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# Imagining Justice: Aesthetics and Public Executions in Late Eighteenth-Century England

Steven Wilf\*

A mid-eighteenth-century traveller noted with surprise that parents in London regularly took their children to watch hangings. Upon returning home, the children would be whipped so that they would remember the spectacle.<sup>1</sup> Yet by the 1780s, such literal dependence upon the visual as part of punishment was in retreat. Increasingly, the criminal justice system relied on what remained unseen but imagined. This essay explores how eighteenth-century England discovered the importance of imagination in criminal punishment. It traces the remaking of London's public execution ritual from a spectacle that sought to maximize the number of spectators to its abandonment of large-scale public processions. The sources that have been drawn upon are different from those used for most legal history: stillborn reform proposals, manuscripts left by the architect of Newgate Prison, fabulous and frightening images of punishment conjured up by private citizens, voyeuristic drawings of hangings, and the sketchy notes of administrative figures who hoped to set boundaries for voluble execution crowds.

Such fragmentary and obscure sources, aesthetic theory, and the inner world of imagination may not seem significant for shaping the development of criminal legal process. Yet punishment is a cultural construction. Not simply the boundaries of criminality—what activities are criminalized or how seriously society will punish offenders—but the very representational quality of punishment itself becomes the outer garb of criminal law. The problem is how the symbolic meaning of public executions and other punitive rituals should be interpreted.

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1. M. Grosley, *A Tour of London or New Observations on England and its Inhabitants*, trans. Thomas Nugent (Dublin, 1772), 1:189-90.

Are rituals and other forms of cultural symbolism derivative of economic and political structures, as anthropological functionalists and Marxist historians have claimed? Or must culture be dealt with as an autonomous milieu governed by its own rules? These positions, of course, are fraught with the dangers of reductionism or idealism, Machiavellian determinism or political naiveté. Often not consciously fashioned, culture is subtle, complex, dynamic, and volatile. And neither a textual approach (treating ritual as a readable text) nor a contextual approach can adequately explain the way ritual emerges from this intricate cultural web.

No debate in the rich social historiography of crime and punishment has provoked more controversy than that over the origins of the shift from public punitive rituals to increasingly private modes of punishment. During the last two decades of the eighteenth century, England witnessed a remarkable rise in the criticism of public executions and consequently initiated a program to construct new prisons. In the 1970s, radical scholars such as Michel Foucault and Michael Ignatieff rejected the conventional view of late eighteenth-century penal reform as an altruistic attempt to introduce more humane forms of punishment. Instead, they claimed that the replacement of public sanguinary punishment by prisons represented a new form of social control—a more subtle and hidden type of control suitable for modern capitalist societies.

Yet recently Pieter Spierenburg and other revisionists have challenged the identification of hidden punishment with political domination. Drawing on Norbert Elias's conception of civilizing processes, Spierenburg describes the decline of public punitive rituals as "a fundamental change of sensibilities." He contends that a growing aversion to sanguinary retributive rites and public displays of cruelty led to the rejection of public punishment. Spierenburg's counter-paradigm has achieved a good deal of success in swinging the historiographic pendulum back towards the traditional account of late eighteenth-century discontent with public executions. Newfound sensibility, like old-fashioned benevolence, rests upon the humanitarian motives of legal reformers.<sup>2</sup>

At stake in this debate is nothing less than the troubling question of how power relations inform such important social institutions as the criminal law. Ignatieff calls for interpreting penal reformers' intent against the contextual background of class antagonism and industrializa-

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2. Michel Foucault, *Discipline and Punish: The Birth of the Prison*, trans. Alan Sheridan (New York, 1979); Michael Ignatieff, *A Just Measure of Pain: The Penitentiary in the Industrial Revolution 1750-1823* (New York, 1978), 210-15; Pieter Spierenburg, *The Spectacle of Suffering, Executions, and the Evolution of Repression: From a Preindustrial Metropolis to the European Experience* (Cambridge, 1984), vii-xii, 205-7; Michael Ignatieff, "State, Civil Society, and Total Institutions: A Critique of Recent Social Histories of Punishment," in *Crime and Justice: An Annual Review of Research* 3 (1981): 153-92. Recent work reflects the success of Spierenburg's argument. See, for example, Louis Masur, *Rites of Execution and the Transformation of American Culture 1776-1865* (New York, 1989), 3-5.

tion. In contrast, those who trace the attack on public punitive ritual to changing sensibilities draw heavily on textual sources which cite reformers' claims of benevolence. Text and context, rhetoric and reality are juxtaposed as opposing varieties of evidence.

This essay takes a different approach to the refashioning of public punishment in late eighteenth-century England. It interprets the ceremonial and spatial organization of public executions as a readable text. More importantly, it shows how aesthetics shaped by power determined the ways that those texts were intended to be read. What conventions governed the debate for improving the execution as an instrument, not simply of legal sanction, but of communication? How was political meaning embedded in shifting sensibilities?<sup>3</sup> Such questions proved to be especially important during the second half of the eighteenth century. From the 1750s through the 1780s, England witnessed a creative outburst of changes—some only proposed, others implemented—in execution aesthetics. The most important of these aesthetic transformations was the 1783 relocation of London's gallows from Tyburn to outside the doors of Newgate prison. It eliminated one of the capital's leading civic rituals: the long execution procession that every six weeks would wind its way three miles through London's busiest streets.

Why did late eighteenth-century English people focus such attention on altering the topography of public executions? Plans for reform revealed an understanding of punishment as an aesthetic process meant to influence the viewer. Disappointed with the didactic effectiveness of existing execution rituals, Georgian England embarked on a sophisticated experiment to construct an aesthetic theory of punishment. This experiment in punitive aesthetics changed the way capital punishment was inflicted during the course of the second half of the eighteenth century. English execution ritual, I will argue, underwent a broad shift from a spectacle designed to bombard the visual senses to one that sought to influence the imagination.

The chronology of this aesthetic transformation was complex and uneven. Nevertheless, it may be divided into two basic periods. During the first, the early 1750s, reformers sought to strengthen the execution ritual as a spectacle. Visual aesthetic conventions shaped a new and reformed execution procession.<sup>4</sup> The late 1770s and early 1780s, on the other

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3. As Charles Maier has suggested, historical methodology that reduces cultural forms to instruments of domination creates a crude reading of the past. Charles Maier, *The Unmasterable Past: History, Holocaust, and German National Identity* (Cambridge, 1988), 171-72. On the other hand, reconstructing the aesthetic meaning of a repressive apparatus (such as the public execution) threatens to trivialize its political significance. I hope here to unite a concern with both politics and sensibilities. See also Sean Wilentz, "Teufelsdröckh's Dilemma: On Symbolism, Politics, and History," in *Rites of Power: Symbolism, Ritual, and Politics Since the Middle Ages*, ed. Sean Wilentz (Philadelphia, 1985), 1-10.

4. Recent and provocative works by non-historians have probed the relationship between punishment and aesthetics: Elaine Scarry, *The Body in Pain: The Making and Unmaking of the*

hand, turned away from earlier reliance on the public viewing of punitive ritual and toward increasingly hidden punishment that relied upon the imagination to conjure up frightening images of the unseen. Such changing aesthetic norms influenced the decision to relocate the gallows from Tyburn to Newgate and sparked a rethinking of the way that punishment affects the mind. By the middle of the 1780s, with the scaffold in place at Newgate, a flurry of proposals called for concealed—and sometimes horrifying—executions that could fully realize the aesthetic goal of relocating capital punishment from the public sphere to the imagination.

#### PUNISHMENT AND VISUAL AESTHETICS

Punitive aesthetics played such a significant role in Georgian England because the judicial apparatus relied upon fear of retribution as a major deterrent. Before Peel's 1829 reform, England lacked a developed system of police. And although the death sentence was administered infrequently in comparison to the less conspicuous punishment of transportation, most eighteenth-century commentators viewed elaborate execution rituals as one of the most important means for discouraging felonies. Consequently, the authorities faced the difficult task of devising legal rituals striking enough to induce individual psychological restraint as an internal guardian.<sup>5</sup> Such judicial didacticism depended upon an understanding of the relationship between visual imagery and mass psychology. English jurists had to grapple with difficult questions of aesthetics and sensory theory: What kind of punitive aesthetics best assured deterrence? How was it possible to create a punishment so vivid as to leave a permanent impression upon spectators? As eighteenth-century empirical philosophers recognized, sensory information was often ephemeral and

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*World* (New York, 1985); John Bender, *Imagining the Penitentiary: Fiction and the Architecture of Mind in Eighteenth-Century England* (Chicago, 1987); David Freeberg, *The Power of Images: Studies in the History and Theory of Response* (Chicago, 1989), 246-82. See also Samuel K. Edgerton, Jr., *Pictures and Punishment: Art and Criminal Prosecution during the Florentine Renaissance* (Ithaca, 1985). Most historians have increasingly tended to treat the history of punishment as administrative history. Joanna Innes and John Styles, "The Crime Wave: Recent Writings on Crime and Criminal Justice in Eighteenth-Century England," *Journal of British Studies* 25 (1986): 380-435. For a recent example of this trend, see Robert Shoemaker, *Prosecution and Punishment: Petty Crime and the Law in London and Rural Middlesex County 1660-1725* (Cambridge, 1991).

In this essay I am primarily concerned with the way aesthetic conventions are used to fabricate punitive rituals or with—as Roger Chartier has phrased it—"the cultural plan of the dominating class." Roger Chartier, "Ritual and Print, Discipline and Invention: The Fête in France from the Middle Ages to the Revolution," in *The Cultural Uses of Print in Early Modern France* (Princeton, 1987), 14-15. The way public punishment was interpreted from below is examined in my previous article, "Anatomy and Punishment in Late Eighteenth-Century New York," *Journal of Social History* 22 (1988): 507-30.

5. David Phillips, "'A New Engine of Power and Authority': The Institutionalization of Law Enforcement in England 1780-1830," in *Crime and the Law: The Social History of Crime in Western Europe Since 1500*, ed. V.A.C. Gatrell et al (London, 1980), 155-89; John Styles, "The Emergence of the Police: Explaining Police Reforms in Eighteenth and Nineteenth-Century England," *British Journal of Criminology* 27 (1987): 15-22; Charles Reith, *The Police Idea: Its History and Evolution in the Eighteenth Century and After* (Oxford, 1938), 3-21, 221-38; J.J. Tobias, *Crime and the Police in England 1700-1900* (Dublin, 1979).

even the memory of a public hanging was bound to wane. Aesthetics addressed this dilemma. It furnished the phenomenological blueprint for constructing England's public legal rituals.

