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Capital Punishment and the Citizen-Subject

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Capital Punishment and the Citizen-Subject

Birte Christ*

“So much has been written and said on the subject of capital punishments,” opined the Philadelphia Repertory in 1812, “that it looks almost like presumptive vanity to pursue the topic any farther” (qtd. in Banner 112). By the early-nineteenth century, Americans felt that all points of debate for or against the death penalty had been made. Yet two centuries later, David Garland notes that “there has been no let up in writing and talking about [the death penalty]”: “the one thing that is indisputable is that the death penalty produces an endless stream of discourse,” and he vividly conjures up the “bookstore shelves and law library stacks” that “groan under the weight of writing provoked by this institution” (9). The groaning in certain sections of those libraries, however, is not only occasioned by the ever-growing number of criticisms and defenses of the death penalty that almost each generation of Americans has produced since Benjamin Rush published Considerations on the Injustice and Impolicy of Punishing Murder by Death (1792). The commentary on this debate and criticism of the legal, sociopolitical, literary, or (auto)biographical writing that has accompanied the death penalty since colonial times, and that has come to be seen as “an intrinsic part of the institution” (Garland 14), has considerably added to the weight that makes the shelves bow. What then, one wonders, can three new monographs and an edited collection that fall into the latter category add to our understanding of capital punishment’s “cultural life” (Sarat “The Cultural Life of Capital Punishment”) that isn’t already on those shelves?

Like all legal forms of punishment, the death penalty depends on culture to imbue it—or the desire for its abolition—with legitimacy and meaning. The death penalty’s legal framework and

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administration, as well as its attendant practices (such as the gallows procession or the last meal), are shaped by cultural attitudes and sensibilities. Without changes in collective moral judgment, for example, capital punishment would not have changed from a punishment for a great number of crimes to one reserved for first-degree murder; without shifts in middle-class identity and polite taste, executions would not have been moved from the public square to the “private” space of the prison; without “evolving standards of decency” (8), new methods of execution, such as the electric chair, would not have been introduced and minors might still be considered executable subjects. Such attitudes and sensibilities can be explored only by attending to the texts that a culture produces to negotiate the meaning of capital punishment; such texts—from the early execution sermon via crime literature and abolitionist tracts to Dead Man Walking (1995)—offer points of entry to anyone wishing to comprehend the sociocultural logics of American life. The relationship of culture and the law, however, is no one-way street: the death penalty is not only shaped by culture, but it shapes culture in turn. It produces social roles and identities, it becomes a salvo in cultural battles that go far beyond the matter of punishment, and engenders forms of cultural expression and communication. These, too, must be explored through a study of texts—and these, too, can be seen as windows onto even more fundamental sociocultural structures. While stressing these reciprocal dynamics that characterize the relationship of law and culture has become a mainstay of the law-and-culture school, this second direction is certainly the one less traveled in historical and literary scholarship on the death penalty.

Recent studies by John Barton, Jeannine DeLombard, and Stephen Hartnett open up important new insights into issues central to the “making of America” (as Hartnett would have it) because they attempt to think the two-directionality of the powers of law and culture together. Moreover, all the authors make the direction less traveled central to their inquiry: how does the institution of the death penalty construct identities? How does it become a field on which struggles about social and cultural values are played out? And how does it shape public discourse and aesthetic forms? While their engagements with “gallows writing” (in its widest sense) are asking different questions about the connection between this writing and the institution of capital punishment, a shared concern emerges from their studies: the constitution of US citizenship and subjecthood. Particularly when seen together, these three studies offer a rich account of the formative power that the institution of capital punishment exerted on the construction of the American citizen-subject from colonial times through the 1920s.

