prominent reformers as Benjamin Rush, William Roscoe, and Beaumont and Tocqueville, we can follow the imaginative and rhetorical moves that blended the demands of a modern, rational, and humane penal system with religious, sometimes superstitious, visions of living death and spiritual rebirth. Often, reformers depict the prisoner's character according to a sentimental concept of humanity, presenting him as a wretched creature who needs the healing embrace of a benevolent authority. At other times, they depend on the circulation of gothic "tales" to create a public fear of

punishment and obedience to the law, doing the work of representation and transmission that had once been performed by the spectacle of the scaffold. Their terms and tropes are drawn, in part, from the popular literature of their age.

In turn, a whole generation of authors—Dickinson, Hawthorne, Melville, Poe, Douglass, Emerson, Thoreau, not to mention forgotten prisoner-poets such as Harry Hawser—would take up the new subject of the prison. Much like the legal theorists and reformers, these writers are involved in imagining the prisoner, conceiving and circulating the language in which their culture will understand this crucial figure at the boundary between citizen and captive, between the community of the living and the exile of the living dead. Pursuing the project in a variety of genres—through fictional characterization, the creation of lyric subjectivities, and discourses on the shape of the soul—they invoke the prisoner in both his entombment and his resurrection.

Thus a complex of legal, material, and imaginative structures that emerged between the Revolution and the Civil War established the prison as a central institution for the remaking of humanity in America. The prison was a monument of a new age, but its architecture, practices, and representations also reworked older traditions. Indeed, just as it bridged abjection and subjectivity, it also stood at a boundary between ancient and modern. Its threshold position was articulated in narratives of progressive modernization, and also in spatial and racial terms, as the prison took shape in relation to other forms of captivity, especially the Indian reservation and the slave plantation, across the American landscape. Historians of the penitentiary's rise in the 1820s and 1830s have tended to align it with the insane asylum and other institutions that promised some form of rehabilitation and were commonly defined against the brutalities of war and slavery.⁴⁹ However, as the era of the penitentiary's rise was also the era of Indian Removal and of the full-scale plantation, we might better understand these three as mutually constitutive institutions—sometimes opposed, sometimes overlapping—that represented the extremes of captivity and helped to determine the meaning of freedom in the antebellum period.⁵⁰ Such a view reveals not only the deep history of civil death and solitary confinement behind the founding of the prison but also its peculiar afterlives in the twentieth century and beyond.

In the wake of the Indian Wars and the Civil War, the relations among prison, reservation, and plantation were recomposed—Emancipation and accelerating westward expansion provoked authorities to abandon some of the key oppositions that had previously defined the zones of captivity, and to develop hybrid forms. In the South, chattel slavery was followed by convict leasing and the “prison farm”; by the early twentieth century, penal plantations such as Angola in Louisiana and Parchman in Mississippi enforced a new version of the old labor discipline under the sign of criminal justice. Critics began to argue that slavery had endured and was thriving on the prison farms, and the work songs arising from their fields were heard as the living echoes of the slave music of the past.

In the West, the military structures of the Indian Wars were adapted to the purposes of long-term confinement. Relocation was followed by the reservation, and by the late twentieth century the old “frontier” was becoming the site of the largest and most advanced prison complexes in the world. The case of Colorado's Fort Lyon is exemplary. The army fort became famous after troops rode out from it to kill peaceful Cheyenne and Arapaho Indians during the Sand Creek Massacre of 1864. In the twentieth century, the institution was rebuilt to become a Veterans Administration psychiatric hospital, and in the early twenty-first century it was acquired by the state of Colorado's Department of Corrections for use as a prison. With a complex history that links the reservation, the asylum, and the modern prison, Fort Lyon might stand as a synecdoche for the various forms of violent displacement and captivity that have made it possible for some Americans to imagine the West as an open frontier, the space of rugged liberty.

Thus, from evolving notions of sovereignty and humanity, arose the penal farms of the South and the sprawling, semimilitarized prison system of the West. Each combined some of the penal logic of the penitentiary with the organized violence of other antebellum institutions, all of which were reshaped by evolving technologies and shifting codes of justice. Like the classic penitentiary before them, these hybrid institutions took on complex significance in the ongoing project of representing freedom and captivity. The final section of *The Prison and the American Imagination* traces some of the lines of continuity, with attention to their imaginative expression by prisoners and artists at large. The voices arising from the Southern prison farm can be heard in the haunting work

songs recorded at Parchman and Angola by Alan Lomax in the 1930s and 1940s—and, perhaps more surprisingly, in the fiction of William Faulkner, with its careful handling of consciousness and voice, isolation and communion. Elsewhere, in the poetry of Jimmy Santiago Baca and another captive Native American writer, Simon Ortiz, who writes from within Colorado's Fort Lyon, the centuries-old genre of the captivity narrative is refashioned to represent the conditions of human life in the military and carceral institutions of the frontier West. These works connect imaginative writing about the penitentiary to such other traditions as the spiritual autobiography and the slave narrative; they also disclose some of the profound continuities between the classic penitentiary, with its ritualized mortifications, and the war prisons and domestic carceral network of our own age, zones of disappearance and incapacitation that seem to have abandoned any notion of redemption through penitence.

Since the 1970s, the riots and the rapid expansion of the American prison have provoked scholars to develop historical and theoretical accounts of this increasingly vast, menacing institution as one of both disciplinary subjection and brutal dehumanization. At the same time, literary and cultural critics have begun to explore the relations between punishment and the aesthetic imagination. Some, following Foucault, see the penitentiary as an apparatus of panoptic surveillance that exposes, and perhaps even creates, the inmate's private self; as such, it provides an interesting structural counterpart to the nineteenth-century novel, with its "omniscient" narrators and its views into the interior lives of its characters. In these accounts, the prison and the novel represent two parallel examples of how modern techniques of observation produced both subjectivity and knowledge about subjects.⁵¹ Another school of critics, meanwhile, has turned to the writings of prisoners themselves, seeking a more authentic literature of survival and resistance.⁵² For these critics, the unique voices of the incarcerated provide access to otherwise buried truths of violence and mortification. In my view, because the prisoner passes back and forth across the threshold between the ideal self and the abject other—and because so many people literally pass into and out of the modern prison—writings by inmates do not hold such a special status. Their authors are readers, often writing for audiences in the outside world. They do not only record the lived experiences of abjection or struggle. They also engage the ideological and even imaginative

dimensions of the institutions that hold them. They belong to a common archive that includes the works of political theorists, penal reformers, and writers at large.

In assembling and interpreting a wider body of imaginative work, my readings attempt to move beyond the dilemma that ensnares so much criticism on texts representing scenes of violence and coercion, where the critic must choose whether a given work is "complicit" in, or "subversive" of, oppressive structures. Law, the rhetoric of prison reform, and literature are not separate spheres—they are intersecting, interdependent discourses, all involved in the project of imagining the human figure at the threshold between bondage and freedom. The gothic nightmares and sentimental dreams of literature, then, are not flights from the real world of law and power. They reckon with the defining political myths and institutions of their times. They attempt to imagine the prisoner as both an object of oppression and a subject of freedom. And reading them in relation to the history of the prison provides more than an underappreciated new "context" for the study of well-known authors such as Dickinson and Hawthorne: it opens a rich conceptual and imaginative archive for the critique of the long, tortured, and unfinished history of imprisonment in America.

Reflecting on the role of humanist critique in the twenty-first century, Judith Butler has suggested that "if critical thinking has something to say about or to the present situation"—that is, to the world in the age of Guantánamo, of a rapidly expanding U.S. regime of violence and captivity—"it may well be in the domain of representation where humanization and dehumanization occur ceaselessly."⁵³ The concepts of the human and of the inhuman, Butler observes, may appear to arise from the material world, but they become meaningful only in discourse, in acts of representation—acts which, in turn, reshape the real world of precarious life. Along similar lines, the political theorist and scholar Pheng Cheah argues that, in a globalizing age increasingly preoccupied with questions of human rights, only the humanities are able to critique the very ideological foundations of the human, a concept that other disciplines seem to take for granted as a universal article of faith. "If social-scientific solutions to the problems of globalization have always pre-comprehended an idea of humanity as the bearer of dignity, freedom, sociability, culture, or political life," writes Cheah, "and therefore as an ideal project that needs

to be actualized, the task and challenge of the humanities today . . . may be to question this pre-comprehension of the human and, somewhat perversely, even to give it up."⁵⁴

The deepest allure of the prison as an object of inquiry is not its place in the history of crime and punishment but its function as a central institution in modernity's redefinition of the human. In the original American penitentiaries, the inmate was divested of rights, social connections, and identity, stripped down to a bare life no longer recognizable as human; and then, through the rituals and disciplines of the prison, this bare life was ennobled with citizenship, a Christian soul, and the powers of reflection and self-governance—with the whole complex of qualities that constituted an ideal of humanity. The critical study of the prison, of its history but also of its many representations, is therefore in part a study of the material and imaginative conception of modern humanity. What it can offer is a look into the often obscure foundations of the social imaginary, a disclosure of the dehumanization that shadows the ideal of humanity—and, perhaps, an archive of alternatives.

In legal and activist circles, the most common and urgent language of protest against the exploding U.S. carceral system is today, as it was two centuries ago, the language of human rights. The prison-industrial complex is denounced as a new plantation or as a "domestic war zone" where human dignity suffers outrageous violations.⁵⁵ My research into the history and imaginative life of the American penitentiary—and into its ongoing afterlives—leads me to the conclusion that the human rights crusade, which has a vital role in remedying abuses and saving lives, will finally be limited if it is committed to the premises that brought the prison into being in the first place; it will tend to fold back into the project of the "reform," and thus the continuation, and even the expansion, of the prison system itself. The political work of human rights activists, then, might be joined to a kind of critique that explores what alternatives might appear beneath, or beyond, the limits of the human.

The problem of the prison does not end with a defense of the prisoner's human rights. Indeed, it begins there. Over the past two centuries, human rights claims have brought the convict back from monstrous exile, into the circle of juridical humanity. But the juridical humanity conceived with the founding of the United States and its penitentiary system was no human sanctuary. It involved a myth of sacrifice and a practice of

dehumanizing penal violence. Prisoners are not beyond the embrace of the law; they are mortified by it. The critical challenge, then, is to pursue, perhaps to unmake, the harrowing concept of the human on which the prison rests. *The Prison and the American Imagination* therefore explores the place of a central institution in the building of the modern order, attending to the ways in which its narrative of death and resurrection helped to conceive a new ideal of humanity. It argues that the prison is not only a material structure or a matter of the law, narrowly defined, but also a set of images and narrative patterns; it is a language that enables expression and, at the same time, ensnares the subject in its designs. If the tradition of imaginative writing about the American prison opens some possibility of escape, it cannot be in the name of the inviolable humanity of the living entombed. It might, however, stall the narrative cycle that repeatedly absorbs the gothic inhumanity of the prisoner into a sentimental resolution. In the "cadaverous triumph" of Melville's *Bartleby*, or in Jimmy Santiago Baca's connection with "the dirt and the iron and concrete" of the inhuman world, we might discover a language that refuses both the prison's dehumanizing violence and its captivating vision of human redemption.

private, but it was not supposed to remain a complete mystery, a performance without a public. It had to continue to teach its lessons and instill its disciplinary terror in the world. The reformers began to consider the uses of texts, especially narratives of prison life, that could circulate in print. As they did so, the imagination displaced the public square, becoming the scene for the ongoing performance of the resurrection myth at the heart of modern political life.

