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Detention without Subjects: Prisons and the Poetics of Living Death

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He has ceased to be a citizen, but cannot be looked upon as an alien, for he is without a country; he does not exist save as a human being, and this, by a sort of commiseration which has no source in the law.

—Guyot, “Civil Death”

In a recent study of “Indefinite Detention,” Judith Butler shows how, according to the authority that holds them, “the humans who are imprisoned in Guantánamo do not count as human.” She writes, “They are not subjects protected by international law. . . . They are not subjects in any legal or normative sense” (xvi). The Guantánamo captives—called “detainees,” not prisoners—are outside the conventions of criminal justice and military conflict, outside the state, outside subjectivity. Drawing from Carl Schmitt and Giorgio Agamben, Butler describes Guantánamo as an “exception” to ordinary procedures, created in a wartime state of emergency. Guantánamo is not a conventional modern prison, designed to discipline and punish; it is a “camp” whose inmates have lost the protections of citizenship and now endure, in an “indefinite” time and space, as “bare life.”¹ Working with the same materials, Donald Pease describes the detainees as “persons outside the existing juridical categories and refused the basic dignities of legal process” and as “exceptions to the human condition” reduced to mere “animated flesh” (14, 15). For Pease, the wartime suspension of judicial process that magically creates such monsters is an “unprecedented” breach of the social contract (6). Exploring “Guantánamo’s Symbolic Economy,” Susan Willis, too, invokes Agamben and refers to the detainees as “humans who are less than chattel; who have no status” (128, 124). In short, the prevailing account of Guantánamo in American Studies represents what Butler calls the “new war prison” as an historical anachronism, a violation of the established order that inaugurates a terrifying new state.

Much has been illuminated by such interpretations. We see, especially, how the tremendously influential thesis of Michel Foucault’s *Discipline*

and Punish (1975)—that prisons produce self-governing subjects through isolation and surveillance—loses its explanatory power in the age of Guantánamo. As sovereignty eclipses subjectivity as the key analytic concept, incarceration seems to concern not the “soul” but war, citizenship, and the boundaries of the body politic. In the war prison, we find none of the techniques of training, labor discipline, or rehabilitation associated with the penitentiary. We confront, instead, detention without subjects: a captivity that strips away rights and mortifies subjectivity. Yet the revealing concept of the “exception” has also created some significant blind spots. Using words like “unprecedented” to protest the Bush administration’s policies, we gain a certain rhetorical force, but we risk normalizing all that came before. If the terms “exception” and “bare life” allow us to see the limits of Foucault’s “disciplinary” regime, they also tempt us to assume that such a regime was, until quite recently, the actual order of things.

The news and pictures from the war on terror are shocking, but legal and carceral dehumanization has a long history.² In this essay I will argue that a version of detention without subjects, stripping away rights and mortifying subjectivity, is not the “exception” but the very premise of the American prison. The classic penitentiary, unlike the contemporary war prison, held offenders who had been convicted through due process, and it claimed to restore some of them to citizenship, godliness, and a place in the lawful community. On these distinctions rests the claim that Guantánamo is an unprecedented institution. Yet the distinctions are less substantial than they may appear. The great penitentiaries of the early nineteenth century, the foundations of the modern prison system, were built around a myth of rebirth—the fallen convict resurrected as a worthy citizen—but such a myth demanded that the prisoner must first pass through a virtual death. The legal, material, and symbolic violence of the penitentiary regime, therefore, worked to turn the convict into a kind of animate corpse. The prisoner in the penitentiary was not only a subject in the making; he was also a figure of exclusion and decay, provoking both pity and terror.

Pursuing the history and meaning of carceral dehumanization to the prison’s foundations in the early nineteenth century, I will move among the three fields of law, history, and literature. What connects the penal law, the history of prison policy, and the antebellum literary imagination here is the common project of representing the ghostly figure of the living person who has lost the citizen’s full, vital humanity. The criminal law invoked the fiction of “civil death,” the status of a living person divested of all civil rights. As if to manifest in concrete and in practice this legal black magic, prison discipline directed the inmate through a ritualized “mortification” or making-dead. And in the literature of the period, the ghostly prisoner appeared as both an object of violence and a subject of resistance.

Provoked by the terror of Guantánamo, then, a revised understanding of the original American prisons can also provide some new insight into nineteenth-century literature. In particular, recognizing the prison as a scene of mortification might change how we understand the meaning and politics of the literary gothic. A century and a half before Agamben's "bare life" began to loom over the critical landscape, the ghosts and animate corpses in the works of Hawthorne, Poe, Dickinson, and many others embodied the dehumanizing power of detention—and, in some cases, the outcast subjectivity that might confront and oppose the penitentiary's designs. With special attention to writings on prisons by Charles Dickens and Herman Melville, I will show that the gothic was not necessarily a romantic flight from the real historical forces of law, violence, and coercion. In certain instances of what might be called the "carceral gothic"—Poe's claustrophobic nightmares, Dickens's depiction of Philadelphia prisoners as men and women "buried alive," Melville's conception of the ghostly Bartleby, dying in *The Tombs*—the gothic reckoned with practices and fantasies at the heart of American political life. As such, it provides a rich conceptual vocabulary that might help us begin to understand the poetics, the politics, and the long history of detention without subjects.

Dead in Law

In criminal law the living dead are produced through "civil death," a legal fiction indicating "the status of a person who has been deprived of all civil rights" ("Civil Death Statutes," 968). Historically, U.S. civil death statutes have dictated that the felon may not vote or make contracts. He loses his property. In some states his wife becomes a widow, free to remarry without divorcing him. Thus the incarcerated convict retains his "natural life"—his heart beats on, he labors, and he consumes—but he has lost the abstract life that made him fully human in the eyes of the law. Scholars trace the origins of civil death back to monasticism and to ancient and medieval criminal codes. In the middle ages, entering the cloister meant relinquishing one's possessions and rights, and often involved a ritualized passing away from the living world. Norman Johnston, in his history of prison architecture, notes that English anchorites "were installed during a solemn church service that included parts of the burial service, as the anchorite was literally bricked into his or her little prison" (*Constraint*, 18). Afterwards, though his body lived on, the monk was "overlooked" by the law "as though he were no longer in the land of the living" (Pollock and Maitland, I: 434).

