TYBURN TREE

ITS

HISTORY AND ANNALS

BY

ALFRED MARKS

AUTHOR OF "WHO KILLED SIR EDMUND BERRY GODFREY?"
"HUBERT AND JOHN VAN EYCK: THE QUESTION OF
THEIR COLLABORATION CONSIDERED,"
ETC., ETC.

Who . . . began diligently and earnestly to prayse that strayte and rygorous iustice, which at that tyme was there executed vpon fellones, who as he sayde, were for the most part xx hanged together vpon one gallowes.—Sir THOMAS MORE, *Utopia*, about 1516.

LONDON
BROWN, LANGHAM & CO.
78, NEW BOND STREET, W.

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TYBURN TREE: ITS HISTORY AND ANNALS ***

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Rev.d Mr Whitfield Preaching on Kennina

GIBBET ON KENNINGTON COMMOI

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Ther bith therfore mo men hanged in Englande in a yere ffor robbery and manslaughter, then ther be hanged in Ffraunce ffor such maner of crime in vij yeres.—CHIEF JUSTICE FORTESCUE, about 1476.

Than stele they, or Rubbe they.
Forsoth they can nat chuse,
For without Londe or Labour hard is
it to mentayne,
But to thynke on the Galows that is a
careful payne.

But be it payne or nat: there many
suche ende.
At Newgate theyr garmentis are
offred to be solde.
Theyr bodyes to the Jebet solemly
ascende,
Wauynge with the wether whyle
theyr necke wyl holde.

ALEXANDER BARCLAY, *The Ship of Fools*, 1509.

Je suis persuadé que dans les treize cantons et leurs alliés, on pend moins de voleurs dans un an, que l'on ne fait à Londres dans une seule assise.—CÉSAR DE SAUSSURE, *Lettres et Voyages*, 1725-1729.

Many cart-loads of our fellow-creatures

> are once in six weeks carried to slaughter. —HENRY FIELDING, *Enquiry*, etc., 1751.
>
> The following malefactors were executed at Tyburn … John Kelly, for robbing Edward Adamson in a public street, of sixpence and one farthing.—*Gentleman's Magazine*, March 7, 1783.
>
> It is frequently said by them [the prisoners in Newgate] that the crimes of which they have been guilty are as nothing when compared with the crimes of Government towards themselves: that they have only been thieves, but that their governors have been murderers.—Mrs. FRY, 1818, quoted in *Romilly's Life*, ii. 486-7.

PREFACE

How our fathers lived is a subject of never-failing interest: of some interest it may be to inquire how they died—at Tyburn. The story has many aspects, some noble, some squalid, some pathetic, some revolting. If I am reproached with dwelling on the horrors of Tyburn, I take refuge under the wing of the great Lipsius, who, in his treatise De Cruce, has lavished the stores of his appalling erudition on a subject no less terrible.

But the subject has an interest other than antiquarian. We are to-day far from the point of view of Shelley—

"Power like a desolating pestilence
Pollutes whate'er it touches."

The general tendency is all towards extending the power of governments. Some would fain extend the sphere of the State's activity so as to give to the State control over almost every action of our daily lives. It may therefore be not without use to recall how governments have dealt with the people in the past. The State never voluntarily surrenders anything of its power. Less than a hundred years ago, ministers stoutly defended their privilege of tearing out a man's bowels and burning them before his eyes. The State devised and executed hideous punishments, sometimes made still more hideous by the ferocity of its instruments, the judges. All mitigation of these punishments has been forced on the State by "idealists." The State dragged its victims, almost naked, three miles over a rough road. The hands of compassionate friars placed the sufferer on a hurdle —not without threats of punishment for so doing. In the end, the State adopted the hurdle. So it has always been. Not a hundred years ago, Viscount Sidmouth, the Home Secretary, could see no reason for altering the law which awarded the penalty of death to one who had stolen from a shop goods to the value of five shillings. To Romilly, though he did not live to see this result of his untiring labours in the cause of humanity, we may gratefully ascribe the abolition of the extreme penalty for this offence.

On this field, as on others, the victories of civilisation have been won by the individual in

conflict with the community.

I desire to thank Mr. C. W. Moule, the Librarian of Corpus Christi College, and the College authorities, for permission, most courteously granted, to reproduce the drawing by Matthew Paris showing Sir William de Marisco being drawn to the gallows.

I am indebted to Mr. Herbert Sieveking for permission to reproduce, from a photograph taken for him, the print from the Gardner Collection showing an execution at Tyburn. I am in an especial degree obliged to him for calling my attention to Norden's map of Middlesex, the subject of an article by him in the *Daily Graphic* of September 4, 1908.

CONTENTS

	PAGE
WHOM TO EXECUTE? WHO IS TO EXECUTE? HOW TO EXECUTE?	6
DRAWN, HANGED, AND QUARTERED	27
TORTURE AND THE PEINE FORTE ET DURE	35
THE HANGMAN	44
AFTER TYBURN	49
ORIGIN AND SITE OF THE TYBURN GALLOWS	54
THE CHRONOLOGY OF TYBURN	71
ANNALS	73

INDEX 269

ILLUSTRATIONS

THE REV. MR. WHITEFIELD PREACHING ON KENNINGTON COMMON *Frontispiece*

From a print in the Crowle Pennant, Print Room, British Museum, Part VIII., No. 242. Probable date, 1748, or somewhat later. The triangular gallows is probably that erected for the execution in 1746 of the rebels of 1745. The bodies on the gibbet are those of highwaymen or murderers.

FACING PAGE

THE FIRST KNOWN REPRESENTATION OF THE TRIPLE TREE 62

A portion of a map of Middlesex engraved by John Norden for William Camden's "Britannia," edition of 1607.

THE TRIPLE TREE ABOUT 1614 64

The illustration reproduces the frontispiece of a book. The gallows is shown in the uppermost lozenge on the left.

THE RUINS OF FARLEIGH CASTLE 66

From Sir Richard Colt Hoare's "Hungerfordiana; or, Memoirs of the Family of Hungerford," 1823.

