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# The Changing Nature of Punishment: From Theology to Reform Ideology and Gallows to Penitentiaries, New England, 1674-1837

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THE CHANGING NATURE OF PUNISHMENT:  
FROM THEOLOGY TO REFORM IDEOLOGY AND GALLOWS TO  
PENITENTIARIES, NEW ENGLAND, 1674-1837

A Thesis

Submitted to the Graduate School of Liberal Arts

Duquesne University

In partial fulfillment of the requirements for  
the Degree of Master of Arts

By

Daniel Belczak

May 2011

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Daniel Belczak

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Thesis supervised by Dr. Holly Mayer

Criminal justice reforms of the early American Republic stand as an often examined area of research, but one source of explaining these changes is often neglected. By analyzing New England execution sermons preached from 1674 to 1825 several theological and ideological changes can be demonstrated that contributed to the growing rhetoric of reform including opposition to the doctrine of original sin, an expansion of salvation, and growing religious pluralism. These shifts also show the movement from near universal religious support for the public execution ritual to an emerging opposition to this form of punishment. Finally, the ideas of sin and crime were separated, with crime being viewed as deviancy that could be potentially reformed through institutionalization. These religious elements were then used by secular reformers during the first decades of the American Republic to challenge the use of capital punishment and embrace the penitentiary.

## DEDICATION

*To my wife and parents*

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## Introduction

Behold, an *History of Criminals*, whom the Terrible Judgments of God have *Thunder struck*, into Pillars of Salt.<sup>1</sup>

In the year 1674, Roxbury minister Samuel Danforth preached a sermon at the execution of seventeen-year-old Benjamin Goad who had been accused, tried, and convicted of bestiality, a capital offense under Biblical law. Danforth's sermon, entitled *Cry of Sodom Enquired Into*, served as part of a larger ritual designed not only to cut off a morally diseased member of the social body, but to instill a sense of awe, repentance, and piety into the community at large. Goad had rejected the social covenant by violating the laws of the state, which stood in line with the laws of God; therefore he had to be amputated from the social body to prevent the spread of this disease. Danforth's rhetoric, although rigid and severe, was representative of early execution preaching. Other execution sermons delivered until 1825 in New England would also attempt to contextualize violations of divine law and thus justify the actions of the state.

Although many of the elements of execution sermons remained consistent throughout the period from 1674 to 1825, the theological and ideological changes that did occur served to illuminate crucial underpinnings of the criminal justice system that emerged during the first decades of the American Republic. As New England's early gaols, pillories, and gallows gave way to the prisons of the early Republic, the sentiments and rhetoric that accompanied their use changed. In Danforth's world a penitentiary could not be constructed. It could not, first, because of the practical absence of large enough cities or towns to house a prison and monetary resources to sustain the

management of one. But second and more importantly, ideologically and theologically there existed little to no basis for the construction of such an institution. Benjamin Goad had sealed his fate, he was condemned in this life, and without sincere repentance he would be damned in the next as well. God's law called for the execution of certain crimes, and therefore any attempt to reform Goad in an institution such as a penitentiary would have been contrary to the will of God.

For the penitentiary to function on an ideological level, a looser application of Biblical capital statutes needed to be employed. Such looseness could mean that crimes such as sodomy, cursing one's parents, or witchcraft could to be punished with lesser penalties instead of death.<sup>2</sup> Secondly, sincere repentance of sinners had to be thought not only possible, but likely. Early sermons questioned the ability of reprobates to repent sincerely, and therefore all but assured their damnation. Finally, and given that above, universal human depravity had to be rejected in order to allow for true reformation of offenders. Such changes in these axioms provided the penitentiaries that arose during the first decades of the Republic an ideological and theological basis.<sup>3</sup>

In addition, Enlightenment philosophy and American republicanism contributed to the ideological and physical changes that resulted in the construction of the penitentiary, as did the decline in the use of and public nature of capital punishment. Those aspects have been acknowledged and discussed by others and will only serve as peripheral elements of this analysis.<sup>4</sup> That aside, the elements that will be examined within this thesis are the ideological and theological changes related to an understanding of the nature of human depravity and corruption, the potential for criminal reformation

and salvation, and the changing nature of the criminal justice system in response to what was believed to be in the best interest of the common good of society.

The goal of this thesis is not to explain the physical birth of the penitentiary in the northeastern United States of the 1790s; instead this thesis will examine execution sermons to see how religious sentiments about punishment affected the development of such an institution. For most of history, penitentiaries as they are currently designed did not exist; so in order to understand how the penitentiary came to exist on a conceptual level, punishment ideology and theology must first be examined. American concepts of corruption, reformation, and the social compact all underwent great change between the first execution sermon examined here, that in 1674, delivered by Samuel Danforth at the execution of Benjamin Goad, and the last sermon in 1825, preached by Jonathan Going at the execution of Horace Carter.<sup>5</sup> Analyzing these sermons both in a theological and ideological framework reveals the underlying shift from a belief in the universality of human depravity and the inability of temporally reforming criminals to an embrace of the benevolent institution of the penitentiary and the belief in the fundamental ability to reform criminals.

While the end of the execution sermon did not coincide with the end of executions, it did signal the beginning of the end of public executions. Beginning in the decades after the American Revolution, reformers began to call for an end to the corrupting sight of the public gallows, and advocated instead for isolating this display behind the walls of the penitentiary or eliminating it altogether.<sup>6</sup> The execution ritual had become the corrupting influence on the social body rather than the individual reprobate as had been the case one hundred and fifty years earlier. This changing perception of social

corruption, intermixed with the concept of sin and the breakdown of the old Puritan social covenant through the religious pluralization and secularization of New England, followed and supported popular belief in an expanded access to salvation, the possibility of reformation in this life and not just the next, and the construction of the penitentiary not just to signify and enforce state power but to root out and reform the corrupted members of the social body and to embrace the healing art rather than the archaic practice of social amputation.<sup>7</sup>

The origins of the modern American penitentiary have been discussed from various perspectives and using different organizational frameworks; however, one approach to the construction of this institution that has often been neglected is the execution sermon. Although the sermons themselves are not directly related to the rise of the penitentiary in the early American Republic, their theological and ideological rhetoric illuminates one aspect, that of the changing understanding of temporal reformation, which reformers used to justify the utilization of such a benevolent institution.<sup>8</sup> To understand the rhetoric, one may employ analyses of Puritan theology and the preaching tradition, however, execution sermons are often discussed only in a peripheral manner and thus existing scholarship may be taken only so far.<sup>9</sup> A final area of scholarship surrounding execution sermons often utilizes this aspect of the larger execution ritual as part of the emerging New England crime literature.<sup>10</sup> This thesis will synthesize these various approaches to show how the rhetorical changes of execution preaching reveal an evolving understanding of temporal reformation which served as a foundation for the construction of the penitentiary during the first decades of the American Republic.

The organizing structure of this thesis will then be both chronological and thematic, focusing on the several important elements that allowed for an ideological foundation for the penitentiary. The first theme is the changing understanding of corruption. Corruption, sin, and crime were largely interchangeable terms during the early period of execution sermons.<sup>11</sup> The acceptance of the doctrine of original sin meant that all humans were universally depraved and that only by degree was the reprobate being executed worse than any other member of the audience, or even the preacher delivering the sermon. The acceptance of original sin did not actually discount the possibility of reformation or salvation of sinners like Benjamin Goad, but because their violation indicated the withdrawal of God's saving grace, the assumption was that true penitence of an offender was only a fractional possibility and therefore avoidance of a second spiritual death also was a slim hope. Only when the doctrine of original sin began to be rejected during the mid-eighteenth century was the possible embrace of reformation of offenders in both this life and the next one feasible.

The second theme built upon corruption, as embraced by seventeenth-century Puritans, the ideas of salvation and reformation. The doctrine of predestination, however, made any concrete claim about salvation dubious. During the eighteenth century as the pluralization of religion in New England increased, so too did the belief in universal salvation. It was possible that anyone could be saved so long as he or she lived a moral life, or in the case of the condemned, if such a person fulfilled his or her prescribed role upon the gallows and became in effect the Biblical penitent thief.<sup>12</sup> This logic of the expansion of salvation and reformation was then used to offer salvation to offenders in this life, not just tout it as a possibility in the next. While this argument did not lead to

the elimination of capital punishment, a form of punishment that was often said to retard the offender's possibility of salvation in this life or the next, it did contribute to limiting and privatizing the use of capital punishment.

The final theme rests less on theological changes, and more on ideological ones. The concept of the common good has seemingly always been part of the criminal justice system logic. Increase Mather in 1675 preached one specific example concerning the utility of public executions, saying, "For truly I think God would not have us suffer such folemn awfull [*sic*] Providences as these to pafs away without taking fpeciall notice of them, and making some good Improvement thereof."<sup>13</sup> By witnessing the ritual, the audience would be deterred from committing similar acts, the social covenant would be reaffirmed, and in general the level of piety and moral observance would be heightened. However, over the course of the eighteenth and, especially, nineteenth centuries the execution ritual as one of solemn observation and communal reflection broke down into a spectacle likened to that of the Roman forum, with spectators in attendance only to see the public display of brutality, not to learn from the experience.<sup>14</sup>

As the communal bonds of old New England, as idealized in John Winthrop's City upon a Hill, disintegrated, the focus of the ritual also had to shift to maximize the common good: instead of focusing on the community in the ritual, the individual conversion of the offender became the central point of importance. The changing understanding of the common good then later came to challenge the public execution ritual itself. If the individual offender was no longer the source of social corruption, at least in the same way as one hundred years previously, and in fact the ritual itself was becoming the corrupting influence on the community, then the natural solution to this

problem was to privatize executions within the new institution of the penitentiary or eliminate its use altogether. Privatizing executions served to move the public execution ritual to behind the prison walls where it could no longer be publically witnessed, and visually corrupting for the social body.<sup>15</sup>

Chapter 1 examines the early period of execution sermons (1674-1713) in which the religious message contained within the sermons and presented to the condemned and the audience was relatively homogeneous. Variation arose out of individual preacher's styles rather than actual theological inconsistencies. The sermon in this period served as part of the execution ritual designed to heal the community by weeding out corruption through the actual execution and by deterring the audience from committing similar acts.

Chapter 2 examines the period in which execution sermons underwent the most change (1713-1773) and when the understanding of many of the thematic concepts discussed – corruption, salvation, and the common good – went through stages of reinterpretation. During this period secular rhetoric also began to enter into the discourse surrounding crime and punishment that previously had been solely a religious undertaking. The rise of individualism, focus on social causes of crime, and breakdown of the doctrine of original sin all contributed to the changes present in execution preaching.

Chapter 3 begins after the start of the American Revolution and examines the last period of execution sermons (1777-1825). While religious pluralism and social secularization had entered into the discourse earlier, this period witnessed the shift toward a state-centered sermon to justify the execution on display. By this period the execution ritual bore little resemblance to the solemn procession of the late seventeenth

century, and instead the execution had become entertainment for the lower classes. This chapter also introduces the theories of Benjamin Rush who was one of the first reformers to challenge the public execution ritual in the United States.

Chapter 4 also covers the last period of execution sermons, but specifically focuses on two New England sermons, Thomas Thatcher's *The Danger of Despising Divine Counsel* and Jonathan Going's *A Discourse Delivered at Worcester*, both of which not only displayed secular preaching trends of post-American Revolution sermons, but also called for the privatization of executions due to the ineffectiveness of the ritual. Finally, the sermon of Orestes A. Brownson, *An Address Prepared at the Request of Guy C. Clark*, will be examined, which not only called for an end to public executions, but all executions. These arguments will also be tied to such criminal justice reformers as, Edward Livingston, Thomas Upham, and Robert Rantoul Jr. to show the correlation between the changed execution ritual rhetoric and the construction of the penitentiary along with the privatization of executions during the 1830s.

While the changing theological and ideological concepts illuminated in execution sermons do not entirely explain the construction of the penitentiary during the first decades after the American Revolution, these changes indicate and were a necessary part of American society's grappling with criminal and social justice. The rhetoric employed by Samuel Danforth in 1674 no longer applied to the situation in the early American Republic, and the public execution no longer offered a healing influence on the community. The intermixing of these theological and ideological changes, with Enlightenment philosophy and American republicanism gave a basis upon which Americans attempted to build a new criminal justice system.

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<sup>1</sup> Cotton Mather, *Pillars of Salt* (Boston: B. Green and J. Allen, 1699), 59.

<sup>2</sup> The original capital statutes in Massachusetts were set down in the *Body of Liberties* (1641) and *Laws and Liberties of Massachusetts* (1648). The former code established twelve capital statutes: idolatry, witchcraft, blasphemy, murder, manslaughter, killing through guile, bestiality, sodomy, adultery, manstealing, perjury (to take a life), and rebellion. *Body of Liberties* contained within Donald S. Lutz, ed., *Colonial Origins of the American Revolution: A Documentary History* (Indianapolis: Liberty Fund, 1998): 83-4. The latter code then added cursing a natural parent, smiting a natural parent, defiance of a rebellious son, rape, burglary (after a third offense), robbery (after a third offense), and the return of a Jesuit after banishment. *Laws and Liberties of Massachusetts* in Lutz, *Colonial Origins of the American Revolution*, 102-3. For further discussion of the capital statutes of Massachusetts, which stood in line with New England as a whole, see Edwin Powers, *Crime and Punishment in Early Massachusetts, 1620-1692* (Boston: Beacon Press, 1966), 252-320.

<sup>3</sup> Cotton Mather, in his *Seasonable Testimony to the Glorious Doctrines* defended universal human depravity and predestination and “insisted that the ‘cannot’ which bound the unregenerate will was a ‘will not,’ a moral rather than physical inability, but he still insisted on the bondage of the will,” in E. Brooks Holifield, *Theology in America: Christian Thought from the Age of the Puritans to the Civil War* (New Haven: Yale University Press, 2003), 69.

<sup>4</sup> See David J. Rothman, *The Discovery of the Asylum* (New Brunswick: Aldine Transaction, 2008) for a discussion of the impact of European Enlightenment thought in the early Republic resulting in a uniquely American solution to the problem of crime. For an argument countering Rothman, see Adam J. Hirsch, *The Rise of the Penitentiary: Prisons and Punishment in early America* (New Haven: Yale University Press, 1992). For a discussion of the combination of the ideas of American liberty and patriarchy to justify incarceration, see Mark E. Kann, *Punishment, Prisons, and Patriarchy: Liberty and Power in the Early American Republic* (New York: New York University Press, 2005). For an analysis of the birth of the prison focused on the aspects of power and control see Michel Foucault, *Discipline and Punish: The Birth of the Prison* (New York: Vintage Books, 1977).

<sup>5</sup> Jonathan Going, *A Discourse, Delivered at Worcester, Dec. 11, 1825, The Sabbath after the Execution of Horace Carter, for the crime of Rape* (Worcester: William Manning, 1825). Going’s sermon was the last published execution sermon in New England, although some other crime-related sermons were issued later including William Buell Sprague, *Wicked Men Ensnared* (Springfield: Tannatt, 1826) and William I. Budington, *Capital Punishment* (Boston: T.R. Marvin, 1843), in Daniel A. Cohen, *Pillars of Salt, Monuments of Grace* (Amherst: University of Massachusetts Press, 2006), 258.

<sup>6</sup> The privatization of executions was part of a trend toward the rejection of public violence, which included the elimination of the stocks, the pillory, the whipping post, and mutilation, all of which were abandoned after the American Revolution, in Alan Rogers, *Murder and the Death Penalty in Massachusetts* (Amherst: University of Massachusetts Press, 2008), 69. This rejection of public punishments also had elements of class conflict within it, for the most part reformers calling for an end to these spectacles were from the upper class, in Stuart Banner, *The Death Penalty* (Cambridge: Harvard University Press, 2002), 151.

<sup>7</sup> For a discussion of the Puritan covenant and its breakdown during the mid-eighteenth century see Mark A. Noll, *America’s God: From Jonathan Edwards to Abraham Lincoln* (Oxford: Oxford University Press, 2002), 37-50. For an analysis of the formation of the social covenant in Massachusetts during the seventeenth century see Timothy H. Breen and Stephen Foster, “The Puritans’ Greatest Achievement: A Study of Social Cohesion in Seventeenth-Century Massachusetts,” *The Journal of American History* 60, no. 1 (June 1973): 5-22. Specifically on the concept of justice and the Massachusetts social covenant see E. Clinton Gardner, “Justice in the Puritan Covenantal Tradition,” *Journal of Law and Religion* 6, no. 1 (1988): 39-60. For a discussion relating Puritan covenantal membership with later forms of democracy, see Joshua Miller, “Direct Democracy and the Puritan Theory of Membership,” *The Journal of Politics* 53, no. 1 (Feb. 1991): 57-74.

<sup>8</sup> The major 19702 evaluations of the penitentiary included the aforementioned works by Rothman and Foucault as well as Michael Ignatieff, *A Just Measure of Pain: The Penitentiary in the Industrial Revolution, 1750-1850* (New York: Columbia University Press, 1978). Other discussions of the penitentiary include Michael Meranze, *Laboratories of Virtue: Punishment, Revolution, and Authority in Philadelphia, 1760-1835* (Chapel Hill: University of North Carolina Press, 1996); Thomas L. Haskell, “Capitalism and the Origins of the Humanitarian Sensibility, Part I,” *The American Historical Review* 90,

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no. 2 (Apr. 1985): 339-61. For a discussion concentrating on capital punishment rather than the penitentiary during the early Republic, which does include some discussion of execution sermons, see Louis Masur, *Rites of Execution: Capital Punishment and the Transformation of American Culture, 1776-1865* (New York: Oxford University Press, 1989); Louis Masur, "The Culture of Executions and the Conflict over Capital Punishment in America, 1776-1860," (Ph.D. Dissertation, Princeton University, 1985).

<sup>9</sup> For example see Harry S. Stout, *The New England Soul: Preaching and Religious Culture in Colonial New England* (New York: Oxford University Press, 1986). One example where Stout does relate execution preaching to the larger preaching tradition was when employing a "Hell-fire and brimstone" sermon, but more commonly articulated was God's love, patience and mercy on a regular basis (155). Also concerning speech and preaching in New England, see Jane Kamensky, *Governing the Tongue: The Politics of Speech in Early New England* (New York: Oxford University Press, 1997); Janice Knight, *Orthodoxies in Massachusetts: Rereading American Puritanism* (Cambridge: Harvard University Press, 1994); Perry Miller, *Orthodoxy in Massachusetts, 1630-1650* (Boston: Beacon Press, 1959); Perry Miller, *The New England Mind: The Seventeenth Century* (Boston: Beacon Press, 1939).

<sup>10</sup> Discussions of execution sermons include Scott D. Seay, *Hanging Between Heaven and Earth* (DeKalb, Illinois: Northern Illinois Press, 2009); Cohen, *Pillars of Salt, Monuments of Grace*; Karen Halttunen, *Murder Most Foul: The Killer and the American Gothic Imagination* (Cambridge: Harvard University Press, 1998); Laura Henigman, *Coming into Communion: Pastoral Dialogues in Colonial New England* (Albany: State University of New York Press, 1999); Ronald A. Bosco, "Lectures at the Pillory: The Early American Execution Sermon," *American Quarterly* 30, no.2 (Summer 1978): 156-76; Bosco, "Early American Gallows Literature: An Annotated Checklist," *Resources for American Literary Studies* 8 (1978); Bosco, *Sermons for Days of Fast, Prayer, and Humiliation and Execution Sermon, The Puritan Sermon in America, Volume I* (Delmar, N.Y.: Scholars' Facsimiles and Reprints, 1978); Wayne C. Minnick, "The New England Execution Sermon, 1639-1800," *Speech Monographs* 35 (1968); Gabriele Gottlieb, "Theater of Death: Capital Punishment in Early America, 1750-1800," (University of Pittsburgh, 2005): 14-64.

<sup>11</sup> Seay, *Hanging Between Heaven and Earth*, 47.

<sup>12</sup> *Ibid.*, 95. Liberals emphasized the benevolence of God, the freedom of human will, and morality as the essence of Christian faith, while "New Divinity" theologians held firm to the innate depravity of humanity and the efficacy of atonement; "Moderates generally appreciated the need of immediate, experiential conversion."

<sup>13</sup> Increase Mather, *Wicked Mans Portion* (Boston: John Foster, 1675), 15.

<sup>14</sup> See Annulla Linders, "The Execution Spectacle and State Legitimacy: The Changing Nature of the American Execution Audience, 1833-1937," *Law & Society Review* 36, no. 3 (2002): 607-56. Although Linders' timeframe extends beyond the scope of the early American Republic, she does explain the underlying causes for the privatization of executions in the 1830s and how that transformed the execution ritual.

<sup>15</sup> *Ibid.* Linders argues that one purpose of privatizing executions was to produce "appropriate emotional responses to the execution" (626). The ritual had become overrun by spectators to the point that the meaning had been lost, so by limiting access to the execution, meaning could potentially be restored.

## Chapter I

### The Execution Sermon and the Social Covenant

Sometimes again the Lord in a Judicial way giveth up such finners to the Power of Satan, and their own Corruptions, so as that they become their own executioners, . . . For indeed the anger of the Lord would fall upon this whole Country where your sin hath been committed, if you should be suffered to live.<sup>1</sup>

The ministers who preached during the early period of execution sermons, between 1674 and 1713, created a message to their congregations that attempted to support the idea that faith in Jesus Christ and sincere repentance would serve the holy commonwealth and perhaps secure a seat in heaven. Actual Puritan theology, however, contradicted the latter implication in that it deemed universal human depravity to be the condition of all humans resulting from Adam's fall. Nevertheless, to reinforce the social covenant and community morals, these early preachers posited the possibility of grace, the potential for salvation for those who were willing to dedicate themselves to Christ; even though they accepted that predestination essentially removed any agency from the members of the community in determining who would be saved and who would not.<sup>2</sup>

Despite theological doctrines such as predestination and universal human depravity, ministers desired to use their sermons to reinforce the social covenant and encourage the audience to repent in this life to retain or show a sign of the possibility of salvation in the next. The minister stood nearly unchallenged as the voice of truth for the community and used his sermon to shape the culture of the community as a whole.<sup>3</sup>

While there was variation in central themes and language use, overall, during this early

period the central dogma of the dominant Puritan faith remained unchallenged in these sermons. Such presentations were designed not to aid the reprobate upon the gallows, although this was in theory the actual purpose of these sermons, but to reinforce communal moral standards and weed out social corruption that had degraded Winthrop's utopia into a social body ripe with disease, corruption, and sin.<sup>4</sup>

Three central themes of these early execution sermons were corruption, reformation and salvation, and the understanding of the common good in terms of what punishment maximized community benefit. Ministers emphasized these themes to varying degrees, but the central message remained relatively constant; through sinful actions the reprobate had corrupted him or herself and threatened the community at large. The individual offender then served as the corruption present within the community and in order to prevent further infection, a public and deliberate amputation was necessary. Individual offenders, therefore, were not the focus of the ritual, even when parts of sermons were delivered specifically to them, but rather the emphasis was on the community. The reformation, or possible salvation, of the offender was deemed highly unlikely and thus while the reprobate's repentance was called for by the minister, the true desire was for communal penitence.

### Corruption

Samuel Danforth preached the total amputation of Benjamin Goad from the social body in 1674 because, as he saw it, Goad represented and contributed to the corruption of the morals of his community to such a level that only radical change could restore the

residents to favor with God. From the outset, Danforth's message was clear by the Biblical passage he selected. Genesis 18: 20, 21 recounts God's decision to destroy Sodom and Gomorrah, and Danforth headlined the sermon with it: "*And the Lord said, Because the cry of Sodom and Gomorrah is great, and because their sin is very grievous; I will go down now, and see whether they have done altogether according to the cry of it, which is come unto me; and if not, I will know.*"<sup>5</sup> Danforth drew a parallel between the Biblical cities of Sodom and Gomorrah, the epitome of sin, and the Massachusetts of his own age. This may seem extreme, but he feared the increasing social corruption present around him. Whether the actual crime rates and level of sin were actually increasing is essentially beside the point; the prevalent view, especially among the clergy, was that society was becoming immoral and such uncleanness and corruption were diseasing the social body. Without immediate reformation in the form of sincere repentance and a return to embracing Christ, the fate of Sodom and Gomorrah could be the colonists' own.<sup>6</sup>

Danforth believed that uncleanness, and specifically sexual impurity, functioned much like an actual disease and spread within individuals and the community at large, for those infected members in turn became an infection to the social body. The uncleanness could consume the body, for "*Out of the heart proceed Evil thoughts, Murthers, Adulteries, Fornications, &c. these are the things which defile a man. It pollutes the Body, and turns the Temple of the holy Ghost into an Hog-stie and a Dogs Kennel.*"<sup>7</sup> Danforth declared that such sinners who had become polluted were temporally condemned and should be cut off from the social body to spare the healthy members; but he also noted that the reprobate's impenitence may also confirm ultimate damnation on

an individual level. Although Danforth deplored impenitence and argued that it could lead to damnation, a definitive statement could not truly be made. Predestination removed all human agency as even the worst offenders could potentially be saved, although the hope was that those who would be ultimately saved would also demonstrate signs of grace in this life. Therefore, a definitive declaration of Benjamin Goad's eternal fate could not be given.<sup>8</sup>

Danforth, however, tended to smooth out the contradictions by emphasizing more the second death forthcoming for polluted and corrupt individuals, rather than their possible salvation. He declared, "Fornicators, Adulterers, unclean and effeminate persons, and Abusers of themselves with mankind, have no inheritance in the Kingdome of God, but are flut out among the Dogs, and cast into the Lake which burneth with fire and brimstone which is the second death."<sup>9</sup> Instead, reformation was more a possibility for those who still had time to give up their evil ways, beg for God's forgiveness, and embrace Christ for true repentance indicating the presence of God's grace. In a sense, then, Benjamin Goad had no future outside of the burning lake of fire, but by removing him from the social body in such a public and decisive manner, others may search for indication of grace within themselves and in the process be deterred from committing similar acts.