CHAPTER TWO

Cadaverous Triumphs

"ALL HARMS," wrote Cesare di Beccaria, reflecting on the difference between public punishments and secret ones, "are magnified in the imagination."¹ As the old spectacle of the scaffold decomposed, losing its effectiveness and its grounding in the prevailing political mythology, authorities confronted a problem: Without the theatrical terror of hangings and mutilations, how could crime be deterred? Without the scaffold and the pillory, the stocks and the whipping post, how could obedience to the law be secured in the hearts of citizens tempted to break it? After all, "one object of penal provisions," as the English reformer Charles James Blomfield put it in 1828, "is, to excite a salutary dread of the consequences of crime, in the minds of those who are not to be influenced by nobler and holier motives."² Punishment, as Foucault notes, does not only concern the individual offender; it "is directed above all at others, at all the potentially guilty."³ In other words, it is not only a matter of force but also a set of signs and symbols presented to the public. If the allegory of transgression and vengeance that had played out on the stage of the scaffold was going to be withdrawn, some new kind of representation would be required. Abandoning spectacle, reformers began to explore the magnifying and terrifying power of the imagination.

The problem of punishment's disappearance was taken up by the leading lights of reform, around the Atlantic world. Beccaria hoped that

the great "sum of unhappy moments" on display in perpetual penal servitude would be more terrifying than the "fleeting pains" of death or torture.⁴ The English reformer Jeremy Bentham, inventor of the famous "panopticon" model for prisons, argued that their doors should be open to all, so that the interested public could witness the abjection of the condemned. In the United States, the question drew the attention of an influential circle of reformers who met for discussions in the house of Benjamin Franklin. There, in March of 1787, Benjamin Rush presented his thoughts on the crisis of public punishment. Like many of his American and European contemporaries, Rush noted that the spectacle of the scaffold was not accomplishing its intended mission; "public punishments," he wrote, "so far from preventing crimes by the terror they excite in the minds of spectators, are directly calculated to produce them."⁵

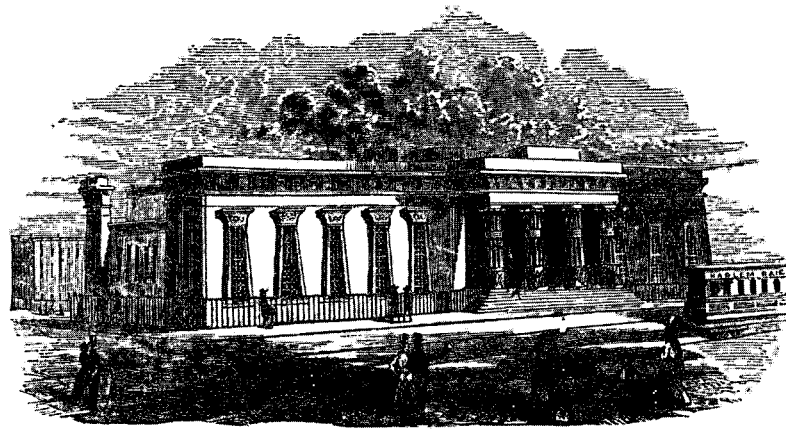
In particular, Rush was concerned that people invited to witness such violence, even to celebrate it, would suffer from a distortion in the faculty of *sympathy*. Forced to watch without commiseration the suffering of the condemned, the public would lose its ability to feel for anyone in need: "Misery of every kind will then be contemplated without emotion or sympathy," declared Rush. "The widow and the orphan—the naked—the sick, and the prisoner, will have no avenue to our services or our charity—and what is worse than all, when the centinel of our moral faculty is removed, there is nothing to guard the mind from the inroads of every positive vice."⁶ The scaffold did not preserve order. It threatened to warp and sever crucial social bonds. In order to enforce the law while preserving the benevolent sympathy that held society together, the theater of punishment had to be recomposed.

TALES FROM THE ABODE OF MISERY

In place of the scaffold, Rush envisioned a secluded "house of correction" where experts would administer punishment as a complex of labor and bodily pain. Even in a free republic, Rush insisted, secrecy was necessary in the administration of justice, and courts would be serving the true "liberty" of the people by keeping them ignorant, and thus protected from the corrupting power of public punishments. Yet Rush was careful to assure his audience that such seclusion would not decrease the general fear of punishment; instead, the mystery of what happened behind the closed doors of the house of correction would paradoxically help to

deter crime by "diffus[ing] terror through [the] community." Like Beccaria, Rush depended on the public's lively imagination. He suggested that people who knew nothing about the prison interior would invent the liveliest ghost tales and horror stories: "Children will press upon the evening fire in listening to the tales that will spread from this abode of misery. Superstition will add to its horrors: and romance will find in it ample materials for fiction, which cannot fail of increasing the terror of its punishments."⁷ Rush and his followers wanted punishment out of sight, but not out of mind. Public torture was too grotesque, too difficult to manage, and an American polity conceived in enlightenment should extend its humanizing embrace even to the unfortunate criminal—but authorities could maintain control of crime by redirecting "terror" to the public "imagination." Mediated by the right kind of fiction, transmuted from spectacle to "superstition," the terror of punishment could be diffused without any damage to the community's human sympathy.⁸

A generation later, when Pennsylvania built the world-famous Eastern State Penitentiary, its architect, the previously unknown John Haviland, seems to have incorporated Rush's ideas. Haviland's design combined a concern for the prisoner's humanity with an effort to menace the public mind. The solitary cells, equipped with the most modern systems of plumbing and engineering anywhere in the world, were surrounded by a "gothic" façade meant to recall the notorious dungeons of the old world.⁹ In reformist pamphlets, the result was praised as an architecture of a "grave, severe, and awful character" that "produces on the imagination of every passing spectator . . . [a] peculiarly impressive, solemn, and instructive" impression.¹⁰ Haviland, having made his name at Eastern State, was soon hired to design more new prisons in New Jersey and New York: The massive edifice he built for Manhattan's Halls of Justice evoked ancient ruins; the place was soon nicknamed "The Tombs."¹¹ In the modernizing cityscape, The Tombs appeared ancient and bizarre, like something from another world (figure 2). "Built in a quaint Egyptian style of architecture," wrote one observer, "and fronted by massive columns of granite, it looms up vast, gloomy and terrible, producing in the breast of the spectator a sensation of profound awe."¹² Charles Dickens, who stopped by The Tombs while he was in New York, was not so impressed; he mocked the "famous prison" as a "dismal-fronted pile of bastard Egyptian, like an enchanter's palace in a melodrama."¹³



THE TOMBS.

FIGURE 2. "The Tombs." Façade of Manhattan's Halls of Justice, known as The Tombs. From Charles Sutton, *The New York Tombs: Its Secrets and Its Mysteries*, ed. James B. Mix and Samuel A. MacKeever (New York: United States Publishing Company, 1874), p. 78.

In any case, the gothic designs of Haviland's penitentiaries did not fail to stir the American imagination, and authors did find "ample material" for fiction in the "abode of misery." In popular novels such as George Wilkes's *Mysteries of the Tombs* and John McGinn's *Ten Days in the Tombs*, these marvels of modern engineering and reform were depicted as Dark Age dungeons, sites of grotesque suffering and cruelty. Karen Halttunen has identified a whole subgenre of fiction that emerged alongside penitentiaries and asylums, adapting a gothic literary mode to expose the abuses suffered by wretched inmates. And Colin Dayan has connected the architecture of Eastern State Penitentiary to the tales of a gothic master living in Philadelphia in the age of reform, Edgar Allan Poe.

Dayan writes that Poe's "decors of lavish, medieval ornament, gates of iron, crenellated towers and picturesque effects, premature burials, and the singular torments of narrators who experience unnatural solitude . . . owe their force to his knowledge of the excesses of the Pennsylvania System."¹⁴ Living in the shadow of the "grave, severe, and awful" prison, Poe's tales depict dungeons of misery suited to Haviland's façade. And Poe's concern was not only with the impressions such architecture might impart to the passerby. He also envisioned the living doom of the incarcer-

ated. In "The Cask of Amontillado," for instance, Poe's narrator, wishing to "punish with impunity," walls his rival up inside a catacomb, among abandoned bones. In "The Pit and the Pendulum," a prisoner is "unstrung" by his confinement, "becom[ing] in every respect a fitting subject for the species of torture which awaited [him]."¹⁵ Watched by his unseen captors, subjected to a series of terrors, he comes to feel that a sudden death would be better than his captive fate, where the excruciatingly slow passage of time is measured by a descending blade. "The Premature Burial" and "The Fall of the House of Usher" also concern the nightmare of a living entombment. Poe's stories were often set in distant ages and foreign lands, but—like Hawthorne's novels and Dickinson's poems—they invoked the penal transformations of his own time and place, imagining imprisonment as a loss of subjectivity and a living death.

For Halttunen and Dayan, such representations of the penitentiary are, at least in part, a form of social critique. "Gothic exposés of asylum life," argues Halttunen, reveal the gap between enlightened theory and violent practice, between humane intentions and cruel realities.¹⁶ Whatever may have been the political motives of those who wrote such tales of misery, however, there were complex problems involved in using the gothic as a language of protest. As we have seen, the penitentiary in the discourse of its makers was not only a humane asylum; in its legal premises, its initiation rituals, and its disciplinary methods, it was also a scene of mortification. Nor was the convict's living death merely an embarrassing abuse of the prison's otherwise benevolent designs, an "excess" to be hidden or excused. The key imagery of the reform movement was sentimental, extending its healing and redemptive embrace to the suffering criminal, but the authors of the penitentiary also knew how to work the gothic into their designs.¹⁷

The sentimental and the gothic were the two great popular genres of nineteenth-century fiction. Neglected for a long time by scholars who preferred the precision of lyric or the density of transcendentalist rhetoric, they have been recovered in recent years and reconnected to the social and intellectual contexts within which they once had such great power. The sentimental and the gothic were narrative patterns, but they were also structures of feeling embedded in nineteenth-century ideology and collective life. Each can be understood as a "complex" of tropes, styles, concepts, and affects shaping an encounter between self and other. In

the sentimental mode, the free middle-class subject embraces a suffering other—typically an orphan, a “fallen woman,” or a slave—and draws the victim into the community of the human, producing an affective charge of tearful sympathy. In the gothic, the subject experiences shock and a sense of his or her own unmaking through contact with a dehumanized other, giving rise to a delicious terror.¹⁸

While they are apparently opposed, the two complexes are also related.¹⁹ The sentimental, according to several recent studies, provided polite audiences with a moral and aesthetic framework within which gothic thrills could be safely enjoyed. In the end, the threat of the other could be humanized and contained by a sentimental conclusion. The public story of the penitentiary provided just this kind of resolution—it brought ghosts and dungeons into view, but it used these gothic visions to reinforce its own designs, expanding its regime of humane, charitable correction. It displayed a dehumanizing misery, but it assured the public that a newer, better, and bigger prison would heal the body and redeem the soul of the afflicted. Writers who wished to use the gothic mode against the penitentiary, then, confronted a rhetorical double bind. On the one hand, if their fiction represented the prison interior as a site of torture and abjection, diffusing terror through the public mind, it might be doing just the kind of cultural work that Rush had assigned to the authors of fiction. On the other hand, if it displayed prisoners’ abjection in order to call for sympathy and more penal reforms, then it reproduced the old “cry from the heart,” similarly joining the company of the reformers who had built the penitentiary in the first place.