[These] authors make the direction less traveled central to their inquiry: how does the institution of the death penalty construct identities? How does it become a field on which struggles about social and cultural values are played out? And how does it shape public discourse and aesthetic forms?
John Barton’s *Literary Executions: Capital Punishment and American Culture, 1820–1925* focuses on imaginative literature—novels, short stories, poems, and creative nonfiction—that responds to the death penalty, from James Fenimore Cooper’s *The Spy* (1821) to Theodore Dreiser’s *An American Tragedy* (1925), including “a host of ‘then-popular-but-now-forgotten’ writers—particularly John Neal, Slidell MacKenzie, William Gilmore Simms, Sylvester Judd, and George Lippard” (4). Barton reads these literary texts against a great number of other documents—studies pertaining to criminal law, legal documents, trial transcripts, treatises, as well as newspaper and journal articles. His study carefully shows what kind of intervention each literary engagement with the death penalty made at a given historical moment, what arguments it responded to, integrated, and developed—in other words: how these works participated in and shaped the larger public debate, or the “cultural rhetoric of capital punishment” (7).

Barton then travels the other direction—from law to culture—in two ways. On the one hand, he looks at how “the drama of the death penalty” and “the scene of execution” structure literary works (4). Two near-executions, of Harvey Birch and Captain Henry Wharton, structure one of the earliest novels addressing the death penalty in the context of debates over its abolition, Cooper’s *The Spy*. Additionally, the novel is framed by debates among members of the Wharton family over the historical execution of Major John André, Benedict Arnold’s British co-conspirator. Along similar lines, Barton also gives insightful new contextualizations of canonical texts, such as how Hawthorne’s reliance on gallows scenes in *The Scarlet Letter* (1850) and on the death sentences in *The House of the Seven Gables* (1851) provide the “narrative scaffolding” for his romances (102). The impending executions in *The Spy*, moreover, are the source of two plot structures that will characterize execution literature, as well as film and television, in the decades and centuries to come: the body-swap device and—even more importantly—the race against the clock to prevent the execution. Both the first and revised versions of the execution scene in Sylvester Judd’s novel *Margaret* (1845, 1851) serve as the most striking example of how the contested shift to the privatization of executions in the antebellum North manifests itself in literature as the question of whether or not to show the execution itself—a question that has haunted aesthetic engagements with the death penalty ever since. Reprimanded by genteel critics for the “vulgarity” of his execution scene, Judd responded by blackening the respective paragraph in the 1851 edition and thus offered in print a physical reminder of the visceral reality of executions, whether the general public witnessed them or not (Peabody qtd. in Barton 129).
At the same time, Barton reads the execution as the cultural locus which for many writers dramatized "the confrontation between the citizen-subject and sovereign authority in its starkest terms" (5). As David Garland has recently reminded us, the death penalty in the US context is not and has never been—as is all too often misunderstood—"a top-down display of might, imposed by an all-powerful state authority that monopolizes violence and reserves to itself the power to kill" (24). Instead, in a republic, it is sovereign citizens who put another citizen to death. Barton shows his texts staging this tension: the literary scene of execution allows the citizen-reader to inhabit both positions—that of the criminal and that of sovereign authority—and is used by writers to probe into questions of citizenship and social responsibility. Discursively taking on and trying out the roles of condemned man and sovereign is, for instance, what the Wharton siblings do at the beginning of *The Spy* when they discuss the legitimacy of Major André’s execution.

Barton is interested in "evolving conceptions of sovereignty and (social) responsibility" over the long nineteenth century (10). On the one hand, the texts he studies dramatize the identity of citizen and sovereign authority in order to expose the paradox of one citizen legally taking the life of another. On the other, they discuss the implications of the citizen’s dissociation from his responsibility for sovereign power. This dissociation of the citizen from sovereign power can cut two ways in the debate over capital punishment. Barton’s rich new reading of *Billy Budd* as an extended metaphor for the "ship of state" shows that the text suggests that if the people as sovereign can authorize the death of one of their own, just like a naval captain can decide about life and death of his sailors in times of war, the identity of the citizen with sovereign indeed means a surrender of the people’s power: the republic is compromised and all citizens—not only the citizen on the scaffold—are reduced to mere subjects. In *An American Tragedy*, by contrast, Dreiser explores how the modern legal and penal systems employ a dissociation of citizen and sovereign power to their benefit: they diffuse responsibility for the execution of Clyde Griffiths in a web of bureaucracy in order to identify responsibility neither with a quasi-monarchical sovereign nor with popular sovereignty as a way of making the death penalty palatable in a democracy.