The most violent forms of civil death, however, belong to the traditions of punishment. In classical Greece, convicts could be politically excommunicated, "denied such fundamental rights . . . as the right to vote and to appear in court." In Rome, where the phrase "civil death"

was first applied, the criminal could be branded with “infamia,” a mark signifying moral corruption and banishment from public life (Itzkowitz and Oldak, 721–23; Von Bar, 24–25). In the medieval conceptions of crime and punishment that form the foundations of English common law, criminals were exposed to “outlawry,” cast outside the protective sphere of collective life. The outlaw could be “killed with impunity” (Ewald, 1059). He had become “the legitimate prey of anyone anxious to satisfy a lust for cruelty” (Rusche and Kircheimer, 21). Indeed, according to the great nineteenth-century scholars Sir Frederick Pollock and Frederic William Maitland, the outlaw was a man turned into a menacing beast by the magic of justice: “It is the right and duty of every man to pursue him, to ravage his land, to burn his house, to hunt him down like a wild beast and slay him; for a wild beast he is; . . . he is a wolf.”³ Banishing the criminal from its protective circle, the community redefines him as a creature less than human, exposing him to unlimited violence.⁴ Legal rights and human sympathy are lost, and only a vulnerable, animal body remains, suspended between “civil” and “natural” death. Yet this life divested of its humanity is never absolutely “a piece of animal nature without any relation to law.” As Agamben notes, it represents “a threshold of indistinction and of passage between animal and man” (*Homo Sacer*, 105). Thus the person “dead in law” dwells at the boundary between inside and outside, between the human and the haunting “other.”

By the seventeenth century British authorities had adapted a version of civil death to justify various forms of dehumanizing bondage and service. From 1617 forward, “transportation”—banishment from England, often including conscription as indentured labor—was a legal punishment for felons. It became a kind of substitute for capital punishment, a sentence casting rights-bearing people out of the commonwealth and reducing them to beasts of burden. Sir William Monson praised the reform, arguing that it would provide a useful class of “king’s labourers” and “save much blood that is lamentably spilt by execution.”⁵ In the aftermath of King Philip’s War (1675), colonial governments in New England similarly used a juridical logic to turn men and women into slaves; Jill Lepore records that Indians “who were neither notorious enough to be hanged nor harmless enough to remain in New England were routinely sold into foreign slavery” (153). In 1718 the Transportation Act made banishment a central element of the British penal system, expelling those “who had forfeited their right to remain members of civil society” (Ekirch, 19). Again, a judicial condemnation turned the free, rights-bearing citizen into a bandit and a bonded laborer, as the ancient notion of civil death evolved to serve the more modern purposes of empire and slavery.

In some ways the movement that produced the penitentiary system may appear to have rejected the premises of such dehumanizing punishments. The ascendant reformers of the late eighteenth and early nineteenth

centuries held that punishment should not just harm the offender but also improve him; that open displays of violence were dangerous to the social order and should be replaced by a private discipline of penitence and training; that the criminal should be prepared, upon release, for the sober task of self-government.⁶ A premise for such reforms was that the convict was not a predator or an enemy but a citizen, one of us, at least some of whose rights must be respected. "Our object," the English preacher and reformer Jonas Hanway wrote in 1781, "is nothing less than the souls and bodies of the most miserable part of our fellow-creatures, our fellow-Christians" (45). The "great moral justification of the reform movement," then, became the "humanity of the convict" (Foucault, 74; my emphasis). The whole enterprise of building the expensive new prisons, of providing clean air and water and the silence necessary for reflection, of teaching the prisoner how to read the Bible and how to earn his living through productive labor, was carried along by what Foucault calls "a cry from the heart"—a sentimental narrative that called for a discipline of "kindness and proper instruction" (Rothman, 86).

At the same time, however, the gothic fiction of civil death was written into the law. In its modern form, as in its ancient one, it depended on the legal distinction between the rights-bearing citizen-subject and unprotected "natural" life. In his monumental *Institutes of American Law* (1854), the jurist John Bouvier drew the line: "The enjoyment of civil rights is attached to the quality of citizen of the United States. This quality is subject to be lost by abdication or renunciation of the rights of citizen, or by civil death" (94). Bouvier went on to define the term: "Civil death is the state of a person who, though possessing natural life, has lost all his civil rights by a judicial condemnation, and is, as to them, considered dead" (95). Divested of citizenship and subjectivity, the condemned becomes a shadow, an animate corpse in the eyes of the law.

What was the use of this ancient and supernatural legal fiction in an enlightenment system expressly devoted to the rehabilitation of criminals and the making of proper subjects? To many modern lawyers, civil death appears to be a "vestigial doctrine," a relic of older, superstitious codes ("Civil Death Statutes," 971).⁷ In the age of bureaucratic departments of "corrections," the notion that the law can turn a living citizen into an animate corpse seems like outdated wizardry. However, as the legal critic Alec Ewald notes, the ambiguous figure of the person dead in law lingers, even in modern times, at "the boundaries of the body politic" (Ewald, 1045). Colin Dayan, reflecting on what she calls law's "sorcery," argues that "the felon rendered dead in law" is no anachronism but an effect of a modern power that is "most instrumental when most fantastic and most violent when most spectral" ("Legal Slaves," 3). Civil death is neither a relic nor a fanciful metaphor. It is the legal "language" that finds its "materialization" in the modern prison (Dayan, "Legal Slaves," 16).

In *Asylums* Erving Goffman shows how social life in “total institutions” such as prisons is scripted to perform the “mortification” of the detained subject—the legal fiction of civil death, Goffman notes, is manifest in “various forms of disfigurement and defilement” that recast the inmate as a ghost (15–16, 35). The prisoner is severed from the social world in which his old identity was grounded; he loses his name and is called by a number; his clothes are confiscated and replaced with a uniform; his hair is cut or shaved—through “a series of abasements, degradations, humiliations, and profanations of self,” the inmate is conscripted into a ritualized death (16, 14). Goffman was mainly concerned with the institutions of the late twentieth century, but his account of ritualized “mortification” applies to the penitentiary system since its origins two centuries ago. The directors of the Massachusetts State Prison in 1823 imagined the convict’s initiation to penitence as a ritualized burial:

[W]hen a convict is received . . . he is stripped of his clothing, and dressed in the livery of disgrace; his hair is cut, and he is put, for a period of time, into a cell, where no sun ever shines. He is cut off from intercourse with society. He lives for twenty-four hours on eight ounces of coarse bread, with enough water to allay the fever which runs through his veins. He is removed into the workshops, and pursues a constant and laborious occupation for others’ benefit, in the condition of a Slave. (quoted in Roscoe, *Observations*, 50–51)

The ritual clearly and explicitly follows Goffman’s script of “mortification.” The prisoner is buried alive in a cell “where no sun ever shines.” He loses all signs of his identity. His nourishment is minimal and coarse. He performs the possessed labor of the slave. In his costume, scene, and gestures, he enacts his living death.⁸

The penitentiary seems to be a paradox. Its founders declare their respect for the convict’s humanity and their wish to lead him toward a new life, yet they invoke the legal fiction of civil death and the ritual practice of mortification. The object of these divided aims, the prisoner becomes a divided figure: a redeemable soul, but also an offending body; a citizen-in-training, but also an exile from civil society; a resurrected life, but also an animate corpse. In what might be called the *poetics of the penitentiary*—the images and tropes that give meaning to the violence of detention—enlightened sentimentality is bound up with the violent and ghostly nightmares of the gothic. It is tempting, of course, to accuse the reformers of a mere hypocrisy, as if the promises of correction and “humanity” in punishment were just fig leaves covering a reality of dehumanizing violence. But dehumanization was no secret; it was written into the law, performed in the rituals of prison initiation, and discussed in well-publicized reform debates. Even eloquent

theorists of the penitentiary such as Gustave de Beaumont and Alexis de Tocqueville sometimes described its inmate as one “dead to the world” (84). In order to understand the prison, we will have to see how living death was neither an accident nor an excess, but a part of its design. I will conclude this section by describing two roles played by living death in the early penitentiaries. In the next section, I will explore their reappearance in two literary works about dehumanized prisoners.