The dehumanization of civil death played two roles in the penitentiary: it justified mortifying violence and servitude, but it was also fundamental to the convict’s rebirth as a citizen and a member of the human community. In antebellum literary works about prisoners, each of these two roles would be taken up and exposed to critique, producing two versions of the literary mode I call the “carceral gothic.” In the first version, exemplified by Dickens’s narrative of his visit to Eastern State Penitentiary, ghostly prisoners are displayed in the service of penal reform, helping to expand and refine the prison system. In the second, by contrast, the ghosts haunt their captors, disturbing rather than reinforcing the penitentiary’s sentimental design. My key example is Melville’s *Bartleby*, whose death in *The Tombs* leads his sentimental employer, in

the final lines of his story, to a defeated double sigh: “Ah, Bartleby! Ah, humanity!”

With its mortifying violence and its promise of redemption, the antebellum American prison provoked Melville and a few other writers to search for a way of representing the inmate that would not reproduce the sentimentalism of the reformers. In the process, they devised some peculiar uses for gothic “othering,” the counterpart of sentimental identification. At least since Leslie Fiedler’s enormously influential *Love and Death in the American Novel*, critics have recognized a peculiar fascination with violence and the grotesque, an attraction to gothic fear and fantasy, in the literature of a body politic conceived in Enlightenment terms. For some decades, such visions appeared to be flights from the real world of power, politics, and commerce. Fiedler diagnosed a raw national psyche with no feeling for old-world courtship, turning to violence because it lacked a language of love.²⁰ Others interpret the gothic, and Romanticism more generally, as a kind of escapism from the rigid demands of the Age of Reason.²¹

More recently, scholars have shown that even ghosts might belong to a more specific history. We are beginning to perceive the gothic as an expression of, not a flight from, historical forces and struggles. Various contexts suggest themselves. Nineteenth-century medical technologies, for instance, had made the “boundaries which divide Life from Death,” as Poe wrote in “The Premature Burial,” “shadowy and vague.”²² Calvinist and other religious traditions, too, provided visions of a spiritual, perhaps even bodily, life beyond death. No history has been so illuminating of the gothic imagination in America, however, as that of slavery: the reality of repression and terror, whips and chains, social death and zombie life at play in the Atlantic world in the age of the American Renaissance.²³ Indeed, the carceral gothic mediates not only between the free self and the captive other but also between antebellum America’s two great figures of captivity, the prisoner and the slave. In the end, however, the connection cannot be the sentimental bond of common “humanity”; at its most potent, the carceral gothic is a reckoning with the imprisoned other that disturbs the very foundations of humanity on which the self depends.

SUMMONED FROM THE GRAVE

When he visited the United States in the early 1840s, Charles Dickens said that he wished most of all to see two famous sights—the “Falls of

Niagara" and the Eastern State Penitentiary in Philadelphia.²⁴ His desire to get inside the model prison was not as unusual as it may seem; Eastern State in those years was a wonder of the modern world and a popular destination, drawing tourists, groups of schoolchildren, and such foreign dignitaries as Alexis de Tocqueville and Harriet Martineau.²⁵ Like many others, Dickens received a cordial welcome. The authorities knew that the prison was controversial, and they may have hoped that the novelist, with his well-known sympathy for the suffering of inmates in England's crowded, filthy gaols, would admire the order and cleanliness of their experimental system. They gave Dickens a full tour, answered his questions, and allowed him to spend some time with the inmates. "Nothing," he acknowledged in *American Notes*, "was concealed . . . , and every piece of information that I sought was openly and frankly given."²⁶

What Dickens saw at Eastern State, however, was no monument of reform; it was a terrifying scene of madness and living death. His narrative records his passage through a dark dungeon inhabited by miserable, broken men and women whose appearance distresses his heart. Dickens believed that the reformers meant well, that their "motives" were "humane," but he was convinced that their experiment was not fulfilling their good intentions. The system of prison discipline in Philadelphia, where each prisoner passed his or her sentence in almost uninterrupted solitude, confined day and night to the same numbered cell, Dickens deemed "cruel and wrong." His judgment was damning: "I hold this slow and daily tampering with the mysteries of the brain," he wrote, "to be immeasurably worse than any torture of the body." Isolation, the guiding principle of reform at Eastern State, led not to correction but to insanity and dehumanization (90-91). Like the prisoner-poet Harry Hawser, whom he almost certainly encountered there, Dickens depicted Eastern State as "a living tomb."²⁷

The portraits of prisoners in Dickens's account of the penitentiary all bore at least a touch of morbidity. One, imprisoned for "receiving stolen goods," had built himself "a sort of Dutch clock" to measure the hours. Like Poe's narrator beneath the glinting pendulum, he felt the painful passage of every minute: "Time is very long, gentlemen," he cried, "within these four walls!" (93). Dickens noted that the clockmaker composed himself well under the eyes of his inspectors, but when he felt himself unwatched "his lips trembled, and [Dickens] could have counted the

beating of his heart" (92-93). A sailor locked up for eleven years sat silently "star[ing] at his hands, and pick[ing] the flesh upon his fingers, and rais[ing] his eyes for an instant, now and then, to [the] bare walls." Dickens called him a "helpless, crushed, and broken man" (94-95). Another convict, he wrote, "look[ed] as wan and unearthly as if he had been summoned from the grave" (94). Dickens gave his most extravagant sentiments to an unnamed German thief who was serving a sentence of five years. With stolen "colours," the novelist noted, this unreformed convict had "painted every inch of the walls and ceiling [of his cell] quite beautifully." He had also turned his little exercise yard into a makeshift garden and, in its center, had "made a little bed . . . that looked, by-the-by, like a grave" (93). The imprisoned genius was, to Dickens's eyes, a perfect "picture of forlorn affliction and distress of mind"; one of the world's preeminent artists of sympathy was moved to declare that he had never seen or heard of "any kind of misery that impressed [him] more than the wretchedness of this man" (93).

The law, by way of civil death, conceived of the felon as a kind of animate corpse. Dickens's narrative exposed how the discipline and rituals of the penitentiary were producing prisoners who seemed literally to incarnate that legal fiction: an assembly of cadaverous men and women buried alive, dead to the world. Using such imagery to protest the penitentiary, Dickens was making an important and controversial claim: that the warped, antisocial behavior of the prisoner is an effect, not a cause, of his punishment. Solitary confinement in the penitentiary, Dickens suggested, actually damages the minds it pretends to correct. This idea has been part of prison reform discourse for more than two centuries, and continues to have a place in the critique of captivity.²⁸ Erving Goffman, for instance, echoes Dickens when he describes a certain "prison psychosis" by which some inmates adapt to captivity, virtually disappearing into the depths of the self and "withdrawing apparent attention from everything except events immediately around [their bodies]," so that guards and other inmates observe passive, unmoving creatures, just barely animate.²⁹

To an audience familiar with the debates surrounding the penitentiary, the meaning of Dickens's observations would have been clear. He had invoked a parade of ghostly figures to testify against the solitary system at Philadelphia and to support its rivals in New York and Boston. He signaled his agreement with his fellow traveler Harriet Martineau, who

called Eastern State "a vast apparatus for the infliction of human misery"; and with William Roscoe, who in an open letter on the Philadelphia system had declared that the mind of the prisoner suffering in unrelieved solitude "rushes back on itself, and drives even reason from her seat."³⁰ Indeed, Dickens's sketch of life at the famous penitentiary belonged to an emergent consensus in prison reform: Philadelphia's system, although it endured at Eastern State, was rejected by most other states in favor of the Auburn model, which permitted congregate labor by day in factory-like workshops.³¹ The congregate system, Dickens wrote, "has worked well, and is, in its whole design and practice, excellent" (100).

Dickens's account of Eastern State Penitentiary may be the most powerful nineteenth-century literary example of a carceral gothic whose aim is to inspire sympathy for the condemned and, in turn, promote penal reforms more respectful of prisoners' human rights. It develops the hints of gothic and sentimental language that appear throughout the writings of reformers (Beccaria, Rush, Roscoe, and the like) into a visionary nonfiction novella that has both a clear political motive and some devastating poetry. As an imaginative reckoning with the problem of the prison, however, Dickens's piece confronts a limit. Like the rhetoric of Roscoe, its ultimate aim is to develop a more "excellent" penitentiary. Containing the gothic horror of Eastern State within a sentimental call for greater humanity in punishment, Dickens became, in a sense, the greatest literary champion of the reform movement that was in the process of building the modern prison system.

In the end, what makes Dickens's account of Eastern State so rich and troubling is that, beneath its surface of sentimental protest, it seems to carry the secret knowledge that such discourse is inadequate to the larger problem of the prison. Dickens had talked with the reformers and read their pamphlets. He knew how well they spoke the language of sympathy; he recognized that Eastern State was, in a sense, a monument to the convict's redeemable humanity. The narrative tacitly acknowledges its own doom, as it becomes immanently commensurate with the designs of the penitentiary's authors. Such a fate was not inevitable; however, because sentimental feeling was not the only possible horizon of the carceral gothic—which, in the works of some of Dickens's contemporaries, was also used to imagine ghostly captives who could not so easily be enclosed in the embrace of a reformist humanity.

MATERIAL GHOSTS

A few chapters into Nathaniel Hawthorne's *House of the Seven Gables*, a mysterious "guest" arrives. Clifford, the reader will learn, has spent decades in a Boston penitentiary, probably the Massachusetts State Prison, a monument of the Auburn "system." Like the prisoners described by Poe and Dickens, Clifford has been mortified by incarceration: "Continually . . . he faded away out of his place; or, in other words, his mind and consciousness took their departure, leaving his wasted, gray, and melancholy figure—a substantial emptiness, a material ghost—to occupy his seat at the table. Again, after a blank moment, there would be a flickering tapergleam in his eyeballs. It betokened that his spiritual part had returned, and was doing its best to kindle the heart's household-fire, and light up intellectual lamps in the dark and ruinous mansion, where it was doomed to be a forlorn inhabitant."³² The derangement Dickens encountered at Eastern State reappears here, in an "unnerved" character whose "spirit," as Hawthorne writes, "has been thoroughly crushed" by prison life (82). Hawthorne describes the ex-prisoner as a ruin, an empty house visited from time to time by a vagrant spirit. Released from his solitary cell, Clifford ambles through the world in an unredeemed "doom." He has endured more than the legal disenfranchisement of civil death; locked up and mortified, he has become an embodiment of the virtual death imposed by the penitentiary—"a material ghost."³³

Like Dickens, Hawthorne may have wanted to use the figure of the ghostly captive against the power structure that had extinguished his humanity. Hawthorne, however, may also have been wary of Dickens's idiom of critique, the sentimental. Indeed, a long critical tradition has sought to distinguish Hawthorne's tales and romances from the sentimental fiction of what he called the "damned mob of scribbling women," female authors who turned out best sellers while he wrote his romances in what he considered to be a heroic, manly obscurity.³⁴ In *The House of the Seven Gables*, Hawthorne used the ex-prisoner to stage a moment when the feminized, tearful embrace of sympathy provides cold comfort. Preparing Clifford's breakfast and welcoming him back into the domestic sphere, his sister Hepzibah wraps him in the language of charity: "Poor, poor, Clifford!" she calls him (74). "There is nothing but love here, Clifford," she says, "nothing but love! You are home!" (77). She is attempting to humanize him, to domesticate the ghost he has become.