In fact, Danforth removed the civil government from any hand in the affair. God was cutting off this rotten and putrid member, and thus secured his physical and spiritual death in an effort to strengthen the community.<sup>10</sup> Danforth preached, "Hath the Lord singled out one of our Congregation, Apprehended and Arraigned him for his Abominable Lewdness, cast him out of his Vifible Kingdome, delivered him into the hand

of Satan, made him an *Anathema*; yea, and cut him off by the hand of Justice, and swept him away as dung and filth from the face of the earth.”<sup>11</sup> Thus for the good of the social body as a whole, this corrupted member had to be amputated. Since salvation, or even temporal reformation, was only possible through God’s intervention, this individual no longer truly could hope for salvation because God has abandoned him and allowed him to fall into the hands of Satan. Also, for the good of all, Danforth had to be harsh and definitive in his condemnation of the uncleanness he saw within his congregation in order to attempt to restore some level of the social covenant so as to maintain the ideal City upon a Hill.<sup>12</sup>

Goad’s execution, therefore, served several purposes. First, by amputating Goad from the social body, God’s vengeance upon the community as a whole could be avoided. For, as Danforth reminded his audience, “the execution of Justice upon such a notorious Malefactor, is the onely [*sic*] way to turn away the wrath of God from us, and to consecrate our selves to the Lord, and obtain his Blessing upon us.” Since God had already abandoned Goad, executing him was the only way to ensure that God would not be tempted to abandon the community as a whole, damning all of its members. Danforth warned, “either cut off the gangrened part, or Soul and Body shall be cast into hell fire, where the worm dieth not, and the fire in not quenched.” Second, by executing Goad, the community could be cleansed, or at least cured of this particular offender, for “the Church cannot be cleansed, until this wicked person be put away from among us.” Finally, the execution served as a deterrent to the congregation at the event, or to those reading the published sermon later. The sermon nailed down the lesson: “God is

mercifully willing to prevent the ruine of our lewd and vicious Youth, therefore hath he fet before them this awfull [*sic*] Example for their Admonition and Caution.”<sup>13</sup>

The level of deterrence may actually have been better served when the doctrine of original sin was accepted because the reprobate on the gallows was not unique in his sinful acts and therefore only worse than any other member of the community by degree of his sin. Then, reasonably other members of the community could find themselves upon the gallows if they did not repent. Seemingly, the deterrent value of a public execution would be highest if the audience could relate to the condemned figure, rather than seeing him or her as someone morally deviant and outside of the community.<sup>14</sup>

Danforth’s focus on the Biblical cities of Sodom and Gomorrah reflects his emphasis on corruption, disease, and sin. John Williams in 1699 also used these concepts in his sermon at the execution of Sarah Smith. Smith had murdered her illegitimate child, compounding the original offense of fornication by engaging in a crime, and both the title and Biblical theme of Williams’ sermon showed how corrupted he felt Smith’s actions and by extension her community had become. Williams’ sermon, *Warnings to the Unclean*, used Revelations 11:8 as the organizing subject for his remarks: “*But the fearful, and unbelieving, and the abominable, and murderers, and whoremongers, and forcerers, and idolaters, and all liars, shall have their part in the lake which burneth with fire & brimstone, which is the second death.*”<sup>15</sup> Williams, like Danforth before him, almost certainly condemned those who chose an unclean path and separated themselves from God.

Just as Danforth had minimized civic responsibility in executing sinful citizens by declaring the state’s actions to be following the accordance of God’s will, Williams also

placed primary responsibility in the hands of the sinner and God. Through their actions sinners, in this case Sarah Smith, had caused God to abandon them. By leaving a murderer unpunished, the community also faced being removed from God's grace; therefore, amputation was necessary. Speaking to this point, Williams declared, "In that a whole Land cannot be innocent, but polluted, that suffer innocent blood to cry against it, in neglecting the Execution of Justice."<sup>16</sup> Not only was the community polluted by having this diseased member, but the infection would spread if this sinner was allowed to go unpunished for her crimes.

Interestingly Williams, in his analysis of the nature of human sinfulness and corruption, rejected not only of the idea that human agency has any real impact on God, but even that religious education could aid in preventing sin. All agency was placed in God's hands, for, "Every one by nature, hath the seeds of all Sin, and disobedience: Its God that withhold[sic] all . . . Religious Education, our own wisdom and resolutions can't refrain even from such wickedness."<sup>17</sup> Although religious education and personal wisdom could not ensure salvation – only God could do so – most ministers were unwilling to reject religious education. In fact, this undervaluing of religious education was strongly disagreed with by Cotton Mather who called for greater religious observance through education.<sup>18</sup> Williams declared obedience to God's laws to be the only possible avenue through which to achieve salvation. While this sentiment may have more closely fell in line with Puritan religious doctrines, actual implementation of this belief would allow for the City upon a Hill degrade even further into religious ignorance and nonobservance. Therefore, almost all other ministers called for both obedience to God's laws and a renewed application of religiousness and education.

John Williams also used harsh rhetoric to assure his audience that the fate of impenitent sinners was almost certainly ultimate damnation, and warned community members at large to avoid becoming unclean in the same way that Sarah Smith had. He even declared that escape from temporal punishment, such as not being executed or even found out, did not exempt sinners from ultimate punishment. In fact, “To all those whom God hath suffered to escape long Unpunished, in the purpose of Unclean delights, an awful symptome [*sic*], and ground of fear, that God intends to punish them Eternally.”<sup>19</sup> Williams’s rejection of religious education as a possible path to salvation, or avoidance of future sinful acts may be attributed to the need not simply to be religiously educated, but to fully embrace and immerse oneself in Christ. A penitent life appeared to be the truest sign that one may avoid the lake of fire. Impenitence would result in a withdrawal of God’s saving grace. Even so, as God sees all and knows all, even escape from earthly punishment did not mean ultimate salvation.<sup>20</sup>

Despite the unyielding language employed by Williams, the state of being unclean or corrupted did not disqualify a reprobate from being saved so long as she was willing to immediately admit her sin and truly repent in Christ. For, “you have no way to get power against corruption, but by going to Christ as your Sanctification . . . Come to him as a poor guilty, polluted Creature; come therefore self Condemned.”<sup>21</sup> Such repentance had to be done immediately, before sin became not only the natural state, but the inclination as well. Williams questioned the possibility of true repentance on the gallows or on a deathbed due to the fact that when sin became the ruling force within the body, the corruption prevented the true desire to repent, and yet without this repentance salvation was impossible. Williams, like Danforth, used the example of Sodom and Gomorrah to

display the gravity of the situation facing his community: “It drowned the Old World; it brought down Fire and Brimstone on *Sodom and Gomorrah*, Gen.19.3. *Sodom* had many other sins, as Pride, Idleness & Gluttony; but this sin of Uncleanness made it a defolation; and a sin that eternally ruins and undoes the Soul.”<sup>22</sup> As sin profligates throughout the social body, the uncleanness spreads, and without a return to penitence in Christ, the condemnation of entire community will be sealed.<sup>23</sup>

Corruption not only affected individuals but also threatened the community as a whole. Corruption, sin, and crime were interchangeable terms, indicating not only the underlying religious nature of New England society, but the dual nature of these concepts: both individual and community. The infection that spread from one offender both reduced his particular chance at ultimate salvation, as sin could cause God to withdraw His grace, but also threatened the community and the social covenant. If one particular sinner had been removed from God’s grace but remained within the community, all members of the social covenant were in danger of being likewise removed from God’s grace, and without it salvation for one, much less all, was impossible.

## Reformation and Salvation

Samuel Danforth’s and John Williams’s central themes of human corruption and the pollution of sin focused on the depravity of humanity rather than on the possibility of reformation and salvation, although these concepts were not left out entirely. Other sermons stressed the possibility of true repentance, even for reprobates facing execution

for their sinful acts, instead of leaving open the potential of salvation only to those who had not yet given themselves up to sin entirely. Theologically these two emphases did not conflict directly though the latter suggested cracks in strict Puritan beliefs. That point aside, emphasizing the possibility of reformation and the avoidance of a second death may have aided in convincing the condemned on the gallows to perform his ritualistically prescribed role of the penitent sinner and thus better serve the community.

Increase Mather's 1699 sermon, *The Folly of Sinning, Opened & Applied*, spoke of the corrupting nature of sin, and the pollution that sin brought onto the community as a whole, but its focus was in drawing attention to the gravity of sin and the necessity to recognize this fact and repent, for a sinful heart damned both body and soul. Mather's emphasis on the severity of sin reflected the general belief in the worsening moral standards of the Massachusetts of his day, especially compared to the idealized standard of the City upon a Hill. By focusing on the role of sin within society, Mather desired to deter his listening audience and later readers from falling into the same sinful act as the condemned, in this case Sarah Threeneedle. In fact, as Mather, propounded, "A great sin may be an occasion of the Conversion, and fo of the Salvation of a Sinner, but not the caufe of it. A corrupt Tree cannot bring forth good fruit."<sup>24</sup> Although a great sin by itself would seal the temporal fate of the offender, by reflecting on the error of sin, true repentance could then save the soul, even if the body must perish.

After outlining the punishments forthcoming for sinners, both temporal and spiritual, Mather beseeched those hearing his words to use this occasion to examine their own lives and repent. He implored: "If there is a man in this Congregation that never finned, Let not that man repent; but fuch an one there is not, nor in the whole world, nor

ever was there since *Adam*, except only *the Man Christ Jesus*.” Therefore, all must repent even for transgressions perceived to be minor because God knows all and sees all, and without penitence, salvation was out of anyone’s grasp. Mather summed up the need for repentance in one succinct statement, “Know therefore that you must either live or die forever according as you shall obey this Commandment of the Gospel.”<sup>25</sup>

Mather then turned to the individual reprobate sentenced to death for her transgressions, Sarah Threeneedle. The move to focusing on the possible salvation of this particular sinner, however, was done in the larger context of community repentance. The decision to reflect on God’s grace and the feasibility of salvation was up to the individual upon the gallows and the audience. Mather was thus using this public execution as a deterrent and an example for the community as a whole in an effort to remedy the social corruption seen as so rampant at this time. God extended salvation to all willing to repent, for even though “Thy heart has been an Hell of Sin: A Sink of Uncleannefs, but if thy heart be broken for your fins, the opened Fountain of the Blood of Chrif will make that horribly defiled Soul to become pure, and it shall live.”<sup>26</sup> Although this was theoretically extended to the whole community, actual and true repentance would elude most members, resulting in their damnation.

Temporal death befalls all humans, whether they are sinful or righteous, but spiritual death was the true punishment facing individuals. Increase Mather described the afterlife in a way that clearly defined the fate of those who embraced Christ and those that did not:

If Death find you a penitent Believer, as soon as ever your Soul is out of your Body, Holy Angels will carry it to a better World than this is; but if otherwise, cruel Devils will go with it to a place of torment; and there must it remain until the General Resurrection, when Soul and Body shall appear

before the Judgment Seat of Christ, you must be tried and judged over again *in that day*, when all our secret sins will be laid open before Angels and Men.<sup>27</sup>

Although Mather argued that becoming truly repentant in Christ was the path toward salvation, traditional Puritan theology did not necessarily agree with this axiom. Those who were predestined for salvation could be and generally were sinners, but self-recognition and agony over this sin signaled membership within the elect. As John Williams had preached, not even religious education could guarantee salvation, only God's intervention could save reprobates.

Increase Mather was not the only minister to open wider the doors of salvation, if only slightly, than Danforth and Williams had done. John Rogers in his 1701 sermon, *Death, The certain Wages of Sin to the Impenitent: Life, the sure Reward of Grace to the Penitent*, also focused on how repentance could signal the possibility of salvation, while maintaining a sinful life indicated damnation. Rogers divided his sermon into three sections, the first on how sin led directly to death, the second on how God's grace, retrievable through repentance, brought salvation, and third on how to cleanse a life to be worthy of blessedness. The sermon then showed the foolishness of sin, the possibility of redemption, and the path by which salvation might be determined.

In the first part of his sermon, Rogers in many ways echoed the message of Increase Mather in drawing attention to the severity and gravity of sin and by demonstrating the torments awaiting those who showed they were damned by persisting in maintaining sinful lives. One example of Rogers' rhetoric should suffice: "They that satisfy themselves with the monotony [*sic*] pleasures of this World, and deride those Everlasting Miseries of the other, shall have leisure enough to Repent their Folly, when

their Repentance shall only increase their Sorrow, without hopes of any Ease of End.”<sup>28</sup>

Interestingly, Rogers employed the same Biblical passage for his two sermon sections, but emphasized different parts of the passage in the two. For both he employed Romans 6:23, “*For the wages of sin is death: but the gift of God is eternal life, through Jesus Christ our Lord.*”<sup>29</sup> However, for the second section of the sermon stressing salvation, the first line was left out as Rogers emphasized the mercy of God through salvation, rather than the vengeful nature of God through damnation.

Rogers, possibly more so than any other early execution sermon preacher, opened the door of salvation even to those most wretched sinners. He presented a division between the law and the gospel, the former being rigid and unforgiving, but the latter showing God’s forgiving nature, saying, “Indeed the law leaves us without hope or help, like *Josephs Brethren*, it casts into the Pit, & does not regard our crying: But the Gospel lets down those Cords by which we may be drawn out thence.”<sup>30</sup> Rogers posited that because God’s forgiveness knows no limits, sin by itself cannot truly disqualify any reprobate from possible salvation. Within this section of the sermon, Rogers maintained that the first step toward potential salvation was belief in the forgiving power of God. If a sinner did not believe in God’s saving grace, then, in effect, he had prevented himself from attaining that grace, but “All Sinners believing may be Saved; therefore, Let All *Believe.*”<sup>31</sup>

In the final section of the sermon, John Rogers identified how salvation might be granted. One theme used to explain life choices was happiness, and that most people make decisions based on what will make them happiest, but if they did not understand that this life is fleeting, and it is in fact the next life that could bring true happiness, these

decisions may not be the right ones. Rogers said that “Many think it a Happiness to live without the yoke of Religion, to speak, and think, and do what they please, without restraint,” but he argued that this was not the case.<sup>32</sup> Actually, the opposite was the case because “sin groweth stronger by Custom, and more rooted; it gathereth strength, by every new act: yea every act lesseneth the fear of Sinning, and strengtheneth the inclination to Sin.”<sup>33</sup> While grace was a gift from God, and so individual agency was not truly required to achieve it, God would not accept unrepentant sinners into His kingdom, so to gain salvation the corruption of sin must be rejected and instead replaced by accepting the purifying embrace of Jesus Christ.

Although salvation, specifically a person’s part in it, occupied a difficult space within Puritan theology, the maximizing for potential salvation of community members by upholding the social covenant with God most definitely served the common good. By removing corrupted and infectious individuals, God’s grace could be retained within the community, allowing at least for those of the elect to retain this grace and thus their salvation. The public execution was then a necessary and positive action for the community to undertake in order to preserve the social covenant and the covenant of grace.

### The Common Good

An execution was not only an occasion to amputate a diseased member of the social body, but also a chance to reaffirm the social covenant by reinforcing religious and cultural values that the sinner being executed had violated. Therefore, a public execution

was a positive action for the weeding out of a corrupted member of the social body and reinforcing the social compact by demonstrating the enforcement of God's law. One of the most important aspects underlying the public execution was the belief that it was serving the greatest common good of the community. Early New Englanders believed that the public execution both removed one particular offender, and potentially deterred others, and thus the execution served to limit the social corruption that they feared was on the rise. The three sermons delivered to convicted murderer James Morgan and the audience in March of 1686 are good examples of the ways in which these sermons attempted to use the execution they were written for as a positive social event.

Increase Mather delivered one of the sermons and began by analyzing killing as part of society, both in its justified forms, such as state executions or self-defense, and its unjustified ones, such as premeditated murder. While Mather's sermon was pointed toward James Morgan, from the outset the minister also directed his lesson to the community. After indicating that true repentance only days or hours before death was unlikely, meaning that Morgan was probably damned, Mather found another source of inspiration, "*the Lord knows how to make the woful [sic] death (as to his Body) of a great Sinner, to occasion the Conversion and Salvation of many Souls.*"<sup>34</sup> The sinner Morgan could serve the community members by displaying genuine repentance so close to his death, potentially deterring those witnessing the execution and hearing Mather's words from acting as Morgan had.

After analyzing various types of killing within society, Mather justified the execution of Morgan because God had entrusted the state to enforce His laws. Those laws demanded death in Morgan's case. While murder was declared to be a severe evil,

“*publick [sic] Revenge* on those that violate the Laws of God, is *good*. The *Magistrate* is God’s *Vice-gerent*. As none can *give* life but God; so none may *take it away*, but God, or *such* as He has *appointed*.” The state, therefore, lacked jurisdiction in punishing offenders because it was only following the commandments of God, not following its own pronouncements. Presumably then, by enforcing God’s laws the state was serving the common good, for allowing a murderer like Morgan, or anyone else who had committed a capital offense to live would only anger God and bring down His wrath upon the entire social body. As Mather preached, “One Murderer *unpunished*, may bring guilt & a curse upon the whole Land, that all the Inhabitants of the Land shall suffer for it.”<sup>35</sup>

Mather’s sermon also contained a confession supposedly delivered by Morgan as part of his attempt to show true repentance. While confessing to all transgressions and justifying all sentences conferred upon him, Morgan also reached out to the community: “*I do therefore beseech & warn all persons, young men especially to take heed of these Sins, lest they provoke the Lord to do to them as He has justly done by me.*” After these words Mather further implored those hearing or reading his words to take warning so “that this may strike *terror & trembling* into *their* souls.”<sup>36</sup> Later in the eighteenth century prisoner confessions and dying declarations would become a more popular genre by itself, but in this early period these statements were usually only presented as part of the sermon being delivered to show that the reprobate was fulfilling his ritualistically prescribed role as the penitent thief upon the cross and to encourage the members of the congregation to learn from their sins and to repent.

Also delivering a sermon to James Morgan as he awaited his execution was Cotton Mather, the son of Increase Mather. Cotton Mather's sermon, *The Call of the Gospel*, focused on the possible salvation awaiting those that truly desired it and repented in Christ. In fact, "The Body of the Congregation can't hear of a more important thing than this, of *Looking unto Jesus Christ for Salvation*."<sup>37</sup> Morgan's spiritual fate would soon be sealed as his looming execution would force him to show true repentance or face a second death, but for the community members, their individual salvations were potentially more attainable as they had more time to realize the error of their ways and be saved in Christ.

As Increase Mather had done, Cotton Mather besought Morgan to use his last hours to serve the common good:

When the numerous croud [*sic*] of *spectators* are 3 or 4 days hence thronged about the place where you shall then breathe *your last* before them all, then do you with the heart-piercing *groans of a deadly wounded man* beseech of your fellow sinners that they would *turn now every one from the evil of his way*.<sup>38</sup>

Mather asked Morgan to turn his neighbors from sins, both great and minor, in an effort to serve God and the interest of the community. Uncleanness, drunkenness, profanity, cursing, lying, stealing, amongst others were all listed as transgressions that were infiltrating society, and Morgan, having committed a number of these himself, could aid in once again steering his fellow community members toward the path of righteousness.

The final sermon delivered for the execution of James Morgan was given by Boston minister Joshua Moody. Moody claimed to have been asked by Morgan to deliver this sermon both to address his particular offenses and as a "warning *to those of his Fellow-Siners [sic] that had been guilty of the like evils, lest they also become like*

*monuments of divine Justice.*”<sup>39</sup> Moody adequately fulfilled this request by using Morgan as an example to those presumed sinners who were in the audience. The sins Moody listed were not even what would be considered as most grave, those being murder, treason, and burglary, but instead he mentioned lesser sins such as lying, cursing, swearing, and drunkenness, indicating that any amount of sinfulness necessitated reformation.

Moody used Morgan as not only an example of sinfulness, but as someone with one foot in the grave. Members of the congregation may not have been willing to identify themselves as sinners at least to the degree of Morgan, especially if their offences were relatively minor, but Morgan’s life of minor sinfulness leading to committing one of the worst sins, murder, displayed the slippery slope of sinfulness. Moody preached to his audience, “You may not expect to have any *come from the dead* to warn you, but here is one that is falf *going to the dead* who bequeathes [*sic*] you this *Warning*, left *you* also be in like manner hung up as *Monuments of God’s wrath*, God is picking him out, and *setting him forth to be an Example* unto you.”<sup>40</sup> Morgan was a dead man walking: an image being used to attempt to deter the audience from committing similar sinful acts. The execution ritual, thus, was more than simply the amputation of a particular offender. It was also the amplification of a larger message of deterrence and enforcement of accepted moral standards to maximize the common good. By enlarging the meaning of the ritual to the community as a whole and by Morgan playing the proper ritualistic role, the message of living a righteous life to attain salvation might be spread more effectively.

The sermons delivered at the execution of James Morgan demonstrate the utility of public executions to ministers as well as magistrates as they attempted to remove social corruption and retain God's grace for the community, allowing for its members potential salvation. The public execution was then an active measure to remove one particular reprobate from the social covenant, and an attempt to deter other members of the community to follow down the same path of almost certain damnation. While Winthrop's City upon a Hill had by this time largely been lost, in order to preserve some element of that utopian ideal, the social covenant had to be reaffirmed and purified through the execution of God's laws.

#### The Sermons of Cotton Mather

Cotton Mather preached more than a half dozen execution sermons from his first in 1686, the aforementioned *Call of the Gospel*, spanning to 1726 with the publishing of *The Vial Poured out upon the Sea*. Although Mather's more than forty years of execution preaching reached beyond this early period (1674-1713), his rhetoric and overall message remained relatively constant. In part due to the number of sermons, and the important stature of Mather within Puritan New England during his lifetime, a separate analysis of a select number of Mather's sermons is warranted. In addition, several of Mather's sermons stand as fairly unique in their approach to execution preaching during this early period. *Pillars of Salt* stood both as a sermon and a recount of New England executions over the seventeenth century, while *The Vial poured out upon the Sea* commemorated one of the more noteworthy executions of the eighteenth century in Massachusetts, that of

William Fly and his fellow pirates. Finally, Mather provides an overview of early preaching that touched upon all the aforementioned themes of corruption, salvation, and the common good, providing a good summary of early sermons.

One of the earlier execution sermons by Cotton Mather in 1693 was preached at the execution of two young women. Mather broke his sermon, *Warnings from the Dead*, into two separate parts, the first using the concept of madness to describe the embrace of wickedness instead of Christ, and the second focusing on the uncleanness that this wickedness brought forth upon society. The main problem Mather identified with a mad man or woman was not simply that he or she was damned due to a life of sin, but that such a person was not “content to Go to Hell alone; but he draws as many with him thither as he can. . . . [for] Their *Madnefs* has *This Peculiar* in it, that it is *Contagious*.”<sup>41</sup> The corruption invaded the social body as a whole and caused more members to fall under this spell of madness that led them to choose death.

Although this madness could corrupt, by turning toward Christ, the wickedness and sin that such madness might induce could be rejected. This cure through the “Glorious Phyfician” was open to all, but Mather believed that many had yet to take advantage of this remedy for their sinfulness. Mather implored his audience to “be concern’d for others that are not *Cured yet*. . . . Let us do them all the Good we can.”<sup>42</sup> Mather’s use of madness, a fairly rare term for execution sermons, as a transmittable disease that threatened the social body unless the cure, through Christ, was embraced, was a common theme throughout his sermons.<sup>43</sup>

As this madness was not just a spiritual but also a social disease, in the second sermon, Mather showed how the uncleanness of the sinful lives of many youth was

destroying the community. As other ministers had preached, Mather used the example of Sodom and Gomorrah to show the gravity of the situation facing his community. The unclean youth “are for their Abominable Uncleannefs, juft like what the Young people in *Sodom* were; and therefore God fhall in their *Youth* feize them with *Snares, Fire, and Brimftone, & an Horrible Tempeft.*”<sup>44</sup> Sexual sins served as the main source of uncleanness in society, including self-pollution, fornication, adultery, incest, sodomy, and buggery. Those that partook in these sins reserved a place in hell for themselves. The two unnamed women in Mather’s 1693 sermon had both killed their illegitimate children. Clearly such murders were designed to hide their unclean lives, but as a result one sin compounded another. Mather expanded upon their wicked deed to draw attention to the sinfulness of all levels within the whole community and demonstrate the need to repent or face damnation. Mather spared no words in expressing the fate of those sinful members: “If any of you are going to meddle with any *Wickednefs*, and efpecially with *Uncleannefs*, I am to call upon you, *Man, There is Death in the Pit!*”<sup>45</sup>

Six years later, Mather published a sermon, *Pillars of Salt*, which although not given in response to one particular execution, functioned as such. The sermon was divided into two parts, the first, showing both how God punished sin and how to avoid a wicked life, and second, a history of many criminals who had been executed in Massachusetts over the previous fifty years or so. The sermon section of *Pillars of Salt* was further divided into two parts, the first of which sought to examine “*How does the Holy God, Punish men for One Sin, by Leaving them to Another; and how is it Confiftent with His Holinefs to do so?*”<sup>46</sup> Mather’s goal in this section was to demonstrate the

human causes of sin, and to explain how God punishing sin by withdrawing grace from the offender was a justified and consistent penalty.

Within the Old Testament, God had made Himself known in much more visible ways, including doling out the method of punishments. However, Mather pointed out that “The Wrath of Heaven, does not *Now* commonly with such *Visible Strokes* from Heaven, cut off them that have provoked it.”<sup>47</sup> Instead, God now often punished by withholding grace from individuals, allowing them to sin further and thus showed that they had no possibility of salvation. This form of punishment functioned because of the state of original sin to which all humans were subject. Once God’s restraining grace was removed, the sinner would continue to live a wicked and unclean life, which would then lead to his eventual death, both temporally and spiritually. Mather preached that “When the *Spirit of Uncleanness*, hath taken the Sinner, ‘tis very Rare, . . . that they Stop till they be run down into the *Deep* of Perdition with their *Brethren*.”<sup>48</sup> The corruption overtook the sinner because his salvation was unattainable. Mather understood that youthful transgressions often began reprobates upon the path to the lake of fire, and so the second section of his sermon was dedicated to avoidance of these sins.