First, civil death explained how citizens convicted of crimes could justifiably be subjected to the solitude, discretionary violence, and labor discipline of the penitentiary system. Earlier punishments had been more openly violent but also, in a sense, more direct: the judge condemned a man to die by hanging, and he was hanged; the judge sentenced a woman to stripes, and she was whipped in the public square. Incarceration was a more complex kind of punishment, involving not only the explicit sentence—two or five or twenty years of confinement—but also a whole range of other, secondary afflictions. Prisoners who violated the strict regulations governing prison life were not tried for new crimes. They were punished at the discretion of prison officials. At Philadelphia’s Eastern State Penitentiary, for example, those who called out to each other through the walls of their solitary cells might be given the “iron gag,” a metal bit fastened to straps that bound the inmate’s wrists behind his back, tightening when he struggled (Meranze, “A Criminal”). At New York’s Auburn Prison, convicts who disobeyed the guards might be beaten with a barbed whip known as the “cat’s claw.” Such torments were not explicit parts of the judicial condemnation, but they could be applied because, after civil death, convicts had no legal protections against them.

Elam Lynds, the legendary warden of Auburn who oversaw the building of Sing Sing, called his inmates “coarse beings, who have had no education, and who perceive with difficulty ideas, and often even sensations”—as if the men and women under his authority were somehow literally dulled to the world, and could be controlled only by the whip and an atmosphere of terror (Beaumont and Tocqueville, 164). Stephen Allen, an inspector at Auburn, similarly defined its inmates as creatures without any claim to humanity. New York had recently abolished the death penalty for most crimes. The state, Allen reasoned, had yielded its claim over the convict’s natural life—but it had reserved its power to extinguish his civil being:

[W]hat are the natural and political rights of a criminal convicted of rape, highway robbery, burglary, sodomy, maiming, forging public securities, &c. the punishment of which is death by the laws of England; and in this state, imprisonment for life? Are they not *dead in law*, and consequently without rights, natural or political? (Allen, 4; emphasis added).

Allen's point is clear: the inmates of the penitentiary are not protected, rights-bearing citizens. Their natural lives have been preserved, but the state's power over them recognizes no limits. They are coarse beings, monsters in exile, dead in law.

Thus, for some wardens and administrators, civil death justified the brutalizing torment and servile labor to which the penitentiary subjected its inmates. This first, apparently cynical, use of the "fiction" of living death, however, was not entirely acceptable to the enlightened authorities who championed the penitentiary. When he visited Auburn in the 1820s, for instance, the British reformer William Roscoe protested that its harsh discipline violated the human rights of the incarcerated. In his view, a penitentiary system built for benevolent purposes had been misappropriated by petty tyrants. Roscoe compared the "immolat[ion]" of the isolation cell to the "antiquated" practices of live burial and human sacrifice; solitary confinement was nothing more, he wrote, than a way of "tormenting . . . wretched beings, without any rational or beneficial effect" (*Observations*, 47–49). Roscoe's protest was the "cry from the heart," arising from the sentimental feeling that the prisoner must be treated with humanity—"these," he insisted, "are still our fellow creatures" (10). In a sentimental idiom, he called for a kind of humanitarian intervention, intended to protect Auburn's wretched beings from torture by inspiring sympathy for their misery and a recognition of their human rights.

Yet Roscoe's noble effort could go only so far. He saw the misery of Auburn as an excess, a deviation from the otherwise benevolent principles of enlightened punishment. As much as he denounced the practice of "sacrifice," then, his goal was simply to build a better penitentiary—or, as he put it, a "system of penal discipline, commensurate with the other improvements of the present day" (49). In a curious way, the critique of prison discipline in the name of "humanity" may actually have served to expand and refine the penitentiary system in general. "The prison," Foucault observes, "should not be seen as an inert institution, shaken at intervals by reform"; rather, it "has always formed part of an active field [of] projects, improvements, experiments, theoretical statements, personal evidence and investigations" (235). Similarly, Ruth Gilmore, in her new book on the exploding prison system of late twentieth-century California, notes that many well-meaning "remedies . . . get caught in the logic of the system itself, such that a reform strengthens, rather than loosens, prison's hold" (242). Again and again, critics pointed out that solitary confinement and the rigors of prison were destroying the mind, not correcting it. Again and again, reformers promised a more "humane" institution. These were the dynamics of the movement that built the penitentiary: the "wretched" prisoner was displayed, then contained; a gothic vision of living death appeared, only to be drawn into a sentimental narrative of resurrection.

Somehow, the revelation of dehumanizing violence inside the penitentiary system—what Roscoe called the prisoner's "sacrifice"—seems to have reinforced the very foundations of that system. Here we approach the second, more intractable, role of living death in the penitentiary.

The influential Philadelphia reformer Benjamin Rush, a signer of the Declaration of Independence and a founder of the American "house of correction," dreamed about the institution in these terms:

[M]ethinks I already hear the inhabitants of our villages and townships counting the years that shall complete the reformation of one of their citizens. I behold them running to meet him on the day of his deliverance. His friends and family bathe his cheeks with tears of joy; and the universal shout of the neighborhood is, "This our brother was lost, and is found—was dead and is alive." (90)

Rush was well-versed in the language of reform. He used the familiar terms and tropes—the insistence that the convict was a citizen, one of us, not a stranger or an enemy; the sentimental tears that celebrate his restoration to family and community. But when Rush described the house of correction as a scene of death and rebirth, he touched the deepest problem of punishment in the modern age. The prison must not merely torment or instruct the offender; it must lead him through a total reformation. Before the prisoner could receive the humanizing embrace of the community, he must be stripped down and dehumanized. Before he could be resurrected, he must be made to live out his death.

Benjamin Rush was part of a generation of reformers who, in the wake of the American Revolution, sought to build a new system of law and order.⁹ The penitentiary was a central institution in this system, which was organized around the myth of citizenship and community—of humanity—known as the "social contract." Developed by British and European political philosophers in the seventeenth and eighteenth centuries, this theory held that, some time in the distant past, free men had agreed to sacrifice their natural liberty and to abide by common restraints for the sake of their mutual security and prosperity. The political community was not formed by divine command or by military conquest; it came into being when primitive men freely chose to submit, casting their lots with the commonwealth. Yet the sacrifice of natural liberty had given them something more than a sustainable peace. Adherents to the myth of the social contract argued that, in the transition from the state of nature to the "civil state," they had undergone a kind of magical transformation. Once little more than beasts, they had acquired a transcendent spirit, the subjectivity of the citizen.