Mid-century execution ritual followed the dictates of an Augustan-age aesthetics which emphasized visual display and ceremony. Such a formalistic aesthetic approach lent itself to dramatizing legal process. As Peter Linebaugh and others have described in detail, the public execution was cast as a morality play. Dying speeches by the felons and the Ordinary of Newgate's accounts provided the narrative framework for the hanging while the gallows themselves created a dramatic center. Stage and gallows were commonly linked tropes. In eighteenth-century usage, the term scaffold might mean either a theatrical stage or the place of execution.

Scholars differ over how well the state managed its theatrical role. Marxist historians, such as Douglas Hay and Linebaugh, emphasize the hegemonic function of legal ritual. According to Hay, the public execution was "the climactic moment in a system of criminal law based on terror." It began with a procession led by the city marshal on horseback, followed by the undersheriff and officers of the peace. A body of constables armed with javelins surrounded the vehicle carrying the felon. Two men clothed in black walked before the condemned. Often the sheriff, attired in a black mourning frock and black sword, rode in a special coach. With its somber dignity, the execution procession was intended to resemble such civic rituals as the Lord Mayor's procession.<sup>6</sup>

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6. Douglas Hay, "Property, Authority, and the Criminal Law," and Peter Linebaugh, "The Tyburn Riot Against the Surgeons," in *Albion's Fatal Tree: Crime and Society in Eighteenth-Century England*, ed. Douglas Hay et al. (New York, 1975), 17-64, 65-118; Peter Linebaugh, "The Ordinary of Newgate and His Account" in *Crime in England 1550-1800*, ed. J.S. Cockburn (London, 1977), 246-69; Peter Linebaugh, *The London Hanged: Crime and Civil Society in the Eighteenth Century* (Cambridge, 1992), xv-xxvii; J.A. Sharpe, "'Last Dying Speeches': Religion, Ideology, and Public Execution in Seventeenth-Century England," *Past and Present* 107 (1985): 144-67; Lincoln Faller, *Turned to Account: The Forms and Functions of Criminal Biography in Late Seventeenth and Early Eighteenth-Century England* (Cambridge, 1987). Two pieces by Randall McGowen provide an intriguing glimpse of the interrelationship between punitive ritual and religious/literary imagery. McGowen, "'He Beareth Not the Sword in Vain': Religion and the Criminal Law in Eighteenth-Century England," *Eighteenth-Century Studies* 21 (1987/88): 192-211; McGowen, "The Body and Punishment in Eighteenth-Century England," *Journal of Modern History* 59 (1987): 651-79. More work needs to be done on punishment—to use R.W. Scribner's phrase—as a hybrid medium composed of legal codes, popular execution narratives and broadsides, religious sermons, and pictorial images. R.W. Scribner, *For the Sake of the Simple Folk: Popular Propaganda for the German Reformation* (Cambridge, 1981), 2-4. See also Roy Porter, "Seeing the Past," *Past and Present* 118 (1988): 186-203.

Iconographic representations of the Tyburn procession are found in the print collection of the British Museum. See, for example, BM 4852 and BM 6287. For a comparison with continental European execution dramaturgy, see M. Bée, "La Spectacle de l'exécution dans la France de l'anciens régimes," *Annales E.S.C.* 38 (1983): 843-62; David Nicholls, "Theatre and Martyrdom in the French Reformation," *Past and Present* 121 (1988): 49-73; Daniel Arasse, *La Guillotine et l'Imaginaire de la Terreur* (Paris, 1987), 109-60; Dorinda Outram, *The Body and the French Revolution: Sex, Class, and Political Culture* (New Haven, 1989); Anton Blok, "The Symbolic Vocabulary of Public Executions," in *History and Power in the Study of Law: New Directions in Legal Anthropology*, ed. June Starr and Jane Collier (Ithaca, 1989), 31-54; Richard von Dulman,

In practice, Augustan ceremonialism was difficult to enforce. Other historians, such as Thomas Laquer, have questioned whether the public execution was really an example of well-staged state theater. It was, he writes, the "shabbiest of rituals with the minimum of authorial control." Laquer depicts the road to Tyburn as an *art brut* tableau filled with a boisterous crowd and Hogarthian characters. Yet these two shop-worn tropes, theater and carnival, obscure the point. Neither state control nor plebeian misrule dominated the road to Tyburn. Rather than jostling for power, in many ways they constituted a dramatic counterpoint to each other. What contemporaries often found troubling was not simply that the common people were disorderly—the Georgian upper classes were remarkably tolerant of such behavior—but that it underscored the ineffectiveness of the public execution as a deterrent.<sup>7</sup> Complaints about the execution crowd frequently came in the wake of sharply rising crime. The first sustained attempt at the aesthetic reform of the execution ritual followed the crime wave of 1748 to 1751. This crime wave, beginning with demobilization after the War of the Austrian Succession, encouraged changes in criminal statutes. It also forced reformers to take a new look at the aesthetics of public executions.<sup>8</sup>

The failure of capital punishment as a deterrent to crime did not prompt a movement towards statutory reform. Instead, mid-century reformers retained a remarkable faith in the ability of formalist visual aesthetics to shape an effective deterrent ritual. During the early 1750s, Henry Fielding and other reformers sought aesthetic changes that would reassert the control of the authorities and enforce a consistent etiquette for executions. Fielding suggested three changes in the mode of execution: the death sentence should be quickly carried out after conviction, hangings should be in some measure private, and a solemn atmosphere should be enforced. Fielding's recommendation for semi-private hangings presaged arguments that would be made in the 1780s. Ultimately, however, mid-century reform would favor his call for dignity over the notion of private executions. Not surprisingly for a playwright, Fielding's aesthetic rationale for concealing capital punishment was based on a theatrical metaphor. Echoing Aristotle's *Poetics*, he claimed that "a

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"Das Schauspiel des Todes," in *Volkskultur: Zur Wiederentdeckung des vergessenen Alltags (16.-20. Jahrhundert)*, ed. Richard von Dulman (Frankfurt, 1984), 203-45.

7. Thomas Laquer, "Crowds, Carnival, and the State in English Executions, 1604-1868," in *The First Modern Society: Essays in English History in Honour of Lawrence Stone*, ed. A.L. Beier, David Cannadine, and James Rosenheim (Cambridge, 1989), 305-56. See also Terry Castle, *Masquerade and Civilization: The Carnavalesque in Eighteenth-Century English Culture and Fiction* (London, 1986), 1-51. Popular deconstruction of English civic ritual has been described in a number of excellent works: see John Brewer, "Theater and Counter-Theater in Georgian Politics," *Radical History Review* 32 (1979-80): 7-40; Tim Harris, *London Crowds in the Reign of Charles II: Propaganda and Politics from the Restoration until the Exclusion Crisis* (Cambridge, 1987); Paul Monod, *Jacobitism and the English People, 1688-1788* (Cambridge, 1989).

8. J.M. Beattie, *Crime and the Courts in England 1660-1800* (Princeton, 1986), 520-38.



murder behind the scenes, if the poet knows how to manage it, will affect the audience with greater terror than if it was acted before their eyes."<sup>9</sup>

Yet it was precisely a faith in dramaturgy that underscored the need for public executions. Only such a retributive spectacle could muster the props and symbols necessary to transform punishment into a didactic experience. Fielding hoped that the same end could be accomplished by linking capital punishment to the criminal trial. Executions, according to Fielding's scheme, were to take place immediately after conviction, with judges present, and on gallows erected in front of the Old Bailey. Fielding believed that by using court proceedings as a narrative justification for imposing death, sympathy would shift from the criminal to the victim. But English criminal proceedings, characterized by an obscure legal idiom, hardly promised to capture the public imagination. Most mid-century reformers recognized that the traditional stagecraft of the execution procession could not be replaced so easily. They instead sought to reform its abuses and reassert a dignified visual aesthetics. Fielding, too, admitted the importance of visual imagery for punishment: "It is not the essence of the thing itself, but the dress and apparatus of it, which makes an impression on the mind."<sup>10</sup>

One of the most notable changes wrought by mid-century reformers was to abolish the customary right of bourgeois felons to ride during the execution procession in a coach, rather than in an exposed cart. Before the reforms, permission for traveling to Tyburn by coach remained at the authorities' discretion. It was granted according to status, not upon payment of fees. A lawyer executed for forgery was permitted to ride in a coach while, despite his pleas, a lower class friend was forced to travel by cart.<sup>11</sup> This special privilege for bourgeois felons suggested that the Augustan execution procession recognized the need to maintain class distinctions. Its dignified aesthetics, like that of eighteenth-century English society as a whole, rested upon hierarchical conventions. The authorities were therefore strict about upholding the bourgeois right to ride in a coach and only rarely made exceptions. One favored lower-class felon was spared the humiliation of the cart. Lacking the status for a coach, however, he was merely granted the dispensation of riding to Tyburn on

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9. Henry Fielding, *An Enquiry into the Causes of the Late Increase of Robbers* (London, 1751), 121-27; Henry Fielding, *The Covent-Garden Journal*, 28 March 1752; Malvin R. Zirker, Jr., *Fielding's Social Pamphlets* (Berkeley, 1966), 56-57; Malvin R. Zirker, Jr., "Fielding and Reform in the 1750s," *Studies in English Literature* 7 (1967): 453-65; Hugh Amory, "Henry Fielding and the Criminal Legislation of 1751-52," *Philological Quarterly* 50 (1971): 175-92; Leon Radzinowicz, "The Movement for Reform," in *A History of English Criminal Law and its Administration from 1750* (New York, 1948-86), 1:411-15; Robert D. Hume, *Henry Fielding and the London Theatre 1728-1737* (Oxford, 1988).

10. Fielding, *Enquiry*, 123-25. The importance of theatrical ways of thinking has been underscored by Jean-Christophe Agnew, *Worlds Apart: The Market and the Theater in Anglo-American Thought 1550-1750* (Cambridge, 1986), 149-94.

11. *Gentleman's Magazine*, September 1768: 140.

a sled. At other times, the authorities rejected using the coach for felons whose crimes were so repugnant as to place them beyond the bounds of class. Applications for a coach were denied in one instance to a notorious embezzler of government securities and, in general, to murderers.<sup>12</sup>

Reformers challenged the privilege of the coach on three grounds. First, its very lack of social and moral equality belied the dominance that they ascribed to judicial process. The English myth of equality under the law, as Douglas Hay has shown, served to legitimize the legal system. Executing bourgeois, white-collar criminals and the 1760 hanging of Lord Ferrers bolstered arguments that English law treated all men alike. Reformers hoped that execution aesthetics would make the same claim. "Where the law makes no distinction in the sentence," wrote an anonymous reformer, all individuals should suffer the same humiliation of riding in a cart.<sup>13</sup> The execution procession articulated an aesthetic vision of justice triumphant. Making concessions to social distinctions subverted that vision by revealing the way status might influence punishment.