*Pillars of Salt*, instead of being addressed to one condemned malefactor, was written for the benefit of the community as a whole. Mather presented his recollection of several executed criminals in the latter half of his work to deter members of the community from following a similar path of increasingly grave transgressions. Acceptance of the “Epidemical *Vices*” prevented salvation by forcing God to withdraw his restraining grace. Once upon that path, many found themselves dying impenitent and thus without the possibility of salvation. Mather used rhetoric that the condemned

malefactors recounted in his sermon had “been Exterminated for *Capital Sins: the Sword of Justice*, hath cutt [*sic*] them off, in the Execution of *Juft Laws*.”<sup>49</sup> Due to man’s natural state of sinfulness, derived from Adam’s fall, salvation or reformation was nearly impossible without God’s intervention; and without proper observance of divine law, this grace would be withdrawn. *Pillars of Salt* then served as a warning to avoid the corruption of sin and to remain in God’s grace so that a temporal death would not lead to a second spiritual death.

Cotton Mather delivered his final execution sermon on July 10, 1726; much to his dismay the pirates being hanged, most notably William Fly, were unwilling to fulfill their ritualistically prescribed role as the penitent thief upon the cross. Mather’s *The Vial poured out upon the Sea*, regardless, attempted to retain a level of meaning within the ritual by using wisdom as an organizing theme. In fact, the rejection of penitence by several of the pirates was used to show how not to die because the pirates died without wisdom, meaning spiritual enlightenment, and to die in such a state was to die without salvation.

Certainly, It will be the *Wisdom* of us all, but especially of our *Sea-faring Tribe*, to learn from these *Dying Men*, some things which the *living* that *see the End* of these Men must *lay to Heart*, - if they would not with an *Hard Heart* lay up for themselves *Treasures of Wrath*, to be poured out upon them, in the *Righteous Judgment* of GOD.<sup>50</sup>

These pirates, by not fulfilling their role undermined the execution ritual by not ascribing to the belief that being penitent upon the gallows was a possible path toward salvation. It was then in the common good of the community both to use Fly as the antithesis of how to act, and also to amputate him from the social body in order to prevent his corruption from infecting the community.

Due to William Fly's defiance to the end, Cotton Mather thundered condemnation upon his soul. Mather argued that Fly's rejection of wisdom was asking for God to bring down wrath upon his soul. Mather explained Fly's actions as "a most uncommon and amazing Instance of Impenitency and Stupidity."<sup>51</sup> In an attempt to undermine Fly further, Mather recounted that "it was observed and is affirm'd by some Spectators, that in the Midst of all his affected *Bravery*, a very sensible *Trembling* attended him."<sup>52</sup> Fly bravely defied the strictures of the Puritan execution ritual, but by questioning both his wisdom and manhood, Mather instead showed the error of this decision and implied that by refusing penitence Fly had reserved himself a place in the lake of fire.

## Conclusion

Despite the relatively homogeneous theological and ideological rhetoric contained within the sermons of this early period (1674-1713), the difficulties in accommodating accepted Puritan doctrines, and trying to renew the social covenant over generations mounted. Predestination appeared to cause the greatest problem for the ministers as concrete statements about who will and will not be saved were impossible. Although the indication was that Benjamin Goad, James Morgan, Esther Rogers, and William Fly were not of the elect, only God could truly know who were destined for salvation. While impenitence, particularly of Fly, remained relatively uncommon, the execution ritual would face other challenges later in the eighteenth century as the small homogeneous City upon a Hill began to expand and had to accommodate more outsiders like these pirates.

The ideas of corruption, salvation, and the common good all remained relatively constant throughout the preached execution sermons of this early period. Universal human depravity meant that in one sense society was always corrupted, but through the social covenant with God and by removing potentially infectious members, the purity of the community could be restored. Salvation was only attainable through God, and although many ministers desired to remove any chance of salvation for the worst offenders, truly this was not a possible claim. Finally, the common good of the community was maximized through the use of public executions. This ritual both removed a particular sinner from the social body preventing further infection, and also the event served as a chance to reaffirm the social covenant by identifying unacceptable behavior and demanding the community reform to avoid a similar path of sin.

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<sup>1</sup> Increase Mather, *The Wicked Mans Portion* (Boston: John Foster, 1675), 6, 22.

<sup>2</sup> Cotton Mather was a firm believer in the concepts of total human depravity, justification by faith, and predestination, which were all present in the execution sermons he delivered during the seventeenth and early eighteenth centuries. See E. Brooks Holifield, *Theology in America*, 69.

<sup>3</sup> Stout, *The New England Soul*, 3. As Stout noted, the sermon “combined religious, educational, and journalistic functions, and supplied all the key terms necessary to understand existence in this world and the next.”

<sup>4</sup> Minnick identified four main ideas within execution sermons that were either implied or explicitly stated within all sermons: “(1) There is a God who controls the universe and all in it including man. (2) Man, in spite of God’s control, does somehow freely and of his own will choose between good and evil, hence is responsible for his conduct (many later sermons did not posit nor imply God’s control over man’s choices). (3) There is a life after death more consequential than the present one. (4) A man who has chosen evil is condemned to eternal damnation in the future life unless he is truly contrite and seeks forgiveness through Jesus Christ.” Minnick, “The New England Execution Sermon,” 82.

<sup>5</sup> Danforth, *The Cry of Sodom Enquired Into* (Cambridge: Marmaduke Johnson, 1674), 1.

<sup>6</sup> See Cohen, *Pillars of Salt, Monuments of Grace*, 46-8, 102-4 for a discussion of Danforth’s sermon including its use of imagery stressing warning to the community including the utilization of the reference to Sodom and Gomorrah.

<sup>7</sup> Danforth, *Cry of Sodom*, 6.

<sup>8</sup> For a discussion of Danforth’s sermon as part of the concept of the federal doctrine of original sin see Seay, *Hanging Between Heaven and Earth*, 51-2.

<sup>9</sup> Danforth, *Cry of Sodom*, 8.

<sup>10</sup> Haskins argued, “the reform and purification of church discipline and doctrine through a return to the principles of the primitive apostolic church was not only the deliberate and unswerving aim of the early Puritans in England but the primary purpose of the founding of the Bay Colony.” George Lee

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Haskins, *Law and Authority in Early Massachusetts: A Study in Tradition and Design* (Archon Books, 1968), 141.

<sup>11</sup> Danforth, *Cry of Sodom*, 13.

<sup>12</sup> Although the concept of predestination presumably removed all human agency, as God chose those who would be the elect and ultimately saved, Calvinist theologians still attempted to incorporate individual human agency. Holifield noted that “In sermons, the ministers blurred such neat distinctions, for they dealt with the fallen will and understanding. Yet they still assumed both faculties were active in salvation because the means of grace were designed to appeal to them.” In Holifield, *Theology in America*, 38.

<sup>13</sup> Danforth, *Cry of Sodom*, 9, 22, 9, 15.

<sup>14</sup> Seay identified the link between the individual reprobate and the community in referencing two sermons delivered at the execution of Sarah Smith, saying, “Puritan execution preachers illustrated even further the moral kinship between the condemned and the listening audience while simultaneously holding out the condemned as a warning.” In Seay, *Hanging Between Heaven and Earth*, 57.

<sup>15</sup> John Williams, *Warning to the Unclean* (Boston: B. Green and J. Allen, 1699), 9.

<sup>16</sup> *Ibid.*, 18. The amputation of corrupt members parallels the punishment of excommunication, designed to maintain community purity from corrupt opinions. “Indeed, excommunication was a conditional state, dependent on the sinner’s willingness to repent and reform. As David C. Brown notes, a delinquent was cut off not for his original offense but for refusing to repent,” in “The Keys to the Kingdom: Excommunication in Colonial Massachusetts,” *The New England Quarterly* 67, no. 4 (Dec. 1994): 534. However, unlike excommunication, execution was not a conditional state, but a permanent sanction for violating the laws of God.

<sup>17</sup> Williams, *Warning to the Unclean*, 19. I was unable to find another minister willing to go so far in his embrace of the lack of human agency during this period. Usually, religious education was stressed, whether or not it contributed to possible salvation.

<sup>18</sup> See Cotton Mather, *Early Religion Urged in a Sermon* (Boston: B.H., 1694), 6, Mather declared that “It is in the High Intereft, and it fshould be the Great Study of YOUNG People, to TAKE HEED, that Their WAY may be Cleanfed, according to Gods WORD.” Throughout this sermon Mather identifies religious education and observance as central to possible salvation, a view found in most other early execution sermons.

<sup>19</sup> Williams, *Warning to the Unclean*, 26.

<sup>20</sup> Deathbed repentance was often declared by Puritans to have little value or likelihood of sincerity or effect on God. Cotton Mather argued, “There is not Real Conversion in it, Men are then only like Iron softened in the Fire; they soon Return to their former Hardness if God spare them from going down into the *Unquenchable* Fire.” Cotton Mather, *Thought of a Dying Man* (Boston, 1697), 40-1, quoted in David E. Stannard, “Death and Dying in Puritan New England,” *The American Historical Review* 78, no. 5 (Dec. 1973): 1326.

<sup>21</sup> Williams, *Warning to the Unclean*, 37,62.

<sup>22</sup> *Ibid.*, 16.

<sup>23</sup> Ronald Bosco identified the theme of using the example of the condemned on the gallows to deter the audience in attendance, but also New England as a whole. “Indeed, the time has come for New England to repent and seek pardon for its many transgressions.” Williams’s sermon is one of the several mentioned to employ this rhetoric. In Ronald A. Bosco, “Lectures at the Pillory,” 167-8.

<sup>24</sup> Increase Mather, *The Folly of Sinning* (Boston: B. Green and J. Allen, 1699), 8.

<sup>25</sup> *Ibid.*, 33, 35. Salvation was then only possibly through the covenant of grace that was “based not on human ability but on God’s will; it did not demand obedience as a condition but bestowed the ability to believe and to act as the fruit of God’s love.” In Knight, *Orthodoxies in Massachusetts*, 89. Knight also specifically mentioned Mather in the difficulties in understanding the precise nature of the covenant of grace along with antinomianism, Arminianism, and Anabaptism.

<sup>26</sup> Mather, *The Folly of Sinning*, 40. The sermon could not only serve as a reassurance of the social covenant, but “the Puritan sermon was sound, sight, and sense to its hearers. It could be, in a way, their salvation. For good preaching could not ensure an experience of divine grace, conversion was unlikely to happen without it.” In Kamensky, *Governing Tongue*, 32.

<sup>27</sup> Mather, *The Folly of Sinning*, 43-4.

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<sup>28</sup> John Rogers, *Death, The certain Wages of Sin to the Impenitent: Life, the sure Reward of Grace to the Penitent* (Boston: B. Green and J. Allen, 1701), 38.

<sup>29</sup> *Ibid.*, 1. Rogers's sermon serves as a central part within Daniel E. Williams, "'Behold a Tragic Scene Strangely Changed into a Theater of Mercy': The Structure and Significance of Criminal Conversion Narratives in Early New England," *American Quarterly* 38, no. 5 (Winter 1986):827-47. Williams's argued that "although she [Sarah Smith] was the central character and her soul the ultimate prize, God was the real hero, since only through the free gift of His grace could Rogers climb out of her corruption and escape damnation" (828).

<sup>30</sup> Rogers, *Death, the certain Wages of Sin*, 45.

<sup>31</sup> *Ibid.*, 63. Karen Halttunen in *Murder Most Foul*, said that the sermon did not attempt to sensationalize the crime of Esther Rogers, but instead, "it focused on the spiritual pilgrimage of Esther Rogers as she moved from a state of religious indifference to overwhelming conviction of sin to a string of hope, as her execution drew near, in her salvation" (8). Although neither John nor Esther Rogers had any actual agency in determining their individual salvation, the hope was that through sincere repentance, salvation would be possible.

<sup>32</sup> Rogers, *Death, the certain Wages of Sin*, 89.

<sup>33</sup> *Ibid.*, 105. Laura Henigman's *Coming into Communion* focused on Rogers's sermon, not as part of the execution ritual, but as a pastoral encounter of the community. Henigman also analyzed the interplay of gender within Rogers's sermon as Esther Rogers had been condemned for infanticide.

<sup>34</sup> Increase Mather, *A Sermon Occasioned by the Execution of a man found Guilty of Murder* (Boston: R.P., 1687), unnumbered first page. Although Morgan's execution was still very early in the execution preaching tradition in New England, signs of the forthcoming breakdown of the execution ritual may have already been present. So large was the crowd that gathered for Mather's sermon that the venue had to be moved for fear that the Old North Church would collapse. Estimates placed the crowd at 5,000 at a time when the population was only 7,000. In Seay, *Hanging Between Heaven and Earth*, 24-5.

<sup>35</sup> Mather, *A Sermon Occasioned by the Execution of a man*, 6, 12.

<sup>36</sup> *Ibid.*, 23. Mather's sermon also contains the last dying words of James Morgan, a form of crime literature that would become popular in its own right later in the eighteenth century. Whether Mather or his publisher included the remarks is unclear, but they were likely added due to Morgan's dutiful fulfillment of the role of the penitent thief. In Cohen, *Pillars of Salt, Monuments of Grace*, 50-1.

<sup>37</sup> Cotton Mather, *The Call of the Gospel* (Boston: Richard Pierce, 1687), 42.

<sup>38</sup> *Ibid.*, 81. Although Mather implored Morgan to repent, the tone of his sermon seemed to suggest that Morgan would likely not be saved, even though he had fulfilled his ritualistically prescribed role. This was also Mather's first published sermon, which began a long and prosperous career of execution preaching. In Seay, *Hanging Between Heaven and Earth*, 84-5, and Cohen, *Pillars of Salt, Monuments of Grace*, 51-2.

<sup>39</sup> Joshua Moody, *An Exhortation to a Condemned Malefactor* (Boston: R.P., 1687), 84.

<sup>40</sup> *Ibid.*, 106.

<sup>41</sup> Cotton Mather, *Warnings from the Dead* (Boston: Bartholomew Green, 1693), 11, 27.

<sup>42</sup> *Ibid.*, 22-4.

<sup>43</sup> For a discussion of Mather's sermon and the understanding of the early modern body and sexuality see Kathleen M. Brown, "Murderous Uncleanness: The Body of the Female Infanticide in Puritan New England," 81, in Janet Moore Lindman and Michele Lise Tarter, eds., *A Centre of Wonders: The Body in Early America* (Ithaca: Cornell University Press, 2001).

<sup>44</sup> Cotton Mather, *Warnings from the Dead*, 39.

<sup>45</sup> *Ibid.*, 54.

<sup>46</sup> Cotton Mather, *Pillars of Salt. An History of Some Criminals Executed in this Land for Capital Crimes* (Boston: B. Green and J. Allen, 1699), 6.

<sup>47</sup> *Ibid.*, 8.

<sup>48</sup> *Ibid.*, 24. Cohen suggested that Mather's main motivation for constructing *Pillars of Salt* as he did was due to the impenitent nature of Sarah Threeneedle and Mather's desire to maintain the effectiveness of the ritual and sermon, 56-7. Kathleen Brown argued that Mather's sermon served as a cap at the end of the seventeenth century "in which the body of the white female infanticide assumed enormous symbolic value for Puritan ministers and the spectators who attended or read about the executions," 91.

<sup>49</sup> Mather, *Pillars of Salt*, 52.

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<sup>50</sup> Cotton Mather, *The Vial Poured Out into the Sea* (Boston: T. Fleet, 1726), 43. For a discussion of the William Fly execution and Cotton Mather see, Daniel E. Williams, "Puritans and Pirates: A Confrontation between Cotton Mather and William Fly in 1726," *American Literature* 22, no. 3 (1987): 233-51. Also see Marcus Rediker, *Villains of all Nations: Atlantic Pirates in the Golden Age* (Boston: Beacon Press, 2004), 17-8.

<sup>51</sup> *Ibid.*, 47.

<sup>52</sup> *Ibid.*, 48.

## Chapter II

### Secularization and the Expansion of Salvation in Execution Sermons

O take Heed, and let no Man deceive you with vain Words. Be not Children, toffed to and fro, and carry'd about with every Wind of Doctrine, by the flight of Men, and cunning Stratagems, whereby they lie in wait to deceive. Whatever you may hear at *Orthodoxy*, as a matter of no Significance; yet realife it, that, 'tis thro' Sanctification of the Spirit and *Belief of the Truth*, we are chofen to Salvation.<sup>1</sup>

Mounting religious pluralism over the course of the eighteenth century in Massachusetts served as one of the most important elements leading to both the secularization of execution preaching and, eventually, the demise of the execution ritual. Thomas Foxcroft alluded to this increase in religious pluralism as part of his sermon delivered at the execution of Rebekah Chamblit for infanticide in 1733. Such religious pluralism reflected the gradual influx of other Protestant denominations over the eighteenth century. The ministers delivering the sermons and the listening audience might be of various denominations, which forced the employed rhetoric to expand in order to be applicable to all in attendance.

Pluralism was not the only element, however, contributing to this shift in preaching beginning around 1713 and lasting until the end of execution preaching in the 1830s. This shift was also accompanied by the secularization of execution sermons along with several theological changes. For example, Puritan descendants were questioning the doctrine of original sin during the 1750s, which challenged the long-held belief in the naturally polluted state of humanity. A recognition of sin as an active choice, rather than the natural human state could also be applied in reverse; reformation and salvation were

not solely divinely determined, but could also be active choices by the reprobate. While original sin was still supported by many, most notably by Jonathan Edwards, the mere fact that religious dissension existed and was recognized in the execution preaching of many eighteenth-century ministers demonstrates a radical shift that, at least theoretically, allowed for both the expansion of salvation, and the possibility of temporal reformation as well.<sup>2</sup> Rejection of original sin, however, also secularized the root cause of crime. If the nature depraved state of humanity could not be blamed for causing criminal action, other theories had to fill this void. Drunkenness, idleness, poor education, and youthful transgression took on even greater centrality in explaining the path of deviance that could lead to the gallows.

Although somewhat less overt, other theological and ideological changes also accompanied this period of execution preaching. Just as there was evidence of the rise of individualism in society at large, there appeared to be a rise of individualism in the execution ritual.<sup>3</sup> Evidence may be found in the shift from a community focus to that on the individual reprobate. Along with this fulfillment of a particular role, the offender also could be transformed into “the sinner-turned-saint [and be] drawn back into the moral community, even if he or she was still put to death.”<sup>4</sup> Concentration on the community during the late seventeenth and early eighteenth centuries had forced community expulsion of the sinner in order to preserve the social body as a whole. But during this period of change, it was the example of David recognizing his sinful ways and repenting and that of the penitent thief on the cross embracing salvation through Christ that became central themes. While the reprobate still had to be cut off, such an act was more explicitly declared not to signal a definitive second death of the offender as well.

It may be that the sermons echoed or mirrored the secularization of government and law that also became quite prevalent during this period, although such civil changes were part of a longer process that extended back further into the seventeenth century. No longer was government exclusively empowered to pass and enforce laws due to divine mandate or authority. Although some people still believed in that mandate, others defined government's role as that of preserving the safety and stability of the community and serving the common good. This process would later take a republican tone after the American Revolution, but for now it merely began to distance civil government from divine power, although this relationship would not be completely severed even after the Revolution. Property crimes also began to overtake religious crimes as the type of offense more likely to be punished.<sup>5</sup> While property offenses were still placed in a religious context within sermons, the direct link between divine and civil law was uncertain as a Biblical mandate was lacking for punishing many crimes capitally, such as piracy, counterfeiting, or burglary. Murder, the crime most likely to warrant an execution sermon, also could be condemned not only because of divine mandate, but in order to protect the safety and stability of civil society.

Although many of the theological debates occurring within New England during the eighteenth century will be discussed, the plan here is not to recount the process of religious pluralism or the debates over doctrines such as that concerning original sin. Other scholars have already done that numerous times. Of importance here are the analyses of the changes within execution preaching that occurred at the same time as those others. While the process of change within pre-Revolution execution sermons was far from direct, by the Revolution and Nathan Strong's sermons at the execution of

Moses Dunbar in 1777, the move toward a more inclusive notion of community and salvation was quite clear. During this period executions were still mandated to sustain the safety and stability of society, but that society was expanding the concept of salvation and showing greater willingness to embrace the actual repentance and reformation of a criminal stood as early indications of the decline of the longstanding execution ritual.

### The Sermons of Benjamin Colman

In 1699 the Brattle Street Church nominated Benjamin Colman as the pastor of their congregation even though he had not been locally ordained. Colman was ordained first in England as a Presbyterian minister before embarking on his journey back on August 20, 1699. Accepting him was a step away from earlier Puritan forbearers who had fostered their own ministers, and their willingness to consider his many reforms also demonstrated the community movement away from complete adherence to earlier doctrines. Reforms introduced by Colman included the abandoning of the tests for saving grace, opening of communion to all, Scriptural reading without commentary, and public recitations of the Lord's Prayer.<sup>6</sup> Colman preached three execution sermons during the 1710s and 1720s in New England, and while much of the ideology and theology contained within were not radical shifts from earlier ministers, Colman's sermons serve as a good starting point in demonstrating the gradual process of the expansion of salvation and even secularization that characterized sermonizing for much of the eighteenth century.

Colman's first sermon, *The Hainous Nature of the Sin of Murder*, delivered at the execution of David Wallis in 1713, stands as a transition between the earlier period of execution preaching and those trends that would follow its delivery and publication. Harkening back to earlier sermons, murder was first declared to be punishable by civil magistrates because it violated God's law. However, in addition to this line of reasoning, Colman further secularized the nature of the crime of murder as well, declaring, "And as to *Humane Society*, the Sin of Murder strikes at the very *Being*, and all the *Comforts* hereof." Not only did the crime undermine society, but "It is a wrong to *Humane Nature* in the highest manner; and the mercy and *protection* of Humane Nature is utterly forfeited."<sup>7</sup> Dual justification for punishment was therefore being employed. Sin, and specifically murder, was an offense against God, but also served as an offense against civil society, forcing society, through civil magistrates, to amputate this sinful member to preserve the safety and stability of the whole.

While the increasingly dual justification of punishment, both divine and secular, may represent one slight departure from earlier preaching tradition, Colman's concentration on the possible salvation of Wallis further differentiated this particular sermon. The second half of the sermon demonstrated not only the theoretical chance at ultimate salvation, but allowed for the real potential of eternity in heaven. A reprobate with genuine and full repentance, Colman declared "then, and now do [I] promise you in the Presence, and in the Name of Christ, *My Great Lord and Master, our Common Saviour and Judge*, the free and full Remission of all your Sins, how many or great soever they have been."<sup>8</sup> While true and full repentance fell upon the particular sinner to obtain through the blood of Christ, the clear and unequivocal statement that not even the great

sin of murder would or could prevent passage to heaven stands as quite a different outlook than earlier ministers who had doubted any possibility of sincere penitence by criminals awaiting the gallows, although because of predestination had not completely ruled it out. Although not specifically used as a central theme in this particular sermon, many later sermons would employ the story of the penitent thief upon the cross being told that he had a place in heaven as proof that late repentance was indeed possible.

Building on the sermon delivered at the execution of David Wallis, Colman again commemorated the execution of an unnamed woman in 1715 with a sermon titled *The Divine Compassions Declar'd and Magnified*. This sermon was organized upon a theme of God's desire for the salvation of his people, rather than their damnation. It specifically declared "*That the Lord our GOD has given us the utmost Assurances, that He has no pleasure at all in the Death of Sinners, but on the contrary, that He earnestly desires their Repentance and Salvation.*"<sup>9</sup> This idea moves away from the Old Testament view of God as a vengeful and punishing figure, and more toward an image of a benevolent and forgiving God. God neither desired to remove humans from his restraining grace, nor found pleasure in their damnation. Instead, the opposite in both instances was true. While this statement by itself does not necessarily expand salvation beyond what was normally accepted, this changing conception of divine authority as more inclusive rather than exclusive gave the audience a greater possibility for ultimate salvation.

Moving to a more secular argument, and possibly a more hopeful one, Colman also declared that civil magistrates did not find pleasure in punishing offenders with death. Such measures, however, had to be undertaken in order to preserve the common good. Neither the government enacting the laws nor the judges charged with enforcing

them found pleasure in punishing criminals with the ultimate temporal punishment. However, “the Provision of the Law, and the Execution of it is Wise, Necessary, Good; and a tender Care for the Publick [*sic*]. It is to *prevent Transgression* that Death is made the Punishment.” Thus, neither God, nor civil government desired to condemn offenders in such a way, but divine law and civil society demanded this form of punishment. “The Terror of the Punishment strikes many with Horror at the Thought of the Fact,” and for this reason, the deterrence of crime, does capital punishment serve the common good.<sup>10</sup>

Employing a similar rhetoric of disease and cleansing, as had been a prevalent motif for earlier ministers, and specifically John Williams, Colman used these ideas in a slightly different fashion. Sin still stood as a disease, both for society and a particular individual, but this ailment could be readily remedied: “If your Wounds be not *Open’d* they will never be *Cleans’d*, and if they be not cleans’d they can never *heal*, but will *Gangreen [*sic*] and Rot.*” The blood of Christ served as the cure for the disease of sin; but Colman did not extend the metaphor to society as a whole, but kept it on an individual level. Without repentance and a full confession of sin, the individual’s soul would wither and die, leading to an eternity of Hell-fire. But God stood willing and ready to pardon iniquity with “Cleansing thro’ His Blood, [and] *He will with a great deal of pleasure give you of His Grace and Spirit, and prepare you for His Eternal Mercies!*”<sup>11</sup>

Benjamin Colman’s final execution sermon was delivered to commemorate the hanging of William Fly and his fellow pirates in 1726. Colman’s sermon, *It is a fearful thing to fall into the Hands of the Living God*, echoed the problems apparent in Cotton Mather’s sermon: Fly defiantly resisted fulfilling his role as the penitent malefactor. Colman addressed this issue more overtly than in his previous two sermons by declaring

the consequences for remaining unrepentant. “In temporal and outward punishments God often uses the Hands of *men*,” Colman preached, “and these must be light and small in comparison of his *own* wrath immediately impressed and inflicted upon a poor soul.”<sup>12</sup> The earlier arguments presented by Colman relating God as a merciful and benevolent king were also downplayed within this treatise.

