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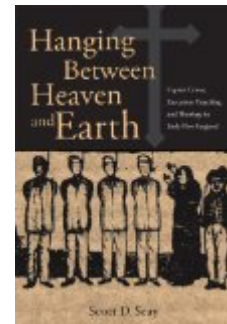
in the Humanities & Social Sciences

Scott D. Seay. *Hanging Between Heaven and Earth: Capital Crimes, Execution Preaching, and Theology in Early New England*. DeKalb: Northern Illinois University Press, 2009. xi + 217 pp. \$36.00 (cloth), ISBN 978-0-87580-402-6.

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The Virtues of Public Executions

In 1686 Increase Mather delivered a sermon reflecting on the execution of James Morgan, a convicted murderer. While “Private Revenge is evil,” Mather argued, the state had a religious duty to execute those who “violate the Laws of God.” God has put the sword of justice in the magistrate’s hand so that he may keep society pure. “One murder unpunished,” Mather warned, “may bring guilt and a Curse upon the whole land, that all the Inhabitants of the Land shall suffer for it” (p. 114).

Those who currently support the death penalty often argue its deterrence power or the degree to which it brings justice and closure to those afflicted by criminal actions. As Scott D. Seay compellingly demonstrates in his valuable new book, *Hanging Between Heaven and Earth*, Puritan New England went further than such individualized justifications for capital punishment and insisted that the good of society required public executions in order to preserve communal health. Seay’s solid scholarship does more than simply capture the moral structure of Puritan legal theory, it also follows the transformation of these attitudes as a result of the Great Awakening in the 1730s and 1740s, and then again as John Locke’s ideas spread in post-Revolutionary America. This book’s ambitious sweep takes it from the first Puritan settlers of New England seeking to apply biblical law to their city upon a hill to the reformist efforts of the 1820s that terminated public executions in the name of reason.

Several historians have recently offered valuable ex-

aminations of America’s use of and attitude toward the death penalty—see for instance Stuart Banner, *The Death Penalty: An American History* (2002); Howard W. Allen et al., *Race, Class, and the Death Penalty: Capital Punishment in American History* (2008); and Gordon M. Bakken, *Invitation to an Execution: A History of the Death Penalty in the United States* (2010). Seay explores the death penalty in early America from a rather unique, theological direction. When the Puritans arrived in North America, they brought with them cultural norms that perceived public execution as a routine operation of the state. From the start, however, Puritan ministers sought to find and express moral meaning in sermons delivered at the time of execution. Seay closely examines one hundred of these sermons to frame the theological and social development of New England society over two hundred years. There were 460 public executions between 1623 and 1835—a number that some scholars see as low compared to Europe though Seay states that they occurred with “surprising frequency”—drawing enormous crowds that included most of a region’s inhabitants, including children (p. 14). For instance, the Morgan execution mentioned above drew an estimated five thousand spectators at a time when the population of Boston was seven thousand. These rituals formed “a central plank in the platform of criminal justice administration in early New England,” and were seen as an educational moment, an opportunity to instruct one and all in the dangers of sinning (p. 14). The condemned was expected to play along with the lesson by acknowledging his or her sinfulness and warning

others to avoid their path to hell. The public ceremony served the additional function of clearly indicating the shared authority of church and state.

Daniel Cohen laid out the parameters of execution sermons in his marvelous book, *Pillars of Salt, Monuments of Grace* (1993). Through the colonial period, only ministers spoke to the meaning of the death penalty, legislators and the public seemingly accepting ministerial logic. What makes their words so significant is that these ministers justified the laws of men in religious terms. Until the Great Awakening, Puritan ministers turned first to the Bible and then to their covenant to explain the state's right to execute certain criminals. Unlike England, which had scores of capital crimes, the Puritans drew upon roughly a dozen biblical injunctions calling for death, which ran from idolatry and witchcraft to murder and disobeying one's parents. Seay fails to explore why some death penalties in the Bible were instituted in New England law while others, such as for adultery (Lev. 20:10) and working on the Sabbath (Ex. 35:2), were not. He similarly does not consider the degree to which these laws were enforced. In practice, Puritan judges and juries tended to shy away from the death penalty, especially for crimes other than murder and rape. It appears, for example, that no child was ever executed for talking back to his father.[1]