As Barton’s discussion of the "republican argument against the death penalty" (13) makes clear, the tension in the scene of capital punishment arises from the fact that, unlike scenes of enslavement, it is not simply "pitting the subjected subject . . . against the tyranny of state government" (17), but instead pitting a citizen with certain inalienable rights and responsibilities against sovereign authority. The understanding that a man can be condemned in a republic only if he
is recognized as a citizen is the basis of Jeannine DeLombard’s argument that the position of the condemned man was the locus from which African-American personhood and citizenship emerged in nineteenth-century public discourse. By virtue of being held responsible for a crime, the subject on the scaffold, DeLombard maintains, must—to a certain degree—always be a legal person. Her study focuses on texts that imminent executions generated in the Northeast, in particular confessions of convicted criminals of African-American descent, from the “Conference between a MINISTER and the Prisoner, on the Day before his Execution,” appended to Cotton Mather’s *Tremenda* (1721), to Thomas R. Gray’s *Confessions of Nat Turner* (1831). In her earlier study, *Slavery on Trial: Law, Abolitionism, and Print Culture* (2007), DeLombard showed that African Americans were almost exclusively represented as criminals in northern antebellum print culture and appear disproportionately in early gallows texts. The ubiquity of the figure of the black criminal at this time attests to the ways that the criminalization of free blacks in the North coincided with and complemented slavery in the South, and thus existed well before Reconstruction. The oft-repeated “plantation-to-prison” narrative hence only tells part of the story. As DeLombard repeatedly stresses, this early nexus between race and crime is, of course, highly problematic and continues to exclude African Americans today from full civic participation, yet she argues in her new book that, paradoxically, the execution was also “the inaugural site of black civil presence” (109).

Whereas in civil law slaves were considered property, criminal law recognized them as persons who could be held responsible for their crimes—and who were thus attributed agency, if criminal agency only. Slaves were thus, almost perversely, granted personhood through deeply racist legal institutions; free blacks, even if not considered property any longer, shared the same predicament with slaves. Whether slave or free, blacks were assigned a measure of personhood “in the shadow of the gallows”; as condemned criminals—in death—they were retroactively recognized as members of the polity and included in the social contract. The criminal confession, then, was the site where an autonomous black self first entered print culture, where black voices could be heard, and where black civic assertion first took root. This black civic presence, however incriminating, can be seen as an assertion of the civic person and as a prerequisite to citizenship. DeLombard traces these paradoxical assertions in six exhaustively researched chapters from the colonial period to the 1830s when a new form of African-American life writing took hold: the slave narrative. It worked to represent blacks as victims of, and witnesses to, the white crime of slavery instead of as criminals,
and thus struggled to reverse the ascriptions the prior confessional narratives had affirmed over and over again.

Considering that at least one-third of all gallows publications until 1800 featured criminals of African-American descent, as DeLombard asserts, the almost complete absence of race and slavery in the seminal studies on early gallows and crime literature by Daniel Cohen and Karen Halttunen, published in the 1990s, is rather astonishing. Moreover, DeLombard’s argument lets one pause to consider whether an attention to the role of race might not only complement, but also substantially change the histories that both chart—Halttunen’s in particular. Whereas DeLombard is interested in stressing how confessions asserted civic presence and rendered the criminal a person, she mentions that the very assertion of black personhood—of affirming the black criminal as a person like the rest of the (white) community—“complicated” (18) the effectiveness of the Puritan execution ritual. In such nonsecular terms the execution ritual, as Halttunen among others has argued, was to present the criminal as a “common sinner,” as one of the community whose misstep could happen to anyone, and whose exemplary way to salvation through confession, too, was open to all. DeLombard does not comment on the possible “complications” (18) that a black criminal creates for the execution ritual, but one such complication—when Halttunen’s and DeLombard’s studies are read in conjunction—might be that the black person, and black confessor, was more difficult to be recognized as a common sinner, as one of us, by the (white) community. In consequence, the presence of the black person on the scaffold and on the pages of confessional crime literature—the presence of a racial Other—might be one more, and perhaps even central, reason that the shift from recognizing the condemned criminal as a common sinner in line with the Puritan model gave way to casting him as a Gothicized “monster” at century’s end. Is what lies as a shadow beneath the reconception of the criminal as a monster or “moral alien” the image and print persona of a racial alien (Halttunen 57)? We must assume, in any case, that the monstrous alterity—indeed of racial issues—that became attributed to the criminal as the long eighteenth century wore on made the tenuous civic presence of black men through gallows ephemera even more problematic. In this sense, reformers who first strove to transform slaves “into Jacksonian men” by way of the slave narrative had to “detach black personhood from the criminality in which it had become firmly rooted,” and from the monstrosity with which criminality had become associated, in order to “graft it onto a civil personality that might, then, flower into full-blown citizenship” (DeLombard 11).