Therefore, despite being delivered more than ten years after his first two sermons, *It is fearful to fall into the Hands of the Living God* stood more closely in many respects to the earlier period of execution preaching, or even the accompanying sermon delivered by Cotton Mather. Colman spent more than half of his sermon demonstrating what punishment awaited unrepentant sinners: “The living God passes this Sentence [eternal death], and he lives for ever to see it executing, through all the ages of Eternity.”<sup>13</sup> The unrelenting punishment of torment in Hell stood, however, as only one possible fate of sinners. In contrast Colman also preached that

there are the *merciful and saving Hands of the living God*, the saving hands of an *Ever-living Saviour* at the right hand of God; and into *these blessed hands* shall every humbled, broken, contrite, trembling, believing soul be taken at death. . . . for as it is a *fearful* thing to fall into the wrathful hands of the living God, so it is a *joyful* thing to fall into the merciful hands of a sin pardoning God.<sup>14</sup>

Mather in his sermon had only employed the former vision of the fearful consequences to those who remained unwise and unrepentant. While Colman concentrated the majority of his sermon on this same element, he still retained the real possibility of a bright and joyful future for those who stood as truly penitent.

In a sense, Colman’s wavering from his earlier two sermons to his last reflects the overall pattern of change during the period after 1713 and until the Revolution. There was no straight linear progress of change but rather more of a general movement toward

secularization and expansion of salvation. Each particular execution and surrounding circumstances provided its own unique set of challenges for the particular minister. The defiance of William Fly, although not specifically addressed by Colman, presented the need to utilize the rhetoric of fear of impenitence to encourage not only the repentance of the pirates awaiting execution, but the community at large. However, the merciful and saving hands of the living God were not totally left out of his sermon, only presented as an alternative future after temporal death.

### The Penitent Thief and Ultimate Salvation

The title, *A Broken Heart, Acceptable with God through Christ*, of Rhode Island minister Nathaniel Clap's 1715 execution sermon appeared to greatly expand the possibility of ultimate salvation, and the content of the sermon confirms this assumption. Clap used the story of David to demonstrate both the ability to repent sincerely, and also that salvation will accompany true penitence. "A Promise of Pardon is immediately proposed unto the repenting Sinner," Clap preached to both Jeremiah Meacham, the man being executed, and the congregation gathered to witness the spectacle.<sup>15</sup> However, in order to attain a broken, or truly penitent, heart, Clap proposed several elements that had to be present in the sinner's heart.

The first was an understanding that a broken heart was acceptable with God. Clap preached, "*There must by some ILLUMINATION of the Mind, where there is that brokenness of Heart that will be acceptable with God through Christ.*" This understanding and illumination must also be framed within the mind of the sinner

correctly, for only a completely broken heart was acceptable. Clap said, “If the mind be full of darkness, there may be some sort of brokenness of heart, but not which will be acceptable with God. . . . Light must break into their Souls, that they may see how things are in their Souls, before their hearts will be rightly broken.”<sup>16</sup> Not only must God’s law be understood as just and righteous, the sinful nature of humanity must also be acknowledged in order to begin the path toward true repentance.

Clap secondly proposed that “*There must be some CONVICTION upon the Conscience, where there is that brokenness of heart that will be acceptable with God through Christ.*” Building upon the understanding of sin and the sinners’ relationship with God, conviction allows the sinner to realize the folly of a life without a broken heart. Clap used the example of David who until he personally acknowledged the error of his ways could not be said to have had a broken heart. This conviction could not be attained without the individual will to accomplish it, and “thus while sinners consider of the evil in sin at a distance, without any application of the guilt of Sin to their own Souls, in their considerations, they will not have their sinful hearts rightly broken.”<sup>17</sup>

The next step Clap offered placed the necessary conviction as a burden upon the soul. He said, “*There must be a distressing AFFLICTION of Soul, . . . The Soul must be made so sensible of the burden of Sin, as to be affected, and grievously afflicted with that dreadful burden, before the heart is duly broken.*” Clap’s advised process of repentance increasingly brought sin into the personal realm and drew attention to the ubiquitous nature of sin not just within society generally, but within each individual. The personal process of affliction would vary for each person, for “some Sinners may have greater

terrors [*sic*], and of longer continuance than others,” but regardless, sin must be recognized as an individual affliction.<sup>18</sup>

Once the affliction of sin proved unbearable, the sinner then had to come before the Lord with humility. This “HUMILIATION . . . doth chiefly confit the essence of that brokenness of heart, that God will not despise,” which not only brings personal anguish, but submits the personal will to divine authority. As God abhors sin, so must the individual, and “Thence when Penitent Sinners come to have their hearts truly broken, they are so humble, that they can bear any wrongs, mischiefs, injuries, indignities from any of their Fellow-Creatures, because of their sins against God.”<sup>19</sup> No longer does the individual attempt to subvert divine will, but instead submits himself to the grace of God.

Not only must the individual sinner both understand and acknowledge his sinful nature, but also despise sin in the same way that God does. That meant that an “INDIGNATION toward Sin will be where there is that brokenness of heart that the Glorious God will accept.” All sin becomes hated by the penitent sinner, including that which resides within each individual resulting from the fall. The repentant sinner “will not be satisfied as long as he hath any remainders of In-dwelling Corruption: All sin hath bitterness in it, and therefore doth he hate all sin with a bitter, and a vehement, implacable, irreconcilable [*sic*] hatred.”<sup>20</sup> Toleration of sin of any kind or by anyone must be rejected and loathed for the heart to be properly broken.

The final conviction necessary to achieve a broken heart proposed by Clap was a continual resolution against sin. This “RESOLUTION . . . must purpose what is good, and perform what they purpose, if their hearts be so broken as they should be, in order for the Divine Acceptance.”<sup>21</sup> Not only must the heart understand and reject sin, but this process

also required a constant campaign against sin and a life consisting of submission to divine will and authority.

These six required steps, as Clap presented them, however, were still not enough for true repentance; a final element, “APPREHENSION *of the pardoning mercy of God in the Lord Jesus Christ,*” was also necessary. The individual sinner had to know that salvation could only be gained through the blood of Christ. After fulfilling the necessary steps – understanding, conviction, affliction, humiliation, indignation, and resolution – the sinner could attain a properly broken heart acceptable with God, but salvation could only be with this heart through Christ. Jesus stood as the ultimate sacrifice upon the cross for the sins of humanity, and his blood provided the possibility of salvation. Clap told his audience that “when we try to offer broken hearts for sacrifices unto God, we must look for acceptance of them thro’ Jesus Christ.”<sup>22</sup> Although this process toward salvation may appear arduous and demanding, Clap clearly opened the possibility of salvation to all willing to fulfill the requirements. Especially for those awaiting execution, the path may have been difficult, but the blood of Christ allowed for any of God’s children to attain ultimate salvation.

Also utilizing the story of David as an example for his sermon, John Webb preached *The Greatness of Sin improv’d by the Penitent as an Argument with GOD for a Pardon* at the execution of John Ormesby and Matthew Cushing in 1734. While Webb did not outline the necessary steps needed to be taken to achieve salvation, as Clap had done, he did argue that salvation was possible, and even probable for those who were truly penitent. Webb said that “you may be enabled by divine Assistance, to make this Prayer to God in your last Moments, with that Understanding, Faith and Fervency, which

will secure your eternal Salvation.”<sup>23</sup> Like Clap, Webb also articulated that the only path to salvation was through the blood of Christ, even with a penitent heart.

Instead of steps toward salvation, Webb provided a confession that he believed would secure the grace of God. God, the “Physician of perishing Souls,” could be moved to mercy by a sincere and penitent confession, such as

I have abused thy Grace and Patience towards me, as much as ever any wretched Creature has done; . . . And unless I obtain pardoning Mercy from thee, my Condemnation, at the Day of Judgment, and my miserable Portion in Hell, will for ever be more intolerable than *that* of the Sinners of *Sodom* and *Gomorrah*.<sup>24</sup>

Such humility and reliance on the pardoning mercy of God, Webb declared, would have the most promise in achieving salvation from God. Webb further provided another confession magnifying the greatness of the pardoning of sin by God for the worst transgressors: “Yea, the greater their Transgressions have been, the brighter Display hath thou made of thy free and sovereign Grace in the Forgiveness of them.”<sup>25</sup> The greater the sin of a particular offender, the greater the mercy of God appears when pardoning them of all their transgressions.

Webb declared a truly humble, penitent confession to be the most effective at securing divine approval, and the likelihood of success was quite high. A broken and penitent heart “may reasonably expect the restraining, the sanctifying, and the comforting Influences of God’s holy Spirit while you live, and hope for eternal Life in the World to come.” Even the worst sinners may not be doomed to damnation if they so willingly and openly repented their sins. For, “if you have now a broken and contrite Heart in you, I can assure you from the holy Scriptures, that God now invites, intreats [*sic*], and commands you to come unto him for eternal Life and Salvation.”<sup>26</sup> While the power and

ability of God to provide salvation to even the worst sinners had never been completely denied in earlier execution preaching, Webb's clear and obvious inclusion of not only possible, but definite salvation for penitent individuals reflects the moving away from a limited understanding of ultimate salvation to a more inclusive sense of ultimate reward.

The 1768 execution of a slave, Arthur, like that of William Fly and his pirate compatriots, also warranted two sermons to commemorate the event. Likewise the two sermons also fulfilled different roles in terms of their rhetoric and message to the congregation. The first sermon, *The Power and Grace of Christ display'd to a dying Malefactor*, preached by Thaddeus MacCarty, concentrated on the possibility of salvation for even the worst transgressors. The second sermon, delivered three days after the execution, Aaron Hutchinson's *Iniquity purged by Mercy and Truth*, instead echoed the older preaching style, and that of Cotton Mather at Fly's execution yet Hutchinson also still maintained the possibility of salvation for sinners. Together these two sermons delivered in response to the execution of Arthur attempted to balance the merciful and benevolent aspects of God, while still inspiring fear toward His power and judgment.

As the hanging of William Fly and the other pirates in 1726 served as a unique situation, so too did the execution of Arthur in 1768. Arthur was convicted of rape, which like piracy, was a capital crime, but it was also, like piracy, not a crime identified as capital in the Bible. Hutchinson therefore had to tread a fine line between religious and secular sources of justification in his rhetoric. He began by declaring that "Man's apostacy is God's opportunity to declare his glory, and shew the exceeding riches of wisdom and grace."<sup>27</sup> John Webb, for comparison, had argued in his sermon that the sins of man allowed for God to demonstrate His unending mercy.

Hutchinson also continued to accentuate God's mercy and righteousness in reference to the covenant with Abraham and his posterity. For this "new covenant promises of pardon of sin, of grace and glory, are from mercy; and all these words of grace are forever settled in heaven, and God hath magnified his word above all his name, making it a special point of his divine honour, to be as good as his word." However, despite this covenant, declaring the grace and mercy of God, Hutchinson warned against misconstruing the promise of God as free reign to sin and still be included in his kingdom. Mercy and truth were qualities that God possesses, but "secure sinners that presume because God is merciful, they shall not be damned; do trust to mercy in direct contradiction to truth."<sup>28</sup> Hutchinson was then balancing the message of God; on one hand mercy was promised to any penitent sinner, but those that assumed God's vengeance would not be brought down on them simply because of His mercy were sadly mistaken.

The mercy of God was not universally extended to those who remained impenitent, but instead those individuals remained set on a path of damnation. "Iniquity purged, by purging the sinner out of the world," preached Hutchinson, referring specifically to Arthur, but more generally to those sinners who served to undermine the purity and righteousness of society as a whole.<sup>29</sup> Although this statement used different language, the idea mirrored earlier statements calling for a reprobate to be amputated to prevent the spread of his disease to the social body. Hutchinson, however, did not close the possibility of the salvation of Arthur, even with the life of sin he had led. His salvation depended upon whether or not true repentance could be found. Hutchinson

preached that it was four weeks before the scheduled date of execution at the time Arthur began to show signs of penitence,

After which he read his bible, and much pains was taken with him, to what purpose God only knows; to me his repentance seemed not equal to the enormous wickedness of his life; and there is reason to fear, that one who had been so arch and hypocritical in his wickedness, might not be without some degree of diffimulation in his repentance.<sup>30</sup>

Although Hutchinson doubted whether or not sincere repentance had in fact been achieved at the time of death, such knowledge only could truly be known by Arthur and God and thus would be sorted out in the afterlife. Hutchinson could only speculate, but if true repentance had indeed been achieved, “he will praise and magnify his name forevermore, for great mercy towards him, in delivering his soul from the lowest hell; and in timely softening his heart by omnipotent grace, as that of the penitent thief upon the cross.”<sup>31</sup> Hutchinson may have not believed in the likely salvation of Arthur, but unlike earlier ministers, this conclusion was based on actual observance of Arthur’s path to repentance, and thus an observation specifically applied to this offender, not all heinous reprobates.

In comparison to Hutchinson’s rhetoric, Thaddeus MacCarty more fully embraced the benevolent and merciful elements of God as he referred to the penitent thief upon the cross having been given passage to eternal life by Christ. MacCarty recounted the story from the gospel of Luke. The two other criminals being crucified alongside Jesus had both come to Golgotha hard and impenitent, “but one of them at the eleventh hour was wrought upon by the power of divine grace – as appears from what he said to his companion in iniquity and in suffering.” Not only does this story lay credence to the claim that late repentance is possible, but Christ telling the criminal that a place in His

kingdom had been gained provided evidence that a penitent sinner would be saved:

“Verily I fay unto thee, this day fhalt thou be with me in paradife.”<sup>32</sup>

Like Hutchinson, MacCarty also warned against a life of sin, even though the case of the penitent thief implied that even late repentance was acceptable with God. As those who were “habitually allowing themselves in any one known fin, prefuming upon it, that all will be well with them at laft, they run a desperate venture, they are in the most imminent [*sic*] danger of perishing eternally.”<sup>33</sup> The time and place of death could not be known, and therefore a last moment confession, even a truly contrite one, may not be possible. In that case damnation stood as the likely fate. MacCarty implored his audience to use the event of an execution as a reminder to reject sin, and live righteous and penitent lives, thus securing a place in God’s kingdom.

Turning to Arthur, MacCarty drew encouragement, much more than Hutchinson had, in the possible repentance of this reprobate upon the gallows. A year had passed between conviction and execution, ample time to prepare the heart for contrition and remake it into a properly broken heart. MacCarty argued that “though the circumstances of this dying malefactor were different from those of gospel-impenitents now, . . . impenitent finners, even at the laft, are not wholly excluded from hope.” Sincerity of repentance could not be known, but Arthur stood as good a chance as the criminal being hanged next to Jesus to achieve ultimate salvation. And “if you are, as was the poor malefactor who suffered with our Saviour, a true believer in him, a sincere penitent . . . immediately upon . . . leaving the body, [you shall] go to be with Christ in the paradife above.”<sup>34</sup> MacCarty could not know Arthur’s ultimate fate for certain, but he could offer assurance that a penitent heart would find salvation through the blood of Christ.

What can be seen from this selection of sermons is that there was a clear expansion of the possibility of salvation, not only for the individual reprobate upon the gallows, but for the community as well. A true repentant heart could be achieved through Nathaniel Clap's stages of repentance or John Webb's confession, but what was certain was that salvation through the blood of Christ would be the ultimate reward for the penitent sinner. While this expansion of salvation stood as one of the most important theological changes during this period of execution preaching, secular ideological shifts during the same period also served as an important transition from sermons by earlier ministers such as Increase Mather, Cotton Mather, and John Williams, to those delivered during and after the American Revolution.

#### The Secularization of Execution Preaching

The secularization that began to characterize many of the execution sermons between 1713 and 1777 can be attributed to several causes, and had several impacts. The pluralism of New England religion over the course of the eighteenth century, the changing nature of eighteenth-century communities that ministers addressed, and the increasing secular nature of the society itself, indicated in part by the prosecution of property crimes, all contributed to the changes in execution sermons. Such changes were necessary in order for those sermons to maintain a level of meaning for the audience and the reprobate upon the gallows. The secularization also, in turn, helped lay a foundation for the republican elements that would enter into the execution preaching discourse beginning with the American Revolution. Secularizing both the sermon and ritual also

downplayed many of the traditional religious strictures that discouraged not only the possibility of temporal reformation, but also propped up the public execution ritual.<sup>35</sup>

The secularization of a religious ceremony is a difficult process to convey, but three examples of sermons that employed newly secular elements should suffice to demonstrate the process. While not the first sermon to contain secular elements, Thomas Foxcroft's *Lessons of Caution to Young Sinners* stands as a good example. The quotation beginning this chapter comes from the sermon and reflects the growing religious pluralism of New England. In the sermon's preface Foxcroft articulated several interesting particulars of the case at hand, the execution of Rebekah Chamblit. First, "of the many Malefactors which have suffer'd Death among us within the Space of *Sixteen Years* past, not above one of them was born in this Country," at least until Chamblit.<sup>36</sup> The community aspect of the execution ritual had therefore previously been undermined by the presence of an outsider upon the gallows because, even if penitent, this person could not be readily observed as a true warning as he had no relationship between himself and the community.

In the preface Foxcroft also described the judicial process and the ministering given to Chamblit in order to justify her temporal and spiritual treatment. In reference to the statute under which Chamblit was convicted, Foxcroft provided the entirety of the act with specific condemnation of infanticide. In part it states that,

Be it therefore Enacted by the Lieutenant Governour, Council and Representatives, Convened in General Assembly, and by the Authority of the same, That if any Woman be Delivered of any Issue of her Body, Male or Female, which if it were born Alive, should be Law be a Bastard; and that she endeavor privately, either by Drowning or secret Burying thereof . . . shall suffer Death, as in case of Murder.<sup>37</sup>

Not just the inclusion of this secular act is intriguing, but also the act itself. The authority used to justify the passage of this act was declared to be the secular governmental officials, not the Bible or other divine mandates. Foxcroft also declared that “It may be there is no Place in the World, where such Pains are taken with condemn’d Criminals to prepare them for their Death.”<sup>38</sup> Ministers instructed the reprobate in prayer and divine law, giving the condemned at least a month, according to Foxcroft, to prepare for her death. This ministry not only reflected the relationship between the religious and secular realms of authority, but also the expansion of the possibility of salvation discussed earlier, as there was true belief in the potential for even an offender like Rebekah Chamblit to be saved.

Much of Foxcroft’s sermon fell in line with the others previously discussed in this chapter. It called for repentance before the public execution, appealed for a return to virtue, and outlined sins to avoid, but one of the sins in particular demonstrates the secularization not only of the community being addressed, but the sermon. Foxcroft declared, “the Love of Money is the *Root of all Evil*: ‘tis an *evil Disease*, that has slain its Thousands.”<sup>39</sup> Even more interesting regarding this comment about money is that Rebekah Chamblit was not being executed for a property crime of any sort; she had been convicted of infanticide. Foxcroft asked of his audience, “How many have by Greediness after Gain, been tempted to dishonest Practices, to vicious Gaming, to Robbery, to Piracy, or the like.”<sup>40</sup> While stealing was specifically against one of the Ten Commandments, Foxcroft’s implication of worldly lusts not only being the ultimate crimes committed by individuals, but ones that could lead to even worse offenses, such as murder in

Chamblit's case, demonstrated the necessity of addressing this problem within the community.

Another example of a more secularized treatment, although in a highly religious context, of the crime of murder came in liberal minister Charles Chauncy's sermon, *The horrid Nature, and enormous Guilt of MURDER*, delivered for the execution of William Wier in 1754. Chauncy began with an examination of the justified types of killing, including self-defense, war, and capital punishment. He declared capital punishment by the hands of the civil magistrates to be "but an act of *publick* [*sic*] *Service*, necessary for the *well-being of Society*; which could not subsist, if wicked and violent Men should be suffered with Impunity, to invade the Rights of others."<sup>41</sup> Capital punishment, therefore, did not fall under the category of unjustified murder because it served the common good of society and prevented the reprobate from violating the rights of others.

Chauncy argued that murder was so abhorrent that it violated both the laws of God and man. The laws of God had long been used to condemn the crime of murder, but Chauncy also implied that murder strikes at the very core of secular humanity as well, as "all civilized Nations have, as one, united in ranking *Murder* among the most *enormous Crimes*, and guarding against it by enacting *Laws* with the Sanction of *Death*." While Chauncy did not specifically qualify civilization with Christianity, it could likely be implied, but he went even further, saying, "we know indeed of no People, however rude and uncultivated, in other Respects, but have entertained a kind of *Horror* at the Sin of *Murder*; judging it worthy of some remarkable Punishment."<sup>42</sup> So, even non-Christians with their "rude and uncultivated" societies deemed murder to be a heinous crime against

humanity. Thus, even though divine authority clearly was used by Chauncy and others to justify the punishment of murder, secular justification was present as well.

As Foxcroft had done earlier for Chamblit, Chauncy also brought up the trial by which Wieer had been sentenced to die. Chauncy preached that “he has had a fair Trial comfortably to the *Law* of the Land; and as, upon a full hearing of his Cafe, it very evidently appeared, that he had *murderously shed Man’s Blood*, it is right and fit, that *by Man his Blood should be shed*.”<sup>43</sup> This dual utilization of secular justification on one hand, a fair trial, and religious justification on the other – he who sheds man’s blood, his blood shall be shed, exhibits the secularization of execution preaching – but also the persistence of religion. The execution ritual would never lose its religious elements, even into the 1830s, but the expansion of acceptable rhetoric within execution sermonizing opened up the discourse to new and more liberal conceptions of human nature and the criminal justice system.

A final example of a more secular style of execution preaching was delivered in Poughkeepsie, New York, in 1758 by Chauncy Graham. Graham’s sermon, *GOD will trouble the Troublers of his People*, showed one of the strongest examples of secular execution preaching during the pre-Revolution period both in its justification for capital punishment, and also the role of the state in enforcing laws upon its citizens. Graham understood the social compact to be quite secular in nature, saying,

Every Body Politic, whether Kingdom, Province, Colony or Corporation, has an Interest of its own, in which all its Members are included, and hence it becomes both the Duty and Interest of every Member, in their Conduct, to pursue the Good of the Whole; and where these come in Competition, to prefer the public Weal to their own private Interest; nor can they honestly prosecute their own Profit, but in this beautiful and becoming Subordination.<sup>44</sup>

Although religion played a role in Graham's conception of the social compact, this understanding was a far cry from the social covenant that Massachusetts had been organized around. While New York had a very different history, Graham's embrace of a secular society is quite striking.

As Foxcroft had seen money as the root of all evil, Graham also addressed money in relation to crime and society. Graham condemned counterfeiters, declaring their actions as serving to undermine the economic interests of the state, for "no civil State can subsist or flourish without Trade and Commerce, and that this can never be maintained without some fix'd and proper Medium." Graham called counterfeiting a shameful act, destroying the legitimacy of trade, and robbery and piracy also were included as affecting the ability to sustain commerce. Together these types of property crimes and criminals "ruin the public Interest, and thereby render themselves Troublers of God's People."<sup>45</sup> Instead of religious crimes that served to corrupt the morals of society, Graham identified property crimes as the source of trouble for God's people.

Graham found trust in the civil magistrates to punish the troublers of God's people. He declared that by protecting social safety and stability, the government's actions became divinely approved, "When wicked Men by their Crimes, become insupportable to the State, it is a Piece of public Service done to Mankind, for the civil Authority, to cut them off; hereby they become Ministers of God for the People's Good."<sup>46</sup> Rather than by using divine law to justify state action against sinners, according to Graham, the state, by securing the common good, fulfilled God's will and therefore was justified and righteous in its actions.

While punishment had to be swift and severe, Graham also removed the universal requirement to cut off sinners from the social body. Diseased members needed to be cut off, but not all sinners were unable to be healed, and “all fuitable Care and Pains fhould be taken by the civil Magiftracy to reform Offenders, and to fpare all that are likely to be reformed, and become wholefome Members of Society.”<sup>47</sup> Graham’s understanding of temporal reformation was in many ways unique within execution preaching. Although sincere reformation was not denied during this period, Graham and others believed that this reformation only served to secure the avoidance of a second spiritual death, not a temporal death. While Graham did feel that those members of the social body that proved to be gangrened and were unable to be reformed should be amputated, a line of rhetoric that stretched back to Samuel Danforth in 1674, Graham also supported the idea that reformation could also secure temporal life, as well as spiritual life.

Secularization of execution preaching, like the expansion of salvation, was not applied in a linear or progressive fashion, but as evidenced by these select examples, a growing consensus was building that created a greater level of distinction between the secular and the religious spheres that had not existed earlier in execution preaching. Graham’s belief in the reformation of offenders especially demonstrated this change, and the embrace of this belief became one of the central philosophies of Benjamin Rush (to be discussed in the next chapter), who stood as one of the early American criminal justice reform pioneers.

## Conclusion

By the American Revolution in 1776 several aspects of execution sermons had clearly changed. While religion remained a constant presence in execution discourse, secularization became more prevalent in the justification for law and the punishment of offenders. In addition the concept of salvation was expanded far beyond what had been accepted during the seventeenth century, to include not only moral members of the community, but penitent sinners and even the reprobate upon the gallows. Finally, the shift from a focus on community through the execution ritual to the individual allowed for the ideological possibility not only of ultimate salvation, but temporal reformation. This argument had been presented by Chauncy Graham in his sermon, and although the embrace of temporal reformation, meaning opposition to capital punishment and an embrace of the penitentiary, would not come until the 1790s, the development before the revolution opened up the possibility for the abandonment of death as a form of punishment, that is if a system of reformation could be attained that focused on the spiritual reformation and salvation of the offender.