Rousseau, in *The Social Contract*, wrote that the "passage from the state of nature to the civil state produces quite a remarkable change in man":

Although in [the civil] state he deprives himself of several of the advantages belonging to him in the state of nature, he regains such great ones. His faculties are exercised and developed, his ideas are broadened, his feelings are ennobled, his entire soul is elevated to such a height that . . . he ought constantly to bless the happy moment that pulled him away from it forever and which transformed him from a stupid, limited animal into an intelligent being and a man. (151)

According to the mythology of the social contract, the sacrifice of natural liberty is the virtual death that enables men to be reborn as higher beings. It replaces instinct with reason, appetite with enlightenment. It turns the "stupid, limited animal into an intelligent being and a man." Thus, in the political imagination of the societies that built the first great penitentiaries, the citizen was a double figure, an enlightened subjectivity rising from the remains of a sacrificed beast. The penitentiary can be seen as a kind of theater where this fundamental political myth was embodied and performed. Perhaps, then, the problem was not merely that reformers such as Roscoe and Rush had failed to secure the inmate's humanity from cruelty and abuse; perhaps the very "humanity" offered in sympathy required, as a kind of precondition, his living doom. If so, the prisoner was neither an ideal "self" nor an object "other"; rather, he was a figure at the threshold, the sacrifice of life through which the citizen-subject's transcendent humanity was born.

Material Ghosts

An ex-sailor incarcerated at Eastern State Penitentiary in the 1840s, writing under the pen name "Harry Hawser," depicted captivity in these morbid terms:

But, fated to a living tomb,
 For years on years in woe to brood
 Upon the past, the captive's doom
 Is galling chains and solitude. (70)

In nineteenth-century literature at large, too, punishment is routinely described as dehumanization, and prisoners appear as inhuman or monstrous figures, buried alive, embodying the condition of civil death. "By long suffering," says the narrator of Poe's "The Pit and the Pendulum," "my nerves had been unstrung, until I trembled at the sound of my own voice, and had become in every respect a fitting subject for the species of torture which awaited me" (250). In one of Emily Dickinson's lyrics, "Doom is the House without the Door." In Hawthorne's *The Scarlet*

Letter, the Reverend Dimmesdale is slowly and secretly tormented—made “to die daily a living death,” his “nerve seem[s] absolutely destroyed,” until he appears to be a “ghost” (145, 139, 142). Clifford, the ex-convict in *The House of Seven Gables*, is a similarly “wasted, gray, and melancholy figure—a substantial emptiness, a material ghost” (76).

At least since Leslie Fiedler’s influential *Love and Death in the American Novel*, critics have recognized a fascination with violence and the grotesque, with gothic fear and fantasy, in the literature of a U.S. body politic conceived in enlightenment. For some decades, such visions appeared to be flights from the real world of power, politics, and commerce. Fielder diagnosed a raw national psyche with no feeling for old-world courtship, turning to violence because it lacked a language of love. Others interpret the gothic, and Romanticism generally, as a kind of escapism from the rigid demands of Enlightenment reason.¹⁰ More recently, however, scholars have shown that even ghosts might belong to a more specific history.

Various contexts suggest themselves. Nineteenth-century medical technologies, for instance, had made the “boundaries which divide Life from Death,” as Poe wrote in “The Premature Burial,” “shadowy and vague” (258). Calvinist and other religious traditions, too, provided visions of a life beyond death.¹¹ And no history has been so illuminating of the gothic imagination in America as that of slavery: the real system of repression and terror, whips and chains, social death and zombie life at play in the Atlantic world in the age of the American Renaissance.¹² Reading the gothic alongside the history of civil death and carceral mortification, I hope to contribute to the emergent critical tradition that perceives the gothic in American literature as a reckoning with, not a flight from, historical forces and conflicts. Much like the plantation, the penitentiary was a material space where gothic nightmares came to life. However, the legal and symbolic dynamics of the prison also present an important difference: the prison required civil death and mortification, but it imagined them as the premises of a benevolent, redemptive discipline. Its gothic practices were framed by a sentimental narrative of pathos and humanization. Because the penitentiary was called into being by a “cry from the heart,” it presented a peculiar difficulty to critics who sought to expose its brutality. As soon as they began to speak in a sentimental idiom, to protest mortification and appeal to the human rights of the incarcerated, they joined William Roscoe and the liberal reformers who were, after all, the very authors of the penitentiary system. Sentimentalism could never touch the discursive foundations of the prison; it could only call for more reforms, and thus more prisons. As soon as the gothic prisoner was offered the embrace of humanity, he lost his power to disturb.

I will conclude by exploring two antebellum texts that represent prisoners as the living dead—Charles Dickens’s account of his visit to Eastern

State Penitentiary in *American Notes* and Herman Melville's *Bartleby, The Scrivener*. Dickens's travel writing and Melville's novella have not traditionally been understood as examples of the gothic genre, but both authors use a gothic idiom to depict the world of antebellum detention and its inmates. In each, a narrator is disturbed by a prisoner's ghostly alterity; and in each, the narrator responds with a sentimental effort to humanize the prisoner. Both Dickens's narrative and Melville's novella, then, belong to a new literary-rhetorical tradition in the antebellum period, in which the conventions of the gothic were adapted to the journalistic and reformist purpose of exposing the abuses of the prison interior (see Halttunen). But the results are quite different in the two texts. Dickens, extending his sympathy to the dehumanized inmates at Eastern State, joins the liberal reform movement in its call for a more humane, and more perfect, penitentiary. In Melville's novella, by contrast, the "cadaverous" Bartleby refuses the narrator's sentimental embrace and the promise of liberal humanity. Instead, he inhabits his ghostliness as a mode of resistance, haunting and terrorizing his keeper.

When he visited the United States in the early 1840s, Charles Dickens said that he wished most of all to see two famous sights—the "Falls of Niagara" and the Eastern State Penitentiary in Philadelphia (Vaux, *Sketch*, 111). His wish to get inside the prison was not unusual; Eastern State was a popular destination, drawing tourists, groups of schoolchildren, and such foreign dignitaries as Alexis de Tocqueville and Harriet Martineau. Like many others, Dickens received a cordial welcome. The authorities knew that the prison was controversial, and they may have hoped that the novelist, with his well-known sympathy for the inmates of England's crowded, filthy gaols, would admire their experimental system. They gave Dickens a full tour, answered his questions, and allowed him to spend some time with the inmates. "Nothing," he recorded, "was concealed" (91).