But Hepzibah's cries ring hollow. Clifford responds with a faint and false smile that, Hawthorne writes, "did not half light up his face" (77). The touch of family and humanity fails to soothe him, and he persists in a ghostly state, a "dark and ruinous mansion" without the "heart's household-fire" of domestic sentimentality. The version of the carceral gothic embodied by Clifford stands in contrast to that of Dickens's ruined inmates; rather than submitting to the sentimental designs of reformers, it holds its opaque alterity. A moment of disruption in *The House of the Seven Gables*, this antisentimental carceral gothic would be developed into a complex, haunting work of fiction by Hawthorne's neighbor and greatest admirer.

"Bartleby," says the lawyer who narrates the story of the ghostly scrivener, "was one of those beings of whom nothing is ascertainable, except from the original sources, and, in his case, those are very small."³⁵ Bartleby is among the most difficult ambiguities in Melville's fiction, as pale and inscrutable as the white whale. Who is he? The narrator passes through a series of speculations and, in the end, to a vision of Bartleby in a back room of the postal service, opening letters addressed to the dead (45-46). For decades, critics have been taking up the mystery, too, proposing resolutions—Bartleby as the narrator's double, Bartleby as a misunderstood artist like Melville, Bartleby as Jesus Christ, Bartleby as an allegory of alienated labor, and so on.³⁶ If the critic can guess the answer to the riddle of the title character, then the meaning of the story promises, at last, to be revealed.

Against the tradition of inventing identities for Bartleby, the French philosopher Gilles Deleuze makes a surprising counterproposal: "Bartleby," insists Deleuze, "is neither a metaphor for the writer nor the symbol of anything whatsoever."³⁷ Deleuze's surprising words echo Melville's own interpretation of another ghostly protagonist. When he received his copy of *The House of the Seven Gables* from Hawthorne, Melville read it with delight. A few days later he wrote to his neighbor praising the novel, especially his favorite character, the ex-prisoner: "Clifford," he declared, "is full of an awful truth throughout. He is conceived in the finest, truest spirit. He is no caricature. He is Clifford."³⁸ In Melville's view, Clifford was emphatically not a metaphor. The "material ghost" was simply and stubbornly himself, resisting absorption into any larger scheme. Indeed, it might not be too much to say that in Melville's view Clifford rep-

resented the possibility of a limit, a closed surface beyond which interpretation could not pass. In his opaqueness, he would become one of the models for Melville's Bartleby. What the "cadaverous" scrivener refuses, however, is nothing as general as narrative itself; Deleuze leaps over too much when he claims that the phrase "I prefer not to" somehow "hollows out a zone of indetermination that renders words indistinguishable, that creates a vacuum within language."³⁹ Bartleby's "cadaverous triumph" is achieved when he quietly undermines not language itself but the historically contingent set of labor relations, disciplinary codes, and narrative conventions that constituted the penitentiary system.

Bartleby, The Scrivener, A Story of Wall Street, is about work and about the spaces where work is done in the modernizing, industrializing North; it is also about *not* working, and about how such a society can account for and *correct* those who interfere with its smooth, prosperous operations. The novella, taking some of its conventions from Dickens, is narrated by a genial, easygoing lawyer who makes his living far from the criminal courts, in the back chambers of banks and offices, doing "a snug business among rich men's bonds, and mortgages, and title-deeds" (4). He stays clear of scandal and the public eye, though he is proud of his connections to the New York state government and to the millionaire John Jacob Astor, "a name which," he says, "I admit, I love to repeat" (4). He employs a twelve-year-old office boy called Ginger Nut and two copyists, Turkey and Nippers. As an employer, he considers himself generous, even indulgent; as a writer, he is familiar not only with legal codes but also with newspapers, moral philosophy, and popular stories that evoke tears from "sentimental souls" (3). When he is appointed Master in Chancery, an obsolescent but lucrative judgeship, he looks to hire a third scrivener. Enter Bartleby.

The new arrival stands in the doorway looking "pallidly neat, pitiably respectable, incurably forlorn" (11). Readers are given no history of Bartleby; we never learn what past has produced this ghostly presence. Carol Colatrella, in a detailed and provocative study, suggests that Bartleby is an ex-convict, a cadaverous victim of penitentiary discipline. In Colatrella's view, *Bartleby* is an encoded critique of the penitentiary, exposing how the institution failed to prepare its inmates to return to the labor force and "to deal with the entrepreneurial nature of life in America."⁴⁰ Colatrella points to the examples of Dickens's anonymous convicts

and of Hawthorne's Clifford, and she notes Melville's long involvement with prisons and prisoners, including his family's participation in the reform movement and his visit to Auburn Prison in 1858.⁴¹ Bartleby's cryptic words from within The Tombs—"I know where I am"—give some resonance to her hypothesis (43). Colatrella's analysis has a strong historical grounding, placing *Bartleby* firmly in the context of nineteenth-century prison reform.⁴²

At the same time, however, Colatrella's reading, by providing an identity for Bartleby and thus a clear, reformist moral for the novella, too neatly resolves its mystery. In order to understand the full force of *Bartleby's* challenge, we should accept the narrator's premise that "no material exists, for a full and satisfactory biography of this man" (3). Melville invokes the penitentiary not as an implied prehistory but as a complex of disciplinary and rhetorical structures used by the lawyer in his attempt to domesticate "the unaccountable Bartleby" (35). In the process, his narrator adopts at once a virtual penitentiary regime and a sentimental literary mode—related strategies available to an enlightened antebellum man of the law.

During the first days of his employment, Bartleby is an efficient but enigmatic worker. His boss reports that he is doing "an extraordinary quantity" of copying, staying at his desk for long hours. The lawyer is clearly getting good production from his new employee, but he is a little disturbed by Bartleby's ways. "I would have been quite delighted," he says, "had he been *cheerfully* industrious" (12, my emphasis). The nagging problem is that there is no spark of life in Bartleby's work, no affection for his boss, none of the comic humanity of Turkey and Nippers, with their big appetites and hot tempers. Bartleby writes on "silently, palely, mechanically" (12). The bare labor is being done, in other words, without the warmth, the little dramas of defiance and indulgence, that humanize the social relations of the office.

From Bartleby's arrival forward, the novella becomes the story of the narrator's effort to solve the problem of the scrivener's disturbing ghostliness. The first solution the lawyer devises is an architectural one. The office is divided into two sections, the lawyer on one side and the scribes on the other. But when Bartleby arrives, the lawyer places him on his own side, behind a folding screen, "so as to have this quiet man within easy call" (11). Enclosed but available, Bartleby is given a desk facing a window

that "commanded . . . no view at all, though it gave some light. Within three feet of the panes was a wall, and the light came down from far above . . . as from a very small opening in a dome" (11-12). As almost any reader will recognize, Melville in *Bartleby* pays careful attention to architecture, especially to the walls that surround the characters. In a classic study, Leo Marx calls the novella "Melville's parable of the walls," interpreting Bartleby's "hermitage" as an extreme form of the claustrophobic structures of modern consciousness and capitalism. But Melville may have something more specific in mind.⁴³ The key reference in his architectural description is to the great prisons of John Haviland, Pennsylvania's Eastern State Penitentiary and New York's Tombs. In the solitary cells of The Tombs, the only light came in "through a high chink in the wall."⁴⁴ At Eastern State, the vaulted ceiling of each cell was equipped with a small skylight, commonly called an "eye of God."⁴⁵ God's eye, watching over the labor and penitence of the captive, was arguably the most famous "small opening in a dome" in Melville's world, and the clearest sign that his lawyer is adopting for his scrivener the forms of labor discipline characteristic of Haviland's penitentiaries.

In their report on the American penitentiary, Beaumont and Tocqueville wrote that "absolute solitude, if nothing interrupts it, is beyond the strength of man; it destroys the criminal without intermission and without pity; it does not reform, it kills."⁴⁶ In many ways, such a representation of solitary confinement as a life-destroying torment seems to resonate with the protests of Dickens and Roscoe. Beaumont and Tocqueville, however, saw the power of Eastern State and made recommendations about using it as a model for new prisons in France. The important thing, for them, was that solitude should be mitigated by labor. Prisoners were tormented in their idleness by guilt and loneliness, but "labor, by comforting them, makes them *love* the only means, which when again free, will enable them to gain honestly their livelihood."⁴⁷ As evidence, Beaumont and Tocqueville published interviews with inmates who declared that "it would be impossible to live [at Eastern State] without labour" and that the work assigned to them was a "great consolation."⁴⁸ Analyzing Beaumont and Tocqueville, the Marxist historians Dario Melossi and Massimo Pavarini argue that the penitentiary was designed to turn the prisoner into "someone who [has] accepted the state of subordination" characteristic of the industrial economy and its "discipline

of wages."⁴⁹ For nineteenth-century reformers, the affective element of labor relations was essential: the prisoner had not only to do his work; he had to embrace it as a life-saving gift of love from his keepers.

Part of the humanitarian reform built into the penitentiary, then, was a turn away from the "hard labor" of unenlightened punishment, toward a productive labor infused with a warm ethos of benevolence and gratitude. Such is the relationship the lawyer-narrator of *Bartleby* attempts to foster with his scribes. He offers Turkey a hand-me-down coat, but his feelings are hurt when the "insolent" employee does not "appreciate the favor." "He was a man," the lawyer concludes, "whom prosperity harmed" (9). At first, like the prisoners at Eastern State, Bartleby appears to crave work; he "seem[s] to gorge himself" like someone "long famished for something to copy" (12). If all goes according to plan, Bartleby will be *corrected* by solitude, becoming grateful to his boss and accountable to his narrator. But labor, even at the beginning, does not move Bartleby to love. He is enclosed and illuminated but unreformed, becoming ever more mysteriously, elusively "cadaverous" (21, 32). Like the speaker of one of Dickinson's lyrics, he covers the abyss of his misery with a troubling, inscrutable trance. He baffles correction.

A few days after Bartleby's arrival, the lawyer asks him to proofread some copies. Bartleby, from behind his screen, delivers for the first time his demurral: "I would prefer not to" (13). Twice the narrator repeats his request, and twice more Bartleby replies that he would prefer not to. His quiet resistance, the motivating problem of the novella, has emerged. "I looked at him steadfastly," says the narrator. "His face was leanly composed; his gray eye dimly calm. Not a wrinkle of agitation rippled him." Bartleby's resistance is not defiance; it is something quieter and more unnerving. "Had there been the least uneasiness, anger, impatience or impertinence in [Bartleby's] manner," the lawyer explains, "in other words, had there been any thing ordinarily *human* about him, doubtless I should have violently dismissed him from the premises" (13, my emphasis). "Nothing so baffles an earnest person," he confesses later, "as a passive resistance" (17). Bartleby baffles because he prefers to make no claim on "humanity." As Michael Rogin observes, he "has the power of negativity. He drains his surroundings of the humanity in which the lawyer would like to believe."⁵⁰ In Melville's terms, Bartleby inhabits a

ghostliness—a "cadaverously gentlemanly *nonchalance*"—outside the whole economy of the human (21).