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<sup>1</sup> Thomas Foxcroft, *Lessons of Caution to Young Sinners* (Boston: S. Kneeland and T. Green, 1733), 30.

<sup>2</sup> For Edward's defense of original sin see, Jonathan Edwards, *The Great Christian Doctrine of Original Sin defended* (Boston: S. Kneeland, 1758). The challenge to the doctrine of original sin will not be specifically examined here, but for more on this theological debate see H. Sheldon Smith, *Changing Conceptions of Original Sin* (New York: Charles Scribner's Sons, 1955).

<sup>3</sup> For examples of discussions of the rise of individualism see Ruth W. Grant, "Locke's Political Anthropology and Lockean Individualism," *Journal of Politics* 50, no. 1 (Feb. 1988): 42-63; Maurice Cranston, "Locke and Liberty," *The Wilson Quarterly* 10, no. 5 (Winter 1986): 82-93; Robert Robertson, "Individualism, Societalism, Worldliness, Universalism: Thematizing Theoretical Sociology of Religion," *Sociological Analysis* 38, no. 4 (Winter 1977): 281-308. On a different reading of American individualism see C. Eric Mount Jr., "American Individualism Reconsidered," *Review of Religious Research* 22, no. 4 (June 1981): 362-76.

<sup>4</sup> Scott D. Seay, *Hanging Between Heaven and Earth*, 28.

<sup>5</sup> Murder always stood as the crime most likely to warrant an execution sermon. Even during the early period of sermons, only two cases were obvious violations of religious crimes: Benjamin Goad in

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1674 committed bestiality and Sarah Smith in 1699 committed adultery and also infanticide. During the eighteenth century there were other infanticide cases, but these cannot be necessarily classified as religious crimes. Property crimes represented an increasing number of executions for which a sermon was also delivered. Several sermons addressed piracy, including Cotton Mather's *Faithful Warnings to prevent Fearful Judgments* (Boston: Timothy Green, 1704) and Benjamin Colman's *It is a fearful thing to fall into the Hands of the Living God* (Boston: John Phillips and Thomas Hancock, 1726), the latter to be discussed further in this chapter. Burglary executions represented an even greater number of sermons including John Campbell, *After Souls by Death are separated from their Bodies, they come to Judgment* (Boston: S. Kneeland and T. Green, 1738), Noah Hobart, *Excessive Wickedness, the Way to an untimely Death* (New Haven: Thomas and Samuel Fleet, 1768), Thaddeus MacCarty, *The most heinous Sinners capable of the saving Blessings of the Gospel* (Boston: Kneeland and Adams, 1770), and Samuel Mather, *Christ sent to Heal the Broken Hearted* (Boston: E. Russell, 1773). Rape was also the cause of two executions during the eighteenth century, the first by a slave named Arthur and the other by a Bryan Sheehen. Rape is not actually a Biblically sanctioned capital crime, but had been a capital crime in Massachusetts since 1648 with the passage of the *Laws and Liberties of Massachusetts*. See *The Laws and Liberties of Massachusetts* in Donald S. Lutz, ed., *Colonial Origins of the American Constitution* (Indianapolis: Liberty Fund, 1998), 103.

<sup>6</sup> See Harry S. Stout, 131, E. Brooks Holifield, 80-1, Christopher R. Reaske, ed., Ebenezer Turell, *The Life and Character of the Reverend Benjamin Colman, D.D.* (Scholars' Facsimiles & Reprints, Delmar, New York, 1972), ix-x. For an examination of Colman's over ninety works see Theodore Hornberger, "Benjamin Colman and the Enlightenment," *The New England Quarterly* 12, no. 2 (June 1939): 227-40. On the theological foundation of the Brattle Street Church see David A. Weir, *Early New England: A Covenanted Society* (Grand Rapids: William B. Eerdmans Publishing Company, 2005), 214-8.

<sup>7</sup> Benjamin Colman, *The Hainous Nature of the Sin of Murder* (Boston: John Allen, 1713), 9, 10. For a brief further discussion of this sermon see Daniel A. Cohen, *Pillars of Salt, Monuments of Grace*, 104-5; and Scott D. Seay, *Hanging Between Heaven and Earth*, 115-6.

<sup>8</sup> Colman, *The Hainous Nature of Sin*, 21.

<sup>9</sup> Benjamin Colman, *The Divine Compassions Declar'd and Magnified* (Boston: T. Fleet and T. Crump, 1715), 6. Colman later preached that it was in fact Satan that found pleasure and desired sinners ultimate damnation: "He defires thy Damnation: he feeks thy Death. You grieve and offend GOD, and Murder your self, to gratify his Spleen; to satisfy his Luft againft thy Soul," 33.

<sup>10</sup> *Ibid.*, 25, 26.

<sup>11</sup> *Ibid.*, 46-7.

<sup>12</sup> Benjamin Colman, *It is a fearful thing to fall into the Hands of the Living God* (Boston: John Phillips and Thomas Hancock, 1726), 7. See also Daniel E. Williams, "Puritans and Pirates: A Confrontation between Cotton Mather and William Fly in 1726," 233-51.

<sup>13</sup> Colman, *It is a fearful thing*, 12.

<sup>14</sup> *Ibid.*, 24.

<sup>15</sup> Nathaniel Clap, *A Broken Heart, Acceptable with God through Christ* (Boston: J. Allen, 1715), 3. Clap also preached another execution sermon in this same year, *The Lord's Voice Crying to His People: in some Extraordinary Dispensations Considered in a Sermon* (Boston: B. Green, 1715). For a secondary source discussion of this other Clap sermon see Daniel E. Williams, "'Behold a Tragic Scene Strangely Changed into a Theatre of Mercy': The Structure and Significance of Criminal Conversion Narratives in Early New England," *American Quarterly* 38, no. 5 (Winter 1986): 827-47. On the topic of salvation and preaching in the earlier seventeenth-century see Phyllis M. Jones, "Puritan's Progress: The Story of the Soul's Salvation in the Early New England Sermon," *Early American Literature* 15, no. 1 (Spring 1980): 14-28.

<sup>16</sup> Clap, *A Broken Heart*, 9, 10-11. Clap argued a similar sentiment in *The Lord's Voice*, "Oh! Let us all fhow our felves to be the Children of Wifdom, in hearkening to this cry the Voice of the Lord our God . . . let all Repent, that fo none may perifh," 64.

<sup>17</sup> Clap, *A Broken Heart*, 12, 13.

<sup>18</sup> *Ibid.*, 15, 18. Meacham's afflictions may have been more than just sin, he may have also had mental difficulties; for a brief relation of Clap's sermon and Meacham's mental problems see Karen Halttunen, *Murder Most Foul*, 208-9.

<sup>19</sup> Clap, *A Broken Heart*, 21, 23.

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- <sup>20</sup> Ibid., 24, 25.
- <sup>21</sup> Ibid., 26.
- <sup>22</sup> Ibid., 27, 30.
- <sup>23</sup> John Webb, *The Greatness of Sin improv'd by the Penitent as an Argument with GOD for a Pardon* (Boston: S. Kneeland and T. Green, 1734), 3.
- <sup>24</sup> Ibid., 17.
- <sup>25</sup> Ibid., 19.
- <sup>26</sup> Ibid., 24, 27-8. Relating Webb to the increased call for conversion over covenant renewal, see Harry S. Stout, *The New England Soul*, 180-1.
- <sup>27</sup> Aaron Hutchinson, *Iniquity purged by Mercy and Truth* (Boston: Thomas and John Fleet, 1769), 3. Four years earlier another slave, Bristol, was also executed, and while race was not overtly mentioned in either Hutchinson's or MacCarty's sermons, Sylvanus Conant remarked numerous times on matters of race. For example, Conant preached, "You are not to imagine, that you are treated with any greater Severity meerly because you are a black Boy, and bro't from your native Country among us, for you are not," in Sylvanus Conant, *The Blood of Abel, and the Blood of Jesus considered and improved* (Boston: Edes and Gill, 1764), 20.
- <sup>28</sup> Hutchinson, *Iniquity purged by Mercy and Truth*, 6, 7.
- <sup>29</sup> Ibid., 18.
- <sup>30</sup> Ibid., 20.
- <sup>31</sup> Ibid., 23-4.
- <sup>32</sup> Thaddeus MacCarty, *The Power and Grace of Christ display'd to a dying Malefactor* (Boston: Kneeland and Adams, 1768), 8, 13. MacCarty also preached two other execution sermons later, *The most heinous Sinners capable of the saving Blessings of the Gospel* (Boston: Kneeland and Adams, 1770); and *The Guilt of Innocent Blood* (Worcester: Isaiah Thomas, 1778). The story of the penitent thief upon the cross also was the focus of several other execution sermons including William Shurtleff's *The Faith and Prayer of a dying Malefactor* (Boston: J. Draper, 1740); and Ephraim Clark's *Sovereign Grace Displayed in the Conversion and Salvation of a Penitent Sinner* (Boston: John Boyles, 1773).
- <sup>33</sup> MacCarty, *The Power of Christ*, 18.
- <sup>34</sup> Ibid., 19, 20-1.
- <sup>35</sup> On the decline of the enforcement of moral law by the eighteenth century, see David H. Flaherty, "Law and the Enforcement of Morals in Early America," 169-77, in Eric H. Monkkonen, *Crime and Justice in American History* (Westport: Meckler, 1990).
- <sup>36</sup> Foxcroft, *Lessons of Caution to Young Sinners*, i. For a discussion linking Foxcroft's sermon to other execution sermons specifically addressed to the youth of New England, see Ronald A. Bosco, "Lectures at the Pillory: The Early American Execution Sermon," *American Quarterly* 30, no. 2 (Summer 1978): 171-2.
- <sup>37</sup> Foxcroft, *Lessons of Caution to Young Sinners*, untitled first page. The Bastard Neonaticide Act was passed in the Massachusetts law code of 1696, and Chamblit was the last woman convicted in Massachusetts under this act, possibly explaining why Foxcroft felt inclined to include it in his sermon, in Laura Henigman, *Coming into Communion*, 57-61.
- <sup>38</sup> Foxcroft, *Lessons of Caution to Young Sinners*, untitled first page. Foxcroft had to toe a fine line between sensationalizing Chamblit's actions and relating to the audience how best to act in a moral way. As a result Foxcroft only alluded to Chamblit's crime without harping on the details, in Karen Halttunen, *Murder Most Foul*, 16-7.
- <sup>39</sup> Foxcroft, *Lessons of Caution to Young Sinners*, 41. This statement does have Biblical origin from 1 Timothy 6:10, "For the love of money is the root of all evils, and some people in their desire for it have strayed from the faith and have pierced themselves with many pains." However, this root cause of crime and sin was not used earlier in execution preaching, and Foxcroft also placed the passage in a secular context.
- <sup>40</sup> Foxcroft, *Lessons of Caution to Young Sinners*. The last piracy execution for which a sermon was delivered was William Fly and the other pirates in 1726, however, burglary continued to represent a large number of executions, only passed by murder for those executions commemorated with a sermon.
- <sup>41</sup> Charles Chauncy, *The horrid Nature, and enormous Guilt of MURDER* (Boston: Thomas Fleet, 1754), 8. On Chauncy's theology specifically concerning the idea of cruelty and his opposition to the Great Awakening see Ava Chamberlain, "The Theology of Cruelty: A New Look at the Rise of Arminianism in

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Eighteenth-Century New England,” *The Harvard Theological Review* 85, no. 3 (July 1992): 344-8. For a brief treatment of Chauncy’s theology see Norman B. Gibbs and Lee W. Gibbs, “Charles Chauncy: A Theology in Two Portraits,” *The Harvard Theological Review* 83, no. 3 (July 1990): 259-70.

<sup>42</sup> Chauncy, *The horrid Nature*, 12.

<sup>43</sup> *Ibid.*, 18.

<sup>44</sup> Chauncy Graham, *GOD will trouble the Troublers of his People* (New York: H. Gaine, 1759),

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<sup>45</sup> *Ibid.*, 7. For an interesting discussion of the punishment of forgery in England during this same time period, see Randall McGowen, “From Pillory to Gallows: The Punishment of Forgery in the Age of the Financial Revolution,” *Past & Present*, no. 165 (Nov. 1999): 107-40. On the later debate over forgery in England during the early nineteenth-century see Phil Handler, “Forgery and the End of the ‘Bloody Code’ in Early Nineteenth-Century England,” *The Historical Journal* 48, no. 3 (2005): 683-702.

<sup>46</sup> Graham, *GOD will trouble the Troublers of his People*, 12.

<sup>47</sup> *Ibid.*, 13.

## Chapter III

### Revolutionary Preaching and Secular Execution Sermons

Human laws, consider crimes in a political view; and the scale by which the evil of them is measured and determined, is their tendency to destroy the public good, of the safety and happiness of society. If, therefore, there are crimes, the prevalence of which will certainly destroy the safety and security, and even the being of society; and at the same time, men are not deterred or restrained from practicing them by any other method, it is lawful for the magistrate to put them to death.<sup>1</sup>

Noah Hobart preached these words in 1768 and with them foreshadowed the execution preaching style that became prevalent after the American Revolution in New England. The justification for the punishment of crimes was the preservation of the public good and the happiness of society. While religion and divine authority never disappeared from sermons, which is to be expected as they were intended to be religious treatises, the process of secularization that had begun after 1713 culminated in a very secular style of preaching. In addition to the secular preaching, the execution ritual began to show outward signs of strain, and civil reformers inspired by the atmosphere of change within the country tapped into these rhetorical shifts to propose possibly ending the ritual altogether. The reason for this change, however, was not simply a response to the Revolution, although it played a major role, but also the religious pluralism of the eighteenth century. In New England this resulted in a dramatic shift to secularized preaching to accommodate the changing audience who came to witness the public spectacle and instill in them a renewed sense of virtue.

The concept of the spectacle itself also stood at the heart of the changes manifested in post-Revolution sermons. Up until the Revolution there had been no real challenge to the public execution ritual, and although sermons only rarely challenged the ritual (and will be discussed in chapter four), not until the post-Revolution period could such a challenge find ground upon which to stand. The common good of the community had always been a central element of the execution ritual, and until 1713 the common good was best served by reinstating traditional moral standards on the social body as a whole through the execution itself and the sermon presented to the congregation. Then, between 1713 and the Revolution, the public ritual still served the common good, but the focus had shifted from the community to the individual, manifested through the ideal role of the condemned as the symbolic penitent thief. Finally, during the early national period, the common good could still theoretically be served by displaying an execution, but the meaning attached to this ritual radically altered. Neither focused on the community, nor the individual, the ritual now served to strengthen the legitimacy of governmental authority while still attempting to use the longstanding religious ritual.

Reformers, beginning in the 1790s with Pennsylvanian Benjamin Rush, tapped into the changing rhetoric contained within execution sermons to argue for the elimination of this corrupting spectacle. Republicanism, secular justification of justice, and a new understanding of the common good of punishment all fueled this challenge to the longstanding public execution ritual. As a literary form the execution sermon stopped being preached in New England by 1825 and the end of public executions followed soon after, but overwhelmingly preachers in this last period of execution sermon preaching

still attempted to maintain the ritual and use its display as a source of deterrence to the hundreds or thousands of spectators witnessing the event.

### Republicanism and Execution Preaching

Maintenance of state security and common safety had long been incorporated to some degree within execution preaching, so at first the greatly increased reliance on this line of justification may not seem like a radical shift in rhetoric, but with the religious elements of public execution being downplayed in favor of these more secular arguments, the definitive shift from a widely accepted and useful ritual to an increasingly unwanted and corruptive spectacle was established. Although the vast majority of preachers in this last period still believed in the utility of the longstanding execution ritual, the move toward more republican inspired justifications became an important tool employed by reformers outside of the religious establishment to attack the use of public executions, and in certain instances, even capital punishment itself.

Nathan Strong preached the first execution sermon after the start of the American Revolution, and he exemplified the more secular and republican style of preaching. The sermon was delivered at the execution of Moses Dunbar for high treason in 1777. Strong delivered this sermon during the War for Independence, a time in which people were very concerned about securing the state, and he emphasized both the actions of the state and the security of its inhabitants as justifications for Dunbar's execution. The state, in this case Connecticut, was establishing its legitimacy to enforce punishments upon its citizens. Strong's sermon confirmed the right of the state to punish and articulated the

unacceptable nature of Dunbar's crime, removing any uncertainty from the state's actions.<sup>2</sup>

Strong from the outset identified deterrence as one of the primary goals of punishing crimes in a public setting. Although Strong derived the basis for this argument from the Bible, and specifically Timothy 1:20, "*Them that fin rebuke before all, that others alfo may fear,*," the strictly religious nature of this command was extended into the secular sphere as well. Strong declared that "THIS sacred precept [deterrence], though written originally to direct the church in its proceedings againft offenders, may be applied with equal propriety to civil government."<sup>3</sup> Strong extended the idea of deterrence simply from urging spectators to avoid similar sins as those of the reprobate on display, to touting obedience to the state's laws, which by this time did not totally reflect God's laws.

Throughout his sermon, Strong elaborated on the purposes of public punishment, as the title of his sermon would suggest, and while religious elements of justification still remained prevalent, the clear republican tone of much of the argument could be seen in several instances. As earlier preachers had only needed to display the justness of God's law because the laws of the state were so much in line with divine precepts, later sermons, and especially after the Revolution, had to justify the secular laws of the state as well. For example, Strong asked, "Is it not proper that thofe, who by their actions fhew a fixed defign againft fociety . . . fhould be cut off from the earth, and thereby prevented an opportunity of executing the intended mischief."<sup>4</sup> The rhetoric of cutting an offender off from society was in no way a new argument; Samuel Danforth had used such language in the first execution sermon back in 1674. Strong, however, shifted the definition of the

offense, for an explicate violation of God's law to that of a disruption of social cohesion and safety.

Strong's conclusion particularly illuminates the republican shift of rhetoric and the new emphasis on the increased need for state justification of public punishments. Strong began his conclusion by articulating the messages that should be perceived by those people attending the spectacle. First, "It learns us to love and revere our country, to obey its laws, to devote ourselves to its service, and abhor every practice which hath any tendency to increase the public calamities."<sup>5</sup> Strong even went further, suggesting that because laws were created and enacted by the consent of the people, a clear republican argument, they became sacred, rather than the other way around, which had always been the understanding in execution preaching. Strong declared that "Our country, its privileges and laws are sacred – they guard our peace, our interest and lives – being enacted in a public manner, with the free consent of the people, they become *ordinances of God*; and the transgressor offends against *Heaven and earth*."<sup>6</sup> Up until this shift in execution sermons, the ultimate authority of law had been God's divine decrees, usually expressed through Biblical law. The provinces, especially Massachusetts, had modeled their early law codes quite closely on the Bible, and although over time the parallel became less overt, the fundamental basis of law, and therefore legal authority, derived from God. The state, however, incorporated other references to authority. In Strong's case, he removed the law from the exclusive realm of religion.<sup>7</sup>

Employing a republican argument, Strong used rhetoric arguing for community strength and cohesion, but again, not in the traditional fashion of using God, or the

religious ties of the members, but instead the common political identity they shared. He began by asking,

Is there not reason to think, that those who knowingly injure the State by fraud, avarice and oppression, would plunge their swords into its bowels, if they had courage to face danger? Those people have reason to fear, that a righteous GOD provoked by their dishonesty, will leave them to be tempted, and commit those political sins which must be punished by the halter and the gallows. My brethren, let us learn to love and venerate our country, to obey the laws, honor the constitution, and despite all those who are wickedly undermining the privileges of mankind.<sup>8</sup>

Strong thus implored the listeners to use the secular commonalities of the community in order to maintain the stability and security of the state. The urgent plea for observance to law and order was understandable during revolutionary turmoil, but the definitive shift from a traditionally religious framework of the execution sermon to a more secular and republican line of argument demonstrated that despite the continuance of the use of public punishments from earlier times, the meaning behind such spectacles had changed. Instead of using religious authority to prop up the government, a secular social compact based on republicanism and government derived from the people was utilized as the fundamental underpinning of the criminal justice system.

Although containing a less explicit overtone of republicanism, Thaddeus MacCarty in his sermon at the execution of four criminals in 1778 also sought to place the event in a more secular setting.<sup>9</sup> MacCarty's sermon at the execution of Arthur in 1768 had contained elements of secularization, but not until the sermons preached during the War for Independence was the move toward a truly secular sermon complete. MacCarty constantly reminded the listeners that James Buchanan, William Brooks, Ezra Ross, and Bathshua Spooner were all guilty not only because they had violated the law of God against murder, but also the laws of the civil state. Because the laws of God and

man were no longer in complete agreement, although they certainly were on the crime of murder, this distinction was a necessity. MacCarty repeatedly referenced the civil side of the process, along with the religious, as when he exhorted, “Such as in the fullest and most absolute sense, murderers, both in the eye of God and of civil society. . . . His express law is violated, to say nothing of the laws of civil society. . . . Its being punishable with death, by express appointment of the God of Heaven, as well as by the laws of civil society.”<sup>10</sup> MacCarty may have had to rely more on religious justification than Strong had only a year earlier due to the governmental situation in Massachusetts during the Revolution. After 1776, Massachusetts was without a governor and instead an appointed Council became the highest authority in the state.<sup>11</sup> This nebulous and uncertain situation may have required a more balanced mix of religious and secular justification in MacCarty’s sermon, but the defense of state authority on its own right was still expressly articulated.

While God was able to know all and judge thusly, the state used a judicial process to determine guilt or innocence, and MacCarty clearly argued on behalf of the just and righteous process by which these four had been brought to justice. He preached that “at court, all was fairness, candor and impartiality, both as to judges and jurors, and every advantage to vindicate your innocency, had you been innocent [was provided].”<sup>12</sup> As governmental authority in Massachusetts during the Revolution was evolving and uncertain, MacCarty needed to even more explicitly demonstrate the soundness and justness of the judicial process that sentenced three men and one woman to death. This belief in the fundamentally sound nature of the criminal justice system, and the goal of

constantly improving both its design and application became an often utilized sentiment during the early Republic.

While MacCarty had maintained a significant link between the religious and secular elements of governmental authority in 1778, Stephen West preaching in 1787 effectively severed this link. Massachusetts sought to execute John Bly and Charles Rose, both convicted of burglary, and West preached his sermon to commemorate the event. Initially, it appeared that West was tapping into the longstanding argument that civil magistrates were empowered by God to execute the laws of the state, but West then moved away from this point. He began, “For, God has appointed civil rulers to bear his sword, to avenge the wrongs of society, and to execute wrath upon evil doers.”<sup>13</sup> It would then follow that the state authorities were simply fulfilling God’s law by enforcing His decrees. West, however, declared that “there is great reason to suppose that none of these [Mosaic capital laws] crimes, not even murder itself, were made capital, by the Jewish law, *because they were sins against God*; but *because they were sins against society*. Sins *as against God*, he himself will punish.”<sup>14</sup> West was therefore removing any religious element from the law. While God still retained ultimate authority and the ability to sentence someone to everlasting spiritual death, the state could and would sentence felons to death in order to enforce laws for its own protection and the safety of its citizens.

Even seemingly religious crimes, such as idolatry and blasphemy, West proclaimed to be actually secular crimes against society. Instead of these crimes undermining God’s laws, they functioned as treason toward the state: “Yea, they were made capital *only* because they directly tended to subvert the fundamental laws of their community.”<sup>15</sup> Exactly what crimes then fall within God’s exclusive jurisdiction remains

unclear from West's sermon, although he differentiated between crimes against God and against society, but of most importance was this secularization of law and authority. The magistrates only were empowered to punish crimes against the state capitally, in effect to preserve the safety and stability of society, allowing for better observance of God's law.

Analogous to Strong, although with less overt republicanism, West preached to his audience that individuals needed to submit to authority through a devotion to following its laws. In fact, by following the laws of the state an individual showed obedience to God. West declared that "One way, therefore, in which we are to express our submission to God, and to his authority, is by yielding a willing and due subjection to civil authority and government."<sup>16</sup> And for those members of the social body who chose to disobey the laws of the state, the dual jurisdictions of God and man again came into play. God could still offer salvation in the next life, but the state in order to preserve safety and stability, had to punish without forgiveness. Therefore, "human laws leave no room for *repentance*; but, by the gracious constitution of God, *this* may be a mean of obtaining pardon for the most heinous of crimes."<sup>17</sup> West left out the chance of state pardon, although such instances were not uncommon. His argument ultimately was that the state had to rigidly enforce its laws, while God could forgive those who truly stood penitent.

As Nathan Strong preached of *The Reasons and Design of public Punishments*, James Dana in a similar fashion delivered *The Intent of Capital Punishment* at the execution of Joseph Mountain on October 20, 1790.<sup>18</sup> Dana preached an interesting combination of legal rigidity and statute leniency, although always asserting the authority to punish with death, meaning that the state had to punish with death those crimes it

deemed capital, but also that the number of capital crimes should be kept low. Dana argued that one important goal of capital punishment “is to rid the state of a present nuisance – to prevent the extension of the evil – to reclaim or preserve those who have been, or might be in danger of being, seduced by examples of profligate wickedness.”<sup>19</sup> Therefore, deterrence was at the heart of Dana’s embrace of capital punishment not only as a goal, but as a real accomplishment of public executions.

Despite Dana’s belief in the utility of capital punishment, he also advocated restraint in the use of death as a form of punishment. Citing William Blackstone’s survey of British common law, Dana deplored the fact that no less than one hundred-sixty crimes were punishable with death in England. If public executions encouraged audience deterrence, it would logically follow that the greater the number of executions, the lower the crime rate. Dana, however, declared that “so dreadful a list, instead of diminishing, increases the number of offences.”<sup>20</sup> The severity of this code also led to instances of jury nullification or acquittal, mitigation of offenses, or recommendations for royal mercy, all in an effort not to allow an offender to avoid the gallows.<sup>21</sup>

Thus, a more lenient code would ensure a higher proportion of offenders actually being punished with the appropriate sanction. Dana proposed that the most agreed upon capital crimes, murder, treason, and rape were appropriate and proportional with death. Therefore, Dana’s embrace of a limited use of capital punishment demonstrates not only the more secular nature of this sermon, as almost all of the old Mosaic capital crimes were rejected, but also the entrance of republican ideology into execution preaching. American reformers often cited England’s bloody code as a sign of tyranny that the Revolution had in part been fought against, and Dana’s sermon fit into this movement

against widespread utilization of capital punishment for a more lenient and effective method of criminal justice.