While they did not execute everyone who broke biblical laws, the Puritans did not waver in their conviction that public executions served an important social function. What gave the death penalty a sense of immediacy was the need to preserve their sacred covenant. As scholars since Perry Miller have well established, Puritans feared that the actions of even a single person could destroy their special covenant with God. Faced with such a threat to their new Israel, ministers highlighted the danger posed by those about to be executed. For a people who felt surrounded by evil, as Karen Halttunen argued in *Murder Most Foul* (1998), public executions ritually relieved fears that God's judgment would descend on all of them for the actions of a single evil individual. As Seay words it, sermons "explained how public execution healed the breach in the integrity of the community by ridding the land of those who commit serious crime and thereby preventing God's judgment on the entire community" (p. 24).

Conspicuous by its absence is the single most extensive use of the death penalty in New England's history, the Salem witchcraft trials of 1692. The court at Salem drew upon *The Laws and Liberties of Massachusetts* (1648),

which made witchcraft a capital offense and cited all the correct biblical verses for validation, in order to execute twenty people. Perhaps there are no published sermons that fit Seay's criteria for an execution sermon, yet given that witchcraft was seen as the ultimate exercise of human sinfulness, it would have been worthwhile to compare some of the sermons given in justification of these executions, especially to test Seay's assertion that "Puritan execution preachers always used the doctrine [of original sin] to fashion a moral identification between the condemned person and the audience" (p. 53). The Reverend Samuel Parris made no effort to equate those condemned with the community, quite the contrary, as he told his congregation: "Here are no neutrals. Everyone is on one side or the other." [2] He demanded that people choose sides, either standing with the accusers, who did God's work, or the condemned, who allied with the devil. Parris fomented the whole hysteria, but even the ministers called upon by Sir William Phips for advice who questioned the methods used at the trials, concluded by recommending that the governor support "the speedy and vigorous prosecution of such as have rendered themselves obnoxious, according to the direction given in the laws of God, and the wholesome statutes of the English nation, for the detection of witchcraft." [3]

With the Great Awakening the focus of execution sermons shifted from a concern for the fate of New England to that of the condemned. The revivals of the 1730s and 1740s had focused attention on the condition of the individual soul, and ministers called upon the criminal facing death to use his or her final days to work toward a conversion experience. Ministers asked their congregations to pray for and with the condemned to encourage that conversion, and judges imposed religiously inspired delays in the execution in order to allow the condemned to come to Jesus. Some towns, like Ipswich, even specialized at redemption. Such communities embraced this duty not just out of a sense of compassion, but also to "heal the breach in the integrity of the community caused by serious crime." The converted murderer or rapist was thus "drawn back into the moral community," and could then be killed with a clear conscience on everyone's part (p. 28). In the execution sermons, converted criminals became models "of repentance and salvation for all Puritans to emulate" (p. 29). However, by placing such weight on conversion, New England Christians faced major disappointment if the condemned refused to repent. Such obduracy robbed the execution of its moral lesson, leaving it a simple crass exercise in state power.

While it can be stated with confidence that the the-

ological attitudes of seventeenth-century Puritan ministers informed the region's legal development, Seay finds no similar correlation for the period after the Great Awakening. Where Puritan attitudes toward the death penalty had shaped capital crimes, the shift Seay identifies in the 1730s apparently changed nothing in New England law. In fact, the alteration in capital crimes moved along secular lines, as crimes against property replaced moral offenses. At the same time, the criminal conversion narrative slowly gave way to a criminal autobiography of the type popular in Great Britain. These tales often romanticized criminal conduct and came dangerously close to identifying the origin of misbehavior in environmental rather than moral sources, perhaps reflecting the growing influence of John Locke, whose ideas undermined "the doctrinal unanimity that characterized New England ministers concerning original sin" (p. 63).