What Dickens saw at Eastern State, however, was no monument of reform; it was a terrifying scene of madness and living death. He believed that the reformers meant well, that their "motives" were "humane," but he was convinced that they had lost control of their experiment. The system of prison discipline in Philadelphia, where each prisoner passed his sentence in almost uninterrupted solitary confinement, Dickens judged "cruel and wrong." "I hold this slow and daily tampering with the mysteries of the brain," he wrote, "to be immeasurably worse than any torture of the body." Isolation, the guiding principle of reform at Eastern State, led not to repentance and redemption but to a cadaverous inhumanity (90–91).

The portraits of prisoners in Dickens's account of the penitentiary all bore at least a touch of morbidity. One inmate, he wrote, "look[ed] as wan and unearthly as if he had been summoned from the grave" (94). Another, a sailor locked up for eleven years, sat silently "star[ing] at his hands, and

pick[ing] the flesh upon his fingers, and rais[ing] his eyes for an instant, now and then, to [the] bare walls." Dickens called him a "helpless, crushed, and broken man" (94–95). But Dickens gave his most extravagant sentiments to a German thief sentenced to five years. With stolen "colours," the novelist noted, this unreformed convict had "painted every inch of the walls and ceiling [of his cell] quite beautifully." He had also turned his exercise yard into a makeshift garden and, in its center, had "made a little bed . . . that looked, by-the-bye, like a grave" (93). The imprisoned genius was, to Dickens's eyes, a perfect "picture of forlorn affliction and distress of mind"; one of the world's preeminent artists of sympathy was moved to declare that he had never seen or heard of "any kind of misery that impressed [him] more than the wretchedness of this man" (93).

To an audience familiar with the debates surrounding the penitentiary, the meaning of Dickens's observations would have been clear. He had invoked a parade of ghostly figures to testify against the solitary system at Philadelphia and to support its rivals in New York and Boston. He signaled his agreement with his countryman William Roscoe, who in an open letter on the Philadelphia system had declared that the mind suffering in unrelieved solitude "rushes back on itself, and drives even reason from her seat."¹³ Dickens, like Roscoe, imagined that the penitentiary was producing cadaverous men and women buried alive, dead to the world.¹⁴ And Dickens, like Roscoe, used the imagery of living death to call for more reforms. He concluded by endorsing the rival of Eastern State, the "congregate system," which enforced solitary confinement by night but permitted group labor by day in factory-like workshops; the congregate system, Dickens wrote, "has worked well, and is, in its whole design and practice, excellent" (100).

Perhaps what makes Dickens's account of Eastern State at once so rich and so troubling, then, is that, beneath its surface of sentimental protest, it carries the secret knowledge that such discourse is inadequate to the larger problem of the modern prison. Dickens had talked with the reformers and read their pamphlets. He knew how well they spoke the language of humanizing sympathy. He recognized that Eastern State was, in a sense, a monument to the convict's redeemable soul. Any condemnation offered in the name of the convict's human rights thus belonged to the ideology that produced the penitentiary in the first place, and to the ongoing project of its perfection. Responding to the gothic presence of the living dead with tearful sympathy, his protest supported another, more "excellent" penitentiary. To move beyond this dilemma, the prison's living dead would have to be represented in a way that did not resort to any sentimental plea for humanity. The task was undertaken by Herman Melville in his depiction of a "cadaverous" character bound for the Tombs.

"Bartleby," says the lawyer who narrates the scrivener's story, "was one of those beings of whom nothing is ascertainable, except from the original

sources, and, in his case, those are very small" (3). Bartleby is among the most difficult ambiguities in Herman Melville's fiction, pale and inscrutable as the white whale. Who is he? The narrator passes through a series of speculations and, in the end, to a vision of Bartleby in a back room of the postal service, opening letters addressed to the dead (45–46). For decades, critics have been taking up the mystery, too, proposing resolutions—Bartleby as the narrator's double, Bartleby as a misunderstood artist like Melville, Bartleby as Jesus Christ, Bartleby as an allegory of alienated labor, and so on.¹⁵ If the critic can guess the answer to the riddle of the title character, then the meaning of the story promises, at last, to be revealed.

Against the tradition of inventing identities for Bartleby, the French philosopher Gilles Deleuze makes a surprising counterproposal: "Bartleby," Deleuze insists, "is neither a metaphor for the writer nor the symbol of anything whatsoever" (68). For Deleuze, the story is ultimately not about its title character but about the destructive force of his signature phrase, "I prefer not to." Without abandoning *Bartleby's* central mystery, as Deleuze does, for the pure grammar of power and resistance, I would suggest that the philosopher opens up a promising line of inquiry when he refuses to make Bartleby a "symbol of anything." As it turns out, his words echo Melville's own interpretation of another ghostly protagonist.

When he received his copy of *The House of Seven Gables* from his neighbor Nathaniel Hawthorne, Melville read it with delight. A few days later he wrote to Hawthorne praising the novel, especially his favorite character, the ex-prisoner: "Clifford," he declared, "is full of an awful truth throughout. He is conceived in the finest, truest spirit. He is no caricature. He is Clifford."¹⁶ In Melville's view, Clifford was emphatically not a metaphor. The "material ghost" was simply and stubbornly himself, resisting absorption into any larger scheme. Indeed, it might not be too much to say that in Melville's view Clifford represented the possibility of a limit, a closed surface beyond which interpretation could not pass. What Bartleby refuses, however, is nothing as general as narrative itself; Deleuze leaps over too much when he claims that the phrase "I prefer not to" somehow "hollows out a zone of indetermination that renders words indistinguishable, that creates a vacuum within language" (73). Bartleby's "cadaverous triumph" is achieved when he quietly undermines not language itself but the historically contingent set of labor relations, disciplinary codes, and narrative conventions that constituted the penitentiary system.

Bartleby is narrated by a genial, easygoing lawyer who makes his living far from the criminal courts, in the back chambers of banks and offices, doing "a snug business among rich men's bonds, and mortgages, and title-deeds" (4). He employs a twelve-year-old office boy called Ginger Nut and two copyists, Turkey and Nippers. As an employer, he considers himself generous, even indulgent; as a writer, he is familiar not only with legal

codes but also with the tropes of popular stories that evoke tears from “sentimental souls” (3). When he is appointed Master in Chancery, an obsolescent but lucrative judgeship, he looks to hire a third scrivener. Enter Bartleby.