State and individual safety also played a role in Dana's acceptance of the limited use of capital punishment. Dana believed that certain reprobates simply proved too great a threat not to be put to death. This line of argument will be revisited again during the discussion of Benjamin Rush advocating that the newly constructed penitentiaries could potentially reform even the worst offender, but in 1790 Dana framed the use of capital punishment as a necessity. Some criminals "are so depraved in their moral character that they can neither be cured nor endured, [and] are in the civil state what a mortified member is in the natural body. As such a member must be amputated for the preservation of the body, so persons of such depravity must be cut off for the preservation of the state."<sup>22</sup> Again, the metaphor of cutting an offender off of the social body goes back to the first execution sermon explored, that by Samuel Danforth in 1674, but Dana's insistence on amputation not to preserve social morality, but instead the civil state, demonstrates the republicanism present in his preaching.

One final aspect of Dana's sermon addressed the need for certainty of punishment. Punishment in a general sense needed to be definite, which is part of the reason Dana advocated fewer, but consistently punished capital statutes. Also, specifically in the case of Joseph Mountain, execution was necessary because he had lived a life of crime and had escaped the ultimate punishment numerous times. Escape from punishment, and especially capital punishment would allow for the breakdown of society itself. According to Dana, "In a civil society, the wicked would walk on every side, and the cry of the oppressed be in vain, the foundations would be destroyed,

confusion and misery would prevail, were punishment, capital punishment, never executed.”<sup>23</sup> The safety of society was therefore being ensured both actively by eliminating one particular diseased member, and also passively by deterring those who witnessed the spectacle.

For the particular reprobate, as well, the execution, according to Dana, actually served to aid in his chance at ultimate salvation. The uncertainty of the time of death could lead an offender to put off his path to redemption and die without repentance, ensuring damnation. In contrast, a definitive execution date provided a certain timetable by which to repent or not. By setting an execution date, “the expectation of the destruction of the flesh, through the operation of sovereign grace is a means of saving the soul from death, and of hiding a multitude of sins.”<sup>24</sup> With the end of this life in sight, the offender could potentially become truly penitent and possibly be spared a second death in hell. Finally, by displaying this punishment in public the community could be deterred, for “when the scorner is punished, the simple is made wise.”<sup>25</sup>

### Republicanism, Rush, and Privatized Justice

While, execution sermons during and after the American Revolution had, overall, despite their ideological and theological changes, still justified the execution for which they were being delivered, many reformers in the early Republic used those changes not to justify capital punishment, but instead work to eliminate its use. Benjamin Rush, a Pennsylvanian, stood as one of the earliest and most influential of these reformers and his theories on punishment served as a basis for many later reformers, including those in

New England.<sup>26</sup> Rush's theories were directly influenced by both Enlightenment philosophy and a spirit of republicanism as well as the religious elements displayed in execution sermons. Rush condemned public punishments by saying that they “tend to make bad men worfe, and to encrease [*sic*] crimes, by their influence upon society. . . . [and therefore] If public punishments are injurious to criminals and society, it follows, that crimes should be punished in private, or not punished at all.”<sup>27</sup> Many sermons during the early Republic had still attempted to capture the meaning of and benefit from public executions, although indications were becoming increasingly clear that the ritual was no longer effective as a means of deterrence to the audience. Rush, however, found no benefit in the public display, and instead found the spectacle demoralizing and corruptive for society.

Within *An Enquiry into the Effects of Public Punishments upon Criminals and upon Society*, Rush did not focus specifically on condemning the use of capital punishment, but in another of his writings, *On the Punishment of Murder by Death*, he outlined the various ways by which capital punishment remained inconsistent with contemporary moral and logical standards: “The punishment of Murder by Death, is contrary to reason, and to the order and happiness of society.”<sup>28</sup> If the design of punishment was to maximize the social benefit and capital punishment was failing to do so, it should be eliminated. For, according to Rush, “The order and happiness of society cannot fail of being agreeable to the will of God. But the punishment of murder by death, destroys the order and happiness of society. It must therefore be contrary to the will of God.”<sup>29</sup> Earlier execution preachers, especially before 1713, had declared the exact opposite to this statement. God had outlined His desired punishments in Biblical law and

therefore those that were punished capitally faced such actions to increase the happiness and morality of society, not destroy it. However, by this early Republic period capital punishment in general, and the execution ritual specifically, had become the source of corruption for many reformers including Rush, and in order to heal society from the disease of crime this form of punishment needed to be eliminated.<sup>30</sup>

Rush, and many later reformers as well, saw the need to address Biblical law in order to have any grounding for anti-capital punishment, or public execution arguments. Rush used more sympathetic passages from the New Testament to demonstrate a lack of divine support for capital punishment. In fact, Rush used the severity of Old Testament laws to further illustrate the lack of a divine mandate. He said, “The imperfection and severity of these laws were probably intended farther – to illustrate the perfection and mildness of the gospel dispensations. . . . He created darkness first, to illustrate the beauty of light.”<sup>31</sup> God had created such harsh and sanguinary laws before the coming of Christ, according to Rush, to display the disconnect between these older laws and those that were sanctioned by the teachings of Christ. It was possible that during the time of Moses the Old Testament laws may have been just and applicable to society, but no longer could they be used as a justification for punishing criminals with death.

In questioning the efficacy of punishing with death, Rush also openly identified the inconsistency with capital punishment and the belief in the possibility of ultimate salvation. It had often been declared to be a necessity to execute certain citizens due to their actions, but Rush asked, why “should we shorten or destroy them by death, especially as we are taught to direct the most atrocious murderers to expect pardon in the future world?”<sup>32</sup> While the possibility of the avoidance of a second spiritual death had

always been part of execution sermons to some degree, especially in New England with the promulgation of the doctrine of predestination, the gradual increase in theologians touting the opportunity for salvation over the course of the eighteenth century, according to Rush, invalidated the justification for capital punishment. Rush declared that “It has been said, that a man who has committed a murder, has discovered a malignity of heart, that renders him ever afterwards unfit to live in human society. This is by no means true.”<sup>33</sup> Not only was the possibility of salvation still present even for the worst offenders, but even heinous crimes did not invalidate the offender’s right to live within society, although that life may be led in the confines of a prison cell.

Rush also challenged the idea that the government even possessed the right to take the lives of its citizens. This was not a new, solely American idea, for it had been proposed by Cesare Beccaria in his writings on capital punishment. Rush, however, provided an American interpretation by combining religious and republican sentiments, saying, “the power over human life, is the solitary prerogative of HIM who gave it. Human laws, therefore, rise in rebellion against this prerogative, when they transfer it to human hands.”<sup>34</sup> This divide between God and civil magistrates would be further argued in coming decades, but here Rush early on in the new Republic attempted to deny governmental authority to punish capitally on religious grounds.<sup>35</sup> While instances of sermons openly questioning capital punishment remained rare, in general the more secularized and republican elements within such sermons opened the discourse to allow for religion to be used to attack the use of capital punishment rather than only support its use.

If the state was not to punish capitally for certain offenses, the question arose as to what to do with these offenders. Rush proposed, although only briefly, confinement of criminals, and he indicated that this was not strictly as punishment, but as a tool for rehabilitation; “in confinement, he may be reformed – and if this should prove impracticable, he may be restrained for a term of years, that will probably be coeval with his life.”<sup>36</sup> Quarantining criminals instead of killing them could serve to reform them, or if this proved impossible, the diseased member of the social body would remain isolated and thus be unable to corrupt society further. Rush, one of the most respected medical doctors in the United States at this time, touted scientific progress and advancement and believed that the same concepts could be applied to the criminal justice system.<sup>37</sup> His belief on the subject can be summed up in the conclusion of *An Enquiry into the Effects of Public Punishments*: “The great art of surgery has been said to consist in saving, not in destroying, or amputating; the diseased parts of the human body. Let governments learn to imitate, in this respect, the skill and humanity of the healing art.”<sup>38</sup> The state was to operate in accordance with scientific advancement, and thus criminals no longer needed to be executed because they could be reformed, or at least isolated from the rest of society, restraining the spread of their corruption on the social body.

While Rush may have been the first reformer to clearly articulate the possibility of temporal reformation of even the worst offender, he would not stand alone on his embrace of institutional reformation. By embracing what he saw as scientific progress of human betterment, rather than older religious improvement focused ultimately on the next life, Rush placed the central focus of the criminal justice system on secular ground. For Rush’s argument, crime and sin were separate concepts. Crime could be a sinful act,

but at its root it was deviancy directed at civil society and performed out of social deviation, not sinful depravity. Deviance could be reformed because it was a conscious choice to violate the social compact, and through equally conscious reformation it could be avoided. Thus the diseased members of the social body were now to be incarcerated and healed, rather than amputated and left to die in a state of sin.

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<sup>1</sup> Noah Hobart, *Excessive Wickedness, the Way to an Untimely Death* (New Haven: Thomas and Samuel Green, 1768), 13. Cohen identified Hobart's sermon as one of the first examples of the more secular and republican based sermons, in Cohen, *Pillars of Salt*, 106-7.

<sup>2</sup> Nathan Strong, *The Reasons and Design of public Punishments* (Hartford: Eben Watson, 1777). Studies of Strong are infrequent, and discussion of his influence is often limited to brief mention as part of the New Light movement in Connecticut. Stephen E. Berk in his work on Timothy Dwight mentions Strong several times including his leading of the Second Great Awakening, and that "men like Dwight and Strong saw the need for uniting orthodoxy in a new revivalistic campaign, but the hard-line metaphysicals bridled at the thought of such humanly contrived religion." In Stephen E. Berk, *Calvinism versus Democracy: Timothy Dwight and the Origins of American Evangelical Orthodoxy* (Hamden, Connecticut: Archon Books: 1974), 65. Also, Richard D. Shiels mentioned Strong as part of the emerging Second Great Awakening in, "The Second Great Awakening in Connecticut: Critique of the Traditional Interpretation," *Church History* 49, no., 4 (Dec. 1980): 404. A final brief mention of Strong comes from an article by Michael Lienesch on American thought after the Revolution. Strong is only referenced in a footnote, but the description from a sermon delivered in 1790 paralleled the republicanism within *Reasons and Design*. Lienesch characterized several ministers in their embrace of republicanism as actually quite conservative: "Constitutional citizens, far from revolutionary, were champions of order, dedicating themselves according to [Josiah] Bridge, to 'the support of order, peace and good government.'" In Michael Lienesch, "The Constitutional Tradition: History: Political Action, and Progress in American Political Thought, 1787-1793," *The Journal of Politics* 42, no. 1 (Feb. 1980): 19-20.

<sup>3</sup> Strong, *Reasons and Design*, 5, 6. Strong also identified the other purposes of public punishments as "the glory of God – the safety of mankind – and that others may be deterred from wickedness by the example," 7. At one execution, that of Thomas Powers, the minister Noah Worcester commented on the rarity of executions in his state, New Hampshire, but believed that the execution would serve to call attention to reform lax morals, which Worcester charged the state with eliminating. He said, "Now, if the laws of the State are, in these instances trampled upon with impunity; - if executive officers are negligent in their duty respecting such violations of law, does not this tend to encourage the vicious, and pave the way to capital crimes?" In Noah Worcester, *A Sermon Delivered at Haverhill, New Hampshire, July 23, 1796* (Haverhill, N. Coverly, 1796), 22.

<sup>4</sup> Strong, *Reasons and Design*, 9. See also the sermon preached at the execution of Anthony in 1798, "His [sexual] crimes are ruinous to society, whether he be an adulterer, a fornicator, or one who commits rape. The latter of which is a 'crime leveled not only against the happiness of domestic and social life and well being of society, but against its very existence.'" In Timothy Langdon, *A Sermon Preached at Danbury, November 8th, A.D. 1798* (Danbury: Douglas & Nichols, 1798), 11.

<sup>5</sup> Strong, *Reasons and Design*, 15. This change can be contrasted with an early sermon that placed God at the center of the execution ritual, the state was seldom even mentioned. "There is such a Providence before us this day, which hath occasioned me to speak from these words at this Time" preached Increase Mather in 1675 in, *The Wicked Mans Portion*, 15.

<sup>6</sup> Strong, *Reasons and Design*, 15.

<sup>7</sup> See Scott Seay, *Hanging Between Heaven and Earth*. In reference to the overt republicanism in Strong's sermons, Seay argued that it was "perhaps fitting that Strong preached his execution sermon, because the Hartford pastor was also serving as a chaplain to the patriot troops stationed in Connecticut at the time," 131. See also, Louis Masur, *Rites of Execution*, 28-9. Strong also preached another execution

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sermon in 1797, Nathan Strong, *A Sermon, Preached at the Execution of Richard Doane* (Hartford: Elisha Babcock, 1797).

<sup>8</sup> Strong, *Reasons and Design*, 16.

<sup>9</sup> Thaddeus MacCarty, *The Guilt of Innocent Blood Put Away* (Worcester: Isaiah Thomas, 1778). The details and a discussion of the atmosphere surrounding this execution can also be found in Deborah Navas, "New Light and the Bathsheba Spooner Execution," *Proceedings of the Massachusetts Historical Society* 108 (1996): 115-22. Although the exact details of the crime are not specifically relevant to the discussion here, the exceptional nature of the crime and execution are of note. Spooner conspired with the three men to murder her husband, which they did. The men all confessed, but also placed Spooner as the ring leader. She was also sentenced to death but claimed to be pregnant. After one examination she was determined not to be with child, although a second examination contradicted this finding. Regardless, she was executed along with the three men on July 2, 1778. At the autopsy she was discovered to be five months pregnant with a son. In Navas, 115-20.

<sup>10</sup> MacCarty, 10, 11, 18.

<sup>11</sup> Navas, 120.

<sup>12</sup> MacCarty, 22.

<sup>13</sup> Stephen West, *A Sermon; Preached in Lenox, in the County of Berkshire, and Commonwealth of Massachusetts; December 6th, 1787* (Pittsfield: Elijah Russell, 1787), 3.

<sup>14</sup> West, 4. Scott Seay identifies West as one of the leading voices of the "New Divinity" movement during the late eighteenth century, in Seay, *Hanging Between Heaven and Earth*, 38. For more on West also see Cohen, *Pillars of Salt*, 109-110, also Stephen Berk, *Calvinism versus Democracy*, 64.

<sup>15</sup> West, 5.

<sup>16</sup> West, 7.

<sup>17</sup> West, 10. Executions were actually fairly rare in colonial Massachusetts, and death sentences were only applied in 110 cases tried. Only sixty-three of these ended in actual executions, meaning that pardons were not unheard of, but actually common, as noted in Linda Kealey, "Patterns of Punishment: Massachusetts in the Eighteenth Century," *The American Journal of Legal History* 30, no. 2 (Apr. 1986): 176-7. For a specific example of a pardon see Alan Rogers, *Murder and the Death Penalty in Massachusetts*, 47-8, in which the members of Shay's Rebellion were pardoned after initially being sentenced to death.

<sup>18</sup> James Dana, *The Intent of Capital Punishment* (New Haven: T. and S. Green, 1790). For more on the life of Joseph Mountain see *Sketches of the Life of Joseph Mountain, A Negro* (Norwich: John Trumbull, 1790).

<sup>19</sup> Dana, 5-6. For more on this sermon see Scott Seay, *Hanging Between Heaven and Earth*, 133-4.

<sup>20</sup> Dana, 6-7. In a footnote to this section of the sermon Dana declared that "Government is weakened by annexing to crimes such penalties as are too severe to be executed. . . . Institutions, providing for the preservation and employment of public criminals of various description, have been found salutary in many states," 7. Dana's statement is true. The first operational facility for criminal incarceration was founded in Massachusetts at Castle Island in 1785. This facility housed a maximum of ninety prisoners at a time and was closed in 1799. In Adam J. Hirsch, "From Pillory to Penitentiary: The Rise of Criminal Incarceration in Early Massachusetts," *Michigan Law Review* 80, no. 6 (May 1982): 1240. More famously, Walnut Street Prison in Philadelphia was reconfigured by a law passed on April 2, 1790, to function as the first true prison in the United States. In Matthew W. Meskell, "An American Resolution: The History of Prisons in the United States from 1777 to 1877," *Stanford Law Review* 51, no. 4 (Apr. 1999): 847.

<sup>21</sup> Dana, 7. The idea of sanguinary law codes being the remnant of tyranny would be used by several reformers to argue for the complete elimination of capital punishment, although here Dana only argued for a more lenient use of death. For example see, William Bradford, *An Enquiry How Far the Punishment of Death is Necessary in Pennsylvania* (Philadelphia, 1795). Bradford was not one of the reformers who advocated the complete abolition of capital punishment, but he did advocate restriction of it, to only murder and treason, which was later adopted by Pennsylvania. One measure of Bradford's argument was proportionality and that "every punishment which is not absolutely necessary for that purpose is a cruel and tyrannical act," 3.

<sup>22</sup> Dana, 9.

<sup>23</sup> *Ibid.*, 11.

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<sup>24</sup> Ibid., 17.

<sup>25</sup> Ibid., 27.

<sup>26</sup> Rush's influence and ideas are extensively discussed by many authors writing both about capital punishment and the birth of the penitentiary during the early Republic. Some of the more prominent treatments of Rush include Mark E. Kann, *Punishment, Prisons, and Patriarchy: Liberty and Power in the Early American Republic* (New York: New York University Press, 2005); Scott Seay, *Hanging Between Heaven and Earth*; Michael Meranze, *Laboratories of Virtue: Punishment, Revolution, and Authority in Philadelphia, 1760-1835* (Chapel Hill: North Carolina University Press, 1996); Cusac, *Cruel and Unusual*; Banner, *The Death Penalty*; Robert R. Sullivan, "The Birth of the Prison: The Case of Benjamin Rush," *Eighteenth-Century Studies* 31, no. 3 (Spring 1998): 333-44; Michael Meranze, "The Penitential Ideal in Late Eighteenth-Century Philadelphia," *The Pennsylvania Magazine of History and Biography* 108, no. 4 (Oct. 1984): 419-50; Albert Post, "Early Efforts to Abolish Capital Punishment in Pennsylvania," *The Pennsylvania Magazine of History and Biography* 68, no. 1 (Jan. 1944): 38-53.

<sup>27</sup> Rush, *An Enquiry into the Effects of Public Punishments upon Criminals and upon Society*, 4, 12. In 1790 Pennsylvania passed its first law substituting hard labor for corporal measures as punishment, calling for the construction of sixteen solitary cells at the Walnut Street jail, and in 1796 New York passed a similar law establishing the Newgate Prison, in Matthew W. Meskell, "An American Resolution: The History of Prisons in the United States from 1777 to 1877," *Stanford Law Review* 51, no. 4 (Apr. 1999): 847.

<sup>28</sup> Rush, *On the Punishment of Murder by Death* (Philadelphia, 1793), 1.

<sup>29</sup> Ibid., 4.

<sup>30</sup> Rush's concept of happiness derived from Cesare Beccaria's argument that the abolition of capital punishment would inspire "order and happiness" in society, in Masur, *Rites of Execution*, 63.

<sup>31</sup> Rush, *On the Punishment of Murder by Death*, 7. Later Rush declared that the words and message of Christ to be the ultimate authority derived from the Bible, "The conduct and discourses of our Saviour should outweigh every argument that has been or can be offered in favour of capital punishment for any crime." In Rush, *On the Punishment of Murder*, 14.

<sup>32</sup> Rush, *On the Punishment*, 10.

<sup>33</sup> Ibid., 16.

<sup>34</sup> Rush, *An Enquiry*, 16. Beccaria's arguments on capital punishment can be seen in Cesare Beccaria, *An Essay on Crimes and Punishments* (London: E. Hodson, 1801), 98-111. Beccaria did not focus on the religious nature of the government's lack of power to punish capitally, but instead focused on Enlightenment principles of liberty, governmental authority being derived from the people, and the lack of utility in this form of punishment.

<sup>35</sup> Rush also articulated this same argument in another of his writings on the subject of capital punishment. In *Considerations on the Injustice and Impolicy of Punishing Murder by Death* (Philadelphia: Mather Carey, 1792), Rush declared that by punishing with death the government was not only punishing unjustly, but infringing on God's right to punish. He said, "It is equally an usurpation of the prerogative of heaven, whether it be inflicted by a single person, or by a whole community," in Rush, *Considerations*, 4.

<sup>36</sup> Rush, *An Enquiry*, 16. Rush articulated his support for the penitentiary and prison societies in a letter to John Coakley Lettson, saying, "But why do I prefer these to the improvements of reason? Reason accords with them all, and its brightest improvements consists in obeying the doctrines and obeying the precepts of the Christian religion," in Benjamin Rush, *Letters*, 441. Rush also captured the republican embrace of liberty present in the early Republic, and believed that withdrawal of liberty to be the most effective punishment, "that the loss of it [liberty], for an indefinite time, is a punishment so severe, that death has often been preferred to it," in Rush, *An Enquiry*, 10.

<sup>37</sup> Rush's medical theory on disease may have contributed to his solutions for social disease: crime, as the humoral theory of disease stated that it was "an imbalance of the humors of the body: a condition of disharmony in which the natural relationship (health) was disrupted," in Donald J. D'Elia, "Dr. Benjamin Rush and the American Medical Revolution," *Proceedings of the American Philosophical Society* 110, no. 4 (Aug. 1966): 228. If applied to society as a whole rather than one individual, crime was a disease resulting from a social imbalance. Capital punishment served to further this imbalance. The penitentiary could then help restore this balance and social harmony.

<sup>38</sup> Rush, *An Enquiry*, 17.

## Chapter IV

### Sermonizing and the Breakdown of the Execution Ritual

If witnessed but once, or seldom witnessed, it would likely to excite pity for the victim, and horror and disgust at the scene; while, if frequently beheld, the prisoner would receive less and less commiseration, and from inspiring terror and disgust, such is the effect of habit, it might come to be regarded, if not as attractive as a Roman audience were wont to regard the fate of the dying Gladiator.<sup>1</sup>

The final decades of New England execution preaching featured two sermons that although published a quarter century apart both demonstrated challenges that marked the demise of the public execution ritual. These two sermons, Thomas Thatcher's *The Danger of Despising Divine Counsel* (1801) and Jonathan Going's *A Discourse Delivered at Worcester* (1825), openly challenged the long-held belief that the most effective way to administer justice and deter potential criminals was through the public execution ritual.<sup>2</sup> These two sermons did not reject the idea of capital punishment, nor attempted to argue that the particular executions for which they were presented were unjust, although others would tap into this line of argument, but instead these sermons called for the removal of the execution from the public sphere to the newly constructed private sphere of the prison yard.

While Going's sermon marked the end of execution sermons in New England, one religious address that very closely fit into this preaching tradition was delivered by Orestes A. Brownson at the execution of Guy C. Clark in 1832. Brownson not only rejected the use of public execution, but also rejected capital punishment in its entirety in his *An Address Prepared at the Request of Guy C. Clark*.<sup>3</sup> Even if Brownson's address

does not explicitly qualify as a true execution sermon, it does show the culmination of the movement away from complete religious support for capital punishment and fits into the larger movement against this type of punishment that in many ways climaxed during the 1830s.

Secular reformers also tapped into growing religious rejection of capital punishment during the 1820s and 1830s. Drawing in part on religion and Benjamin Rush's earlier writings, these reformers advocated for different manifestations of penitentiary discipline to create a better criminal justice system. Edward Livingston designed his own legal system for the new state of Louisiana, which although never totally implemented, still served as a very important treatise during the 1820s. Thomas Upham's *The Manual of Peace* analyzed capital punishment in a way that demonstrates the path religious argument over this form of punishment had taken. Upham did not use religion to support the death penalty, but rather to advocate for the elimination of its use. Finally, Robert Rantoul Jr., a member of the Massachusetts House of Representatives, filed numerous reports within his state arguing not only for an end to capital punishment, but an embrace of the healing science of the penitentiary to reform offenders, potentially restoring them to the social body once again.

Thomas Thatcher preached his sermon in response to the execution of Jason Fairbanks, which was the culmination of what had become a high profile case of love, betrayal, and murder.<sup>4</sup> The nature of the case also led to the town of Dedham being overridden by onlookers for the execution; some estimates put the number of the crowd at over ten thousand, more than five times the population of the town.<sup>5</sup> This situation then warranted a sermon to contextualize the public display of punishment. Ultimately two

sermons were delivered to commemorate the event. Thatcher delivered the first sermon at the Third Parish Church on the Sunday following the execution of Jason Fairbanks. Thatcher's sermon in many ways followed the more secular preaching style of other post-American Revolution preachers and thus would have been quite ordinary if not for its conclusions concerning the public execution ritual.

Thatcher divided *The Danger of Despising Divine Counsel* into four sections designed both to draw the congregation's attention of the fantastic nature of the trial and execution of Jason Fairbanks, and to challenge the continuation of the public execution ritual. The first section contained general mandates from God to His people to live righteously. Thatcher clearly saw the moral degradation of not only his immediate community but of society in general. The divine commandments were the source of moral living, and not only were these precepts contained within the Bible, but also "the ferious advice of parents and public teachers, the juft and wife laws of the country in which we live, may be confidered as admonitions of divine providence, which demand our obedience."<sup>6</sup> By following these guidelines a happy and moral life could be attained, but by rejecting these elements of divine intervention, no moral improvement could be achieved.