THE TRIPLE TREE IN 1712 66

From a broadsheet published by the Rev. Paul Lorrain, the Ordinary of Newgate, containing an account of an execution at Tyburn, on September 19, 1712.

THE TRIPLE TREE IN 1746 68

Reduced from Rocque's 24-sheet Map of London, etc., begun in March, 1737, and published in October, 1746.

THE SITE OF TYBURN TREE 70

Showing the locality before the alterations of 1908. Reduced from the Ordnance large-scale map of 1895.

SIR WILLIAM DE MARISCO (OR WILLIAM MARSH) DRAWN TO TYBURN IN 1242 90

From a contemporary drawing by Matthew Paris in the MS. "Chronica Majora," in the possession of Corpus Christi College, Cambridge. Reproduced here by permission of the Librarian and authorities of the College.

DRAWING TO TYBURN ON HURDLES, *temp.* ELIZABETH 166

From “The Life and Death of Mr. Genings.” (*See illustration facing p. 64.*)

EXECUTIONS AT TYBURN, *temp.* ELIZABETH 168

From “The Life and Death of Mr. Genings.” (*See illustration facing p. 64.*)

THE TRIPLE TREE ABOUT 1680 198

From a print in the Gardner Collection. Reproduced, with Mr. Gardner’s permission, by Mr. Herbert Sieveking, who allows this reproduction from a photograph taken for him.

THE PEINE FORTE ET DURE 230

William Spiggott under the press in Newgate, in 1721. From the (anonymous) “Newgate Calendar,” 5 vols., 1773.

THE TRIPLE TREE IN 1747 240

Reduced from the last plate of Hogarth’s series of “Industry and Idleness,” showing the execution at Tyburn of Thomas Idle.

THE INTERIOR OF SURGEONS’ HALL 246

Showing the body of a murderer after dissection, in accordance with the provisions of the Act of 1752. From “The New and Complete Newgate Calendar,” by William Jackson, of the Inner Temple, Barrister-at-Law, 6 vols., 1795.

DRAWING TO TYBURN ON A SLEDGE 248

Showing Dr. Cameron being drawn to Tyburn in 1753. From "The Old Bailey Chronicle," by James Montague, of the Temple, 4 vols., 1783.

THE EXECUTION AT TYBURN OF EARL FERRERS IN 1760 252

From a print in the Crace Collection, Print Room, British Museum, Views, Portfolio XXX., No. 3. This was one of the earliest executions on the new movable gallows.

THE NEW GALLOWS AT NEWGATE, 1783 266

From "The Old Bailey Chronicle," as above.

ADDENDA.

Pages 62-65, and illustration.

Norden's map of 1607 gives the first indication of the site of the triangular gallows, but, in writing of the map as giving the earliest known representation of the gallows, I had forgotten Richard Verstegen's "Theatrum Crudelitatum Haereticorum nostri temporis," Antwerp, 1587. The Triple Tree is shown

quite correctly as to form, without indication of site, on p. 83.

Page 170, "put them to the manacles."

This instrument of torture is shown in the above-mentioned book, in an engraving on page 75, the description, here translated, being: "An instrument of iron which presses and doubles up a man into a globe-shape. In this they put Catholics, and keep them in it for some hours."

TYBURN TREE
Its History and Annals

HISTORY

INTRODUCTION

Looking back down the long vista of six hundred years, we see an innumerable crowd faring to their death from the Tower of London or from the prison of Newgate to the chief of English Aceldamas, the field of blood known as Tyburn. Of this crowd there exists no census, we can but make a rough estimate of the number of those who suffered a violent death

at Tyburn: a moderate computation would place the number at fifty thousand. It is composed of all sorts and conditions of men, of peers and populace, of priests and coiners, of murderers and of boys who have stolen a few pence, of clergymen and forgers—sometimes of men who in their person unite the two characters—of men versed in the literature of Greece and Rome, of men knowing no language but the jargon of thieves. Cheek by jowl are men convicted of the most hideous crimes—men whose only offence it is that they have refused to renounce their most cherished beliefs at the bidding of tyrant king or tyrant mob. As a final touch of grim humour the ex-hangman sometimes figures in the procession, on the way to be hanged by his successor.

They fare along their Via Dolorosa in many ways. Some bound and laid on their back are dragged by horses over the rough and miry way, three miles long; a few are on horseback; some walk between guards; the most are borne in carts which carry also due provision of coffins presently to receive their bodies. All make a halt at the Hospital of Saint Giles-in-the-Fields, where they are “presented with a great bowl of ale, thereof to drink at their pleasure, as to be their last refreshment in this life.”

It is for the most part a nameless, unrecorded crowd. For hundreds of years only a single figure emerges here and there from the throng. During a few decades only of the history of Tyburn do we see clearly and in detail the figures in these dismal processions. They go, in batches of ten, fifteen, twenty, laughing boys, women with children at the breast, highwaymen decked out in gay clothes for this last scene of glory; men and women drunk, cursing, praying. Some of the women are to be burnt

alive; of the men, some are to be simply hanged; others, first half-hanged, are to have their bowels torn out and burnt before their eyes; some are to be swung aloft till famine cling them. The long road is thronged with spectators flocking in answer to the invitation of the State to attend these spectacles, designed to cleanse the heart by means of pity and terror. To-day Tyburn—what Tyburn means—is, in spite of the jurists, at its last gasp. After a struggle of a hundred years hanging is all but abolished. The State has renounced its attempt to improve our morals by the public spectacle of violent deaths. The knell of capital punishment was rung when Charles Dickens compelled the State to do its hanging in holes and corners.

The "Histories of England" do not tell us much about Tyburn. "The far greater part of those books which are called 'Histories of England,'" writes Cobbett, "are little better than romances. They treat of battles, negotiations, intrigues of courts, amours of kings, queens, and nobles; they contain the gossip and scandal of former times, and very little else." Nor do we find much more in those most dismal of books called "Constitutional Histories." They mention Tyburn only in connection with the execution of some one who infringed the rules as at the time understood, of The Game played at Westminster, before the establishment of the present perfect accord between the Ins and the Outs, between those whom Cobbett irreverently calls the rooks at the top of the tree and the daws on the lower branches.