Locke's conception of *tabula rasa* and his emphasis on environmental factors altered the perception of criminality. But this liberal perspective did not lead to greater sympathy for criminals corrupted by their surroundings, quite the contrary. Where the audiences of execution sermons prior to 1750 had been called upon to identify with the sinner—to take a "there but for the grace of God go I" attitude—they were now instructed in the inferiority of those who turned to crime. For Christian ministers it now became the case that criminals chose sin, for they had the power to reason otherwise. When it comes to morality, a person is born into a neutral state, becoming corrupted by their environment and experience. But society provides the opportunity for choice, modeling correct behavior and providing an education that makes evident the difference between good and evil. Every person balances reason and passion, the criminal ignores the former and allows the latter to rule him. "This redefined doctrine of human sinfulness opened up a sizeable chasm between the condemned and the execution audience by suggesting that capital criminals were, in fact, qualitatively different from ordinary New Englanders, morally speaking" (p. 64). The criminal was no longer "seduced by the devil," but willfully chose sin. As one minister informed a condemned murderer: "You were educated, having lived in a Christian land ... having lived where the means of information were within your own reach, you cannot now come forward and claim ignorance as an excuse" (p. 68).

With time, Lockean notions of environmental influences would come to explain, if not excuse, criminal conduct. It is a short step from arguing that one is born morally neutral to blaming the parents for any corrupt

conduct. In New England's last execution sermon, Baptist minister Jonathan Going drew attention to the condemned's cruel and criminal mother and absent father. The mother had supplied no religious education and had encouraged her child to steal from neighbors. "Every parent," Going charged, "ought to be deemed a felon, and punished as such, who suffers his children to grow up in ignorance of their duty as members of a Christian society" (p. 73). Going's formulation returns to Locke in seeing the child uneducated in the use of reason as a slave to passions. Assigning blame to the parents did not lead Going to question the death penalty, but then he did not need to consider the matter at all, for Locke had separated religion from the law, offering purely secular justifications for all forms of punishment. In a state of nature, Locke argued, everyone had the same authority to punish criminal conduct; but once entered into a social contract, that power is ceded to the state. "Political power," Locke wrote, "I take to be a *right* of making laws with penalties of death, and consequently all less penalties, for the regulating and preserving of property."^[4] The state, as Max Weber would later frame it, enjoyed a monopoly on the legitimate use of violence.

The English government exercised this Lockean monopoly to keep its power always before the public. Thus the number of capital crimes increased through the eighteenth century from fifty to over two hundred as ever more crimes against property were added to the list. Yet the number of actual executions remained relatively stable through the century.^[5] As Douglas Hay has suggested, the wealthy used the law to demand respect for their property rights, but had no need to execute all those who violated property as they grew more secure in those rights. Thus the overwhelming majority of those sentenced to death in eighteenth-century England had their sentences commuted to transportation—generally to North America. As Lord Shaftesbury put it, the "mere Vulgar of Mankind ... often stand in need of such a rectifying Object as *the Gallows* before their Eyes," though the state benefited from not over-using that device.^[6] The North American governments similarly used the death penalty more to threaten than to punish, as an indicator of authority rather than as a necessary corrective.

Attitudes toward the death penalty and especially public executions changed dramatically in the early republic. The death penalty had long been justified on the grounds that criminals could not be rehabilitated, even if their souls could be saved, and that public executions served as valuable warnings of the consequence of sin. Cesare Beccaria argued against both precepts, sparking a

conviction that criminals could be changed and that public displays of violence were a poor model for others. The former led to the penitentiary system, the latter to executions out of the public eye. Quakers and legal reformers inspired by Beccaria created a new moral discourse, mixing theology and Enlightenment philosophy to alter legal practice in an effort to make the punishment match the crime. Starting with Pennsylvania in 1794, most of the northern states limited the number of capital crimes, established penitentiaries, and ended bodily punishments such as branding.

Most reformers did not challenge the death penalty directly, focusing instead on the deleterious effects of public executions. In the years immediately before the Revolution, political and religious leaders became concerned over the increasing size of crowds. Authorities worried that the twelve thousand spectators who watched the 1772 hanging of the rapist Bryan Sheehan in Salem had come more for the entertainment value than to learn a moral lesson. Ministers responded by attempting to ratchet up the solemnity of the executions; the Reverend Charles Chauncy even lectured his audience to not treat an execution as “a matter of vain curiosity; much less of Sport and merriment” (p. 35). Clearly far too many people were doing so, approaching public executions, like their English counterparts, as festivals. This fear of inappropriate conduct increased after the Revolution, with crowds seen as more unstable and threatening to social order. While there were no riots at any New England executions, authorities had before them the example of the angry Cooperstown, New York crowd that rioted in 1806 when a murderer received a last-minute reprieve.

