

PUBLIC PUNISHMENT VERSUS PRIVATE
JUDGMENT: ANTI-GALLOWS SENTIMENT AND
CRIMINAL REFORM IN ANTEBELLUM
LITERATURE 1772-1855

By

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INTRODUCTION

REPUBLICAN LEGAL DISCOURSE AND ANTI-GALLOWS SENTIMENT IN THE LONG EIGHTEENTH CENTURY

“Ah! What a Spectacle I shall soon be, A Corps suspended from yon shameful Tree.”

Levi Ames

Legal and philosophical debates over the effectiveness of capital punishment and penal reform have played a significant role in American civic and political life ever since the establishment of the British Colonies in the seventeenth century. Just prior to the American Revolution and up until the decades immediately preceding the Civil War, the public spectacle of the gallows and “Hanging Day” was thought to promote good citizenship and prevent transgressive behavior among the population (Barton 145). During the colonial and early national periods, leaders believed that public execution of criminals contributed to the maintenance of religious and civic order. Yet, the role and nature of public punishment in American legal and political culture changed drastically in the decades immediately following the Revolutionary War.

In the post-revolutionary and antebellum United States, criminal narratives and literature in the form of the execution sermon, the gothic novel, autobiographical testimony, and the African-American slave narrative informed the citizenry as to the public abuse of convicted criminals on the gallows and made the individual aware of the need for republican legal reforms such as trial by jury, the creation of penitentiaries, and private punishment¹. In the early national and antebellum periods, a less authoritarian system of justice encouraged by the principles of Enlightenment philosophy caused social reformers and philosophers to advocate for a more humane system of public punishment. The late Enlightenment belief in the humanity of each individual along with the growing republican contempt for the right of the state to execute its citizens led prominent literary minds to question the efficacy of capital punishment and public execution as a viable means of criminal reform. This project discusses the development of anti-gallows sentiment in the creative work of authors and progressive reformers from a variety of social backgrounds and ideological perspectives. Socially conscious writers from the Native American clergyman Samson Occom to the physician Benjamin Rush and from the former slave Frederick Douglass to the novelists Nathaniel Hawthorne and Herman Melville employed the republican legal discourse of the Enlightenment to influence the cultural attitudes of Americans concerning public punishment and transgressive behavior.

Literary examinations of capital punishment, executions, and criminal reform in the New Republic are informed by the major Enlightenment philosophical movements of the late eighteenth century. While the philosophical origins of the anti-gallows movement in American culture are difficult to date precisely, historians of criminal reform maintain that anti-capital punishment sentiment first came to prominence in British North America during the 1770s. For nearly a generation before the American Civil War, the movement to abolish the spectacle of

public punishment was a significant part of the disciplinary system of republican governments in North America and Europe, which encouraged debate concerning justice and personal responsibility. The sentence of death for secular transgressions such as murder and theft were associated with the development of the modern state. Up until the mid-eighteenth century in England, the number of capital offenses multiplied as the state blurred the distinction between public and private offenses (Davis 23). The death penalty was viewed by the British government as a means for protecting the sovereignty of the king.² However, capital convictions continued to be perceived from antiquity as a form of retaliation for personal wrongs. In modern societies, capital punishment offered an emotional release from anxiety and resentment exacerbated by criminal acts. By the eighteenth century, public punishment incorporated rational theories of civil self defense and the emotional belief in retribution.

The belief in revenge as the catalyst for punishment can be seen in the writings of John Locke who was considered a foremost authority on jurisprudence in American society until the 1820s.³ Locke defended the institution of capital punishment arguing that individual's forfeited their civil rights when they committed a crime. His system of justice incorporated elements of both retributive and utilitarian philosophy. Advocates of retribution argued that criminals deserved punishment for their actions while utilitarian's maintained that public punishment was necessary to maintain civil order by deterring crime. Locke "sought to combine the ancient, irrational doctrine of retribution with the rational concept of a social compact, wherein the state chooses the most expedient means to protect life and property" (Davis 24). The social theorist maintained that retribution was an inalienable right granted to man in accordance with natural law. Locke maintained that under the social compact a criminal act such as murder for which there was no reparation should be punished with death. Locke attempted to preserve the doctrine

of “blood for blood” within his theory of the social compact. However, in the eighteenth century, progressive liberal reformers began to believe that evil existed in man’s environment not as a result of innate depravity.

Due to a persistent resistance to the English belief in retributive justice and the absolute authority of the monarch and the state, the attempt to reform penal law and capital statutes has been a topic of interest in the United States since the early period of British colonization. Opposition to capital punishment existed in the American colonies during the Enlightenment; however, it was not until the political turmoil of the American Revolution that an organized legal reform movement began to develop. Anti-gallows sentiment “grew in the decades following the Revolution as many Americans began to perceive the death penalty as a relic more appropriate to monarchical systems than the New Republic” (Jones 2). Enlightenment thinkers promoted the view that individuals could change society and that civil society was in desperate need of fundamental reform. At the end of the eighteenth century, the continued emphasis on natural law and the right of the individual to self-government took precedence over the absolute authority of the state. This belief in the right of man to protest abuse and inhumane treatment by civil government led prominent European philosophers such as Montesquieu and Beccaria to question the established systems of crime and punishment.

Historian Louis Masur argues that Montesquieu established the first standard for an Enlightenment examination of the law. In the *Persian Letters* (1721) and *The Spirit of Laws* (1748), Montesquieu claimed that the physical severity of punishments violated the personal liberty of citizens. Masur comments: “Since such severity characterized despotic government, he thought excessive punishments especially unsuitable for republics” (51). For Montesquieu, distinctions between crimes and punishments should come directly from nature. The philosopher

argued that to discipline a thief in the same fashion as a murderer was to break down the just proportions between crimes and punishments and promote the commission of the greater rather than the lesser offense. Like Montesquieu, the Marquis Cesare Beccaria also embraced the social ideology of the Enlightenment. After reading Montesquieu's work, Beccaria joined a society that regularly discussed philosophy and literature and debated the established laws of civic governments. Beccaria's seminal work *An Essay on Crimes and Punishment* (1764) grew out of these meetings.⁴

Beccaria's essay became readily available in British North America and it became a useful source in debates about crimes and punishments in the new nation. Beccaria's treatise analyzed the objects of punishment and discussed how to achieve social reform effectively. The Enlightenment philosopher argued that criminal punishment must maintain the integrity of society and prevent transgression. Beccaria maintained, "The end of punishment is not other than to prevent the criminal from doing further injury to society and to prevent others from committing the like offense" (Beccaria qtd in Masur 52). Through this statement, Beccaria attempted to eradicate legal punishment based upon vengeance and propose a system of moral deterrence at the heart of penal philosophy. Beccaria believed that punishment such as torture could not undo a crime previously committed. Severity of punishment ultimately failed as an effective deterrent. In North America and other Western European republics, *On Crimes and Punishments* provided an important application of Enlightenment legal principles—"balance, proportion, [and] benevolence to the problem of criminal jurisprudence" (Masur 51). Essayists and thinkers employed Beccaria's treatise as a sourcebook for ideological argument against the death penalty. For legal theorists in the United States, the reformation of criminals, not vengeance or deterrence, served as the principle end of punishment. Americans already sensitive

to the issues of execution and public punishment became aware of the need for disciplinary reform as a result of the rejection of monarchical and state authority promulgated by the American Revolution.

The legal principles proposed by Montesquieu and Beccaria became the foundation of early anti-capital punishment reform during the American Revolution. In the colonies, as a result of the rationalistic Enlightenment humanism of Americans, the reforms proposed by Beccaria found a receptive audience. In North America, Beccaria quickly became one of the most popular European writers among the founding fathers including John Adams and Thomas Jefferson. An example of Beccaria's influence on early American criminal justice reform can be found in the 1770 trial against British soldiers implicated in the Boston Massacre (Maestro 465). John Adams representing the soldiers opened his defense with the following statement from the *Essay on Crimes and Punishments*. Adams asserts:

May it please your honors, and you, gentlemen of the jury: I am for the prisoners at the bar, and shall apologize for it only in the words of the Marquis Beccaria: If I can but be the instrument of preserving one life, his blessing and tears of transport shall be a sufficient consolation to me for the contempt of all mankind (Adams qtd in Maestro 465).

This statement represents a significant milestone in the development of anti-capital punishment sentiment in North America. Defending the legal and civil rights of the British soldiers, Adams claims that the accused were entitled to a fair trial and that vengeance in the form of execution would not prevent further civil unrest. This belief in individual justice and criminal reform for the accused was echoed by Thomas Jefferson. Like Adams, Jefferson "credited Beccaria with

awakening the world to the unnecessary severity of capital punishment” (Masur 53). As a member of the Virginia committee to reform the laws of the Commonwealth, Jefferson proposed a bill for proportioning crimes and punishments. Beccaria’s essay alone did not cause the public to oppose capital punishment; however, the jurist’s penal philosophy was instrumental in the formation of early anti-capital punishment reform at the end of the eighteenth century.

As Americans began to reject the social theories of retributive justice and deterrence proposed by Locke, the new nation embraced the progressive legal concepts of balance and benevolence promoted by Montesquieu and Beccaria. The social and moral attitudes of Americans underwent a major shift from the late Enlightenment through the early decades of the nineteenth century. From 1772 to 1855, the young republic began to adopt progressive attitudes concerning the nature of criminal behaviors and anti-gallows sentiment began to be accepted among the general population in the North. In states such as Pennsylvania and Rhode Island, the influence of Quaker reformers contributed to the replacement of the death penalty with extended prison sentences. Prior to the American Revolution, colonial American society enforced the system of deterrence and public execution of criminals by the state advocated by Locke. However, with the formation of a republican form of government and the influence of the penal philosophies of Beccaria and Montesquieu in the late eighteenth century, Americans began to question the effectiveness of the public spectacle of capital punishment and “Hanging Day.” For citizens of the early American republic, public executions and physical punishment of the bodies of the condemned seemed incompatible with the rejection of tyrannical and monarchical authority propagated during the War for Independence. In the late eighteenth and early nineteenth centuries, a belief in the benevolence of human beings and a “republican” rejection of the right of the state to summarily execute private citizens led authors of imaginative literature

and criminal narratives to question regressive forms of public punishment and promote alternative methods of disciplinary criminal reform.

Scholars of the antebellum American criminal narrative have recently begun to analyze the impact of literary texts upon the anti-capital punishment movement in the early nineteenth century. Critics such as John Cyril Barton, Paul Christian Jones, and Brook Thomas argue that anti-capital punishment sentiment began to appear in American literature in the decades preceding the Civil War. However, in this study I assert that anti-gallows sentiment among the literary community developed much earlier than the 1830s. The debate over the gallows and the spectacle of public execution dates back to the late eighteenth century. In his study of legal judgment and disciplinary reform in the gothic novels of Charles Brockden Brown, Frank Shuffelton argues that the late Enlightenment novelist's fictional commentary on the nature of legal and moral judgment in the early republic was highly influenced by the ratification of Constitution, the adoption of the Bill of Rights in 1791, and attempts by Benjamin Franklin, Benjamin Rush and legal and psychological reformers to outlaw the system of state execution and public punishment. The anti-authoritarian Quaker philosophy of benevolence and pacifism led to the establishment of the Philadelphia Society for Alleviating the Miseries of Public Prisons in 1787, an early precursor to anti-gallows reform societies of the early nineteenth century. According to Shuffelton and Masur, beginning in 1786 and culminating in 1794, the state of Pennsylvania banned the public whipping post, experimented with a progressive system of penal labor, significantly reduced the number of capital crimes, and restricted capital punishment to first degree murder.

While critics of antebellum American literature have analyzed the major fictional anti-capital punishment works of the nineteenth century, they have paid little attention to the

influence of eighteenth-century republican legal discourses upon the development of anti-public punishment sentiment during the early national period. Barton, Jones, Thomas, and other scholars maintain that the “anti-gallows reform movement became a topic of national interest in the nineteenth century” (Barton 145). At the turn of the century, pivotal legal and cultural arguments for the elimination of capital punishment were presented before several state legislatures in the North and the South. Moral and legal debates concerning the validity of public execution peaked in the 1830s, 40s, and 50s with the founding of the New York and Massachusetts Societies for the Abolition of Capital Punishment. During the decades just before the Civil War, debates concerning the death penalty spread across the nation. The majority of anti-capital punishment societies would not appear until the early decades of the nineteenth century; nevertheless, republican societies in the late eighteenth century began to abandon public hangings and executions in favor of more humane forms of private punishment. Through their commentaries on public punishment and the nature of transgression, socially-conscious authors critically and favorably respond to the anti-authoritarian sentiment from the late Enlightenment. The imaginative literature of Brown, Hawthorne, and Melville incorporate the legal theories of Beccaria, Bentham, Locke, and Montesquieu. Thus, this study analyzes the means by which anti-gallows literature of the late eighteenth and early nineteenth centuries draws upon post-revolutionary republican legal philosophy to promote progressive arguments for the abolition of capital punishment and criminal disciplinary reform⁵.

My examination of republican anti-capital punishment sentiment in the United States is informed by the sociological and criminal reform theories of Jacques Derrida and Michel Foucault. Criminal justice reformers and anti-gallows writers during this period viewed the spectacle of public punishment as a product of “the mind of England” that was incompatible with

the egalitarian values of democratic America (Jones 37). This perception of public punishment and the gallows as tools for undemocratic states to enforce absolute authority over the lives of individual citizens reflects the political views of Benjamin Rush, Charles Brockden Brown, Nathaniel Hawthorne, and Herman Melville. This view of the death penalty as a manifestation of monarchical governments is also discussed in modern critiques of the death penalty. In the Western context, Derrida in *Force of Law: The Mystical Foundation of Authority* debates the impact of deconstruction upon modern theories of justice and law enforcement. Deconstructive theorists contemplate whether or not the modern concept of law is an authorized force. Derrida asserts that “law is an authorized force, a force that justifies itself or is justified in applying itself, even if this justification may be judged from elsewhere to be unjust or unjustifiable” (5). For Derrida, there are no laws without enforceability and capital statutes cannot be maintained without force. Modern societies continue to debate the degree and severity of punishment that is necessary to maintain civil order. These legal and philosophical arguments concerning the humanity of capital punishment are central to an understanding of the mentality of American anti-gallows writers and reformers during the early national and antebellum periods.

Foucault also addresses the issues of enforcement of capital statutes and the severity of public execution in *Discipline and Punish: The Birth of the Prison*. The development of penitentiaries in the United States was initially seen as a site of humane criminal reform and an alternative to the spectacle of public punishment. Yet, for antebellum penal reformers such as Margaret Fuller and Benjamin Rush, the prison like public execution often became a means of the state exercising authority over the individual. Foucault writes, “The Public execution, then, has a juridico-political function. It is a ceremonial by which monetarily injured sovereignty is reconstituted. It restores that sovereignty by manifesting at its most spectacular” (48). Foucault

argues that alternative criminal reforms such as the penitentiary during the eighteenth century ultimately reinforced the authoritarian power of the sovereign and the state. This anti-monarchical sentiment would come to dominate the ideology of legal reformers during the formative years of the new republic. Wai Chee Dimock observes that the democratic philosophy of balance and proportion proposed by Beccaria at the end of the eighteenth century “would come to dominate the field of penal justice” (16). The early nineteenth century would become the era of the penitentiary in which legal reformers focused on reform and moral deterrence rather than vengeance and retribution. Therefore, I maintain that the portrayal of transgressive behavior and criminal reform in antebellum literature was influenced by the changing attitudes toward the authority of the state and legal punishment in republican societies.

Tracing the development of anti-gallows sentiment during the eighteenth century, *Public Punishment Versus Private Judgment* opens with a chapter on the Native-American activism of Samson Occom, a Mohegan minister, who employs the public sentiment of eighteenth-century republicans to challenge the white view of his fellow tribesman Moses Paul as an innately depraved criminal. Representative of the “Hanging Day” sermon genre of the eighteenth century, Occom employs the discourse of sympathy to challenge the white view that his fellow tribesman Moses Paul is an innately depraved criminal. Occom employs the religious rhetoric of Congregationalism and temperance to advocate for the humanity and civil rights of the accused Native American murderer. Convened on September 2, 1772, the public execution of Moses Paul drew an impressive crowd from all walks of American society. The accused Native American’s execution was New Haven’s first public hanging in twenty years and presented a unique opportunity for the New England community to listen to a well-known Indian minister preach at the execution of a member of the Mohegan tribe. Both whites and Native Americans attended the

public execution and Occom's impassioned sermon left an indelible impression upon the multi-ethnic audience. The execution sermon became especially popular with the public because of its challenge to the view of Native Americans as innately depraved criminals and the sermon's spiritual application to Indians whose public drunkenness whites feared. While Occom's execution sermon condemns the intemperance of the convicted murderer, following the rhetorical form and structure of the eighteenth-century hanging day sermon, the Mohegan minister adapts the rhetoric of innate depravity from the colonial execution sermon to portray the accused murderer Moses Paul as an unfortunate victim of alcoholism and the European colonial state in need of moral and criminal reform. The public execution of Moses Paul provides an example of the regressive forms of public punishment practiced in the late eighteenth century, yet Occom's impassioned spiritual plea for the legal and civil rights of the convicted murderer also offers an important social critique of the causes of immorality and transgressive behavior in pre-revolutionary British America.

Chapter two analyzes the eighteenth-century American gothic novel as a criminal narrative concerned with the newly-adopted republican legal concepts of trial by jury, penal reform, and private punishment. This chapter examines two texts which examine the effects of criminal discipline and capital punishment upon deviants in the Early American Republic, Charles Brockden Brown's gothic novel *Wieland or The Transformation* (1798) and Benjamin Rush's political reform tract "An Enquiry into the effects of Public Punishments" (1787). Brown's novel and Rush's tract assert that capital punishment and public execution are incompatible with the republican legal system established in the aftermath of the American Revolution. Brown's novel critically analyzes the dangers of hasty or inaccurate judgment of perceived social deviants by the state. The ideological and legal conflict in *Wieland* occurs

among Clara, her brother, and the Republican Mettingen community as to how to effectively punish the crimes of the deviant Biloquist Carwin. Even though the actions of Brown's criminal antagonist have contributed to Clara's mental anguish and resulted in the murder of her brother and his family, Brown as well as Rush maintain that moral vengeance in the form of state-sponsored public execution contributes to a breakdown of ethical and social order. According to Brown and Rush, justice for the victims of heinous crimes in the eighteenth-century United States can only be achieved through a trial by a jury of peers rather than the antiquated methods of hanging and public execution advocated under the aristocratic European legal system. Therefore, as moral and legal texts, Brown's novel and Rush's anti-gallows tract stress the need for the continued development and enforcement of progressive forms of republican justice to dispense discipline, maintain civil order, and determine the appropriate methods of disciplinary punishment for criminal acts.

Chapter three discusses Herman Melville's novella *Billy Budd Sailor: An Inside Narrative* as a romantic criminal reform narrative that resembles early anti-gallows texts of the nineteenth century. In his final short novella, Melville draws upon naval and legal republican discourses of the eighteenth century from Thomas Paine, Benjamin Rush and other Enlightenment reformers in order to promote disciplinary criminal reform. *Billy Budd Sailor* was completed in 1891 and did not appear in print until 1924. Melville's last work is not an antebellum reformist text. Yet the post-Enlightenment mutiny narrative significantly contributes to an understanding of the philosophical influence of eighteenth-century republican anti-capital punishment sentiment upon the sympathetic anti-gallows reform literature of the early nineteenth century. Set during the latter decades of the eighteenth century, the historical events addressed in Melville's legal reformist romance take place in the midst of Enlightenment republican debates

over the efficacy of capital punishment in the United States, France, and Great Britain. H. Bruce Franklin and Louis Masur observe in their studies of eighteenth-century American republicanism and anti-gallows sentiment that the most influential anti-capital punishment act in eighteenth-century America was passed in Pennsylvania three years before the action of *Billy Budd*. In 1797, the year of seaman Budd's fictional public execution on the scaffold, the anti-monarchical movement to repeal the oppressive capital punishment statutes of George III's "Bloody Code" was fully underway in Great Britain. Furthermore, during the 1780s and 90s in the aftermath of the American Revolution, republican authors, politicians, and legal scholars including Thomas Jefferson, Benjamin Rush and other reformers sought to abolish capital punishment for all crimes except murder and treason. As a representative example of nineteenth-century anti-gallows reform literature, *Billy Budd* reflects back upon republican anti-capital punishment sentiment of the American Enlightenment to promote disciplinary legal reform of the authoritarian state. Melville's historiographic romance draws upon the philosophical concepts of Natural Law and Social Contract theory from the Early National Period to argue that the ideological humane reforms proposed by eighteenth-century anti-public punishment advocates must be implemented to maintain individual civil liberties and preserve justice within American society. As a historical romance and eighteenth-century mutiny story, Melville's novella strategically critiques the public forms of retributive justice and execution from the late Enlightenment to promote a progressive criminal reform agenda.

In Chapter 4 I examine Nathaniel Hawthorne's social reform novel *The Blithedale Romance* as an antebellum criminal narrative that addresses the appropriate methods for the punishment and reform of social deviants. This chapter analyzes Hawthorne's use of prison metaphors to comment on nineteenth-century attitudes towards criminal reform. The central

conflict in *Blithedale* is between Coverdale and Hollingsworth as to the nature of individual social reform within the utopian community. Hawthorne consistently associates the development of the penitentiary as a humane alternative with the sympathetic discourse of progressive feminine reformers such as Margaret Fuller. Extreme forms of discipline and public punishment, however, are associated with unsympathetic masculine attempts to reform society by incarcerating prisoners. As proponents for sympathetic penitentiary reform advocated by Fuller, Coverdale and Zenobia view Blithedale as an asylum where the individual transgressor atones for the sins of his previous life by withdrawing from mainstream society. In contrast, Hollingsworth and Priscilla believe in the masculine regressive concept of the ideal community as a prison where the “innately depraved” go to be punished and not cured. While Miles Coverdale views Blithedale as a progressive penitentiary where social reform and correction of the individual soul is possible, Hollingsworth draws upon the legal discourse of pre-revolutionary North America to envision the community as a punitive seventeenth-century penal colony where the morally bankrupt go to be punished and ask God forgiveness for their transgressions. In true Hawthornian irony, Hollingsworth attempts to implement sentimental penal reform while retaining a stark Calvinistic sense of innate human depravity and the need for physical punishment. Therefore, Hawthorne’s social reform criminal narrative addresses the legal controversy over capital punishment versus progressive penitentiary reform that dominates antebellum literature from the American Revolution to the Civil War.

This study concludes with an analysis of the decline of anti-capital punishment reform in the 1850s. Continuing my analysis of the impact of public punishment, criminal reform, and social deviance from chapters three and four, the fifth chapter examines the connection between the abolitionist movement and the anti-gallows reform movement. The abolitionist writings of

Frederick Douglass and Herman Melville's anti-gallows novel *White Jacket* (1850) make an explicit connection between republican anti-capital punishment reform and the anti-slavery cause. Melville's fiction and Douglass's autobiographical narratives address anti-gallows reform and anti slavery sentiment directly in their connection between the abusive flogging of working class sailors on board ship and the lynching of African American slaves in the South. Samuel Otter observes in *Melville's Anatomies* that the comparison between the mistreatment of American sailors in *White Jacket* and the lynching of southern slaves is so blatant that the anti-capital punishment narrative is "about the extension of black slavery to the decks of the United States Naval Frigate and to the backs of white sailors." In the same manner as Melville, Douglass makes a metaphoric comparison between the public spectacle of flogging and lynching of blacks in an editorial in *The North Star* on January 26, 1849. Douglass saw flogging as "but an off shoot of the system of slavery and hoped that Americans after contemplating the gross inhumanity of cutting the backs of white men might eventually recognize the foul brutality of cutting the backs of black men" (Wallace 85). As representative anti-gallows criminal reform literature, Melville's novel advocates for the legal and civil rights of working-class seamen through its attack on the abuse of disciplinary authority by superior officers on board the frigate *United States*. Anti-capital punishment advocates and supporters of the campaign to end flogging in the American Navy employed Melville's novel as propaganda to convince Congress to outlaw the practice of public punishment on board ship. However, the abolitionist movement ultimately overshadowed the efforts of anti-gallows reformers due to their adoption of the rhetoric of egalitarian criminal justice reform to advocate for an end to the practice of public flogging of African-Americans and the eventual abolition of slavery in the United States.

Anti-Gallows reformers in the late-eighteenth and early-nineteenth centuries incorporated the egalitarian republican rhetoric of the American Enlightenment to make their arguments for reform. Like other social reform movements of the time period, criminal justice reformers viewed themselves as attempting to fulfill the promises of democratic liberty and equality ensured by the Declaration of Independence and the Bill of Rights. They viewed the right of the state to take the lives of individual citizens as a violation of sacred republican principles. Anti-Gallows reformers and members of the literary community successfully advocated for progressive criminal and legal reform in several state legislatures. However, the utopian ideals of socially conscious reformers and writers became unattainable in the midst of the continued social and political turmoil of the 1850s.

Notes

¹ My historical overview draws upon the work of Stuart Banner, John Cyril Barton, David Brion Davis, Paul Christian Jones, and Louis Masur

² Paul Christian Jones argues in his study *Against the Gallows: Antebellum Authors and the Movement to Abolish Capital Punishment* that anti-monarchical sentiment existed in American Literature until the mid-nineteenth century. Jones claims that early nineteenth-century authors viewed the gallows as a manifestation of the authority of the King.

³ The writings of John Locke on retribution and justice influenced anti-gallows literature into the early decades of the nineteenth century. The authors that I discuss in this study critically respond to the social theories of Locke to make their arguments concerning the right of the individual to humane treatment under the law.

⁴ In my study of anti-gallows literature of the early Republican and antebellum periods, I argue that the ideological work of literary reformers was largely influenced by the criminal theories of the Enlightenment. Therefore, antebellum authors draw on the philosophy of Beccaria and Montesquieu to advocate for progressive legal and criminal reform.

⁵ The scholarship of Barton and Jones focuses on the development of anti-gallows societies in the antebellum period and their impact on capital punishment reform through the nineteenth century. By adjusting the literary and historical timeline in my study, I attempt to show more clearly the influence of eighteenth-century Enlightenment philosophy upon the work of American authors through the late nineteenth century and beyond.

CHAPTER I

INNATE DEPRAVITY AND THE SPECTACLE OF PUBLIC PUNISHMENT: TEMPERANCE AND ANTI-GALLOWS SENTIMENT IN SAMSON OCCOM'S EXECUTION SERMON FOR MOSES

PAUL (1772)

“The Doors are all locked against folks that are wicked: And you I am fearful will never get there: A Life of repentance must purchase the ticket, And few of you Indians can buy it I fear”

Phillip Freneau from

“The Indian Convert” 1797

In late September of 1772 in New Haven Connecticut, the Mohegan minister Samson Occom delivered what is considered to be one of the most widely circulated execution sermons for a convicted felon in eighteenth-century British North America. Moses Paul, a fellow Christian and member of the Mohegan tribe convicted of murder and public drunkenness was executed for the killing of Moses Cook—a white man—outside of a local tavern. The crime of murder was not uncommon in New England during this period, yet as a Native American Moses Paul was the type of non-white innately depraved deviant “savage” that European colonists considered predisposed to commit violent acts. Since the early period of colonization

in the seventeenth century, Puritan clergymen had preached that excessive alcohol consumption among the indigenous population threatened the moral order of civil society and contributed to violent crimes such as rape and murder against whites. For indigenous peoples in New England, public punishment and “Hanging Day” represented a deliberate attempt on the part of civil authorities to violently force Native Americans to repent their moral transgressions and conform to Western European legal statutes and social norms. Traditional Calvinist execution sermons emphasized the innate depravity of convicted criminals and the need for the spectacle of public punishment to absolve them of their sins. However, as a New Light Congregationalist minister Occom’s sermon employed Christian sympathy to challenge the view of indigenous peoples as savage transgressors unworthy of God’s grace and salvation. While Occom’s execution sermon for his fellow tribesman, Moses Paul, condemned the intemperance of the convicted murderer following the rhetorical form and structure of the eighteenth-century “Hanging Day” sermon, the Mohegan minister adapted the fundamentalist rhetoric of the colonial execution sermon to compassionately portray the accused Native American murderer as an unfortunate victim of alcoholism and the Anglo-European colonial state in need of moral and criminal reform.

In Samson Occom’s execution sermon, the discussion of criminality and transgressive behavior differ significantly from the rhetoric of traditional Calvinist execution sermons. Similar to his Calvinist colleagues, the Mohegan minister’s “Hanging Day” sermon attributes the causes of Moses Paul’s criminal transgressions to violations against the Old Testament Law, yet Occom also attributes the convict’s actions to secular immoral behavior such as inebriation and public drunkenness. In his extensive study, “In Defense of the Gallows: Justifications of Capital Punishment in New England Execution Sermons 1674-1825,” historian Daniel A. Cohen asserts that fundamentalist ministers in the eighteenth century continued to draw their legal and moral

doctrines on public punishment from Old Testament Biblical texts that directly condemned the capital crimes at issue. The majority of New England's clergymen continued the Puritan rhetorical tradition of justifying public "executions in terms of the community's obligation to an avenging God. . ." (Cohen 151). Reflecting the criminal theories of John Locke, Puritan ministers maintained that vengeance and retribution was a legal right granted to the community and the individual by the doctrine of "blood for blood" and natural law.

As a result of the authoritarian state's emphasis on retributive justice and vengeance, the execution of convicted criminals was viewed as a means to maintain civil order. The spectacle of the gallows and public punishment in the eighteenth-century became an occasion to save the souls of the condemned as well as to legally justify the authority of the sovereign monarch, the state, and the execution itself. Cohen claims that from the seventeenth through the late eighteenth century New England clergymen viewed themselves as "quasi official apologists for the [legal] rulings of the colonial courts" (148). Calvinist ministers consistently defended the death penalty during the colonial and early national periods, yet their moral justifications for capital punishment changed dramatically from the period of Puritan colonization to the American Enlightenment. Like their Puritan forefathers, New Light Congregationalist ministers maintained that the public execution of transgressors was necessary to "purify the land and hence avoid divine judgments against society as a whole" (Cohen 151). Yet, despite the continued pervasive influence of the Old Testament Law and the emphasis on the divine punishment of the individual, many eighteenth-century ministers including Occom began to philosophically distinguish between religious and secular justifications of capital punishment in their public execution sermons. As a result of this dual emphasis on secular and religious justifications for

the public execution of convicted criminals, a new form of hybrid “Hanging Day” sermon emerged during the latter half of the eighteenth century.

¹ Cohen argues in his analysis of the execution sermon genre that ministers during this period began to argue in their public discourses that capital crimes such as murder were not only a sin against the divine Old Testament Law of God, but occurred as a result of environmental factors, destructive human behaviors, and personal moral choices that threatened civil order and public safety.²

The hybrid, secular, and religious justifications for capital punishment provided by New Light ministers, continued to be offered by Occom and enlightened Congregationalist ministers during the second half of the eighteenth century. Many of the execution sermons delivered during the pre-Revolutionary period in North America represent an important shift in religious thought and language away from traditional Puritan fundamentalist justifications for public punishment. As a result of this philosophical and rhetorical shift, several progressive ministers began ideologically to question the applicability of Old Testament scriptural laws to their modern society. In Occom’s sermon, for example, Biblical citations and invocations of divine wrath continue rhetorically to appear, yet the balance of discussion “—and the burden of justification. . . .” shifts toward the secular arguments such as the influence of detrimental personal behaviors like inebriation and public drunkenness. Cohen, along with Michel Foucault in *Discipline and Punish: The Birth of the Prison*, argues that these social and legal changes regarding the nature of criminal punishment and individual transgressions were directly related to radical shifts in public attitudes toward personal behavior, private property, and social discourses generated by the political upheaval of these years. Cohen writes, “In an era of republican revolution against long established royal authority, invocations of ancient scripture

and divine sovereignty would naturally have less rhetorical resonance than assertions of current need and the common good” (153). From a theological perspective, this new secular and philosophical approach represented the gradual withering away of the Calvinist theocentric approach to human obligation. Although there is no direct evidence in the hybrid secular execution sermons of Occom and other late eighteenth-century New Light ministers that their public discourse was directly influenced by the innovative penal theories of Enlightenment thinkers such as Beccaria and Montesquieu, the secular justifications for criminal behavior of the accused seem to reflect changing public attitudes toward the nature of crime and punishment. In the execution sermons of the late eighteenth century, the fundamentalist rhetoric of divine punishment by the state is largely replaced with a secular emphasis on government right and the collective good of the community.