The story of Tyburn is one of the strangest, surely one also of the saddest, in the history of the people. To understand it, we must consider the social and

legal conditions which found their outcome at Tyburn.

WHOM TO EXECUTE? WHO IS TO EXECUTE? HOW TO EXECUTE?

These questions have, after much experimenting, been so completely answered that it is to-day difficult to realise that each question has presented serious problems. We hang only those found guilty of murder, to the regret of jurists like Sir James Fitzjames Stephen, who thought that the punishment of death ought to be inflicted in *many* other cases.[1] But in times not very remote there were on the Statute Book, as has been reckoned, no fewer than two hundred capital offences. No man is now hanged except after trial and conviction by a Court of Assize, or by the Central Criminal Court. A person so convicted is executed by the common hangman in the simple manner invented long ago by some one who discovered that a rope tied about a man's neck is held in position by the projecting mass of the head.

In old times the country swarmed with courts of inferior jurisdiction, each, however, with the power of hanging thieves. There is a satirical story telling how a man who had suffered shipwreck scrambled up a cliff, and, seeing a gallows, fell on his knees, and thanked God that he found himself in a Christian country. In the England of the thirteenth century he would not have had to travel far into the interior to find this mark of Christian civilisation. The right to

erect a gallows was frequently granted, and perhaps even more frequently assumed without legal right. In the grants of franchises to monasteries we find, together with the concession of assize of bread and beer, and judgment of fire and water—together with these we find franchise of "swa full and swa forth," &c., of sac and soc, tol and theam, flem and fleth, blodwith, grithbrith, flemensferd, infangethef and utfangethef. And among such franchises, some of which are a puzzle to the learned, we find a franchise easily understood, of "furca et fossa," of gallows and pit, gallows for men, pit, full of water, for women.[2] All these numerous franchises were rights of the crown—jura regalia—often granted to monasteries and to individuals. In a record of which more will have to be said, we read that at the end of the thirteenth century there were no fewer than fifteen gallows in the hundred of Newbury alone, mostly belonging to religious. Among them we find one belonging to a prioress, a not uncommon case. It is distressing to think that Chaucer's tender-hearted prioress, who "wolde weepe if that sche sawe a mous caught in a trappe, if it were deed or bledde," had a gallows on which—by the hands of her bailiff—she hanged thieves. There is little doubt that she had her gallows.

But one's first surprise at the enormous number of gallows subsides when we consider the conditions of life in early times. The country was thickly wooded: immense forests gave shelter to robbers, thieves, to all under the ban of the law. One of the laws of Ina runs, "If a far-coming man, or a stranger, journey through a wood, out of the highway, and neither shout nor blow his horn, he is to be held for a thief, either to be slain, or redeemed." To come to later times—there is a tradition that the stewardship of

the Chiltern Hundreds was instituted for the purpose of putting down thieves. Tradition it may be called, for the conjecture is not supported by evidence. Thus, in a Parliamentary paper issued in 1894, there are some notes on the history of the stewardship. As to its origin, these notes do not go behind Wharton's Law Dictionary, and Chambers's Encyclopædia. Here is the story of the origin of the stewardship, or as it would be more properly called, the wardenship. Leofstan, the abbat here named, was a friend of Edward the Confessor; it is known from an old record that he was abbat in 1047. In reading the narrative we must remember that the "Ciltria" of the story was a wider district than that to which we now give the name of Chiltern.

"THE STORY OF THE CHILTERN HUNDREDS.

"This same abbat Leofstan, also called Plumstan, being a simple and pious man, full of compassion for all persons in peril, in order to make the roads safer for travellers, merchants and pilgrims faring to the church of the Blessed Alban, whether for the expiation of their sins, or for their worldly profit, caused to be cut down, chiefly along the royal road called Watling Street, the dense forests stretching from the border of Ciltria almost as far as to the north side of London: he also cleared the rough places, made bridges and levelled the way. For there were at that time all over Ciltria vast, dense forests, giving shelter to many different kinds of wild beasts, namely, wolves, wild boars, wild bulls, and stags, and, more

dangerous still, to robbers, thieves by day and thieves by night, men banished from the realm, fugitives from justice. Wherefore abbat Leofstan—not to the loss, but to the good of this church—made over to a certain most stout and valiant knight, Turnot by name, and to two of his companions, Waldef and Thurman, the manor of Flamstude [Flamstead lies a little to the west of Watling Street], for which Turnot gave privately to the abbat five ounces of gold, a most beautiful palfrey, and a desirable greyhound. Which was done on these conditions—that the said Turnot, with his fellow-knights before named, and their followers, should protect the western parts, most haunted by robbers, and effectually guard the same, with the stipulation that they should make good any loss arising from their negligence. And if a general war should break out in the kingdom, they should use their utmost diligence, and do all in their power to protect the church of St. Alban. And these covenants Turnot and his companions faithfully observed, as did also their heirs up to the time when King William conquered England. Then, because they disdained to come under the yoke of the Normans, the manor was taken from them. Refusing to submit, they chose rather to betake themselves to the forest, and laid ambushes for the Normans who had taken possession of their lands, burnt their houses, and killed many of them. But, the king's affairs going well,

> some made their peace with him, some were captured and punished.… However, a certain noble, Roger de Thoni by name, who, in the distribution of lands, came into possession of the manor, did not refuse to acknowledge the right of St. Alban's, and zealously performed the before-mentioned duty. He was highly renowned in arms, a Norman by race, of the stock of those famous soldiers who are called after the Swan."[3]

As the chronicler, who is supposed to have written before 1259, says nothing of any lapse of the agreement, it seems probable that it was still in force in his day, and that the wardenship has existed continuously from the eleventh century to our own days.

