Index

Act to Provide for the Carrying out of Capital Punishment in Prisons (1868), 84
American Bar Association call for moratorium, 9–10
American Medical Association on physician-assisted suicide, 196–97
on physician participation in executions, 32, 199, 219n. 21, 230n. 11
analogical verification, 172–76, 205–6, 213
anatomo-politics, 48–49, 187
See also Foucault, Michel
Anti-Terrorism and Effective Death Penalty Act, 11
Ariès, Philippe, 192
Ashcroft, John, 10
Austin, J. L.
Bourdieu’s criticism of, 26–28
on performative utterances, 23–26, 218n. 20
mentioned, 5, 6, 16, 31, 33–34, 35, 36, 43, 98, 217n. 14
See also death sentences; executions; performative utterances

Barrett, Michael, 83
Bauman, Zygmunt, 193–94, 195
Beattie, J. M., 64
Bender, John, 223n. 14
Benveniste, Emile, 220n. 28
Berry, James, 90
biopolitics, 9, 185–92, 200–209
See also Foucault, Michel
Blackmun, Harry, 12, 216n. 7
Blackstone, William, 82
body (condemned)
as absent, 113
as abstraction, 107–8, 113–14, 173–74, 213
as anachronism, 109–12
as distinguished from person, 142–43
lethally injected, 182, 212–14
as obstacle to rationalized hanging, 122–23
sympathetic, 149, 213
variability of, 121–23
See also capital punishment; death row; death sentences; executions; torture
Bourdieu, Pierre
criticism of Austin on performative utterances, 26–29, 36
mentioned, 5, 33, 36, 218n. 17
Brady, William, 125
Brennan, William, 39, 197, 198, 210, 227n. 3
Breyer, Stephen, 13, 14
British Medical Association, 229n. 9
Britt, Dennis, 98–99
Brooks, Charlie, 212
Brown, Wendy, 5
Brownworth, Victoria, 168
Buenoano, Judy, 226n. 2
bureaucratization. See rationalization
Burton, Harold, 224n. 5
Bush, George W., 165
Bush, Jeb, 144
Butler, Judith
   criticism of Bourdieu, 28–31, 218n. 17
   on hate speech, 36
   on judges, 28–31, 99
   on performative utterances, 28–31, 36, 44, 99, 218n. 19
   on power, 100
   mentioned, 5