Given the amount of print evidence that DeLombard presents to show how omnipresent the figure of the black criminal was, one wonders whether the imaginative writers that Barton focuses on understood the death penalty as a means to limit civic participation of
the free black population or as the penal instrument that ensured the institution of slavery—and whether they commented on that nexus. In his dissertation, Barton included two chapters on the antilynching campaign of the late nineteenth century to bring race into relation to arguments about capital punishment. But in his book, race does not play a role either in the debate about the death penalty that the texts participate in or in their reflections on the (in)commensurability of the death penalty with republican citizenship. Similarly, texts discussed in an earlier study by Paul Christian Jones devoted to imaginative antigallows literature of the 1840s and 1850s seem to leave questions of race and slavery in connection with capital punishment untouched. Only DeLombard herself, in a reading of Benito Cereno, shows that Melville at least registers how, in the captain’s deposition, criminal action—which Melville also allows the reader to recognize as misapprehended civic action—transforms the slaves from property identified by their skills into persons that took specific roles in the slave uprising. But Melville’s text, once again, appears as an unusual seismograph of cultural logics whose subtle interventions might not necessarily be appreciated by his contemporary readers and fellow writers. If literary writers, en gros, apparently did not make the connection between capital punishment and slavery as complementary institutions, one wonders whether this at least was part of the extraliterary public debate on both issues. Barton suggests as much when he briefly shows connections between the movements to abolish slavery and the death penalty in his introduction, and Stephen Hartnett is trying to make exactly this point in the second volume of Executing Democracy.

In this two-volume study, Hartnett offers a rhetorical history of public debates about capital punishment from the late seventeenth century to the antebellum period. He is more interested in demonstrating the centrality of the debate in shaping American identities and institutions than in making one specific argument about it; his study is not focused on one particular type of text. Instead, it is a study of a broad public rhetoric and includes “as many different . . . communicative genres as possible”—among them imaginative literature (1: xi). This approach has yielded a “macro-historical overview” in Volume One and a “micro-historical case study” in Volume Two that should more aptly be described as an all-encompassing panoramic history of US public life seen from the perspective of capital punishment (1: xi). Hartnett minutely reconstructs the arguments, modes, origins, and different camps of the debate, but—again, traveling the other direction—even more deeply engages with the ways in which debates about the death penalty crystallized ideas about “identity and character, gender and sexuality, class and capitalism, the tug between religion and modernity, race and slavery, and the links
between Enlightenment and democracy” at different historical moments and locales (x). Hartnett’s depth of research and erudition, like Barton’s and DeLombard’s, is stunning. A core virtue of Hartnett’s rhetorical history is its particular adeptness—that we also find with Barton and DeLombard—at drawing connections between the death penalty and trends in American culture, reminding readers of contemporaneous events, attending to detail and at the same time telling the bigger story. His books deserve to be present on our already-bulging shelves not only because of the story he tells, but because of how he tells it. Speaking about cultural rhetoric, Hartnett pulls off a rhetorical feat himself: he gives us a history of the discursive “making of America” in the form of a boisterous page-turner. Bold claims such as “Like all capitalists, the men who ran this economic system [of slavery] were not shy about using violence” (2: 47), or the anachronistic construction of the 1830s divisions as “culture wars” (2: 13) will inevitably make some readers cringe and wish for more of the careful precision of Barton’s and DeLombard’s writing. However, if these two join Hartnett on our shelf, it might prove reinvigorating at times, first, to see “young Walter Whitman”—as Hartnett does—as the “no-hold Bard of All Things” who was “plying the rough-and-tumble world of New York’s newspaper scene with gritty articles depicting life in the Big Bad City[, c] ompeting against some pretty hot pens” (2: xi), and second, graphically to imagine antebellum America as “the world’s biggest, most rollicking, sex-crazed, violence-drenched, and God-fearing republic of democracy-loving sinners and utopian dreamers” (2: xi).

