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Buried Lives

Incarcerated in Early America

edited by

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For our families.

Foreword

MICHAEL MERANZE

SYSTEMS OF INCARCERATION HAUNT American society and the American imagination. Whether it involves the approximately two million men and women held in jails and prisons, the youths held in juvenile halls and lockups, the growing number of imperial lockups from Guantanamo to Bagram and numberless other secret locations, it is difficult to grasp the contours of the American present without considering the costs, effects, and reasons for our commitment to incarceration. Although it is clear that the United States' commitment to systems of incarceration has expanded dramatically since the 1970s, the importance of incarceration to American society—as the essays in *Buried Lives* make clear—has a much longer history.

Buried Lives saw its conception during a conference at the McNeil Center for Early American Studies in Philadelphia in 2009. Over two days, scholars drawn from early American history and literature considered the provenance of America's identity as an "incarceration nation." This theme proved somewhat controversial, for what emerged out of the papers was something less than a "nation." Instead, the scholars—eight of whom are represented in this collection of ten essays—illuminated

a constellation of incarcerative institutions and experiences spread out in time and place. These scholars presented a series of discrete histories that shared common practices of incarceration but little (at least before the nineteenth century) common reflection or purpose. Still, as Leslie Patrick pointed out in her comments at the conference, the notion of an "incarceration nation" did point us to one very significant issue—the connection in the Atlantic social and political imagination between the early American republic and the establishment of modern systems of imprisonment. If for no other reason, the history of the United States and the history of incarceration have been joined in a fundamental way ever since.

I stress both the timing and the theme of the conference because they are important for grasping the historiographical and intellectual significance of the essays in *Buried Lives.* This volume contributes to what we may think of as the third wave of histories of incarceration since the field was rejuvenated in the 1970s. The first wave comprised the seminal works of the 1970s: David Rothman's *The Discovery of the Asylum,* Michael Ignatieff's *A Just Measure of Pain,* and towering above both, Michel Foucault's *Discipline and Punish.* These were followed, with some delay, by a group of works that included my own *Laboratories of Virtue,* Adam Hirsch's *The Rise of the Penitentiary,* and Patricia O'Brien's *The Promise of Punishment. Buried Lives,* in turn, joins Rebecca McLennan's recent *The Crisis of Imprisonment* and Robert Perkinson's *Texas Tough* in their efforts to break incarceration free of its historiographical roots in the rise of the penitentiary.

Indeed, while the history of the penitentiary remains a fundamental reference point among the essays in *Buried Lives,* it is not the only one. One of the important accomplishments of the authors—and here I think especially of Billy G. Smith, Simon P. Newman, and Jacqueline Cahif on the ways that inmates could use almshouses and workhouses for their own purposes; Jennifer Lawrence Janofsky on the irregularity of prison discipline; and Jodi Schorb and Daniel E. Williams on the reversibility of memoirs of confinement—is their capacity to show the many nodes and uses of incarceration. Reading these essays makes it impossible not to recognize that inmates as well as authorities made use of these institutions and that the boundaries between incarcerative institutions and the wider society were often remarkably porous. In part, these essays take up the themes of another historiographical milestone of the 1970s, the essays collected in *Albion's Fatal Tree.* Compared to Foucault,

Ignatieff, and Rothman, the authors of that volume—Peter Linebaugh and Douglas Hay prominent among them—were more concerned with the everyday imbrications between crime, punishment, and social relations in communities beyond institutional walls. It is this second line of investigation that has allowed a greater appreciation of the uses to which incarceration has been put—and not simply by the authorities.

In their emphasis on the mediations surrounding incarceration—and the possibilities of reversals within incarcerative settings—the essays of *Buried Lives* also highlight a historiographical paradox. There has been a reversal in the stability and status of both the prison specifically and incarceration more generally since the 1970s. Foucault, Ignatieff, and Rothman wrote in a moment when it seemed possible that the age of the penitentiary was coming to an end. Although criticized (somewhat unfairly, to my mind) for understating resistance to power, they constructed their narratives to highlight systems that were then vulnerable. In other words, their works provided a historical context for movements in society that were then denaturalizing the prison.

In the decades since, scholars have placed still greater emphasis on resistance to institutions of incarceration, but all the while these institutions have become even more deeply embedded within society and the state. The authors of the 1970s wrote to help bury a set of institutions; the authors of *Buried Lives* are struggling to prevent the memories of inmates from being buried by those institutions. Indeed, they write in a moment when these institutions are more powerful than ever. Prophecies of the last days of the penitentiary have proved to be wide of the mark. On the contrary, it now seems impossible to imagine America without them.

Part of the reason that the United States has become an "incarceration nation" is the historical combination of slavery and expansion. While many scholars have demonstrated the connections between race and imprisonment, and while some current commentators draw upon the legacies of slavery to explain the contemporary explosion of incarceration, the authors of *Buried Lives* take a different and quite provocative tack. Instead of seeing slavery and the penitentiary as parallel institutions—or arguing that after the Civil War imprisonment took over the functions previously fulfilled by the plantation and the slave code—Jason T. Sharples, Susan Eva O'Donovan, and Matthew J. Clavin demonstrate the ways in which jails were the servants of the slave regime even as they became loci for challenges to slavery's power. Rather than

relying on the tired dichotomies of south versus north and premodern versus modern, *Buried Lives* reveals that imprisonment and slavery were intertwined both in British imperial expansion and then in the continental expansion of the nineteenth-century United States.