Callins v. Collins, 12, 211
Campbell, Charles
   crime of, 102
   evidentiary hearing on hanging of, 94–95, 112–33
   on question of certainty, 114–23
   on question of pain, 123–29
   table of drop lengths, 118–19, 121
   execution of, 93–94, 132–33
   sentencing of, 98, 102
   mentioned, 7, 103, 182, 183
   See also death row; death sentences;
   Dodd, Westley Allan; executions; hanging
Campbell v. Blodgett, 95–96, 112–33
Campbell v. Wood, 93–94
Camus, Albert, 19
capital punishment
   constitutionality of, 10–11
   as cruel and unusual, 15–16
   as “different,” 197, 210, 227n. 3
   dilemmas posed by, 3–9
   and discourse of humanitarianism, 2, 183, 214
   division of labor in, 19–21
   future of, in U.S., 9–12
   as institution, 26–28
   moratorium movement, 10–12
   public support of, 10–12
   scholarship about, 2–3, 10, 165–66, 169–70
   and sovereignty, 208–9
   as waste management, 209–10, 214
   See also death row; death sentences;
   executions; gender; race; sovereignty; state, liberal; trials, capital
Carroll, Jenny, 168
Champion, Jane, 166
Chaney, Larry, 200–205, 207
Connolly, William, 171, 172, 207–8, 227n. 5
Cover, Robert
   on imposition and infliction of death sentence, 21–22, 34–35
   on law and violence, 135
   mentioned, 37, 159, 216n. 6, 217nn. 8, 11, 12, 219n. 22
Cransworth, Lord Chancellor, 84
Damiens, 141–42, 212, 213
Davis, Allen Lee
   crime of, 144
   execution of, 144–45
   Florida Supreme Court examination of, 146–56
   Court opinion, 146–49
   dissenting opinion, 149–56
   post-execution photograph of, 152, 225n. 2
   mentioned, 7, 15, 163, 183, 211
   See also death row; death sentences;
   electrocution; executions
Davis, Michael, 196, 199
death
   rationalization of, 192–97
   See also capital punishment; death
row; death sentences; executions; suicide
death row
and Lackey claims, 13–16
as living death, 41–42, 220n. 26, 229n. 8
See also death sentences; executions; Lackey claims
death sentences
imposition vs. infliction of, 17, 19–22
as performative utterance, 5–6, 25–31
as botched performatives, 44–45
See also capital punishment; death row; Dodd, Westley Allan; executions; judges; performative utterances; trials, capital
Defense of Marriage Act, 227n. 5
Derrida, Jacques, 218n. 18
disciplinary power. See anatomo-politics
Dodd, Westley Allan
crime of, 22
on death row, 41–43
execution of, 1–2, 23, 31–33, 124
role in Campbell evidentiary hearing, 113–17, 124–29, 131
sentencing of, 38–39
trial of, 22–23
mentioned, 6, 16, 31, 38, 155, 182–83
See also Campbell, Charles; death row; death sentences; executions; performative utterances
Drake, C. J., 179
Dreyfus, Hubert, 56
Dubber, Markus, 17, 20–21, 30, 216n. 5
Duffy, Clinton, 119
Edelman, Murray, 172
Eighth amendment, 6, 7, 13, 15, 117, 202, 227n. 1, 230n. 12
electrocution
of Allen Lee Davis, 144–45
shift from hanging to, 105–6
See also Davis, Allen Lee
Elledge, William, 13
Ellsworth, Phoebe, 11
England
capital statutes in, 68, 71
rationalization of hanging in, 47–90
rationalization of state in, 47–90
Espy, Walt, 119
executions
botched, 214
delay between sentences and, 13–16, 123–29, 135–64, 215n. 3, 219nn. 23, 25, 220n. 26
frequency of, 176–77, 227n. 4
ideal conduct of, 95, 108–12
celerity, 108–9
painless, 109–12
as nonevents, 179, 199, 210–11, 213
and pain, 224n. 5, 225n. 3
as performatives, 33–39
as premodern spectacle, 141–42
quest for humane, 2, 4, 214, 224n. 7
stays of, 217n. 8
See also Campbell, Charles; capital punishment; Davis, Allen Lee; death sentences; Dodd, Westley Allan; electrocution; firing squad; gas chamber; hanging; Lackey claims; lethal injection; Tucker, Karla Faye
Fabrega, Horacio, Jr., 225–26nn. 4, 5
Federal Death Penalty Act (1994), 11
feminism. See gender
Ferrers, Lord, 76–77, 82
Fielding, Henry, 84
firing squad, 9
Florida Supreme Court, 7
See also Davis, Allen Lee
Food and Drug Administration, 8, 200–204
Food, Drug, and Cosmetics Act (1982), 200–201

Foucault, Michel
on anatomo-politics, 187
on biopolitics, 9, 186–88
on capital punishment as anachronism, 53–54, 204–5
criticism of liberalism, 49
on death, 195
on governmentality, 8–9, 188–92, 228n. 4
inconsistent categories in writings of, 228n. 2
on juridico-discursive vs. disciplinary power, 22on. 1, 229n. 5
on juridico-medical complex, 195–97
on myth of the modern state, 48–50, 59–60
on premodern executions, 141–42
on rationalization, 55–57
on sovereignty, 185–86, 191
on triangulated conception of state, 191–92, 197–98, 205, 207, 209, 229n. 7
mentioned, 2, 4, 5, 6, 47, 48, 106, 111, 141, 181, 182, 212, 213
See also body; capital punishment; death; executions; governmentality; liberalism; medicalization; rationalization; sovereignty; state, liberal; Weber, Max

Fourteenth amendment, 15
Furman v. Georgia, 19, 39–40, 41, 167, 180, 197, 227n. 3

Garland, David, 86, 207, 209, 222n. 7, 228n. 2, 231n. 16
gas chamber, 9
gender
  crimes of men sentenced to death, 167
  dilemma posed by execution of women, 8, 170–76
  possible resolution of, 176–77
  execution of women in U.S., 166–67
  explanation for death sentences imposed, 168, 227n. 5
  explanation for small number of, 167–68
  and homicide statutes, 169
  scholarship on capital punishment and, 165, 169–70
  See also race; Tucker, Karla Faye
globalization, 4, 172, 207–8
governmentality, 4, 188–92, 207, 228n. 3
  See also Foucault, Michel; state, liberal
Gregg v. Georgia, 15, 146, 180
Gross, Samuel, 11