Hartnett’s case study in Volume Two reconstructs the first climax of efforts to abolish the death penalty in the Northeast in the late 1830s and early 1840s. It revolves around the two-staged series of debates about the death penalty between minister and pro-gallows activist George Barrell Cheever and state senator, editor, and anti-gallows activist John O’Sullivan in Albany in 1835 and Manhattan in 1843. Particularly the debates held at the Broadway Tabernacle, which offered the largest public meeting space in New York at the time, created an unprecedented visibility for the topic in the Northeast. The following years then saw a rapid institutionalization of the movement as local and national societies for the abolition of the death penalty were founded. In his third chapter, Hartnett illustrates the different positions taken by newspapers in commenting on the debates between Cheever and O’Sullivan and also pays special attention to William Lloyd Garrison’s Liberator, which covered them closely; he even adds an appendix that lists articles and poetry printed in the Liberator’s pages that treat capital punishment. In this context, Hartnett suggests that the connection between slavery and the penal system was publicly well understood. For one—and this is
a point that Barton also makes—many of the nation’s leading activists for the abolition of slavery also supported the antigallows cause. As Louis Masur already claims in his 1989 history of the US death penalty, “In the minds of abolitionists such as William Lloyd Garrison and Wendell Philips, one campaign, against slavery or the gallows, was inseparable from another” (157). Other activists who spoke out against both slavery and the gallows included Frederick Douglass, Susan B. Anthony, and writers John Greenleaf Whittier, Henry Wadsworth Longfellow, and Lydia Maria Child. But secondly, Hartnett shows how antislavery and antideath penalty activism were linked in the minds of conservative opponents of these reform movements. He details, for instance, how the conservative Journal of Commerce cast the 1842 Philadelphia race riots as an example of the chaos that would ensue if death penalty abolitionists got their say or how, when a mob broke up an antislavery meeting in Boston in 1843, the public “witnessed the deadly linking of slavery and the death penalty” as Garrison was taken hostage and paraded through Boston with a noose around his neck, an image that was moreover popularized in a political cartoon (187).

Despite these connections between the two abolitionist movements of the antebellum period, there is reason to doubt that the connection between capital punishment and slavery flourished in the public imagination. First of all, there are doubts in place as to how much overlap there really was. The eventual embrace of both causes seems one practiced only by antislavery activists: antislavery activists and writers who had already spoken out against slavery in the 1830s also adopted the antigallows stance as the debate about capital punishment intensified in the early 1840s, but antideath penalty activists, such as Charles Spear, who may have been sympathetic towards the abolition of slavery, did not actively enlist in the campaign. A writer like William Gilmore Simms firmly opposed capital punishment, but still supported slavery, as Barton shows. And while Garrison’s Liberator, as Hartnett documents, published over sixty pieces relating to capital punishment in 1842 and 1843, Spear’s own The Hangman (founded in 1845 and renamed The Prisoner’s Friend a year later) does not reciprocate by publishing pieces on slavery. For those who were primarily devoted to the cause of abolishing the death penalty in the North, it seems, the institution was not linked to racial violence—even if it may have been for those whose focus was slavery. Plus, one should remember that in the early 1840s the movement to abolish slavery had already splintered, in particular over Garrison’s radicalism and his promotion of an array of other causes, including the abolition of capital punishment. The more religiously orthodox forces behind Arthur and Lewis Tappan and the American and Foreign Anti-slavery Society, we may surmise, were less likely
to call the antigallows cause their own. In this sense, Cheever and O’Sullivan, around whom Hartnett has organized his second volume, may be more exemplary of attitudes of the time than figures like Garrison or Whittier: Once wielding the Bible in favor of the gallows, Cheever eventually became an ardent critic of slavery; once having led the most important legislative efforts to abolish the death penalty, O’Sullivan supported colonizationalism and later the Confederacy.