About a century later matters had got from bad to worse:—

> About 1160. A kind of robbers not before heard of began to infest the country. Disguised as monks, these men joined travellers, and when they reached the spot where their fellows were lying in ambush, they gave a signal, and, turning on the deluded wayfarers, robbed and murdered them.[4]

Still a century later, in 1249, bitter complaints were made by certain merchants of Brabant of the unsafe state of the roads in the neighbourhood of Winchester. These merchants had been robbed of two hundred marks by men whose faces they had

seen about the court. They threatened reprisals on the goods of English merchants in Brabant. The king, greatly moved, took strong measures. Twelve persons were selected and sworn to give up the names of robbers known to them, but after deliberation they refused to inculpate any one. They were thrown into prison, and twelve others were chosen. These, finding that the first twelve were condemned to be hanged, gave up the names of many men, of whom some thirty were hanged, an equal number being thrown into prison. It is clear that there existed a widespread organisation in which were involved some belonging to the king's household. These put the blame on the king himself: they had not received their pay, and were compelled to rob in order to maintain themselves.

The severe measures taken on this occasion did not cure the disease. Four years later, the king, acting on the advice of certain Savoyards, decreed that if any one was robbed or injured on a journey, compensation should be made, according to the custom of Savoy, by those responsible for the safety of the district. But the new plan came to nothing.[5]

On a calm review of the facts it is difficult to resist the conclusion that civilisation has been immeasurably more favourable to the predatory classes than to any other class whatsoever. The coarse, rude methods of early times have given place to vastly improved ways of "conveying" a neighbour's goods. In the Paston Letters we read of nobles and great men laying siege with an armed force to a coveted house. The appropriation of "unearned increment" is at once more scientific and more productive. The arts of engraving and printing have been turned to the greatest advantage. A

design, more or less elaborate, is produced, purporting to represent a certain value expressed by numerals, as L. 1, L. 50, or L. 100. Persons of high social position are found to assure the public that the pieces of paper on which these designs are printed are worth much more than the expressed amount (known as the “face value”). Accomplices pretend to buy these pieces of paper at an enhanced price, the public follows suit, and in this way “shares,” as they are called, which will never bring sixpence of revenue to the holder, have been known to be eagerly bought at many times the “face value.” Many are the paths opened by civilisation to rapid accumulation. In addition to the company-monger, we have the “bucket-shop” keeper, the betting man, the army contractor, the loan-monger, the owner of yellow and blackmailing journals. Each of these, if only his operations are on a sufficiently large scale, may and does rise to high social position. Each generation sees a vast extension and improvement of method. A man who was in his day the greatest of the tribe of company-mongers is said to have shed tears of bitter self-reproach for lost opportunities as he surveyed the operations of his successors.

It must, in fairness, be admitted that the public finds its account in the new arts of relieving it of its money. Of old time Dunning, operating in the forests of Ciltria, too often took the life as well as the money of his victims. There is to-day no need of violence, and as all that a man has will he give for his life, the improvement of method is beneficial to the community generally. Thus all is for the best in the best of all possible worlds.

Little could the pioneers foresee of the triumphs of their successors. “William the Sacrist,” if William it

was who planned the robbery of the King's treasury in 1303, perhaps the greatest burglary ever attempted, must have been a man of the highest genius. Had he lived in the nineteenth century he would have adopted more finished methods. He fell upon evil times, and his skin illustrates a door in the cloisters of Westminster Abbey (see p. 25).

Yes, William, you and your like lived in cruel times! You were called harsh names, fures, latrones, vespiliones, raptores, grassatores, robatores. To extirpate these old-time thieves, to bring them to the gallows, was, if not the whole duty of man, at least the first duty of the citizen. "Theft," writes Sir James Fitzjames Stephen, "seems to have been the crime of crimes. The laws are inexorable towards it. They assume everywhere that thieves are to be pursued, taken and put to death then and there." Bracton[6] gives instructions for the swearing-in of the whole male population over fifteen years of age for the purpose of hunting down malefactors. The justiciaries on their circuits are to call before them the greater men of the county, and to explain to them how it has been provided by the king and his council that all, as well knights as others of fifteen years of age and upwards, ought to swear that they will not harbour outlaws and murderers, robbers or burglars, nor hold converse either with them or their harbourers: that if they come to know any such, they will declare it to the sheriff or his bailiffs. And if they shall hear the Hutesium—the Hue and Cry—they shall immediately follow with their household and the men of their land. Let them follow the track to the boundary of their land, and show it to the lord of the adjoining land, so that pursuit may be made with all diligence from land to land till the malefactors are captured. There must be no delay in following the

track; it must be continued till nightfall. Such was the famous Hutesium—the Hue and Cry—the name of which remains with us to the present day. One of the old chroniclers tells how, in 1212, the Hue and Cry was raised causelessly, in a panic, and spread over almost the whole of England.[7]

The truth is that in the simple life of those days no robber nor thief had the smallest chance of posing as a great man. The field, too, was limited. Thieves and robbers could but operate on movable property or clip the coin. It was the misfortune of the depredators living in "the dark ages," that a thief not only was a thief, but was of all men known to be one.