Habermas, Jürgen, 171
Haines, Herb, 108
Handy, Gathorne, 84–85
hanging
cervical dislocation caused by, 91
criticism of, 7, 105, 223n. 2
disenchantment of, 92, 107–8
history of, in England, 62–92
  from fifth to sixteenth century, 63–66
  at Newgate (behind its walls), 83–90
  at Newgate (outside its walls), 78–83
drawing of 1783 scaffold, 79
Report of the Committee to Inquire into the Execution of Capital Sentences (1886), 87–89, 104–5, 118
table of drop lengths, 87–89, 104–5, 107
Royal Commission on Capital Punishment (1953), 90, 108, 229n. 9
  at Tyburn, 66–78
history of, in U.S., 93, 105–8
English table of drop lengths
imported, 104–6, 118
rationalization of, 105–12
retained in some states, 223n. 1
ideal conduct of, 95, 108–12
celerity, 108–9
painless, 109–12
of Lord Ferrers, 76–77
See also Campbell, Charles; Dodd, Westley Allan; Eighth amendment; England; executions; rationalization; state, liberal
hangmen
absence of, in Washington State, 115–16
selection of, in premodern England, 65–66
status of, in modern England, 89–90
See also Marwood, William; Pierrepoint, Albert
Harris, Robert (judge)
presiding over trial of Dodd, Westley Allan, 22–23, 25–26, 29, 30, 31, 33, 35–36, 38
Harris, Robert Alton (condemned), 217
Harry, Father Alvin, 119–21
Hawkins, Gordon, 231n. 15
Hay, Douglas, 68, 71, 222n. 11
Heath, William, 17, 20, 22, 38
Merry England, 18
Heckler v. Chaney, 183, 200–205, 231n. 15
Henry II, 65
Henry III, 66
Henry VIII, 68
Hill, David, 105
Hillman, Harold, 91, 225n. 3
Hobbes, Thomas, 195
Hogarth, William, 66, 70, 74–75, 88
The Idle ’Prentice Executed at Tyburn, 67
Hyde, Alan, 142–43, 149, 213
Ignatieff, Michael
criticism of Foucault, 220n. 1, 221n. 2
criticism of Weber, 48–50, 58, 221n. 3
Illich, Ivan, 136–38, 159
International Association for the Study of Pain, 138, 139
Iseli, Lee, 22
James, Deryk, 91, 126, 128–29
Johnson, Robert, 220n. 26
judges
authority of, 29–31
in capital trials, 19
death sentences as performative utterances, 22–31
dissociated from infliction of punishment, 17, 45, 216n. 5
at executions, 215n. 4
See also capital punishment; death sentences; executions; performative utterances; trials, capital
Kearns, Thomas, 34–35
Kemmler, William, 39
King, Rodney, 147
Kleinman, Arthur, 141
Knight, Thomas, 13, 14
Lackey, Clarence, 13–16, 22, 31, 39, 45
Lackey claims, 5–6, 13–16, 215n. 2
Langbein, John, 222n. 11
Last, Jonathan, 226n. 1
Laurie, Peter, 77
law
and equality, 61–62
and governmentality, 189–90
ingredients of, 7, 95, 97–104
legitimacy and its loss, 5–6, 17–19, 47, 74, 100–101
law (continued)
liberal conception of, 73–74
Nietzsche’s interpretation of, 94–104
and violence, 17–20, 130, 216n. 7, 217n. 11
Weberian conception of, 51, 64
See also capital punishment; governmentality; judges; state, liberal; trials, capital
Leonard, John, 12
lethal injection
and dilemmas of capital punishment, 182–83
failure of, 9, 209–14
and governmentality, 198, 205
history of adoption in U.S., 93, 180, 227n. 1
legal challenges to, 200–205, 227n. 1, 230n. 12, 231n. 14
machinery employed in, 181–82
as medicalized procedure, 198–200, 230n. 10
physician participation in, 230n. 11, 230n. 12
protocol for, 180–81
rejected in England, 229n. 9
and the unmarked body, 110–11, 127
mentioned, 8–9, 20
See also biopolitics; capital punishment; governmentality; medicalization; rationalization; sovereignty; state, liberal
Leuchter, Fred, 108–9, 181
liberalism
contribution to rationalization of modern state, 47, 59–60, 71–74
dilemma posed by execution of women, 170–77
See also law; Locke, John; state, liberal
liberal state. See state, liberal
Lifton, Jay, 10, 12
Linebaugh, Peter, 68
Lobsenz, James, 118, 129
Locke, John
on public/private distinction, 70–74
mentioned, 4, 5, 6, 81, 174
See also liberalism; rationalization; state, liberal
Lofland, John, 179
Lynch, Mona, 209–11, 214
Mackay, Alexander, 84
Madame Tussaud’s Exhibition, 91, 92
Madow, Michael, 106–9, 142
Mandeville, Bernard, 75–76
Marshall, Thurgood, 167
Marwood, William, 87–90, 91, 116
See also hanging; hangmen
Marx, Karl, 72
McElvaine, Charles, 142
McGowen, Randall, 81
McNeill, John, 151
McVeigh, Timothy, 10
medicalization
of capital punishment, 9
of death, 194–97
of modern understanding of pain, 138–41
Melzack, Ronald, 139–41
metaphysics of the hangman. See Nietzsche, Friedrich
Miller, Peter, 228n. 3
Misson, M., 69
Mitchell, Greg, 10, 12
Mitchell, Timothy, 58–59, 69
Moore, Carey Dean, 13, 14
moratorium. See capital punishment
Morris, David, 160
Morris, Eugene, 145
Morton, William, 137
Nasmyth-Jones, Rachel, 91
needle. See lethal injection
Neer, Cole, 22
Neer, William, 22
Newgate prison
drawing of 1783 scaffold, 79