Secondly, it is highly questionable whether activists’ participation in both movements can even be seen as evidence for their understanding that the abolition of capital punishment might help to weaken or even to bring down the slavery system. The proslavery camp may have feared that activism to abolish capital punishment was simply another way to undermine the slavery system when it imagined the race riots as resulting from the abolition of both slavery and the death penalty, but there is no indication that slavery or gallows abolitionists ever made this argument explicit. While Hartnett claims, for instance, that the experiences of 1843 had “locked in Whittier’s understanding of the integral bonds linking hangings and slavery,” he offers no example of where this understanding might be expressed in either of Whittier’s two known antigallows poems, many antislavery poems, or other writings (187). Similarly, Barton attempts to make a similar claim about Longfellow but has to concede that, although the antebellum period’s bestselling poet wove “the thread of capital punishment into the daily fabric of American life” in his popular “Ropewalk” (1859), he does not represent capital punishment and slavery in a relation of warp and weft (14). Racism and the death penalty were sometimes linked, as in the public protest against the execution of Washington Goode in Massachusetts in 1849, or when Charles Spear documents that Southern statutes considered a much greater number of offenses as capital “if committed by a slave” in his immensely popular Essays on the Punishment of Death (1844), but the function of the death penalty within the system of slavery remains uncommented upon.

What emerges from both Hartnett’s detailed account and Barton’s much briefer one of the affinities between the two abolitionist movements is that in the progressive discourse of the time slavery and capital punishment were seen as systems analogous in their inhumanity rather than as working hand in hand. Both thus merited reform efforts, but, in consequence of this argumentative disconnect, these efforts were also separate. The heightened tensions over slavery and reformers’ concentration on it instead of other issues are often cited as the reason for a slackened movement to abolish the death penalty in the early 1850s. Had the two movements been integrally linked on the basis of the enabling relationship between capital punishment and slavery, death penalty abolitionism would not have lost
its momentum. Moreover, the failure to address the foundational nexus that capital punishment and racial control share in the antebellum period may have contributed to the replacement of slavery as the means of racial control by (capital) punishment after Reconstruction and later by punishment as a function of the prison-industrial complex, a replacement that is prefigured in the exclusion clause of the Thirteenth Amendment.

It is in the shadow of the prison-industrial complex then, in which a far too great amount of African-American life writing still has its origins today. Indeed, the “Words through Walls” of death rows around the country that Katy Ryan assembles in the first section of her collection Demands of the Dead are the words of black men. This selection consists with Ryan’s understanding of the contemporary death penalty as the “repetition of a race-based history of violence” (1), an understanding that is clearly much more easily available in 2012 than it was in the mid-nineteenth century. But Demands of the Dead collects texts illuminating the death penalty from many more angles and perspectives: it juxtaposes life writing, literary writing, and academic writing; plays, prose, and poetry; writings by death row inmates and correctional officers, by literary authors and literary scholars. Ryan assembles texts from inside the death row cell with scholarly reflections on those texts in her first section. She then turns to historical perspectives on the death penalty in her second section, including a piece on the antebellum movement to abolish the death penalty in literature, including one by John Barton, as well as essays on Billy Budd and on a lesser-known novel by Gertrude Atherton, poems by Jill McDonough that focus on historic capital cases, and excerpts from Kia Corthron’s play Life by Asphyxiation in which Nat Turner and Crazy Horse spend time on death row in the present with Jojo, a black man convicted of rape and murder. The section closes with Anthony Ross’ “Routines” (2005), in which he describes his daily survival on death row and imagines his own execution. Thus does this section bring the past into the present again. Ryan’s third section turns to arguments against capital punishment and includes poems by Sherman Alexie and Delbert L. Tibbs, the later of whom who was exonerated after three years on death row in the 1970s; scholarly perspectives on Jacques Derrida’s lectures on the death penalty; rap music and African-American poetry that resist capital punishment; and Ryan’s own piece on Jessica Blank and Erik Jensen’s play The Exonerated (2004).