Secondly, reformers objected to the coach because it was a hired mourning coach. Painted black and draped with black crêpe, it threatened to turn the journey to Tyburn into a funeral procession. The aesthetics of mourning, centered around themes of dignity and honor, undercut the stigma of a public hanging. Edward Coke wrote that the reason for the cart was because the felon was "not worthy any more to tread upon the face of the earth, whereof he was made."<sup>14</sup> Yet by traveling in a mourning coach, the condemned hoped to return to that earth with a measure of honor. Felons often left detailed instructions for their last rites. In one case, for example, convicted murderers insisted upon a funeral cortege of a mourning coach drawn by horses decked with black plumes.<sup>15</sup>

It became clear by the 1750s that a conflict existed between the image of the mourning coach and punitive aesthetics. The mixture of these distinct notions represented, according to Locke's theory of the senses, ideas "jumbled together."<sup>16</sup> Such sensory confusion was thought to diminish the impressions left by both ideas. Moreover, popular resistance to the dissection of executed felons emphasized mourning aesthetics. Such resistance pitted rights for the dead against attempts to construct a more frightening punishment. In the case of the execution procession, Henry Fielding believed that the aesthetics of death had grown so dominant that

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12. *Gentleman's Magazine*, October 1767: 522; May 1763: 210; *European Magazine and London Review*, September 1783: 319; November 1783: 392.

13. Philonous, *The Power of the Civil Magistrates Asserted* (London, 1752), 57; Douglas Hay, "Property, Authority and the Criminal Law," in *Albion's Fatal Tree*, 17-63.

14. Quoted in William Eden, *Principles of Penal Law* (London, 1771), 134.

15. John Rayner, ed., *The Complete Newgate Calendar* (London, 1926), 1:18.

16. John Locke, *An Essay Concerning Human Understanding*, ed. Peter Nidditch (Oxford, 1975), 362-72.

the message of justice was being lost. He feared that it might not be possible "to unite the ideas of death and shame." By showing deference to a dead felon, the mourning coach encroached upon the dignity of the execution procession. As one anonymous author argued, it was not the condemned criminal who merited the pomp of an execution procession; but the public "to whom he in some measure belongs."<sup>17</sup>

Finally, the use of a coach rather than a cart circumvented an important and frightening part of the punishment. The chamber-like coach isolated felons from the full brunt of popular displeasure. During the execution procession, a criminal might be jeered, cursed, and sometimes even pelted with debris. Hogarth's pictorial morality tale *Industry and Idleness* provides a glimpse of how significant was the advantage of being shielded by a coach. Hogarth juxtaposes the industrious apprentice's serene coach ride through boisterous Lord Mayor's day crowds with the idle apprentice's turbulent passage on a cart to Tyburn. "The ambiguous contrast of the idle and industrious apprentice," writes one Hogarth critic, "relies on one being unprotected, out in the open, vulnerable to both criminals and the law; the other always enclosed."<sup>18</sup>

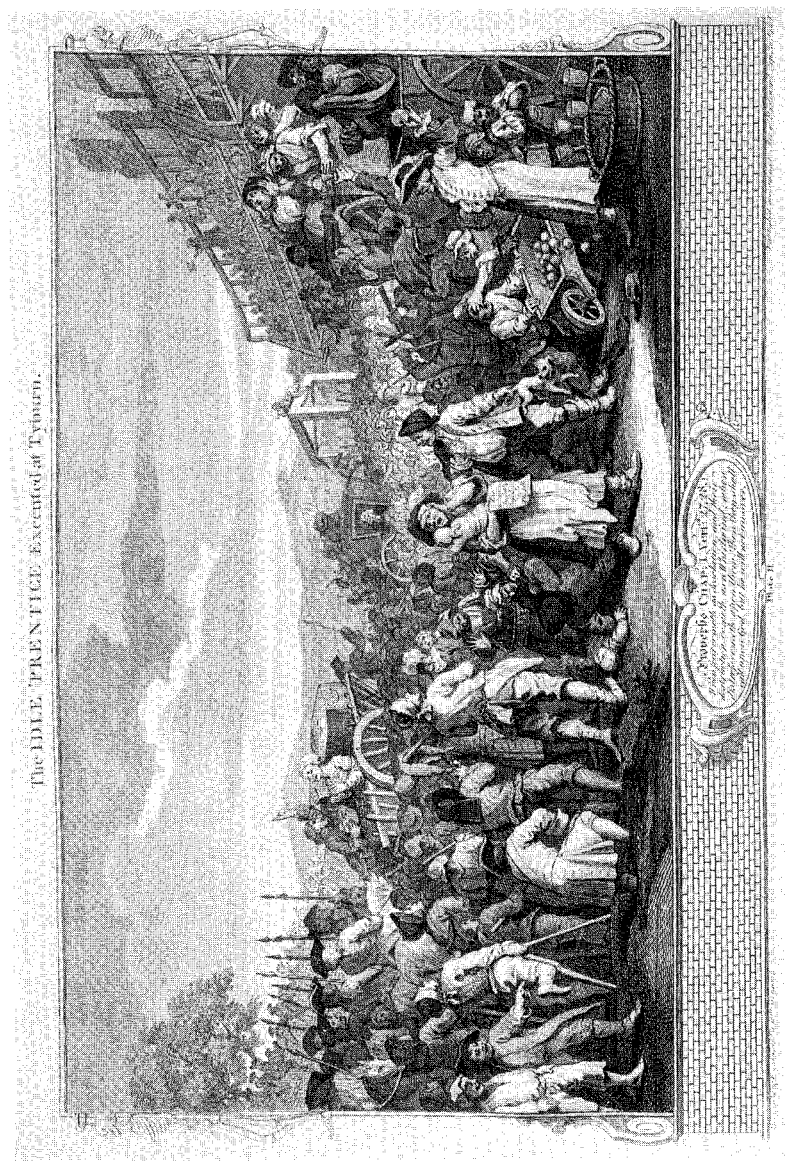
It is remarkable that aesthetic reform, which emerged in part as a reaction to popular disruption of the execution procession, should consider crowd abuse part of the punishment. Yet some reformers believed that such an experience would prod the felon to repent. The aesthetics of the execution procession were intended for the felon as well as for spectators. Permitting the humiliation of the felon for the entire length of the execution procession reflected the notion of empirical philosophers, such as Locke and Hume, that a repeated sensory experience elicits the most powerful psychological response. As will be shown below, this theoretical grounding for the Augustan execution ritual was in disrepute by the 1780s.

Mid-century executions followed aesthetic rules that attempted to maximize external stimulation of the senses. The procession's great length, dignity, and even the accompanying shouts and insults hurled by raucous crowds served to magnify the Augustan execution ritual's influence on the senses and, through the senses, on each spectator's moral decisions. Such a procession embodied Locke's belief that the duration and intensity of a sensation determined the extent to which it was

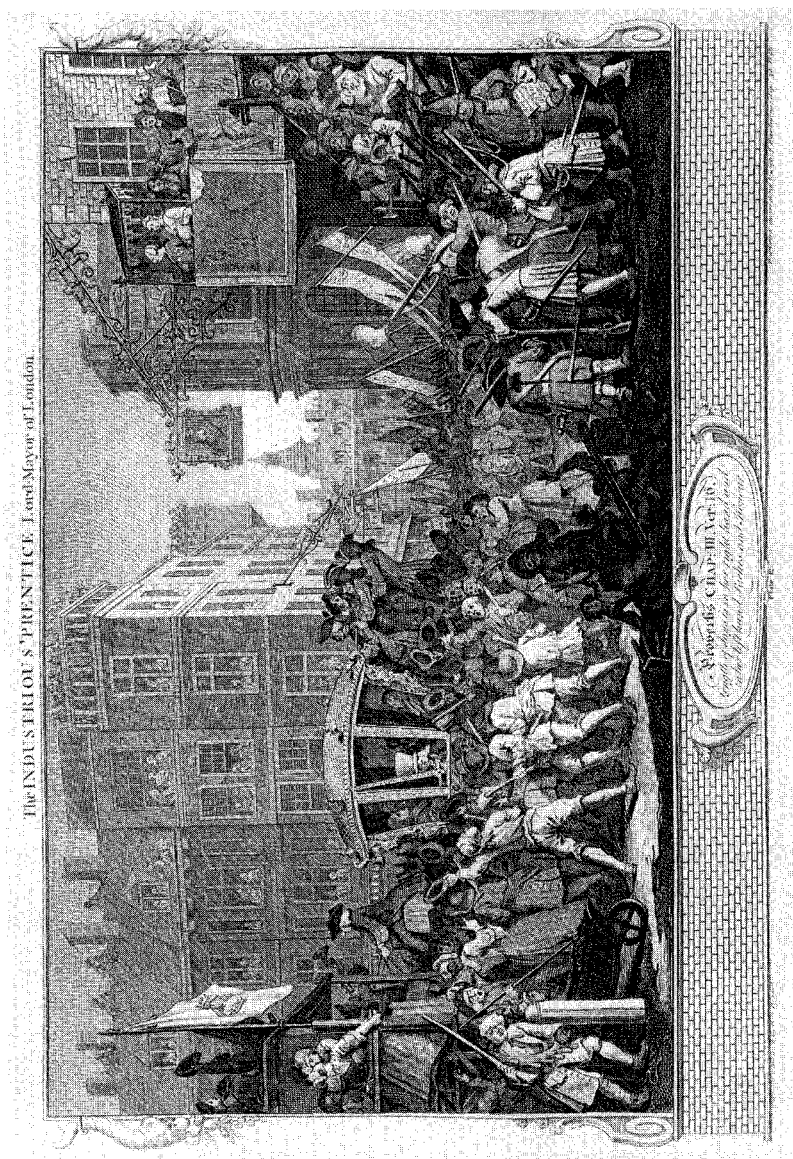
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17. Fielding, *Enquiry*, 122; Philonous, *Power*, 43. Ronald Paulson, "The Aesthetics of Mourning," in *Studies in Eighteenth-Century British Art and Aesthetics*, ed. Ralph Cohen (Berkeley, 1985), 148-81. On the burial of executed felons, see Clare Gittings, *Death, Burial and the Individual in Early Modern England* (London, 1984), 60-85. Michel Ragon examines the ideological and psychological underpinnings of mourning aesthetics in eighteenth-century France. Ragon, *The Space of Death*, trans. Alan Sheridan (Charlottesville, 1983).