move of executions from Tyburn to, 78–83
mentioned, 6, 69, 223n. 14
See also hanging; liberalism; Locke, John; rationalization; state, liberal
new penology, 209–10
Nietzsche, Friedrich
metaphysics of the hangman,
94–95, 96–104
and judges, 98–99
and punishable subjects, 97–98, 102
and relational existents, 96–97, 224n. 3
and technologies of violence,
99–100, 102–4
mentioned, 5, 7, 109
noose. See hanging
O’Connor, Maeve, 127
O’Shea, Kathleen, 167
pain
etymology of term, 161
and hanging, 109–12
and language, 8, 157–62, 225n. 4, 226n. 5
measurement of, 140–41, 225n. 3
McGill-Melzack pain questionnaire, 141
modern medical conception of, 7, 135, 137, 158–59, 225n. 1
problems internal to, 138–41
political conception of, 161–64
premodern conception of, 135–36
as psychological suffering, 15–16, 39–40
question of, in Campbell evidentiary hearing, 123–29
question of, in Davis electrocution, 146–56
rationalization of, 137
See also Davis, Allen Lee; Dodd, Westley Allan; Scarry, Elaine
Pascal, Blaise, 136, 158
performative utterances
concept of, 23–24
locutionary, illocutionary, and perlocutionary force, 24–25
death sentences as, 25–31
illustrated by game of Hangman,
37–38
infelicitous, 43–44
See also Austin, J. L.; Benveniste, Emile; Bourdieu, Pierre; Butler, Judith; capital punishment; death row; death sentences; executions
Phillips, Wendell, 170, 175
physician-assisted suicide. See suicide
Pierrepont, Albert, 82, 223n. 16
See also hanging; hangmen
Poulantzas, Nicos
criticism of Foucault, 52–54
mentioned, 5, 48, 55, 59, 220n. 1
See also Foucault, Michel; state, liberal; Weber, Max
Price, Donald, 154
Provenzano, Thomas, 144, 145
Provenzano v. Moore, 146–56
Rabinow, Paul, 56
race
and capital punishment, 166–68, 173–74
Radin, Margaret, 19
Rapaport, Elizabeth, 168, 169
rationalization
of condemned body, 107–8, 113–14
of death, 9, 192–97
and disenchantment, 107–8
rationalization (continued)
formal vs. substantive, 60–62, 92, 107–8
of hanging in England, 62–92
of hanging in U.S., 95, 105–8
of pain, 137
popular resistance to, 92
of state in England, 64–92
Weberian concept of, 55–56
See also capital punishment; executions; Foucault, Michel; hanging; lethal injection; medicalization; Smart, Barry; state, liberal
Reay, Donald, 125, 129
Rehnquist, William, 19, 203–4, 215n. 3
Reinhardt, Stephen, 94, 223n. 2
Report of the Committee to Inquire into the Execution of Capital Sentences (1886), 87–89
table of drop lengths, 88
Report of the New York State Commission on Capital Punishment (1888), 105, 198
retribution, 19, 216n. 7
Rey, Roselyne, 160
Reynolds, James, 142
Rock, Paul, 72
Romilly, Samuel, 81
Rose, Nikolas, 184–85, 189, 228n. 3
Royal Commission on Capital Punishment (1953), 90, 108
Ryan, George, 10
Sametz, Lynn, 166
Sarat, Austin
on capital trials, 217n. 9
on violence and law, 17–19, 34–35
Sartre, Jean-Paul, 220n. 26
Scalia, Antonin, 202–3, 211, 216n. 7
Scarry, Elaine
on aging, 40–41
on analogical verification, 172–73, 205–6, 213
on the body, 163–64
on pain, 110, 156–59, 224n. 6
on torture, 161–63
mentioned, 5, 220n. 26
Segastegui, Jeremy, 2
Shaftesbury, earl of, 71
Shaw, Leander
dissent in Provenzano v. Moore, 149–56, 225n. 2
Skillern, Doyle, 200–205, 207
Skinner, Thomas, 78–80, 83, 89
Smart, Barry
on Weberian concept of rationalization, 54–55
See also Foucault, Michel; rationalization; Weber, Max
sovereignty
and biopolitics, 206–7
classical doctrine of, 206
dilemmas of, in late liberal state, 9, 171–76, 206–9
execution as possible response, 208–14
Foucault’s criticism of, 48–49
See also executions; Foucault, Michel; globalization; governmentality; liberalism; state, liberal
state, liberal
authority of, 29–30, 74, 208
as beneficiary of medicalized conception of pain, 143–44
biopolitical transformation of, 186–92
dilemmas of, 3–9
regarding execution of women, 165–77, 226n. 3
regarding law and violence, 216n. 7
regarding legitimacy, 17–21, 171–72
regarding punishment and pain, 213–14
regarding punitive vs. welfare responsibilities, 200–205
regarding sovereignty and its erosion, 206–14
state, liberal (continued)
dispute between Weber and Foucault, 6, 7, 47–54, 221n. 5
as an effect, 58–59, 184, 189
and globalization, 207–8
governmentalization of, 188–92, 207
historical transformation of, 4–6
purpose of punishment within, 143, 213
rationalization of, in England, 6, 64–92
separation of powers within, 16
Weberian conception of, 50–52, 111, 184, 195
implications of physician-assisted suicide for, 196–97
limitations of, 184–85, 188, 197
See also Foucault, Michel; capital punishment; globalization; governmentality; hanging; law; lethal injection; Locke, John; rationalization; sovereignty; Weber, Max