Like the prominent New Light Congregationalist ministers, Benjamin Colman, Charles Chauncey, and Samuel Checkley, at the turn of the eighteenth century, Samson Occom justified the death penalty in his 1772 execution sermon based on both religious and secular grounds.³ Occom, along with other members of the New England clergy, cited Old Testament scriptural texts in his public sermon “condemning murder, decrying it as a violation (as well as a desecration of [God’s] image as embodied in man), and followed [his] seventeenth-century Puritan predecessors in suggesting that God required the community to punish the murderers in order to cleanse the land” and purify the Native-American community (Cohen 152). In the same manner as his fundamentalist colleagues, Occom finds his warrant for the capital punishment and execution of the convicted Mohegan killer based upon the historical fact and Biblical precedent from the Old Testament Law that extreme penalties have been imposed for murder by all human societies both Christian and pagan. Beyond the moral and religious authority of universal

practice and Biblical law, however, the secular arguments emphasized by Occom and other prominent Congregationalist ministers on “Hanging Day” revolved around such pressing social issues as moral deterrence and the community’s legal right to self defense.

In stark contrast to the traditional emphasis on Old Testament Law in the exposition to the seventeenth-century Calvinist execution sermon violently condemning the soul of the convicted criminal to eternal damnation, in his hybrid execution sermon, Occom attempts to prepare the convicted Native-American murderer for salvation and eternal life. Addressing the New Haven Christian community on “Hanging Day,” the Mohegan minister attempted to portray the convict on the scaffold as an unfortunate human being worthy of God’s grace and forgiveness. Occom asserts:

I conclude that this great concourse of people have come together to see the execution of justice upon this poor Indian; and I suppose the biggest part of you look upon yourselves Christians, and as such, I hope you will demean yourselves; and that you will have suitable commiseration towards this poor object. Tho’ you can’t in justice pray for his life to be continued in this world, yet you can pray earnestly for the salvation of his poor soul, consistently with the mind of God (178).

In the introduction to his public execution sermon, Occom emotionally appeals to the white audience to commiserate with the suffering of the criminal on the scaffold. Occom challenges the belief of the white Calvinist community that indigenous people are innately depraved savages without a soul. He acknowledges the community’s desire for retribution and vengeance; yet, he urges his audience to pray earnestly for Moses Paul’s salvation. Occom recognizes the

community's need to satisfy the demands of an avenging God and purify the community; however, he also attempts to convince his audience to view Moses Paul as an unfortunate victim of circumstances in need of Christian compassion and moral sympathy.

Appealing to the need of his audience for justice, vengeance, and retribution, Occom initially presents the Native American's transgressions as inherently sinful. However, the Mohegan minister ultimately rejects the demonic stereotypes of indigenous criminals propagated by fundamentalist Calvinist ministers. In the conclusion to the execution sermon, for instance, Occom employs the secular justifications of criminal behavior to argue that environmental factors and personal moral choices contribute to social deviance. Analyzing the social causes of his fellow tribesman's transgressions, Occom asserts:

You see the woful consequences of sin, by seeing this our poor miserable countryman now before us, who is to die this day for his sins and great wickedness. And it was the sin of drunkenness that has brought this destruction and untimely death upon him. There is a dreadful wo denounced from the Almighty against drunkards; and it is this sin, this abominable, this beastly and accursed sin of drunkenness, that has stript us of every desirable comfort in this life. (192)

Unlike his Puritan predecessors, Occom does not attribute Moses Paul's alcoholism to innate depravity. For the Mohegan New Light minister, the convict's transgressions have not occurred as a result of predetermined behavior. Inebriation and excessive drunkenness among indigenous peoples occur as a result of poor moral choices. The addiction to strong drink causes Native Americans to spend all they have and sell off everything for the short term release that alcohol

provides. Occom comments that his fellow tribesmen cannot have comfortable homes or anything comfortable in their homes. According to the Mohegan, alcoholism and addiction contributes to sinfulness and transgressive behavior. Moses Paul's crimes have occurred as a result of environmental factors and poor life choices.

By attributing Moses Paul's alcoholism to transgressive secular behaviors instead of innate depravity, Occom employs secular Congregationalist reform sentiment to advocate for the civil and legal rights of indigenous peoples. Similar to the hybrid execution sermons of other New Light ministers of the period, Occom presents the convicted criminal's actions as sinful, yet at the same time rhetorically challenges the demonic stereotypes of native peoples—maintaining the integrity of his own Christian authority. While the Indian minister accepts the white view of drinking as moral debauchery, the Mohegan recasts Old Testament religious arguments against inebriation that challenge the hegemonic interpretation of native alcoholism. Sandra Gustafson maintains in her study of *Native American Oratory and Racial Performance* that Occom argued that Native American drunkenness was not a sign of inevitable Indian degeneracy. Rather, for the New Light minister, alcoholism and the moral transgressions associated with inebriation were the avoidable consequences of personal choices and social decline. Gustafson observes, “For Occom sobriety was as much a political as a spiritual gesture, demonstrating the rational self – control that whites insisted was impossible for Indians, an argument they used to justify” the continued oppression of indigenous peoples by the colonial state (97). Through his use of the language of secularism, moral reform, and temperance, the Mohegan rhetorically uses the public platform of the gallows to argue that native peoples are as capable of moral and behavioral reform as whites. Therefore, Occom's execution sermon employs the moral reform rhetoric of

temperance and sobriety to sympathetically paint Moses Paul as a tragic victim of society worthy of Christian compassion and forgiveness.

The appearance of hybrid religious and secular execution and reform sermons in the latter half of the eighteenth-century allowed Native Americans the opportunity to challenge the Western European view of indigenous peoples as innately depraved drunken criminals incapable of self restraint. As a result of the increasing secular emphasis on temperance and sobriety in public sermons, Indians viewed the moral battle against alcoholism and the colonial liquor trade as a social conflict that was entirely preventable. In their social reform sermons, Occom and other native converts preached that the self discipline and moral restraint proposed by the New England temperance reform movement contributed greatly to the reduction of violent criminal acts by tribal peoples. Native Americans “knew that they fought for more than the redemption of individual drunkards or isolated incidents of alcohol abuse” (Mancall 110). Indigenous peoples in New England realized that the conflict over alcohol would have a profound impact on their lives and their social relations with colonists who continued to intrude farther into the Indian’s postcolonial new world. According to Occom and other Christian Indian converts, the only way to prevent alcohol from destroying their people and culture was to ban addictive drinking altogether.

The majority of Native Americans who converted to Christianity eagerly welcomed the temperance cause that many white missionaries promoted. Peter C. Mancall in his analysis of Indian temperance in colonial America observes that Christian missionary David Brainerd and the Mohegan convert Samson Occom had great success convincing Native Americans of the damaging effects of alcohol upon their moral and spiritual well being. Brainerd claimed during his mission at Crossweeksung, New Jersey in 1745 that “the power of God seemed to descend

among Indians there, allowing his message to get through even to old men and women, who had been drunken wretches for many years” (Mancall 111). Among the native population, Brainerd observed that the indigenous peoples began to develop great concern for their spiritual and moral well being. The missionary asserts, “A man advanced in years, who had been a murderer, a pawaw or conjurer, and a notorious drunkard” came to Christ and asked God forgiveness for his past transgressions (Mancall 111). John Sargeant, a missionary ministering to the Housatonic Indians in Massachusetts maintained that the natives actively embraced the concept of abstinence. Occom, who had himself been accused of public drunkenness, appealed to his Indian brethren to cease drinking in excess. Mancall argues that the execution sermon for Moses Paul became perhaps the most well known religious and secular assault of any Native American on the impact of alcohol upon transgressive behavior. Yet, for the Mohegan minister, the sympathetic reformist rhetoric of temperance came to mean more than just promoting sobriety for Native Americans. Inebriation and alcoholism detrimentally affected Western European views of indigenous peoples as morally bankrupt transgressors. According to Occom, if indigenous peoples wished to avoid criminal conviction and the tragedy of public execution, tribal peoples would have to learn to control their use of alcohol.

This emphasis on personal morality and self restraint appears in Occom’s execution sermon when the Indian minister analyzes Moses Paul’s choices that led him to his tragic fate. Addressing the convicted felon on the gallows Occom asserts:

And O! what manner of repentance ought you to manifest! How ought your heart to bleed for what you have done! How ought you to prostrate your soul before a bleeding God! And under self condemnation, cry out, Ah Lord, ah Lord what have I done!—Whatever partiality, injustice and error there may be among the

judges of the earth, remember that you have deserved a thousand deaths and a thousand hells, by reason of your sins, at the hands of a holy God. Should God come out against you in strict justice, alas! What could you say for yourself?

(189)

In this passage, Occom emphasizes the personal moral choices that his fellow Mohegan tribesmen have made throughout his life. The minister does not portray the criminal as an innately depraved savage predestined for hell. Rather, Occom stresses the fact that Moses Paul's crimes were entirely preventable. By practicing temperance and restraint, the convict could have avoided the tragic fate that he now must endure. Occom actively encourages the criminal to repent his transgressions in order that he might gain entrance into the kingdom of heaven. The Mohegan minister goes on to assert that Moses Paul has sinned against the holy laws of God and the laws of men. According to the minister, Paul's crimes occurred as a result of poor moral choices. If the convict would have restrained his use of alcohol, he would not be facing death and public execution on the gallows.

Indigenous peoples were viewed as innately depraved by the majority of the white community and a threat to the moral order of civilization particularly when exposed to alcohol. Inebriated Indians threatened the moral integrity of society because they introduced a corruptive element into mainstream culture that led to sin and moral transgressions among the white community. However, as a temperate Mohegan convert, Samson Occom challenges this accepted view of the innate criminality of the savage by suggesting that the stereotypical behavior of the "drunken Indian" itself creates disorder among the community. Discussing the detrimental effects of alcohol, Occom observes:

Further, when a person is drunk, he is just good for nothing in the world; he is of no service to himself, to his family, to his neighbors, or his country; and how much more unfit is he to serve God: yet he is just fit for the service of the devil. Again, a man in drunkenness is in all manner of dangers, he may be kill'd by his fellow men, by wild beasts and tame beasts; he may fall into fire, into the water or into a ditch; or he may fall down as he walks along, and break his bones or his neck; and he may cut himself with edge tools. (193)

Here Occom reflects the beliefs of his New Light Congregationalist colleagues who attribute transgressive behavior and criminal acts to the secular influence of alcohol. There is nothing inherent within Native Americans that cause them to become violent; rather it is the irrational behavior that results from inebriation that caused Moses Paul to commit murder. For Occom, alcoholism and public drunkenness are the end product of destructive native contact with Western European culture. Therefore, according to Occom, Native-American exposure to secular white culture contributes to ethnic stereotypes and perceived social deviance.

Samson Occom's execution sermon challenges racial assertions of Puritan ministers and Western European Nativist philosophers of the late eighteenth century who maintained that Native Americans, Europeans and Africans were created separately. Enlightenment racial essentialism maintained that Native Americans represented a lower order of species who were violent and prone to immoral behavior when exposed to addictive substances such as alcohol. Nativist thought "implied that [morally and spiritually] Indians were a single people" (Chiles 1400). In the same manner as Nativist philosophy, Enlightenment science posited truths about humanity's creation and racial difference. Critic Katy Chiles observes that "while nativism claimed that separate creations caused racial difference, natural philosophy attributed the

development of humankind's varieties to surface changes to the body," a theory on which Occom draws upon (1400). Occom's secular execution sermon challenges the belief of separate creations through his commentary of the inherent sinfulness of all mankind. The Mohegan rejects the theory of Native innate depravity when he discusses the evil that exists in every human being. Occom writes:

As long as Christ is neglected, life is refused, as long as sin is cherished, death is chosen. And this seems to be the woful case of mankind of all nations, according to their appearance in these days; for it is too plain to be denied, that vice and immorality, and floods of iniquity are abounding everywhere amongst all nations, and all orders and ranks of men, and in every sect of people. (179)

For the Mohegan, sinfulness and moral depravity are qualities that all men possess. These qualities are not distinct to indigenous peoples and minorities. Vice and immorality exists within all nation's races and peoples. White Western Europeans are no more spiritually pure than their Native-American counterparts.

In the secular execution sermon, Occom challenges the stereotypical belief that physical bodily transformation and conversion contributes to racial difference. Chiles asserts that "Occom's teacher, Eleazar Wheelock conceptualized Native American conversion as a metaphoric bodily transformation" (1400). Wheelock as well as other Western European colonists viewed the conversion of Native Americans as metaphorically "whitening Indians" and believed that accepting Christianity would literally cause racial, ethnic, and social transformation. Therefore, Calvinist ministers believed that for the Native Americans to be saved they had to physically become white. This racial emphasis on the physical and spiritual

transformation of the Native-American body largely informs Occom's attitude toward the salvation of Moses Paul. Referring to the spiritual state of the convict, Occom asserts:

As it was your own desire that I should preach to you this last discourse, so I shall speak plainly to you—You are the bone of my bone, and flesh of my flesh. You are an Indian, a despised creature; but you have despised yourself; yea you have despised God more; you have trodden under foot his authority; you have despised his commands and precepts; And now as God says, be sure your sins will find you out. (188)

In this passage, Occom addresses the convicted felon as a fellow tribesman who has sinned against the laws of God. As an Indian Moses Paul is a despised creature, but the Mohegan minister does not suggest that the convict has to alter his racial identity to gain salvation. Rather, he portrays Moses Paul as a child of God worthy of grace. As Christianized Indians, Samson Occom and Moses Paul existed in a world constantly aware of the possibilities of physical transformation of the red man's body. Yet, as a result of his status as a converted Native American minister who had thoroughly conquered his savage instincts Occom refutes the belief that only whites are worthy of moral reform and redemption.

Occom's use of the public forum to protest the portrayal of Native Americans as innately depraved criminals closely resembles Homi K. Bhabha's discussion of mimicry and the discourse of postcolonial resistance in *The Location of Culture*. The eighteenth-century figure of the noble savage represents a forced merger of indigenous cultural traditions with Western European civilization. Christian Indians or noble savages engage in a form of colonial mimicry where the non-white other forcibly adopts or takes on the cultural values of the European

colonizer. In the hybrid execution sermon, Occom suggests that the secular influence of Western European values upon indigenous peoples contributes to their transgressive behavior. Alcohol alone is not inherently destructive; yet, when native peoples engage in the type of excessive public drunkenness practiced by whites they risk further cultural degradation and public punishment. Thus, according to Bhabha, “the effect of mimicry on the authority of colonial discourse is profound and disturbing. For in normalizing the colonial state or subject, the dream of post-Enlightenment civility alienates its own language of liberty and produces another knowledge of its norms” (123). Colonists attempt to normalize the behavior of indigenous peoples, yet the introduction of alcohol only serves to make native peoples less civilized and more prone to committing violent acts. Christian Indians in eighteenth-century colonial New England assimilate the cultural traditions and religion of Western Europeans; however, indigenous colonized subjects are never fully able to renounce their tribal native identity and cultural traditions. As a Christian convert and colonized subject, Occom attributes the Western European stereotype of the “drunken Indian” to continued contact with the cultural values of whites. Occom observes:

And to conclude, consider my poor kindred, you that are drunkards, into what a miserable condition you have brought yourselves. There is a dreadful wo thundering against you every day, and the Lord says, That drunkards shall not inherit the kingdom of God. And now let me exhort you all to break off from your drunkenness, by gospel repentance and believe on the Lord Jesus and you shall be saved. (194)

Indigenous peoples are not naturally predisposed to violence and immorality; it is only their exposure to colonial European culture in the form of alcohol that contributes to Moses Paul’s

transgressive behavior. In his execution sermon, the minister holds up Paul as an example of the damaging effects that continued contact with Western European society can have upon Native Americans. The figure of the “drunken Indian” is a detrimental creation of the European colonial state. While Samson Occom as well as Moses Paul represent hybrid colonized subjects it is only through temperance and moral restraint that the Mohegan minister has been able to resist the damaging effects of Western European colonialism.

Challenging the Puritan belief in the demonic nature of indigenous peoples and the innate depravity of Moses Paul’s soul, Occom attempts to prepare the convicted murderer for the promise of salvation and eternal life. Commenting on the nature of the human soul, Occom asserts:

They contrive, rack their inventions, disturb their rest, and even hazard their lives in all manner of danger, both by sea and land; yea they leave no stone unturn’d that they may live in the world, and at the same time have little or no contrivance to die well. God and their souls are neglected and heaven and eternal happiness are disregarded; Christ and his religion are despised—yet most of these very men intend to be happy when they come to die, not considering that there must be a great preparation in order to die well. (Occom 178)

In the exposition to his sermon, the Mohegan stresses the fact that men tend to neglect the spiritual nature of their souls and ignore the need for eternal happiness and salvation. The minister claims that most men intend to be happy when they die, yet the individual must spiritually prepare his soul to die well. Reflecting the ideology of the secular hybrid execution sermons of the time, the non-traditional exposition of the “Hanging Day” sermon emphasizes the

need for Moses Paul as the victim of circumstances to “die well.” However, there appears no overt statement on the part of Occom that the convicted Native American’s soul is destined for eternal damnation. This opening exposition which focuses on grace and eternal salvation for the Indian’s soul contradicts the traditional Calvinist execution discourse which emphasizes the sinfulness and innate depravity of Native Americans.

As a result of Samson Occom’s emphasis on grace and salvation for the convict’s soul, Indian converts were often viewed skeptically by the Calvinist white community. Western European colonists in New England often accused Native Americans of masquerading as Christians for reasons ranging from self-interest to treason. Occom deliberately begins his sermon by emphasizing the universal nature of death and sin to radically alter the multi-racial audience’s belief in the inherent sinfulness of native peoples. Gustafson observes, like Roger Williams and other New Light clergymen who questioned the applicability of the Old Testament Law, “Occom denied the colonial equivalence between culture and faith. He argued that no people have a monopoly on sinfulness, nor does any nation escape sin” (98). Deliberately challenging white Christian racial and religious hierarchies, Occom maintains that as a result of Adam’s fall all men regardless of race exhibit transgressive behavior not unlike the morally bankrupt stereotype of the innately depraved Indian. This emphasis on the universal moral depravity of the human race, contradicts the ideology of fundamentalist Christians who claim that the doctrine of predestination and Old Testament law justifies criminal discrimination against native peoples. According to Gustafson, “Occom’s sermon transforms concepts central to evangelicalism and its republican heirs; the identity of the holy community, the nature and value of worldly ascetism, and racial hierarchies constructed on notions of an ascetic community designed to subordinate and ultimately exclude Native Americans” (98). Through his progressive

rhetoric of Native American Christian Salvationism and secular reform, Occom refutes the belief of Western European Calvinists that Native Americans are inherently prone to transgressive behavior based upon their racial or ethnic background.

Occom responds to the Calvinist view of the Native American's soul as innately depraved and unworthy of salvation by portraying Moses Paul as a martyr for the sins of his people. In his application, the Mohegan clergyman compares Moses Paul's sacrifice on the scaffold to Christ's crucifixion in the New Testament. Occom observes that Christ "came down from heaven into this lower world, and became one of us, and stood in our room. He was the second Adam. And as God demanded perfect obedience of the first Adam; the second fulfilled it; and as the first sinned, and incurred the wrath and anger of God, the second endur'd it; he suffered in our room" (189). Just as Christ died for the sins of humanity, Moses Paul must die for the sins of himself and his tribe. However, unlike the fundamentalist ministers who claim that convicted indigenous criminals are destined for eternal damnation, Occom believes that Moses Paul can still gain salvation and eternal life. Occom asserts, "O Moses! This is good news to you in this last day of your life; here is a crucified savior at hand for your sins; his blessed hands are out stretched, all in a gore of blood for you. This is the only savior, an Almighty Saviour, just such as you stand in infinite and perishing need of" (190). The Mohegan minister argues that Christ will grant the convicted criminal eternal salvation as long as he accepts Jesus Christ as his lord and savior. This emphasis on grace and eternal salvation for the innately depraved soul of Paul is in contrast to Edwards's emphasis on a divine authority that will physically and spiritually punish the soul of Moses Paul. For the Congregationalist minister the scaffold functions to physically punish and eternally damn the soul of the convicted Mohegan. Yet,

Occom views the religious ritual of the public execution and the gallows as a means to absolve his fellow tribesman of his sins.

In eighteenth-century America, the capital sentence of hanging and public execution of convicted intemperate Native Americans was not uncommon. The story of Moses Paul's murder of Moses Cook outside of Clark's Tavern in Bethany, Connecticut conforms to the drunken violent behavior considered typical of the colony's native inhabitants by whites. Critic Ava Chamberlain argues in her article "The Execution of Moses Paul: A Story of Crime and Contact in Eighteenth-Century America," that Paul's story would have faded into obscurity "had he not, as his earnest and dying request invited the Reverend Samson Occom to deliver the execution sermon" (415). New Haven had not hanged a criminal since 1749 and the local papers reported that there was a large crowd of both natives and whites gathered around the scaffold to witness the execution. The ordained Mohegan minister was the first Native American to preach an execution sermon and the public's curiosity was as much interested in hearing the reverend preach as to witness the execution. As a Mohegan, the public forum of the execution allowed Occom an opportunity to minister to his people and the larger community concerning the connection between excessive alcohol consumption and criminal behavior among Native Americans. In his sermon, the Mohegan radically altered the discourse of the "Hanging Day" ritual, providing his audience with a message of moral and criminal reform for Moses Paul's soul rather than eternal damnation. Almost instantaneously the propagandistic religious and secular reform rhetoric of the "Hanging Day" sermon overshadowed the tragic incident that coincided with its delivery.

The New Haven community's interest in seeing and hearing Occom's sermon provided the Mohegan minister an opportunity to give comfort to a fellow convicted Native American, yet

it also afforded Occom the chance to protest the public execution and criminalization of indigenous peoples by the colonial legal system. As a spokesman for the plight of his people, Occom strategically used fundamentalist religious rhetoric in the sermon to protest the public execution of Native-Americans. Occom attempts to portray the convicted native criminal as a kindred noble savage to argue that the spectacle of the gallows only serves to further the view of Native-Americans as innately depraved criminals. David Murray argues that in Occom's sermon, "the Noble Savage theme[in the execution sermon] can be seen to be used fetishistically, as the locus of a debate not about savages but about the role of nobility in an increasingly bourgeois society" (35). In the case of the public execution sermon, the figure of the Noble Savage is employed by Occom not to dignify the transgressions of the convicted Native American, but rather to undermine the concept of nobility itself. Therefore, in the same manner as post revolutionary anti-gallows literature of the late eighteenth century, Occom's sermon protests the public punishment of the common man by the state. Occom's execution sermon became popular with the general public due to its emphasis on republican justice for the convicted murderer and the Native American minister's impassioned rejection of the absolute authority of the secular state to punish the body of the condemned. In his sermon, the Native American orator rhetorically creates a public space where the renunciation of power by the nobility was doomed by the fact of its nobility. Within this public sphere, the voice of the Indian minister performs two distinct roles—to represent the individual civil rights of the savage who ultimately had to succumb to European law and civilization and to protest the influence of an aristocratic order which was incompatible with the new bourgeois democratic society.

As a civilized Christian Indian, Occom represented the antithesis of the stereotypical violent, innately depraved savage. According to Chamberlain, however, modern analyses of

Occom's sermon have failed to account for the inability of the victim Moses Paul to challenge the public perception of himself as a morally depraved "drunken Indian." Colonial historians have accepted the account of Moses Cook's death, an account that perpetuates the eighteenth-century stereotype of the drunken violent Indian. Chamberlain asserts that "The violent drunk thereby becomes a foil for the Native minister who had so thoroughly conquered his savage instincts that from the pulpit of one of the colony's oldest meetinghouses, he could condemn a fellow Indian's natural depravity" (416). Scholars have not attempted to uncover the details of Moses Paul's version of the events that led to his conviction. In the same manner as all criminal defendants, Paul's testimony is mediated by his lawyer's and it is further complicated by the legal documents that attempt to formalize it. Prior to his public execution, local Connecticut clergymen were urging the convicted Mohegan to submit to the ruling of the court. This moral response from the ministers was due in large part to the continued influence of the Puritan belief that maintained "the proper response to sin . . . was confession and repentance not denial of guilt" (Chamberlain 430). Confessions of criminals convicted of capital crimes published following their executions reflected spiritual justifications for the legal rulings of the court. These "statements of penitence and redemption testified to both the sufficiency of God's saving grace and the legitimacy of the criminal justice system" (Chamberlain 430). Yet, Chamberlain and Cohen argue that as the colonial legal system became Anglicized, professionalized, and increasingly secular in the latter half of the eighteenth century unanimity degraded. Many convicted felons refused to confess and repent their crimes in court. Criminal defendants began to dispute their convictions and became increasingly litigious in public. As a criminal of color, Moses Paul attempted to use the secular court system to challenge the biased racial views of the white community and the validity of his conviction. It is apparent that Paul attempted to

persuade the courts and the larger New England community to accept a more complex construction of racial difference and transgressive behavior than the accepted image of the “drunken Indian” allowed.

When the Mohegan minister delivered the execution sermon in 1772, the atmosphere surrounding the scaffold was highly racialized. As the first Native American to deliver an execution sermon for a fellow tribesman, the specific details of Moses Paul’s trial made racial differences its central focus. Chiles writes, “the details of Paul’s trial made racial difference its key component. Convicted of murdering Moses Cook after being thrown out of a tavern for being drunk, Paul felt that the jurors preconceived assumptions about drunken Indians caused them to misinterpret the evidence presented about that night including his claim that he acted in self defense” (1401). The New Haven colonial authorities argued that all British subjects were guaranteed fair and equal treatment under the law; the Connecticut court “ignored Paul’s status as a racial subject,” considering the Indian “as a legal subject only” (Chiles 1401). Moses Paul argued that ethnic and racial differences contributed to the discrepancy between the testimony of the witnesses and the conclusions of the jury. Paul’s legal appeal asked the judges to consider if justice could be “ensured by the court’s refusal to recognize publicly racial difference” (Chiles 1401). The colonial legal system was inherently biased against Paul’s claim of injustice in sentencing based upon race due to the inordinate number of previous cases of public drunkenness and transgressive behavior among Native Americans. Even Samson Occom himself was not immune to this racial bias. Four years before Paul’s conviction, Elezeur Wheelock had accused Occom of public drunkenness which made the subject of inebriation a difficult topic for the temperate Indian to preach on. Because Moses Paul had not only been convicted of murder, but

public drunkenness as well it was difficult for the convicted Mohegan to convince both the secular legal system and the religious authorities to be sympathetic to his criminal case.

Following his initial conviction by the colonial courts, Moses Paul began the process of preparing his soul for death and attempted to seek out a clergyman who would be sympathetic to his suffering as a Native American within colonial society. The pastors in the local New Haven community were eager to assist the convicted Mohegan with his request. Moses Paul's conviction for murder, the first such sentence to be issued in New Haven since 1749, presented the ministers with their first occasion to participate in the civic and religious ritual that involved the execution of a criminal in colonial New England. Congregationalist ministers advised Paul in his jail cell and urged him to accept the inevitable public punishment "as an expression of both divine and human justice" (Chamberlain 431). According to Paul's account, he acknowledged the kindness of the clergy and thanked them for their attendance on him during his imprisonment. Among the local New Haven ministers, the convicted Native American preferred Jonathan Edwards, Jr. whom he initially requested to preach the execution sermon⁴. The same age as Paul, Edwards had been brought up in the interracial and bilingual environment of the Indian mission at Stockbridge, Massachusetts and was fluent in several Indian languages including Mohegan. As a result of his missionary work among the Mohegan people, Moses Paul initially viewed Edwards as a sympathetic Congregational minister who would preach a sermon that would address both the spiritual and secular nature of the crimes he had been convicted of. Unfortunately, Paul's judgment of Edwards as a compassionate clergyman was flawed. Instead of the tolerant rhetoric of secular Christian Salvationism presented by Occom, Edwards's execution sermon reinforced the ideology of divine punishment and innate depravity promoted by fundamentalist ministers.

Ten days before Paul's scheduled execution, Edwards preached a sermon that he notes was given at Paul's request. On the Sunday morning of June 7, 1772, the sentenced criminal was taken from his jail cell and escorted to the New Haven church to hear Edwards speak "on a subject to which I have been led by the desire of the unhappy prisoner now in chains before us" (Chamberlain 432). According to Chamberlain, it is unclear if Paul chose the particular passage or merely suggested the topic for Edwards's sermon. However, the minister's text from Psalms was fitting: "But thou, O God, shall bring them down into the pit of destruction: bloody and deceitful men shall not live out half their days: but I will trust in thee" (55:23). Edwards's rhetoric conforms to the traditional Puritan conventions of the fundamentalist seventeenth-century execution sermon preached by his father—the senior Edwards. The Congregationalist minister attempts to "awaken Paul to the depth of his sin and to convince him to fly to the mercy of God in Christ" (Chamberlain 433). Unlike the secular hybrid execution sermon of Occom, Edwards makes a clear distinction between human and divine punishment referencing Paul's impending legal appeal and the possibility for exoneration inherent within it. Regardless of the assertion from Psalms 55:23 that "bloody and deceitful men shall not go unpunished," Edwards acknowledges that sinners "may escape punishment from men" (Chamberlain 433). According to the Congregationalist minister, even if Moses Paul did avoid the human spectacle and public punishment of the gallows, Edwards claims that the convicted criminal cannot escape "the knowledge and wrath of God, which is infinitely more dreadful" (Chamberlain 433).

In addition to the typical Puritanical religious message stressing the divine punishment of God, Edwards also discusses the death penalty in his sermon—a widely debated legal and civic issue during the latter half of the eighteenth century. In the same manner as most clergymen of the period, Edwards argued that "the condemnation and execution of criminals does not come to

pass without the overruling and directing providence of God” (Chamberlain 433). In his sermon Edwards cites an accepted biblical warrant in support of capital punishment from the book of Genesis. Edwards asserts that “the command of God is, He that sheddeth man’s blood, by man shall his blood be shed” (Genesis 9:6) (Chamberlain 433). According to the fundamental Puritan view, death as punishment for transgressive acts is ordained in the scriptures of the Old Testament. Therefore, it is just and lawful that public punishment should be inflicted upon convicted criminals. Paul’s case is no exception to the biblical Old Testament law. In the conclusion to his sermon, Edwards asserts that “the threat of the text may justly be executed upon you. As a bloody man you are justly cut off in the midst of your days” (Chamberlain 433). The minister’s fundamentalist public support for the death penalty includes a brief polemic against Paul’s claim that he had been unjustly sentenced. Addressing the condemned criminal, Edwards does not unequivocally declare him guilty of the murder of Moses Cook. However, according to the Puritanical Congregationalist preacher, even if Paul is guilty of a lesser crime, the Indian should accept the legitimacy of his death sentence because it was handed down by a fair and well run legal system. Edwards connects the secular defense of public punishment by the state with the more fundamentalist aim of the traditional Puritan execution sermon. Chamberlain writes, “Edwards entreats Paul to strive to escape the second death. Accepting the legitimacy of his death sentence, the minister implies will help him to avoid a death infinitely more to be dreaded” (434). In other words, the convicted murderer should accept the judgment of the secular state because it is the divine will of God that Paul should be publicly executed for his crimes.

In stark contrast to Edwards’s religious and legal support for capital punishment and public execution, in the exposition to his sermon Samson Occom does not include either a scriptural or legal defense of the spectacle of the gallows. Occom takes his scriptural text from

Romans 6:23, a New Testament passage that emphasizes God's retribution and mercy. In his exposition to the execution sermon, the Mohegan minister follows the traditional structure of the Congregationalist hanging day sermon, establishing first "how the wages of sin is death and then how the gift of God is eternal life" (Chamberlain 447). In describing the nature of Paul's transgression, Occom quotes the same scriptural passage referenced by Jonathan Edwards, Jr. in defense of the death penalty, Genesis 9:6. The reverend then declares that "the just laws of man, and the holy law of Jehovah, cry aloud for the destruction of your mortal life" (Chamberlain 447). However, unlike Edwards, Occom does not believe that Moses Paul's soul is eternally damned and not worthy of salvation and grace.

Samson Occom's secular hybrid execution sermon represents the changing attitudes towards criminality, public punishment, and transgression during the latter half of the eighteenth century. As a result of the Mohegan's use of secular Congregationalist reform rhetoric, the public execution sermon challenges the traditional definitions of Native American innate depravity. Occom deliberately employs the public platform of the execution sermon to cause the white Christian community to rethink their attitudes toward the moral status of indigenous peoples. Occom presents his fellow tribesman as a human being in need of compassion rather than a demonic corrupt individual. The late eighteenth-century execution sermon significantly contributes to the changing legal and cultural attitudes towards public punishment in pre-Revolutionary America.