18. Ronald Paulson, *Emblem and Expression: Meaning in English Art of the Eighteenth Century* (Cambridge, 1975), 68; Ronald Paulson, *Hogarth: His Life, Art and Times* (New Haven, 1971), 2:74. Paulson also probes the psychological origins of Hogarth's understanding of enclosed and exposed space in *The Art of Hogarth* (London, 1975), 10-14.



William Hogarth (1697-1764) after William Hogarth *The Original and Genuine Works of William Hogarth, London 1835-1837, INDUSTRY AND IDLENESS, pl. 11, THE IDLE PRENTICE EXECUTED AT TYBURN, part 15. Engraving. Yale Center for British Art, Paul Mellon Collection.*



William Hogarth (1697-1764) after William Hogarth *The Original and Genuine Works of William Hogarth*, London 1835-1837, *INDUSTRY AND IDLENESS*, pl. 12, *THE INDUSTRIOUS PRENTICE LORD MAYOR*. . . , part 20. Engraving. Yale Center for British Art, Paul Mellon Collection.

imprinted on the mind. According to both Locke and Hume, repetition was another important means of fixing ideas in the memory. The periodicity of English court sessions and executions, then, might act as a mnemonic device.<sup>19</sup>

Other aspects of mid-century executions reflected contemporary notions about the senses. The "Murder Act" of 1752, which required the public dissection of convicted murderers, sought to heighten the terrifying aspect of execution aesthetics. Unlike in America, where punitive dissection took place in private, English anatomical dissection was a public spectacle. Staged with the surgeon's knife, the dissection was a form of representational art: the graphic and frightening reenactment of a criminal's death. It served to intensify the existing execution ritual by making it longer and more memorable. The ceremonies of the dissection theater were added to that of the scaffold; gowned surgeons joined sheriffs on horseback as part of the execution's supporting cast. Punitive dissection can be seen as a continuation of the aesthetic norms that dominated the mid-century execution ritual. Its architects hoped to leave a lasting impression upon spectators by bombarding their senses with a more extended, more notable, and still more elaborate set of images.<sup>20</sup>

The reforms of the 1750s reflected a common concern that observers might not sufficiently understand the execution's aesthetic message. Reformers demanded that high officials demonstrate the importance of hangings by attending them regularly. They denounced sheriffs who refused to appear at executions and left their place to be taken by under-sheriffs or even constables. During his tenure as Middlesex County sheriff, Stephen Theodore Janssen attempted to attend every execution. His presence was credited with the orderly hanging that followed the Penlez Riots in 1749.<sup>21</sup>

Reasserting their control over the execution ritual, the authorities in 1759 replaced Tyburn's permanent scaffold with movable gallows. The new apparatus was assembled shortly before each execution. Making Tyburn's scaffold available only when part of an official ritual prevented the common people from using it for hanging effigies or other unsanc-

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19. Locke, *Human Understanding*, 145-55, 36-64; David Hume, *A Treatise of Human Nature* (London, 1985), 49-60; Ronald Paulson, *Emblem and Expression* (Cambridge, 1975), 48-57; Walter Jackson Bate, *From Classic to Romantic: Premises of Taste in Eighteenth-Century England* (Cambridge, 1946), 55-58; Ernest Lee Tuveson, *The Imagination as a Means of Grace: Locke and the Aesthetics of Romanticism* (Berkeley, 1960), 5-41.

20. "An Act for the Better Preventing of the Horrid Crimes of Murder," 25 Geo. II, c.37, 1752; Linebaugh, "The Tyburn Riot Against the Surgeons," 65-118; Beattie, *Crime and the Courts*, 525-30; Ruth Richardson, *Death, Dissection and the Destitute* (London, 1987), 30-37. For the visual meaning of dissection, see Giovanna Ferrari, "Public Anatomy Lessons and the Carnival in Bologna," *Past and Present* 117 (1987): 50-106; Wilf, "Anatomy and Punishment," 516-17.

21. Henry Fielding, *A True State of the Case of Bosavern Penlez* (London, 1749), 47-55; *The [London] Daily Universal Register*, 14 June 1788; Linebaugh, "Tyburn Riot," 98-101.

tioned purposes. This marriage of civil authority with aesthetics may also be seen in the 1752 ban on drinking alcohol while journeying to Tyburn. It ended the procession's traditional stop for a last drink. Alcohol had previously served capital felons as an anesthetic during the hanging, but, as one reformer wrote, it was the "comforts from strong liquor . . . [that] prevent the recovery of their senses upon which their salvation perhaps depended."<sup>22</sup>

Mid-century reform emerged from disenchantment with the popular response to existing execution rituals. It saw the aesthetic renewal of the public execution as a way to heighten the execution's sensory power and to forge an effective deterrent. Yet almost a quarter of a century later, many believed that these reforms had also proved a failure. In 1775, reformer Jonas Hanway returned to the same aesthetic issues which had troubled his predecessors, but reached very different conclusions. While the role of the coach in the execution procession was attacked during the 1750s, Hanway envisioned it as a badly needed partition between the condemned and the crowd. He believed that separate coaches should be provided for every felon. The cost, estimated at only ten shillings per prisoner, would be paid by the state.<sup>23</sup>

Hanway's proposal was a clear *volte-face* from the mid-century repudiation of the coach. He hoped that the coach's enclosed space would provide the solitude necessary for introspection. Unlike Hogarth's depiction in *Industry and Idleness*—in which the minister's private coach travels at a physical and psychological distance from the felon's cart—Hanway argued that clergymen should ride to Tyburn with the condemned. Sequestered with a minister, the felon was supposed to reflect rather than indulge in theatrics for the benefit of spectators. Hanway's plan rejected the Augustan notion that the humiliation of being exposed to the execution crowd created a sensory ambience conducive to repentance. Rather, it called for the uncoupling of the felon's aesthetic understanding of the execution procession from that of onlookers.

Hanway also sought to reintroduce the aesthetics of mourning into the execution ritual. The coaches travelling in the procession were to be mourning coaches. Sheriffs and guards would be dressed in black; execution etiquette, like that of funerals, would require uncocked hats and solemn composure. The scaffold, too, would be redesigned with a drop type of gallows and partitions that separated one felon's hanging from another. A more individualized death, Hanway claimed, would "support

22. On the introduction of movable gallows, see *Gentleman's Magazine*, October 1759: 493; Philomomous, *Power*, 49. See also *The Letters of Horace Walpole*, ed. Peter Cunningham (Edinburgh, 1906), 3:309; *Gentleman's Magazine*, July 1750: 328.

23. Jonas Hanway, *The Defects of Police, the Cause of Immorality* (London, 1775), 243-45. See also John H. Hutchins, *Jonas Hanway 1712-1786* (London, 1940), 168-69; James Stephen Taylor, "Philanthropy and Empire: Jonas Hanway and the Infant Poor of London," *Eighteenth Century Studies* 12 (1979): 285-305.

a much higher dignity than driving off a cart, to leave a half dozen men hanging by the neck, with as little decency as if they were so many dogs." Finally, Hanway suggested that internment be handed over to the state. The executed criminal would be laid to rest in a special cemetery, called the Malefactor's Burial Place, that would be located near Tyburn and would serve as an iconographic counterpoint to the gallows. It was designed with massive walls to prevent the entry of the mob. Even family and friends would be excluded from the burial.<sup>24</sup>

#### PUNISHMENT AND IMAGINATIVE AESTHETICS

Hanway's proposals were never implemented. The 1783 transfer of the site of execution from Tyburn to the facade of Newgate prison rendered his suggestions obsolete. Nevertheless, Hanway's inversion of mid-century reforms reflects a larger upheaval in eighteenth-century aesthetic theory. Earlier theories of perception, such as those of Francis Hutcheson, Locke, and Thomas Hobbes, had argued that vision was the most powerful of the senses. According to Locke's analogy, sight makes impressions on the mind in the same way that a metal seal leaves an imprint on soft wax. The more a person was bombarded with intense visual stimulation, the deeper and longer lasting the impression. Since eighteenth-century empirical philosophers generally rejected the notion of innate ideas, the acuity of the senses and the intensity of sensory information were considered critical for shaping the individual's personality. This understanding of perception treated the imagination as a poor relation. The imagination relied upon reviving images and was viewed as derivative of earlier sensory impressions. Such impressions were thought to suffer decay in the same way as Locke's wax inscription would become less distinct over time.<sup>25</sup>

Yet by the second half of the eighteenth century, the imagination was coming into its own. No work better captured this aesthetic transformation than Edmund Burke's *The Sublime and Beautiful*. Burke argued that the imagination was more powerful than the senses. "The imagination is the most extensive province of pleasure and pain as it is the region of our fears and hopes and all of our passions."<sup>26</sup> Envisioning the unknown could create a sense of terror unequalled by actually seeing the object of fear. In Burke's words, "to make anything very terrible, obscu-

24. Hanway, *Defects of Police*, 243-46. Hanway's aesthetic proposals for the public execution may have been derived from his interest in the spatial reordering of prisons. See Jonas Hanway, *Solitude and Imprisonment* (London, 1776).

25. Locke, *Essay Concerning Human Understanding*, 362-66; Donald F. Bond, "The Distrust of the Imagination in English Neo-Classicism," *Philological Quarterly* 14 (1935): 54-69; James Engell, *The Creative Imagination: Enlightenment to Romanticism* (Cambridge, 1981), 13-62.