This unexpected intersection between imperial expansion and incarceration brings us to the final theme that I would like to highlight: the relationship between incarceration and national identity. This relationship is highlighted most clearly by Judith I. Madera on floating prison-hulks and Caleb Smith's consideration of Harry Hawser's prison poetry. While separated by time and context—Madera focusing on a Revolutionary War experience, Smith on a debate in the 1840s on prison reform—each highlights the ways that prison narratives and prison experience became, through acts of authorship and dissemination, symbols of national character. In the one case, Americans used the "cruelty" of the British army to differentiate American from British; in the other, the poetry of Hawser was deployed to protect the American experiment in separate confinement from charges of cruelty. In this complex war of words about the national nature of incarceration, the linkages between the penitentiary and the American republic took shape.

As a whole, then, the essays in *Buried Lives* force us to think anew about the nature of the incarceration nation that is the United States. In fact, they offer new ways to think about the relationship between incarceration's past and the ways we narrate that history. They reveal that what was at stake in the nineteenth century was less the birth of incarcerative institutions than their increasing and systematic importance. Colonials used incarceration in a range of places and for a variety of purposes. What they did not do was begin to think about those institutions in a systematic way or to insist that they were central to the nature of the state. These were largely nineteenth-century developments. Moreover, these developments were not simply an intensification of practice; rather, they marked an intensification of the imagination. The United States *became* an incarceration nation in the nineteenth century because incarceration grew so crucial to an internal and international debate about the nature of the United States. *Buried Lives* has done more than preserve the image of those otherwise forgotten. Indeed, it enables us to see more clearly the work that has gone into the persistence of American imprisonment both in the past and in the present.

Acknowledgments

Buried Lives is the work of many hands. Its genesis began at a conference held in Philadelphia in April 2009 to mark the 180th anniversary of the opening of Eastern State Penitentiary. That conference, "Incarceration Nation: Voices of the Early American Gaol," brought together over one hundred literary scholars, historians, and activists for two days of discussion and analysis of incarcerated subjects and their texts.

We are pleased to acknowledge the many individuals and institutions that made that event possible, especially Dan Richter, Amy Baxter-Bellamy, and Alla Vilyansky at the McNeil Center for Early American Studies at the University of Pennsylvania; John Van Horne and Jim Green at the Library Company of Philadelphia; Sean Kelley at Eastern State Penitentiary; Richard Price, chair of the History Department at the University of Maryland, College Park; and Susan Albertine, dean of the School of Culture and Society at the College of New Jersey.

The contributions made by all of the presenters and audiences at that conference provided the inspiration for this volume of essays. In addition, we would like to thank Susan Branson and Susan E. Klepp, the two external readers who critiqued the manuscript, as well as the several libraries and archives that granted us permission to use images from their collections. Finally, we have been fortunate to work with the talented editorial and marketing teams at the University of Georgia Press, notably John Joerschke, John McLeod, Amanda Sharp, Beth Snead, and our wonderful editor, Nancy Grayson.

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"He is a man buried alive; to be dug out
in the slow round of years."
—CHARLES DICKENS, *American Notes* (1842)

Introduction

MICHELE LISE TARTER AND RICHARD BELL

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

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

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

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

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

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

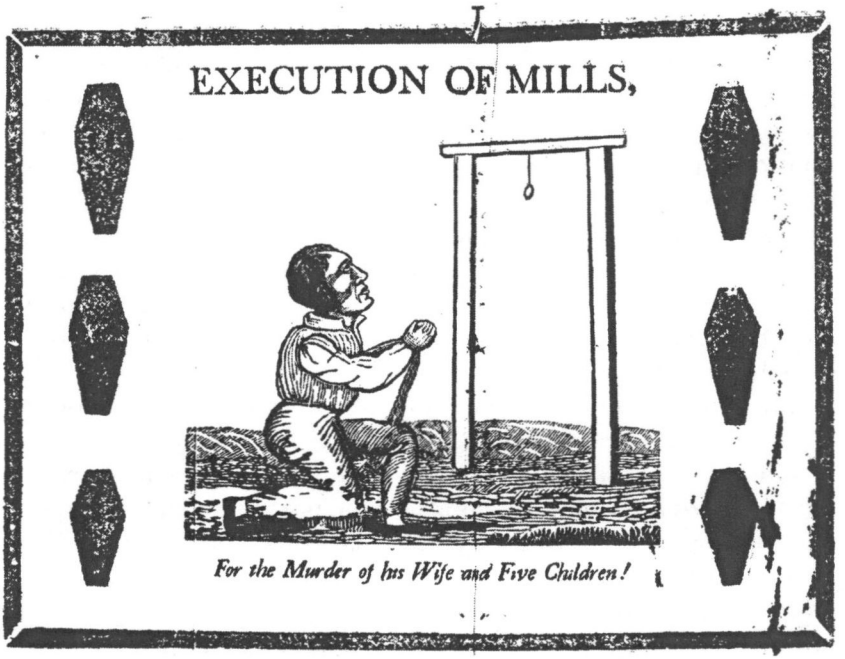

FIGURE 1. Anon., *Narrative of the Pious Death of the Penitent Henry Mills* (Boston: H. Trumbull, 1817). Courtesy of Historical & Special Collections, Harvard Law School Library.

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

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

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

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

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

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