Notes

¹ Daniel Cohen and Wayne C. Minnick attribute the appearance of the secular hybrid execution sermon during the eighteenth century to the declining influence of Puritan leaders and the continued secular intervention of the British state in legal and governmental affairs in the colonies. Cohen asserts, "During the decades around the turn of the eighteenth-century and thereafter, the cohesiveness and influence of Puritan leaders waned, imperial authorities intervened more frequently in legal and governmental affairs, and, according to some scholars, colonial institutions underwent a broad process of Anglicization" (152). Criminal law in New England was directly influenced by these theological transformations in an increasingly secular and complex colonial society. New England clergymen in their public execution sermons focused less on the divine punishment of God upon the community; rather they justified the public punishment of convicted criminals based on the transgressor's secular immoral influence on personal behavior and individual property.

² During the mid eighteenth century differing views on the nature of mankind's free will began to influence the theology of the New England clergy. Arminianism maintained that although human nature was affected by the fall, God has not left mankind in a state of total spiritual helplessness. Proponents of Arminianism argue that all mortal sinners possess free will. According to Arminians, eternal destiny depends upon how the individual uses the individual freedom that God has given them to make moral and ethical choices. This ideology contradicts the seventeenth-century Puritan philosophy of Predestination that argues that the making of personal moral choices has been fixed in advance by God and the individual has no control over his moral actions or choices. This ideological distinction is particularly important to a discussion of Congregationalist New Light ministers such as Samson Occom who began to reject the doctrine of Predestination in their spiritual discourses in favor of a religious and secular emphasis on free will in their public execution sermons. In my study, I argue that Occom's secular rhetoric in his public execution sermon allows the Mohegan clergyman to challenge public punishment as an effective means of moral and spiritual reform.

³ At the beginning of the eighteenth century, many prominent Congregationalist ministers began to distinguish between religious and secular justifications for capital punishment in their execution sermons. As a result of this emphasis on human secular causes for public punishment a new hybrid form of execution sermon appeared during this period. Cohen asserts that the execution sermons authored by Benjamin Colman, Samuel Checkley, and Charles Chauncey from 1713-1754 represent the growing influence of both religious and secular justifications for capital punishment among the New England clergy. These Congregationalist ministers all emphasize the hybrid nature of the crime of murder and largely reject the influence of the concepts of Predestination and Divine Punishment.

⁴ My reading of Jonathan Edwards Jr's unpublished sermon draws on the work on Ava Chamberlain.

CHAPTER II

CAPITAL PUNISHMENT, ENLIGHTMENT ABSOLUTISM, AND REPUBLICAN JUSTICE IN CHARLES BROCKDEN BROWN'S *WIELAND* AND BENJAMIN RUSH'S "AN ENQUIRY INTO THE EFFECTS OF PUBLIC PUNISHMENTS"

"In America the Law is King"

Thomas Paine, *Common Sense* 1776

As social commentators on the nature of the early American legal system, eighteenth-century writers are preoccupied with the post-revolutionary concepts of trial by jury, private punishment, and the maintenance of civil order.¹ Legal scholars and Enlightenment authors of the Early Republican era such as Charles Brockden Brown and Benjamin Rush viewed the novel and the political reform tract as pedagogical texts that educated the American public as to proper moral and legal judgment within a democratic society. Charles Brockden Brown's gothic novel *Wieland* (1798) and Benjamin Rush's anti-gallows tract "An Enquiry into the Effects of Public Punishments" (1787) maintain that the European system of capital punishment and public methods of execution and retributive justice previously practiced in pre-revolutionary British America are incompatible with the democratic values of an emerging republican society.

Brown's novel analyzes the threat to the personal liberty of Clara Wieland, the tragic victim of the convict Carwin's alleged rape and her brother's attempt to murder her. The gothic novel examines the effects that hasty moral judgment of perceived social deviants poses to civil order and the ethical integrity of the republican Mettingen community. Brown and Rush claim that criminal punishment in the form of public execution, moral shaming, and the whipping post contributes to a breakdown of mental and social order. Considered as moral and legal texts, Brown's novel and Rush's anti-gallows tract examine the rejection of retributive systems of public punishment in the post-revolutionary United States. These reformist texts emphasize the need for the continued development of alternative forms of democratic justice, such as penitentiary reform and trial by jury, to dispense discipline, maintain civil order, and determine the appropriate methods of disciplinary punishment and reform for criminal acts.

Charles Brockden Brown's gothic criminal novel and Benjamin Rush's legal reform tract expose the inability of the eighteenth-century gentry and state to legally judge, punish, and diagnose the criminal behavior of individual transgressors. The legal and philosophical commentary in *Wieland* and Rush's tract reflects changing psychological attitudes toward public punishment and criminal reform in the early United States. In post-revolutionary North America, the citizenry began to question the appropriateness of public executions proscribed by the state as effective methods of criminal reform. Eighteenth-century Americans viewed hanging and moral shaming as tools of the European monarchy designed to strip the individual of dignity and human rights. As a result of the growing interest in reforming the behavior of criminal transgressors, Benjamin Rush and other legal reformers began to propose alternative

private methods of discipline which would promote deterrence by focusing on psychological reform of the criminal mind rather than physical punishment.

Allan Axelrod argues in his biography of Brown that the psychological analysis of retribution, punishment, and criminal behavior in the late eighteenth-century gothic novel was likely influenced by the research of Benjamin Rush and Elihu Hubbard Smith into the field of psychosomatic medicine. Brown's criminal fiction along with Rush's anti-gallows tract on the effects of the spectacle of public punishment analyze the impact that continued exposure to heinous crimes and capital punishment has upon the mental state of the individual. These Enlightenment texts examine the ideological shift in post-revolutionary American society away from state-sponsored retributive public punishment and toward private methods of discipline and psychosomatic moral reform for criminal deviants. According to Brown and Rush, the pervasive influence of the aristocratic legal system and public forms of punishment and execution in British America led to social disorder and civil unrest within pre-revolutionary society. In *Wieland* as well as Rush's legal commentary on the nature of public punishment in colonial America both authors maintain that the monarchical authority of the Western European legal system is incapable of judging the behavior of transgressors, dealing with the moral reform of social deviants, and alleviating the emotional turmoil of individual victims.

For Brown and Rush, the legal judgment of the landed gentry and the state only offers shallow solutions to convicted criminals. In *Wieland* the regressive forms of punishment offered by the colonial legal system are unable to control or define deviant behavior. Robert Ferguson asserts that "Brown's first published novel, stands for the proposition that rational justice is beyond human capacity" (138). The criminal act of

Theodore's murder of his wife and five children as a result of religious schizophrenia has psychological overtones that prevent the pre-revolutionary Pennsylvania legal system from rationally dealing with the tragic consequences. In Brown's gothic novel, Clara's brother violently commits murder. Yet, the criminal protagonist defends his transgressions by claiming that the divine authority of God told him to kill his family. The pre-revolutionary American court and jury system attempts to pass judgment logically on the accused for his crimes; however, Wieland's transgressive acts occur as a result of insanity which prevents the rational human legal system from physically punishing and judging the moral actions of the criminal. The colonial Pennsylvania legal system and jury of peers reaches a guilty verdict; however, the incarceration and punishment of the convicted murderer in the dungeon does not contribute to the treatment of his schizophrenia or further prevention of crime. Immediately following his incarceration, the convict Wieland repeatedly escapes from prison and attempts to commit murder again. Therefore, the human flawed legal system has determined that Clara's brother is predisposed to committing violent acts and the only solution the jury of peers offer involves public shaming, clapping Theodore in irons, locking him away from society, and providing very little meaningful psychological or social reform.

The legal judgment of the Pennsylvania jury concerning the mental state of Theodore in *Wieland* resembles the dissatisfaction with incarceration, public punishment, and retributive justice that Rush expresses in his legal reform tract. For Brown and Rush, the spectacle of public punishment does not effectively address the mental distress of the individual criminal. Rather, physical punishments such as hanging and moral shaming

only serve to reinforce the notion that certain individuals within society are innately depraved and predisposed to violent behavior. In the preface to his tract, Rush asserts:

By a late alteration in the penal laws of Pennsylvania, crimes of all kinds are now punished with hard labour--But by an unfortunate mistake in the new law, criminals are exposed to the public eye under circumstances, which in the opinion of the author of this Enquiry, are calculated to defeat its benevolent intention, and even to render the change more injurious to society than the less common and more serious punishment of death (6).

In his enquiry, Rush refers to the attempt by liberal Quaker reformers to replace regressive systems of public punishment and hanging with hard labor and moral shaming. Rush observes that the recent reforms in the penal codes attempt to alter the behavior of the criminal through industry and community service. However, because these reforms involve moral shaming and public exhibition of the criminal, they defeat their intended purpose. These alternative well-intentioned reforms serve to make the criminal more resentful of the community and the legal system. According to Rush, the civil authorities outlawed public hangings in the colony, but maintained the spectacle of public shaming which does not promote meaningful reform.

In his study, "Juries of the Common Reader: Crime and Judgment in the Novels of Charles Brockden Brown," Frank Shuffelton examines the ideological commentary concerning public versus private judgment in Brown's legal fiction. He asserts that Brown's fictional commentary on the nature of legal and moral judgment of convicted felons in early Republican Pennsylvania was highly influenced by the ratification of the

Constitution, the adoption of the Bill of Rights in 1791, and attempts by Benjamin Rush, Benjamin Franklin, and other legal and psychological reformers to outlaw the system of regressive public punishment. In an attempt to outlaw public punishment in the post-revolutionary United States, Pennsylvania passed legislation that not only ordered convicted felons to be incarcerated, but demanded that they be put to work on the streets of Philadelphia. Passed in 1786, the wheelbarrow law forced convicts to morally reform themselves and pay for their own keep by participating in public works projects. In practice these statutes also maintained aspects of regressive public punishment. Moral shaming was supposed to cause convicted felons to see the error of their ways and promote meaningful rehabilitation. However, these reforms resulted in members of the landed gentry such as the Wieland heiress Clara negatively judging the behavior of convicted felons based on class status. The public moral and legal judgment of convicted criminals led to resentment toward the upper class on the part of felons.

Robert R. Sullivan argues in his study of Benjamin Rush and penal reform that for Enlightenment philosophers and legal scholars, “the spectacle of capital punishment in pre-revolutionary America became problematic because it was based on a faulty notion of the public” (336). In the minds of individual citizens the notion of public punishment had come to mean spectacle. Public forms of punishment such as hanging, moral shaming, and execution were seen as necessary to maintain civil order, carry out divine punishment, and cleanse the community of perceived moral threats. The Western European conflation of public punishment with spectacle resigned individual citizens to witnessing physical criminal punishment instead of democratically participating in the political processes of unbiased legal judgment and trial by jury.

As a result of the Revolution, Americans had rejected the Enlightenment absolutism and divine authority of the British monarch and began to question the effectiveness of the gallows and the spectacle of public punishment as successful methods of behavioral criminal reform. The attitudes of Brown and Rush toward the legal authority of the aristocracy and the monarch conform to Michel Foucault's analysis in *Discipline and Punish*. Foucault observes:

Protests against the public executions proliferated in the second half of the eighteenth century: among the philosophers and theoreticians of the law; among lawyers and parlementaries; in popular petitions and among the legislators of the assemblies (73).

Similar to Foucault's analysis of the relationship between the criminal and the authoritarian state, Rush believed that alternative types of punishment and criminal reforms were necessary. In the early national period the conflict between the sovereign and the condemned man must cease. The fight between the need for vengeance on the part of the monarch and the anger of the people toward punishment and retribution must be done away with. Commenting on the state of punishment and legal judgment in eighteenth-century North America Sullivan asserts, "Royal Absolutism thereby drove a wedge between the prince and the increasingly alienated people and enabled significant numbers—the rabble of the late eighteenth century to side with condemned criminals" (336). According to psychological reformers like Benjamin Rush and Elihu Hubbard Smith, the continued practice of public execution and capital punishment by the monarchy exacerbated transgressive behavior because the common man began to identify

with the desire of the criminal to challenge and rebel against the divine authority of the state.

In the post-revolutionary United States, there were two reactions to the legal controversy over capital punishment and public execution. Republicanism sought to restore or create “a holistic vision of the public thing, the *res publica*, which would provide the only sure guide to policy-making” (Sullivan 336). Early Modern republicanism did not mean restoring the aristocratic class based European community in the traditional sense, because this would have resulted in further ethnic and religious prejudices. Rather, eighteenth-century Republicans sought to create a society where citizens would consider issues from the point of view of the court of public opinion instead of the individual. In this system, “public punishments could be restored in their correct meaning: they would be theatres in which citizens would participate. Their preserved virtue would be confirmed in the miserable fate of those who had fallen virtue” (Sullivan 337). The other approach to the crisis over public punishment in the early Republic was liberalism. Enlightenment liberals rejected the public punishments of transgressors advocated by the absolutist monarchies and, instead, favored a new concept—private punishment.

Private punishment developed out of new scientific attitudes and the study of psychosomatic medicine which considered all objects, the mind included, in mechanistic terms. The effects of transgressive behavior could be psychologically altered and understood through prior causes. Private punishment focused on the deterrence of crime rather than restoring the divine authority of the state and the glory of the sovereign monarch. Advocates of private punishment focused on reforming the mind rather than

punishing the physical body. Proponents of alternative criminal reform like Benjamin Rush and Charles Brockden Brown sought to reintegrate criminals into the community by such means as private hard labor, re-education, and pacification.

Shuffelton observes that moral and legal judgment plays a key role in *Wieland* because of the volatile political climate of the eighteenth century in which the author of the gothic criminal narrative produced his work. For Brown, the belief that fiction was a product of the legal and civic discourse of society would not have seemed out of place due to the fact that there was nearly a century of aesthetic theory that “insisted on the close relationship between art and civil society” (Shuffelton 92). The response to imaginative art during the Enlightenment which critics called taste involved principles of discrimination and judgment that pertained to the laws of criticism as well as the judicial discernment of the aristocratic state. According to the Enlightenment Scottish philosopher Lord Kames, taste in the fine arts contributes to the moral sense.²

The discernment involved in evaluating the fine arts is of the same nature that regulates individual moral conduct. However, Shuffelton asserts that Brown’s criminal narrative ideologically departs from the views of the jurist and literary critic Kames by “breaking down the priority of aesthetic judgment to political judgment and by rejecting the possibility of divorcing the one from the other” (92). In Brown’s America, it became increasingly difficult to separate the public sphere from that of the authoritarian state—private judgment from the public. Shuffelton maintains:

If the ultimate authority was We the People, republican ideologues repeated endlessly that only moral judgment in every individual prevented

people from becoming a mob, and the Sixth Amendment of the Bill of Rights guaranteed every citizen accused of a crime access to the judgments of a jury of fellow citizens, individuals called to make their private judgments a public generality. (93)

For Brown and Rush, in a democratic society, political judgment was not an individual right handed down by the state, but a necessity of daily life that informed the people's moral state. The conditions of public civic life depended on a "spirit of just discernment" rather than the aesthetic, cultural, and political judgment of the individual (Shuffelton 93). Brown's novel and Rush's legal tract attempt to alter the world in terms of the radical individualism manifesting itself throughout Western Europe at the end of the eighteenth century. Brown's novel, Rush's legal reform tract, and the American Bill of Rights can be read as expressions of Enlightenment individualism because these texts emerge as documents invested with a respect for and a reliance on the private judgment of individual citizens within the fledgling United States.

Brown and Rush were part of an ongoing legal revolution in Pennsylvania during the latter half of the eighteenth century that radically altered the state's criminal code and penal system into one of the most progressive in the world. The shift away from public punishment in the aftermath of the American Revolution brought issues of private versus public judgment of transgressors into the popular discourse of the mainstream. Beginning in 1786 and culminating in 1794, the state banned the public whipping post, experimented with a progressive system of penal labor, significantly reduced the number of capital crimes, and restricted capital punishment to first degree murder. These legal reforms were debated in the Pennsylvania legislature, in the public sphere, and by social

advocacy groups such as the Philadelphia Society for Alleviating the Miseries of Public Prisons established in 1787. These innovative reformers called for laws and penal reforms that could “produce such strong impressions on the minds of others as to deter them from committing the like offence” (Shuffelton 94). These legal and criminal reforms were shaped by the Enlightenment individualism of the American Revolution and the anti-monarchical humanitarian movement that arose in the Atlantic World in the latter half of the eighteenth century.

In his legal reform tract, Rush philosophically challenges the effectiveness of public punishment as a viable means of moral and criminal reform. Analyzing the public spectacle of the gallows, Rush asserts, “The design of punishment is said to be—first to reform the person who suffers it—secondly to prevent the perpetration of crimes, by exciting terror in the minds of spectators; and thirdly to remove those persons from society, who have manifested by their tempers and crimes, that they are unfit to live in it” (1). Rush argues that public punishments contribute almost nothing to reforming criminals or removing their deviant influence from mainstream society. He claims that the desire of the authorial state to publicly punish criminal transgressors only serves to exacerbate deviant behavior within civil society. The eighteenth-century ritual of the gallows and hanging day serves to reinforce the view of the state as an authorial agent that physically punishes the body of the condemned without promoting progressive social and moral reform. Commenting on the public reaction toward capital punishment and state execution in the early Republic, Rush asserts, “While we pity, we secretly condemn the law which inflicts the punishment—hence arises a want of respect for laws in general, and a more feeble union of the great ties of government” (11). The spectacle of public

punishment, according to Rush, does not promote respect for the laws of civil society among the common man. Public execution of transgressors causes the individual offender to resent the legal and moral authority of the state. In actuality, the public spectacle and display of criminality by civil authorities only serves to further expose the public to morally transgressive behavior and promotes resentment of the law. Rush maintains that public punishment ultimately leads to disorder and civil unrest because physical discipline of individual transgressors produces none of the psychological changes in body or mind which are necessary for effective moral and social reform.

In the same manner as Rush, Charles Brockden Brown believed that public punishment of convicted felons led to a breakdown of moral and civil order. As a sociological commentary on the nature of public punishment in eighteenth-century colonial America, Brown's tragic criminal narrative concerning the emotional suffering of criminals and their victims implies that public punishment and the spectacle of the gallows does little to deter transgressive behavior and crime within civil society. In *Wieland* the central characters attempt to carry out public punishment and transgressive acts against others based upon the psychological and moral influence of divine authority. The personal and legal testimony of Brown's aristocratic narrator culturally reflects pre-revolutionary Republican attitudes concerning the nature of public punishment in British America and its relationship to the divine authority of the state and the absolutism of the monarchy.

As members of the landed gentry in Colonial Pennsylvania, Clara, Theodore, and Pleyel subscribe to the Western European belief that the public punishment of criminal transgressors contributes to the maintenance of civil order. According to the *Wieland*

family and the German aristocracy, the innocence or guilt of criminal transgressors and appropriate forms of punishment are determined by the divine authority of the state and the sovereign monarch. From the beginning of her legal narrative, Clara employs her position and class status to comment on the nature of criminal transgression within eighteenth-century British North America. In contrast to Rush's post-revolutionary ideology that maintains that public punishment of individual deviants does not effectively reform the behavior of the individual transgressor, Clara initially believes that public retribution and capital punishment contributes to the moral order of civil society. Brown's narrator reflects back upon a pre-revolutionary Anglo-European society that does not legally separate the moral judgment and divine authority of the public sphere from that of the aristocratic state.

Whether the moralistic voices that Clara and Theodore hear in their minds are those of a deistic godhead or the criminal bilquist Carwin, their legal and criminal actions appear to be motivated by outside forces that they claim they cannot control. The pervasive influence of divine authority upon the protagonist's mental state and moral actions appears early in Clara's confessional narrative when she tells of her father's command from God to preach the gospel to the Native Americans in the New World. The Wieland patriarch initially immigrated to Pennsylvania to do God's work among the indigenous inhabitants in North America. Clara's father believed he was called to minister to the Native Americans in Pennsylvania, yet he disobeys God's commands by becoming a member of the landed gentry. In the gothic novel: "the elder Wieland takes his new religion to America, prospers, does missionary work, builds a temple, and lives in guilt for having failed to execute a divine injunction" (Rosenthal 105). In England,

Clara's father had become exposed to the Protestant anti-monarchical ideology of the Camissards, a Huguenot sect that successfully launched an attempt to overthrow the monarchy in Southern France. The elder Wieland's exposure to this revolutionary philosophy ultimately led to his desire to leave Europe for the New World where he feels God calling him to preach the gospel. Brown writes, "The North American Indians naturally presented themselves as the first objects for this species of benevolence. As soon as his [indentured] servitude expired, he converted his little fortune into money, and embarked for Philadelphia" (11). However, Clara's father ignored God's command and purchased a farm on the Schuylkill River and went about colonizing and cultivating the land. As soon as the elder Wieland obtained this estate, he acquired slaves and quickly dispensed with his benevolent desire to preach the gospel among the Indians. Clara's father ascended the social ladder and became a landed Jeffersonian aristocrat in Pennsylvania quickly dispensing with his former status as a declined aristocrat.

For his failure to obey God's commands, the elder Wieland's body spontaneously combusts after he is struck by lightning while he is out praying one evening. Clara's mother testifies that she heard a pistol fired. The alleged gunfire was followed by Wieland's corpse catching fire. The witnesses to the divine retributive punishment of the elder Wieland are confused as to the source of Clara's father's murder. The Wieland family does not understand what type of authority human or divine has punished the elder patriarch. The report of a weapon fired prior to the incident of fire and spontaneous combustion suggests that a human assailant was responsible for Clara's father's death. Yet, this theory of another man quickly disappears when the members of the family attribute the violent lightning strikes to the influence of a divine retributive supernatural

force. According to the surviving relations, the spontaneous combustion of the elder Wieland's body represents the punishment and divine wrath of God. According to the surviving relations, the spontaneous combustion of the elder Wieland's body represents the punishment and divine wrath of God. Clara claims in her testimony that:

Immediately subsequent to this disaster, my father seemed nearly in a state of insensibility. He was passive under every operation. He scarcely opened his eyes, and was with difficulty prevailed upon to answer the questions that were put to him. By his imperfect account, it appeared that while engaged in silent orisons, with thoughts full of confusion and anxiety, a faint gleam suddenly shot athwart the apartment. (Brown 18)

On his deathbed, the elder Wieland attributes his punishment and murder to the vengeance of God. Clara's father believes that his death has been ordained by divine authority as a result of his disobedience. Yet, Clara's father also claimed that a man with a lantern had come up behind him and hit him with a club. The missionary's imperfect testimony suggests that while divine authority may have played a role in his punishment there may have been another attacker involved. Nevertheless, Clara, her mother, and her brother truly believe that her father's punishment was a result of divine intervention. Therefore, the elder Wieland's murder becomes an example of the violent consequences for not obeying the commands of divine authority.³ In this instance, God punishes the Wieland family for rejecting his command to share the gospel with his people in the New World. By becoming a part of the landed gentry in the American colonies, the Wieland family has rejected the anti-aristocratic ideology of the Camissards that they claimed to believe in. However, the retributive punishment of Clara's father also represents the

ineffectiveness of sovereign forms of punishment upon the individual transgressor. God punishes the elder Wieland's body physically, yet he is given no opportunity to morally reform or make amends for his alleged disobedience. According to the elder Wieland and his family, God has determined that his servant has sinned and he must die for his transgressions. God's retributive punishment does not involve grace or moral salvation only death and physical sacrifice.

This belief in the divine authority of God to publicly punish the individual remains a significant part of the legal, moral, and philosophical ideology of the Wieland family. In her testimonial narrative, Clara attributes her brother's criminal transgressions to the influence of divine authority. Clara believes that the consequences of her father's moral disobedience have been transferred to her brother as the patriarchal heir and that is precisely why Theodore is made to mentally suffer and inflict punishment upon others. Clara asserts that the "duty assigned to him was transferred in consequence of his disobedience to another, and all that remained was to endure the penalty" (Brown 9). Brown does not directly maintain that the injunction for disobedience was handed down to the son; however, there seems to be no ambiguity as to Theodore's compulsive desire to obey a command which he believes to come from divine authority. The subsequent generations of the Wieland family learn very little from the retributive execution of Clara's father. Clara and her brother claim to believe in the democratic equality of a republican society, yet they continue to disobey God's call to minister to the lowly and show compassion towards the less fortunate.

Charles Brockden Brown's fictional criminal narrative historiographically examines the development of alternative attitudes toward criminal reform in the early

Republic due to the novel's explicit criticisms of the role of divine authority and public legal judgment by the aristocratic state in pre-revolutionary republican British North America. Brown's Anglo-European protagonists all immigrate to the American colonies to avoid the social unrest and political upheaval of the Enlightenment working-class revolutions occurring in Western Europe at the end of the eighteenth century. Settling in America and establishing an estate in rural Pennsylvania allows the succeeding generations of the Wieland family to achieve class status and political power that is simply not available in Europe due to the continued desire of the peasant working class to overthrow the aristocratic state and challenge the absolutism of the monarchy. For Brown's protagonists, rural Pennsylvania and the American colonies become a free Republican territory where they can achieve class status without having their political power and authority challenged by the lower class.

The aristocratic public legal judgment of Clara, Theodore, and Pleyel concerning the perceived criminality of the Western European immigrant peasant and working classes in rural Pennsylvania reflects the continued fear by the landed gentry of radical social revolutions occurring in colonial America. Ed White observes in his article "Carwin the Peasant Rebel," that Brown's criminal and class commentary in *Wieland* draws upon the public paranoia of the Anglo-European American aristocracy during the Paxton Riots of 1763-64.⁴ The eighteenth-century American historian Robert Proud argued in his *History of Pennsylvania* that the end of monarchical authority and the political influence of the landed aristocracy in rural Pennsylvania did not occur as a result of the American Revolution in 1776. Rather, the political downfall of the aristocracy and the rejection of sovereign authority happened much earlier in pre-revolutionary Anglo-

European America on the backcountry rural estates such as Mettingen in the 1760s. Proud claims in his history of pre-revolutionary Pennsylvania that the second Paxton massacre at Lancaster, the planned march on Philadelphia by the peasant working class, and the agrarian revolt at Germantown resulted in the

great influx and increase of such kind of people. . . as experience has abundantly demonstrated a rod of iron is more proper to rule, than such a mild establishment, as is better adapted to promote the prosperity of the virtuous and good, then properly to chastise the most profligate of mankind (Proud 330).

Anglo-European Pennsylvania aristocrats such as Clara and Theodore Wieland during the mid eighteenth century believed it was their duty to preserve sovereign authority and civil order by inflicting regressive forms of public punishment and moral shaming on the working class peasant rebels.

This attitude toward public punishment of deviant subversives appears when Clara uncovers the details of Carwin's criminal past in Ireland. Referring to the bilquist's previous transgressions Pleyel asserts:

No doubt thou wilt shortly see thy detested paramour. This scene will again be polluted by a midnight assignation. Inform him of his danger; tell him that his crimes are known; let him fly far and instantly from this spot, if he desires to avoid the fate which menaced him in Ireland (Brown 84).

During the latter half of the eighteenth-century, Irish working class immigrants were feared by the Anglo-European elite. Lower-class foreigners threatened the authority and

class status of the aristocratic state. Punishing agrarian revolutionaries with a “rod of iron” or the spectacle of hanging on the gallows would make an example of these perceived social deviants and effectively eliminate their subversive influence from society.

This continued fear and paranoia concerning potential peasant and working-class revolutions appears in Clara’s testimonial narrative when Brown’s aristocratic heroine comments on the American colonies and the Mettingen estate as a type of insulated aristocratic haven from the divisive influence of radical European social revolutions taking place on both sides of the Atlantic in the 1760s. Referencing the violent events of the Seven Years War of 1756-63, Clara observes:

Six years of uninterrupted happiness had rolled away, since my brother’s marriage. The sound of war had been heard, but it was at such a distance as to enhance our enjoyment by affording objects of comparison. The Indians were repulsed on the one side, and Canada was conquered on the other. Revolutions and battles, however calamitous to those who occupied the scene, contributed to our happiness, by agitating our minds with curiosity, and furnishing causes of patriotic exultation. (Brown 26)

In her romantic pre-revolutionary historical account, Brown’s aristocratic narrator describes colonial Pennsylvania as a type of republican utopia immune from the social and political revolutions taking place in Western Europe. The ability of the Americans to preserve civil order, conquer the frontier, and subdue savage peoples are the principle reasons that the Wieland family prefers the aristocratic upper-class rural estate over

returning to their ancestral homeland in Westphalia. The family's ability to become a part of the landed gentry by acquiring slaves and territory has made them economically comfortable in the colonies because they have been able to achieve class status.

The arrival of the cosmopolitan German aristocrat Pleyel at Mettingen further exposes Brown's young republican protagonists to the Western European values of class, status, and sovereign authority. When Pleyel returned from Europe he brought the news that the Wieland's ancestors were noble Saxons who possessed large domains in Lusatia. Pleyel reported that based upon the European law of male-primogeniture, Theodore's claims to land were superior to any other living person. The German aristocrat encourages the patriarchal heir Theodore to leave Pennsylvania and become an enlightened proprietor who would assert Protestant rule over his domains in Lusatia. However, Theodore challenges the idea that power and status in Europe would provide a greater field for benevolence. Ultimately, Clara's brother concludes that attempting to exercise religious authority and divine right over the working class peasantry in Germany would be futile. Returning to Europe would result in the same type of divine public punishment previously perpetrated against his father in North America. Theodore observes, "Was it laudable to grasp at wealth and power even when they were within our reach? Were not these two great sources of depravity? What security had he, that in this change of place and condition he should not degenerate into a tyrant and voluptuary?" (Brown 36). Ironically, Clara's brother the landed Jeffersonian aristocrat who exercises sovereign authority over his lands and servants in Pennsylvania fears the moral depravity of the barony in Western Europe. The colonial American aristocrat concludes that the Mettingen estate is a secure territory where the political power of the landed gentry can

be preserved due to the ability of the upper class to maintain civil order and control the socially transgressive behavior of the radical immigrant laborers and agrarian revolutionaries.

In North America unlike Western Europe, Brown's aristocratic young republican protagonists are able to segregate themselves from the lower and working classes whom they view as a threat to their aristocratic social order. Isolated from the class conflict and political turmoil in the Old World, the landed gentry in the New World attempt to maintain their class status and freely pursue their individual aesthetic, intellectual, and philosophical interests. Instead of the democratic utopia that their father sought to create in the rural Pennsylvania countryside, Clara, Catherine, Theodore, and Pleyel have turned the rural farm into a landed estate. Commenting on their newfound wealth and class status, Clara writes:

We gradually withdrew ourselves from the society of others, and found every moment irksome that was not devoted to each other. My brother's advance in age made no change in our situation. It was determined that his profession should be agriculture. His fortune exempted him from the necessity of personal labor. The task to be performed by him was nothing more than superintendence. (Brown 21)

Similar to the American gentry, George Washington, Thomas Jefferson, and John Adams, the Wieland family comes to value their own class status and title above benevolently helping the lower and working class as the elder Wieland was commanded.

The family's disobedience toward God's sovereign commands and divine authority becomes further apparent when Theodore desecrates his father's temple by placing a bust of Cicero inside on top of a pedestal. Instead of worshipping and adhering to the divine authority of almighty God, Clara, Theodore, and the German aristocrat Pleyel have decided to worship the secular legal authority of the Roman Consul as sovereign. Clara observes:

The temple was no longer assigned to its ancient use. From an Italian adventurer, who erroneously imagined that he could find employment for his skill, and sale for his sculptures in America, my brother had purchased a bust of Cicero. He professed to have copied this piece from an antique dug up with his own hands in the environs of Modena. (Brown 23)

Clara states that she and Theodore's education had not been influenced by religious or moral standards since the death of her father. The orphaned children were left to their own understanding and the impressions which civilized society might make upon them. It was not that faith and religion were not a part of their lives; rather, theistic beliefs were seen as a moral crutch to be employed in times of emotional crisis. Rather than placing their faith in the divine laws of God, the Wieland children worship the Enlightenment legal rationalism of the Greek and Roman philosophers.

It does not seem coincidental that Clara and her brother first begin to hear the haunting sovereign voice that mentally punishes them throughout the novel one afternoon as they reverentially worship the bust of the Roman Consul Cicero, and socratically debate the legal issues surrounding public punishment and judgment of criminal

transgressors. Clara recalls one afternoon when Theodore and Pleyel were bandying syllogisms. “The point discussed was the merit of the oration for Cluentius, as descriptive, first, of the genius of the speaker; and secondly of the manners of the times” (Brown 29). In their philosophical and legal debate, Theodore and Pleyel disagree about exactly what this oration implies concerning the Roman philosopher Cicero’s argument that the character of a single group can be taken to represent that of an entire society. Phillip Barnard asserts that during the eighteenth-century Cicero’s *Pro- Cluentio* was a widely studied example of legal argumentation. The eighteenth-century rhetorician Hugh Blair considered the Roman philosopher’s work as an excellent example of “Eloquence of the Bar.” This oration was Cicero’s legal defense of Cluentius accused by his mother of poisoning his stepfather, her third husband. The *Pro-Cluentio* is the longest extant speech made by Cicero and the classical Roman Republican legal oration (like Brown’s novel) dramatizes social intrafamily criminal conflict among rural elites. Both Cluentius and the convict Carwin perpetrate heinous crimes against the aristocratic landed gentry. In the same manner as Brown’s republican criminal narrative, Cicero’s legal oration directly addresses the controversy surrounding private versus public punishment of convicted criminals.