Thatcher's second section then sought to apply the moral precepts discussed in the first to those classes of individuals most in need of their guidance. In the loosest sense all mankind could find benefit from the words of God, for "*all men are finners*," but Thatcher also had more specific classes in mind for his message. First, Thatcher identified licentious youths as a group in need of a return to morality. In fact, his language called immediate attention to the need of reformation because "while they drink

of the *stolen waters, because they are sweet; and eat bread in secret, because it is pleasant, they know not that the dead are there, and they her guests are in the belly of Hell.*” The necessity of reformation was also extended to the “fraudulent, the extravagant, the intemperate, and the unchaste,” those who had long escaped worldly and divine punishment for their criminal actions, and “men of black, malignant passions, who suppose themselves safe.”<sup>7</sup>

Thatcher then expressed any general reflections that he believed would be useful for his audience. He implored them to “look upon the wretch worn down with disease, whose very appearance is pollution personified,”<sup>8</sup> On one hand, therefore, Thatcher identified Fairbanks as a corruption that could infect the social, a statement that many earlier preachers would have agreed with, and in particular early ministers such as Samuel Danforth and John Williams. This statement, however, did not conclude the sermon. While Thatcher identified the need to execute Fairbanks for his alleged actions, in the final section of his sermon, Thatcher turned his attention not on a particular diseased member that contributed to social disease and immorality, but instead he turned his focus on the execution ritual itself.

Public executions had been part of the American criminal justice system since colonization began, with the first execution performed in 1608 in Virginia.<sup>9</sup> Never had this form of punishment been truly questioned in Anglo America until the 1790s because it was believed that a public execution was the most effective method of punishment for serious crimes. The reprobate upon the gallows was a social corruption, a diseased member of the social body and by displaying his passage from this life into the next for all to see, the ministers and magistrates believed that the witnesses could be deterred

from committing similar immoral actions. Thatcher, however, turned the idea of social corruption somewhat around in the closing section of his sermon. While the individual, in this case Jason Fairbanks, had been a source of social pollution and for this reason deserved to be executed, by placing said execution in the public sphere, corruption was actually increased, rather than prevented. The sight of a state-sanctioned public execution served as the true source of social corruption as the witnesses no longer came desiring a sense of religious inspiration or moral improvement, but simply to gaze upon a spectacle of public violence. For this reason Thatcher, in a sermon designed to justify an execution and give meaning to the ritual for the audience, openly questioned the utility of performing public executions.<sup>10</sup>

Beginning first with the impact of the public execution, Thatcher identified the audience present for Fairbanks' execution in particular, and at public executions in general, as being harmed, rather than benefitted by the spectacle on display. For "however pure or virtuous their intention, we feel ourselves constrained to declare, that such exhibitions naturally harden the heart, and render it callous to those mild and delicate sensations which are the out guards of virtue."<sup>11</sup> Thatcher then proposed two separate aspects of the execution that needed reform. First, the execution should be privatized "within the walls of a prison" in order to remove the corrupting spectacle from the thousands of eyes of the social body.<sup>12</sup> If utility is a primary purpose of punishment, the utility of the punishment could be maximized by moving it into a private venue; such an action should be undertaken. Second, the condemned upon the gallows was not well served by the atmosphere and audience witnessing his passage from this world to the next. Privatizing executions, Thatcher proposed, would provide a better moral effect on

the criminals. As public executions had become entertainment spectacles, private executions could prevent such an impious atmosphere by limiting access to the ritual. In addition, on a less altruistic note, “the formidable idea of such punishment [private rather than public] would impress more fear and terror in the multitude, than if they every day beheld wretches expiring under the protracted torments of a despot.”<sup>13</sup> The condemned would then lose their public venue to make one last impression on the community, and the mystery and unseen nature of their expiration could inspire even greater fear and deterrent effect.

While Thatcher’s criticism marked a significant shift in the discourse within execution sermons, the radical solution proposed was truly more conservative than it may appear at first glance. The execution ritual no longer fulfilled the culturally prescribed role that it once had, or at least had aspired toward. What was supposed to be a religious or civic ritual had become a kind of carnival; the thousands came to Dedham as gawking onlookers rather than pious observers on that September day in 1801. This reality was not lost on Thatcher, who, facing this discrepancy between the ideal and the reality surrounding the execution ritual, argued for the removal of this corrupting sight away from the eyes of the social body. Thatcher even implored the audience to examine the situation themselves and ask “whether any considerate man present the last week, at the execution, can affirm, that any religious or moral benefit was to be gained from what he saw or heard.”<sup>14</sup>

Thatcher therefore concluded with a call to parents and youths to use this occasion and the sermon being delivered as a time of reflection and a chance to reject sin. Although Thatcher had already called into question any benefit from the execution

spectacle, and even went as far as to call it a source of corruption, he still desired some sort of larger meaning to emerge out of the state of Massachusetts executing Jason Fairbanks. He preached, “Let it be our part to guard against the seduction of a corrupt heart, and to watch the first emotions of unlawful desire, of malignity, anger and discontent.”<sup>15</sup> This guarding could only be done with “Divine Counsel” and by rejecting the life of sin that reprobates such as Jason Fairbanks had lived.

While Thatcher’s sermon following the execution of Jason Fairbanks served as the first New England sermon to openly question the use of public executions, Jonathan Going’s thoughts showed that the questions remained decades later in *A Discourse, Delivered at Worcester, Dec. 11, 1825* delivered at the execution of Horace Carter.<sup>16</sup> Going used Carter’s life as an example of how not to live and the circumstances that can lead to a life of sin. His parents, and specifically Carter’s mother, did not bring Carter up in a properly moral household, for “instead of sanctifying his infant lips by prayer and praise to God and the Redeemer, she virtually teaches him to profanely sport his Maker’s awful name.”<sup>17</sup> As Carter aged he increased the severity of his transgressions: gambling, intemperance, idleness, and finally the rape for which he “dies by the hand of public justice.”<sup>18</sup>

Going next preached about the trial and final days Carter faced leading up to his day of execution. Going lamented that Carter seemed too ignorant of the message of the gospel to be aided by the clergy during his final days, and as the day came, Carter appeared more anxious to have the ordeal over, rather than concerned over his eternal fate. Upon the gallows, “a white cap, with a black tassel on its top, was drawn down over his face.”<sup>19</sup> The sheriff gave Carter the white handkerchief and instructed him to drop it

when he was prepared. Almost immediately Carter released the handkerchief and “in an instant the Sheriff cut the cord, and the drop fell! By the sudden descent of about three feet, his neck was evidently dislocated, and his head inclined a little to the right.”<sup>20</sup>

Going went on to commend the sheriff and his men on their faithful and efficient commission of Carter’s sentence and commented on the large size of the audience in attendance before attempting to place the execution within a larger context for the community.

While commending the large audience for creditable conduct, Going challenged their presence in a footnote, which actually changes his message greatly. He stated,

It is believed that the moral tendency of public punishments is pernicious. The object of public justice would be better secured, if executions took place in the Jail Yard, in presence of only the necessary officers, and a competent military force; and its effects on the criminal would be much better. Does not this subject demand the attention of the Legislature?<sup>21</sup>

In fact, Going’s call for the Legislature to address this point did quickly come to fruition.

Two separate ideological and theological strands were the underpinning of this rhetorical confrontation with public executions. On one hand, many reformers, tapping into the desire to reduce the corruptive influence of public punishments on society, called for an end to all public punishments, not just executions. On the other, some reformers went even further than that by asking not just for the eliminating public executions, but of executions altogether. The latter sentiment was also captured in Orestes A. Brownson’s sermon at the execution of Guy C. Clark in 1832.<sup>22</sup>

Although Brownson’s address was separated from the other execution sermons just discussed both by its time, seven years after Going’s sermon, and its venue, delivered as it was for an execution in Ithaca, New York, Brownson intended his address to be

delivered as execution sermons had been for over one hundred and fifty years.<sup>23</sup>

Brownson not only built his treatise upon the questions raised by Thatcher and Going in their respective sermons, but he openly challenged the authority of the government to take the life of one of its citizens, even one who has committed a terrible and reprehensible offense.

Religion had normally been used between the 1670s and 1820s in New England as a pillar of justification for capital punishment. After the American Revolution, however, religion also came to be used to justify ending capital punishment. Brownson expressed the latter of these claims and asked his audience to think of Clark not as a murderer who deserved retribution, but as a fellow child of God: “Beside me is a human being, bearing the image of the Deity – a man – a brother, whom you have congregated to see sent prematurely to God.”<sup>24</sup> While Brownson acknowledged the need to follow the laws and penalties prescribed by the state, and for this reason Clark had to be executed, he questioned the laws themselves and asked for them to be altered: “Surely it is time to ask, by *what right* we take the life of a fellow being. . . . True, he killed, in a moment of phrensy [*sic*], the wife of his bosom, and made those children, he loves with all a father’s fondness, orphans, but what does the law? It coolly and deliberately kills him.”<sup>25</sup>

Much of Brownson’s sermon served to defend, although not exonerate Clark, and rejected many earlier arguments that execution sermons had been using for over one hundred and fifty years. First, Brownson asked, “does this act restore the mother to her children? The wife to her husband? Does it wipe away the wrong done and make society whole? No, it does not.”<sup>26</sup> While the first two questions are more rhetorical, the third question did address one element that had been part of the execution ritual earlier. Before

1713, the community was made whole by amputating a corrupt member; until the Revolution the community was healed by achieving true penitence by the reprobate upon the gallows; and after the Revolution the community was made whole by affirming the status and authority of the state to maintain stability and order. Brownson, however, rejected this idea, and only saw the execution as “blood for blood and doubles the number of deaths.”<sup>27</sup> Corruption was no longer rooted out through the removal of one diseased member, by individual conversion, or by state affirmation; instead corruption could only be combatted through social reformation.

Brownson next turned to one of the longstanding tenets of governmental justification of punishment, Biblical sanction. He preached, “I will only add, vengeance belongs to God, and not to man. We are not God’s viceregents [*sic*]; we are not entrusted with the right to take the life of his subjects.”<sup>28</sup> Contrast this statement with an earlier one from Increase Mather in 1687, “The *Magistrate* is God’s *Vice-gerent*. As none can *give* life but God; so none may *take it away*, but God, or *fuch* as He has *appointed*.”<sup>29</sup> Mather believed the government to be divinely mandated to fulfill God’s laws, whereas Brownson saw no such jurisdiction to punish. While the government in Mather’s day and that in Brownson’s was quite different, the complete rejection of divine authority being delivered through the government was still a significant rejection of one of the traditional pillars of state authority in capital punishment.

In fact, Brownson went so far as to criticize the perceived inconsistency between the spirit of rehabilitation of prisoners and the continued use of capital punishment. He saw the call for reformation, in combination with the continued use of death as a punishment as contradictory: “thousands have fallen its victims; thousands will fall

victims to it, and ye will continue to boast its perfection, and breathe forth the withering curse upon him who bids you REFORM.”<sup>30</sup> Despite Brownson’s harsh rhetoric arguing that criminal justice reforming was not underway, calls for reform of this system were actually quite numerous during the early period of the Republic, in part building on the changed understanding of human nature and religion, a change present in contemporary execution sermons. Many reformers, including Edward Livingston, Thomas Upham, Robert Rantoul, simultaneously called for an end to capital punishment, or a significant decrease in its use, and the reformation of criminals in newly constructed and scientifically designed penitentiaries. Although Enlightenment philosophy and American republicanism also played prominent roles in the arguments and rhetoric of these and other reformers, the theological and ideological concepts that changed over the course of the eighteenth century within execution sermons were a significant aspect of their call for reform.

### Privatized Justice

Not only did the rise of social reformers coincide with the decline in religious execution preaching, but this process shows a further step toward a secular criminal justice system. Execution sermons, even when questioning elements of capital punishment still had to grapple with the longstanding tradition of religious support in Anglo-America for the death penalty. Later sermons had moved into a secular framework to justify and address executions, but with the decline of this literary form, new rhetoric and writing entered the discourse surrounding capital punishment. These

reformers not only argued against death as a form of punishment on secular grounds, but reversed earlier arguments such as those present in execution preaching to discredit the long history of religious support for capital punishment. Incarceration could replace amputation.

The new criminal justice vision of these reformers thus included both an embrace of the penitentiary and the elimination of capital punishment. Edward Livingston was one of these reformers who attempted to eliminate death as a punishment and who also proposed his own system of penitentiary discipline. While Livingston's proposition was specifically being recommended for Louisiana in 1825, its reach went far beyond that state's borders and contributed to the general atmosphere of reform within the criminal justice debate. When drafting a proposed criminal justice system for the new state of Louisiana, Livingston condemned both the process and application of capital punishment:

Slow in its approach, uncertain in its stroke, its victim feels not only the sickness of the heart that arises from the alternation of hope and fear, until his doom is pronounced, but when that becomes inevitable, alone, the tenant of a dungeon during every moment that the cruel lenity of the law prolongs his life, he is made to feel all those anticipations, worse than a thousand deaths.<sup>31</sup>

Livingston prepared for a possible rejection of his criminal code in Louisiana by attempting to create national publicity for his proposed changes. Serving in the United States House of Representatives, Livingston argued that his criminal code could be considered for federal use. He urged stronger opposition to public hangings, and used his published writings to try to sway other officials.<sup>32</sup> In Livingston's system, capital punishment was to be abandoned in favor of more humane punishments such as fines, imprisonment, or forfeiture of certain social rights and privileges.<sup>33</sup> Similar to Rush, and drawing upon Beccaria, Livingston conceded that although some societies in certain

places and times may have possessed the right to punish with death, “composed as society now is, these circumstances cannot reasonably be even supposed to occur – that therefore no necessity, and, of course, no right to inflict death as a punishment does exist.”<sup>34</sup> Therefore, Livingston clearly does not use religion as a fundamental basis on which to justify punishing capital crimes.

Livingston argued that the gradual abandonment of capital punishment showed society's moral advance and provided justification to refrain from its use in the future. He stated, “the slow abandonment of it [death] for other offences, is a proof of the gradual advance of true principles, and the pertinacity with which it is adhered to in this [capital crimes], shows the force of early impressions and inveterate prejudice, even in the most enlightened minds.”<sup>35</sup> Even those with the most enlightened minds in Livingston's view did not fully understand the failures of capital punishment. He argued that people too often accepted the arguments put forth by capital punishment supporters – primarily that capital punishment deterred crime – rather than actually challenge this failed system. According to Livingston, instances of juries acquitting defendants rather than sending them to the gallows allowing criminals to go free instead of being reformed, the corruptive violence on display at public executions, and the random nature of the infliction of the penalty of death all negated any positive benefit from the execution of one of the country's citizens.<sup>36</sup> Not only the public execution ritual, but capital punishment itself had become a corrupting influence upon the social body and also the application of the law, and therefore the penitentiary, in one of its scientifically designed forms, needed to be brought into prominence as part of a new democratic criminal justice system.

Livingston proposed that imprisonment served not simply as a punishment designed to remove a particular offender, but as a tool to reform criminals. Simply punishing offenders for its own sake was not the goal of incarceration and did not contribute to maximizing the common good or toward healing the social body, for only by reforming criminals could social corruption be weeded out and the good be restored. Livingston saw a dual purpose to a more humane punishment system: “Imprisonment, therefore, is to be used, in the plan I propose, to punish as well as to reform.”<sup>37</sup> The main avenue through which these corrupted members would be reformed was labor, which was designed to provide both skill and a sense of purpose. This labor would not be mandatory, but advocates of the program believed that with time the prisoner would choose labor, starting himself on his path of reformation. Once the prisoner's habits were reformed into ones that allowed him to function as a productive member of the social body he could once again be returned to society.<sup>38</sup>

Taking an even more extreme stance against capital punishment as part of his embrace of pacifism, Thomas Cogswell Upham, a philosopher, psychologist, theologian, and professor at Bowdoin College, also contributed to the discourse surrounding criminal justice at this time. Upham, a Congregationalist minister, and Scottish Common Sense Realist demonstrated his rejection of violence most evidently in his work *The Manual of Peace*.<sup>39</sup> Upham examined capital punishment on two grounds, Scripture and experience, and he found justification lacking in both fields. In reference to Scripture, Upham saw human life as fundamentally sacred and that “no hand of man or angel, no principality or power of heaven or earth can lawfully touch it without the permission of that Being, who gave it existence.”<sup>40</sup> While Upham acknowledged the Biblical passage,

“whoso sheddeth man's blood, by man WILL his blood be shed,” he declared that it should not be taken literally; rather it was only an indication that those who do evil will not prosper.<sup>41</sup> What should be taken from the Bible was “thou shall not kill,” which applied to both individuals and, for Upham's argument, the state as well. Therefore, he concluded that the Bible could not be used as a justification for capital punishment. This represented a radical shift from the Puritan preachers, many of whom were also Congregationalists, who had been using the Bible as a source of justification since the late seventeenth century in their execution sermons.

Turning then to an analysis of capital punishment by experience, Upham provided four criteria for punishment: reparation for the victim, reformation of the offender, protection of society from the offender, and deterrence to society in general. For Upham, death failed every point. Even in cases of murder, killing the offender “does not restore the person previously killed to life.”<sup>42</sup> Also, an execution may supply surviving victims with a sense of vengeance, but that was not the design of the criminal justice system. On the second point, the offender could not be reformed if he was killed. In fact, “by putting him to death, they [community members] have not only cut him off from society, but have perhaps done all in their power to prevent his making a suitable preparation to appear in the presence of his Creator.”<sup>43</sup> As Upham posited that ultimate salvation was within the grasp of any penitent thief, he declared that by executing an offender, his chance for true repentance was halted, possibly resulting in a second spiritual death. This argument moved away from earlier statements, such as that by James Dana in 1790, which indicated that by placing a specific execution date, the offender could have a known timetable by which to reform.

Protecting society could easily be achieved by killing the criminal, and Upham did not deny this claim, but he argued that while this method of punishment could be effective, it was also excessive. The same social protection could be achieved through imprisonment, for while in prison the criminal could be given “religious instruction, . . . affording him an opportunity for reflection and repentence [*sic*].”<sup>44</sup> Finally, Upham attempted to dismiss the deterrent effect of capital punishment, using similar arguments as Beccaria, Thatcher, and Rush. Upham noted that public executions actually served to corrupt the social body, for those who witnessed executions had their hearts hardened and learned to devalue human life as less sacred. Citing reformer James Simpson's work, *The Necessity of Popular Education*, Upham stated that a clergyman who had visited with one hundred sixty-seven convicts under the sentence of death found that one hundred sixty-four had witnessed an execution.<sup>45</sup> Although neither Simpson, nor Upham established a direct correlation between attending an execution and committing crimes, they both accepted that there was some kind of relationship between the two. Capital punishment must then be rejected, as these violent spectacles served only to show “that human life is but of little consequence; that the distinction between man and the brute animals is chiefly speculative and ideal; that man is but a dog; and that to smite him down with an axe or the guillotine is only turning a few ounces of blood out of its natural channel.”<sup>46</sup> By creating a milder legal code, sensibilities would increase and society would actually become less violent and as a result the social body would be improved.

A final example of strong opposition toward capital punishment and an embrace of the penitentiary in Massachusetts came in the 1830s with the writings of Robert Rantoul Jr., who ardently argued for the abolition of death as a form of punishment

within his state.<sup>47</sup> In March 1831, the Massachusetts House of Representatives appointed Rantoul, Thomas Kendall, John B. Davis, and Oliver Holden to consider capital punishment and make a recommendation to its place within the state's criminal justice system.<sup>48</sup> The report written by Rantoul drew heavily on arguments made by earlier reformers, including Beccaria, Rush, Livingston, and Upham, and attempted to show that capital punishment failed on all grounds being investigated. The report answered three questions, first “Has society the right from the social compact to take away life? . . . [second] Is there any thing peculiar to either of our six capital crimes which requires the punishment of death? . . . [third] Is there any command in scripture which enjoins on us to inflict that punishment in any case?”<sup>49</sup>

On the first question Rantoul not only rejected the idea that the government possessed the power of life and death, but he further dismissed the notion of a social compact in general. Rantoul argued that “It is a palpable folly to pretend that an actual, voluntary compact exists, and they who derive the right to punish capitally from any supposed social compact, must first suppose an agreement which the facts in the case show was not and never could be freely entered into by the individual members of society.”<sup>50</sup> On the basis of a voluntary social compact, therefore, the government lacked the authority to punish with death, but Rantoul also, drawing on Beccaria, said that no man had the right to take his own life, which invalidated any contract that attempted to make such a claim. For, “such a contract, if executed, would involve the one party in the guilt of suicide, and the other in the guilt of murder.”<sup>51</sup> Rush had made a similar argument in his writings, that the social compact cannot justify capital punishment, but

Rantoul went even farther to question not only this particular justification, but whether a voluntary social compact exists at all.

Rantoul, on the second question, examined each crime for which death served as a possible punishment, but his review of the case of murder is most revealing. Murder, even in the mild Pennsylvania code upon which Rush had commented, remained a capital offense, but like Rush, Rantoul did not feel that even murder warranted the use of capital punishment: "Society may defend itself by other means than by destroying life. Massachusetts can build prisons strong enough to secure the community forever against convicted felons."<sup>52</sup> While supporters often attributed capital punishment with the ability to decrease crime, Rantoul felt the exact opposite. Instead of deterring witnesses or potential criminals, "the spectacle of capital punishments is most barbarizing, and promotive of cruelty and a disregard of life."<sup>53</sup> Criminals could be reformed, or at least restrained within penitentiaries, but capital punishment devalued life for the entire social body: taking an eye for an eye made the social body blind. Rantoul also cited Simpson's work, as Upham had done, showing that one hundred sixty-four of one hundred sixty-seven convicts visited by a certain clergyman had witnessed an execution.<sup>54</sup> Thus, a punishment that not only failed to deter potential criminals, but actually caused the breakdown of public morals must be abandoned.

Last, on the third question, Rantoul found no Biblical mandate for using capital punishment. While references to God sanctioning the use of capital punishment for certain peoples, including the ancient Israelites, within the Old Testament did exist, their presence could be explained in that "there was no fit substitute for capital punishments, and they were resorted to almost out of necessity."<sup>55</sup> With a lack of centralized

governmental authority, penitentiaries to hold criminals, or any real viable alternative, these ancient peoples justifiably used capital punishment. Thus, Rantoul argued, death served as an acceptable punishment only under these very specific circumstances, and the society of his day did not meet those specific qualifications.

Rantoul further attempted to dispel another Biblical passage, “Whoso sheddeth man's blood, *by man shall his blood be shed.*” He showed that using this passage to justify capital punishment was misguided, and used the New Testament verse “All they that take the sword *shall perish with the sword*”<sup>56</sup> to illustrate his point. The latter cannot be interpreted to justify killing any member of the military who had shed blood in combat, and in the same light the former should not be seen as a literal justification to use capital punishment. Rantoul finally argued that looking back to the Jewish codes for guidance could only go so far. Many crimes punishable with death in the Bible – witchcraft, blasphemy, cursing a parent – had long ago been abandoned as capital offenses, and instead of constantly using the Jewish codes for guidance, reason should be utilized as the source for punishment:

The warning should not be lost, but we should learn from it to construct our own penal laws upon the principles of reason, and from a knowledge of human nature, instead of blindly copying what was intended for a character unlike our own, under circumstances in many respects opposite to ours.<sup>57</sup>

Thus, relying on limited constructions of Biblical authority for the use of capital punishment could not be justified and should be abandoned in favor of more rational and socially positive forms of punishment.

The direct application of the anti-gallows rhetoric of a dwindling number of late execution sermons, especially after 1800, as well as the general shifts of ideology and

theology present in these post-Revolutionary sermons demonstrate the utility of using this form of New England crime literature to illuminate the anti-capital punishment and penitentiary debate raging during the first fifty years of the American Republic. The decline of execution preaching coincided with a growing revulsion against this public display of violence, and reformers including Livingston, Upham, and Rantoul either discounted religious foundations of punishment, or sought to refute them in their writings. Although the religious elements present in the execution sermons do not explain the reform movement in its entirety, nor do they touch on the penitentiary design debate between New York and Pennsylvania, the religious element of the debate was essential, especially in New England where religion had formed one of the fundamental bases and justifications for the criminal justice system there.

During the nineteenth century, crime became a cultural fascination leading to the rise of many new and popular forms of crime literature, including biographies, crime novels, and newspaper coverage, replacing older forms such as the execution sermon and criminal dying declarations.<sup>58</sup> Even this shift in literary form exemplifies the growing secular nature of society; more traditional religious treatises no longer stood as the ultimate source and authority on the criminal justice system, but rather new secular forms did. While reformers often still had to account for religious argument in their writings and arguments due to the longstanding tradition of religious support for capital punishment, no longer was a Biblical mandate foundation enough for an American criminal justice system.

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<sup>1</sup> Pennsylvania Committee on the Judiciary System, *Report on the expediency of abolishing public executions: read in House of Representatives, Dec. 12, 1833* (Harrisburg: Henry Welsh, 1833), 6.

<sup>2</sup> Daniel Cohen credits Going's sermon with being the last published execution sermon in New England, although other similar sermons and publications were published later, in *Pillars of Salt*, 258.

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<sup>3</sup> Orestes A. Brownson, *An Address Prepared at the Request of Guy C. Clark with the Intention of Having it Delivered to the Assembly on the Day of His Execution, February 3, 1832* (Ithaca: S.S. Chatterton, 1832), in Patrick W. Carey, *The Early Works of Orestes A. Brownson Volume II: The Free Thought and Unitarian Years, 1830-35* (Milwaukee: Marquette University Press, 2000), 174-82.

<sup>4</sup> The Jason Fairbanks case remains one of the most written about during the early Republic in Massachusetts; for more about the details of the case itself, including the conflicting reports of whether or not Fairbanks actually killed Elizabeth Fales see, Ebenezer Fairbanks, *The Solemn Declaration of the late Unfortunate Jason Fairbanks*, (Dedham: Hermann Mann, 1801). A published trial report, *Report of the Trial of Jason Fairbanks, on an Indictment for the Murder of Miss Elizabeth Fales*, (Boston: Russell and Cutler, 1801). For other secondary analysis of the Fairbanks, see *Pillars of Salt*, 167-94; Scott D. Seay, *Hanging Between Heaven and Earth*, 3-14; Alan Rogers, *Murder and the Death Penalty in Massachusetts*, 57-69. On the sensational nature of the crime and Fairbanks' status as beyond audience sympathy, see Karen Halttunen, *Murder Most Foul*, 50, 56. Stuart Banner links Thatcher's condemnation of public executions with the growing opposition to public punishments in *The Death Penalty*, 149.