26. Edmund Burke, *A Philosophical Enquiry into the Origin and Our Ideas of the Sublime and the Beautiful*, ed. James Boulton (London, 1968), 31.



city seems in general to be necessary."<sup>27</sup> Burke's notion of the sublime provided a badly needed guidepost for jurists concerned with creating more effective deterrents. The Augustan execution ritual's reliance upon elaborate visual imagery had failed. Following Burkean aesthetics, it would be possible to create more hidden punitive rituals to influence the imagination.<sup>28</sup>

By the 1780s, Burke's aesthetics increasingly informed an understanding of public punishment. Burke himself applied these aesthetic categories in his appeal against a mass execution following the Gordon Riots of 1780. Although hundreds had been found guilty, Burke urged that only six rioters be chosen for execution. The six selected as examples would be hanged the same day in different parts of the city. Burke's language is revealing: "The sense of justice in men is overloaded and fatigued with a long series of executions . . . I have observed that the execution of one man fixes the attention and excites awe; the execution of multitudes dissipates and weakens the affect."<sup>29</sup> From this passage it is clear that Burke rejected the penal application of Locke's notion that a more extensive or repeated visual experience would create a deeper impression. During the early 1780s, Burke agitated for a move away from extended public punishment by becoming a spokesman against the continued use of the pillory.<sup>30</sup>

The aesthetic critique of public executions gathered momentum as England's judicial apparatus faced a major crisis in the early 1780s. The War of Independence fought by the American colonies ended transportation of felons to the region. By 1783, England's jails were overcrowded, excess convicts were being moved to hulks, and the number of executions rapidly increased. There was an 82 percent increase in London executions for the period between 1783 and 1787 over the previous five years.<sup>31</sup> The government's 1782 decision to deny pardons to burglars and housebreakers sentenced to death further swelled the number of hangings. Earlier aesthetics, theoretically, would not have been troubled by the rising tide of executions: the more executions viewed, the greater their impact on the mind. And, in fact, this was the approach taken by Martin Madan's 1785 pamphlet calling for capital punishment unbridled by par-

27. Ibid., 31.

28. Ibid., 57-64. Boulton's lengthy preface to his edition of *The Sublime and the Beautiful*, pp. xv-cxxviii, remains one of the best introductions to Burke's aesthetic theories. See also Samuel H. Monk, *The Sublime: A Study of Critical Theories in Eighteenth-Century England* (Ann Arbor, 1960), 84-100; Walter J. Hipple, Jr., *The Beautiful, the Sublime, and the Picturesque in Eighteenth-Century British Aesthetic Theory* (Carbondale, 1957); Peter de Bolla, *The Discourse of the Sublime* (Oxford, 1989); Pamela Kaufman, "Burke, Freud and the Gothic," *Studies in Burke and His Time* 13 (1972): 2179-92.

29. *The Writings of Edmund Burke* (New York, 1901), 6:245-53; *The Correspondence of Edmund Burke* (Chicago, 1958-78), 6:248-54.

30. Burke, *Correspondence*, 4:230-31; see also T.C. Hansard, *The Parliamentary History of England* (London, 1814), 21:388-91; Beattie, *Crime and the Courts*, 614-16.

31. Radzinowicz, *English Criminal Law*, 1:138-50; Beattie, *Crime and the Courts*, 582-91.

dons.<sup>32</sup> However, according to the new aesthetics, repetition and an excess of visual sensation might lead to the deadening of the senses. "Some degree of novelty," wrote Burke, "must be one of the materials in every instrument which works upon the mind."<sup>33</sup> But frequent executions would cease to be either novel or terrifying. A newspaper claimed in 1783 that "the lower orders of people habituated to the almost daily return of sanguinary spectacles will, by degrees, lose all feelings . . ."<sup>34</sup>

The end of the eighteenth century witnessed a broad aesthetic repudiation of crowd-dominated public spectacles. Local ceremonies, like that of the Lord Mayor's pageant, were on the decline. At the same time, middle-class social reformers launched an attack against such popular public diversions as fairs and cock-baiting.<sup>35</sup> Recognizing the loss of patrician hegemony over public space, Georgian elites increasingly turned to subtle administrative and regulatory decisions to redefine the way it might be used. It is not surprising, then, that shifting the gallows from Tyburn to Newgate was not the subject of parliamentary discussions. Instead, the architects of this major change in the application of capital punishment were administrative figures—Lord Mansfield and London's sheriffs, Bernard Turner and Thomas Skinner—whose motivations can only be surmised.

It is worthwhile, therefore, to read closely the one text, written by Turner and Skinner, which seeks to justify the 1783 relocation of the gallows:

If we take a view of this supposed solemnity from the time in which the criminal leaves the prison to the last moment of his existence, it will be found to be a period full of the most shocking and disgraceful circumstances. If the only defect in it were the want of ceremony, the minds of the beholders might be supposed to be left at least in a state of indifference; but when they view the meanness of the apparatus, a dirty cart and ragged harness surrounded by a sordid assemblage of the lowest among the vulgar, their sentiments are more inclined to ridicule than pity. The whole progress is attended with the same effect: numbers soon thicken into a crowd of followers, and

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32. Ignatieff, *Just Measure of Pain*, 80-88; Radzinowicz, *English Criminal Law*, 138-150; Beattie, *Crime and the Courts*, 582-91. Margaret DeLacy correctly argues that there has been a tendency to overestimate the influence of the American Revolution on the development of England's prison system in *Prison Reform in Lancashire, 1700-1850: A Study in Local Administration* (Stanford, 1986), 112. Nevertheless, the Revolutionary War and the suspension of transportation did sharpen the awareness that existing methods of punishment were inadequate. See Martin Madan, *Thoughts on Executive Justice* (London, 1785).

33. Burke, *Sublime and the Beautiful*, 31.

34. [London] *Morning Daily Advertiser*, 26 September 1783; Public Record Office (London) (hereafter PRO) State Papers 37/15, 1781. See also *The [London] Daily Universal Register*, 8 May 1786.

35. Peter Borsay, "'All the Town's a Stage': Urban Ritual and Ceremony 1660-1800," in *The Transformation of English Provincial Towns 1600-1800*, ed. Peter Clark (London, 1984), 228-58; Linda Colley, "The Apotheosis of George III: Loyalty, Royalty, and the British Nation 1760-1820," *Past and Present* 102 (1984): 94-129; R.W. Malcolmson, *Popular Recreations in Eighteenth-Century England* (Cambridge, 1973), 89-157.

then an indecent levity is heard; the crowd gathers as it goes and their levity yet increases, till on their approach to the fatal tree, the crowd becomes a riotous mob and the wantonness of speech breaks forth in profane jokes, swearing, and blasphemy.<sup>36</sup>

On one hand, Turner and Skinner argued that the unceremonious Augustan execution ritual had lost its visual effectiveness; it was, in their words, "beheld by the populace with as little terror or concern as the conclusion of a public entertainment." Arguing from the other direction, they claimed that the popular dimension of the execution procession indeed retained its sensory power, but that this power was now vested in the crowd of onlookers. The sheriffs described a hypothetical laborer who joins the procession crowd out of innocent curiosity. "He is prompted to come again, and then begins to partake in the thoughtless riot of the place; till, by repeatedly mixing in bad company, his wont of feeling becomes habituated, the heavy stroke of justice no longer makes an impression on his mind, and he proceeds to treat morality with levity and law with contempt. . . ." Later, these numbing sensory experiences may lead him to crime and even to the gallows. It is the extended sensation of the swelling crowd, not the state-directed theater of the procession which, in a Lockean sense, dominates the spectator.

By relocating the gallows at Newgate, sheriffs Turner and Skinner sought to reduce the impact of the crowd on the senses. The square in front of Newgate could accommodate only five thousand spectators. This smaller number and the constricted space were supposed to diminish crowd excesses. "The crowd of spectators will probably be more orderly because less numerous," wrote Turner and Skinner, "and more subject to control by being more confined; and also because it will be free from the accession of stragglers whom a Tyburn procession usually gathers in its passage."<sup>37</sup> Lacking a lengthy procession, Newgate executions were arranged for an earlier hour, before the crowd might become restless. While hangings at Tyburn generally took place around midday, Newgate's first execution was at nine in the morning. Summer executions were scheduled for seven.<sup>38</sup> Such spatial and temporal changes

36. Bernard Turner and Thomas Skinner, *An Account of Some Alterations and Amendments in the Duty and Office of the Sheriff of the County of Middlesex and Sheriffs of the City of London* (London, 1784), 24-25.

37. *Ibid.*, 22-30.

38. [London] *Morning Chronicle*, 10 December 1783; *The Reading Mercury and Oxford Gazette*, 24 November 1783; PRO, Home Office Papers (hereafter HO) 42/3, December 4, 1783; Greater London Record Office, AV 1125/5, 1792. See also Mark Harrison, "Time, Work, and the Occurrence of Crowds 1790-1835," *Past and Present* 110 (1986): 134-68; John Riley, "The Hours of the Georgian Day," *History Today* 24 (May 1974): 307-14.

Changing the hour of executions also reflected a growing awareness of time's economic significance: "The saving to the state and to individuals from the new method of executing criminals is immense, many indigent families will feel the good effects of preventing the loss of a day—No longer will thoughtless youth neglect their employment to attend Tyburn executions." [London] *Morning Chronicle*, 10 December 1783. See also *Reminiscences of Henry Angelo* (London, 1904), 33;

altered the size and character of the crowd. It has been shown that Burke saw the mob as reflecting his aesthetic category of the sublime. The mob was volatile, tremendous, and constantly in flux.<sup>39</sup>

Although the full significance of mob power does not emerge from their account, London's sheriffs, too, may have feared the mob's potential power over both the senses and the city's streets. The relocation of the gallows took place only three years after the anti-Catholic Gordon Riots of 1780. Unfortunately, little biographical information is known about Turner and Skinner. A clue, however, of Turner's attitude might be found in a painting, Francis Wheatley's magisterial *Riots in Broad Street on 7th June 1780*, which depicts Turner firmly giving orders as he confronts a volatile and threatening mob. Wheatley chose this scene precisely because London had failed to repress the riot adequately. By depicting Turner's resolution, Wheatley and other Londoners were able to confront the riot from the safe vantage point of iconography. Lord Mansfield, Chief Justice from 1756 to 1788, had an even more notable experience during the Gordon Riots. Mansfield's Bloomsbury home, including his valuable library, was looted and destroyed by rioters.<sup>40</sup> While Turner and Skinner proposed the transfer from Tyburn to Newgate, Mansfield was in many ways the project's *eminence grise*. He advised the sheriffs and shepherded the proposal through the Privy Council.<sup>41</sup>

For Mansfield and Turner, the Gordon Riots probably served as a watershed for recognizing the destructive power of the London mob. By relocating the scaffold, London's civil authorities instituted an effective means of crowd control. Not only were the size of the crowd limited and the execution procession disbanded, but the transfer of the gallows to