Theodore and Pleyel’s religious worship of the republican legal philosophy of Cicero leads to a deification of the law and the aristocratic state’s divine right to publicly punish the criminal acts of individual transgressors. Theodore perceives the godlike voice that commands him to murder his family as a legal and moral authority that gives him the sovereign right to carry out punishment against others. In this instance, the divine voice that plagues Theodore’s mind appears to be legalistic and judgmental. This emphasis on

the divine right of the aristocratic state and the individual to judge and punish corroborates Rush's theory that public punishment increases transgressive behavior and leads to greater civil unrest. Rush asserts that "Public Punishments make many crimes known to persons, who would otherwise have passed through life in a total ignorance of them" (14). For example, the violent public punishment and murder of the elder Wieland exposed Theodore and Clara to the criminal concepts of retribution and execution. When Theodore first hears the supernatural voice, he feels that he has no choice but to obey and carry out the heinous acts that he believes have been ordained by divine authority. According to Rush, continued exposure to public punishments "moreover produce such a familiarity in the minds of spectators, with the crimes for which they are inflicted, that in some instances, they have been known to excite a propensity to them" (14). For Theodore, murder of his wife and children becomes his legal and religious duty. As a result of his fundamentalist religious worship of divine legal authority he cannot silence the voices that repeatedly instruct him to carry out criminal punishment against his family.

Theodore's reliance on divine authority and his attitude of passive morality conforms to Rush's commentary concerning the psychological effects of continued exposure to violence and public punishment. In his tract, Rush compares the psychosomatic state of the human mind to an analogy from the animal economy. Rush comments, "The sensibility of the human body is said to be active and passive. The first is connected with motion and sensation; the second only with sensation. The first is increased; the second is diminished, by the repetition of impressions" (10). According to Rush, the same psychological process takes place in the human mind. For him, moral

sensibility is both active and passive. “Passive sensibility is lessened, while that which is active is increased by habit” (10). Mental distress upon the individual mind not only destroys passive sensibility but eradicates active sensibility. This Enlightenment cognitive theory pertaining to the moral sensibility of the human mind seems particularly relevant to the criminal behavior of the transgressors in Brown’s gothic novel. Theodore consciously makes moral and ethical decisions based upon the judgmental godlike voices that he hears in his mind. Like the deistic voices that Theodore trusts and obeys, Carwin uses his mental trick of biloquism to plant voices into the protagonists’ heads to mentally punish the aristocrats and alter their moral behavior.

The arrival of the working-class convict Carwin and the deviant influence of his biloquism on the tenants of the aristocratic rural estate represent a direct threat to the sovereign authority and civil order that Clara and Theodore seek to maintain. As the principal criminal antagonist in *Wieland*, Carwin employs his diabolical talent of biloquism to publicly punish the minds of the landed Pennsylvania aristocrats. Carwin and his subversive voice first appear in the novel precisely at the moment of Theodore and Pleyel’s Socratic legal debate concerning Cicero’s oration on public punishment. Theodore confuses Carwin’s ability to implant his voice into the thoughts of others for the voice of divine authority. Therefore, Carwin’s heinous crime against the aristocracy involves his ability to take on the role of the divine sovereign—an extreme violation of social and class boundaries. Ed White asserts that Carwin attempts to subvert aristocratic authority by adopting the subjective position of the sovereign. The philosopher Jean Paul Sartre defined sovereignty “as the identification of a third party granted the power to mediate and direct relations within the collective” (White 49). Sartre maintains that while

the sovereign agent may possess a corporeal exterior existence, “the crucial relationship is that of an interiorization whereby the members of the series understand that justification, direction, agency, and transcendence all come from the sovereign” (White 49). The figure of the sovereign, therefore, initially emerges as a unifying force of social integration. Sovereign authority functions to mediate all relationships within society. Yet this attempt to exercise divine authority paradoxically eradicates democratic equality and reciprocity wherever it exists. White argues that in *Wieland* Brown attempts to work out a theory of sovereign authority similar to that proposed by Sartre. In this particular instance, the theory of power exercised through the sovereign is “marked by Carwin’s God like use of the absolute affirmative and negative (“Yes,” “No”) and the imperative (“Stop” “go not up,” Be satisfied”) (White 49). The criminal employs his subjective position as the sovereign to alter moral behavior and promote revolutionary social change. Carwin’s exterior voice is interiorized by the central characters, and his biloquism challenges aristocratic authority and undermines reciprocity. This use of sovereign authority to punish the landed gentry manifests itself in the criminal narrative as Theodore, Pleyel, Catherine, and Clara become more introspective, private, and distrustful of the actions and motives of others.

Carwin deliberately employs his biloquism to impersonate the voice of sovereign authority to publicly punish Anglo-European Aristocrats on both sides of the Atlantic for their continued moral judgment and abuse of the peasantry and the working classes. The lower class convict mimics the voice of sovereign religious authority to cause the upper class to repent for their continued moral and social oppression of the peasantry and the agrarian working class in North America and Europe. White argues that in the gothic

novel “we find [an] intersection with the ostensible thematics of religion, as Carwin’s biloquism leads the characters to reconsider the role of that most familiar sovereign of their culture—God” (49). Carwin appears to adopt the role of the deistic sovereign Godhead to re-introduce the anti-aristocratic moral and religious education and training of the Camissards that has been missing from Clara and Theodore’s lives since the death of the elder Wieland. The convict’s emphasis on the importance of sovereign religious authority is further supported in the novel when he consistently reminds Clara to remember the divine punishment of her father by God for his moral disobedience and enslavement of the working class. The second son of an Irish working-class Pennsylvania farmer, Carwin learns of the aristocratic and religious oppression of the peasantry when he emigrates to his ethnic mother country in Western Europe and becomes embroiled in the struggle of the working-class Irish against British aristocratic rule in the mid-eighteenth century. Brown’s reference to Carwin’s Irish background in his criminal narrative associates the presence of the convict with aristocratic fears about subversive intrigue and anti-government conspiracies. The fear of the aristocrats towards Carwin’s perceived threat to their sovereign authority appears when Pleyel warns Clara “that [Carwin’s] crimes are known; let him fly far and instantly from this spot, if he desires to avoid the fate which menaced him in Ireland” (Brown 84). Pleyel’s warning to Clara of public retribution and legal punishment for his transgressions represents the fear of the upper class of the convict’s ability to subvert sovereign religious and state authority.

According to Clara’s testimonial narrative, throughout his time in Ireland and the American Colonies, the peasant rebel Carwin maliciously used his Biloquism to retributively punish and torture members of the landed aristocracy and the rural elite.

Clara Wieland convinces herself that Carwin's diabolical imitation of the sovereign voice of God is responsible for her brother's mental torture and the transgressive criminal acts that he carries out against members of the aristocracy in Pennsylvania. Brown's aristocratic heroine finds her proof of Carwin's guilt when she discovers a wanted criminal advertisement from Western Europe in the Philadelphia newspaper. Clara asserts:

I drew a languid glance at the first column that presented itself. The first word which I read began with the offer of a reward for three hundred guineas for the apprehension of a convict under sentence of death, who had escaped from Newgate prison in Dublin. Good heaven! How every fibre of my frame tingled when I proceeded to read that the name of the criminal was Francis Carwin! The description of his person and address were minute. His stature, hair, complexion, the extraordinary position and arrangement of his features, his awkward and disproportionate form, his gesture and gait, corresponded perfectly with those of our mysterious visitant. He had been found guilty in two indictments. One for the murder of the Lady Jane Conway, and the other for a robbery committed on the person of the honorable Mr. Ludloe. (Brown 102)

Based upon his prior criminal record and legal convictions in Europe, Clara believes that Carwin is the cause of Theodore's violent schizophrenic behavior and the murder of Catherine and her children at Mettingen. Carwin was legally tried and convicted for the first degree murder of the famed aristocrat Lady Jane Conway in Europe, therefore according to the logic of the aristocratic Pennsylvania heroine the subversive Irish

peasant must be responsible for the recent crimes that have occurred on her landed estate. Clara's criminalization of Carwin in pre-revolutionary North America resembles the attitude of the American upper class toward Irish immigrants during that latter half of the eighteenth century. Phillip Barnard claims that the Irish immigrant working class were often the target of class based scapegoating for crimes that resulted in repressive legal measures such as the Alien and Sedition acts in 1798.⁵ However, the paranoia and fear of the Irish peasant by the Anglo-European elite in Brown's pre-revolutionary criminal narrative suggests that the public criminalization of Irish occurred much earlier in the American colonies.

Clara's legal judgment and criminalization of Carwin based upon his ethnic and class status provides an example of the detrimental effects of public punishment by the state that Rush discusses in his legal reform tract. When Carwin returns to Pennsylvania after escaping from Newgate prison in Ireland, the convict attempts to morally reform himself by engaging in menial working-class labor. In this sense, Brown's pre-revolutionary colonial Pennsylvania becomes a testing ground for the type of regressive republican public punishment that Rush criticizes in his study of psychosomatic criminal reform. Carwin has been exiled to America to make amends for crimes he allegedly committed in Europe. For the transatlantic peasant criminal, the rural Pennsylvania countryside becomes an isolationist prison where he will supposedly reform his transgressive behavior. The convict believes that engaging in industrious agrarian labor will allow him the opportunity to shed his former criminal identity and ascend the social ladder. The aristocratic and judgmental attitude of the landed gentry in Mettingen, however, toward the working-class Irish immigrant results in Carwin continuing to be

perceived as a social deviant. Analyzing the legal attitude of the American landed gentry toward public shaming and criminal reform in the late eighteenth century, Rush observes:

But may not the benefit derived to society by employing criminals to repair public roads, or to clean streets, overbalance the evils that have been mentioned? I answer, by no means. On the contrary, besides operating in one, or in all the ways that have been described, the practice of employing criminals in public labour, will render of every kind disreputable, more especially that species of it which has for its objects the convenience of the state. (16)

Rush argues that the public punishment of transgressors that occurs in the prisons and on the rural work farms only serves to cause convicts to be perceived as moral and social deviants. The criminal reformer claims that in the eighteenth century, white men define labor in the colonial West Indies and the southern states “because the agriculture and mechanical employments of those countries are carried on chiefly by Negro slaves” (Rush 16). According to Rush, the public punishment and menial labor of the convicted criminal contributes to the identification of individual transgressors as social deviants and members of the moral underclass. Similar to the social status of the white working-class laborers that Rush describes, Carwin’s position as a menial laborer further racializes the criminal turning him into a subversive ethnic minority.

This racial and class attitude of the upper class toward convicted criminals appears in *Wieland* when Clara Wieland judges the morality of Carwin based upon his lower-class status and ethnic identity. When the Irish convict Carwin arrives at the

Mettingen estate in rural Pennsylvania, Clara wonders why a lower-class field hand freely roams the countryside without supervision. According to Brown's aristocratic heroine, the appearance of an uncultured working class ruffian on the estate was uncommon. Clara remarks:

One sunny afternoon, I was standing in the door of my house, when I marked a person passing close to the edge of the bank that was in front. His pace was a careless and lingering one, and had none of that gracefulness and ease which distinguishes a person with certain advantages of education from a clown. His gait was rustic and awkward. His form was ungainly and disproportioned. Shoulders broad and square, breast sunken, his head drooping, his body uniform breadth, supported by long and lank legs, were the ingredients of his frame. (Brown 45)

In their initial encounter, Clara is disturbed by Carwin's presence on the estate. Brown's class conscious and cultured Anglo-European heroine views the Irish laborer's presence on the grounds as an extreme violation of class boundaries. Instead of the aesthetically cultured individuals who frequently visit her home, an uncultivated working class agrarian servant has spoiled the pastoral beauty of the landed estate. She refers to the peasant as a clown—a derogatory term for a rustic minority farmhand. The well-to-do heiress assumes Carwin to be morally deviant and subversive based upon his ragged appearance and lower-class status. According to Clara, lower-class laborers and criminals like Carwin should be out laboring in the fields and cleaning up the roads, not meandering unsupervised among the pastoral gardens of the Mettingen estate. Clara's class reaction to the presence of this foreign ethnic stranger reflects the aristocratic

republican belief that the immigrant lower classes are subversive criminals simply as a result of their laboring status.

For Carwin to become morally respectable in Clara's mind he must adopt the values of industry and hard work that are integral to the American character. The lower-class Irish peasant must ascend the social ladder and transform himself into a landed yeomen farmer like her brother or her father to be perceived as an upright citizen of the republic. Brown's heroine "wonders why the plough and the hoe might not become the trade of every human being, and how this trade might be made conducive to, or at least, consistent with the acquisition of wisdom and eloquence" (46). In this passage, to a certain extent, Clara applauds the lower class convict's desire to reform himself through labor and industry, yet to become socially acceptable Carwin must transform himself into a landed yeomen farmer like Hector St John De Crèvecoeur or Thomas Jefferson and ascend the social ladder. However, this desire to gain wealth and class status according to Brown and Rush results in the development of absolutist divine authority and the further oppression and public criminalization of the lower classes.

As a result of his public shaming and incarceration in Newgate Prison, Carwin resents the sovereign legal authority of the state. After his escape, Carwin attempts to reintegrate himself into civil society by impersonating a European aristocrat. The Irish convict's attempt to climb the social ladder becomes apparent when he assumes an alias and disguises himself as a Spanish aristocrat. Throughout his time in Spain, it becomes apparent to the German aristocrat Pleyel that Carwin attempted to conceal his true criminal subversive identity. Carwin had converted to Catholicism; yet, he claimed he was an Englishman by birth and Pleyel speculates that the foreigner may have had a

protestant education. According to the Anglo-European aristocrat, Carwin appeared to be a well to do member of the aristocracy in Western Europe, yet he was surprised to find him destitute and poverty stricken in the American colonies. Brown implies that as a result of Carwin's working class Irish background that the convict was involved with the anti Protestant illuminati revolution in his ethnic homeland. Brown's complication of Carwin's class status becomes further apparent when Clara evaluates the foreigner from a sexual and intellectual perspective. On the one hand, Clara describes Carwin as a clownish buffoon, yet at the same time she suggests that there exists a cultured intellect in this man.

And yet his forehead, so far as shaggy locks would allow it to be seen, his eyes lustrously black, and possessing, in the midst of haggardness, a radiance inexpressibly serene and potent, and something in the rest of his feature, which it would be in vain to describe, but which served to betoken a mind of the highest order were essential ingredients in the portrait.

(Brown 48)

Carwin goes on further to deceive Clara regarding his aristocratic upper class status by claiming to be of noble birth. The lower-class convict appears to be impersonating the behavior of the landed aristocrats to gain access to their inner circle so that he can achieve moral respectability by becoming one of them. However, his attempt to ascend the social ladder only serves to create an extreme level of resentment toward the landed gentry and the aristocratic authority of the Anglo-European upper class.

White argues that Carwin employs his biloquism to adopt the voice of the sovereign that he might be socially accepted in the upper class intellectual circle of Clara, Theodore, and Pleyel. While his ventriloquism may seem malicious and deviant in the view of the upper class, the convict's moral transgressions occur as a result of his public punishment in Europe. Rush asserts that "An attachment to kindred and society is one of the strongest feelings in the human heart. A separation from them, has ever been considered as one of the severest punishments that can be inflicted upon man" (19). Carwin wants to be socially accepted by the rural elite, yet his attempt to improve his class status is seen as a subversive threat by the upper class. Carwin attempts to use the voice of the sovereign to make himself appear equal in the eyes of Clara, Theodore, and Pleyel. However, the convict's violation of class boundaries is seen as manipulative and morally transgressive. Therefore, Biluquism, which Carwin views as a means to promote compassion, tolerance, and social equality only serves to further exacerbate regressive forms of public punishment against the Irishman and the landed gentry.

As an enlightenment criminal narrative, the legal and psychological commentary concerning public punishment in *Wieland* is influenced by the personal testimony of the accused transgressors and a form of eighteenth-century discourse discussed by the philosopher Jean Jacques Rousseau. Ralph Bauer argues in his analysis of legal testimony in Brown's novel that *Wieland* is "the ambivalent product of Brown's own seduction by Rousseauesque confessional discourse on the one hand and his self censorship as a writer of useful national literature and an organ of public discourse on the other" (2). Bauer observes that Brown's criminal narrative consists of a series of layered "Rousseauesque" confessionals displaced throughout the novel several times by the mediating influence of

the author. According to Bauer, the more Rousseauesque the individual testimony, the more disassociated it becomes from the author of the narrative. Therefore, we find at the center of the criminal narrative an openly Rousseauesque testimony in the narrative confessional voice of Carwin. While Carwin's voice is never heard directly by the reader, it is mediated through the narrative of Clara who flagellates Carwin to absolve herself and her brother of guilt. The unreliable narrative of Clara ultimately turns into her own personal confession. Clara's narrative serves the author who places his own confessional testimony into the mouths of villainous foreign strangers and women.

Brown's analysis of the narrator's personal testimony perhaps should be titled "The Memoirs of Clara Wieland." While Clara's testimony exposes her own belief that Carwin is guilty of perpetrating egregious crimes against herself and her family, the novel also brings to light the narrator's own moral and social failings. Brown's narrative ultimately becomes about his protagonist telling how she came to be where she came to be in her life. In the resolution of Clara's narrative, Carwin confesses his alleged crimes by revealing his talent for Biloquism and admits that the psychosomatic influence of his ventriloquism may be responsible for the violent acts perpetrated against the Wieland family. Therefore, according to Clara's supposedly reliable narrative the subversive Irish convict takes legal responsibility for the subsequent crimes that have occurred as a result of the influence of these voices. Carwin asserts, "I came as a repentant criminal. It is you whom I have injured and at your bar am I willing to appear and confess and expiate my crimes" (Brown 188). However, the goal of Carwin's confessions is not repentance; the accused criminal asks the jury of his peers to withhold judgment, listen to his confession, and denounce public punishment and execution for his transgressions.

Carwin ultimately betrays Clara's trust in him when he admits to her that he is the source of at least some of the voices that have been torturing her and her brother. In the same manner as the divine authorial power that supposedly murdered her father, Carwin seems to be using his eloquence to morally shame and punish Clara and her family.⁶ Clara automatically assumes the convict and eloquist to be the murderer of her brother's wife when she sees an image of Carwin in Theodore's house when she discovers Catherine's body. Clara writes, "The image of Carwin was blended a thousand ways with the stream of my thoughts. This visage was perhaps portrayed by my fancy. If so it will excite no surprise that some of his lineaments were now discovered" (Brown 115). Because she discovers his clothing and a strange letter from Carwin, the narrator automatically assumes that the influential voices that her and her brother hear inside their minds come from Carwin's eloquence. Brown's narrator ultimately accuses the foreigner based solely on his lower-class ethnic status, prior criminal background, and the sexual threat that he poses to her safety.

Brown as well as Rush maintains that moral vengeance in the form of public punishment does little to contribute to the reform of the criminal or his victims. For Brown and Rush, the public execution of Carwin and Theodore would only serve to punish their physical bodies rather than promoting moral, ethical, and spiritual healing. Rush claims that "Experience proves that public punishments have increased propensities to crimes. A man, who has lost his character at a whipping post, has nothing valuable left to lose in society" (4). Brown's novel and Rush's reform tract ultimately seek to turn a critical lens on early republican society by subscribing to the republican concept that moral judgment of the accused should come from the court of public opinion rather than

the private judgment of the landed gentry and the state. According to the Enlightenment novelist and the tractarian, the shared judgment of an informed public ensures fair and equal treatment of accused felons unlike the state which bases its legal rulings on biased political and cultural factors such as class status and title.

Notes

¹In the eighteenth-century context, public punishment was considered to be a form of retribution ordained by the monarch. Public punishments were designed to glorify the authority of the king. Rush and Brown assert that the spectacle of public punishment is ineffective because it does not promote criminal rehabilitation or moral deterrence. In this sense, Brown and Rush reject the type of retributive justice proposed by Locke in *The Second Treatise of Civil Government*.

² Henry Home also known as Lord Kames was a Scottish judge of the courts and a literary critic. Kames is primarily recognized for his philosophical contributions to the Scottish Enlightenment. Kames' interests in philosophy, science, and belles' lettres are representative of the progressive thinking associated with the Enlightenment. Kames' philosophical relationship between aesthetic and legal judgment contribute to an understanding of the judgmental actions of the aristocratic protagonist in *Wieland*. Clara's legal discernment and judgment of criminal transgressors resembles the connection aesthetics and civil society that Kames discusses in his major work *Elements of Criticism* (1762).

³The attitude of the *Wieland* family concerning the elder *Wieland*'s murder resembles the late Enlightenment belief that criminal punishment validates sovereign authority. While the murder is not a public punishment, *Wieland*'s death appears to be a type of retributive punishment carried out against the family by a divine supernatural force.

⁴The Paxton Riots of 1763-64 were a working class revolution that occurred among ethnic immigrant minorities in Pennsylvania in the mid eighteenth century. Robert Proud argues in his *History of Pennsylvania*, that the goal of the rioters was "that of extirpating the Heathen from the Earth, as Joshua did of old, that these saints might possess the land alone" (Proud qtd in White 41). The violent civil unrest of the riots resulted in the violent punishment of the working class by the landed aristocracy. The actions of the Irish peasant Carwin resembles the class conflict that occurs in Brown's gothic criminal novel.

⁵The Alien and Sedition Acts passed by Congress and sponsored by the federalists in 1798 was an effort to strengthen the federal government and prevent political opposition from the Republicans led by Thomas Jefferson. The distrust and suspicion of foreign immigrants such as Francis Carwin in Brown's historiographic pre-revolutionary gothic novel closely resemble the paranoia of the Federalists in the late eighteenth century. Charles Brockden Brown politically associated with the Federalists and was publicly critical of Thomas Jefferson and the Republicans.

⁶Carwin's alleged punishment of Clara and her family represents the concerns that Rush expresses in regards to alternative criminal reform and private punishment. For Rush, convicts see a need to punish their accusers through actions such as moral shaming and vengeance. Therefore, private punishment does not completely eradicate many factors involved in public punishments.

CHAPTER III

HERMAN MELVILLE'S ANTI-GALLOWS PROTEST: BILLY BUDD SAILOR AND THE UNFULFILLED CRIMINAL REFORMS OF THE EIGHTEENTH-CENTURY AMERICAN ENLIGHTENMENT

“No man can be judged a criminal until he be found guilty; nor can society take from him the public protection, until it have been proved that he has violated the conditions on which it was granted. What right, then, but that of power, can authorise the punishment of a citizen, so long as there remains any doubt of his guilt? The dilemma is frequent. Either he is guilty, or not guilty. If guilty, he should only suffer the punishment ordained by the laws, and torture becomes useless, as his confession is unnecessary.”

Cesare Beccaria from *On Crimes and Punishment* (1764)

Herman Melville's final novella, *Billy Budd Sailor: An Inside Narrative*, was completed in 1891 and did not appear in print until 1924. Melville's last work is not an antebellum reformist text. Yet the post-Enlightenment mutiny narrative significantly contributes to an understanding of the philosophical influence of late eighteenth-century republican anti-capital punishment sentiment upon the sympathetic anti-gallows reform literature of the early nineteenth century. Set during the latter decades of the eighteenth century, the historical events addressed in Melville's legal reformist romance take place in the midst of Enlightenment republican debates over the efficacy of capital punishment in the United States, France, and Great Britain. H. Bruce Franklin and Louis Masur observe in their studies of eighteenth-century American republicanism and anti-gallows sentiment that the most influential anti-capital punishment act banning public hangings in

eighteenth-century America was passed in Pennsylvania three years before the fictional public execution portrayed in Melville's novella. As a representative example of nineteenth-century anti-gallows reform literature, *Billy Budd* reflects back upon republican anti-capital punishment protests of the American Enlightenment to promote disciplinary legal reform of the monarchical state. Melville's romance draws upon the philosophical concepts of Natural Law and Social Contract theory from the early republican period to argue that the humane reforms proposed by eighteenth-century anti-public punishment advocates must be implemented to maintain individual civil liberties and preserve justice within American society. The desire of working-class sailors in the legal reformist romance to protest the abusive treatment of the chain of command ultimately leads to a republican rejection of the legal right of the sovereign monarch and the state to execute and take the life of the individual.

Perhaps more than any other work of nineteenth-century anti-gallows literature, Melville's post-Enlightenment novella analyzes the influence of eighteenth-century republican civic and legal reform sentiment upon the socio-political ideology of antebellum reformers. In his recent study, *Against the Gallows: Antebellum American Writers and the Movement to Abolish Capital Punishment*, Paul Christian Jones asserts that placing [*Billy Budd*] "into the context of [early nineteenth-century] anti-gallows literature demonstrates the influence of the work of earlier writers on antebellum reformist authors. *Billy Budd* incorporates many of the Enlightenment philosophical arguments used against the gallows during the late eighteenth and early nineteenth centuries. For example, the fictitious eighteenth-century mutiny takes place on board the authoritarian British Man of War the *Bellipotent* whose captain reinforces the anti-republican hierarchy of the monarchical state at the expense of individual civil rights. Billy initially serves on board the merchant ship *The Rights of Man* under a superior officer who

promotes the principles of Natural Law espoused by Thomas Paine and Jeremy Bentham. Captain Vere's courtroom argument that the naval court's allegiance is to the king and the law implies that the regressive system of justice portrayed in Melville's tale is not that of a free democratic society but of an authoritarian monarchical system. Melville's republican anti-gallows philosophy resembles the attitudes of antebellum writers and social reformers who viewed the death penalty as a tool of monarchies and oppressive forms of European government more interested in preserving their power than protecting personal liberty and guaranteeing individual civil rights.¹

Like his early republican and antebellum reformist colleagues, Melville develops his anti-capital punishment philosophy from his reading of the legal and criminal theories of prominent Enlightenment thinkers including Thomas Paine, John Locke, and Jeremy Bentham. Similar to republican authors of the early national and antebellum periods, Melville's anti-public punishment ideology derives from his belief that the gallows and the spectacle of public execution in the eighteenth and early nineteenth centuries represented the abuse of authority by an authoritarian state. Phillip Loosemore asserts in his study "Revolution, Counterrevolution, and Natural Law in *Billy Budd, Sailor*," that Melville's anti-authoritarian and anti-public punishment philosophy in the post-Enlightenment mutiny narrative draws upon the antebellum author's reading and application of the philosophies of Natural Law and inalienable civil rights championed by Bentham, Locke, and Paine during the American and French revolutions. Melville's novella exposes societal tensions between "positive law and natural rights, as well as between public power and private individual, resistance and authority" (Loosemore 104). For Melville, as well as the republican anti-public punishment advocates of the late eighteenth century, philosophical writings such as Thomas Paine's declaration of individual rights are the

central document that elevate natural rights as the “foundation of political power, where power is manifested above all as the unitary general will of the people” (Loosemore 104). This egalitarian Enlightenment philosophy which emphasizes the right of the individual to self regulate and govern himself appears in Melville’s mutiny narrative when the republican minded merchant seaman considers himself equal to his superior officers on the basis of his status as a moral and ethical human being. According to Loosemore, “Billy is not just a figure for natural being and the natural in all men, but for natural morality” (105). Billy’s emphasis on Enlightenment natural rights theory reflects Melville’s anti-public punishment ideology in that the impressed seaman morally and ethically challenge the authority of the sovereign aristocratic hierarchy to judge and dispense discipline.

Billy Budd’s criminal offenses in the mutiny narrative revolve around his challenge to and violation of the absolute legal authority of the sovereign’s representative—Edward Fairfax Vere. The principal Enlightenment thinkers such as Locke and Hobbes who first proposed modern theories of positive law believed that its authority developed from the effects of violence. The fear of death inclines men to peace. However, the social contract into which individual men enter requires their absolute submission to sovereign power “without regard to the justice of its exercise” (Umphrey 415). Walter Benjamin writes in his study “Critique of Violence” that positive law creates a monopoly on sanctioned violence at the same time using that violence to maintain itself. For Enlightenment philosophers and reformers, the enforcement of the law is equated with violence. Therefore, within the eighteenth century context of the criminal mutiny narrative, law is fully defined by its practices of enforcement against unwilling subjects.

Melville's commentary on natural law in his mutiny narrative resembles Jacques Derrida's deconstructionist commentary on state enforcement of legal statutes in his study "Force of Law: The Mystical Foundation of Authority." Analyzing Benjamin's critique of positive law, Derrida maintains that law is an authorial force. The law "is always an authorized force, a force that justifies itself or is justified in applying itself, even if this justification may be judged from elsewhere to unjust or unjustifiable" (5). As a legal concept enforceability implies that there is no such system as law. According to Derrida, there are no official laws or criminal statutes without the concept of enforceability. Human laws cannot be implemented without the presence of an authorial force. Therefore, within a deconstructionist context, it becomes difficult to linguistically distinguish between legitimate enforcement of the law and the violence that an individual deems unjust as a result of oppressive regulations. On board the *Bellipotent*, the enforcement of naval statutes is closely associated with institutional discipline and violence. Billy becomes confused as to legitimate attempts to enforce naval regulations and violent attempts to make the seamen comply with the naval charter through vengeance and retribution. This philosophical confusion results in the sailor lashing out against the master-at-arms because he comes to believe that violence and retributive justice are acceptable methods of law enforcement and deterrence. As a loyal servant of the King and Captain Vere, Billy has a difficult time distinguishing between what Derrida terms "the force of law of a legitimate power and the supposedly originary violence that must have established this authority and that could not itself have been authorized by any anterior legitimacy. . ." (6). In the Enlightenment context, natural law becomes the enforceable statute that gives the sailor the legal right to commit violent acts against his oppressor.

The mutiny narrative examines the connection between the enforcement of the law and violence to demonstrate the inability of the monarchical state to show any compassion or sympathy toward the plight of the merchant seaman. Martha Merrill Umphrey maintains that the novella “depicts a relationship between two thickly realized characters, Captain Vere and Billy Budd, in which we can see what Freud himself represses: the affective landscape of the father as well as the son” (417). As commander of the warship, Vere represents a patriarchal figure who is capable of deep attachment to those under his command even though he must commit injustice in the name of the law. These negotiations of enforcing the law along with inflicting punishment are partly driven by emotional attachments. The criminal actions taken by the merchant seaman are motivated by his personal desire to support the desire of the captain to maintain civil order. Billy’s devotion and unwavering love for Vere causes the merchant seaman to invoke the legal authority of the sovereign father figure to carry out punishment against master-at-arms Claggart. Ultimately, the impressed seaman comes to believe that the doctrine of Positive Law gives him the right to carry out punishment in the name of the sovereign father figure the captain of the *Bellipotent*.

Melville’s criminal mutiny narrative reflects American anti-gallows sentiment of the early nineteenth century as a result of the text’s emphasis on the republican right of the individual to advocate for his personal civil rights guaranteed by natural law and to protest the abuse of moral and legal authority by an authoritarian state. As the protagonist of the Enlightenment reformist romance, Billy Budd’s anti-authoritarian republican values appear early in the narrative when the working-class sailor is involuntarily transferred from the merchant vessel to the monarchical naval warship. When the republican minded seaman signs on board the *Bellipotent* he immediately breaks the legal social contract charter that exists between the

officers and the lower-class sailors. Melville observes, Billy “bade the lads a genial goodbye” from the taffrail, [and] then making a salutation to the [egalitarian merchant] ship herself, And good bye to you old *Rights of Man*. Down sir! roared the lieutenant, instantly assuming all the rigor of his rank, though with difficulty repressing a smile” (49). In this scene, the merchant seaman’s actions represent an extreme breach of naval comportment. Yet, Billy’s disrespect for the lieutenant also reflects the impressed merchant seaman’s desire to challenge the legal disciplinary authority of the lieutenant. While Billy was not educated in proper naval discipline on board his previous vessel, the British lieutenant considered the sailor’s behavior to be “a sly slur at impressments in general and that of himself in especial” (Melville 49). On board the merchant ship, an individual’s civil rights, and personal liberty were not based on his rank or class status. However, on board the British warship those seamen who have more gold pips on their collar have the right to exercise authority in any way they see fit. Edward Fairfax Vere, the captain of the *Bellipotent*, discouraged fraternization among the officers and common seamen. As a proponent of the type of egalitarian republicanism practiced on board *The Rights of Man*, Billy’s social values instantly clash with the aristocratic and authoritarian power structure of the British warship.