As the story progresses, Bartleby prefers to do less and less. First he declines to correct the copies made by Turkey and Nippers, then to correct his own; finally, he does "nothing but stand at his window in his dead-wall revery" (28). He merely persists in his cell, apparently "harmless in his passivity" but more and more disturbing to the lawyer and his business (17). Commanded to take his earnings and get out, he remains, unmoving, solitary and idle behind his green partition. The lawyer, trying to break Bartleby's resistance—to repair the ethical relation of master and worker and, along the way, to discover a narrative pattern fit to hold Bartleby—comically rehearses the history of punishment in miniature. He begins with the threat of "some terrible retribution," fantasizing about ways to provoke Bartleby into open defiance, "to elicit some angry spark from him answerable to my own" (19, 20). Briefly, he contemplates killing Bartleby—but a spirit of mercy stays his hand. It is essential to Melville's design that the narrator never commit any open cruelty against the scribe. Bartleby must be dehumanized, but not by violence, or else the novella would become yet another reformist exposé of abusive conditions. Melville's target is something more subtle but also, perhaps, more insidious: the mortification inflicted by the most humane and sympathetic of keepers.

Declining to harm Bartleby or to throw him out into the lonely streets, the narrator seeks "to drown [his] exasperated feelings by benevolently construing [Bartleby's] conduct" (34). He considers the possibility that Bartleby is "demented" and ought to be committed "to some convenient retreat" (27, 29). He is willing to accept even Bartleby's idleness, if only Bartleby will accept his own place in the sentimental narrative of humanizing charity:

"Will you tell me, Bartleby, where you were born?"

"I would prefer not to."

"Will you tell me *anything* about yourself?"

"I would prefer not to."

"But what reasonable objection can you have to speak to me? I feel friendly towards you." (25)

Bartleby's eyes, "dull and glazed" by cataracts, are screens blocking every attempt to expose his character. As the conflict becomes more

absurd, Bartleby becomes not more human but more "cadaverous," a haunting presence inspiring a growing terror. The lawyer is visited by "sad fancyings—chimeras . . . of a sick and silly brain" (23). Cold and unresponsive as "a very ghost" (19), Bartleby provokes this crisis by exposing the inadequacy of the whole cultural system on which the lawyer's snug "tranquility" depends (4). In his walled-in section of the Wall Street world, the law does its work without violence; the demands of labor are mitigated by a benevolent relation between the boss and his workers; and, when any sign of suffering arises, it can be absorbed into the patterns of sentimental narrative. Bartleby's "I prefer not to" dismantles these enlightened ideals. It is more than a refusal to work—it withdraws the scrivener from the recognizable humanity that is the foundation for the lawyer's only means of understanding and correcting his recalcitrance.

Bartleby stands at the limit of reformatory discipline and sentimental narrative, and his ghostliness is, to the eyes of the lawyer, the apparition of a life stubbornly outside those structures: "My first emotions had been those of pure melancholy and sincerest pity; but in just proportion as the forlornness of Bartleby grew and grew to my imagination, did that same melancholy merge into fear, that pity into repulsion. So true it is, and so terrible, too, that up to a certain point the thought or sight of misery enlists our best affections; but in certain special cases, beyond that point it does not" (24). Bartleby's inhumanity, the lawyer concludes, is an "innate and incurable disorder" (25). No asylum can correct him, and no sentimental narrative can account for him. As Sianne Ngai suggests, Bartleby is "a character so emotionally illegible as to foreclose the possibility of sympathetic identification altogether."⁵¹ Thus the sentimental story, baffled by a life that eludes work, discipline, and charity, encounters its opposite and counterpart, the gothic. Ghostliness becomes the sign of a life that quietly but unbreakably refuses the humanity liberally offered by the reformer's cell and sympathy. The "pale form" of Bartleby unhinges the lawyer from security, and he "tremble[s] to think that [his] contact with the scrivener ha[s] . . . seriously affected [him] in a mental way" (27). Jittery and insecure, he keeps the door locked, frightened by "every footfall in the passages" (38).

Frustrated in his efforts to reconcile Bartleby to labor or to account for his resistance, embarrassed in front of his employees and clients—

"A whisper of wonder was running round," he says, "having reference to the strange creature I kept at my office" (16)—the lawyer finally rents a new office, leaving the old one to Bartleby. When the landlord threatens to have the cadaverous loiterer arrested for vagrancy, however, the lawyer makes one more charitable proposition: he invites Bartleby into his home. Part humanitarian intervention, part pickup line, the lawyer's gesture is an odd turn in an odd story. It can be understood as the lawyer's last attempt to domesticate Bartleby, this time through the relation of force that Richard Brodhead calls "disciplinary intimacy."⁵² The lawyer's invitation does not depart from his efforts to get control of Bartleby: rather, it completes a sequence of related attempts to draw this unmoving vagrant into the disciplinary structures that regulate social life in the cities of the antebellum American Northeast—bureaucratized office, corrective prison, domestic fireside. The rhythms and regulations of the workplace have failed, even with the promise of extra pay. The enclosures and silence of a virtual prison cell have done no better. Finally the lawyer offers a room in his house, a place at his own table; it is his last, desperate attempt to humanize and discipline his recalcitrant hireling. When it, too, fails, he abandons Bartleby to the landlord and the police, who haul him off to The Tombs.

Visiting Bartleby there, the lawyer records that the "Egyptian character of the masonry weighed upon me with its gloom" (45). The gothic façade makes its grave and solemn impression on his imagination. In a small, grassy courtyard—perhaps the "narrow, grave-like place" where Dickens witnessed a hanging⁵³—the lawyer finds Bartleby "huddled" against a wall, his body "wasted" and cold (45). Bartleby's death in The Tombs, unaccountable to the lawyer-narrator, is in a sense the only fitting conclusion for his story. In his ghostly passivity, the scrivener has eluded the matrix of mechanical labor, penitentiary discipline, and sentimental narrative—but he has achieved that escape only by holding fast to the living death that is that cultural system's negative image.

In their "Theory of Ghosts," Theodor Adorno and Max Horkheimer write that the living are "placed in the proper relationship to the dead" only "when the horror of [our own] annihilation is raised fully into consciousness."⁵⁴ As he stands over the body of "the wasted Bartleby," Melville's narrator approaches this self-annihilating horror. He recognizes, as if for the first time, that the scrivener is beyond correction and

beyond recovery. He speculates about a possible past in the Dead Letter Office and, in conclusion, delivers the famous lines that make up his answer to Bartleby's "I prefer not to"—"Ah, Bartleby! Ah, humanity!" (46). Rogin reads this double sigh as the narrator's "last effort to circumscribe the meaning of his scrivener's fate," to bury Bartleby in sentiment.⁵⁵ Yet the phrases might also be read as a loss of faith, as if Bartleby's death had finally given a bitter taste to the "delicious" language of "conscience." Saying farewell to the scrivener, the lawyer may also be dispensing with an old, familiar way of negotiating with the social world. Like so much about *Bartleby*, the final turn is ambiguous. What remains is no resolution but, perhaps, the sense of a lack. Melville has presented a problem for sentimentalism, conceiving a ghostly figure who lurks beyond the limit of "humanity," refusing its lure. But Melville himself goes only as far as the lawyer-narrator can, to the gothic border of sentimentality. He imagines an encounter with a ghostly, imprisoned other that provokes not a charitable humanization but, instead, the disturbance of the very humanity on which the sentimentalizing self depends—a humanity that, as we have seen, involved a myth of sacrifice and a practice of carceral mortification. Bartleby's death decomposes this self and leaves it searching for an alternative foundation. The hollow ringing at the end of the story, then, may be the sound of an absence, the missing subjectivity of Bartleby calling for a counterpart in a reader who can encounter this cadaverous captive, with all the force of his negativity, without sympathy.

NO WAY BUT THROUGH THE GRAVE

In "The American in Charity: 'Benito Cereno' and Gothic Anti-Sentimentality," Peter Coviello makes an argument similar to the one I have made about *Bartleby*. Coviello notes that Melville's *Benito Cereno* features a narrator, the New England ship captain Amasa Delano, whose sentimental tropes and racist presumptions blind him to the gothic reality of the slave revolt aboard the *San Dominick*. The novella is not only about the violence of slavery and resistance but also about how sentimentalism misreads that violence: "Sentimentality is, for Melville, a way of . . . subsisting in a state of often grossly self-satisfied ignorance of [slavery's] most dire aspects and consequences." Coviello suggests that Melville uses the gothic, with its ambiguities and terrors, as an alternative language better suited to the "explosive, inhumane, and unsustain-

able" scene of racist domination in the Atlantic world.⁵⁶ Read this way, *Benito Cereno* manifestly responds to and opposes a text published a few years earlier, the most famous document of the abolitionist movement and the best-selling novel of the nineteenth century, Harriet Beecher Stowe's *Uncle Tom's Cabin*. Parodying Stowe's "self-satisfied and pointedly sentimental" work, Melville's novella attacked at once an inadequate literary reckoning with race and a literary marketplace that trafficked in platitudes instead of difficulties.⁵⁷

As Coviello recognizes, however, Melville may have been guilty of his own misreading. *Uncle Tom's Cabin* is obviously a sentimental fiction written for a mass audience, with hopes of opening hearts and changing minds about the miseries of slavery. Yet despite its "authorial promises of transparency," the novel does not resolve all the problems it raises—it is haunted in its own way by a "terrifying uncontrollable excess."⁵⁸ In the suffering figure of Tom, it invites the reader to feelings of humanizing sympathy; in the rebellion of George, it makes its enlightened declaration of the God-given humanity of the slave. Both of these paradigms invite the slave to pass from the darkness of abjection into the light of humanity—either through the sympathetic embrace of the feminized Christian conscience allegorized in Little Eva, or through the masculine, revolutionary self-assertion dramatized in George's conflict with the slave catcher Tom Loker. But *Uncle Tom's Cabin* also presents a third possibility, a figure who appeals not to humanity, whether in the idiom of sentiment or of inalienable rights, but to a ghostly inhumanity.

Cassy appears late in Stowe's novel, on the plantation of the villainous master Simon Legree. The reader learns that she has been Legree's mistress for some years, though he has recently turned his attention to younger slaves. Like many of Stowe's more articulate and resourceful victims, Cassy is light-skinned, "a woman delicately bred," but Legree, her "tyrant and tormentor," has "crushed her . . . beneath the foot of his brutality." A history of violence and degradation has given Cassy a cadaverous, inhuman affect. Like Melville's *Bartleby*, she is an ambiguous, obscure text. Stowe describes the "strange, weird, unsettled cast to all her words," and her "unearthly expression" of "partial insanity."⁵⁹ The social death of slavery is much more than a legal condition for this captive; her whole life is intimacy with death. When Legree begins pursuing the young Emeline, the girl seeks protection from Cassy—"Do tell me," she asks,

"couldn't we get away from this place? I don't care where,—into the swamp among the snakes,—anywhere!" Cassy's reply is unwelcome: "Nowhere, but into our graves" (325). When Tom, anticipating his own death under Legree's fists, encourages Cassy to make her escape, she gives him the same answer: "I know no way but through the grave" (345).