One begins to understand the fury with which robbers and thieves were pursued. Mr. Freeman says most justly, "In our settled times we hardly understand how rigour, often barbarous rigour, against thieves and murderers, should have been looked on as the first merit of a governor, one which was always enough to cover a multitude of sins."[8] To the same cause we may, no doubt, ascribe the singular fact that ecclesiastics, forbidden to shed blood, yet hanged men by the hands of their bailiffs. [9] An abbat, for example, had two parts to fulfil. As an ecclesiastic he gave shelter to thieves, as lord of the manor he hanged them. The abbat of Westminster had his servants waiting in Thieving Lane to show thieves the way to sanctuary: on the other hand, he had sixteen gallows in Middlesex alone.[10] The contradiction is placed in the strongest light by the charter of Glastonbury, granted by Edgar (A.D. 958-975). The charter concedes "infangethef and utfangethef," the right to try and assuredly to hang thieves. But the very same charter grants that,

if anywhere in the kingdom, the abbat or one of his monks should meet a thief being taken to the gallows, or otherwise in danger of his life, he could stay the execution of the sentence.[11]

The insight into the state of the country in the late thirteenth century, given by the two publications of the Records Commission, Rotuli Hundredorum, and Placita de Quo Waranto, is so valuable that it may be permitted to glance at them. The preliminary to the first of these is the Act of the fourth of Edward I. (1276), the statute for assigning justices to the work. The statute, called "Rageman," a term of doubtful etymology, enacted that justices should go through the land inquiring into, hearing, and determining all complaints and suits for trespasses within twenty-five years last past, as well by the king's bailiffs as by all other persons whomsoever. These commissioners did their work with a thoroughness amazing when we consider the difficulty of travel in the times. The results are recorded in the Rotuli Hundredorum. On the evidence furnished by the Rotuli Hundredorum was passed the statute of Gloucester, in the sixth of Edward I. (1278). This Act put the burden of proof of lawful claim to franchises on the persons exercising them. The statute enacts that whereas prelates, earls, barons, and others of the kingdom claim to have divers franchises, persons may continue to exercise these franchises without prejudice to the king's rights until the next coming of the king into the county, or the next coming of the justices in Eyre, or until the king otherwise order. The sheriffs are to make proclamation that all who claim to have any franchise by charter or otherwise shall come at a certain day to a place assigned, to state what franchises they claim and by what title.

In 1281 was issued, according to the annals of Waverley, a mandate "called by the people Quo Waranto, directed to certain justices, for inquiring respecting lands, tenements, rents, alleged to be alienated from the king, as well as regarding franchises held from him: by reason of which mandate archbishops, bishops, abbats, priors, earls, barons, and others holding franchises, as well religious as others, were subjected to trouble and expense, although the king got little profit thereby."[12]

The statements found in the presentments of jurors in the Rotuli Hundredorum are, as might be surmised, somewhat in the nature of hearsay. They have not the value, as material for investigating the social condition of the time, of the more formal charges contained in the Placita de Quo Waranto. Thus we find, in the Rotuli Hundredorum, that the abbat of Westminster was presented by the jurors of three several wards of the City of London as having gallows at Tyburn: in other cases gallows are mentioned as erected by the abbat in Middlesex, two places only being specified. But when we come to the Placita de Quo Waranto, we find that the abbat had gallows in fifteen places in Middlesex in addition to one in the ville of Westminster. These places were, Eye (a district of Westminster), Teddington, Knightsbridge, Greenford, Chelsea, Brentford, Paddington, Iveney, Laleham, Hampstead, Ecclesford, Staines, Halliford, Westbourne, and Shepperton.[13]

This inquisition is not to be confounded with another, singularly called "Trailbaston," relating to criminal matters, as the other related to civil affairs. "Trailbaston," which may be rendered "Bludgeon-

men," has sometimes been supposed to be so called from the justices themselves; but it is more probable that, as we find the word in the earliest mention of the subject, the bludgeon-men were those against whom operations were directed, just as we might to-day speak of a "hooligan Act" if an Act were specially devoted to these gentry.

The first official mention of Trailbaston is found in Rotuli Parliamentorum, under date 1305, when it already bore the nickname "Ordination de Trailbastons." Justices were then assigned to inquire as to murders and felonies committed during the last eight years. In 1306 the inquisition, as would seem, had not got to work, as the king ordered that if the justices assigned are not sufficient for the duty, "a parfaire les busoignes qe touchent les pledz de Traillebaston," more are to be assigned to the work. Five days later he sent a list of twenty-one justices, and the thirty-eight counties allotted to them severally. The inquisition of Trailbaston was found to work mainly as a great engine of oppression. In 1377 the Commons petitioned that there may be no manner of Trailbaston held in the realm during the war nor for twenty years. It is alleged that both civil and criminal inquisitions had for object to bring money into the exchequer by means of fines.[14]

To return to the subject of the multiplicity of courts. It is to be supposed that, in the circumstances, there were frequently conflicts between courts as to their respective jurisdiction. Of this conflict we find curious instances in the chronicles. Thus, in 1249, a thief was caught on the land of the abbat of Tewkesbury, but was suffered by the abbat's bailiffs to be taken to the court of the Earl of Gloucester. After trial by this court the thief was

hanged. On learning this, the abbat was greatly incensed, seeing that the franchise of his church had been invaded. Shortly after another case arose. John Milksop stole thirty-one pence from Walter Wymund, of Bristol. As soon as Walter discovered his loss, he raised the hue and cry, followed Milksop, traced him to a wood, captured him, and brought him into the abbat's court. The earl's bailiff protested: the abbat complained to the earl, who ordered inquiry. As nothing came of this, a second order was issued, and twelve persons were chosen to investigate the question. The abbat, finding the inquiry going against him, protested against the manner of proceeding, and went in person to the earl, then at some distance. The earl suggested that the abbat should keep the accused in prison till the earl's return home. The abbat objected that he had neither castle nor prison in which to keep the man for so long a time. Then the earl ordered a fresh inquiry to be made against his return, the abbat meanwhile to try the man in his own court, and to hang him on the earl's gallows. Milksop was tried accordingly, could make no good defence, and was hanged. The chronicle does not tell the end of the dispute.[15]

In the twelfth century the district near Dunstable, where Watling Street meets Icknield Street, was so infested by robbers that hardly could "a lawful man" pass that way. The chronicler, whose etymology is not above suspicion, states that Dunstable came by its name from one Dunning, a famous robber who haunted the region. Henry I., towards the end of his reign—say about 1130—founded Dunstable Priory, making over to it all his rights, including a free gallows for hanging thieves outside the town of Dunstable, in a place called Edescote.[16] The prior's right was clear; nevertheless, in 1274, Eudo la Suche

threw down the prior's gallows and put up his own. [17]