For Melville, the authoritarian British legal system on board the *Bellipotent* does not respect the enlightened natural rights of the working-class sailor to advocate for justice and civil liberty. In contrast to the man of war, Captain Gravelling promoted a social order where every man was treated equally under the law. Whereas the oppressive disciplinary system of moral shaming and public punishment of Vere’s warship seems to exacerbate violent behavior among the men, the republican notion of government on board *The Rights of Man* maintains civil order through its respect for the natural rights of the individual. The influence of absolute monarchical

authority has been rejected by the captain of the merchant ship and as a result the working-class sailors are responsible for self regulating and governing their behavior. Unlike the warship, corporal punishment and public hangings are no longer employed as methods of social control. As a result of respect for individual civil rights, the working-class seamen do not feel threatened by their superiors. Therefore, Billy Budd and the merchant seamen do not see the need to lash out against the chain of command.

On board the merchant ship, the crew functioned as a single unit sharing responsibility for the daily operations of the vessel and there was very little tension between the officers and the common law sailors. Everyone respected individual rights and they believed that their success depended upon each man performing their duties. Captain Gravelling comments:

Beg pardon, but you don't understand, Lieutenant. See here, now. Before I shipped that young fellow, my fore-castle was a rat-pit of quarrels. It was dark times, I tell you aboard the *Rights* here. I was worried to that degree that my pipe had no comfort for me. But Billy came; and it was like a Catholic Priest striking peace in an Irish Shindy. Not that he preached to them or said or did anything in particular; but a virtue went out of him, sugaring the sour ones (Melville 47).

Prior to Billy's arrival, Gravelling's ship had been subject to dispute and conflict, yet the introduction of the republican working-class sailor Billy provided a unifying element. Captain Gravelling was worried about allowing his men liberty and freedom, yet in the end as long as he respected his men he was rewarded with a loyal and trustworthy crew. During his tour on board the *Rights*, Budd was a virtuous and loyal sailor who preformed his duties to the best of his ability. Gravelling portrays seaman Budd as a type of peacemaker who had the ability to put an

end to ethnic and class tensions among the crew. Billy Budd did his work, contributed to the well being of the crew, and he was rewarded with the respect of his commanding officer. As long as a crewman was adequately performing his duty on board the *Rights*, he would be treated with dignity and respect.

As a result of Billy Budd's belief in the equality of the individual, throughout his tour of duty on board the man of war, the impressed merchant sailor's republican values constantly conflicted with the sovereign authority of the superior officers. Billy's naivety regarding the social power structure results in several violations of the laws and regulations established under the naval charter. John Claggart, the senior master-at-arms, orders the independent naïve young sailor to do menial tasks that Billy is more than happy to perform, yet when the assigned duties are not carried out to his superiors exacting specifications the merchant seaman is verbally and physically reprimanded. Budd makes a good faith effort to carry out his work to the best of his ability; however, despite his best intentions he makes unforgivable mistakes. Melville writes:

The ship at noon, going large before the wind, was rolling on her course, and he below at dinner and engaged in some sportful talk with the members of his mess, chanced in a sudden lurch to spill the entire contents of his soup pan upon the new scrubbed deck (72).

Instead of simply asking Budd to get a mop and swab the deck, Claggart chooses to make an example of the lower class merchant sailor. After he spills the soup, Claggart walks by and slaps Billy on his backside with his rattan and mocks him for his embarrassing behavior. While the master-at-arms initially attempts to keep his outrage in check, he makes a point of publicly punishing and taunting Billy Budd. This public reprimand on the part of the Master-at-arms has

the effect of embarrassing Billy in front of the other men and causing the other impressed seamen to lose respect for him. Yet as Phillip Loosemore and William V. Spanos argue instances of abuse and public punishment in the novella represent the social consequences of violating the law and breaking the codes of conduct set forth in the naval charter. The master-at-arms public shaming of the merchant seaman is also an attempt by Claggart, a superior officer, who has gained his status and position by rising through the ranks to reduce the influence of subversive social ideology among the working classes. To maintain order and discipline among the crew the superior officers must enforce the legal principles of the naval charter which grants them the right under the sovereign law to abuse and discipline the men under their command at the expense of individual rights of the impressed seamen. Claggart's reaction to the disobedience of the common sailor is an example of what working-class sailors during the latter half of the eighteenth century referred to as excessive "Bad Usage" on the part of superior officers. While the seamen do not totally repudiate the chain of command, the presence of excessive levels of authority cause them to strike out against authority. Billy Budd is arbitrarily punished for his actions and he is given no opportunity to improve or reform. Claggart is determined to make an example of the sailor to show the *Bellipotent's* crew what the punishment will be for poor behavior.

Melville observes that during the late eighteenth century, "the master-at-arms was a sort of chief of police charged among other matters with the duty of preserving order on the populous lower gun decks" (Melville 50). As a type of naval police officer, John Claggart is duty bound to the law and his captain to keep order and peace among the men. The master-at-arms demonstrates his allegiance to authority by employing degrading forms of public punishment to make the lower class sailors comply. Claggart and Captain Vere are concerned with maintaining

sovereign authority and upholding the law. The British naval officers do not concern themselves with civil rights and justice for the men under their command. However, this emphasis on the enforcement of British naval law at the expense of the personal welfare of the merchant seamen creates unrest among the crew. In the late eighteenth century, the British naval vessel was an unequal work environment where individuals in positions of authority could take whatever actions they wished against those men who were under their charge. According to the naval historian Markus Rediker in his study, *The Devil and the Deep Blue Sea*, republican anti-public punishment sentiment in North America and Western Europe developed as a result of the continued physical and psychological abuse of working class laborers and sailors during the late Enlightenment. Merchant sailors such as Billy Budd constantly labored in hazardous and dangerous working environments and they had no legal right to protest abuse and harassment in the workplace. Rediker asserts, “in the eighteenth-century sailors were one of the most likely groups to strike” (205). Rediker argues that the labor militancy of sailors in England and North America occurred as a result of the continued industrialization and expansion of the capitalist system and its need for new types of discipline in the workplace. This ideological shift in the relationship between labor and capital manifests itself in Melville’s criminal narrative through the anti-public punishment advocate’s republican expose on the abusive working conditions on board British vessels in the late eighteenth century and his analysis of the legal status of the gallows in *Billy Budd*.

As members of the lower class, sailors often came to work on board ship from an agrarian working class background and had little experience laboring in a structured hierarchical environment. Working conditions on board contributed to the desire of superior officers to enforce regressive forms of public punishment to keep workers in line. Rediker states “any

worker who came from a workshop, a farm, or an estate to the ship entered not only one of the greatest technological wonders of the day, but a new set of productive relations as well” (206). In contrast to the manual labor environment of the farm or estate, the working conditions on board ship were much more complex. Seamen were required to learn new sets of skills, perform complicated tasks, and operate sophisticated pieces of machinery. Laborers on board ship had to learn how to adequately perform their duties and meet new demands and expectations placed upon them by their superiors as a result of their positions as subservient industrial workers.

In the case of Billy Budd, the new demands and expectations placed on him by the Master-at-arms contributes to his dissatisfaction with the work environment on board the *Bellipotent*. Claggart’s verbal and physical abuse of the sailor leads Budd to commit perceived criminal acts. The hierarchical social structure on board the warship makes Billy Budd and the other impressed men aware of their subservient position. Melville writes, “What indeed could the trouble have to do with one so inclined to give offense at the merchant ship’s peacemaker, even him who in Claggart’s own phrase was the sweet and pleasant young fellow? Yes, why should Jemmy Legs to borrow the Dansker’s expression be down on the Handsome Sailor?” (73). The Master-at-arms appears to be down on Billy precisely because the seaman was the peacemaker on board the merchant ship. Claggart’s power and authority over the men under his command comes from his ability to create fear and resentment through use of force. However, Billy Budd’s idealism and independence threatens the authority of the naval police officer. Ironically, Claggart’s desire to promote discipline and order among the impressed workforce only serves to create resentment among them. The tragedy of Melville’s republican mutiny narrative is that the officers charged with maintaining civil order and preserving discipline overstep their authority by physically abusing the seamen and denying them their right to humane treatment.

Claggart's attempt to regulate and control the disorderly behavior of the men on board ship contributes to the desire of the impressed merchant seamen to contemplate mutiny and protest their abusive mistreatment. The attempt by the authoritarian power structure on board the *Bellipotent* to enforce the law through violent acts of public degradation and capital punishment confuses the merchant sailor as to his social position on board ship. Billy wants to comply with the legal authority of Captain Vere; yet, the other impressed seamen exert peer pressure on the naïve young sailor to challenge the absolute authority of the captain and the Master-at-arms. The seamen attempt to persuade Budd to participate in their mutinous plot by appealing to his belief in natural law as a means to protest authority. One evening an unknown merchant seamen touched Billy's shoulder and "then as the foretopman raised his head, breathing into his ear in a quick whisper, "Slip into the lee forechains, Billy; there is something in the wind. Don't speak. Quick, I will meet you there and disappearing" (Melville 81). As sailor in the royal navy, Billy feels honor bound to support the captain of the ship. Yet the Master-at-arms public abuse of authority emboldens the desire of the seaman to take revenge and protest the oppressive nature of the authoritarian state.

For Billy, the social roles on board the *Bellipotent* become confused as a result of conflicting political ideologies. Billy wants to be a loyal sailor, but that becomes difficult because the various factions on board ship attempt to convince the seaman to support their cause. This ideological conflict appears when the mutinous impressed seamen attempt to convince Billy Budd to side with them against Claggart and Captain Vere. Melville writes:

Hist! Billy, said the man, in the same quick cautionary whisper as before. You were impressed, weren't you? Well so was I; and he paused, as to mark the effect. But, Billy, not knowing exactly what to make of this said nothing. Then the other:

We are not the only impressed ones, Billy. There's a gang of us.—Couldn't you-- help at a pinch? (82).

In this scene, the unnamed sailor attempts to convince Billy that it is the duty of the impressed seamen to protest the continued punishment and abuse of the superior officers on board the *Bellipotent*. According to his former captain, Billy has a reputation of being able to put down conflicts. He was known as the peacemaker on board the *Rights of Man*. The mutinous sailors believe that Billy can help them to carry out their mutiny and republican protest of authority.

Melville's support of labor rights and his anti-public punishment republican philosophy appears in the mutiny narrative when Billy Budd starkly contrasts the political ideology of the two vessels in which the merchant seaman has served. During the late Enlightenment, captains and masters of British warships like the *Bellipotent* exercised complete authority over those under their command. As a result of the sovereign naval charter, superior officers had "absolute authority over the mates, the carpenters, and Boatswains, and the seamen of their ships and they could make life tolerable or unbearable as they wished" (Rediker 208). The authority of men like Claggart went largely unchecked and they had the right under maritime law to exert as much pressure on their men as they saw fit. Abusive treatment and punishment was seen as a way of making seamen into productive laborers. This approach to corporal punishment appears in *Billy Budd* when Master-at-arms Claggart insists upon demeaning the merchant sailor by constantly referring to him as weak and naïve. While Billy initially believes that Claggart is complementing him by calling "the sweet and young fellow," the Dansker claims that the Master-at-arms is "down on him." On board the eighteenth-century man of war, the worst thing a sailor can be is weak, defiant, and undisciplined; the masters of the vessel would not tolerate a seaman who could not take a physical beating while maintaining his self discipline and composure. The

Dansker comments, "Ay Baby lad, a sweet voice has jemmy legs. "No, not always," Billy replied. "But to me he has. I seldom pass him but there seldom comes as pleasant word," the innocent sailor claimed. "And that's because he down on you Baby Budd," the Dansker claimed (Melville 71). Claggart consistently refers to the impressed merchant seaman as a weak innocent child and, as a result, the crew views him as innocent and gullible. In contrast to the egalitarian environment of the merchant ship the hierarchal structure on board the man of war does not respect the civil rights of the individual. On Captain Gravelling's merchant vessel the working class sailor was accepted by virtue of his competence and good nature; yet, on board the *Bellipotent*, Billy must prove that he is a competent able bodied seaman by maintaining self discipline no matter how much verbal and physical abuse the Master-at-arms heaps upon him.

The central conflict in *Billy Budd* occurs between the impressed merchant seamen who support the egalitarian social theories of natural law and republican justice and the superior officers who believe that their duty is to preserve the sovereign legal authority of the king and the state. Captain Vere and Claggart exert an oppressive level of social control over the impressed men under their charge because they fear that the merchant seamen will attempt to rise through the ranks by plotting murder or mutiny. This fear of labor unrest and civil disorder on the part of the officers on board the *Bellipotent* is apparent from the moment that Billy Budd first arrives on board the man of war. Melville writes:

It was the summer of 1797. In the April of that year had occurred the commotion at Spithead followed in May by a second and yet more serious outbreak in the fleet at the Nore. The latter is known, and without exaggeration in the epithet, as the Great Mutiny. To the British Empire the Nore mutiny was what a strike in fire brigade would be to London threatened by general arson (54).

Melville's reference to the Great Mutiny of 1797 suggests that the chain of command on board British naval vessels were consciously aware of the fact that retaliation by the lower classes could take place at any time during their voyage. According to the naval law of the British Empire, it was the duty of those in positions of authority to keep their workers under control. If civil unrest were allowed to happen on board ship it would mean the breakdown of authority and the unnecessary death of valuable officers and crewmen. Melville as well as Rediker connects mutiny, public punishment, and labor unrest by implying that a strike on board ship was as much of a threat to civil order as a labor protest in England or North America. However, the desire of working class sailors in the legal reformist romance to protest the abusive treatment of their superiors also leads to a republican rejection of the legal right of the sovereign authority to execute and take the life of the individual.

It is no coincidence that Melville sets his anti-gallows romance during the reign of George III—"the most appalling moment in the history of capital punishment within modern civilization" (Franklin 338). As a proponent of republican values and a supporter of a humane system of moral and legal reform, Melville employs the controversy over the British anti-capital punishment law known as the "Bloody Code" to comment on the role of capital punishment within western societies.² In the mutiny narrative, the officers that Captain Vere strategically chooses for his drumhead court seem reluctant to convict Billy Budd and sentence him to death on the scaffold. H. Bruce Franklin maintains that "Vere forcefully reminds these subordinates that they owe their allegiance not to nature, their hearts or their private conscience but entirely to the king and imperial conscience formulated in the code under which alone we officially proceed" (338). By the last third of the nineteenth century, George III's "Bloody Code" had been universally repudiated and condemned both in England and North America. However, Melville

employs the legal statutes of the monarchical British capital punishment law in his fiction to protest the continued use of public execution by any authoritarian state. Vere's allegiance to the oppressive legal codes of George III provides a counterpoint to Billy Budd's emphasis on equality, natural rights, and justice. This debate between Enlightenment republicanism and the aristocratic proponents of sovereign monarchical authority figures prominently in major works of anti-gallows literature during the era of early nineteenth-century legal reform in North America.

In Melville's mutiny narrative Billy Budd's egalitarian belief in eighteenth-century natural rights theory results in a violation of the disciplinary naval law and a challenge to the sovereign authority of the social hierarchy on board the *HMS Bellipotent*. William V. Spanos observes in his analysis of social contract theory in *Billy Budd* that the central character's identity as a member of the revolutionary working class contributes to the merchant seaman's desire to challenge sovereign monarchical authority. Spanos asserts that Melville's novella concerns the arbitrary hanging of an egalitarian minded seaman, *Billy Budd*, whom the aristocratic masters of the *Bellipotent* have involuntarily impressed from a merchant vessel whose captain staunchly supports the revolutionary social philosophy of Thomas Paine. During the American Enlightenment, Paine's pamphlet, *The Rights of Man*, was celebrated by reformers as a defense of the actions of the European working class during the French Revolution and the republican tract affirms the equality of all humanity against the prevailing idea that human rights originated in a charter (Spanos 5). In the eighteenth-century, the king had the right to establish a charter (the law) of rights, yet he also assumed his exceptionalist authority to rescind it. In his tract, Paine asserts, "It is a perversion to say that a charter gives rights . . . it operates by contrary effect—that of taking rights away" (Paine qtd in Spanos 5). For both Melville and Paine, inalienable civil rights exist naturally in all human beings, but sovereign charters annul

individual rights of the majority leaving legal and civil rights exclusively in the hands of the privileged few. According to the Enlightenment thinker, charters do not grant rights to “A, but they make a difference in favour of A by taking away the right of B, and consequently are instruments of injustice” (Paine qtd in Spanos 5). Therefore, the republican philosopher’s analysis of the impact of charters upon the natural rights of the individual significantly contribute to the development of anti-public punishment sentiment in Western European societies through the ideological emphasis on the natural right of the individual to protest the abuse of sovereign legal authority by the state. Anti-gallows sentiment in American Literature of the early national and antebellum periods specifically develops out of the rejection of the sovereign legal authority of the European monarch and the aristocratic state to summarily take the life of the individual.

In his final novella, the nineteenth-century proponent of capital punishment reform makes reference to eighteenth-century ships that are named for famous republican French philosophers such as Diderot and Voltaire who paved the way for radical legal and social reform during the late Enlightenment. Claudia Durst Johnson asserts that the historiographic reformist spine of *Billy Budd* is the American and French Revolutions which challenged “old ideas and old systems based on aristocratic privilege” (135). The post-Enlightenment mutiny narrative promotes an anti-public punishment agenda by portraying proponents of republicanism such as Billy Budd as tragic victims of the tyrannical authority of the monarchy and the European state. Melville connects the republican ideology of the French Revolution with the character of the merchant seaman in the criminal mutiny narrative and employs Billy’s egalitarian working class status to comment on the aristocratic authoritarian legal nature of master-at-arms Claggart and Captain Vere. Johnson contends “Vere’s staunch, unchangeable convictions keep him from being seduced by the revolutionary ideas from France. The presence aboard ship of Claggart strongly

suspected of being a criminal is explained by the narrator in terms of the French Revolution. . .” (135). As antebellum legal reform literature, *Billy Budd* is a parable of conflicting values—the authoritarian ideology of the old monarchical regime represented by the masters of the *Bellipotent* and the Enlightenment Republican values of the eighteenth-century republican minded merchant seaman seeking individual legal and criminal reform represented by the democratic vessel *The Rights of Man*.

As a result of Billy Budd’s support of natural law and republicanism, the superior officers on board the man of war are suspicious of his personal motives from the moment he is impressed into service. Like their radical lower-class revolutionary counterparts in North America and France the merchant seamen threaten Claggart and Vere’s sovereign legal authority because they believe they are entitled to justice and inalienable civil rights. Melville’s romantic post-Enlightenment criminal narrative ultimately becomes a commentary on the ineffectiveness of capital punishment due to the merchant seaman’s desire to punish Claggart in the name of sovereign legal authority. Ironically, Billy Budd feels the need to take the law into his own hands because he believes it is his duty to preserve order on board the *Bellipotent*. Defending his actions at his trial, seaman Budd asserted:

I have eaten the King’s bread and I am true to the King. I never bore malice against the master-at arms. I am sorry that he is dead. I did not mean to kill him. Could I have used my tongue I would not have struck him. But he foully lied to my face and in presence of my captain, and I had to say something, and I could only say it with a blow, God help me! (Melville 106)

Billy Budd desires to be a loyal sailor. He claims that his allegiance is to the King and Captain Vere. However, the hierarchical environment on board the warship does not allow him to speak out against Claggart's bad usage of him. Violence and punishment become the only means available to advocate for his individual rights and preserve civil order. The lower-class seaman imitates the violent behavior of his superiors because it appears the only way to survive and defend himself. As Martha Merrill Umphrey argues, Billy invokes the sovereign authority of Captain Vere and the King as patriarchal authority figures to protest abuse and preserve civil order.

Billy Budd may not be deliberate in his disciplinary actions against Claggart. However, as Brook Thomas argues, the conflict in the novella is between the desire of the individual for freedom and the need of society to be governed by rational, impartial laws. Captain Vere and Billy Budd believe strongly in upholding rule by law and preserving social institutions. The Captain argues that even bad laws as long as they remain in force must be respected. Billy Budd blindly follows the laws of the naval charter on board ship and his desire to respect and enforce the law determines his fate. Thomas asserts, "Against the dictates of his heart Captain Vere upholds the law demanding Billy's execution" (202). At a certain level, seaman Budd's republican values clash with the monarchical authority of the state to judge and dispense discipline. However, he is also conflicted as a result of his desire to respect and enforce the law. The tragedy of Billy Budd's crimes is that he entrusted his defense to individuals who had already prejudged his guilt. The seaman exercises extralegal authority. Yet, he carries out punishment under what he believes to be the naval law on board ship.³

In his study of eighteenth-century criminality, *Discipline and Punish: The Birth of the Prison*, Michel Foucault argues that anti-public punishment sentiment among the working

classes during the Enlightenment results from their republican rejection of the sovereign authority of the monarchy and the authoritarian state. Public hanging of convicted criminals on the scaffold became a way for the monarch and legal authorities to employ the spectacle of public punishment to show the working class what the punishment would be for challenging the absolute authority of the state. Foucault asserts that capital punishment for criminal activity in the workplace during the Enlightenment resulted from challenging aristocratic authority and damaging individual property. Foucault observes:

From the end of the seventeenth century, in fact one observes a considerable diminution in murders and generally speaking in physical acts of aggression; offences against property seem to take over from crimes of violence; theft and swindling, from murder and assault; the diffuse, occasional, but frequent delinquency; the criminals of the seventeenth century were harassed, ill fed quick to act, quick to anger, seasonal; those of the eighteenth crafty cunning, sly calculating criminals on the fringes of society (75).

Foucault argues that the ability of perceived criminal laborers to advocate for civil rights during the eighteenth century increasingly came from their ability to cause physical damage to property and goods. Foucault asserts that one of the major ways that criminals inflicted harm to individuals and society during the eighteenth century was through deliberate acts of economic aggression. In the case of the working class protesting abuse on board ship and in the workplace, interfering with economic commerce and damaging physical property was a way for them to obtain dominion over those individuals whom they believed were threatening their individual civil liberties. Therefore, during the late Enlightenment anti-capital punishment sentiment develops out of the conflict between the desire of laborers to advocate for civil liberties and

individual rights and the desire of oppressive superiors to maintain legal authority and state control.

In Melville's anti-gallows fiction, the author's anti-public punishment ideology appears to be integrally tied to his commentary on the individual rights of laborers to protest the abuse of authority on the part of their superiors. Therefore, in the mutiny narrative the Republican protest of the gallows as a form of legal punishment is closely tied to the right of labor to advocate for justice and individual civil rights. Larry J Reynolds asserts in "*Billy Budd* and American Labor Unrest," that "the issues of conspiracy, rebellion, armed force, and repression figure prominently in *Billy Budd*, of course and seem clearly linked to the contemporary scene" (27). The tragedy of the merchant seaman as a proponent of republican justice and civil rights is that he is an innocent man publicly executed to maintain civil order during a period of revolutionary strife. Reynolds argues that Captain Vere's conservative rationale for hanging the sailor "of course, is that it will silence and tame the sailors, who otherwise will take the captain's inaction as a sign of weakness and an excuse to rebel" (28). Hanging and public execution become legal tools in the hands of the officers on board the *Bellipotent* to not only physically demonstrate the consequences for challenging authority but to also discourage the republican ideology developing among the crew as a result of Billy's perceived radical presence.

This attempt by the naval authorities to socially control the perceived disobedient behavior of the working-class sailors figures prominently in the novella when Billy Budd is accused of plotting mutiny by the Master-at-arms. In the same manner as the Captain, Claggart seeks to preserve sovereign authority and loyalty to the King by keeping a close watch on the men under his control. Melville observes:

Quite lately he (Claggart) had begun to suspect that on the gun decks some sort of movement prompted by the sailor in question was covertly going on, but he had not thought himself warranted in reporting the suspicion so long as it remained indistinct. But from what he had that afternoon observed in the man referred to, the suspicion of something clandestine going on had advanced to a point less removed from certainty (92).

According to Claggart, Billy's alleged meeting with the rebellious impressed seamen is enough evidence to accuse the handsome sailor of supporting mutiny and labor unrest. The covert group of working-class revolutionaries threatens the Master-at-arms ability to maintain civil order. Billy's popularity among the men comes from his egalitarian belief in the philosophies of natural law and individual civil rights. The impressed seamen who attempt to instigate mutiny and revolution on board ship look upon these enlightened republican values as qualities of the handsome sailor that they can exploit for their own political benefit. Consequently, the Master-at-arms fears the destructive influence that the impressed men have upon the Billy Budd. By accusing Billy of mutiny he can make a social example of the merchant seamen to demonstrate the dire consequences for defying the authority of the King and the naval law. Therefore, Billy becomes the martyr that has to be publicly punished and sacrificed to maintain civil order and state authority.

Billy Budd reflects anti-gallows sentiment of the early nineteenth century in that the enlightenment romance portrays the scaffold and the spectacle of the gallows as tools designed to reinforce the sovereign authority of the King and the state. Capital punishment functions in the novella not only to punish the merchant sailor but also to quash radical social revolutions as well. This dual nature of the scaffold appears in the drumhead court scene as the Captain and the jury

debate the naïve social revolutionary's fate. Billy wants to be loyal to the King and Captain Vere, yet to perform his duty he must renounce his individual civil rights. Billy Budd justifies his actions by claiming that his authority to publicly execute Claggart comes from the sovereign authority of the monarch. Billy believes his actions were just because he was acting in the name of Captain Vere and the King. The authoritarian environment of the British man of war promotes retributive vengeance and transgressive behavior.

Melville's anti-gallows romance exposes the inability of state-sponsored public punishment to prevent further criminal behavior. Billy Budd starts out naively believing in individual justice and civil rights. In the opening of the novella, the merchant seaman does not judge others based on their actions. However, as a result of his exposure to the regressive power structure on board the *Bellipotent*, Billy comes to believe that natural law and sovereign authority gives him the right to carry out violent punishment against perceived transgressors. His murder of Claggart is a hasty emotional reaction to the abusive environment in which he is forced to serve. The chain of command on board the British warship has stripped the seaman of his right to protest abuse and bad usage. Therefore, because the republican proponent of civil rights and natural law is not allowed to publicly speak out and advocate for his rights, he reacts violently toward the master-at-arms. Billy attempts to preserve his belief in justice and fairness, yet the oppressive conditions on board the warship force him to execute punishment in the name of sovereign authority.

In the end the merchant seaman's republican idealism fails to save him from public execution. Captain Vere and the drumhead court refuse to accept Billy Budd's argument that his criminal actions were justified as a result of Claggart's continued abuse of the men. In the view of the King, the law, and the Royal Navy, the masters of the *Bellipotent* were in their legal right

to discipline the men under their command, as they deemed appropriate. For Melville, the tragedy of Billy's narrative is that Starry Vere refuses to hear the republican protests of the lower class sailors and they do not recognize their legal right to justice. There is no due process for seaman Budd on board the British warship. When he was asked by his commander whether he was guilty or innocent, all Billy could do was stutter and besides who would believe the word of a common merchant seaman over that of the Master-at-arms. Because the captain and the authoritarian state will not hear their voices of public protest, Billy Budd has no alternative but to take the law into his own hands and seek punishment against those who have persecuted him. For Melville, the abusive public punishment of the working class by the authoritarian state only serves to exacerbate transgressive criminal behavior instead of promoting meaningful social and behavioral reform of the working-class seamen.

Notes

¹ Melville's Republican anti-public punishment philosophy resembles the attitudes of antebellum writers and social reformers such as John O' Sullivan editor of the pro-reform publication *The Democratic Review*, who repeatedly attempted to persuade his readers in the 1840s that the death penalty was a tool of monarchies and oppressive forms of European governments more interested in preserving power than protecting personal liberty and individual civil rights. Therefore, early nineteenth century anti-gallows sentiment reflects a democratic rejection of monarchical authority propagated during the American Revolution.

² In Britain during the reign of the Tudors and Stuarts in the eighteenth-century, fifty crimes carried the death penalty. However, the greatest increase in crimes that carried capital offenses came later during the reign of George III when sixty offenses were added to the British legal statutes. This dramatic increase in capital sentencing came to be known as the "Bloody Code" and was largely repudiated in England and America during the social revolutions of the eighteenth-century. Franklin and Jones argue that American anti gallows sentiment developed as a result of this abuse of authority by the British monarch.

³ For a further discussion of extralegal authority and vigilante justice in the late nineteenth century consult Brook Thomas's *Cross Examinations of Law and Literature* and John Cyril Barton's dissertation *Literary Executions Plotting Death Sentences in U.S. Law and Literature 1830-1925*.

CHAPTER IV

PANOPTICISM AND THE PENITENTIARY: ANTEBELLUM PRISON REFORM IN THE BLITHEDALE ROMANCE

“The Prisoner, too, may become a man. Neither his open nor our secret faults must utterly dismay us. We will treat him as if he had a soul. We will not dare to hunt him into a beast of prey, or trample him into a serpent. We will give him some crumbs from the table which grace from above and parent below have spread for us, and perhaps he will recover from these ghastly ulcers that deform him now”

Margaret Fuller “Essay on Thanksgiving”

December 12, 1844

In Nathaniel Hawthorne’s *The Blithedale Romance* (1852) both the antebellum prison and the utopian community are controversial sites of nineteenth-century criminal reform. For Hawthorne, the ideal community and the antebellum penitentiary were involved in the development of social conscience and the moral reform of the individual soul. As advocates for private punishment and incarceration early nineteenth-century reformers such as Margaret Fuller viewed the penitentiary as a site of moral and psychological reform especially for women. Throughout *Blithedale*, Hawthorne rhetorically employs prison metaphors to examine contemporary social debates as to the appropriate methods for the reform and rehabilitation of alleged female criminal deviants. Hawthorne associates the sympathetic discourse of transcendental reformers, such as

Coverdale and Zenobia, with the development of humane penitentiaries involved in the rehabilitation of criminals. Punishment, however, is metaphorically associated throughout the novel with the attempt of unsympathetic regressive Calvinist reformers to control the behavior of deviants like Priscilla through hard labor and moral shaming. While Coverdale views the *Blithedale* community as a penitentiary where social reform and correction of the individual soul are possible, Hollingsworth envisions the utopia as a punitive seventeenth-century penal colony where the morally bankrupt inmates Priscilla and Zenobia go to be punished and ask God forgiveness for their transgressions. As advocates for progressive sympathetic penitentiary reform, Zenobia views *Blithedale* as an asylum where the female transgressor goes to make amends for the sins of her previous life by withdrawing from mainstream society. Priscilla, however, subscribes to the regressive concept of the ideal community as a prison where the souls of the innately depraved go to be punished and not cured¹

This study analyzes Hawthorne's commentary concerning the moral status of the female criminal within antebellum American society. Prior studies of criminality in *Blithedale* have focused on Coverdale and Hollingsworth as the principal agents of prison reform, yet little critical attention has been paid to Priscilla and Zenobia as agents and objects of criminal reform.¹ From the beginning of Hawthorne's utopian experiment, the behavior of the feminine protagonists is labeled as transgressive and Priscilla and Zenobia are identified as social deviants most in need of reform. This criminalization of the feminine reformers seems highly significant due to the emphasis of the *Blithedale* community on domesticity as a means to reforming the feminine soul. During the early nineteenth-century, women were considered to be deviant and morally depraved if they did not conform to the traditional domestic roles expected of them. Mark Colvin observes, as the domestic "sphere became sanctified by female virtue women of all

social classes were increasingly expected to live up to a new ideal image of true womanhood as naturally pure, altruistic, nurturing, and tranquil” (129). Women who violated the law or engaged in any type of socially-transgressive behavior were considered immoral because they violated “woman’s true nature” and were beyond redemption. The development of the virtuous domestic sphere was specifically engineered to limit women’s roles within society and prevented them from aspiring to the liberated values of independence, assertiveness, sexiness, and irreverence. Therefore, in the same manner as Hawthorne’s utopian community, the prescribed penitentiary reform for female criminals often involved instruction in the proper women’s domestic role.

This emphasis on domestic republican virtues as a means to reform women’s transgressive behavior is apparent when Miles Coverdale first introduces the reader to Zenobia. Coverdale observes that Zenobia “was dressed as simply as possible, in an American Print, (I think the dry-goods people call it so,) but with a silken kerchief, between which and her gown there was one glimpse of a white shoulder” (Hawthorne 15). The reformist matriarch presents herself as a liberated independent woman, yet Zenobia chooses to adorn herself in the conservative dress of the virtuous republican mother, which appears designed to conceal her overt sexuality. The four women in the community seek to reform themselves by taking on the traditional domestic roles of baking, boiling, washing, scrubbing, and knitting to make amends for prior transgressions. Zenobia and the other women desire to improve society by adopting the traditional role of the republican mother, however, their attempt to domesticate themselves only serves to restrict their individual freedoms and results in further sexual oppression by the male members of the utopian reform community.

Conforming to the traditional feminine domestic roles imprisons Priscilla and Zenobia and makes the women more subservient to the needs and desires of their male counterparts.