Unable to conceive of freedom except in terms of death, Cassy is caught in the conceptual trap that Russ Castronovo calls "political necrophilia." Remarking how persistently antislavery literature embraced death as the only way out of bondage, Castronovo explores why liberal antebellum reformers could often see no escape "but through the grave." "Because abolitionists, both black and white, advanced a definition of freedom that grasped for absolutes and turned away from accidents of the flesh," explains Castronovo, "their texts reproduced a nationalized vocabulary that made the agitation for freedom at times uncannily consistent with proslavery defenses."⁶⁰ To those who thought of freedom in abstract, disembodied terms, locating it outside the living and dying world in an idealized realm of concepts, freedom for African Americans could only be imagined as freedom from their racially marked and historically burdened bodies. This deathly escapism expresses itself in the many suicides, infanticides, and other sacrifices of antislavery literature.

Castronovo's critique is directed against a bloodless intellectual tradition that protects the privileges of white men by binding freedom to disembodiment, thereby aligning unfreedom with the conspicuous embodiments of women and people of color. In its examination of the contradictions in abolitionist arguments for freedom, his analysis anticipates some of the problems that haunt any universalizing discourse of human rights in a heterogeneous social world. Along the way, however, Castronovo notes an "unlikely convergence between social death and freedom" in certain stories of liberation that curiously reproduce the loss of self associated with enslavement. Fugitives like Frederick Douglass and James Pennington, he observes, imagined themselves not so much born again into freedom as dead again into alienation and solitude. But there is another way to read such passages.⁶¹ The intimate relations between captivity and death generate not only despair but also some unlikely kinds of creativity in political and aesthetic culture. The secrecy and isolation of the fugitive slave are, after all, not metaphors; they are strategies for pre-

serving his natural life in a time when the law encouraged citizens to hunt him as an outlaw or a beast on the prowl.⁶² In the context of a dehumanizing violence, the condition of inhumanity—invisibility, the absence of identity and the dissolution of social connections—opens the possibility that the slave might vanish like a ghost, without a trace. Rather than evading the worldly struggle for freedom, then, fugitives like Douglass reclaimed the conditions of captivity for the purposes of survival, resistance, and escape. Castronovo is right to perceive that the tropes strategically invoked in pursuit of freedom sometimes reproduce those invoked on the side of coercion, but the repetition is not always the effect of a flight from history. The issue is not only that Americans have been unable to imagine freedom together with embodiment but also that we are unable to imagine liberty without captivity.

In the end, Stowe's Cassy does devise a way to escape through the grave. In the deteriorating plantation house is a garret where Legree once confined "a negro woman, who had incurred [his] displeasure" (346). After "several weeks" of torment, her body was removed and buried, and since then the garret has been regarded as a "weird and ghostly place" by all on the plantation: "It was said that oaths and cursings and the sound of violent blows, used to ring through that old garret, and mingled with wailings and groans of despair" (346). Using this structure of captivity "for the purpose of her liberation," Cassy begins to prey on Legree's guilt and superstitions (346). She fixes an old bottleneck in a "knot-hole," so that it catches the wind and makes "doleful and lugubrious wailing sounds" (347). Having exploited the haunting associations of the garret, Cassy hides herself and Emmeline there, secure in the thought that any sounds they make will strike Legree as the racket of ghosts. At night, she wraps herself in sheets and sneaks into the old tyrant's bedroom, haunting his fitful sleep.

Legree is finally broken by Cassy's gothic strategies. Like Melville's lawyer, he grows nervous and confused in the company of the living dead. The secure boundaries of his sovereign realm have been overrun. By day he drinks "imprudently and restlessly." By night, lying awake and miserable in his room beneath the "fatal garret," he fears the white ghost. Soon, word travels around the plantation that he is "sick and dying," in the grip of "that frightful disease that seems to throw the lurid

shadows of a coming retribution back into the present life." He shakes and raves about the "horrors" that torment him in his final days (367): As their master loses his health and his mind, Cassy and Emmeline slip away to freedom, still wrapped in white. The fugitives have made their escape not by any reformer's sympathetic recognition of their humanity, and not by any direct overthrow of their inhumane master, but by discovering a line of flight in the condition of "social death" itself. Hidden away in a garret made notorious as a site of captivity, Cassy has turned all that once made captivity a ghostly half-life—social death, ritualized mortification, brutal violence, even madness—to the purposes of vengeance and escape. In this brief, haunting passage, Stowe gives her narrative up to excess, to power dynamics and affects outside the usual ordering patterns of sentimentality. The gothic is not contained; as in *Bartleby*, it is a way of escaping through the borders of humanity, into the swamps and shadows.

Unlike Melville's grim vision in *Bartleby*, a novella whose inscrutable antagonist dismantles it from within, Stowe's story of Cassy has a happy ending. Cassy gets away to freedom and is reunited with her long-lost family. The history of her origins and trials comes to light, and she is recaptured, in a sense, within a sentimental frame. What desolates Melville's design is in Stowe's novel only a temporary disturbance, a moment of excess. The difference between these two stories of cadaverous triumph might be explained in terms of the two authors' different relationships to the sentimental mode and its reformist promises. Melville's attack on his society's practices of captivity, unlike Stowe's, does not comfort itself with the hope that benevolent reforms might lead to a brighter, more humane future. But this more cynical position is not only an effect of Melville's gloomier temperament, or of his grudge against sentimentality. It also arises from the different kinds of captivity in question in the two works.

Stowe's antislavery novel seeks to extend the embrace of sentimental and juridical humanity to slaves who, according to antebellum codes, were socially dead, thus inhuman or even monstrous figures. Melville's subject, the convict in the penitentiary, is not so neatly excluded from sentimental or legal humanity. He is held in the name of a law that applies to all citizens, enduring a punishment that claims precisely to restore his humanity. In such circumstances, no call for a wider inclusion

can suffice. Such a reform would only expand the reach of the prison itself. The circle of humanity must be resisted, as it were, from within. In *Bartleby*, therefore, the monster engendered by captivity is not domesticated; it returns to torment its maker. The death of sentimental humanity is the occasion of cadaverous triumph.

NOTES

INTRODUCTION

1. Dickinson, poem 303. Throughout, Dickinson's poems are cited according to their numbers in Thomas H. Johnson's edition of *The Complete Poems*.
2. On the invention of Dickinson as a lyric sensibility and the consequences of that invention for the interpretive history of her texts, see Jackson, *Dickinson's Misery*.
3. See, for example, Fuss, "Interior Chambers."
4. Hanway, *Distributive Justice and Mercy*; Beaumont and Tocqueville, *Report*, 55.
5. In his preface to the U.S. edition of Beaumont and Tocqueville's *Report*, the legal scholar Francis Lieber made this point explicit, arguing that women were incapable of the reasoned reflection necessary for rehabilitation: "The two sexes have been destined by the Creator for different spheres of activity, and have received different powers to fulfill their destiny. The women destined for domestic life, and that sphere in which attachment and affection are most active agents, has been endowed with more lively feeling and acute sensibility: she feels; man reasons (10). The gender ideology of separate spheres is part of reform's deep relationship with sentimentalism, a connection I explore in detail, especially in chapter 2.
6. Foucault, *Discipline and Punish*, 233.
7. See Melossi and Pavarini, *The Prison and the Factory*; and Ignatieff, *A Just Measure of Pain*.
8. See Adorno and Horkheimer, *Dialectic of Enlightenment*; Dumm, *Democracy and Punishment*; and Rothman, *The Discovery of the Asylum*.
9. Adorno and Horkheimer, *Dialectic of Enlightenment*, 187–188. Cited as quoted, in a variant translation, in Dumm, *Democracy and Punishment*, 4.

10. Hawser, "The Captive," in *Buds and Flowers*, 70.
11. Baca, *Working in the Dark*, 10.
12. Goffman, *Asylums*.
13. Dayan, "Legal Slaves."
14. Rush, *Essays*, 91.
15. Spierenburg, "The Body and the State," 55.
16. Foucault, *Discipline and Punish*, 48-49.
17. Shoemaker, "The Problem of Pain," 15. See also Greg T. Smith, "The Decline of Public Physical Punishment," which argues that eighteenth-century "public executions in the metropolis had developed into a highly ritualized 'cultural' event" (27-28).
18. Evans, *Fabrication of Virtue*.
19. Spierenburg, "The Body and the State," 55-57.
20. Hoffer and Scott, quoted in Friedman, *Crime and Punishment*, 26.
21. Friedman, *Crime and Punishment*, 26.
22. Evans, *Fabrication of Virtue*, 75.
23. Spierenburg, "The Body and the State," 58.
24. Evans, *Fabrication of Virtue*, 75.
25. Spierenburg, "The Body and the State," 58-59.
26. Spierenburg, "The Body and the State," 59-60.
27. Meranze, "A Criminal," 307.
28. Rush, *Essays*, 81.
29. See Foucault, *Discipline and Punish*, 63.
30. See Meranze, "A Criminal."
31. See Rothman, *The Discovery of the Asylum*.
32. Beaumont and Tocqueville, *Report*, 52.
33. Dumm, *Democracy and Punishment*, 113.
34. Beaumont and Tocqueville, *Report*, 50.
35. Dayan argues that "if Foucault's metropolitan world of public torture . . . died out by the eighteenth and the beginning of the nineteenth century, the punitive spectacle and the requisite bodies were resurrected in the colonies" ("Legal Slaves," 12). Similarly, Jason Haslam, though he draws heavily from Foucault's work, criticizes its "lack of discussion of the impact of slavery on the formation of the early prison—a connection which . . . has a significant impact on any understanding of the prison as a modern institution and of its use of both physical and societal violence" (*Fitting Sentences*, 10). For a discussion of how Foucault's thoughts on the history of punishment might be extended to include colonial projects of "modernization" and "humanization," see Asad, *Formations of the Secular*, 102-113.
36. While the history of slavery in the United States goes back to the earliest days of the Republic, historians cite the period between 1820 and the Civil War as the fullest development of the plantation system—"It was actually 1820," notes W. J. Cash, "before the plantation was fully on the march, striding over the hills of Carolina and Mississippi" (*The Mind of the South*, 10). See also Berlin, *Generations of Captivity*.

37. Roscoe, *Observations*, 51.
38. Morrison, *Playing in the Dark*, 38.
39. This connection is made by Orlando Patterson in his classic study, *Slavery and Social Death*, and by others, including Colin Dayan in "Legal Terrors" and "Legal Slaves and Civil Bodies." I explore it in greater detail in chapter 1.
40. See, for example, Asad's discussion of the decline of torture in *Formations of the Secular*.
41. Rousseau, *Social Contract*, 151.
42. These lines from Blackstone are quoted by Dayan, who elaborates their meaning into a theory of civil sacrifice: "In this duality of civil and natural, the natural person who existed before the social contract haunts the margins of the formal community. The resurrection of the individual as civil person depends on sacrifice: the old nature takes on the skin of the civil" (Dayan, "Legal Slaves," 4).
43. C. Taylor, *Modern Social Imaginaries*, 6, 23, 27.
44. Asad, *Formations of the Secular*, 101. In similar terms, Mark Canuel has described the movement away from the scaffold, toward incarceration, as "a species of humanitarian reform that simultaneously—and more importantly—aimed to redefine the relationship between political subjects and legal structures" (*Shadow of Death*, 12).
45. Hawthorne, *The Scarlet Letter*, 45. Subsequent references are cited parenthetically in the text.
46. As Robert Shulman observes in "The Artist in the Slammer," *The Scarlet Letter* "is not . . . an accurate portrayal of the seventeenth century . . . but rather an image that emerges from the depths of [Hawthorne's] contemporary experience" (83). Similarly, Richard Brodhead writes that the "system" of punishments explored in the novel "is exactly that . . . kind of discipline the mid-nineteenth century [felt] compelled to look in the face" ("Sparing the Rod," 77).
47. Cover, "Nomos and Narrative," 100.
48. White, *Heracles' Bow*, 199, 205. See also Crotty, *Law's Interior*.
49. See Rothman, *The Discovery of the Asylum*.
50. I am grateful to Hazel Carby for her provocation to see the prison and the plantation, especially, as "mutually constitutive" institutions.
51. See Miller, *The Novel and the Police*; and Grass, *The Self in the Cell*.
52. See Franklin, *The Victim as Criminal and Artist*; Haslam, *Fitting Sentences*; and Rodriguez, *Forced Passages*.
53. Butler, *Precarious Life*, 140.
54. Cheah, *Inhuman Conditions*, 3.
55. Rodriguez, *Forced Passages*.