Another instance. In 1290 Bogo de Knowill, the king's bailiff of Montgomery, complained to our lord the king that Edmund Mortimer had laid hands upon a king's man who had committed murder, had imprisoned him, in spite of the bailiff's demands, had refused to give him up, had tried him in his own court, and hanged him, to the hurt of the franchise of the town of Montgomery, and against the crown and its dignity, etc. The king declared that Mortimer had forfeited his franchise of Wygemore, but agreed to restore it on payment of a fine. But, in addition, Mortimer must hand over to Bogo, the bailiff, an effigy, in the name and place of the man who had been hanged, the bailiff to hang the effigy, and to let it hang as long as may be. After a while, Mortimer complained that the bailiff unjustly retained the franchise in the king's hand. Whereunto Bogo replied that the effigy had not been handed over to him, wherefore he held the franchise aforesaid until, etc. And the king ordered that the franchise should be held till the effigy should be handed over. This is the last heard of Bogo, Mortimer, and the effigy.[18]

In such cases more was touched than the dignity of the lord of the franchise. The concession of a franchise to hang generally included the right to "catalla felonum," the goods of felons and of fugitives. "These courts," says Sir James Fitzjames Stephen, "were a regular source of income to the lord of the franchise." Irregularities and tyrannies of these petty courts, quarrelling over the right to imprison and hang, may be assumed: we understand how it was that in popular risings the lawyers were always singled out for vengeance.

How to execute? Even in regard to the way of mere hanging, the problem presented difficulties. In France, a rigid etiquette guarded the method of hanging. A franchise might give the right to hang upon trees only.[19] Some gallows had two pillars, some three, four, six, eight, according to the rank of the person erecting the gallows.[20] These nice distinctions are not to be discovered in English customs. There are, however, traces of strange practices. Four several bailiffs took part in the execution of a man hanged on the gallows of the prior of Spalding. The bailiff of Spalding brought the man to the gallows, the bailiff of Weston brought the ladder to the gallows, the bailiff of Pyncebecke found the rope, the rest was done by the bailiff of Multon.[21]

But hanging was one only out of numerous methods of carrying out a capital sentence: ingenuity seems to have exhausted itself in devising ways of putting a man to death. A law of Æthelstan decrees, "Let him be smitten so that his neck break."[22] When leaving England for Palestine, Richard I. commanded that he who killed a man on board ship should be tied to the corpse and thrown into the sea: if the murder was committed on land, the murderer was to be buried alive with the body.[23] Boroughs had their own several customs. In one place any man taking another who had stolen to the value of 2s. 8½d., might forthwith hang him: for a second offence the amount was reduced to 8¼d. In Romney, at the end of the fifteenth century, the bailiff found the rope, the prosecutor was bound to find a hangman. Failing this he must himself do the hanging, or be put in prison with the felon till such time as he could find a hangman, or resolve to hang the man with his own hands. In another place a

miller stealing flour to the value of 4d. was to be hanged from the beam of his mill.[24] At Sandwich a murderer was buried alive on Thief Down, where perhaps golf is now played.[25] In London, at the beginning of the fourteenth century, a man convicted of treason in the court of the mayor, was bound to a stake in the Thames during two flows and two ebbs of the tide.[26] Two centuries later "pirats and robbers by sea are condemned in the court of the admeraltie, and hanged on the shore at lowe water marke, where they are left till three tides haue ouerwashed them."[27] At Fordwich, in the fifteenth century, a man condemned to death was carried to a place called Thieves' Well, there bound hand and foot and thrown in by the prosecutor.[28] At Dover, the condemned man was led to a cliff called Sharpnesse, and there executed by "infalistation," a word which puzzled the learned Selden. It means that the offender was thrown over the cliff (falaise) on to the beach below.[29] Elsewhere the criminal was thrown into the harbour at high tide; elsewhere, again, he was burnt.[30]

In his "Description of England," forming part of Holinshed's Chronicle, Harrison tells of ways of execution in practice when he wrote, about 1580: "He that poisoneth a man is to be boiled to death in water or lead, although the party die not of the practise." Harrison is here mistaken. The enactment of boiling to death was due to one malefactor, who achieved the rare distinction of having an Act of Parliament directed against himself. The Act, 22 Henry VIII. (1530-1) c. 9, tells the story. It begins by stating that the crime of poisoning has in this realm been most rare, and continues thus:—

"And now in the tyme of this presente parliament, that is to saye in the xviijth daye of Februarye in the xxij yere of his moste victorious reygn, one Richarde Roose late of Rouchester in the Countie of Kente coke, otherwyse called Richarde Coke, of his moste wyked and dampnable dysposicyon dyd caste a certeyne venym or poyson into a vessell replenysshed with yeste or barme stondyng in the Kechyn of the Reverende Father in God John Bysshopp of Rochester at his place in Lamehyth Marsshe, wyth whych Yeste or Barme and other thynges convenyent porrage or gruell was forthwyth made for his famylye there beyng, whereby nat only the nombre of xvij persons of his said famylie whych dyd eate of that porrage were mortally enfected and poysoned and one of them that is to say, Benett Curwen gentylman thereof ys decessed, but also certeyne pore people which resorted to the sayde Bysshops place and were there charytably fedde with the remayne of the saide porrage and other vytayles, were in lyke wyse infected, and one pore Woman of them that is to saye, Alyce Tryppytt wydowe is also thereof nowe deceased: OUR SAYDE SOVEREIGN LORDE THE KYNGE of hys blessed disposicion inwardly abhorryng all such abhomynable offences because that in no maner no persone can lyve in suretye out of daunger of death by that meane yf practyse thereof shulde not be exchued, hath ordeyned and enacted by auctorytie of thys presente parlyament

> that the sayde poysonyng be adjudged and demed as high treason, And that the sayde Richarde Roose for the sayd murder and poysonynge of the sayde two persons as is aforesayde by auctorite of thys presente parlyament shall stande and be attaynted of highe treason: And by cause that detestable offence nowe newly practysed and commytted requyreth condigne punysshemente for the same: It is ordeyned and enacted by auctoritie of this presente parliament that the said Richard Roose shalbe therfore boyled to deathe withoute havynge any advauntage of his clargie."