The new arrival stands in the doorway looking “pallidly neat, pitiably respectable, incurably forlorn” (11). Readers are given no history of Bartleby; we never learn what past has produced this ghostly presence. Carol Colatrella, in a detailed and provocative study, suggests that Bartleby is an ex-convict, a cadaverous victim of penitentiary discipline like those described by Dickens. In Colatrella’s view, *Bartleby* is an encoded critique of the penitentiary, exposing how the institution failed to prepare its inmates to return to the labor force and “to deal with the entrepreneurial nature of life in America” (52).¹⁷ I want to suggest, however, that Colatrella’s reading, by providing an identity for Bartleby and thus a clear, reformist moral for the novella, too neatly resolves its mystery. In order to understand the full force of *Bartleby*’s challenge, we should accept the narrator’s premise that “no material exists, for a full and satisfactory biography of this man” (3). Melville invokes the penitentiary not as an implied prehistory but as a complex of disciplinary and rhetorical structures used by the lawyer in his attempt to domesticate “the unaccountable Bartleby” (35). He devises at once a virtual penitentiary regime and a sentimental narrative mode—related strategies available to an enlightened antebellum man of the law.

In his first days, Bartleby is an efficient but enigmatic worker. His boss reports that he is doing “an extraordinary quantity” of copying, staying at his desk for long hours. The lawyer is clearly getting good production from his new employee, but he is a little disturbed by Bartleby’s ways. “I would have been quite delighted,” he says, “had he been *cheerfully* industrious” (12; my emphasis). The nagging problem is that there is no spark of life in Bartleby’s work, no affection for his boss, none of the comic humanity of Turkey and Nippers, with their big appetites and hot tempers. Bartleby writes on “silently, palely, mechanically” (12). The bare labor is being done, in other words, without the warmth, the little dramas of defiance and indulgence that humanize the social relations of the office.

The shape of Bartleby’s work space can be understood as the first of the lawyer’s efforts to solve the problem of Bartleby’s disturbing ghostliness. The office is divided into two sections, the lawyer on one side and the scribes on the other. When Bartleby arrives, however, the lawyer places him on his own side, behind a folding screen. Enclosed but available, Bartleby is given a desk facing a window that “commanded . . . no view at all, though it gave some light. Within three feet of the panes was a wall, and the light came down from far above . . . as from a very small opening in a dome” (11–12). As almost any reader will recognize, Melville in *Bartleby* pays careful attention to architecture, especially to the walls that surround the characters. Leo Marx has called the novella “Melville’s

Parable of the Walls," interpreting *Bartleby's* "hermitage" as an extreme form of the claustrophobic structures of modern consciousness and capitalism. But Melville, I think, has something more specific in mind.¹⁸ The key reference is to Pennsylvania's Eastern State Penitentiary and to New York's "Tombs," both designed by the architect John Haviland. In the solitary cells of The Tombs, the only light came in "through a high chink in the wall" (Dickens, 76). At Eastern State, the vaulted ceiling of each cell was equipped with a small skylight, commonly called an "eye of God" (Johnston, *Eastern State*, 40). God's eye, watching over the labor and penitence of the captive, was the most famous "small opening in a dome" in Melville's world, and the clearest sign that his lawyer is adopting for his scrivener the forms of labor discipline characteristic of Haviland's penitentiaries.

In their report on the American penitentiary, Beaumont and Tocqueville wrote that "absolute solitude, if nothing interrupts it, is beyond the strength of man; it destroys the criminal without intermission and without pity; it does not reform, it kills" (41). In many ways, their account of solitary confinement as a life-destroying torment seems to resonate with the protests of Dickens and Roscoe. Beaumont and Tocqueville, however, were admirers of Eastern State who recommended it as a model for new prisons in France. The key, for them, was that solitude should be mitigated by labor. Prisoners were tormented in their idleness by guilt and loneliness, but "labor, by comforting them, makes them *love* the only means, which when again free, will enable them to gain honestly their livelihood" (57; my emphasis).¹⁹ For the reformers, the affective element of labor relations was essential: the prisoner must not only do his work; he must embrace it as a lifesaving gift of love from his keepers.

Part of the humanitarian reform built into the penitentiary, then, was a turn away from the "hard labor" of unenlightened punishment, toward a productive labor infused with a warm, even maternal, ethos of benevolence and gratitude. Such is the relationship the lawyer-narrator of *Bartleby* attempts to foster with his scriveners. He offers Turkey a hand-me-down coat, but his feelings are hurt when the "insolent" employee does not "appreciate the favor." "He was a man," the lawyer concludes, "whom prosperity harmed" (9). If all goes according to plan, *Bartleby* will be *corrected* by solitude, becoming grateful to his boss and accountable to his narrator. But labor, even at the beginning, does not move *Bartleby* to love. He is enclosed and illuminated but unreformed, becoming ever more mysteriously, elusively "cadaverous" (21, 32). He baffles correction.

A few days after *Bartleby's* arrival, the lawyer asks him to proofread some copies. *Bartleby*, from behind his screen, delivers for the first time his demurral: "I would prefer not to" (13). Twice the narrator repeats his request, and twice more *Bartleby* replies that he would prefer not to. His quiet resistance, the motivating problem of the novella, has emerged.

"I looked at him steadfastly," says the narrator. "His face was leanly composed; his gray eye dimly calm. Not a wrinkle of agitation rippled him." Bartleby's resistance is not defiance; it is something subtler, more insidious. "Had there been the least uneasiness, anger, impatience or impertinence in [Bartleby's] manner," the lawyer explains, "in other words, had there been any thing ordinarily *human* about him, doubtless I should have violently dismissed him from the premises" (13; my emphasis). "Nothing so baffles an earnest person," he confesses later, "as a passive resistance" (17). Bartleby baffles because he prefers to make no claim on "humanity." As Rogin observes, he "has the power of negativity. He drains his surroundings of the humanity in which the lawyer would like to believe" (195–96). In Melville's terms, Bartleby inhabits a ghostliness—a "cadaverously gentlemanly *nonchalance*"—outside the whole economy of the human (21).

As the story progresses, Bartleby prefers to do less and less. First he declines to correct the copies made by Turkey and Nippers, then to correct his own; finally, he does "nothing but stand at his window in his dead-wall revery" (28). He merely persists in his cell, apparently "harmless in his passivity" but more and more disturbing to the lawyer and his business (17). Commanded to take his earnings and get out, he remains, unmoving, solitary and idle behind his green partition. The lawyer, trying to break Bartleby's resistance—to repair the ethical relation of master and worker and, along the way, to discover a narrative pattern fit to hold Bartleby—comically rehearses the history of punishment in miniature. He begins with the threat of "some terrible retribution," fantasizing about ways to provoke Bartleby into open defiance, "to elicit some angry spark from him answerable to my own" (19, 20). Briefly, he contemplates killing Bartleby—but a spirit of mercy stays his hand. Instead, he tries "to drown [his] exasperated feelings by benevolently construing [Bartleby's] conduct" (34). He considers the possibility that Bartleby is "demented" and ought to be committed "to some convenient retreat" (27, 29). He is willing to accept even Bartleby's idleness, if only Bartleby will accept his own place in the sentimental narrative of humanizing charity:

"Will you tell me, Bartleby, where you were born?"