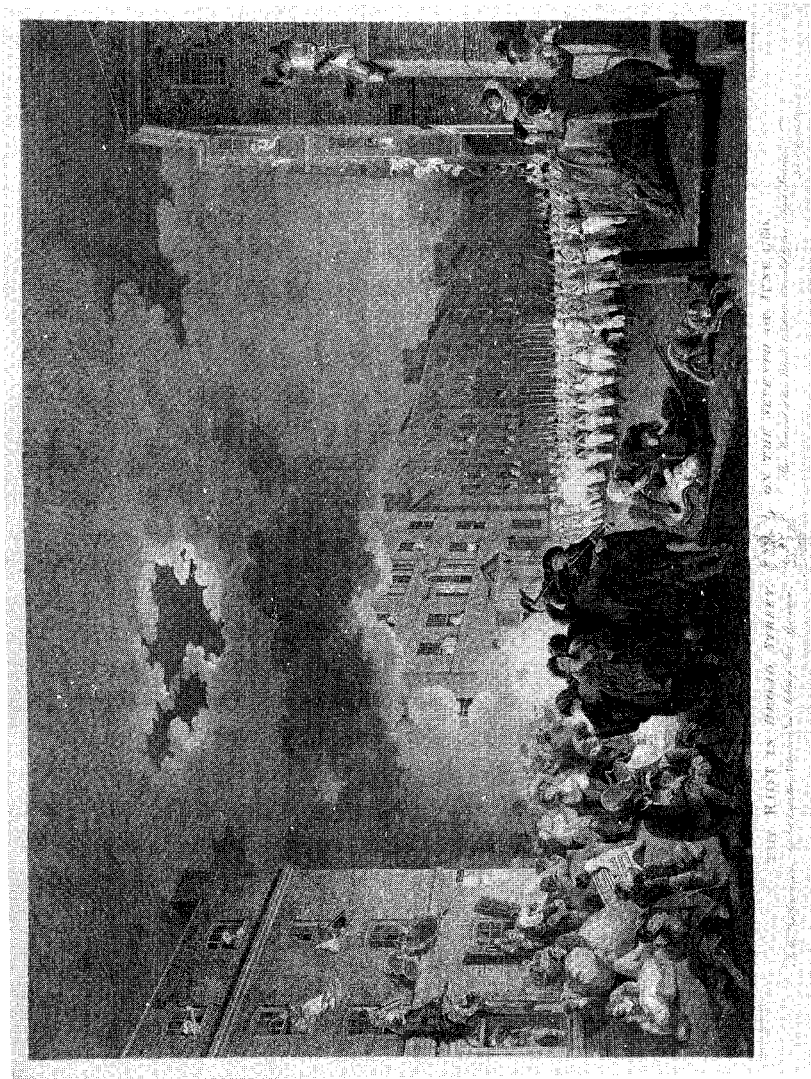
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E.P. Thompson, "Time, Work-Discipline and Industrial Capitalism," *Past and Present* 38 (1967): 56-97.

39. Frances Ferguson, "Legislating the Sublime," in *Studies in Eighteenth-Century British Art and Aesthetics*, ed. Ralph Cohen (Berkeley, 1985), 128-47; Ronald Paulson, *Representations of Revolution 1789-1820* (New Haven, 1983), 57-87.

40. *Gentleman's Magazine* lauds Turner's role in the Gordon Riots. *Gentleman's Magazine*, June 1784: 477; see also Mary Webster, *Francis Wheatley* (London, 1970), 53-55. On the Gordon Riots, see George Rudé, "The Gordon Riots: A Study of the Rioters and their Victims," *Transactions of the Royal Historical Society*, 5th ser., 6 (1956): 93-114; J. Paul de Castro, *The Gordon Riots* (London, 1926); Thomas Holcraft, *A Plain and Succinct Narrative of the Late Riots* (London, 1780); Thomas O'Beirne, *Considerations on the Late Disturbances* (London, 1780); William Jones, *An Enquiry into the Legal Mode of Suppressing Riots with a Constitutional Plan of Future Defence* (London, 1780). On Mansfield, see C.H.S. Fifoot, *Lord Mansfield* (Oxford, 1936); John Holliday, *The Life of William Late Earl Of Mansfield* (London, 1797). John Stevenson underscores the significance of the Gordon Riots in forging a new fear of mob violence. Stevenson, "Social Control and the Prevention of Riots in England 1789-1829," in *Social Control in Nineteenth-Century Britain*, ed. A.P. Donajgradzki (London, 1977), 27-50.

41. PRO, HO 42/3 [246] October 24, 1783; City of London Record Office, London (hereafter CLRO), Misc. Ms. 185.5 November 14, 1783; CLRO Journal of the Committee for Rebuilding Newgate, November 14, 1783. Because the gallows relocation was such a major innovation, London's sheriffs insisted that it be sanctioned by a number of government officials. City officials, members of the judiciary, and even Lord North were consulted about the plan. See PRO, HO 42/3 [246]; *The Reading Mercury and Oxford Gazette*, 10 November 1783.



James Heath (1757-1834) after Francis Wheatley THE RIOT IN BROAD STREET ON THE SEVENTH OF JUNE 1780, from *The Nathan Collection of London Topography*, 1790. Engraving. Yale Center for British Art, Paul Mellon Collection.

Newgate also helped to prevent a major cause of execution-day disorder. Most execution riots, as Peter Linebaugh has shown, were anti-dissection protests. Violence often broke out as surgeons attempted to claim the cadavers provided under the 1752 "Murder Act." Yet Newgate's raised scaffold deterred popular attempts to seize felons' corpses. More importantly, Surgeons' Hall stood directly across from Newgate, and cadavers for dissection could be quietly transferred through the basement door.<sup>42</sup>

During the early 1780s, Newgate Prison was rebuilt after the extensive destruction it suffered during the Gordon Riots. Plans for the relocated gallows were included as part of this project. Newgate's architect George Dance designed the scaffold and determined its place along the prison's facade. The Newgate scaffold may be unique in having been devised by a leading architect. Dance's manuscript notes, which fortunately have survived in the City of London Archives, provide a glimpse of the ways that the Newgate gallows conformed to aesthetic conventions.

Newgate was a classical work of associational architecture, where the building's form prompted mental images of its function.<sup>43</sup> As John Bender has suggested, Dance's massive prison walls were meant as an external expression of terror, "a scenic framework awaiting only its actors."<sup>44</sup> Situating the scaffold at the Debtor's Door of Newgate harnessed the symbolic background of the prison to the theatrical *mise en scène* of the public execution. The gallows were erected atop a box-like stage. On the part of the stage nearest the prison wall, two seats were placed for the sheriffs. At the middle of the scaffold was a movable platform raised six inches on a system of iron rolling bars. The executioner had simply to pull a lever and the felons, standing on this platform with nooses around their necks, would be left dangling over the trap door.<sup>45</sup>

Using a trap-door mechanism was a technical innovation for executions. Tyburn had utilized a much more cumbersome method, in which felons were suspended when the cart upon which they stood was driven out from under them. The introduction of the drop-style mechanism was, perhaps, influenced by the special scaffold designed for Lord Ferrer's execution or Pennsylvania's recent adoption of a similar technique.

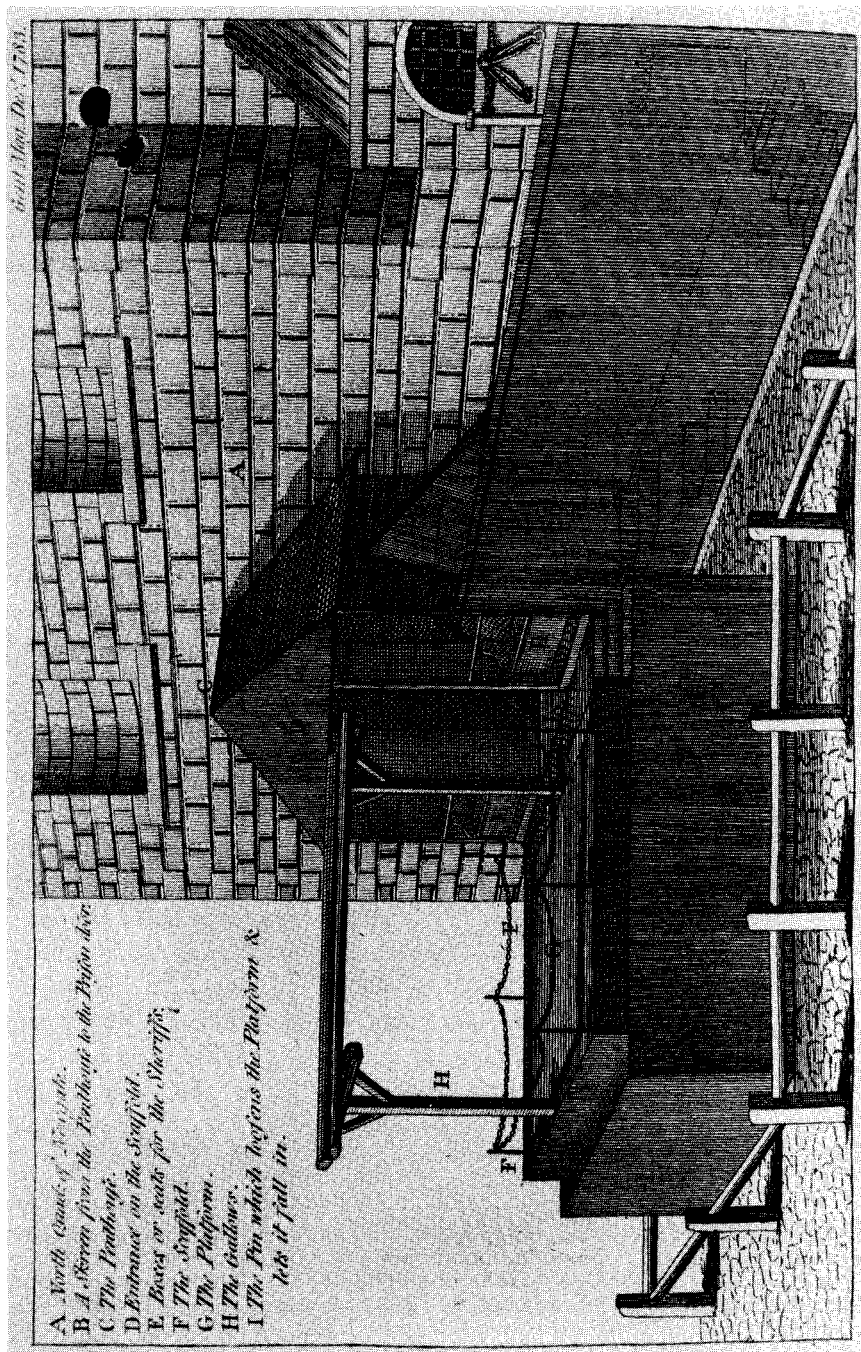
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42. Linebaugh, "Tyburn Riot," 65-117; [London] *Morning Chronicle*, 24 December 1783.