While Coverdale respects the desire of individual women to be independent and liberated, he still views Zenobia as an object of sexual desire. Coverdale tolerates Zenobia's liberated feminism as long as she attempts to live up to his domestic expectations of her. Coverdale asserts:

We seldom meet with women, now a days, and in this country, who impress us as being women at all, their sex fades away and goes for nothing, in ordinary intercourse. Not so with Zenobia. One felt an influence breathing out of her, such as we might suppose to come from Eve, when she was just made, and her creator brought her to Adam, saying—behold, here is a woman. (Hawthorne 17)

Zenobia is the ideal woman, in Coverdale's view, because she is independent, yet willingly embodies the feminine virtues of the republican mother. While Coverdale openly embraces the concept of a society where men and women are equals, the reformer romanticizes the domesticity of the female protagonists. Eve may not have had a stew pot or clothes to mend, but nevertheless the men in the community ultimately desire to have their every need catered to by the women. Coverdale maintains that the problem with modern women is that they have lost their sense of femininity. According to the masculine reformers, the women can only truly reform themselves by engaging in a type of spiritual penance by embracing the traditional republican domestic virtues of the past.

The type of domestic reform that Coverdale and Hollingsworth promote throughout the novel relies on their ability to socially control and shape the behavior of the perceived non-conformist female members of the utopian community. Even though the transcendental reformer, Coverdale, supports equal rights for women, he is still ambivalent about granting women the same liberties as men. William Cain asserts, "As his depiction of Zenobia shows, Hawthorne was

drawn to the idea of powerful, passionate women but, at the same time, was highly ambivalent about the challenge to traditional gender roles that such women represented, and even repelled by women reformers and activists” (Cain Hawthorne 10). Coverdale supports Zenobia’s desire to be a liberated independent woman, yet he fears the threat to traditional domestic values that her feminism represents. In “Eliot’s Pulpit,” Coverdale raises his concerns with the women’s reform movement when he argues that individual women only complain about their inequality when they feel oppressed. Coverdale asserts:

Now--though I could not well say so to Zenobia—I had not smiled from any unworthy estimate of woman, or in denial of the claims, which she is beginning to put forth. What amused me was the fact, that women, however intellectually superior, so seldom disquiet themselves about the rights or wrongs of their sex, unless their own individual affections chance to lie in idleness, or to be ill at ease. They are not natural reformers, but become such by the pressure of exceptional misfortune. (Hawthorne 121)

In this passage, the social reformer does not challenge the idea that the proper environment for women is the domestic sphere. Coverdale believes that instruction in republican values contributes to the development of feminine morality and social conscience. Zenobia and Priscilla can be intellectually independent, but they should also learn to accept their domestic roles within the household. The fundamental problem with the domestic imprisonment that Coverdale and Hollingsworth prescribe for Priscilla and Zenobia is that playing the role of the republican mother results in the women becoming less intellectually independent. Priscilla and Zenobia desire to reform immoral secular society by adopting the virtues of the republican domestic sphere, yet this traditional value system limits their ability to advocate for their individual rights.

The matriarchal reformers remove themselves from dysfunctional social environments only to discover that the domestic discipline imposed upon them at *Blithedale* causes Priscilla and Zenobia to become more submissive to patriarchal authority than when they were living in mainstream society. Both Coverdale and Hollingsworth emphasize the importance of domestic republican values as a means to reform the perceived transgressive behavior of the women. However, while Coverdale views domesticity as a method for instilling social conscience into the souls of the women, Hollingsworth looks upon the domestic sphere as a way to make Priscilla and Zenobia into submissive docile bodies. Hollingsworth does not despise the feminine reformers, rather, he believes that the women can only be productive members of society if they are occupying their proper place within the domestic sphere. In response to Zenobia's impassioned support of the feminist agenda, Hollingsworth asserts:

Despise her? —No! cried Hollingsworth, lifting his great shaggy head and shaking it at us, while his eyes glowed almost fiercely. She is the most admirable handiwork of God, in her true place and character. Her place is at man's side. Her office that of sympathizer; the unreserved unquestioning Believer, the Recognition, withheld in every other manner, but given, in pity, through woman's heart, lest man should utterly lose faith in himself; the Echo of God's own voice, pronouncing—It is well done! All the separate action of woman is, and ever has been, and always shall be, false, foolish, vain, destructive of her own best and holiest qualities, void of every good effect, and productive of intolerable mischiefs! Man is a wretch without woman; but woman is a monster—and thank Heaven, an almost impossible and hitherto imaginary monster—without man, as her acknowledged principal! (Hawthorne 123)

In contrast to Coverdale's view of the domestic sphere as contributing to meaningful social reform of the women, Hollingsworth views republican values as a tool to force the women into submission. Hollingsworth claims that a woman is only admirable when she is functioning at her husband's side as his helpmate. Independent-minded women like Zenobia are a threat to the type of Calvinist spiritual order that the penal reformer seeks to impose upon the ideal community. Hollingsworth deliberately defines the intellectual activism of liberated women as criminal. Innately depraved women who support equal rights degrade the "holiest qualities" of the republican mother as nurturer and feminine sympathizer (Hawthorne 123).

The masculine protagonists fear Zenobia's liberated sexual identity. Zenobia views herself as a socially-conscious individual engaged in the meaningful work of legitimate social reform. However, Hollingsworth believes that the liberated independent woman should be locked up in a cell and her behavior closely monitored and supervised. The Calvinist penal reformer seeks to alter the behavior of the women by removing them from the morally corruptive influences of secular antebellum society, yet Zenobia does not view herself as an innately depraved criminal. Zenobia observes of Hollingsworth:

I wish he would let the bad people alone and try to benefit those who are not already past his help. Do you suppose he will be content to spend his life—or even a few months of it—among tolerably virtuous and comfortable individuals, like ourselves? Upon my word, I doubt it, said I. If we wish to keep him with us, we must systematically commit at least one crime apiece! Mere peccadilloes will not satisfy him. (Hawthorne 22)

As an advocate for women's rights and equality, Zenobia, does not view her activism as subversive, yet Hollingsworth perceives her attempts at reform as threatening to the type of domestic social order he seeks to impose upon the women of the community. Zenobia implies that if the members of the community want to appease him they will have to conform to his perception of them as socially transgressive. Ironically, it is Hollingsworth's attempt to physically imprison and punish the women that causes them to become more subversive than when they were living in town.

In *The Blithedale Romance*, the female protagonists are both penal reformers and the objects of criminal reform. This social status of Priscilla and Zenobia as agents and objects of disciplinary reform is particularly apparent through the continued attempts of Coverdale and Hollingsworth to alter the behavior of the female protagonists by molding them into virtuous republican women. The penal reformer expects Priscilla and Zenobia to make amends for their past behavior by performing traditional domestic work. This need to regulate the behavior of the women is evident when Hollingsworth brings Priscilla into the utopian community as a type of depraved social outcast that he intends to reform by shaping her into a docile female domestic prisoner. Hollingsworth's desire to socially reform Priscilla through incarceration and repressive behavior modification techniques conforms to Michel Foucault's analysis of the development of the French penal system in the early nineteenth-century. In the same manner as Hollingsworth's ideal vision of *Blithedale* as penal colony, Mettray, the French prison farm for juvenile criminals (1840), was involved in reforming the souls of innately depraved adolescents. The wardens at Mettray were experts at behavior modification and sought to reform deviant adolescents by making them conform to social norms. Foucault asserts that the warden's "task was to produce bodies that were both docile and capable; they supervised the nine or ten working hours of every

day (whether in a workshop or in the fields); they directed the orderly groups of inmates . . .” (294). Much like the French penal authorities that Foucault describes, Hollingsworth attempts to correct Priscilla’s deviant behavior by making her into a docile body that he can mold into a productive member of society through physical labor and self-discipline. Priscilla becomes a model of penal reform that Hollingsworth holds up as an example of his ideal vision of social reform. Hollingsworth believes that the utilitarian work ethic of the agrarian prison farm will help to reform the socially deprived adolescent by instilling in her a sense of morality and Christian virtue that is simply not possible within mainstream secular society.

As a homeless child, Priscilla desires to belong to a stable family more than anything else. Within antebellum American society, homeless children were often considered socially transgressive and innately deprived because they lacked proper upbringing and an unsuitable home life. David J Rothman argues that antebellum attitudes toward prison reform maintained that “parents who sent their children into society without a rigorous training in discipline and obedience would find them someday in the prison” (70). Philanthropic prison reformers during the time period believed that much of the principle causes of transgressive behavior could be directly tied back to the sinful behavior of the individual criminal’s parents, upbringing, and home environment. Wardens and Calvinist reformers argued that criminal behavior resulted from a lack of strict discipline and an inadequate environment in which to raise children. Rothman argues that antebellum prison reformers proposed two distinct options for the moral reform of individual families. The first approach was to deliberately instruct dysfunctional families and their children in proper parenting and discipline. Calvinist social reformers also proposed closing taverns and houses of prostitution that they believed directly contributed to the breakdown of the family structure. Another reform alternative that prison reformers considered essential was to

establish a special setting for the social deviant and remove him from the morally-depraved environment of his family and community and place him in an artificially constructed corruption free environment.

This emphasis upon the family and environmental factors as contributing to the moral depravity of the female criminal closely resembles the social reform agenda of the *Blithedale* community. Hollingsworth deliberately removes Priscilla from her former domestic living situation because he believes that Old Moodie has negatively affected the child's upbringing. Unlike the utopian reform community which promotes the development of strong values and a stable home life, Old Moodie exploits Priscilla by forcing her to perform like a type of wage slave producing small leather purses for her father to sell on the street. Priscilla is forced into performing exploitative criminal acts through her continued association with Old Moodie. Discussing Priscilla's former living condition with Coverdale, Hollingsworth holds up the child as an example of the success of his disciplinary reform. Hollingsworth remarks:

Why do you trouble him with needless questions, Coverdale? You must have known long ago, that it was Priscilla. And so my good friend, you have come to see her? Well I am glad of it. You will find her altered very much for the better, since the wintry evening when you put her into my charge. Why, Priscilla has a bloom in her cheeks, now. (Hawthorne 85)

The philanthropist is disturbed by Old Moodie's sudden appearance at *Blithedale* and he looks on Priscilla's father's visit as an unwelcome disruption to the moral reform efforts he seeks to perpetuate at the community. Hollingsworth ministers to Priscilla's father and attempts to

convince him to renounce his immoral behavior and accept the moral reform agenda of the utopian community.

While Old Moodie has entrusted Hollingsworth with the child's care, the Calvinist penal reformer distrusts the sincerity of the drifter's agenda. Old Moodie claims that he is glad that Priscilla is healthy and educating herself, yet he does not make his true intentions clear. Hollingsworth fears that his presence will tempt the child to revert to her previous deviant behavior. It is apparent from Hollingsworth's obsession with Calvinist indoctrination that he believes that self incarceration will greatly contribute to moral reform of the adolescent's innately depraved soul. Priscilla's father, according to Hollingsworth, is a social parasite who is only interested in exploiting her to gain access to Zenobia's fortune and he does not care about the child's moral or spiritual well being.

A large part of the penitentiary style reform that occurs at the utopian community involves creating an ideal domestic community that will contribute to the reform of the innately depraved female soul. Coverdale, Hollingsworth, and Zenobia all believe that creating a familial community based upon mutual love and respect will contribute to the development of individual social conscience. The importance of the family as a significant factor in the reform of the innately depraved soul can be seen in "The Supper Table" when Coverdale and Zenobia accept the child into their sympathetic family without pre condition. According to Hawthorne's reform-minded protagonists, the inviting domestic hearth at *Blithedale* is open to any wayward soul who wishes to benefit from the community's charity and philanthropy. Priscilla specifically comes to the community looking for the stability and emotional security that only a loving family can provide. Zenobia expresses the love and compassion of a mother and sister for Priscilla when she asserts:

You do not quite do me justice, Mr. Hollingsworth, said she, almost humbly. I am willing to be kind to the poor girl. Is She a protégée of yours? What can I do for her? Have you anything to ask of this lady? Said Hollingsworth, kindly to the girl, I remember you mentioned her name before we left town. Only that she will shelter me, replied the girl tremulously. Only that she will let me be always near her! (Hawthorne 29)

Residing at the Blithedale community allows Priscilla the chance to socially reform herself by regaining some of the family connections that have been missing from her life. Hollingsworth's philanthropy towards the poor girl allows her to develop an important emotional relationship with her half sister. However, becoming a part of the stable domestic sphere also exposes Priscilla to the moral responsibilities of being part of a family. To a certain extent, Hollingsworth provides the adolescent with a strong patriarchal figure that has been missing within her life up until this point. The stable domestic household that is created at *Blithedale* is the only environment in which the child can truly reform herself.

This explicit connection between the development of a stable familial bond based upon kinship and judicious sympathy and antebellum attitudes toward prison reform can also be seen in the reform ideology of Margaret Fuller. Bumás argues that both Hawthorne and Fuller historically reflect back upon seventeenth-century Puritan traditions to fundamentally alter the attitude of antebellum society towards criminals. In an 1844 article for the *New York Tribune*, Fuller suggests revisiting the Puritan belief as to the innate depravity of the soul as a way to make the public aware of the abuse and mistreatment of criminals within antebellum society. However, in contrast to Hollingsworth who believes in returning to the oppressive Puritanical discipline of the seventeenth century, Fuller promotes a return to the spiritual communal values

of the past to further promote social reform. Fuller metaphorically uses the celebration of Thanksgiving as a symbolic ritual to advocate for her position that the criminal soul is deserving of human compassion. “We will treat [the criminal] as if he had a soul,” she writes in her essay on Thanksgiving. “We will give him some crumbs from the table which grace from above and parent love below have spread for us, and, perhaps, he will recover from these ghastly ulcers that deform him now” (Mitchell 179). In this passage, Fuller’s communal reform rhetoric resembles the Supper Table at Blithedale in that both Fuller and the utopian reformers open up their table to all humanity regardless of their prior transgressions. In contrast to Hollingsworth, Fuller views the convict as a full human being deserving of sympathy and respect. Bumás asserts that several of Fuller’s pro-reform articles view prisons and asylums as socially-destructive systems that do very little to promote meaningful psychological reform. According to Fuller, these institutions prevented both the inmate and the ordinary citizen from becoming a fully independent human being by denying that the individual had a soul. Fuller proposes a more humane system of private incarceration which treats the individual criminal as a human being worthy of compassion.

According to Hollingsworth, as a morally depraved and undisciplined adolescent, Priscilla will never be able to make amends for her prior transgressions by remaining within mainstream society. Coverdale claims that an old man brought Priscilla to his chambers one night and asked him to bring the young woman to *Blithedale* where he claimed she had sympathetic friends. Coverdale writes:

A letter which should have introduced her, had since been received from one of the city missionaries, containing a certificate of character, and an allusion to circumstances which, in the writer’s judgment, made it especially desirable that

she should find shelter in our community. There was a hint, not very intelligible, implying either that Priscilla had recently escaped from some particular peril or irksomeness of position, or else that she was still liable to this danger or difficulty, whatever it might be. (Hawthorne 49)

According to Hollingsworth and the city missionary, the delinquent adolescent needs the stability and discipline of the utopian community to reform her into a productive member of society. The author of the letter suggests that if Priscilla remains in town she will be in danger and that the only option for her personal safety is to be closely supervised by the authorities at *Blithedale*. Priscilla's best chance for moral and spiritual reform is to be placed within the structured environment of the *Blithedale* community. The letter contains a "certificate of character" which suggests that the missionaries believe that the physical and spiritual discipline that Hollingsworth promotes in his inmates will be beneficial for the child's personal and spiritual growth. According to Hollingsworth, the spiritual and physical discipline fostered by his agrarian prison farm is precisely what Priscilla cannot receive by remaining in her previous environment.

However, no matter how much Hollingsworth attempts to place an artificial disciplinary structure upon the utopian community, the natural pastoral environment of *Blithedale* only serves to exacerbate the perceived transgressive behavior of the female protagonists. While Hollingsworth believes that the rural isolation of the *Blithedale* community will ultimately lead to a type of social conformity, in actuality the agrarian lifestyle of the utopia only serves to cause Priscilla and Zenobia to further resist any type of structured social norms. Hawthorne examines Priscilla's continued rejection of structured social authority in "A Modern Arcadia."

What I find most singular in Priscilla as her health improves, observed Zenobia, is her wildness. Such a quiet little body as she seemed, one would not have expected that! Why, as we strolled the woods together, I could hardly keep her from scrambling up the trees like a squirrel! She has never before known what it is to live in the free air, and so it intoxicates her as if she were sipping wine.

(Hawthorne 59)

Up until this time, Priscilla has been content to strictly adhere to Hollingsworth's image of her as a future submissive republican mother. Yet, as the young woman becomes more accustomed to living in the pastoral wilderness, she begins to develop a liberated sexual identity independent of the domestic republican values that Hollingsworth prescribes. As the child's health improves, Zenobia observes that she is becoming more "wild." Ironically, the agrarian environment of the modern Arcadia that was supposed to turn her into a model of spiritual conformity has only served to make her behavior more transgressive. To a certain extent, Priscilla's conservative "quiet little body" has been liberated from Hollingsworth's repressive desire to physically control her. Zenobia's influence upon this sexually repressed feminine soul threatens to turn the adolescent into an independent woman whom the patriarchal disciplinarians cannot control.

Coverdale's and Hollingsworth's attempts at domestic social reform of the women are only possible by physically and psychologically regulating the perceived transgressive sexual behavior of Priscilla and Zenobia. Coverdale becomes distraught when he discovers the two sisters in the barn shedding their conservative nature and adorning themselves with the newly blossomed spring flowers. The poet observes that the fragrant blossoms that adorned Priscilla made her look more charming than the frost nipped waif that had been brought to them during the winter; yet, the transcendental reformer is disturbed at Zenobia's overt flaunting of Priscilla's

sexuality. Women's sexual nature should be concealed, not put on display for the public. Coverdale observes that "among those fragrant blossoms, and conspicuously, too, had been struck a weed of evil odor and ugly aspect, which, as soon as I detected it, destroyed the effect of all the rest. There was a gleam of latent mischief—not to call it deviltry—in Zenobia's eye, which seemed to indicate a slightly malicious purpose in the arrangement" (Hawthorne 59). While Coverdale is attracted to the spring flowers in Priscilla's hair, at the same time he is concerned about the sexualizing of the impressionable adolescent. He specifically identifies Zenobia's influence upon the girl as "deviltry" which is not tolerated when Priscilla is under the patriarchal influence of Hollingsworth. Coverdale's concerns seem strangely comforted when Hollingsworth returns from plowing the fields and Priscilla reverts to her former conservative domestic self. Priscilla, "seated herself on a rock, and remained there until Hollingsworth came up; and when he took her hand and led her back to us, she rather resembled my original image of the wan and spiritless Priscilla than the flowery May Queen of a few moments ago" (Hawthorne 61). Coverdale and Hollingsworth want to preserve their original image of the wan, spiritless, and docile Priscilla. These patriarchal reformers seem threatened by any outward display of sexuality by the women of the community.

This desire to repress and control the sexual behavior of the female inmates is apparent in the violent reaction of Silas Foster toward the transgressive behavior of the juvenile delinquent Priscilla. Coverdale observes that as Priscilla became comfortable with life in the utopian society, she got into more mischief than the other girls in the community. Coverdale asserts, "For example, I once heard Silas Foster, in a very gruff voice, threatening to rivet three horse-shoes round Priscilla's neck and chain her to a post, because she, with some other young people, had clambered upon a load of hay and caused it to slide off the cart" (Hawthorne 74). In the same

manner as Hollingsworth, Silas Foster invokes stern patriarchal discipline to instruct the young woman in proper domestic behavior. Like Hollingsworth, Silas believes that the adolescent will only be able to become a productive reformed member of society by being violently forced into submission. Hollingsworth and Silas both desire to teach Priscilla self-discipline by attempting to mold her into the ideal virtuous subservient domestic woman. Hollingsworth believes that Priscilla's role in the community is to become a productive docile body that they can exploit for their own benefit.

Coverdale fears that the system of Puritanical discipline advocated by Hollingsworth will ultimately lead to the introduction of an oppressive patriarchal authority that will threaten the social reforms advocated by Zenobia and the women. Coverdale and Zenobia are committed to the intellectual pursuits and spiritual reforms they promote. However, the transcendental reformers are constantly impeded in their efforts to advocate for meaningful social reform by Hollingsworth's attempts to imprison them and criminalize their behavior. While Coverdale believes in the power of domestic sympathy to reform the innately depraved souls of the women, Hollingsworth views Zenobia's philanthropy and altruism as a weakness that he can exploit for the promotion of his penal colony. Coverdale consistently fears Hollingsworth's oppressive patriarchal influence upon the women and he worries that Zenobia will succumb to the prison reformer's attempts to incarcerate and exploit her. Concerning his fear of Hollingsworth's intentions towards the women, Coverdale comments, "It could only be her wealth which Hollingsworth was appropriating so lavishly. And on what conditions was it to be had? Did she fling it into the scheme, with the uncalculating generosity that characterizes a woman, when it is her impulse to be generous at all? (Hawthorne 132) Hollingsworth's prison farm seductively attracts the women by appealing to their desire to domesticate themselves, yet it also promotes a

level of social control and conformity that Hawthorne's narrator claims that Zenobia has rejected to participate in the utopian social experiment. The conformist prison that the philanthropist promotes inevitably infringes upon the ability of the feminine reformers to develop any type of individual self-identity outside of the domestic sphere. Coverdale fears that individual civil rights of the women will be cast aside to maintain oppressive state control of the utopian prison.

The philanthropist's ideal prison farm does not promote meaningful reform of the individual soul, because the seventeenth-century system of discipline he proposes strips the inmate of her individuality. Puritanical forms of imprisonment ritualistically attempt to redeem sin through physical punishment. According to Calvinist ideology, the only way to heal the soul is through physical punishment of the body. However, this approach does not address the intellectual, spiritual, and emotional needs of the individual transgressor that progressive reformers sought to address. Larry Reynolds asserts, "On a smaller scale, most reformers have learned by now that the behavior patterns one learns in a cage teach one how to survive in a cage, not how to live fruitfully in society as a whole" (2). Hollingsworth's desire to make Priscilla into a submissive docile body does very little to contribute to her ability to become a productive member of society. Physical punishment and hard labor only teach her to function within the confines of the structured prison environment.

Hollingsworth's desire to make Priscilla conform to social norms through discipline and physical punishment of her body directly opposes Coverdale's attempt to reform her by exposing the young woman to the transcendental ideology of Margaret Fuller and Zenobia. In the chapter entitled "The Convalescent", Priscilla visits Coverdale's bedchamber and brings with her a sealed letter from the feminist reformer Margaret Fuller. Coverdale observes, "Now, on turning my eyes from the night-cap to Priscilla, it forcibly struck me that her air, though not her figure,

and the expression of her face, but not its features, had a resemblance to what I had often seen in a friend of mine, one of the most gifted women of the age.” (Hawthorne 51) In this passage, Coverdale goes on to ask Priscilla if she has ever seen or heard Miss Margaret Fuller in person. Priscilla responds negatively to Coverdale’s inquiry. Priscilla asserts: “I wish people would not fancy such odd things in me! She said, rather petulantly. How could I possibly make myself resemble this lady, merely by holding her letter in my hand?” (Hawthorne 52) At this moment in the narrative, Coverdale attempts to alter Priscilla’s submissive self-image by equating her physically and psychologically with the reform ideology of Fuller. During the remainder of his convalescence, Coverdale reads religiously from the transcendentalist literature of Emerson, Carlyle, *The Dial*, and George Sand’s romances that have been provided for him by Zenobia and the reformist sisterhood. By associating Priscilla with Fuller, Coverdale unconsciously seeks to persuade the young woman to accept the intellectual reform agenda of the utopian community. However, Priscilla resists Coverdale’s advances because she does not want to morally corrupt herself by accepting the feminist ideology that is the antithesis of the Calvinist domestic values that Hollingsworth instills in her. Coverdale attempts to reform the submissive and docile Priscilla by exposing her to the feminist values of Margaret Fuller.

Hollingsworth, however, limits Priscilla’s ability to develop any type of independent intellectual identity by restricting her to activities commonly associated with the traditional woman’s role within the domestic sphere. In contrast, with Coverdale and Zenobia, Hollingsworth views the progressive reform ideology of the sisterhood as deviant and subversive. Controlling Priscilla as a type of docile body allows Hollingsworth to physically and psychologically shape her social attitudes and behaviors. The conflict between Coverdale and Hollingsworth as to the appropriate role of women in the community closely resembles

antebellum debates over equal rights and the place of women within society. Mark Colvin argues that during the early nineteenth century there was a concerted effort on the part of masculine social reformers to control the behavior of independent women by defining their allegedly radical activities as criminal acts. Conservative social reformers held up the domestic image of the republican mother as an ideal standard of morality and virtue that women should aspire to. Colvin argues that within antebellum society, women were considered to be pure, unselfish, and altruistic by nature. Because fewer women committed crimes, they were considered to be morally superior to men. When women did commit transgressive acts, their subversive behavior was attributed to moral defects of character within the individual soul. According to Calvinist prison reformers, “those few women who did commit crimes must by nature be depraved. If so, there was little that could be done to redeem them. This view was shared by the male administrators of prisons who saw female inmates as nuisances” (Colvin 138). In the same manner as the antebellum prison reformers, Hollingsworth believes that the souls of Priscilla and Zenobia are innately depraved. Therefore, the only viable way to reform these subversive women was to segregate them from mainstream society so that their corruptive influences would not infect the population at large. A large part of Hollingsworth’s reform agenda for the *Blithedale* community involves instructing the women in the traditional domestic duties of the virtuous republican mother.

However, this attempt to reform Priscilla and Zenobia by making them into virtuous and moral women ultimately fails. Throughout Hawthorne’s reformist novel, the subversive behavior and moral depravity of the women is constantly attributed to the lustful gaze of the masculine protagonists, which causes them to commit transgressive acts. This desire to manipulate the transgressive sexual behavior of Priscilla and Zenobia is particularly blatant in “The Boarding

House” chapter when Coverdale voyeuristically peeps at Zenobia through the window of his hotel room. While Coverdale initially believes that the innate depravity of the women can be corrected through exposure to the domestic selfless values of the utopian community, his idealism is shattered when he realizes that the subversive acts of the women are the result of the sexual advances of Hollingsworth and Westervelt. Coverdale writes, “But a man cannot always decide for himself whether his own heart is cold or warm. It now impresses me, that, if I erred at all, in regard to Hollingsworth, Zenobia, and Priscilla, it was through too much sympathy, rather than too little” (Hawthorne 154). Peering at Zenobia, Priscilla, and Westervelt through the window of the boarding house, the voyeur ultimately judges their behavior as morally deviant. Coverdale comes to the realization that the women’s attempts at spiritual domestic reform have resulted in sexual exploitation by the dominant patriarchal reformers. Zenobia is not the liberated independent reformer that he thought she was, rather she has allowed herself to be violated and abused by the manipulative sexual advances of Hollingsworth and Westervelt.

While Coverdale actively supports the type of feminist reform that Zenobia claims to believe in, he comes to view her as a social deviant because her willing participation in perceived transgressive sexual behavior leads to the dissolution of the communal family at *Blithedale*. Coverdale desperately wants to believe that Priscilla and Zenobia are capable of moral and spiritual reform of the soul. Yet, this is impossible as long as they allow Hollingsworth to take sexual advantage of them. Coverdale’s belief in Zenobia’s true moral virtue is apparent in the dream that he has the night before he witnesses her sexual transgression through the boarding house window. Coverdale writes:

It was not till I had quitted my three friends that they first began to encroach upon my dreams. In those of the last night, Hollingsworth and Zenobia, standing on

either side of my bed, had bent across it to exchange a kiss of passion. Priscilla, beholding this—for she seemed to be peeping in at the chamber window—had melted gradually away, and left only the sadness of her expression in my heart (153).

The image of Hollingsworth and Zenobia exchanging romantic affection shatters Coverdale's belief in the domestic stability of the community when he views the two women through the boarding house window. Coverdale claims that in the dream the couple was kissing over his bed. As a result of the positioning of Hollingsworth and Zenobia in his dream, Coverdale is included within their affectionate embrace. Coverdale's dream implies his desire to be included within the stable communal family that he believes exists at *Blithedale*. However, the image of Priscilla looking sadly through the window suggests the emotional disappointment that is to come in the next scene. Coverdale wants to believe that the stable environment of the utopian community will allow the women to cast off their moral depravity. However, when Priscilla and Zenobia return to the city they fall back into sin and immorality.

As advocates for disciplinary prison reform, Coverdale and Hollingsworth are constantly attempting to panoptically regulate and control the perceived subversive behavior of the women. Hawthorne's masculine protagonists both believe that returning to a simpler, pastoral way of life will promote positive social change and disciplinary reform. However, their desire to construct a morally pure community only serves to exacerbate the transgressive behavior of Priscilla and Zenobia. Rothman asserts that the antebellum prison reformer's fear and pessimism concerning the disorder of mainstream society "pointed to difficulty Americans had in fitting their perception of nineteenth-century society as mobile and fluid into an eighteenth-century definition of a well ordered community. It was almost as if the town in a nightmarish image was made up

of a number of households, frail and huddled together facing the sturdy and wide doors of the tavern, the gaudy opening into a house of prostitution or theatre filled with the dissipated customers; all the while, thieves and drunkards milled the streets, introducing the wayward youngster to vice and corruption” (71). Rothman’s description of mainstream antebellum society suggests that the rapidly developing cities and towns were designed to encourage moral decline and transgressive behavior. The cloistered houses are crammed together facing houses of prostitution and taverns. Individual citizens only have to look out of their windows to observe morally transgressive behavior happening right before their eyes. This depraved environment that Rothman describes closely resembles the type of morally bankrupt secular society that Coverdale sees from the window of his hotel room.

Ironically, it is precisely this type of moral depravity that Coverdale and Hollingsworth attempt to eliminate by constructing an ordered panoptic puritanical community. The physical structure of *Blithedale* is specifically engineered to manipulate and monitor the moral behavior of the individual. Describing the construction of individual cottages within the community, Coverdale observes, “The bond of our community was such that the members had the privilege of building cottages for their own residence, within our precincts, thus laying a hearth stone and fencing in a home private and peculiar, to all desirable extent; while yet the inhabitants should continue to share the advantages of an associated life” (Hawthorne 80). The individual members of the utopian community are allowed to build their own private residences. Yet, even though these residences appear to be private and secluded from the rest of the community, the residents are still subject to the watchful eyes of the authorities. For example, Coverdale suggests that Hollingsworth and Zenobia build their cottage on a particular spot “just a little withdrawn into the wood, with two or three peeps at the prospect, among the trees” (Hawthorne 80). Coverdale

wants Hollingsworth and Zenobia to construct their cottage in a secluded area of the woods where the couple can remain in sight. Coverdale fears for Zenobia's safety and wants to be able to closely monitor the couple's domestic living situation and behavior at all times. As the rumors of Hollingsworth's and Zenobia's budding romance and possible marriage spread throughout the community, he becomes concerned that she does not realize the abusive behavior that Hollingsworth is capable of. Coverdale acts like a disciplinary warden and feels the need to be aware of Zenobia's whereabouts at all times. Therefore, the seemingly private cottages in the community are more like closely monitored prison cells than actual personal residences.

Within the utopian community the patriarchal reformers are obsessed with constantly keeping a watchful eye on the community. It is ironic that Coverdale insists on consistently controlling, supervising, and regulating the behavior of others while he refuses to allow his behavior to be monitored. Unlike the cottage of Hollingsworth and Zenobia, which is out in the open for all the community to see, Coverdale manages to claim a hermitage where he is able to isolate himself from the larger community for extended periods of time. Coverdale comments:

Ascending into this natural turret, I peeped, in turn, out of several small windows. The pine tree, being ancient, rose high above the rest of wood, which was of comparatively recent growth. Even where I sat, about midway between the root and the topmost bough, my position was lofty enough to serve as an observatory, not for starry investigations, but for those sublunary matters in which lay a lore as infinite as that of the planets. (Hawthorne 99)

Sitting high atop his forest perch, Coverdale closely monitors the moral and ethical behavior of the members of the community. In this scene, Hawthorne's protagonist acts like a supreme deity

and a patriarchal authority figure closely watching over humanity below and hoping that they will reform and repent of their sins. Based upon his position of authority, Coverdale appears to hold himself to a higher moral standard than the other citizens of *Blithedale*. He cannot help judging their actions by his own personal standards of morality and virtue. The poet refuses to allow Hollingsworth to contribute to his moral downfall. The hermitage became his one solitary place of refuge, “while I counted myself a brother of the socialists. It symbolized my individuality, and aided me in keeping it inviolate” (Hawthorne 99). Coverdale feels that to reform himself and keep his soul morally pure he must withdraw from the corruptive influence of Hollingsworth and the women who he believes have let him down. From his elevated position among the trees, Coverdale employs his panoptic gaze to gather detailed information concerning the moral behavior of Hollingsworth, Priscilla, and Zenobia. Gathering this detailed information about the personal transgressions of the members of the community allows Coverdale to judge the individual transgressions of Zenobia and the other members of the community.