CHAPTER 1. CIVIL DEATH AND CARCERAL LIFE

1. Jackson, *Soledad Brother*, 19-20.
2. Genet, "Introduction," 1.
3. Hawser, "The Captive," in *Buds and Flowers*, 70.

44. Bouvier, *Institutes of American Law*, 94.
 45. Bouvier, *Institutes of American Law*, 95.
 46. "Civil Death Statutes," 971.
 47. "Civil Death Statutes," 968.
 48. See "Disenfranchisement of Ex-Felons," 1302.
 49. Ewald, "Civil Death," 1045.
 50. Dayan, "Legal Slaves," 3.
 51. Dayan, "Legal Slaves," 16.
 52. Goffman, *Asylums*, 15-16, 35.
 53. Goffman, *Asylums*, 16.
 54. Goffman, *Asylums*, 14.
 55. Hassine, "How I Became a Convict," 16.
 56. Hassine, "How I Became a Convict," 15.
 57. Johnston, *Eastern State*, 48-49.
 58. Dickens, *American Notes*, 91. Dickens's horrified reaction to the solitary prison was widely circulated in its time and continues to be cited as a sign that some nineteenth-century authorities were not fooled by reformers' professions about humane correction. See, for example, Dayan, "Legal Slaves," 16; and Rusche and Kirchheimer, *Punishment and Social Structure*, 136-137. For their part, the men who built and oversaw Eastern State Penitentiary sought to defend it against Dickens, claiming that the novelist had let his fictional imagination get the better of his "power of detection" and that his "account . . . may be presumed to be exaggerated or untrustworthy" (Richard Vaux, *Brief Sketch*, 112). I return to Dickens at greater length in chapter 2.
 59. Haslam, *Fitting Sentences*, 27.
 60. Quoted in Rothman, *The Discovery of the Asylum*, 95.
 61. Beaumont and Tocqueville, *Report*, 84.
 62. The age of the prison, the plantation, and the reservation was also the age of other emergent institutions of captivity, such as the asylum and the reformatory. See Rothman, *The Discovery of the Asylum*, and Reiss, *Theaters of Madness*.
 63. These lines are quoted and refuted in Roscoe, *Observations*, 50-51.
 64. Exploring the relations between punishment and slavery, several critics have noted the connection between civil death and social death. The most complex historical study is Sellin's *Slavery and the Penal System*, published in 1976. For more recent accounts, see Dayan, "Legal Slaves," and Wacquant, "From Slavery to Mass Incarceration." For a reading of these problems in relation to Douglass's *Narrative*, see A. Y. Davis, "From the Prison of Slavery to the Slavery of Prison."
 65. Patterson, *Slavery and Social Death*, 5.
 66. Douglass, *Narrative*, 135.
 67. Douglass, *Narrative*, 105.
 68. Douglass, *Narrative*, 47-48.
 69. Patterson, *Slavery and Social Death*, 51.
 70. Douglass, *Narrative*, 49.

71. Mbembe, "Necropolitics," 21.
 72. Douglass, *Narrative*, 105.
 73. Andrew M'Makin, untitled poem accompanying a painting of Eastern State Penitentiary in Wild, *Panoramas and Views of Philadelphia*, n.p.
 74. Patterson, *Slavery and Social Death*, 41-43, 5.
 75. James Boyd White, in his analysis of the language of criminal law, suggests that such arguments are almost always a "cruel joke," a rhetoric used to "reassure an audience" about the use of "the power of discretionary punishment." White, *Heracles' Bow*, 201.
 76. Meranze, "A Criminal."
 77. Rothman, *The Discovery of the Asylum*, 102.
 78. Beaumont and Tocqueville, *Report*, 164.
 79. Beaumont and Tocqueville, *Report*, 163.
 80. Allen, *Examination of the Remarks*, 4; my emphasis.
 81. Roscoe, *Observations*, 47-49.
 82. Roscoe, *Observations*, 10.
 83. Roscoe, *Observations*, 49.
 84. Foucault, *Discipline and Punish*, 235. Similarly, Ruth Gilmore notes that many well-meaning "remedies . . . get caught in the logic of the system itself, such that a reform strengthens, rather than loosens, prison's hold" (*Golden Gulag*, 242).
 85. Rush, *Essays*, 90.
 86. Dumm, *Democracy and Punishment*, 87-88; see also Meranze, *Laboratories of Virtue*.
 87. See Dumm, *Democracy and Punishment*, 87-112.
 88. Rousseau, *Social Contract*, 151.
 89. Quoted in Warner, *Letters of the Republic*, 100.
 90. Roach, *Cities of the Dead*, 3.
 91. Dayan, "Legal Slaves," 15.
 92. Dayan, "Legal Slaves," revised version, 54.
 93. Dayan, "Legal Terrors," 45-55.

CHAPTER 2. CADAVEROUS TRIUMPHS

1. Beccaria, *Of Crimes and Punishments*, 68-69.
 2. Blomfield, "The Christian's Duty Towards Criminals," 6.
 3. Foucault, *Discipline and Punish*, 108.
 4. Beccaria, *Of Crimes and Punishments*, 68-69.
 5. Rush, *Essays*, 81.
 6. Rush, *Essays*, 83.
 7. Rush, *Essays*, 88.
 8. On Rush's concept of a mediated terror, see Meranze, "A Criminal." For a fuller discussion of the role of fiction in the early phase of reform, see Okun, *Crime and the Nation*. Okun, noting the simultaneous development of the first American penitentiaries and the first American novels in Philadelphia in

- the late eighteenth century, compellingly reads them side by side to reveal a series of common concerns, including “the division of labor and the commodification of bodies; the inculcation of virtue and the thrills of transgression; the construction and replication of identity; the moral allegories of domestic space” (Okun, *Crime and the Nation*, xx).
9. Johnston, *Eastern State*, 36.
 10. Thomas M’Elwee and George W. Smith, quoted and reproduced in Richard Vaux, *Brief Sketch*, 56–61.
 11. The Tombs, a structure including not only prison cells but also courtrooms and police facilities, was built between 1835 and 1838. Haviland had also used an Egyptian-style façade for the New Jersey Penitentiary at Trenton, constructed between 1833 and 1836. See Johnston, *Forms of Constraint*, 85–86.
 12. John McGinn, *Ten Days in the Tombs* (New York: P. F. Harris, 1855), 5–6. Quoted in Berthold, “Prison World,” 237.
 13. Dickens, *American Notes*, 75.
 14. Dayan, “Poe, Persons, and Property,” 406. In an essay that appeared as I was completing my revisions on this book, Jason Haslam compellingly argues that Poe’s “The Pit and the Pendulum” addresses the new forms of publicity and mediation that arose when the prison system displaced the scaffold as the scene of punishment. Drawing from Meranze and Dayan, Haslam argues that, for reformers, “the spectacle would . . . continue to exist—and have an impact on society—in publicly circulated narrative forms, including literature”; Haslam goes on to show how the reformist debate “about punishment and publicity is thematized—even analyzed—in Poe’s ‘The Pit and the Pendulum’” (Haslam, “Pits, Pendulums, and Penitentiaries,” 269).
 15. Poe, *Complete Tales*, 250.
 16. Halttunen, “Gothic Mystery,” 42.
 17. Many of the founders of the penitentiary system, from Beccaria to Rush, expressed their hope that it would haunt the public imagination, spreading fear especially among the poor and semiliterate populations that seemed, to authorities, most disposed to crime. Of course, they also took pains to assure themselves and their enlightened colleagues that the prison was not really a dungeon or a tomb. Their vision of the institution might be understood as an appeal to a divided audience: to the dangerous public, they spun a gothic tale designed to inspire dread; to their fellow reformers, they offered the sentimental story of lost souls reclaimed.
 18. Louis S. Gross identifies the central concern of the gothic as “the singularity and monstrosity of the Other: what the dominant culture cannot incorporate within itself, it must project outward onto this hated/desired figure” (Gross, *Redefining the American Gothic*, 90; see Martin and Savoy, *American Gothic*, 4–6). On the gothic as a “complex,” see Anne Williams, *Art of Darkness: A Poetics of Gothic* (Chicago: University of Chicago Press, 1995).
 19. Marianne Noble has argued, for instance, that sentimentality has a “gothic core,” that the pleasures of sympathy are bound up with the thrill of watching

- another’s misery. Laura Hinton takes an even more cynical view, proposing that sentimental sympathy always directs a “perverse gaze” at its victims. See Noble, “An Ecstasy of Apprehension,” and Hinton, *The Perverse Gaze of Sympathy*.
20. Fiedler’s critical method traded in archetypes, but I do not mean to suggest that it tended toward empty formalism. Fiedler’s book, as even recent revisionist studies of the gothic recognize, was a pioneering effort to combine the energies of historicism and psychoanalysis (Martin and Savoy, *American Gothic*, viii).
 21. Noble provides a concise synthesis of this view: “It is no coincidence, critics agree, that the gothic arose at the moment when Enlightenment thinkers were idealizing the human being as a coherent, rational self. The gothic represents the underside of this ideal, exposing both the illicit desires and the tactics of terror used to repress them during the construction of hegemonic subjectivities” (Noble, “An Ecstasy of Apprehension,” 165).
 22. Poe, *Complete Tales*, 258.
 23. The best-known treatment of these issues is Toni Morrison’s *Playing in the Dark: Whiteness and the Literary Imagination*. Among many other examples are the essays collected under the heading “Racial Politics in Gothic Texts” in Martin and Savoy, *American Gothic*; and Dougherty, “Foucault in the House of Usher.”
 24. Richard Vaux, *Brief Sketch*, III.
 25. See Johnston, *Eastern State*.
 26. Dickens, *American Notes*, 91. Subsequent quotations are cited parenthetically in the text.
 27. Dickens did not give the names of the prisoners he saw at Eastern State, but he mentions a man who “wrote verses about ships (he was by trade a mariner), and the ‘maddening wine-cup,’ and his friends at home” (*American Notes*, 94). Hawser’s “To the Sailor” includes a warning against “the poison’d wave / Of the madd’ning bowl” (71). In Joseph Adshead’s *Prisons and Prisoners* (1845), the poet mentioned by Dickens is identified as Hawser and defended against Dickens’s dismissive treatment (104–113).
 28. Foucault famously described the ways in which prisons create and profit by a sort of managed “deviancy” (*Discipline and Punish*, 257–292). The anthropologist Lorna Rhodes, in *Total Confinement*, a study of super-max prisons, argues that the derangement caused by “total confinement” distorts the logic of rational action and consequences according to which the institution is supposed to operate.
 29. Goffman, *Asylums*, 61.
 30. Roscoe, “Brief Statement,” 25–26. The lines are quoted and rebutted by Roberts Vaux in his *Letter on the Penitentiary System*, 8.
 31. I discuss these two rival systems in detail in chapter 3.
 32. Hawthorne, *House of the Seven Gables*, 76. Subsequent quotations are cited parenthetically in the text.