43. CLRO, Journal of the Committee for Repairing Newgate [525], November 14, 1783; Dorothy Stroud, *George Dance, Architect 1741-1825* (London, 1971), 97-110; Bender, *Imagining the Penitentiary*, 250-58; Harold D. Kalman, "Newgate Prison," *Architectural History* 12 (1969): 50-61; Wayne Joseph Sheehan, "The London Prison System 1666-1795," University of Maryland Ph.D. dissertation, 1975; Robin Evans, *The Fabrication of Virtue: English Prison Architecture 1750-1840* (Cambridge, 1982), 251-56; John Archer, "The Beginnings of Association in Architectural Esthetics," *Eighteenth-Century Studies* 16 (1983): 241-64.

44. Bender, *Imagining the Penitentiary*, 243.

45. Turner and Skinner, *An Account of Some Alterations*, 28-29; [London] *Morning Chronicle*, 10 December 1783; *The London Chronicle*, 9-11 December 1783; *Gentleman's Magazine*, December 1783: 990.



Design of Newgate Gallows, 1783. American Antiquarian Society.

It may also have been modeled on Dublin's remarkably similar trap-door scaffold that was built only two years earlier.

Newgate's drop-style gallows had aesthetic implications. It repudiated the Lockean notion that extended rituals left the most lasting imprint. Death at the new gallows was intended to be "sudden and tremendous and . . . to strike terror on the minds of the guilty and awe on the innocent." According to eighteenth-century notions of perception, an abrupt and startling event would have an even more powerful effect on the mind. "Terror," claimed aesthetic theorist Alexander Gerard, "always implies astonishment." Turner and Skinner's stagecraft was meant to minimize the duration of the spectacle. Not only did they disband the execution procession, but they also directed that the criminals should be exposed only shortly before the hanging. Religious devotions would take place in Newgate's chapel. Even the death by strangulation, the sheriffs reported with satisfaction, took less time using the new drop-style gallows.<sup>46</sup>

Newgate's scaffold stood eight feet above the pavement. Its appearance of height was magnified by the open expanse of plaza that separated spectators from the place of execution. A greater elevation, according to Lord Kames, was an important tool for creating a sense of awe. "The [Newgate scaffold's] elevation. . .," wrote a defender of the new gallows, "will carry an air of awful grandeur that we conceive and trust will raise sensations of horror in the soul and not, as is now the case, [be] looked upon with pain by few." And unlike mid-century reformers, Turner and Skinner did not hesitate to employ mourning aesthetics in order to heighten this sense of awful grandeur, so the wooden scaffold was painted black and hung with black crêpe.<sup>47</sup>

The gallows at Newgate embodied a clear rejection of earlier punitive aesthetics. It shortened the duration of the visual experience and limited the number of spectators. To borrow a phrase from Hogarth, the aesthetic "grammar rules" had been changed. The execution was shunted away to a plaza bordered by a cluster of official buildings—the courts of the Old Bailey, Newgate Prison, and the Surgeons' Hall. Executions, with their extended processions, no longer came to the city; rather, it was the spectators who went to the execution. Only those who made a conscious decision to view the spectacle would crowd into the square facing Newgate.

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46. Alexander Gerard, *An Essay on Taste* (London, 1759), 19. Turner and Skinner, *An Account of Some Alterations*, 28-29; [London] *Morning Chronicle*, 9-11 December 1783; *The London Chronicle*, 9-11 December 1783; *Gentleman's Magazine*, December 1783: 990. Pennsylvania's drop-style gallows was introduced in 1781. See Negley Teeters, "Public Executions in Pennsylvania 1682-1834," *Journal of the Lancaster County Historical Society* 64 (1960). Dublin's gallows are described in *Gentleman's Magazine*, March 1783: 260; May 1784: 328-29.

47. [London] *Morning Chronicle*, 10 December 1783; *The London Chronicle*, 9-11 December 1783; *The Reading Mercury and Oxford Gazette*, 10 November 1783, 24 November 1783; *Gentleman's Magazine* December 1783: 990; Henry Howe [Lord Kames], *Elements of Criticism* (London, 1761), 129-47.



This change reflected a broader architectural trend of establishing a sense of order by creating spatial enclaves. John Gwynn's 1776 manifesto for planning London and the Building Act of 1774, framed by Robert Taylor and George Dance, argued for neighborhoods constructed around uniform architectural styles. During the late 1770s and 1780s, the newly developing West End created an expanse of neatly arranged plazas and regular façades. Dance's 1777 Finsbury Square heralded a new era of harmonious design. These residential areas created spatial distinctions that distanced the upper classes from London's tumultuous streets. The retreat from the urban public sphere, like the gallows' move from Tyburn to Newgate, was perhaps a confession of the failure to impose a vision of order on the common people. In the case of the public execution, the more subtle medium of architecture replaced the visual ceremonialism of the Augustan execution ritual.<sup>48</sup>

Another aspect of spatial organization, new notions of medical quarantine, influenced the move to Newgate. There was a growing concern about the spread of typhus. A highly communicable disease common among prisoners, it was presumed to originate with "the corruption of air pent up and deprived of its elastic parts by the respiration of a multitude." Exposure to convicts' perspiration or breath might lead to fever, delirium, and, ultimately, fatal convulsions. Prison reformers, such as Hanway and John Howard, had always been concerned about preventing outbreaks of typhus, but in the early 1780s it reached epidemic proportions. The loss of the American colonies as a place to transport felons led to an unprecedented overcrowding of prisons. Typhus erupted throughout England's prisons, and it was feared that the disease would spread to the general population.<sup>49</sup>

According to a leading eighteenth-century expert on typhus, John

48. William Hogarth, *The Analysis of Beauty* (Oxford, 1955), 149; John Gwynn, *London and Westminster Improved*, (London, 1766); John Summerson, *Georgian England*, 3rd ed. (London, 1978), 121-53, 163-71; Donald J. Olsen, *Town Planning in London: The Eighteenth and Nineteenth Centuries* (New Haven, 1964), 42-73; Helen Rosenau, *Social Purpose in Architecture: Paris and London Compared 1760-1800* (London, 1970), 39-41; Simon Jenkins, *Landlords to London: The Story of a Capital and its Growth* (London, 1975), 159-69; L.D. Schwartz, "Social Class and Social Geography: The Middle Classes in London at the End of the Eighteenth Century," *Social History* 17 (1982): 167-86. Peter Borse discusses the importance of urban space in shaping social interaction. Borse, "The English Urban Renaissance: The Development of Provincial Urban Culture c.1680-1760," *Social History* 5 (1977): 558-604. An undated petition from the gentrified West End also calls for the Tyburn gallows to be moved. See CLRO, I-52 [44].

49. John Pringle, *Observations on the Nature and Cure of Hospital and Jayl Fevers* (London, 1750), 13-23. On the interrelationship between eighteenth-century architecture and theories of quarantine, see Helen Rosenau, *Social Purpose in Architecture*, 51-76. Robin Evans provides the best introduction to typhus. Robin Evans, *Fabrication of Virtue* (Cambridge, 1982), 94-117. See also [London] *Morning Chronicle*, 6 September 1783; Sheehan, "The London Prison System," 212-340. For the provinces, PRO, HO 42/3, 42/4, and 42/5 contain numerous reports from counties concerned that the disease might spread from prisons to the general population. Although these warnings must be understood as part of a campaign to shift the burden of incarceration away from local jails, they also reflect real medical concerns. The social meaning of perspiration as a source of disease is described by Alain Corbin. Corbin, *The Foul and the Fragrant: Odor and the French Social Imagination* (New York, 1986), 35-56.

Pringle, the promiscuous intermingling of felons with execution crowds provided a vehicle for spreading the infection. Not only did the execution procession transport the felon through the heart of the city, but popular beliefs led to intimate contact with them. Curative powers were attributed to the dead felon's touch and those suffering from cysts were, on occasion, hoisted to be stroked by the corpse's hands. Spectators jostled each other at the scaffold as they struggled to cut down the noose, which was said to cure headaches. It was not uncommon for anti-dissection protesters to seize the executed felon's corpse. Typhus might also lurk in the prisoner's clothes which, according to custom, were due the hangman or distributed as special relics. Although a 1774 ordinance required that prisoners wear smocks for their court appearances, there was no comparable law protecting spectators at executions. Pringle urged that the clothes of executed felons be buried.<sup>50</sup>

Burke echoed Pringle's concern about the public execution's salutary effects when he called hangings "poisoning the air at Tyburn."<sup>51</sup> Moving the gallows from Tyburn to Newgate would lessen the chance of infection—prisoners could be led directly from prison to the scaffold. In fact, the unique cluster of institutions around Newgate often did away with the need for coaches. The Newgate convict might be tried at the adjacent Old Bailey, hanged at the prison's door, and carried just a few yards to Surgeons' Hall for dissection. Spectators and felons were separated by Newgate's elevated scaffold and a surrounding railing. While at Tyburn, friends would help hasten a criminal's death by pulling the body by its legs and thumping the chest, but such exertions were unnecessary with the new drop-style scaffold. Lastly, the more manageable execution at Newgate allowed for greater control over the corpse and the clothing. It was no longer a friend or relative who cut down the body, but the authorities. Draped with a black cloth, the body would be readied for either burial or the Surgeons' Hall.<sup>52</sup>

Moving the gallows to Newgate, then, served to distance executions and minimize the spectator's role. It embodied a transvaluation of previous aesthetic norms. While mid-century reform of the execution ritual emphasized visibility, executions in the 1780s limited the number of onlookers and placed decreasing emphasis on overt visual imagery.

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50. John Pringle, *Cure of Hospital and Jayl Fevers*, 2, 10, 50. On execution folklore, see John Brand, *Popular Antiquities of Great Britain*, ed. W. Hazlitt (London, 1870), 3:242; Francis Grose, *A Provincial Glossary* (London, 1811), 288-89; Cesar de Saussure, *A Foreign View of England in the Reigns of George I and II* (London, 1902), 107; *Gentleman's Magazine*, May 1767: 276; Linebaugh, "Tyburn Riot," 109-11.

51. Burke, *Correspondence*, 3:287.

52. Nevertheless, the gallows' relocation at Newgate did not successfully end such unsanitary practices. Hangmen continued to circulate among the crowd selling felons' clothing. See, for example, the [*London*] *Times*, 30 October 1798. In 1786 twelve people mounted Newgate's scaffold to have their faces and necks stroked by the hands of executed criminals. *The [London] Daily Universal Register*, 22 June 1786.