As an advocate of penitentiary reform, Coverdale believes that true reform of the innately depraved soul can only come through spiritual judgment by divine authority, which causes the individual to repent of their sins and cleanse their soul. However, Hollingsworth believes that reform of the morally depraved soul can only come through physical discipline of the body. Looking down upon the current state of the utopian society from his tower, Coverdale fears that Hollingsworth’s violent techniques will lead to the destruction of the individual soul. Coverdale observes:

Mankind in Hollingsworth’s opinion, thought I, is but another yoke of oxen, as stubborn, stupid, and sluggish, as our old Brown and Bright. He vituperates us aloud, and curses us in his heart, and will begin to prick us with the goad stick, by

and by. But are we his oxen? And what right has he to be the driver? And why, when there is enough else to do, should we waste our strength in dragging home the ponderous load of his philanthropic absurdities? At my height above the earth, the whole matter looks ridiculous. (Hawthorne 100)

Coverdale maintains that Hollingsworth's belief in physical punishment of the body will not lead to meaningful social reform. For Hollingsworth, the innately depraved bodies of the sinful masses are merely objects to be controlled and disciplined. Hollingsworth's incarceration techniques will only lead to the warehousing of criminals like massive herds of cattle. According to the sympathetic progressive advocates of penitentiary reform, physical discipline of the individual transgressor only serves to reinforce transgressive behavior because it does not instruct the inmate to be a self-sufficient, responsible individual. Hollingsworth and Silas Foster's repressive incarceration teaches the individual to conform to their beliefs, values, and attitudes. Under Hollingsworth's supervision, Priscilla and Zenobia are given no chance to reflect upon their past transgressions. The women are only told that their behavior is subversive according to an arbitrary standard of Calvinist morality. The inherent problem within the type of disciplinary system that Hollingsworth proposes is that it does not allow for any individual reflection upon the consequences of their behavior. The criminals are told to conform and repent or face the violent consequences of punishment.

Hollingsworth views Zenobia as a subversive non-conformist element within the community because she initially resists his patriarchal control. The men in the novel view her as a type of witch who consistently resists their attempts to control her by engaging her in transgressive behavior such as mesmerism. While feminists like Fuller and Zenobia saw mesmerism as a means to heal the individual soul, men often saw the holistic ritual as a type of

perversion. Deborah Manson asserts that Margaret Fuller, “found that as a woman, she was especially susceptible to mesmeric influence, which provided both physical healing and spiritual insight. Mesmerism as a holistic ritual helped individual women to more fully establish an independent liberated identity away from masculine control. However, the hypnotic ritual was often abused by male magnetizers who took sexual advantage of women under their care and supervision” (300). Fuller believed that “a higher level of spiritual awareness comes when one operates through the body. . .” (Manson 302). Women who practiced mesmerism viewed the process of hypnosis as a type of moral and spiritual reform for the soul. Yet, this ability of mesmerism to liberate the soul of the women through physical control of the body is constantly challenged by Coverdale and Hollingsworth’s desire to make the women into submissive docile bodies.

Coverdale and Hollingsworth both engage in forms of mesmerism to persuade Priscilla and Zenobia to accept their individual visions of social reform. In the initial scene where Coverdale compares Priscilla to Margaret Fuller, he employs a type of holistic hypnosis to convince the young woman to participate in intellectual activities that he claims will liberate her innately depraved soul. At this moment, Coverdale does not view the use of mind control as criminal. He believes that he is contributing to Priscilla’s social development by exposing her to a new way of thinking. Yet, the masculine protagonists for their own selfish desires quickly exploit mesmeric behavior. Robert Levine argues that Hawthorne’s portrayal of mesmerism in *The Blithedale Romance* expresses itself through Coverdale’s skeptical attitude concerning the ultimate success of meaningful social reform at the Blithedale community. Levine asserts:

Whereas some Americans of the 1840s and 1850s regarded mesmerism—a species of hypnotism—as a reformatory science potentially bringing individuals

and nature into a state of perfect harmony, Hawthorne presents it through Westervelt's and Hollingsworth's manipulations of Priscilla and Zenobia, as the selfish enactment of hyperintrusive patriarchal power (212).

Coverdale seems to be initially attracted by mesmerism's psychic ability to liberate the individual soul from the physical constraints of the body. The hypnotism of Zenobia and the Veiled Lady holds the promise of reforming the women by literally freeing them from patriarchal control. Yet, within the controlled environment of the structured penal community that Hollingsworth proposes, the panoptic control of the hypnotic ritual results in the women becoming enslaved to masculine patriarchal authority. Instead of eliminating transgressive and sinful behavior, the mesmeric influence of Hollingsworth and Westervelt serves to make the women into submissive objects under masculine control.

This abuse of mesmerism by male magnetizers manifests itself in Hawthorne's novel through Hollingsworth and Westervelt's abuse of Priscilla as the veiled lady. In the same manner as Fuller, Priscilla puts her trust and faith in Westervelt as the magnetizer to spiritually heal her depraved soul. However, Hollingsworth and Westervelt exploit the holistic healing ritual when they put Priscilla on display as a type of prostitute for the male audience in the village hall to gawk at. As the veiled lady, Priscilla becomes an unwilling docile body that Hollingsworth can exploit for his own corrupt desires. Hollingsworth's attempts to make Priscilla into the ideal submissive domestic woman result in sexual abuse due to his need to constantly control her body and mind. The mesmerist's willing participation in this social exploitation and violation of the female body exposes the destructive nature of the domestic disciplinary reform that the prison reformer proposes. In the case of Priscilla, physical punishment devolves into a type of spectacle

that ultimately has very little to do with the elimination of sin and the reform of the innately depraved human soul. Coverdale observes:

Priscilla “threw off the veil, and stood before that multitude of people, pale, tremulous, shrinking, as if only then had she discovered that a thousand eyes were gazing at her. Poor maiden! How strangely had she been betrayed! Blazoned abroad as a wonder of the world, and performing what were adjudged as miracles—in the faith of many, a seeress and a prophetess—in the harsher judgment of others, a mountebank—she had kept, as I religiously believe, her virgin reserve and sanctity of soul, throughout it all. Within that encircling veil, a seclusion though an evil hand had flung it over her, there was as deep a seclusion as if this forsaken girl had all the while, been sitting under the shadow of Eliot’s pulpit, in the Blithedale woods, at the feet of him who now summoned her to the shelter of his arms. And the true heart-throb of a woman’s affection was too powerful for the jugglery that had hitherto environed her. She uttered a shriek and fled to Hollingsworth, like one escaping from her deadliest enemy, and was safe forever!” (Hawthorne 203).

The inherent problem with the system of physical punishment of the body that Hollingsworth prescribes is that it ultimately leads to the masculine exploitation of the female criminal.

Hollingsworth attempts to reform the morally depraved young woman by physically punishing her body results in the objectification of Priscilla. The panoptic masculine gaze of Hollingsworth and Westervelt only serves to reinforce the perception of these women as transgressive figures.

In contrast with the other masculine protagonists, Coverdale fears Hollingsworth’s form of mesmerism because the supposed attempt to liberate the soul by physically imprisoning the body

too often leads to sexual exploitation of the female subject. Priscilla and Zenobia are never truly able to develop an independent self separate from the patriarchal authority of Coverdale and Hollingsworth. Priscilla and Zenobia gravitate towards Hollingsworth because the type of strict disciplinary control that he offers affords them a sense of security and stability that the progressive feminist reform seems to be lacking.

Ultimately, the type of reformist penitentiary that Coverdale and Zenobia envision cannot be successful because the female protagonists are never able to fully develop an independent identity. Priscilla and Zenobia's sense of self is completely defined by their relationships with Coverdale and Hollingsworth. The sole purpose of the masculine reformers is to correct the women's subversive behavior by making them submissive to their needs and desires. In the beginning of the novel, the reform minded sisterhood of Margaret Fuller is held up as an ideal within the community that will contribute to the social betterment of Priscilla and Zenobia. Yet this ideal is quickly abandoned when the two women begin to compete for the affections of Hollingsworth. Therefore, the goal of the masculine protagonists seems to be to break down the bonds of mutual sisterhood that Priscilla and Zenobia share in order that they may reform themselves into loyal submissive virtuous domestic women. Angela Mills asserts, "sisterhood, literal and figurative, [is] at the heart of the tale. Among the characters assembled at Blithedale, it is these two women whom Hawthorne shows to most need Blithedale's reform promises and to most genuinely seek out its familial potential" (99). Priscilla and Zenobia come to the ideal community seeking to improve themselves and their position within society at large. However, their idealist desire to become independent self-sufficient liberated women is consistently threatened by the violent masculine advances of Coverdale and Hollingsworth.

Throughout his time at the utopian community, Coverdale is obsessed with Hollingsworth's reformist scheme because he fears that Hollingsworth's desire to make the alleged deviant females conform to domestic republican values through incarceration will lead to the destruction of his transcendental utopia. Coverdale and Hollingsworth both attempt to place their own reformist social frame upon the ideal society, yet they can only achieve this by enlisting the devotion and support of the female reformers. However, their attempt to socially reform the non-conformist behavior of the women results in the oppressive patriarchal domination of Priscilla and Zenobia. Coverdale and Hollingsworth by attempting to control and reform the perceived innate depravity of the women only contribute to their eventual moral downfall. While the utopian community holds the promise for meaningful reform of the women, Blithedale ultimately becomes a social experiment that reinforces a system of regressive public punishment and imprisonment.

Notes

¹Antebellum debates over prison reform involved Calvinist reformers who advocated for a return to a seventeenth century type of physical incarceration and transcendental reformers who supported a penitentiary style system where the convict engaged in meaningful social reform and was reintegrated into society. In their attempts to reform the behavior of the female members of the community Cover and Hollingsworth appear to each advocate for each type of reform

²E. Shaskan Bumas in his 2001 article, *Fictions of the Panopticon: Prison, Utopia, and the Out Penitent in the Works of Nathaniel Hawthorne* critically analyzes the metaphorical connections in Hawthorne's utopian novel between antebellum American beliefs in the innate depravity of the criminal soul and attempts to rehabilitate social deviants through the development of progressive penitentiaries and reform communities. Bumas's argument focuses primarily on Coverdale and Hollingsworth as masculine protagonists who attempt to define the mission of the utopian community through self-promotion of their own reform agendas and ideological beliefs. However, while Bumas extensively analyzes the seventeenth-century Puritanical belief systems and cultural values that inform antebellum attitudes towards imprisonment, he provides almost no analysis of the masculine protagonist's attempts to promote reform by physically and psychologically controlling Priscilla and Zenobia. Bumas's article primarily focuses on Hawthorne's masculine protagonists, Coverdale and Hollingsworth, as the site of social reform. Yet, the reform that Coverdale and Hollingsworth promote throughout the novel depends on their ability to socially control the behavior of the deviant non-conformist female members of the utopian community.

CHAPTER V

BREAKING THE BACKS OF SAILORS AND SLAVES: FLOGGING, HANGING, AND THE SPECTACLE OF PUBLIC PUNISHMENT IN THE ANTI-GALLOWS WRITINGS OF HERMAN MELVILLE AND FREDERICK DOUGLASS

The Backs of those you would save from the lash are white;

Those for whom we plead are black

Frederick Douglass

“Flogging in the Navy” Editorial from *The North Star* (1849)

Frederick Douglass’s *Narrative of the Life* (1845), *My Bondage and My Freedom* (1855), and Herman Melville’s anti-gallows novel *White Jacket* (1850) make a blatant if implicit connection between republican anti-capital punishment reform and the abolitionist cause. Melville’s naval fiction and Douglass’s autobiographical slave narratives directly address anti-gallows reform and abolitionist sentiment through their comparison, framed for rhetorical effect, between the enslavement and abusive flogging of working-class sailors on board ship to the discipline of African-American slaves in the South. In *Melville’s Anatomies*, Samuel Otter observes that the comparison between the mistreatment of American sailors and the whipping of southern slaves in *White Jacket* is so transparent that this example of the anti-gallows genre is

“about the extension of black slavery to the decks of the United States naval frigate and to the backs of white sailors” (53). Melville’s republican commentary on the status of working-class seamen along with Douglass’s 1849 editorial in *The North Star*, “Flogging in the Navy” present flogging and the breaking of blacks as a double-edged image. The former slave and the abolitionist community viewed flogging as “but an offshoot of the system of slavery and hoped that Americans after contemplating the gross inhumanity of cutting the backs of white men might eventually recognize the foul brutality of cutting the backs of black men” (Wallace 85). As representative of anti-gallows criminal reform literature, Melville’s novel advocates the legal and civil rights of seamen through its attack on the abuse of disciplinary authority by superior officers on board the frigate *United States*. Anti-capital punishment advocates and supporters of the campaign to end flogging in the American navy employed Melville’s novel as propaganda to convince Congress to outlaw the practice of public punishment on board ship. However, the egalitarian desire of abolitionists to gain freedom for African-Americans overshadowed the efforts of anti-gallows reformers because of their deliberate desire to portray the public punishment of chattel slaves as more severe than their white counterparts. The adoption of the rhetoric of flogging and criminal reform by abolitionist societies became an integral part of the movement to end the institution of slavery in the United States. The anti-gallows movement began to lose its momentum during the late 1840s. This decline was due in large part to disputes between parties over labor rights in the North and sectional conflicts over the issue of slavery (Haines 9). During the early nineteenth-century, anti-gallows reformers tended to frame their arguments within the context of other social and cultural reform movements. Historian Herbert Haines observes that “The decline reveals what may have been a key weakness of anti-gallows groups before the Civil War: they were made up of generalized reformers who were occupied not

only with seeking to eliminate capital punishment, but also with prison reform, antislavery agitation, and other controversial issues of the time” (9). The interests and energies of socially-conscious authors and reformers were spread out and other prominent political events drew attention away from the momentum and resources that had fueled their efforts against public punishment since the end of the Revolutionary War. Anti-capital punishment activity came to a virtual halt during the 1850s and remained almost nonexistent until after the Civil War.

Proponents of anti-gallows reform among the literary community tended to emphasize several generalized types of reform in their imaginative fiction. In particular, the novels of Hawthorne and Melville and the autobiographical slave narratives of Douglass dealt with the issues of anti-gallows reform, prison reform, women’s rights, and the abolition of slavery simultaneously¹.

In many respects, Douglass, Melville and other reform-minded authors viewed the goals of the anti-gallows movement as an integral part of larger social causes. This republican emphasis on the interconnectedness of reform movements during this time period had the effect of reducing the social as opposed to political importance of anti-capital punishment reform. The reform goals of anti-gallows groups during the early nineteenth century crossed ethnic, class, and gender boundaries. Therefore, other complimentary reform movements viewed their agendas as part of the movement to abolish public punishment. The ideological connection between antebellum reform movements is particularly apparent in a novel like Melville’s *White Jacket* which attempts to promote social reform by emphasizing the equality of all men and the shared oppression of humanity. While anti-capital punishment reformers of the period employed the flogging novel to successfully advocate an end to public punishment in the navy, the novel’s

commentary on legal and criminal reform became inevitably tied to the movement to abolish slavery.

Through their attempt to philosophically connect the goals of the anti-flogging movement to racial and civil rights issues, Frederick Douglass and the abolitionist community appropriated the egalitarian rhetoric of anti-gallows reform to advocate for the shared humanity of blacks. The abolitionist community believed that exposing the citizenry to the physical abuse of slaves by their master's lash would persuade the public to the necessity of eliminating the institution of slavery. As legal reformers, Douglass and Melville attribute the criminalization and oppression of blacks and the white working-class to enslavement which punishes men both physically and psychologically. The confining environments of the naval frigate in *White Jacket* and the southern plantations in Douglass's narratives serve to exacerbate transgressive behavior. Melville and Douglass both believed that eliminating the spectacle of public punishment would result in more humane treatment of the lower classes and reduce perceived criminal acts. For antebellum social reformers, the public flogging of sailors and the beating of slaves caused subservient individuals to lash out against authority. Angela Y. Davis comments that, "Throughout his life, Douglass periodically referred to the criminalization of the black population as a by-product of slavery" (339). Forcing an individual to work in oppressive environments on board ship or on a plantation increased the likelihood that an individual would deliberately choose to protest authority. Therefore, abolitionists viewed growing anti-capital punishment sentiment among the general population as a means to expose the mistreatment of black chattel slaves eliminate the institution of slavery.

Early nineteenth-century anti-gallows reform literature and slave narratives examine the social conditions and class status of racial minorities and the working poor during the 1850s.

Samuel Otter and Robert K Wallace assert that the nature of oppression and the question of what it means to be a slave are at the heart of Melville's anti-flogging seamen's narrative and the African-American slave narratives of Douglass. Otter contends, "Like Douglass's 1845 *Narrative* before it and his 1855 *My Bondage and My Freedom* after it, Melville's *White Jacket* details the mechanisms of intimate [enslavement] and oppression, such as the use of alcohol as a regulatory tool and the function of holidays as a safety valve to release frustrated energies" (58). Douglass and Melville describe the means by which everyday human activity is criminalized under the social systems of chattel slavery and the naval chain of command. The anti-gallows reformer and the abolitionist express outrage at a social order with an irreducible subjectivity in which a claim to recognition as human is to be punished. Throughout their narratives, Douglass and Melville test the founding documents of the republic the American Constitution and the Declaration of Independence to advocate for the legal and civil rights of the oppressed (Otter 59). Thus, the anti-gallows novel and the slave narrative attempt to expose the continued oppression of minority groups who do not enjoy freedom and liberty. Douglass and Melville's narratives promote the shared humanity of the African-American and white working-classes in antebellum society through their commentary on the laboring conditions of the working poor and slaves.

Abolitionists and anti-gallows reformers shared much in common due to their belief in the individual claim to humane treatment and civil rights. Yet, while Douglass and the abolitionist community supported the civic and legal reforms proposed by anti-capital punishment reformers, they came to believe that supporters of the abolition of flogging were only concerned with securing equal rights for the white working-classes. While members of anti-slavery societies believed that white seamen and African American slaves shared much in common, in their struggles for equality and justice, Douglass and the abolitionists came to

consider much of the anti-flogging narratives of the time as apologies for the institution of slavery.² This belief that white working-class seamen gained the legal right to protest public punishment at the expense of blacks was furthered by Douglass's own commentary on wage slavery in the North. In *My Bondage and My Freedom*, the now free Douglass describes his own experience of discrimination with white seamen in the New Bedford shipyards. Arriving in the racially integrated environment of the Massachusetts community, Douglass "applied to that noble-hearted man [Mr. Rodney French] for employment, and he promptly told me to go to work; but going on the float-stage for the purpose, I was informed that every white man would leave the ship if I struck a blow upon her. Well, Well thought I, this is a hardship, but yet not a very serious one for me" (359). The white working-class laborers portrayed in the 1855 narrative resent Douglass because he threatens their ability to make a decent wage and advocate for their own legal and civil rights. As a former slave, Douglass viewed the ability to join the working-class and labor freely as social empowerment. Free-black men in the North would perform any menial task to earn a living. However, lower-class whites often viewed former slaves as contributing to the exploitation of laborers in the workplace. Given their socioeconomic status, whites often viewed themselves as enslaved. Therefore, working-class seamen's narratives such as Melville's *Moby Dick* and *White Jacket* often went to great lengths to portray the oppressive conditions of white sailors as akin to that of their black chattel counterparts. This ideological comparison between the plight of black slaves and white sailors made Douglass and the abolitionist community suspicious of the egalitarian goals of anti-flogging reformers. Abolitionists feared that the attempt of the white-working-classes to portray themselves as oppressed wage slaves would result in the further socio economic exploitation of chattel slaves

and free blacks. Capital punishment reform and labor rights for working-class whites would be secured at the expense of the African-American population.

In his anti-gallows novel, Melville does not directly state that the legal and civil rights of sailors to protest public punishment should apply to whites only. Yet, the novel's republican belief that all men are enslaved regardless of race and class status contributes to the view of anti-slavery advocates that white working-class seamen are the only group on board the frigate who think they are entitled to civil rights because of the failure to recognize that in fact there is no equality. For instance, in one of the critical scenes of the narrative the white working-class protagonist White Jacket expresses sympathy although somewhat condescendingly toward the Negro Rose-Water who has just been violently flogged and disciplined. This interplay between working-class white and black sailors implies that White Jacket and Rose-Water are equally oppressed within the hierarchical structure of the man-of-war. Witnessing the spectacle of Rose Water's flogging White Jacket observes:

When with five hundred others I made one of the compelled spectators at the scourging of poor Rose-Water, I little thought what Fate had ordained for myself the next day. Poor mulatto! Thought I, one of an oppressed race, they degrade you like a hound. Thank God I am a white. Yet I had also seen whites scourged; for black or white all my shipmates were liable to that. Still, there is something in us, somehow, that in the most degraded condition, we snatch at a chance to deceive ourselves into a fancied superiority to others, whom we suppose lower in the scale than ourselves. Poor Rose-Water! Thought I; poor mulatto! Heaven send you a relief from your humiliation! (277).

In his commentary on the fate of the mulatto seaman Rose-Water, Melville's white working-class protagonist empathizes with the suffering of the black man on the scaffold. Yet, like the white New Bedford sailors described in Douglass's 1855 narrative *White Jacket* appears to believe in the racial superiority of the white. However, Melville's white working-class seaman catches himself in his racial biases and exhibits a self-irony and humility out of keeping with Douglass's portrayal of white workingmen. There exists confusion toward the social status of blacks on the part of the white protagonist. *White Jacket's* description of the scourging of Rose-Water initially appears to express anti-African-American sentiments and pro-slavery apologies similar to that of the white-working-class described in Douglass's narrative who feared the economic competition of free blacks. The narrator's attitude toward the spectacle of public punishment implies that the flogging of seamen regardless of their race blurs the color line and contributes to the social confusion of the seamen as to the class status of free blacks, chattel slaves, and white seamen. Melville's narrator expresses concern at Rose-Water's punishment when he compares the black's status to that of an abused hound. However, his statements suggest that he believes in the racial superiority of whites. *White Jacket* asserts that he has witnessed flogging and punishment of both whites and blacks during his tour of duty on board the frigate; yet, he appears to believe that his "whiteness" provides him with a certain level of protection from excessive forms of public punishment. This moment of false sympathy between Melville's narrator and Rose-Water does not result in the further development of racial understanding and tolerance. Rather, the incident appears to promote the racially privileged position of the white working-class while implying that lower-class black seaman need scourging to maintain discipline and order on board ship.

As a result of Melville's inclusion of controversial racially-charged scenes that attempt to distinguish between the legal and social status of free blacks, slaves, and white seamen, the reader can see where abolitionists became disturbed at the rhetoric in anti-flogging seaman's narratives which they believed promoted white privilege and civil rights at the expense of blacks. This commentary on the class status of free blacks and chattel slaves appears prominently in chapter sixty-six of *White Jacket* where the "full blooded bull-negro" sailor May-Day and the "Mulatto" Rose-Water engage in a heated conflict over racial privilege on board the frigate. One evening May-Day and Rose-Water had been engaged in the blood sport of head bumping to Captain Claret's content, when the full blooded Negro

told Rose-Water that he considered him a *nigger*, which among some blacks, is held to a great term of reproach. Fired at the insult, Rose Water gave May-Day to understand that he utterly erred; for his mother, a black slave, had been one of the mistresses of a Virginia planter belonging to one of the oldest families in that state. Another insulting remark followed this innocent disclosure; retort followed retort; in a word, at last they came together in mortal combat (Melville 275).

The brawl between these two African-American seamen implies the awareness of class consciousness and social status among the minority population on board ship. May-Day resents Rose-Water because he considers himself a member of the privileged upper class. The Mulatto emphasizes his half white racial identity when he identifies himself as the son of a prominent Virginia planter. Rose-Water believes that his white heritage gives him a privileged position over the working-class full blooded black. Melville describes Rose-Water as a "poltroon—a fellow all brains and no skull; whereas [May-Day] was a great warrior, all skull and no brains" (275).

According to the abolitionist community, these portrayals suggest that whites and mulattos enjoy

a privileged status over their lower-class counterparts. This class- based rhetoric in the seamen's narrative concerned Douglass and other abolitionists because they viewed this language as suggesting that chattel slaves were better off socially than their white working-class counterparts.

While Melville and anti-gallows reformers actively promoted the Enlightenment belief that all men were created equal and entitled to humane treatment under the law, a distinct confusion regarding the comparative positions as objects of power between African-American slaves and the white working-class appears to exist in *White Jacket*. Patricia Allen Zirker observes that when the issue of race and color are raised by the narrator it coincides with discussions of the privileged position of chattel slaves on board ship. This apology for the institution of slavery appears in Chapter ninety, "The Manning of Navies," when the protagonist describes the social position of Guinea, the purser's personal slave. Commenting on the relative freedom and personal liberty of African-American slaves on board ship, Melville writes:

The incredulity of such persons, nevertheless, must yield to the fact that on board of the United States ship *Neversink*, during the present cruise, there was a Virginian slave regularly shipped as a seaman, his owner receiving his wages. Guinea--such was his name—among the crew—belonged to the purser who was a southern gentleman; he was employed as his body servant. Never did I feel my condition as a man of war's man so keenly, as when seeing this guinea freely circulating about the decks in citizen's clothes, and through the influence of his master, almost entirely exempted from the disciplinary degradation of the Caucasian crew (379).

According to the white seamen, black chattel slaves like Guinea appear to be treated more humanely than the other sailors because of their status as valuable property. White Jacket comments on the ability of the body servants to circulate freely about the decks. Guinea, unlike the enlisted seamen, is permitted to wear citizen's clothes. The black dandy struts around the decks of the *Neversink* adorned in fine civilian clothing and as a result enjoys a privileged status. White sailors feel that the black servant is treated as more of a human being by the superior officers. Guinea's southern master protects his bond servant from much of the public degradation experienced by the whites. On board the *Neversink*, free blacks and white sailors are constantly subject to beatings and public floggings. Zirker asserts, "Rose-Water, a free Negro, and White Jacket are subject to the scourge; Guinea, a slave, cannot even [s]tand to witness a flogging" (482). The white working-class seamen on board ship appear to resent the status of the chattel slave because as property he is sheltered from much of the oppressive treatment of the seamen by their superiors. In the eyes of the sailors, the chattel slave's master seems benevolent compared to the naval chain of command. For Douglass and the abolitionists, this preference for the system of slavery on the part of the white seamen is controversial because it suggests that the social position of African-Americans is improved by remaining enslaved. On board the frigate, only the liberated blacks and white sailors are publicly degraded and punished for their disobedience. According to the white seamen, the institution of slavery seems preferable to wage slavery because southern masters protect their valuable human property from the spectacle of public hanging.

In his autobiographical slave narratives, Douglass deliberately connects the acts of public punishment and naval flogging to the discipline of slaves by their masters on plantations in the South. The abolitionist makes this metaphoric connection to challenge apologists for slavery who

claim that blacks are better off remaining under the oppressive system of plantation labor. For abolitionists, the rhetoric of flogging and republican anti-gallows sentiment became a means to draw attention to the public abuse of slaves by their owners. In Chapter six of *My Bondage and My Freedom* "The Treatment of Slaves on Lloyd's Plantation," Douglass challenges the attitudes of the white seamen that chattel slaves enjoy a privileged status as property and are protected from the degradation of the lash. After the flogging of Aunt Esther, the former slave recalls witnessing many instances of public discipline on Colonel Lloyd's plantation. Douglass asserts:

One of the first [incidents] which I saw, and which greatly agitated me, was the whipping of a woman belonging to Col. Lloyd, named Nelly. The offense alleged against Nelly, was one of the commonest and most indefinite in the whole catalogue of offenses usually laid to the charge of slaves, viz: "impudence." This may mean almost anything, or nothing at all, just according to the caprice of the master or overseer, at the moment. But, whatever it is, or is not. If it gets the name of "impudence," the party charged with it is sure of a flogging (180).

Recounting this public whipping of the multi racial slave Nelly, Douglass challenges the belief of Melville's working-class protagonists that black slaves are somehow protected from regressive forms of public punishment. The abolitionist metaphorically refers to Nelly's punishment for "impudence" as "flogging." In the same manner as the mulatto Rose-Water on board the *Neversink*, Nelly enjoys a seemingly privileged position among the enslaved population on the plantation. Nelly, "was a bright mulatto, the recognized wife of a favorite "hand" on board Col. Lloyd's sloop, and the mother of five sprightly children" (180). Yet, like the sailors on board Melville's frigate, she has violated the code of conduct by committing the crime of impudence. Even though the master considers her valuable property, she is subject to

the public scourging of “flogging.” Douglass refers to Nelly’s punishment as “flogging” to stress the public nature of discipline on the plantation. Similar to the anti-flogging rhetoric in Melville’s seamen’s narrative, the language of anti-gallows reformers expresses the republican ideology in the 1855 narrative to expose the institutional abuse of slaves by their owners.

For abolitionists in antebellum American society, the issue of slavery like the movement to abolish capital punishment was fundamentally a matter of ensuring civil rights for all men and equality. Egalitarian anti-gallows reformers and supporters of the abolition of flogging argued for the common humanity of seamen of all ethnic and racial backgrounds. As a product of republican social reform movements during the 1840s and 50s, Melville’s naval fiction attempted to extend the mantle of shared humanity to individuals of all races, nationalities, and ethnicities. However, free blacks and abolitionists were suspicious of the attempt by anti-gallows reformers to claim that the white working-classes existed in a state of enslavement. Ishmael’s raising of the question: “Who ain’t a slave” in *Moby Dick* can be applied to the class status and working conditions of the sailors on board the *Neversink* in *White Jacket*. The suggestion that white and black sailors were equally oppressed under the law concerned advocates for African-American rights because they felt that working-class wage slavery was not equivalent to the level of human oppression that black slaves experienced under the system of chattel slavery. Zirker argues in her study of the slavery dilemma in *White Jacket* that Melville’s explicit connection between the issues of slavery and capital punishment reform offended abolitionists during the 1850s. Zirker observes:

If we look at Melville’s predecessors in the man-of-war narrative or at his colleagues in the flogging debates of the 1840s, we find some hint of a recognition of the relationship between the issues of slavery and flogging

especially in seamen narratives, which enlarge upon the distinction which should be made between seamen and slaves (480).

While Melville's fictional flogging narrative attempts to advocate the humane treatment of free blacks, slaves, and the white working-class on board ship, in reality, the anti-capital punishment protests of seamen made clear distinctions between the oppression of blacks and the suffering of whites. Nevertheless, the strained comparison between the institution of slavery and the public abuse of sailors by the chain of command was furthered by the congressional debates on the abolition of flogging. The politician John P. Hale argued for the equal humanity of seamen, yet he stressed that he was speaking of "white citizens, not descendants of the curly headed African on whose behalf it is so unpopular and offensive to speak a word of sympathy" (Zirker 480). Hale supported the abolition of flogging on board ship, but to garner support from southern congressmen he strategically eliminates African-Americans from the reform legislation. It is apparent from Hale's charged controversial rhetoric on the floor of Congress that southern proponents of anti-flogging reform were solely interested in eliminating the system of public punishment for whites only.

From the perspective of Douglass and the abolitionist community, the argument that the public punishment and flogging of white seamen was equivalent to the scourging of black slaves by overseers represented an attempt to exclude African-Americans and other ethnic minorities from the legal and civil rights proposed by anti-gallows reformers. Anti-slavery advocates feared that the emphasis on degrading public punishment of white seamen would distract the public from the movement to end the institution of slavery. Abolitionists and anti-flogging reformers were competing for the same demographic audience. As a result, it became necessary for Douglass to employ the republican rhetoric of flogging and anti-capital punishment reform in his

slave narratives to advocate for the civil and legal rights of African-Americans. Abolitionists believed that the egalitarian ideology of anti-flogging reformers which emphasized that white sailors and black slaves were equally oppressed under the law would cause the public to believe that the corporal punishment of slaves on southern plantations was not as severe as they had been led to believe. H. Edward Stessel asserts “if commodores and captains can best be compared to monarchs, [the flogging of] common sailors—Melville feels—can be compared to [the corporal punishment of] convicts or to slaves” (39). The novel furthers this republican comparison of the discipline of chattel and wage slaves through its metaphoric allusion to the frigate as a type of floating plantation. Melville observes:

The chivalric Virginian, John Randolph of Roanoke, declared, in his place in Congress, that on board the American man-of-war that carried him out Ambassador to Russia he had witnessed more flogging than had taken place on his own plantation of five hundred African slaves in ten years (141).

