From Noose to Needle
Law, Meaning, and Violence

The scope of Law, Meaning, and Violence is defined by the wide-ranging scholarly debates signaled by each of the words in the title. Those debates have taken place among and between lawyers, anthropologists, political theorists, sociologists, and historians, as well as literary and cultural critics. This series is intended to recognize the importance of such ongoing conversations about law, meaning, and violence as well as to encourage and further them.

Series Editors: Martha Minow, Harvard Law School
Elaine Scarry, Harvard University
Austin Sarat, Amherst College

Narrative, Violence, and the Law: The Essays of Robert Cover,
edited by Martha Minow, Michael Ryan, and Austin Sarat

Narrative, Authority, and Law, by Robin West

The Possibility of Popular Justice: A Case Study of Community Mediation in the United States, edited by Sally Engle Merry and Neal Milner

Legal Modernism, by David Luban


Lives of Lawyers: Journeys in the Organizations of Practice, by Michael J. Kelly

Unleashing Rights: Law, Meaning, and the Animal Rights Movement, by Helena Silverstein

Law Stories, edited by Gary Bellow and Martha Minow


Law and the Postmodern Mind: Essays on Psychoanalysis and Jurisprudence, edited by Peter Goodrich and David Gray Carlson

Russia’s Legal Fictions, by Harriet Murav

Strangers to the Law: Gay People on Trial, by Lisa Keen and Suzanne B. Goldberg

Butterfly, the Bride: Essays on Law, Narrative, and the Family, by Carol Weisbrod

The Politics of Community Policing: Rearranging the Power to Punish, by William Lyons

Laws of the Postcolonial, edited by Eve Darian-Smith and Peter Fitzpatrick

Whispered Consolations: Law and Narrative in African American Life, by Jon-Christian Suggs

Bad Boys: Public Schools in the Making of Black Masculinity, by Ann Arnett Ferguson

Pain, Death, and the Law, edited by Austin Sarat

The Limits to Union: Same-Sex Marriage and the Politics of Civil Rights, by Jonathan Goldberg-Hiller

From Noose to Needle: Capital Punishment and the Late Liberal State, by Timothy V. Kaufman-Osborn
# Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>List of Illustrations</td>
<td>vii</td>
</tr>
<tr>
<td>Acknowledgments</td>
<td>ix</td>
</tr>
<tr>
<td>Chapter 1. Introduction</td>
<td>1</td>
</tr>
<tr>
<td>Chapter 2. What Is a Death Sentence?</td>
<td>13</td>
</tr>
<tr>
<td>Chapter 3. John Locke’s Noose</td>
<td>47</td>
</tr>
<tr>
<td>Chapter 4. The Metaphysics of the Hangman</td>
<td>93</td>
</tr>
<tr>
<td>Chapter 5. Silencing the Voice of Pain</td>
<td>135</td>
</tr>
<tr>
<td>Chapter 6. Womanhood Unsexed on the Gallows</td>
<td>165</td>
</tr>
<tr>
<td>Chapter 7. Needling the Sovereign</td>
<td>179</td>
</tr>
<tr>
<td>Notes</td>
<td>215</td>
</tr>
<tr>
<td>References</td>
<td>233</td>
</tr>
<tr>
<td>Index</td>
<td>243</td>
</tr>
</tbody>
</table>
Illustrations

3. The new platform and gallows in the Old Bailey (1783) 79
Acknowledgments

As I have worked toward completion of this book, many friends and colleagues have offered helpful suggestions on various chapters. Although I worry that this list is incomplete, I would like to note in particular Paul Apostolidis, Jennifer Culbert, Julia Davis, Tom Davis, Christine DiStefano, Susan Ferguson, Renee Heberle, Mona Lynch, Jeannie Morefield, Dave Schmitz, Lynn Sharp, and Bob Tobin. For their perceptive comments, I also want to thank the students enrolled in the capital punishment seminar I taught at Whitman College during the spring semester of the 2000–2001 academic year. Absent Whitman College’s generous sabbatical leave program, I should add, I could not have finished this project in a timely fashion.

I would be remiss if I were not to acknowledge the editors of the Law, Meaning, and Violence series, of which this volume is a part, and, more particularly, Austin Sarat, who first convinced me that I might have something of value to say about the politics of capital punishment. Also, from start to finish, it has been a delight to work with Jeremy Shine, editor for Political Science and Law, at the University of Michigan Press. I cannot guarantee that I have heeded each and every exhortation advanced by the two anonymous reviewers secured by Jeremy, but I can say with confidence that their commentary has made this a better book than it would otherwise be.

I have also benefited a great deal from my continued association with the staff and board members of the American Civil Liberties Union of Washington. In addition to making available documents that otherwise would have been more difficult to come by, and putting up with my many questions about various legal technicalities, this group of dedicated civil libertarians and abolitionists has helped to nourish a constant give and take between my intellectual and political work.

Over the course of the past half decade or so, my parents, Norman
Osborn and Marjorie Phipps Osborn, have supplied a constant stream of newspaper clippings on every conceivable aspect of the death penalty; for their support, in all its forms, I owe a debt that will never be repaid fully. Finally, on more than one occasion, Sharon, Jacob, and Tobin Kaufman-Osborn have expressed concern about what they take to be my unseemly preoccupation with the politics of state killing and with death more generally. Absent their good cheer, as well as their steadfast refusal to discuss these matters at the dinner table, this fixation might indeed have grown worrisome. To Tobin, for decoding the Washington State Penitentiary’s instructions on noose tying; to Jacob, for feigning appreciation of my feeble efforts at gallows humor; and, to Sharon, for reasons she understands, I express my heartfelt gratitude.