"I would prefer not to."

"Will you tell me *anything* about yourself?"

"I would prefer not to."

"But what reasonable objection can you have to speak to me? I feel friendly towards you." (25)

Bartleby's eyes, "dull and glazed" by cataracts, are screens blocking every attempt to expose his character. As the conflict becomes more absurd, Bartleby becomes not more human but more "cadaverous," a haunting

presence inspiring a growing terror. The lawyer is visited by “sad fancyings—chimeras . . . of a sick and silly brain” (23). Cold and unresponsive as “a very ghost” (19), Bartleby provokes this crisis by exposing the inadequacy of the whole cultural system on which the lawyer’s snug “tranquility” depends (4). In his walled-in section of the Wall Street world, the law does its work without violence; the demands of labor are mitigated by a benevolent relation between the boss and his workers; and, when any sign of suffering arises, it can be absorbed into the patterns of sentimental narrative. Bartleby’s “I prefer not to” dismantles these enlightened ideals.²⁰ It is more than a refusal to work—it withdraws the scrivener from the recognizable humanity which is the foundation for the lawyer’s only means of understanding and correcting his recalcitrance. Bartleby stands at the limit of reformatory discipline and sentimental narrative, and his ghostliness is, to the eyes of the lawyer, the apparition of a life stubbornly outside those structures:

My first emotions had been those of pure melancholy and sincerest pity; but in just proportion as the forlornness of Bartleby grew and grew to my imagination, did that same melancholy merge into fear, that pity into repulsion. (24)

Bartleby’s inhumanity, the lawyer concludes, is an “innate and incurable disorder” (25). No asylum can correct him, and no sentimental narrative can account for him. Thus the sentimental story, baffled by a life that eludes work, discipline, and charity, encounters its opposite and counterpart, the gothic. In *Bartleby*, ghostliness is the sign of a life that quietly but unbreakably refuses the humanity liberally offered by the reformer’s cell and sympathy. The “pale form” of Bartleby unhinges the lawyer from security, and he “tremble[s] to think that [his] contact with the scrivener ha[s] . . . seriously affected [him] in a mental way” (27). Jittery and insecure, he keeps the door locked, frightened by “every footfall in the passages” (38). Haunted by a “strange creature,” frustrated in his efforts to correct Bartleby, embarrassed in front of his employees and clients, the lawyer finally abandons the office. Bartleby is left to the landlord and the police, who haul him off to The Tombs.

There, in a small, grassy courtyard—perhaps the “narrow, grave-like place” where Dickens witnessed a hanging (Dickens, 77)—the lawyer finds Bartleby “huddled” against a wall, his body “wasted” and cold (45). Bartleby’s death in The Tombs, unaccountable to the lawyer-narrator, is in a sense the only fitting conclusion for his story. In his ghostly passivity Bartleby has eluded the matrix of mechanical labor, penitentiary discipline, and sentimental narrative—but he has achieved that escape only by holding fast to the living death that is that cultural system’s negative image.

Turning away from “the wasted Bartleby,” the lawyer has no hope left of correcting his copyist. He speculates about a possible past in the Dead Letter Office and, in conclusion, delivers the famous lines that make up his answer to Bartleby’s “I prefer not to”—“Ah, Bartleby! Ah, humanity!” (46). Rogin reads this double sigh as the narrator’s “last effort to circumscribe the meaning of his scrivener’s fate,” to bury Bartleby in sentiment (Rogin, 201). Yet the phrases might be also read as a loss of faith, as if Bartleby’s death had finally given a bitter taste to the “delicious” language of “conscience.” Saying farewell to the scrivener, the lawyer may also be dispensing with an old, familiar way of negotiating with the social world. Like so much about *Bartleby*, the final turn is ambiguous. What’s left is no resolution but, perhaps, the sense of a lack. Melville has presented a problem for sentimentalism, conceiving a ghostly figure who lurks beyond the limit of “humanity,” refusing its bait. But Melville himself goes only as far as the lawyer-narrator can, to the gothic border of enlightenment. The hollow ringing at the end of the story, then, may be the sound of an absence, the missing subjectivity of Bartleby calling for a counterpart in a reader who can identify with the captive, with the force of his negativity, without sympathy. What *Bartleby* imagines, in other words, is an encounter with a ghostly, imprisoned other that provokes not a sentimental humanization but, instead, the disturbance of the very “humanity” on which the sentimentalizing self depends—a humanity which, as we have seen, involved a myth of sacrifice and a practice of carceral mortification. Bartleby’s death decomposes this self and leaves it searching for an alternative foundation.

Detention without subjects is no novelty, no exception. It has been at the heart of American political and cultural life since at least the building of the prison system in the early nineteenth century, when living death was encoded in law, enacted in disciplinary practice, and represented in the literary gothic. On the one hand, such a deep and long-established complex makes the critique of detention without subjects more difficult; it suggests that extending the ordinary human rights of the accused and condemned to those detained in the “war prison”—a worthy political and procedural reform—might actually *expand* the prison system and its (perhaps less visible) modes of dehumanization. On the other hand, however, a longer view of detention without subjects also gives us access to valuable conceptual and imaginative resources. The literary gothic, especially, becomes not an escapist fantasy but a reckoning with the law, practice, and politics of detention. Sometimes, the gothic is absorbed into a sentimental design—but sometimes, as in *Bartleby*, the promise of humanity is declined, and another challenge emerges. If our encounter with those dehumanized and mortified by detention can provoke us to move beyond a reformist sympathy, to expose and remake the very character of the

“humanity” on which our concepts of rights and citizenship are grounded, then Bartleby will have achieved his “cadaverous triumph.”

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NOTES

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1. Agamben, in turn, cites Butler’s account with approval (*State*, 4).

2. Amy Kaplan, in “Where is Guantánamo?” has demonstrated how a hundred years of U.S. imperialism established a legal framework that enabled American military power to control populations without granting them constitutional rights, setting the precedent for the Bush administration’s designation of the “enemy combatant,” a person “codified as less than human and less deserving of human, international, or constitutional rights” (853). Colin Dayan and Michelle Brown, meanwhile, have connected the dehumanizing violence of Abu Ghraib to the prison-industrial complex of the “homeland.” Dayan argues that the “ominous discretionary powers used to justify [abuse and torture at Abu Ghraib] are not exceptional; they are routine and entirely familiar to those who follow the everyday treatment of prisoners in the United States” (Dayan, *Cruel*, 5).

3. Pollock and Maitland II, 449. See Itzkowitz and Oldak, 722–23, and Ewald, 1059.

4. For similar accounts of the origins of modern civil death and disenfranchisement penalties, see “Civil Death Statutes,” 969–70; “Disenfranchisement of Ex-Felons,” 1301–02; Itzkowitz and Oldak, 721–27; and Ewald, 1058–64.