Even though there were many similarities between the social treatment and public discipline of white seamen and African-American slaves in the antebellum United States, this type of rhetorical comparison offended the sensibilities of abolitionists who truly believed that black slaves were publicly degraded and violated on a daily basis. African-American slaves and white sailors were flogged and whipped with equal frequency in the 1840s and 50s. However, the public punishment of sailors on board ship was more apparent to the general public due to the detailed records kept by the naval chain of command. In contrast, very few overseers on plantations kept accurate records of corporal punishments of their slaves. As a result of inadequate documentation by slave owners and overseers, Douglass and the abolitionists believed that the flogging of slaves was not being adequately publicized. Employing the rhetoric

of flogging and anti-capital punishment sentiment in the slave narrative became critical to exposing the public abuses such as hanging and flogging of blacks by their masters.

Frederick Douglass and the abolitionist community tended to read the images of corporal punishment and flogging in the white wage slave seaman's narratives of Melville as promoting pro-southern apologies for the institution of slavery. To a certain extent, for abolitionists the rhetoric of capital punishment reform appeared to idealize the social conditions of black slaves on plantations. Douglass attempts to challenge this preferential view of the institution of slavery by making his own comparison between the public punishment of sailors and slaves in an 1849 editorial. Reflecting Melville's emphasis on the common enslavement and oppression of the working-class Douglass writes:

Very well let them come and labor in this cause. It will do them good; and it may be the case that while contemplating the gross inhumanity of cutting the backs of white men, they may after a while come to see the foul brutality of cutting the backs of black men—especially so, this whole system of whipping is but an offshoot of the system of slavery. We cannot therefore, close this article without inviting his honor the mayor, and the reverend clergy, and other professional gentlemen who attended and encouraged the meeting of Mr. Haynes on Tuesday last to attend ours, to be held on Sunday evening next at Minerva Hall. The difference between the two objects consists simply in the color of the skin.

(Douglass Editorial 1)

Douglass actively encourages and supports the legal goals of anti-flogging reformers. However, he goes out of his way to stress that the flogging of white sailors is intricately tied to the

institutional discipline of the slave system. The abolitionist argues that the difference between the two reform movements merely involves skin color. Like Melville, Douglass appears to be stressing the common oppression of humanity to promote disciplinary reform. Yet, by inviting his audience to attend the anti-slavery meeting at Minerva Hall, Douglass stresses the fact that flogging contributes to racial and class tensions between whites and blacks. Abolitionists sought to convince the working-classes that blacks were as deserving of human rights as white laborers. Douglass's motive in encouraging his audience to attend appears to be to reduce the social tensions between working-class anti-flogging reformers and abolitionists. African-American slaves are more severely brutalized than the sailors; yet, Douglass acknowledges the cruelty and punishment of sailors to emphasize the common suffering of humanity.

In his editorial, Douglass emphasizes the universal severity of flogging to demonstrate that slaves are abused by the lash in the same manner as their white counterparts. The abolitionist's connecting of the two reform movements challenges the working-classes idealization of the system of slavery. Carolyn L Karcher observes in, *Shadow Over the Promised Land: Slavery Race and Violence in Melville's America*, that in several instances in *White Jacket* Melville appears to go out of his way to praise the indulgent manner in which bond servants and slaves are treated by their masters on board the frigate. Karcher and Zirker "accuse Melville of manifesting insensitivity to slavery and ambivalence toward the Negro, if not outright racism" (Karcher 40). This argument concerning Melville's social confusion about the slavery question in the seamen's narrative reflects the concerns of abolitionists that the attempt to portray wage slaves, both white and black, as enslaved in extreme cases results in an idealization of the institution of slavery. Douglass and anti-slavery supporters viewed the expose' on the abuse of

working-class wage slaves in Melville's novel as catering to the arguments of pro-slavery supporters in the South.

The abolitionist community directly connected the rhetoric in Melville's novel to the political ideology of the anti-flogging reform movement which they feared would detract from the ability of free blacks and slaves to gain legal and civil rights. Zirker maintains that the raising of the slavery issue within the context of the debates over flogging may have been a rhetorical move on the part of anti-capital punishment reformers to disarm southern opponents of reform by forcing these adversaries to live up to their stated beliefs in the equality of all white men. The republican argument of Melville and anti-flogging groups that all men regardless of race, ethnicity, and class status were equally oppressed under the law emphasized the inhumanity of public punishment. Portraying sailors as oppressed slaves forced southern politicians "to live up to their stated beliefs in the democratic equality of all white men" (481). Supporters of the anti-flogging movement made the connection between the public punishment of sailors and the beating of chattel slaves to exacerbate the oppressed socioeconomic conditions under which whites labored. The working conditions portrayed in *White Jacket* resemble the organizational structure of a southern plantation. It appears that anti-flogging reformers made these allusions to the institution of slavery to play up the inhumanity of methods of punishment aboard ship. However, Douglass believed that these comparisons downplayed the physical suffering and abuse slaves experienced at the hands of their masters. Whatever the political motive of anti-gallows reformers, the statements of equivalence between the spectacle of flogging and African-American slavery were publicly made in the midst of legal and civic debates over capital punishment.

Congress acted to abolish the practice of naval flogging in September 1850. Douglass and the abolitionists hailed the passage of anti-flogging legislation, yet the former slave came to believe that the expectations of legal relief granted to white sailors was emphatically denied to oppressed chattel slaves. In many respects, Douglass and the abolitionists viewed the egalitarian rhetoric of the anti-flogging movement as indirectly promoting apologies for the institution of slavery. Melville and naval reformers stressed the enslaved condition of free blacks and white wage slaves and sailors, yet the republican ideology detracted attention away from the abusive treatment of black slaves on plantations. The right of white wage slaves to humane justice and alternative methods of punishment were secured at the same moment that blacks were being denied their rights to protest mistreatment by their masters. Douglass and the abolitionist community “saw the abolition of flogging in the Navy as the one concession to the humane spirit of the age by a Congress that had otherwise served their master, the slave power to the full extent of their ability” (Douglass qtd in Wallace 85). Abolitionists feared that the anti-gallows reformers’ emphasis on the common enslavement and public punishment of white sailors and African-American slaves would hamper their efforts to abolish the system of slavery.

Douglass’s ambivalence at the passage of the anti-flogging law reminds us of the ethnic and racial conflicts between the white working-class and free blacks in the 1850s. Like Melville, the abolitionist community also compared the social and economic status of slaves to that of immigrants and the working poor. William Lloyd Garrison and Douglass exaggerated the connection between oppressed groups such as Irish immigrants and African-American slaves to encourage lower-class whites to support the abolition of slavery. However, abolitionists were often wary of comparing the economic conditions of the white working-classes to those of slaves. Fionnghuala Sweeney asserts, “Abolitionists were understandably weary of the

metaphorical extension of slavery to include wage slavery, insisting on the distinctive character of slavery—the question of ownership, not the material conditions of the slave—which meant that slaves were always worse off than even the most downtrodden of free laborers” (74).³ In the case of public punishment and flogging, Douglass went to great lengths in his autobiographical slave narratives to demonstrate the severity of punishment of chattel slaves. Even though white seamen experienced the scourge of flogging on board ship, the abolitionists argued that the white sailors enjoyed a sense of liberty and freedom that simply did not exist within the American slave system. Douglass’s references to working-class whites and immigrants in his narratives were intended to persuade northern working men and wage slaves to support the abolition of slavery and grant equal rights to African-Americans. Douglass and the abolitionist community believed that employing the rhetoric of flogging and anti-capital punishment reform would serve to draw attention to the institutional abuse of slaves by their masters, and perhaps eliminate working- class conflicts between lower class whites and their African-American counterparts.

While the techniques of flogging of sailors by the naval chain of command and the whipping of slaves by overseers on plantations shared much in common, Douglass argues that the scourge of the lash affected the bodies of blacks differently than their white counterparts. During the antebellum period, the rhetoric of anti-capital punishment reformers crossed racial, economic, and class lines. However, the depiction of abusive flogging of seamen in naval criminal narratives and the spectacle of the gallows became tied to the public punishment and discipline of African-American slave labor in the eyes of the public rather than the legal movement to abolish capital punishment in the 1850s. Abolitionists believed that the relative ignorance of the general public concerning the public punishment of black slaves adversely affected the ability of slaves to gain their freedom and liberty. While the spectacle of public

punishment and the flesh of black men being whipped by the overseers lash had been a conspicuous part of abolitionist reform literature since the late eighteenth century, scenes of lynching and beating emerge with new intensity in anti-slavery texts after 1830. In early nineteenth-century slave narratives “particularly those written by men scenes of flogging often serve as emblems of slavery’s inscriptions” (Otter 60). Otter claims that images of flogging are exacerbated by an effort on the part of abolitionists to “force different meanings on black and white flesh” (61). Douglass’s attempt to demonstrate the effects of the lash on the racial identity of black men through scenes of violent beatings and floggings in the slave narratives coincided with the publication of anti-gallows reform narratives such as Melville’s *White Jacket* (1850) and *Billy Budd* (1891).

Douglass and the abolitionist community ultimately viewed the naval flogging narratives as advocating the legal and civil rights of white wage slaves and sailors at the expense of their black chattel counterparts. To a certain extent, anti-slavery reformers viewed the anti-flogging reform movement as interfering with their own ability to advocate for the legal rights of the African-American working-class. Douglass refers to his own discipline and punishment by his master Edward Covey in the 1855 narrative to emphasize the status of chattel slaves as property and people without the legal right to protest corporal punishment and mistreatment. Unlike the privileged body servants in Melville’s flogging novel the chattel slave in Douglass’s autobiographical narrative has no right to determine his own fate. Douglass observes:

My master, who I did not venture to hope would protect me as a man, had now refused to protect me as his property, and had cast me back, covered with reproaches and bruises, into the hands of one who was a stranger to that mercy which is the soul of the religion which he professed (582).

As property Douglass could be bought and sold at a moment's notice. The slave had no legal right to determine his own destiny. He comments that his life had become a burden to him. The only option available to him was to attempt to serve his master to the best of his ability and hope that he would not have his flesh torn to pieces by Covey's lash. Douglass's portrayal of himself as three-fifths of a person in chapter seventeen of *My Bondage and My Freedom*, "The Last Flogging," challenges the prevailing belief of the white working-class supporters' of anti-flogging reform that all black slaves enjoyed a privileged position because their masters protected them as valuable property.

The abolitionist and former slave directly addresses the different arguments of southern apologists for the institution of slavery and anti-flogging reformers in chapter seventeen when he protests the continued abuse of public punishment by his master, Edward Covey. Douglass asserts:

The spirit made me a freeman in fact, though I still remained a slave in form. When a slave cannot be flogged, he is more than half free. He has a domain as broad as his own manly heart to defend, and he is really a power on earth. From this time until my escape from slavery, I was never fairly whipped. Several attempts were made, but they were always unsuccessful. Bruised I did get, but the instance I have described was the end of the brutification to which slavery had subjected me (591).

This passage represents Douglass's attempt to incorporate the republican discourse of anti-gallows reformers to advocate for the legal rights of blacks and the abolition of slavery. In "The Last Flogging," Douglass challenges the view of southern apologists that public punishment and

flogging of slaves is less severe than the discipline of the white working-class. Douglass was content to follow and obey Covey's orders and perform his tasks to the best of his ability. However, when his master tied him by the legs and attempted to punish him by beating and flogging the slave felt the need to protest this inhumane treatment. Douglass resolved to fight the abuse and oppression of his master. However, this scene also represents the incorporation of the egalitarian rhetoric of anti-gallows reformers to advocate for the legal rights of blacks to protest the spectacle of public punishment. The former slave comments that when a black man can no longer be whipped he experiences a sense of personal freedom and liberty that had been previously foreign to him. This republican emphasis on liberty and natural rights in *My Bondage and My Freedom* loosely resembles the language and ideology of anti-gallows reformers, yet the former slave portrays himself as abused property without legal rights to claim humane treatment. According to Douglass, white wage slaves and seamen may very well be abused by their superiors, but free men in the North have been granted the right to protest public punishment and abuse by the anti-flogging law.

Douglass believed that anti-flogging reformers in their attempt to eliminate regressive forms of public punishment tended to overlook or downplay the sectional divisions in the United States during the first half of the nineteenth century. Melville's portrayal of both black and white sailors as equally enslaved blurred the distinctions between the plight of slaves and working-class laborers that anti-slavery advocates felt were critical to gaining legal and civil rights for African-Americans. Carol Colatrella asserts that "White Jacket's sympathetic observations of those flogged encourage him to recognize the antidemocratic, undignified, and oppressively cruel character of corporal punishment" (153). Yet, for Douglass and the abolitionists this emphasis on the common enslavement and oppression of humanity distracted from the violence

perpetrated against black slaves. While the institution of slavery is not directly discussed in Melville's novel, the text refers to the punishment of slaves by virtue of the established literary association of flogging with slavery. The flogging scenes in the sailor's narrative like the instances of whipping in Douglass's slave narratives "build upon one another to emphasize how the captain uses brutal punishments to respond to any deviations from procedure, regardless of the severity of the offense or the context of the disobedience" (Colatrella 153). The portrayal of institutional violence throughout the seaman's narrative evokes sympathy for the suffering of the multi-racial working-class crew on board the *Neversink*. However, the anti-gallows novel does not provide clear distinctions between the impacts of flogging upon the bodies of black and white sailors. Colatrella observes:

Rather than defending slavery or acknowledging natural difference between blacks and whites, the sailor's envy of [the privileged lifestyle of the chattel slave Guinea] points out the desperate situations endured by oppressed black slaves and exploited white laborers who are always at the mercy of authority (154).

White Jacket does not lay out a clear stance on the issue of slavery in the United State. Rather the narrative takes a generalized approach to social reform stressing the philosophical nature of slavery rather than the abusive practices of the institution. This approach resulted in the perception of abolitionists that anti-flogging reform benefited whites at the expense of blacks.

While Melville was an adamant supporter of the abolitionist movement, his colleagues in the anti-flogging movement overlooked the vastly different racial and ethnic attitudes among the white public toward members of the working-classes in antebellum society. Anti-flogging advocates deliberately blurred the distinction between the whipping of black slaves and the

public punishment of white sailors. This working-class view of black and white men equally oppressed by the lash appears in the initial sequence of chapters discussing the physical and psychological impact of flogging in *White Jacket*. Melville's novel subconsciously identifies the bodies of white sailors as racial subjects through its ethnographic descriptions of individual sailors. However, according to Frederick Douglass the novel's portrayal of blacks and whites enduring the same level of oppression encouraged the public to view the institution of slavery as no different from working-class oppression. In the first chapter entitled "flogging" Melville portrays the bodies of white and black sailors being stripped like slaves on a raised platform. According to the narrator, flogging and the spectacle of public punishment are the consequences for disobedience on board the frigate. The master-at-arms cat does not discriminate between black and white seamen. Melville observes "Peter a handsome lad, about nineteen years old, belonging to the mizzen-top, looked pale and tremulous. The next was Antone, a black Portuguese. At every blow he surged from side to side, pouring out a torrent of involuntary blasphemies. Never before had he been heard to curse" (137). In this scene, the act of stripping the men naked and whipping their backs metaphorically turns working-class seamen both black and white into enslaved oppressed human beings unable to advocate for their legal or civil rights. Like black chattel slaves on plantations in the American South, the white and Portuguese sailors in this scene are treated as three fifths of a person—less than human.

Melville's anti-gallows novel also overlooks the racial and ethnic divisions within American society during the antebellum period. *White Jacket* undercuts the sectional divisions "all too evident in Congressional debates on flogging" (Bellis 29). Melville attempts to advocate the natural right of all men regardless of race to humane treatment. Republican philosophy tended to emphasize the legal rights of the working-class instead of promoting the abolition of

chattel slavery and humane treatment for blacks. Political support for the abolition of flogging came from the white working-classes in the North while opposition to anti-capital punishment reform came primarily from slave owners in the South. This sectional division between the political factions and social reformers implies broader connections to the abolitionist movement. However, Melville's fictional reform novel ignores this philosophical split between northern and southern advocates within the anti-flogging sailor's reform movement. The novel often appears to undercut the goals of slavery reformers through its language of egalitarianism, Manifest Destiny, and republicanism. Bellis observes:

White Jacket's argumentative [approach] is quite different from those of Melville's sources and of the naval reform movement in general. A common approach—used by Richard Henry Dana Jr., William Mc Nally, and others was to compare oppressed white seamen to black slaves. Participants in Congressional debates spoke of an ongoing process of social and humanitarian reform, often linking the abolition of flogging to the end of the navy's spirit ration, and even the abolition of slavery (30).

In contrast to anti-flogging reformers, Melville refers to the analogy between flogging sailors and beating slaves in passing. The narrator does not place it at the center of his argument. Melville emphasizes the generic sailor's identity as an "American born citizen" and in so doing ignores the large number of foreign-born seamen and non-whites in the navy.

In contrast to Melville's criminal seamen's narrative, the autobiographical slave narratives make clear distinctions between the conditions of punishment of whites and black slaves. Douglass attempts to convince divergent social and ethnic groups to support the abolition

of slavery through his use of the language of flogging and anti-gallows reform. In the opening to the abolitionist's 1849 editorial in *The North Star*, he directly refers to the shared suffering of white sailors and African-American slaves. Douglass writes, "A great anti-flogging and temperance meeting was convened in concert hall, Rochester, on Tuesday evening, for the purpose of hearing the system of intemperance and the bloody and inhuman practice of flogging in the Navy espoused by a Mr. W S Haynes a sailor who is devoting his energies to the improvement of seamen" (Douglass editorial 1). The opening passage emphasizes Douglass's desire to link the goals of the two reform movements. Douglass refers to the meeting as a gathering of reformers interested in eliminating the oppressive social systems of both flogging and public punishment. For the abolitionist, these systems of social control demean the humanity of white sailors as well as African-American slaves.

In his editorial, Douglass makes an explicit ideological connection between the goals of the sailor's rights movement and abolition. Reporting on the testimony of the beaten sailor Haynes, the abolitionist comments, "it was alleged that whipping was not only useless as a means of securing obedience and order, but was also destructive to those qualities of mind and spirit in the sailor, necessary to a warm and generous devotion to the cause and character of his country" (Douglass editorial 1). In this passage, the former slave rhetorically connects by use of the term whipping the plight of sailors on board ship with the public flogging of slaves in the South. Like the advocates of capital punishment reform, Douglass argues that flogging and whipping are ineffective as forms of criminal punishment and discipline. The former slave also implies that the system of public punishment practiced on board ship is incompatible with republican values. According to the former slave, flogging on board ship like the whipping of slaves does nothing to maintain civil order and moral discipline among the working-classes. The

abuse of the chain of command on board ship is akin to the public punishment of slaves by their masters. Reflecting the republican legal sentiment of his time, Douglass asserts in his editorial that flogging infringes upon the civil rights and liberties of the individual.

According to Douglass, public punishment of both sailors and slaves destroys the individual's faith in the democratic equality of society. The regressive practice of flogging like the public whipping of slaves makes the individual less of a human being. In the same manner as Melville, Douglass and the abolitionist community look upon flogging as an inhumane punishment that affects both blacks and whites equally. Commenting of the egalitarian ideology of anti-capital punishment reformers, Douglass writes:

Now all this is well, and shows that there are some links of brotherhood remaining unsevered, and that there is yet some heart in man to feel for the wrongs of man. The practice of tearing the flesh of man by the terrible thongs of the cat or of bruising it with the death dealing colt is at once revolting to the better feelings of human nature, and ought to call forth one universal cry of shame and disapprobation from the whole brotherhood of man (Douglass editorial 3).

As a supporter of anti-capital punishment reform and sailors rights, the abolitionist encourages his audience to actively protest the "tearing of human flesh by the colt and the cat." The republican goals of working-class white seamen reflect the belief in the common humanity of all men evoked by abolitionist reformers. However, Douglass is aware of the fact that there are individuals who support the anti-flogging cause who would deny legal and civil rights to slaves. The testimony of the sailor Haynes becomes important to Douglass as a means to advocate for and expose the oppressive treatment of blacks by the master's lash. "The exposure to which this

horrible practice in the American Navy is now undergoing at the hands of Mr. Haynes,” Douglass writes, “will, we trust be of great service in awakening a deeper interest in the cause of the poor sailor and suffering humanity everywhere” (Douglass Editorial 4). Therefore, Douglass’s appearance at the anti-flogging meeting was an opportunity to show the connections between the abuse of white seamen and black slaves. The abolitionist strategically uses his editorial to challenge the belief of southern apologists that black men are not entitled to the civil rights proposed by anti-capital punishment reformers.

Douglass and anti-slavery advocates supported the egalitarian philosophy of anti-gallows reformers which emphasized the common suffering of both blacks and whites by the cat and the colt. However, abolitionists feared that republican capital punishment reform favored legal and civil rights for the white working-class at the expense of slaves. Abolitionists believed that the success of anti-gallows reformers would result in the preservation of the institution of slavery and strengthen the position of southern apologists. Therefore, it became necessary for abolitionists to employ the language and rhetoric of flogging to expose the public to the institutional abuse of slaves by their masters. Portraying the public punishment of chattel slaves as akin to flogging emphasizes the whipping of blacks as a form of corporal punishment. The decision of abolitionists to adopt the language and imagery of public punishment espoused by Melville and anti-gallows reformers had the successful effect of drawing attention to the suffering of chattel slaves on southern plantations. However, the false comparison of Douglass and Melville relating the institutional discipline of the slave system to the flogging of working-class seamen resulted in the demise of anti-gallows reform. Legal and criminal reform stalled until after the Civil War because the abolition of slavery became the central concern of the

majority of antebellum reformers. Douglass successfully employed the language of anti-flogging reform to advocate for abolition.

Notes

¹ Like Hawthorne's *Blithedale Romance* (1852) which places antebellum prison reform within the context of larger social movements, the works of Hawthorne and Melville address multiple social reform movements. As a result of this bundling of social causes, the goals of the anti-gallows movement often became an integral part of related social movements such as abolition.

² In my study, I am not arguing that Melville supported pro southern apologists for slavery. Rather, I maintain that Frederick Douglass and the abolitionists interpreted the images of working-class enslavement in the narrative as reflecting the arguments of Southerners in support of the institution of slavery.

³ During the 1850s, Douglass and the abolitionist community attempted to challenge the view of the white working-classes that they were as oppressed as their black counterparts. In *White Jacket*, Melville does not distinguish between the public punishment of white and black seamen. As a result of this comparison in the novel, Douglass employs the rhetoric of flogging in his autobiographical narratives to expose the physical abuse of slaves by their masters on plantations.

CONCLUSION

THE LEGACY OF PUBLIC VERSUS PRIVATE JUDGMENT: REPUBLICAN ANTI-GALLOWS SENTIMENT IN MODERN AMERICA

See! Round the Prison how the Throng
From every Quarter pour;
Some mourn with sympathizing Tongue,
The rudder Rabble roar

Broadside poem for the hanging of Levi Ames 1773

Literary critics and historians of the American anti-gallows movement attribute the decline of anti-capital punishment reform during the antebellum period to a number of social and cultural factors including growing agitation over slavery that led up to the Civil War (Jones 177). Socially-conscious authors and reformers continued to draw upon the republican philosophies of Cesare Beccaria, Benjamin Rush, Benjamin Franklin and Thomas Jefferson to advocate for the legal right of the individual to protest abusive treatment by the authoritarian state. Yet, the supporters of abolition were not devoted exclusively to the anti-gallows cause. Prominent literary advocates for reform such as Nathaniel Hawthorne, Margaret Fuller, and Herman Melville began to actively pursue other social causes which they viewed as more pressing to the preservation of the fledging United States during the decades leading up to the war. The social justice ideology of anti-gallows groups became a significant part of antebellum reform

movements including slavery and women's rights which crossed racial, gender, and class boundaries. Paul Christian Jones and Phillip Mackey assert, "there were, of course, a great many of other reforms competing for the attention of humanitarians . . . in this period. . . Anti-slavery was of such obvious importance, increasingly so with the passage of time, that it made other reforms seem trivial by comparison" (Mackey 319). Social activism concerning the abolition of the gallows and the death penalty came to an abrupt halt during the late 1850s and 1860s. Anti-gallows reformers were competing for the political support of the same demographic groups within American society. Therefore, outlawing the death penalty and abolishing public punishments became less important in a society on the brink of social and economic conflict. One of the principle reasons that public support and interest in anti-gallows reform waned during the mid-nineteenth century was that many of the disciplinary institutional changes that legal reformers advocated for from the 1790s onward had been achieved. By the mid-nineteenth century, torture had been prohibited. Corporal punishments including maiming, branding, flogging, and whipping were either abolished or employed less frequently. The work of Quaker reform societies such as the Philadelphia Society for Alleviating the Miseries of Public Prisons led to the passage of anti-capital punishment statutes in Pennsylvania in the last decade of the eighteenth century. Early nineteenth-century literary portrayals of hanging on the gallows such as James Fenimore Cooper's *The Spy* (1821), Nathaniel Hawthorne's *The Scarlet Letter* (1851), and Melville's *White Jacket* (1850), exposed the public to the spectacle of punishment and were instrumental in garnering sympathetic support for reform. As a result of the work of these reform-minded authors, the ritual of public punishment involving bodily harms such as the stocks, the pillory, flogging, whipping, and the gallows itself were for the most part abandoned. David Garland observes that during the late 1850s, the death penalty grew less frequent and less

violent. From the eighteenth century through the early nineteenth century, public execution practices that displayed and disfigured the body of the condemned became less common. Garland asserts, “By the middle of the nineteenth century, long after scaffold torture had been abolished, middle-class commentators complained that the sight of a person being put to death was too disturbing to watch and criticized the callous vulgarity of those who continued to attend public hangings” (146). The declining lack of outrage concerning public executions can be attributed to the fact that the death penalty became a private matter. Executions and hangings were moved from the courtyard of the town square to behind the walls of prisons. Stuart Banner argues that up until the 1850s, hangings and executions were conducted outdoors before crowds of thousands of spectators, “as part of a larger ritual including a procession to the gallows, a sermon, and a speech by the condemned prisoner” (24). Hanging and execution of convicted felons was an emotional and somber event like a communal church service. In colonial and Early National America, the spectacle of the gallows was a theatre in which the whole community could participate to suppress wrongdoing. As a result, the suffering of the criminal on the scaffold was a public gathering that encouraged sympathy and disgust. However, as punishment and execution attempted to become a private humane affair during the antebellum period, citizen agitation for disciplinary reform abated.

The general public was no longer exposed to the public spectacle of death and, therefore, they began to see less need for reform. The regressive forms of public punishment and the early modern death penalty had largely disappeared from most parts of Europe and the United States by the early nineteenth century. Western “jurisdictions—Tuscany, Prussia, Austria, and Pennsylvania—had reformed their capital codes in the last decades of the eighteenth century either abolishing the death penalty or else drastically limiting its use” (Garland 88). Great Britain

eliminated George III's "Bloody Code" in the 1830s. During the mid nineteenth century, capital punishment reform was also reinforced by innovations in systems of criminal justice. In particular, the development of penitentiaries and alternative punishments such as public service and reform.

Penitentiaries and long-term imprisonment became the criminal reform of choice for all kinds of offenses. Incarceration ultimately replaced state-sponsored punishment on the scaffold as an effective means of criminal deterrence. While reformers viewed this new type of enlightened criminal reform as a step in the right direction, the development of the penitentiary led to new concerns on the part of legal activists. By the late nineteenth century, legal reformers shifted their attention away from the spectacle of public punishment. They began to focus on the prison as a source of state control. Reformers became concerned with the social welfare of criminals within the prison system and fairness in sentencing. These issues developed in North America during the movement to abolish the gallows, yet new systems of incarceration seemed to exacerbate these concerns. As Rush argued in his *Enquiry Into the Effects of Public Punishments* in 1787, private punishment did not entirely eliminate the detrimental practices of the spectacle of public punishment. The attitudes of human sympathy toward the body of the condemned from the late Enlightenment were now transferred to reforms societies concerned with psychological and social welfare of transgressors within the criminal justice system.

Despite the emphasis on psychological reform of criminal behavior, literary reformers and legal scholars were still concerned with public punishment, humane treatment of criminals, and the legal rights of the individual to fair sentencing during the second half of the nineteenth century. The privatization of capital punishment behind the prison door and alternative methods of hanging raised other social concerns for activists. Discussing the changing nature of public

punishment in the late nineteenth century, John Cyril Barton observes, “The 1830s through the mid 1920s in the United States also saw the practical origins and rise of “Lynch Law,” a form of lethal, extralegal violence carried out by a community and perpetrated against a “condemned” subject alleged to have committed a criminal act” (4). While this form of public punishment was not intended to glorify the authority of the monarch and the state, Vigilante Justice reflected many of the concerns of early national reformers including the right of the individual to humane treatment and moral reform under the law. According to Barton, collective retributive violence is a concept older than public punishment and state-sponsored executions. The prevalence of extralegal executions and violence on the Western American frontier contributed to the continuing debates within nineteenth-century society concerning the appropriateness and effectiveness of capital punishment that existed during the Early National period.

There is no question that social activism surrounding the issue of the death penalty faded out during the mid-nineteenth century. However, the literary work protesting public punishment and the gallows did not cease altogether. American authors continued to employ republican anti-public punishment sentiment to speak out against the abuse of transgressive criminals by authoritarian governments and undemocratic states. Walt Whitman, John Greenleaf Whittier, and Theodore Dreiser continued to write against regressive public punishment and the gallows during the Civil War and afterward. Lynch law and vigilante justice in the latter half of the nineteenth century became the new targets of anti-gallows reformers. Melville’s incorporation of the republican arguments of antebellum reformers against the death penalty in his later fiction emphasizes the continued prevalence of Enlightenment arguments concerning sympathy and the authority of the state into the modern era. Even though methods of execution have changed from the public spectacle of the gallows to the private capital punishment of lethal injection and the

electric chair republican arguments against the public impact of the death penalty remain prevalent today.

While American arguments against state-sponsored execution and killing have become less theological and more psychological, debates concerning the effectiveness and humanity of public punishment still remain a part of our culture. The spectacle of state-sponsored public hanging disappeared long ago, but the media still provides the public access to punishment by death on a frequent basis. During the late nineteenth and early twentieth century's, the primary defenders of capital punishment were no longer the clergymen and ministers who had in the past vehemently defended public punishment in their sermons and pamphlets. Modern American capital punishment reformers have become less interested in persuading Christians and religious individuals that capital executions are inconsistent with their beliefs. Rather, their attention has shifted toward convincing victims of heinous crimes that capital punishment does not provide emotional closure or justice. This emphasis on human sympathy and compassion for the plight of criminals still conflicts with the individual need for retribution, vengeance, and justice. Yet, the appeals to Christian sympathy at the center of the antebellum arguments against capital punishment have not completely disappeared from contemporary reform arguments. A humane and sympathetic view of convicted felons and a desire to promote alternative methods of criminal reform remain a large part of imaginative literature depicting the nature of criminality and punishment in American society.

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VITA

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Candidate for the Degree of

Doctor of Philosophy

Thesis: PRIVATE PUNISHMENT VERSUS PUBLIC JUDGMENT: ANTI-GALLOWS
SENTIMENT AND CRIMINAL REFORM IN ANTEBELLUM LITERATURE 1772-
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Completed the requirements for the Doctor of Philosophy in English at Oklahoma State University, Stillwater, Oklahoma in May 2012.

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Pages in Study: 187

Candidate for the Degree of Doctor of Philosophy

Major Field: English

Scope and Method of Study: Drawing upon historical, sociological, and cultural studies, this dissertation addresses how the literary work of antebellum American writers contributed to anti-capital punishment sentiment and legal reform during the early national period.

Findings and Conclusions:

This dissertation analyzes the development of anti-capital punishment sentiment in American literature from 1772-1855. In the early national and antebellum United States, criminal narratives and literature in the form of the execution sermon, the gothic novel, autobiographical testimony, and the African-American slave narrative informed the citizenry as to the public abuse of convicted criminals on the gallows and made the individual aware of the need for republican legal reforms such as trial by jury, the creation of penitentiaries, and private punishment. In the early national and antebellum periods, a less authoritarian system of justice encouraged by the principles of Enlightenment philosophy caused social reformers and philosophers to advocate for a more humane system of public punishment. The late Enlightenment belief in the humanity of each individual along with the growing republican contempt for the right of the state to execute its citizens led prominent literary minds to question the efficacy of capital punishment and public execution as a viable means of criminal reform. This project discusses the development of anti-gallows sentiment in the creative work of authors and progressive reformers from a variety of social backgrounds and ideological perspectives. Socially conscious writers from the Native American clergyman Samson Occom to the physician Benjamin Rush and from the former slave Frederick Douglass to the novelists Nathaniel Hawthorne and Herman Melville employed the republican legal discourse of the Enlightenment to influence the cultural attitudes of Americans concerning public punishment and transgressive behavior.

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