The Act goes on to declare that in future murder by poisoning shall be deemed to be high treason, punishable by boiling to death.

This was the sequel:—

> "**1531.** The 5. of Aprill one Richard Rose a cooke, was boiled in Smithfielde, for poisoning of diuers persons, to the number of 16, or more, at y^{e} bishop of Rochesters place, amongst the which Benet Curwine Gentleman was one, and hee intended to haue poisoned the Bishop himselfe but hee eate no pottage that day whereby hee escaped: marie the poore people that eate of them, many of them died" (Stow's Annals, ed. 1615, p. 559).

Stow records another case in 1542, March 17, when Margaret Davy, a maid-servant, was boiled in

Smithfield for poisoning three households in which she had lived.[31]

To continue with Harrison: If one "be conuicted of wilfull murther, doone either vpon pretended malice, or in anie notable robberie, he is either hanged aliue in chaines neere the place where the fact was committed (or else vpon compassion taken first strangled with a rope) and so continueth till his bones consume to nothing."

"Such as hauing wals and banks neere vnto the sea, and doo suffer the same to decaie (after conuenient admonition) whereby the water entereth and drowneth vp the countrie, are by a certeine custome apprehended, condemned, and staken in the breach, where they remaine for euer as parcell of the foundation of the new wall that is to be made vpon them, as I haue heard reported." This also is strange, showing that a machine practically identical with the guillotine was in use in England centuries before the re-invention of the machine by Dr. Guillotin:—

> "There is and hath beene of ancient time a law or rather a custome in Halifax, that who soeuer dooth commit anie fellonie, and is taken with the same, or confesse the fact vpon examination: if it be valued by foure constables to amount to the sum of thirteene pence halfe penie, he is foorthwith beheaded upon one of the next market daies.… The engine wherewith the execution is doone, is a square block of wood of the length of foure foote and an halfe, which dooth ride vp and downe in a slot, rabet, or regall betweene two peeces of timber, that are

> framed and set vpright of fiue yardes in height. In the neather end of the sliding blocke is an ax keied or fastened with an iron into the wood, which being drawne vp to the top of the frame is there fastned by a wooden pin (with a notch made into the same after the manner of a Samsons post) vnto the middest of which pin also there is a long rope fastened that commeth downe among the people, so that when the offendor hath made his confession, and hath laid his necke ouer the neathermost blocke, euerie man there present dooth either take hold of the rope (or putteth foorth his arme so neere to the same as he can get, in token that he is willing to see true iustice executed) and pulling out the pin in this maner, the head blocke wherein the ax is fastened dooth fall downe with such a violence, that if the necke of the transgressor were so big as that of a bull, it should be cut in sunder at a stroke, and roll from the bodie by an huge distance. If it be so that the offendor be apprehended for an ox, oxen, sheepe, kine, horsse, or anie such cattell: the selfe beast or other of the same kind shall haue the end of the rope tied somewhere vnto them, so that they being driuen doo draw out the pin wherby the offendor is executed."[32]

Harrison says that "we have vse neither of the wheele nor of the barre, as in other countries," and these punishments are not to be found in the chronicles.

A favourite story of the Middle Ages is that of the unjust judge, Sisamnes, flayed alive by order of Cambyses. This punishment is one not likely to have been overlooked. In the "Laws of Henry I." (so called), we find scalping and flaying mentioned as punishments (comacio and excoriacio[33]). It is certain that the punishment was not absent from men's minds. In 1176, the secretary of the young king was discovered to be in correspondence with Henry II. He was thought worthy of death; some proposed that he should be hanged, others that he should be flayed alive (vivum excoriari[34]). I have not found a written record of execution in England by flaying alive, but there exists singular and terrible indirect evidence of the infliction of the punishment in a very remarkable case.

In 1303 was successfully carried out a burglary which after six centuries remains the greatest burglary on record, the amount involved being £100,000, equal to £2,000,000 in money of the present day. The palace of the king at Westminster was contiguous to the abbey. In the King's treasury were lodged at the time in question not only the regalia, but a large sum of money destined to the carrying on of the war in Scotland. Edward I. left Westminster on March 14th and travelled towards Scotland, reaching Newcastle on May 6th. Shortly before this date the treasury was broken into and its treasure carried off. The robbery being discovered, forty-one friars and thirty-four monks were committed to the Tower. The burglary had been skilfully planned. Early in the spring the cemetery—the plot enclosed by the cloisters—was sown with hemp, so that the hemp should grow high enough by the time fixed for the robbery to hide the treasure. Mr. Joseph Burtt, who has told the story at length,

came to the conclusion that "the affair was evidently got up between William, the sacrist of Westminster, Richard de Podlicote, a merchant, and the keeper of the palace, with the aid of their immediate servants and friends."[35]

Ten monks and one cleric were arraigned, but, refusing to be tried by secular judges, were remanded to the Tower. But the judges "condemned the sacrist of Westminster for receiving and concealing jewels of our lord the king." Strangely enough, there is no record of his sentence.[36] But certain doors giving access to the treasury were found to be covered, inside and outside, with skin. Sir Gilbert Scott submitted a piece to an eminent microscopist, Mr. Quekett, who pronounced it to be human skin. There has been vague talk of "the skins of Danes" in connection with the lining of these doors, but Dean Stanley, who says that the skin is that of "a fair-haired, ruddy-complexioned man," is of opinion that there is no period to which these fragments of skin can be so naturally referred as to that of the burglary.[37]

Here is the record of a punishment, the only one of its kind I have found recorded:—

> "**1222.** A Prouinciall councell was holden at Oxforde, by Stephen Langton Archbyshoppe of Canterburie, and his suffragane bishops and others.... There was also a young man and two women brought before them, the yoong man would not come in any church, nor be partaker of the Sacraments, but had suffered himselfe to be crucified, in whom the scars of all y^{e} wounds were to be

> seene, in his hands, head, side and feete, and he reioyced to bee called Jesus of these women and other. One of the women being olde, was accused for bewitching the young man vnto such madnes, and also (altering her owne name) procured her selfe to bee called Mary the mother of Christ: They being conuict of these crimes and other, were adiudged to bee closed vp betweene two walles of stone, where they ended their liues in misery. The other woman being sister to the young man, was let goe, because shee reuealed the wicked fact" (Stow, Annals, p. 178).