Challenges to capital punishment as barbaric and counterproductive ended public executions and execution sermons, but not the death penalty itself. As early as 1801 the Reverend Thomas Thacher used the occasion of an execution sermon to condemn public executions as “pernicious in their influence on the minds and manners of the community” (p. 159). Rather than providing a positive example to the community, executions hardened people and made them callous to violence. Giving his position a conservative slant, Thacher pointed to the French Revolution, which had relied on public executions to inure the public to violence. The Reverend Jonathan Going, who delivered the region’s last execution sermon, demanded that executions be held within the walls of the penitentiary so as to avoid corrupting the public with spectacles of violence. Through the 1820s New England ministers rejected the traditional justifica-

tions for public hangings, no longer arguing that they served to unify the community, preserve the covenant, or impart a moral lesson. Unitarian minister Francis Parkman even mocked the last-minute conversions of the condemned, convinced that they came about only because of the presence of thousands of spectators, to whom the convicted criminal played as an actor would to his audience. There was a clear class component to the case against public execution, as the crowds that gathered consisted primarily of workers. In 1823 Pennsylvania congressman Jacob Cassat warned that public executions corrupted spectators by diminishing their “sensitivity of moral feeling” while exciting their “debasement of passions and appetites” (p. 161). In 1835, Massachusetts privatized executions, putting an end to the carnival of death in New England. The execution sermon thus also vanished from the scene, for “Without public executions, there could be no salutary moral lesson for spectators; and without a moral lesson, there was no need for execution sermons to reinforce it” (p. 159).

Clearly written and meticulously researched, *Hanging Between Heaven and Earth* is more interested in theological than legal matters, leaving many questions unanswered. These theological explorations are important, for as Seay observes, those denominations in favor of the death penalty today echo the logic of execution sermons in the eighteenth century in seeing executions promoting “the cooperative power of church and state” and preventing others from acting criminally (p. 172). As the Reverend Benjamin Colman said at the execution of Margaret Gaulacher for infanticide in 1717, “providence hangs up one Criminal in Chains for Warning and Terror to others” (p. 116). Seay is almost certainly correct that theological and intellectual shifts affected the law, but there is no exploration of the legislative record to support this assumption. This book is, in many ways, half the equation. Did legislators justify the death penalty in the same way as ministers? Were they influenced by execution sermons or ministers? An even more interesting question that is not elucidated here is: how did the public respond to execution sermons? Is there any evidence that at least some people heard the sermons’ core messages and acted upon them? It is possible that many auditors did not look to their own souls, or failed to see the close connection between church and state implied by so many of these sermons. Perhaps they felt as did several of the unrepentant condemned, most especially those who maintained their innocence on the gallows, and just wanted the minister to quit his moralizing and get on with it.

Notes

- [1]. Lawrence M. Friedman, *Crime and Punishment in American History* (New York: Basic Books, 1993), 41.
- [2]. Paul Boyer and Stephen Nissenbaum, *Salem Possessed: The Social Origins of Witchcraft* (Cambridge: Harvard University Press, 1974), 186.
- [3]. Paul Boyer and Stephen Nissenbaum, eds., *Salem-Village Witchcraft: A Documentary Record of Local Conflict in Colonial New England* (Boston: Northeastern University Press, 1993), 118.
- [4]. John Locke, *Two Treatises of Government* (London: Whitmore and Fenn, 1821), 189.
- [5]. On the English use of the death penalty in these years, see Peter Linebaugh, *The London Hanged: Crime and Civil Society in the Eighteenth Century* (New York: Cambridge University Press, 1992).
- [6]. Douglas Hay et al., *Albion's Fatal Tree: Crime and Society in Eighteenth Century England* (New York: Pantheon, 1975), 19.

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