5. Monson continued: “they must be shaved both head and face, and marked in the cheek with a hot iron, for men to take notice of them to be the king’s labourers, for so they should be termed and not slaves” (quoted in Linebaugh and Redicker, 57).

6. Here I am summarizing the dominant account of “the birth of the prison” in cultural studies. See, among others, Michel Foucault, *Discipline and Punish*; David Rothman, *The Discovery of the Asylum*; Michael Meranze, *Laboratories of Virtue*; and Michael Ignatieff, *A Just Measure of Pain*.

7. A 1937 *Harvard Law Review* article notes that, “[w]ith living men regarded as dead, dead men returning to life, and the same man considered alive for one purpose but dead for another, the realm of legal fiction acquires a touch of the supernatural under the paradoxical doctrine of civil death” (“Civil Death Statutes,” 968). The U.S. Ninth Circuit Court of Appeals in 1972 similarly attacked civil death as a “quasi-metaphysical invocation” lacking “modern” justification (quoted in “Disenfranchisement of Ex-Felons,” 1302).

8. As the language of prison discipline reveals, the history of detention without subjects is bound up with the history of slavery, and the prisoner’s civil death is

quite close to what Orlando Patterson calls the “social death” of the slave. The connections are deep, complex, and fascinating, and I will pursue them in the book project from which this essay is adapted. For the purposes of the essay, I would suggest that the prisoner and the slave, respectively, roughly correspond to the two “modes of representing” social death that Patterson designates the “extrusive” and the “intrusive.” In extrusive mode, the prisoner is “one of us” who, because of a transgression, forfeits his right to belong and undergoes a “secular excommunication”; in the “intrusive mode,” the slave is seen as an alien introduced into the community, “one of them” living and laboring among “us” (Patterson, 41–43, 5). Some useful critical sources include Sellin, *Slavery and the Penal System*; Oshinsky, *Worse than Slavery*; Dayan, “Legal Slaves and Civil Bodies”; and the essays of Angela Davis.

9. See Meranze, *Laboratories of Virtue* and Dumm, *Democracy and Punishment*.

10. Mariannne Noble provides a concise synthesis of this view: “It is no coincidence, critics agree, that the gothic arose at the moment when Enlightenment thinkers were idealizing the human being as a coherent, rational self. The gothic represents the underside of this ideal, exposing both the illicit desires and the tactics of terror used to repress them during the construction of hegemonic subjectivities” (165).

11. In a fascinating conference paper, Sarah Juliet Lauro connects Calvinist visions of the afterlife to what she calls “Emily Dickinson’s Zombie Poetics.”

12. The best-known treatment of these issues is Toni Morrison’s *Playing in the Dark: Whiteness and the Literary Imagination*. Among many other examples are the essays on “Racial Politics in Gothic Texts” collected in Savoy and Martin, *American Gothic*; and Peter Coviello’s account of the “idiom of the animate corpse” in Poe (*Intimacy in America*, 63–72). On the ways in which rituals of death provided the material for performances of survival and resistance, see Roach, *Cities of the Dead* and Holland, *Raising the Dead*.

13. The lines are quoted and rebutted by Roberts Vaux in his *Letter on the Penitentiary System* (8).

14. Depicting the inmates at Eastern State as lives dehumanized by the prison’s torments, such protests rest on an important and controversial claim: that the warped behavior of the prisoner is an effect, not a cause, of his punishment. The penitentiary, they suggest, poisons the minds it pretends to cure. The idea has been part of prison reform discourse for more than two centuries, and continues to have a place in the critique of captivity. The anthropologist Lorna Rhodes, in a recent study of super-max prisons, argues that the deranging effects of “total confinement” on captive minds distort the logic of rational action and consequences according to which the institution is supposed to operate. Similarly, Goffman echoes Dickens when he describes a certain “prison psychosis” by which some inmates adapt to captivity, “withdraw[ing] apparent attention from everything except events immediately around [their bodies]” so that the keepers and other inmates observe passive, unmoving creatures, just barely animate (61).

15. The most extensive version of the autobiographical reading is made by Leo Marx, who reads the novella “as a parable having to do with Melville’s own fate as a writer.” Michael Paul Rogin, though he recognizes that *Bartleby* is crucially a character without “history,” connects him to Melville’s friend James Ely Murdock

Fly who, Rogin writes, “supplies the missing history of *Bartleby*” (193–94). Later, Rogin suggests that *Bartleby* is a projection of “the lawyer’s interior, impoverished by a lifetime in contracts and deeds” (199). H. Bruce Franklin, devoting a few pages to the novella in *The Victim as Criminal Artist*, considers *Bartleby* a Christ-figure (58–59), a “version” of Melville (57), and above all a figure of “rebellion” against “the sterile world of capitalism” (57, 56). Curiously, Franklin does not take up Melville’s allusions to the penitentiary. As I completed revisions on this essay, I discovered the brief discussion of *Bartleby* in Susan Willis’s “Guantánamo’s Symbolic Economy” (129–30). Willis is interested, as I am, in reclaiming *Bartleby* for the age of the war prison. I do not think my reading repeats hers, and I am encouraged to have found this fellow-traveler.

16. Melville, Letter to Hawthorne, April 16, 1851, reprinted in Levine, ed. *The House of Seven Gables*, 318–20.

17. Colatrella points not only to Hawthorne’s Clifford but also to Melville’s own long involvement with prisons and prisoners, including his family’s participation in the reform movement and his visit to Auburn Prison in 1858 (11–14, 24). *Bartleby*’s cryptic words from within the Tombs—“I know where I am”—give some resonance to the hypothesis (Melville, 43). Colatrella’s analysis has a strong historical grounding, and of course I agree that nineteenth-century prison reform is *Bartleby*’s proper context, a connection made earlier by Michael Berthold in “The Prison World of Melville’s *Pierre* and *Bartleby*” and by Michael Paul Rogin in *Subversive Genealogy* (190–201).

18. As Rogin argues, building his reading on the political lives of Melville and his family, *Bartleby* is set at a moment of transition in the history of disciplinary paradigms, the passage from bodily harm to spiritual correction, from torture to incarceration, from “the whip” to “the wall” (Rogin, 192). Colatrella, pursuing the same line, writes that “the lawyer deliberately creates a separate cell that *Bartleby* is meant to work in” (41). Colatrella mentions the Auburn system and the panoptic constructions of some European prisons, but not the skylights of Eastern State.

19. Analyzing Beaumont and Tocqueville, the Marxist historians Melossi and Pavarini argue that the penitentiary was designed to produce the prisoner as “someone who [has] accepted the state of subordination” characteristic of the industrial economy and its “discipline of wages” (163).

20. “*Bartleby*’s mysterious strike,” as H. Bruce Franklin notes, “shatter[s] all [the lawyer’s] customary assumptions, first about the relations between employers and employees, then about private property itself, and finally about the entire human condition in this society” (*Victim*, 57).

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