Stephens, Boyd, 116
Stevens, John Paul, 13, 16
Stewart, Potter, 19
Stone, Lawrence, 64
Story, John, 66
Streib, Victor, 166, 167, 168
suicide
compared to executions, 116
physician-assisted, 196–97
by waiving right to appeal, 229n. 8
Supreme Court (U.S.)
on the constitutionality of capital punishment, 10–11
on cruel executions, 39–40
on Lackey claims, 13–14
on lethal injection, 8
mentioned, 8, 10, 11, 112, 172
See also Callins v. Collins; Furman v. Georgia; Gregg v. Georgia

Tencer, Allen, 122
Thomas, Clarence, 14, 45
Tilley, Cory, 145
torture, 161–63
trials, capital, 19–20, 217nn. 9, 13
Tucker, Karla Faye
controversy concerning execution of, 165, 170–71, 176, 226nn. 1, 3
gender identity of, 226n. 2
mentioned, 8, 10, 173, 176, 183
Turk, Dennis, 139–41
Turlis, Thomas, 77
Turner, Bernard, 78–80, 83, 89
Tyburn’s Triple Tree, 6, 66–70, 74–81, 222n. 10
Tyma, Stephen, 226n. 5

Washington State
capital statutes, 22, 119
dearth row, 41–43
penitentiary, 1–2
protocol for hanging, 104–5, 115–29

Weber, Max
on disenchantment, 61, 92
on law, 64
on modern state, 50–52, 64
and its legitimacy, 231n. 17
on passive democratization, 92
on rationalization, 55–58, 222nn. 6, 8
formal vs. substantive, 60–62
low level of, in England, 74
mentioned, 4, 5, 6, 47, 48, 65, 72, 73, 95, 97, 185
Weissberg, Robert, 176–77, 227n. 4
Wellhausen, Steve, 155
Wells, Thomas, 223n. 15
Wikswo, John, 154
Wittgenstein, Ludwig, 159
Women. See gender
Wood, Tana, 118, 124, 126, 132
Wright, J. Skelly, 202

Zimring, Franklin, 231n. 15
Zumwalt, Ross, 115, 116–17