The volume is a passionate, even enraged manifesto, yet, at the same time, sustains a rational scholarly argument against capital punishment in a rare, successful union that compromises neither the power of righteous indignation nor the intellectual integrity of schol-
arly complexities. Instead, each piece comments on and expands the others. Being a collection of texts that all strive to contribute to the abolition of capital punishment, *Demands of the Dead* is acutely aware of the parts literature can perform in political struggles, and of the legal, cultural, and political forces that, in turn, shape these texts. All of the volume’s scholarly essays are therefore concerned with the representation of the death penalty in writing and with the implications of such representation. The awareness that texts may transform the culture of US penality into a “more just and sane” system (20) and that they are, at the same time, products of that very culture—the two-directionality of perspective that emerges from the carefully orchestrated choir of texts—is what makes Ryan’s collection, like Barton’s, DeLombard’s, and Hartnett’s monographs, so insightful.

*Demands of the Dead* opens with Willie Francis’s “My Trip to the Chair” (1947). As a 16-year-old Francis was sentenced to die for the murder of his employer in Louisiana in 1946. Miraculously surviving two attempts by the state to execute him in the electric chair, Francis dictated his testimony about his (failed) electrocution to local writer Samuel Montgomery, an account that inspired Ernest Gaines’s *A Lesson Before Dying* (1993). In fact, the novel includes the diary of its death-house protagonist Jefferson, a diary that his mentor Grant encourages him to write. Jason Stupp’s essay “Living Death,” which follows Francis’s text in Ryan’s volume, engages with both the historic and the literary testimony. Like their predecessors—the early criminal confession and the slave narrative—Francis’ and Jefferson’s testimonies are acts of “literary ventriloquisms” instead of expressions of “an authentic black voice” (DeLombard 36), in the sense that they were dictated or written in response to mentor figures whose expectations needed to be met and who edited and intervened in the narratives. Stupp shows how this ventriloquism is subtly exposed in the testimonies themselves and thus invites resistant readings. More importantly, he also explores, through the mediation of those mentor figures and others, the demands on the condemned of both white authorities and black communities that manifest themselves in prisoners’ writing. For instance, Francis expresses the hope that his testimony “will help people to do the right thing and live right” (33), and Jefferson responds to Grant quoting him, saying “you jus say...you can save the chiren” (50). As their texts themselves expose, mentors try to cast the testimonies of both historical Francis and literary Jefferson as redemptive narratives for the communities beyond the prison and encourage them to model African-American heroism on their way to death. The heroic stance of fearless dignity in the face of the death sentence can be seen to
buttress state authority in ways similar to the confessor’s stance in early gallows texts. Nevertheless, death row—just like the scaffold in the colonial, early national and antebellum periods—perversely becomes the locus from which an expanded black subject emerges, the locus allowing black personhood to manifest itself in print. Much like Joseph Hanno, the criminal interviewed by Cotton Mather in 1721, who manages to overcome the Puritan’s effort to render him as a “Black Thing . . . in Irons” (DeLombard 37) and articulate an image of himself as a literate cosmopolite, Francis and Jefferson are present in their testimonies as their own persons despite the demands of their communities.

Stupp reminds the reader of two things: first, to think about how texts are being used in the context of the US death penalty—including texts assembled in and used by the very volume in which his essay is published. Stupp’s essay thus enriches the volume with a critical reflection about its own practices, and this metareflexivity on textual practice is present in many other essays, too. Second, Stupp urges us to see the fully articulated person behind the text—the citizen-subject, if you will—who asks his or her fellow citizens to confront their own responsibility for criminal behavior and inhumane forms of punishment and who pleads with these fellow subjects to feel compassion. As long as the death penalty persists, it will produce texts representing condemned citizen-subjects to the citizens in whose name they are executed. And as long as the death penalty persists, there will be a sad need for more books on our shelves that follow Barton, DeLombard, Hartnett, and Ryan in explaining to us the textual life of America’s enduringly peculiar institution.

Works Cited