33. Shulman briefly mentions Clifford in relationship to Hawthorne's treatment of punishment ("Artist in the Slammer," 87); Carol Colatrella, in *Literature and Moral Reform*, gives a more extensive reading, considering Clifford a model for some of Melville's characters.
34. For a survey and historicist reconsideration of the critical tradition that opposes Hawthorne's work to the sentimental work of Stowe and others, see Tompkins, "Masterpiece Theater: The Politics of Hawthorne's Literary Reputation," in *Sensational Designs*, 3-39.
35. Melville, *Bartleby*, 3. Subsequent quotations are cited parenthetically in the text.
36. The most extensive version of the autobiographical reading is made by Leo Marx, who reads the novella "as a parable having to do with Melville's own fate as a writer" (602). Michael Paul Rogin, though he recognizes that *Bartleby* is crucially a character without "history," connects him to Melville's friend James Ely Murdock Fly, who, Rogin writes, "supplies the missing history of *Bartleby*" (*Subversive Genealogy*, 193-194). Later, Rogin suggests that *Bartleby* is a projection of "the lawyer's interior, impoverished by a lifetime in contracts and deeds" (199). H. Bruce Franklin, devoting a few pages to the novella in *The Victim as Criminal and Artist*, considers *Bartleby* a Christ-figure (58-59), a "version" of Melville (57), and above all a figure of "rebellion" against "the sterile world of capitalism" (57, 56). Curiously, Franklin does not take up Melville's allusions to the penitentiary. In "Guantánamo's Symbolic Economy," Susan Willis offers a brief but fascinating discussion of *Bartleby* in the context of the contemporary war on terror (129-130).
37. Deleuze, "Bartleby," 68.
38. Melville, letter to Hawthorne, April 16, 1851, reprinted in Levine, ed., *The House of Seven Gables*, 318-320.
39. Deleuze, "Bartleby," 73.
40. Colatrella, *Literature and Moral Reform*, 52.
41. Colatrella, *Literature and Moral Reform*, 11-14, 24.
42. The connection between *Bartleby* and the prison system was made earlier by Michael Berthold in "The Prison World of Melville's *Pierre* and *Bartleby*" and by Michael Paul Rogin in *Subversive Genealogy* (190-201).
43. As Rogin argues, building his reading on the political lives of Melville and his family, *Bartleby* is set at a moment of transition in the history of disciplinary paradigms, the passage from bodily harm to spiritual correction, from torture to incarceration, from "the whip" to "the wall" (*Subversive Genealogy*, 192). Colatrella, pursuing the same line, writes that "the lawyer deliberately creates a separate cell that *Bartleby* is meant to work in" (*Literature and Moral Reform*, 41). Colatrella mentions the Auburn system and the panoptic constructions of some European prisons, but not the skylights of Eastern State.
44. Dickens, *American Notes*, 76.
45. Johnston, *Eastern State*, 40.
46. Beaumont and Tocqueville, *Report*, 41.

47. Beaumont and Tocqueville, *Report*, 57, my emphasis.
48. Reprinted in Melossi and Pavarini, *The Prison and the Factory*, 166-168.
49. Melossi and Pavarini, *The Prison and the Factory*, 163.
50. Rogin, *Subversive Genealogy*, 195-196. "Bartleby's mysterious strike," as H. Bruce Franklin notes, "shatter[s] all [the lawyer's] customary assumptions, first about the relations between employers and employees, then about private property itself, and finally about the entire human condition in this society" (*The Victim as Criminal and Artist*, 57).
51. Ngai, *Ugly Feelings*, 32.
52. In "Sparing the Rod," Brodhead shows how the passage from spectacular punishment to corrective discipline was accompanied in the American North by the development of a theory and practice of training based on the bonds of familial love. According to the discourse of disciplinary intimacy, children should learn to embrace right principles and polite behavior by learning, first of all, to love the person who instructed them in those virtues. The emergent philosophy, which Brodhead identifies as "the middle class's greatest creation, absorption, and self-identifying badge," had its anchor in mother-child relations, but it shaped institutions outside the home as well, such as the public schools reformed by the Massachusetts administrator Horace Mann. Disciplinary intimacy, Brodhead writes, meant "a purposeful sentimentalization of the disciplinary relation . . . and a conscious intensification of the emotional bond between the authority figure and its charge," features that Brodhead sees explored not only in pamphlets and magazine articles but also in popular fiction (Brodhead, "Sparing the Rod," 70-72, 77-92). The sentimental home, then, may represent the perfect "house of correction," a completely reformed scene of subject-making through sympathy and love, without violence.
53. See Dickens, *American Notes*, 77. If the reference is to the site of the scaffold, then there is some subtle irony in the lawyer's romantic feeling that the grass represents the triumph of a softening nature over the hard cruelties of the prison.
54. Adorno and Horkheimer, *Dialectic of Enlightenment*, 178.
55. Rogin, *Subversive Genealogy*, 201.
56. Coviello, "The American in Charity," 158-165.
57. Coviello, "The American in Charity," 156. Along the same lines, Sianne Ngai praises the "antisentimental aesthetic" of *Bartleby* as the grounds of "a politics . . . very different . . . from the direct activism supposedly incited, according to what has now become American folklore, by Harriet Beecher Stowe's poetics of sympathy and the genre of sentimental literature as a whole" (Ngai, *Ugly Feelings*, 32, 9).
58. Coviello, "The American in Charity," 173.
59. Stowe, *Uncle Tom's Cabin*, 348-349. Subsequent quotations are cited parenthetically in the text.
60. Castronovo, "Political Necrophilia," 121.

61. My readings in this section follow the lead of Joseph Roach's *Cities of the Dead* and Sharon Patricia Holland's *Raising the Dead*.
62. On the fugitive slave as a hunted outlaw, see Sellin, *Slavery and the Penal System*, 137.

CHAPTER 3. THE MEANING OF SOLITUDE

1. Johnston, *Forms of Constraint*, 75-76.
2. Howard, *State of the Prisons*, 24.
3. G. W. Smith, *Defence of the System of Solitary Confinement*, 36, 37.
4. Beaumont and Tocqueville, *Report*, 41. Subsequent quotations are cited parenthetically in the text.
5. G. W. Smith, *Defence of the System of Solitary Confinement*, 24.
6. Bentham, *Panopticon*, 50.
7. Meranze, *Laboratories of Virtue*, 327.
8. Foucault, *Discipline and Punish*, 236; Dumm, *Democracy and Punishment*, 101.
9. Foucault, *Discipline and Punish*, 232.
10. Boston Prison Discipline Society, 1846 *Report*, 28.
11. Blomfield, "The Christian's Duty Towards Criminals," 12; emphasis original.
12. Richard Vaux, *The Convict*, 30.
13. Beaumont and Tocqueville, *Report*, 163.
14. The idea of the carceral "soul" has been explored by a long and rich critical tradition, but it still has some obscure dimensions, especially concerning the peculiar history of captivity in the American context. For thirty years, the great theoretical authority on how prisons remake their inmates has been Foucault's *Discipline and Punish*. Foucault's work reveals much about the prison reform movement and its place in the advent of Enlightenment modernity, with its new regimes of knowledge, power, and subjectivity. I will draw from it, and from several scholars for whom Foucault is a guiding light. I wish, however, to depart from Foucault in a few important ways. In exploring prison architecture and its designs on the soul, I will emphasize not the surveillance that has fascinated many of Foucault's readers but solitude and the architecture of mind. In describing the institutional and political transformations that brought the penitentiary onto the historical scene, I will also disagree with Foucault's narrative, according to which the old spectacle of the scaffold gives way, in time, to the modern discipline of the penitentiary. In the United States, the rise of the prison was actually contemporary with the rise of the full-scale plantation order and its grotesquely spectacular punishments: the difference between cell and scaffold is one not of chronology but of geography, economy, and especially race. Finally, I will emphasize how the making of subjects in the penitentiary, the rise of the modern soul, remained deeply bound to a myth and practice of sacrifice—a desire, in Blomfield's words, "to quicken those who were dead" (12). The cultivation of the prisoner's new life depended upon the ritual enactment of his death and burial.

15. See, for example, Johnston's chapters "Makeshift Prisons" and "Prisons in the Early Modern Period" in *Forms of Constraint*.
16. Evans, *Fabrication of Virtue*, 89-91. Johnston dates the construction of the Warwick pit to 1680 (see *Forms of Constraint*, 28).
17. Evans, *Fabrication of Virtue*, 94.
18. Evans, *Fabrication of Virtue*, 96.
19. Howard, *State of the Prisons*, 6.
20. Evans, *Fabrication of Virtue*, 95.
21. Bentham, *Panopticon*, 46-47.
22. Howard, *State of the Prisons*, 8.
23. Evans, *Fabrication of Virtue*, 115.
24. Quoted in Brodie, Croom, and Davies, *English Prisons*, 10.
25. Woven into the discourse of "contagion," into all the disgusted complaints about the "free intercourse" of prisoners and the vice that festered in such an arrangement, was the shocking discovery of sex in the prisons, which has been an unspoken but a crucial theme in prison reform since its earliest days. As late as 1934 an American reformer recorded his frustration with the silence and euphemisms surrounding the question: "Vitaly important as the sex problem is in prison, involving as it does various aspects of immorality and perversion, the undermining of discipline, and the ravages upon the mental, physical, and emotional make-up of the prisoner . . . the subject is never discussed openly" (Fishman, *Sex in Prison*, 18).
26. Quoted in Evans, *Fabrication of Virtue*, 66.
27. Howard, *State of the Prisons*, 8.
28. Bentham, *Panopticon*, 50-51.
29. G. W. Smith, *Defence of the System of Solitary Confinement*, 11.
30. Some early reformers attempted to combat the two types of conspiracy with improved ventilation. Leading this version of reform in England was Stephen Hales, a doctor of divinity and a fellow of the Royal Society who had been pursuing projects in philanthropy and engineering for several decades. Hales proposed "to furnish ships, gaols, hospitals . . . with the wholesome breath of life in exchange for the noxious air of confined places" (quoted in Evans, *Fabrication of Virtue*, 100). Around 1749, he built and installed ventilators for Savoy Prison and the Winchester County Gaol, among others, and was planning with French authorities to bring his technology to their institutions. Between 1750 and 1755 he completed his most ambitious work, an enormous respiration machine for London's Newgate Prison, a combination of wind-mills and bellows that "functioned like a gigantic . . . lung" for the building. See Evans, *Fabrication of Virtue*, 101-102.
31. Earlier experiments in the solitary confinement of civil offenders had been made by the local bishops of Bamberg, Germany, in 1627 and by the Florentine priest Filippo Franci in 1677. See Johnston, *Forms of Constraint*, 34-35.
32. Evans, *Fabrication of Virtue*, 60.
33. See Johnston, *Forms of Constraint*, 36.