Those hearkening back to an earlier aesthetics were quick to notice the change. The new scaffold at Newgate, complained Samuel Johnson, "is not an improvement. They object that the old method drew together a number of spectators. If they do not draw spectators they do not answer their purpose."<sup>53</sup>

Turner and Skinner answered that criticism by redefining the execution crowd. The execution was no longer to be enacted primarily for the benefit of average citizens, but for those confined in Newgate. "Example ought . . . to be directed principally to the wicked," argued Turner and Skinner, "that they who have most offended may feel most sensibly the certain consequence of offending." Such a statement would have been remarkable during the reign of visual punitive aesthetics. It was precisely prisoners, pent-up behind Newgate's massive walls, who were excluded from witnessing the execution. For London's sheriffs that loss of the visual experience was, in fact, an advantage. Embracing Burke's aesthetics, Turner and Skinner relied upon the imagination of Newgate prisoners "who feel the heavy hand of justice so near their walls." During the execution, prisoners would be kept under strict discipline while the prison's funeral bell would toll. Sound, not sight, would stimulate the imagination. Newgate's gallows were a critical step in the construction of a new punitive aesthetic.<sup>54</sup>

Yet would it be more than a step? The logical outcome of Burkean punitive aesthetics was the private execution. Hidden from the public view, it would profoundly influence the imagination. And, in fact, the 1780s witnessed a growing number of proposals calling for private executions. One, published in a 1786 London newspaper, echoed Burkean aesthetic theory. It argued that private executions are "not liable to be blunted by frequency; for as the whole apparatus would remain invisible to the multitude, every repetition would retain the original impulse and never lose the force of novelty." William Paley recommended "casting murderers into a den of wild beasts, where they could perish in a manner dreadful to the imagination, yet concealed from the view." In 1787, an advocate of private executions urged that they take place behind prison walls with the corpses exposed afterwards: "The sight of the lifeless lump would raise many ideas in the spectators concerning the sufferings of the object of their curiosity; they would suppose cruelties in the executioner which had not been practiced, such as his refusal to finish the

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53. James Boswell, *Boswell's Life of Johnson*, ed. George Hill and L.F. Powell (Oxford, 1934), 4:188-89. Richard Akerman, Newgate's jailor, called for a return to "the pride, pomp, and circumstance of the procession to Tyburn." *The [London] Daily Universal Register*, 9 November 1786.

54. Turner and Skinner, *An Account of Some Alterations*, 30-31; CLRO, Journal of the Committee for Repairing Newgate [550-51], February 7, 1785; *London Chronicle*, 9-11 December 1783.

pains of the punishment.”<sup>55</sup>

But it was precisely the power of private punishment over the imagination that made late eighteenth-century Englishmen back away from such proposals. The unfettered public imagination was capable of conjuring up frightening, even paranoid visions of the private execution. Perhaps, the felon's death might have been envisioned as extremely brutal, more violent than it was in actuality? Or, perhaps the common people would imagine the authorities staging a sham execution and secretly setting the prisoner free? In a 1787-88 debate over private executions, opponents warned that hidden punishments threatened English liberties. The arguments favoring public punishment, like those constructed in defence of public grain markets, were emblematic of a common belief that popular vigilance protected against the arbitrary use of power. And so, in a sense, popular ideological constraints favored gallows like the one constructed at Newgate. Executions at Newgate did not require a large military presence, considered inimicable to English liberty, nor, as with private executions, did they evoke fears of state control. Half-hidden, half-exposed, the scaffold at Newgate offered an aesthetic solution to the problem of legal deterrence.<sup>56</sup>

Provincial assizes followed Newgate's lead. In 1785, Essex transferred its gallows to outside Chelmsford jail. Oxford's 1787 reform went even further. The scaffold was erected on a tower high enough for public viewing, but within the prison walls. In 1781, Dublin anticipated London's reform by appending the gallows to the exterior of its prison and ending the execution procession. Prisons, too, reflected late eighteenth-century punitive aesthetics by combining frightening façades, hidden punishment, and close attention to internal spatial architecture. Even transportation, long criticized because its lack of public punishment made it a weak deterrent, began to capitalize on Burkean fears of the unknown. The threat of transportation to America had seemed too familiar. But, with the loss of the American colonies, transportation schemes to Africa and Botany Bay in the late 1780s elicited a new found dread of—to use Burkean language—obscure and hidden lands.<sup>57</sup>

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55. William Paley, "Moral and Political Philosophy," in *Paley's Works* (London, 1849), 166; *Gentleman's Magazine*, November 1787: 1050-52. See also *The [London] Daily Universal Register*, 8 May 1786. A 1785 scheme, sent to the Home Office, also reflected Burkean aesthetics. It recommended forcing convicts to work in coal mines without ever coming above ground until the end of their sentences. PRO, HO 42/7.

56. *Gentleman's Magazine*, February 1788: 103-5; April 1788: 316. PRO, HO 42/6 contains a caveat against private executions. John Brewer cites a 1770 case where London's sheriffs argued against changing the form of executions as an abuse of the royal prerogative. Brewer, "The Wilkites and the Law, 1763-74," in *An Ungovernable People: The English and their Law in the Seventeenth and Eighteenth Centuries*, ed. John Brewer and John Styles (New Brunswick, 1980), 160.

57. *The Chelmsford Chronicle*, 18 March 1785; P.J.R. King, "Crime, Law, and Society in Essex 1740-1820," Cambridge University Ph.D. dissertation (1984), 348-49. On Oxford's gallows, see *Jackson's Oxford Journal*, 6 August 1787, 22 March 1790, 19 July 1790; *The Reading Mercury and Oxford Gazette*, 13 August 1787; *Gentleman's Magazine*, August 1787: 732-33; *The [London] Daily*

During the second half of the eighteenth century, then, aesthetic categories significantly informed English criminal law. Changing notions of aesthetics and sensory psychology transformed the public face of punishment. Yet this transformation was neither subconscious nor ill-defined. New approaches to punitive aesthetics actively sought to redirect the viewer's behavior. More was at issue than a bourgeois revulsion against cruelty. Just as often, it was the sensibilities of common people which concerned middle and upper-class reformers.

Spierenburg justly criticizes Foucault's wide-ranging use of the term "social control." And, in fact, recent work has demonstrated that English criminal law did not always reflect class interests and that penal sanctions—as opposed to everyday social and economic forces—may serve as a less significant coercive instrument than Foucault has claimed.<sup>58</sup> Yet if Foucault has inflated punishment's function, Spierenburg underestimates the importance of deterrence to those proposing a more private mode of punishment. As this essay shows, late eighteenth-century reformers did not simply retreat from the public execution because it was repugnant or atavistic. Engaging in aesthetic activism, they sought to construct an execution ritual which altered sensibilities. Punitive aesthetics articulated the harsh sanctions embedded in English criminal statutes.

Spierenburg and Foucault each tell only part of the story about late eighteenth-century punishment. Sensibility was united with notions of control. The debate over the underlying intentions of reformers—which has often relied upon such vague arguments as a growing sense of humanitarianism or the need for new forms of subjugation—needs to be informed by a close reading of punishment as a text and an understand-

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*Universal Register*, 16 August 1787; [*London Times*, 31 March 1790. For Dublin's scaffold, see *Gentleman's Magazine*, March 1783: 260; May 1784: 328-29. See also Evans, *Fabrication of Virtue*, 169-345. On new sites for transportation, see A. Roger Ekirch, *Bound for America: The Transportation of British Convicts to the Colonies 1718-1775* (Oxford, 1987), 236-38; PRO, HO 42/6, Transportation Committee Report, 1785. Another Home Office document claims that felons who were not frightened by the threat of being sent to America dreaded transportation to Africa. PRO, HO 42/2 [221].

58. John H. Langbein, "Albion's Fatal Flaw," *Past and Present* 98 (1983): 96-120; G.R. Elton, "Crime and the Historian," in *Crime in England*, ed. J.S. Cockburn (Princeton, 1977), 1-14; David Philips, "'A Just Measure of Crime, Authority, Hunters and Blue Locusts': The 'Revisionist' Social History of Crime and the Law in Britain, 1780-1850," in *Social Control and the State*, ed. Stanley Cohen and Andrew Schull (New York, 1983), 50-74; Margaret DeLacy, *Prison Reform in Lancashire* (Stanford, 1986), 6-8. Two recent works demonstrate the need to interpret criminal law in both practice and its social context: Randall McGowen, "The Image of Justice and Reform of the Criminal Law in Early Nineteenth-Century England," *Buffalo Law Review* 32 (1983): 89-125; and Cynthia B. Herrup, *The Common Peace: Participation and the Criminal Law in Seventeenth-Century England* (Cambridge, 1987), 193-206. Ignatieff provides an imaginative reexamination of the relationship between punishment and social control. Ignatieff, "State, Civil Society, and Total Institutions: A Critique of Recent Social Histories of Punishment," *Crime and Justice: An Annual Review of Research* 3 (1981): 153-192. See also Gareth Stedman Jones, "Class Expression versus Social Control? A Critique of Recent Trends in the Social History of 'Leisure,'" *History Workshop* 4 (1977): 162-70; Thomas Dumm, *Democracy and Punishment: Disciplinary Origins of the United States* (Madison, 1987).

ing of its intellectual underpinnings. English penal reformers engaged in an innovative and sophisticated experiment to construct an aesthetics of punishment. Concerned with punishment as an object of perception, they sought to reinvest that perception with deterrent power. During the second half of the eighteenth century, the locus of punishment shifted—not only from public to increasingly private forms of retribution, but from the visual senses to the imagination.

This period witnessed the genesis of a new-found role for the imagination in shaping the aesthetics of capital punishment. But, ironically, the rise of the imagination may have hastened the ultimate irrelevance of punitive aesthetics itself. Transplanting the gallows in 1783 from Tyburn to Newgate and abolishing the execution procession that was England's most striking visual expression of its justice system, marked the first step towards private capital punishment. In 1868, the gallows would retreat still further—behind the prison wall.<sup>59</sup> Such penitentiary-based private forms of execution did not seek to appeal to the imagination. With the successful creation of the hermetic world of nineteenth-century private punishment, punitive aesthetics were rendered largely obsolete.

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59. David Cooper, *The Lesson of the Scaffold: The Public Execution Controversy in Victorian England* (Athens, Ohio, 1974), 148-78.