<sup>5</sup> Rogers, *Murder and the Death Penalty*, 66.

<sup>6</sup> Thomas Thatcher, *The Danger of Despising Divine Counsel* (Dedham: Herman Mann, 1802), 7. One argument that has been proposed about early Republican executions was that they were done and justified as a way to legitimize the newly independent governments and show their power to punish and enforce their laws, e.g. see Michael Ignatieff's explanation of his own work, that of David Rothman, and Michel Foucault in Michael Ignatieff, "State, Civil Society, and Total Institutions: A Critique of Recent Social Histories of Punishment," *Crime and Justice* 3 (1981): 176-7. Ignatieff, in summarizing one of Foucault's arguments, stated that "the prison is only the most extreme site for an exercise of power which extends along the whole continuum of social relations from the family, to the market, to the workplace, and to citizenship." Although this statement is specifically about the prison, and not public punishments, the argument by Foucault and Ignatieff was that when these public punishments became unacceptable, the new institution of the prison had to take the place of this form of punishment to retain the social power of the governing class over the criminal class.

<sup>7</sup> Thatcher, *The Danger of Despising Divine Counsel*, 11, 12-3. The call for reformation and a rejection of sin was the central focus of the other sermon delivered after the execution of Jason Fairbanks: Thaddeus Mason Harris, *A Sermon Preached in the First Parish in Dedham, September 13, 1801* (Dedham: Herman Mann, 1801). Harris admitted in a preface to the sermon that he did not have adequate time to prepare a specific sermon for the Fairbanks execution, but instead used a "Sermon formerly preached to the youth of my own charge," 7.

<sup>8</sup> Thatcher, *The Danger of Despising Divine Counsel*, 15-6. For an interesting discussion of the concept of social pollution see Mary Douglas, *Purity and Danger: An Analysis of the Concepts of Pollution and Taboo* (London: Routledge, 1966), 3-4.

<sup>9</sup> Cusac, *Cruel and Unusual*, 22.

<sup>10</sup> See Cohen, *Pillars of Salt*, 182-3. Cohen even goes so far as to classify Thatcher's and Thaddeus Mason Harris's sermons delivered for Fairbank's execution as moving out of the genre of a true execution sermon. By this period sermons had increasingly moved from the actual place of execution, days or hours preceding the execution, to the local church after the execution had already taken place. Along with this detachment Cohen sees Harris as serving the role of sentimental conciliator and Thatcher as moral gadfly, 183-4.

<sup>11</sup> Thatcher, *The Danger of Despising Divine Counsel*, 24. The demoralizing effects of public executions were often reported on after about 1800. One Massachusetts magazine recounted that "Rioting, drunkenness, and every species of disorderly conduct, prevail on such an occasion to an extent never witnessed from any other cause in this land of steady habits," in "The Hanging," *Escriotoir* 1 (1826): 359, quoted in Banner, 150.

<sup>12</sup> Thatcher, *The Danger of Despising Divine Counsel*, 25. Seay suggests that Thatcher's call for privatization may have been influenced by faculty psychology in general, and Benjamin Rush specifically, Seay, *Hanging Between Heaven and Earth*, 159-60.

<sup>13</sup> Thatcher, *The Danger of Despising Divine Counsel*, 25. The inconsistency between capital punishment, in particular public executions, and the spirit of republicanism in the new United States was often commented on by reformers who desired to abandon this form of punishment with old tyrannies. This

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was noted in Masur, 60-1; Gordon S. Wood, *Empire of Liberty* (Oxford: Oxford University Press, 2009), 492.

<sup>14</sup> Thatcher, *The Danger of Despising Divine Counsel*, 26. For a discussion of the breakdown of the execution ritual during the early 1800s see Irene Quenzler Brown and Richard D. Brown, *The Hanging of Ephraim Wheeler* (Cambridge: Belknap Press, 2003), 233-41.

<sup>15</sup> Thatcher, *The Danger of Despising Divine Counsel*, 28-9. Harris argued that restraining wickedness and corruption of heart can only be done with God, "For when a knowledge of GOD and a respect for his authority are effaced from the mind, what can suppress the violence of the passions, what refrain the corruptions of a depraved heart? Can human laws avail? No." In Harris, *A Sermon*, 14.

<sup>16</sup> Jonathan Going, *A Discourse, Delivered at Worcester, Dec. 11, 1825* (Worcester: William Manning, 1825).

<sup>17</sup> *Ibid.*, 5. The theme of an immoral upbringing leading to a life full of sin and ultimately to the gallows was nothing new. Especially after the universal doctrine of original sin was rejected by some ministers in New England, a new cause for sin and crime had to be found. The story of small transgressions leading to capital crimes was then often used. For one example see Samuel Shepard, *A Sermon, Delivered at Lenox* (Stockbridge: H. Willard, 1806), delivered at the execution of Ephraim Wheeler. The need for parents to raise moral children is also discussed by David J. Rothman, *The Discovery of the Asylum* (New Brunswick: AldineTransaction, 1971), 15-7.

<sup>18</sup> Going, *A Discourse*, 7-8.

<sup>19</sup> Going, *A Discourse*, 11. Jason Fairbanks was hanged in the same way, blindfolded and given a handkerchief to indicate when he desired to be sent off, in Rogers, 66.

<sup>20</sup> Going, *A Discourse*, 11. The drop in hanging was actually a vast improvement from the old method of simply pushing the offender off a cart. The drop increased the chances that the neck would be broken, instead of the criminal being strangled to death. In England this system was first introduced at Tyburn in 1759 but did not become universal until executions were made private and moved to Newgate prison in 1783, in Frank McLynn, *Crime and Punishment in Eighteenth-Century England* (Oxford: Oxford University Press, 1991), 274-6.

<sup>21</sup> Going, *A Discourse*, 11. Pennsylvania had actually been the first state to recommend officially ending public executions in a year earlier in 1824, but did not make this change until 1836. Connecticut became the first state to abolish public executions in 1830, in Banner, *The Death Penalty*, 151-4. Masur identifies Going's statement as part of the upper-class shift in sentiments concerning public displays of violence, in Masur, *Rites of Execution*, 95-6.

<sup>22</sup> The call for an end to public executions for some reformers was a first step toward complete abolition of the gallows, but privatization had the unintended effect of removing much of the popular support for complete abolition as the corrupting sight of the gallows had been removed. As a result no state completely abolished executions until 1846 when Michigan did so, in Masur, *Rites of Execution*, 113; Banner, *The Death Penalty*, 134.

<sup>23</sup> Brownson was asked by Guy C. Clark to preach the sermon, but the sheriff prevented him from doing so. Patrick Carey proposes that the sheriff did so out of fear of arousing the drunken crowd that had come to witness the execution. Brownson then published the sermon after the execution, in Patrick W. Carey, *The Early Works of Orestes A. Brownson*, 11.

<sup>24</sup> Brownson, *An Address*, 174. Early execution sermons had blamed the offender for causing his own premature death, and that the state was only finalizing the death. For example, Cotton Mather in *Pillars of Salt* had blamed the reprobate for placing himself upon the path toward a death before his time, 52.

<sup>25</sup> Brownson, *An Address*, 175. This question is nearly the same as the one asked by Beccaria in his writings, "What right, I ask, have men to cut the throats of their fellow creatures?" In, *Essays on Crimes and Punishments*, 99.

<sup>26</sup> Brownson, *An Address*, 176. Brownson also recounted the path through which the reformation of social evils was possible in an essay, "Social Evils and Their Remedy," *Unitarian* 1 (May 1834): 238-44. Brownson stated that Christianity "not as a dogma, not as a system of belief, but as a grand, all-comprehending principle of moral and social action" was the remedy for social evils, in Patrick W. Carey, *The Early Works of Orestes A. Brownson*, 312-9.

<sup>27</sup> Brownson, *An Address*, 176. Benjamin Rush articulated a similar argument in a letter to Thomas Eddy almost thirty years earlier, saying, "I shall never think our penal code perfect till we deprive

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our laws of the power of taking away life for *any* crime. It is in my opinion murder to punish murder by death. It is an act of legal revenge, for it does justice neither the injured friends of the deceased nor to the state,” in Benjamin Rush, *Letters* (Princeton: American Philosophical Society, 1951), 875

<sup>28</sup> Brownson, *An Address*, 176.

<sup>29</sup> Increase Mather, *A Sermon*, 6.

<sup>30</sup> Brownson, *An Address* 181.

<sup>31</sup> Edward Livingston, *The Complete Works of Edward Livingston on Criminal Jurisprudence*, Volume I (Montclair: Patterson Smith, 1968), 219.

<sup>32</sup> Philip English MacKey, “Edward Livingston and the Origins of the Movement to Abolish Punishment in America,” *Louisiana History: The Journal of the Louisiana Historical Association* 16, no. 2 (Spring 1975): 158. Livingston’s code was never enacted by Louisiana, but it became world-renowned and later contributed to the passage of the “Maine Law,” which was signed into law on March 29, 1837, both creating the one-year waiting period but also requiring the governor to sign the execution warrant and deliver it to the hangman, in Edward Schriver, “Reluctant Hangman: The State of Maine and Capital Punishment, 1820-1887,” *The New England Quarterly* 63, no. 2 (June 1990): 276.

<sup>33</sup> Livingston, *Complete Works* II, 32. Livingston’s system of criminal law was “based upon the rehabilitation of criminals – the ‘cure’ of crime – rather than retributive punishment,” in Grant Lyons, “Louisiana and the Livingston Criminal Codes,” *Louisiana History: The Journal of the Louisiana Historical Association* 15, no. 3 (Summer 1974): 249.

<sup>34</sup> Livingston, *Complete Works* I, 197. Some of the instances Livingston proposed that could justify using death as a form of punishment included “between nations during war; or a nation and one of its component parts in a rebellion or insurrection; between individuals during a moment of an attempt against life, which cannot otherwise be repelled,” in *Ibid.*, 196-7.

<sup>35</sup> Livingston, *Complete Works* I, 213. This line of reasoning foreshadowed Supreme Court Justice Earl Warren’s famous line from his *Trop v. Dulles* decision of 1958, “The [Eighth] Amendment must draw its meaning from the evolving standards of decency that mark the progress of a maturing society,” in *Trop v. Dulles*, 356 U.S. 86 (1958), (Warren, C.J. Concurrence).

<sup>36</sup> Livingston, *Complete Works* I, 199. To show the corruptive influence of public executions, Livingston referenced a particular execution in Lancaster, Pennsylvania, in which John Lechler was executed in 1822. From the large crowd that gathered to witness the spectacle, twenty-eight were arrested for offenses ranging from larceny to assault and battery to even murder. The reformatory powers of a public execution ritual were clearly nonexistent for Livingston, in *Ibid.*, 199-200.

<sup>37</sup> Livingston, *Complete Works* I, 552. The penitentiary system proposed by Livingston was often believed to be the most humane and agreeable by reformers including James Simpson, “[Livingston] has astounded his countrymen by the novel, but eminently philosophical, proposition of *voluntary* labour in penitentiaries, and the negation of all *direct and positive* infliction of pain or suffering, at the hands of the superintendents,” in *Necessity of Popular Education* (Boston: Marsh, Capen & Lyon, 1834), 191.

<sup>38</sup> Livingston’s prison design more resembled the Pennsylvania system of constant solitary confinement, rather than the Auburn system which allowed inmates to labor in congregate, but was not driven by his sense of humanitarianism toward criminals, but simply sought a more effective method of criminal reformation. As summed up in Lyons, “Louisiana and the Livingston Criminal Codes,” 263-4.

<sup>39</sup> David Bundy, “Thomas Cogswell Upham and the Establishment of a Tradition of Ethical Reflection,” *Encounter* 59 (1998): 26-7. *The Manual of Peace* also contributed to the momentum behind the passage of the “Maine Law” in 1837, in Schriver, “Reluctant Hangman,” 276.

<sup>40</sup> Thomas Upham, *The Manual of Peace* (New York: Leavitt, Lord, & Co., 1836), 217. Upham, like Brownson only a few years before, rejected the idea that the state was mandated to fulfill the laws of God, including those punished with death. Upham did not endorse this form of religious justification.

<sup>41</sup> Upham, *The Manual of Peace*, 219. This line had been used by many preachers in their sermons as a justification for capital punishment. For example, Increase Mather used Numbers 35.16. as his opening passage, “And if he smite him with an Instrument of Iron, (so that he die) he is a Murderer, the Murderer shall surely be put to DEATH,” in *A Sermon Occasioned by the Execution of a Man*, 1.

<sup>42</sup> Upham, *The Manual of Peace*, 228.

<sup>43</sup> *Ibid.*, 229. Unlike many early execution sermon preachers, therefore, Upham seems to believe in the possibility of true repentance of offenders, even those who have committed terrible offenses.

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<sup>44</sup> Upham, *The Manual of Peace*, 230. Upham wrote a widely used psychology text, *Elements of Intellectual Philosophy* (Portland, 1827), in which he “ ‘proved’ the existence of free will and people’s ability to choose good over evil,” in Craig Haney, “Criminal Justice and the Nineteenth-Century Paradigm: The Triumph of Psychological Individualism in the ‘Formative Era’,” *Law and Human Behavior* 6, no. 3/4 (1982): 202.

<sup>45</sup> Upham, *The Manual of Peace*, 234.

<sup>46</sup> *Ibid.*, 248. For further discussion of the changing nature of the execution ritual during the early Republic, see Annula Linders, “The Execution Spectacle and State Legitimacy: The Changing Nature of the American Execution Audience, 1833-1937,” *Law & Society Review* 36, no. 3 (2002):607-56.

<sup>47</sup> Rantoul graduated from Harvard College in 1826 and was admitted to the Essex County bar in 1829 before successfully being elected to the Massachusetts House of Representatives in 1834. See Rogers, *Murder and the Death Penalty*, 80-1.

<sup>48</sup> Luther Hamilton, ed., *Memoirs, Speeches and Writings of Robert Rantoul, Jr.* (Boston: John P. Jewett and Co., 1854), 427. Despite Rantoul’s reports and increasing sentiment against capital punishment, both in 1836 and 1837 votes failed to eliminate the death penalty, in Davis, “The Movement to Abolish Capital Punishment in America,” 36.

<sup>49</sup> Commonwealth of Massachusetts, House Doc. 32, February 22, 1836, *Report Relating to Capital Punishment* (Boston, 1836), 93, in Robert Fogelson, ed., *Capital Punishment: Nineteenth-Century Arguments* (New York: Arno Press, 1974), no secondary page numbers.

<sup>50</sup> Rantoul, *Report Relating to Capital Punishment*, 15-6. The purpose of government, according to Rantoul, was to protect rights, life, liberty, and property, not destroy these rights. Therefore, any social compact based on such a premise would be unfounded, in Rogers, 81.

<sup>51</sup> Rantoul, *Report Relating to Capital Punishment*, 16. Rantoul also includes a brief passing remark about his belief about slavery: “Let it not be said our constitution does not forbid capital punishment; for neither does it, by that name, forbid slavery, or the whipping post, or the pillory, or mutilation, or torture, yet all these are confessedly contrary to the spirit of the constitution.” in *Ibid.*, 27.

<sup>52</sup> Rantoul, *Report Relating to Capital Punishment*, 69. Rantoul did not elaborate on what system of penitentiary he favored. The Auburn system had been adopted in Massachusetts by this point, but the idea was that quarantining socially corrupted individuals within a penitentiary and either reforming them or at least isolating them was punishment enough and secured the wellbeing of society.

<sup>53</sup> Rantoul, *Report Relating to Capital Punishment*, 70. Thatcher in particular had articulated this point in his sermon at the execution of Jason Fairbanks in 1801. While Thatcher’s argument at that point had much less widespread support, Rantoul, at least amongst the upper class, stood on firm ideological ground in his opposition against capital punishment, but in particular public executions. By this point Connecticut had already privatized executions within the prison yard (Banner, *The Death Penalty*, 154). Samuel Whelpley in a series of letters to the former governor of Massachusetts, Caleb Strong, also argued that the public execution scene was the source of social corruption, not the individual offender. Ending such displays would “save the public presence from being polluted by the horrid spectacle of legalized slaughter,” in Stephen Whelpley, *Letters Addressed to Caleb Strong, Esq., Late Governor of Massachusetts* (Providence: Miller & Hutchins, 1818), 47.

<sup>54</sup> Rantoul, *Report Relating to Capital Punishment*, 73. Simpson in his work identified two purposes for imprisonment “first, to protect society from its dangerous members who are criminally diseased or disposed; and, secondly, to amend the criminals themselves by an enlightened system of reformation,” 203. Simpson also briefly addressed capital punishment, saying that because it only served to punish, and not reform offenders, it was not a useful form of punishment.

<sup>55</sup> Rantoul, *Report Relating to Capital Punishment*, 77. Despite the long history of using the Bible as one of the ultimate sources of justification for capital punishment, Rantoul drew a distinction between pre-modern societies that lacked the ability to punish offenders in any other way, and the modern society of his day that was able to construct penitentiaries that could both protect society and reform reprobates.

<sup>56</sup> Rantoul, *Report Relating to Capital Punishment*, 81.

<sup>57</sup> *Ibid.*, 92. A minority report was also drafted on the subject of capital punishment in which arson, murder, treason, particular degrees of rape, highway robbery and burglary, were all recommended to remain capital offenses, in Commonwealth of Massachusetts, House Doc. 32, February 17, 1836, *Minority Report* (Boston, 1836), 108-11, in Fogelson, *Capital Punishment: Nineteenth Century Arguments*, no secondary page numbers.

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<sup>58</sup> Cohen, *Pillars of Salt*, 167.

## Conclusion

There is no sinner, however plunged in the depths of vice and iniquity, to whom the encouragements of the gospel may not be suitably addressed: “Come unto me all ye that labor and are heavy laden, and I will give you rest.”<sup>1</sup>

The changing nature of both punishment ideology and theology over one hundred and fifty years of execution sermon preaching reveals a fundamental basis upon which the challenge to capital punishment and the rise of the penitentiary stood during the first decades of the early American republic. Over this period, religious support for severe forms of punishment went from nearly universal in the Puritan colonies to a gradual influx of dissenting opinion on both the purpose and aim of punishment within New England society. The reasons for this theological shift are numerous, including the gradual increase in religious pluralism throughout New England during the eighteenth century, the expansion of the belief in spiritual salvation, and increased challenges to the acceptance of the doctrine of original sin. Ideologically over this same period the relationship between the church and state in New England, and in Massachusetts in particular, was weakened. This is not to suggest that these two elements were relegated into completely separate spheres. The civil magistrate, however, no longer enforced the law solely because of transgressions against the divine, but against the state as well. After the American Revolution this separation divided even further as the state redefined punishment as a form of establishing state legitimacy over its citizens and maintaining the common good of society.

For early ministers, such as Samuel Danforth, Increase Mather, and Cotton Mather, crime and sin were synonymous. A moral failing was likely a crime, and crimes were committed out of a laxity of morals. This type of crime theory limited the ability to believe in the ability of reprobates to temporally reform, especially when coupled with belief in the doctrine of original sin that declared all humans to be naturally depraved. If all members of the community were naturally sinners, and those sins often led to crimes, often the best solution for the community was to amputate the member of their community that had become undoubtedly corrupted. Although shaming punishments were also employed for lesser transgressions, for the most serious ones, the offender needed to be removed from the community. Banishment could be effective, but return was always possible. Capital punishment served to remove the corrupt member of the social body permanently, and the execution sermon framed the event in a way that allowed the audience to fear corruption and be deterred from it.

Moving into the later eighteenth century, amputation was still the necessary mode of punishment for serious crimes against the community, but several elements within the process of crime and punishment had changed. While during the late seventeenth and early eighteenth centuries the goal of the public execution ritual had been on the community rather than on the individual actually being executed, after 1713 the individual reprobate upon the gallows began to become the focus. This refocus on the individual can be attributed to the rise in individualism in general during the eighteenth century, but also to challenges to the doctrine of original sin. If the natural state of humanity was not that of being depraved, then criminal and sinful acts were deviant choices that could in theory be atoned for by true penitence.

Another ideological change within execution sermons during the mid-eighteenth century was the increasing secularization of both the preaching and the audience. The religious awakenings of the eighteenth and nineteenth centuries in many parts of New England contributed to growing religious pluralism. This pluralism forced ministers to abandon much of the harsh and unyielding language of earlier sermons to maintain relevance to an audience that may have been populated by numerous religious denominations. The root cause of crime also became secularized during this period, although Samuel Danforth (the younger) had preached of *The Woful Effects of Drunkenness* in 1710, crime was now the result of social failings rather than moral depravity. However, with the beginning of the split between the concepts of crime and sin, property crimes (along with murder which always represented the majority of executions) began to become much more prevalent for those offenders being executed. Although property crimes were offenses against a civil state, not a social covenant, they did disrupt the community, and a strong Biblically based justification of execution would not have been applicable. A synthesis between religious and secular sources to justify such punishment was therefore necessary.

Both Enlightenment philosophies and republican ideology were part of that synthesis within execution preaching and what would become the criminal justice reform movement. As secularization and pluralization began to take hold during the mid-eighteenth century, especially after the Revolution, secular preaching became commonplace, partially fueled by republicanism. This secularization divided the concepts of sin and crime into separate spheres; sin as a religious and moral failing, and crime as a transgression directed at subverting the social compact. The execution ritual

no longer served the cultural and social role that it once had, although the state remained reluctant to abandon the practice. Therefore, although the ritual itself remained relatively constant, the meaning behind its practice changed. Although the ritual remained somewhat community oriented and gave a nod to individual conversion, the greater meaning being conveyed to the audience was the establishment of state legitimacy in punishing citizens with the ultimate penalty.

During the early Republic period, ministers delivered a small number of examples of execution sermons that actually challenged this longstanding ritual in New England. Although exceptional, these sermons demonstrate not just the growing religious opposition to the public execution ritual, but also the breakdown of the ritual itself. No longer was the audience flocking to executions, as they did for Jason Fairbanks' execution in 1801, to stand as pious observers, but instead as witnesses to a spectacle of state punishment, which some appeared to see as entertainment. Both Thomas Thatcher and Jonathan Going's sermons recommended moving the execution ritual into the newly constructed prison yard in order to minimize public access. In a turn of rhetoric, no longer was the individual reprobate the only corruption present during the public execution ritual, but the ritual itself served as a corruptive sight for the hundreds or thousands of spectators on hand to witness the event.

Brownson's 1832 sermon demonstrates not only the growing religious opposition to capital punishment, but also a new understanding of criminal justice. Brownson advocated for an end to capital punishment for several reasons, including the prevalence of criminals not being punished because juries were unwilling to sentence them to death. Therefore, instead of severity, Brownson argued for a more lenient system that would

more definitively punish offenders. Juries would be more willing the convicted to sentence to a prison term rather than a death sentence, creating a greater likelihood of punishment for offenders.

An interesting way of framing this secularization of crime and punishment can be articulated using Michel Foucault's argument that replacing the spectacle of public punishments with the private institution of the prison signaled a movement from punishing the body to punishing the soul.<sup>2</sup> While this may at first seem backward, especially with the move from religious to secular argument present first within execution sermons and then with the secular reformers during the 1820s and 1830s discussed earlier, this body to soul argument stands up to scrutiny. Although ministers had focused a portion of their rhetoric on penitence to avoid a secondary spiritual death, the real aim of the ritual and the sermon was a temporal punishment of the body of the offender. By violently amputating the diseased member of the social body, the entire community could be deterred from committing similar sinful acts. In fact, even though early ministers had greatly doubted the possibility of salvation for the reprobate upon the gallows, the possibility was theoretically present, and therefore only the temporal punishment on the body was executed, the soul could still be saved.

With the movement away from public punishments both with the rise of penitentiary discipline and the privatization of capital punishment, the new focus of punishment was the heart and soul of the offender. Punishing the body was specifically rejected by several reformers, including Edward Livingston, who argued that only by reforming the reprobate would the social good of punishment be maximized. This rehabilitation followed a path aimed at a type of spiritual reformation of the inmate's

soul. Only through self-realization and desire to embrace the Protestant work ethic could true reform be accomplished. Foucault rejected most of the humanitarian aspects of this focus on the soul within the penitentiary, but at least initially these reformers seemed genuine in their belief in the effectiveness of institutional discipline in creating a better society. As secular failings, drunkenness, idleness, and poor education, had led to the reprobates fall, secular solutions through sobriety, labor, and instruction, the penitentiary could potentially reform even the worst offender.

The religious changes present in execution preaching therefore do not reveal in its entirety the motivations for reform of the criminal justice system during the early republic, specifically the embrace of the penitentiary and the rejection of capital punishment. Enlightenment philosophy and republican ideology were also essential elements, but the religious developments demonstrate the long-term process of change from the late seventeenth century until the 1830s. Over this period ideology and theology shifted from near universal religious support for capital punishment to a level of dissent that allowed reformers like Thomas Upham and Robert Rantoul to use religion to argue against inflicting death as a form of punishment. Just as ministers during the mid-eighteenth century had used the blood of Christ to argue for the potential salvation of all humanity, reformers used this example to contend that spiritual reformation was not only possible, but temporal reformation as well. They rejected the public gallows and such amputation of corrupted individuals in favor of the penitentiary that would serve as a healing institution, maximizing the common good of society by eliminating the corruptive sight of the public execution ritual and by reforming the fallen members of the social body.

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<sup>1</sup> Hezekiah North Woodruff, *A Sermon, Preached at Scipio, N.Y. at the Execution of John Delaware* (Albany: Charles R. and George Webster, 1804), 12.

<sup>2</sup> For example see, Foucault, *Discipline and Punish*, 16.

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