There is another story, of about the same time, telling of a religious maniac, done to death in an abnormal way:—

> "A man that faynyd hym selfe Cryste at Oxynforde, he was cursyde at Aldermanbery at London, the yere of oure Lorde M^{l}ccxxij."

So we read in Gregory's Chronicle. In the Grey Friars' Chronicle we find this:—

> "A man of Oxenford faynyd hym to be Cryst, and was crucified at Addurbury."

This explains the meaning of "cursyde" in the other chronicle.

The Chronicle of London (1827) says:—

> "A man of Alderbery feynd hym Cryst, whiche was brought to Oxon' and there he was crucifyed" (p. 11).

Capgrave, who wrote much later, but no doubt had before him some old writer, tells of a similar case of religious mania:—

> "**1221.** There was accused eke a carl that procured men to nayle him on a crosse: for in handis and feet were seyn the woundes of the nayles, and in his side a wound eke: and in his fonnednesse he wold sey that he was so arayed for savacion of the world. He was put in prison for evyr, and nevyr to have othir repast but bread and watir."

It will be seen that these cases occurred about the same time.[38] Was there an epidemic of religious mania, or is it possible that the different records are all versions of the same story?

DRAWN, HANGED, AND QUARTERED.

There has been much confusion as to the punishment of "drawing," forming down to times comparatively recent a portion of the punishment awarded to those found guilty of high treason. The correct order of the several punishments in such cases is drawing, hanging, and quartering. But to-day every one inverts the order, putting hanging first.

Even the old chroniclers sometimes make this mistake. The proper order is inverted by Capgrave, the Grey Friars' Chronicler, and by Latimer in his third sermon. Owing to this mistake it has not infrequently been assumed that drawing was a process following hanging, and consisted in drawing out the bowels of the victim. In fact, drawing meant dragging along the ground. There were three kinds of drawing. In the vast majority of cases drawing means dragging to the place of execution, where hanging, disembowelling and quartering followed. But drawing sometimes means dragging till the sufferer died of the mere dragging. In some cases drawing means tugging by horses in opposite directions till the sufferer was torn to pieces. It is not in all cases easy to say what punishment is indicated by the chroniclers, who use indifferently the words "tractus," "detractus," and "distractus."[39]

Examples of the first kind of drawing, dragging to the foot of the gallows, for execution, are superabundant. There were degrees in this. In the earliest times the victim, stripped to his shirt, with his arms tied behind his back, was thus dragged along the rough and miry road—how rough and miry it is almost impossible for us at this day to realise. [40] That any human being could survive such a drawing from Newgate to Tyburn is marvellous. But the way was not uncommonly longer, from the Tower to Tyburn, or even longer still, from Westminster to the Tower, and then from the Tower to Tyburn. In the case of William Longbeard,[41] it would appear that sharp stones were placed on the road to be followed. But, apart from any such aggravation, the sufferer would probably in most cases be found at the end of the journey incapable of further suffering.

In 1295 Tuberville was drawn on a fresh ox-hide (sur un quir de bof fres), and one of the chroniclers expressly states that he was so drawn that he might not die too quickly.[42] Something was also due to sentiments of humanity. There is a case recorded from which it is clear that "humanitarianism" was as odious to the judges of old time as it is to-day to the advocates of flogging. The case finds a record in the old books, because in it the judge evidently strained the law. A man was arraigned in 1340, before Justice Shard, on an indictment charging him with the murder of "his master." It was found that murder had indeed been done by the man, who, however, had for a year ceased to be the murdered man's servant. Shard inquired whether the servant had not a grudge against his master, and did he watch him? The questions were answered affirmatively, and Shard sentenced the man to death as guilty of petty treason—the punishment due to a servant who killed his master. Shard ordered that the man should be drawn by horses from the court in which he was tried, and forbade, under pain of imprisonment, that any friars or other persons should place a hurdle or anything else under him.[43]

Whether owing to compassion or to the ferocity of judges who had discovered that the drawing as at first practised rendered a victim insensible to the spectacle of the burning of his own bowels, it is certain that the ox-hide became an established institution, for in a case later than Turberville we hear of "the common ox-hide." This in its turn gave place to the hurdle, and this to the sledge—no doubt to the infinite disgust of judges like Shard.

The following is a case in which drawing was carried out till the death of the sufferers from mere

dragging:—

> There were frequent and bitter disputes between the citizens of Norwich and the prior. These disputes came to a head in 1271, when, in a quarrel at the gates of the priory, two citizens were killed. The townsmen flew to arms. The men of the priory retreated within the walls and prepared for a siege. The citizens, unable to force the gates of the priory, tore down the doors of the church. The prior threatened excommunication: the citizens demanded redress for the killing of two of their number. Finally, the prior put in execution his threat of excommunication: the citizens retorted by seizing provisions on their way to the priory. The prior now disposed his men in the belfry, and fighting went on for some days. At last the citizens set fire to the belfry: the fire spread till almost all the conventual buildings were destroyed. The citizens rushed in, killing all, monks and laymen, they could find; they destroyed everything on which they could lay hands. The bishop and other priests gathered together outside Norwich, excommunicated nine men by name, and all others who had taken part in the matter. The case was grave: the king came down, and spent twelve days in investigating the case, with the aid of his justices, and forty knights as jurors. The finding was that the prior was the cause of the burning of the church, and the king therefore took the manors of

> the priory into his own hands. But a terrible penalty was exacted from the citizens, thirty-three of whom were put to death: some were hanged, some burnt, others were drawn by horses (equis distracti). What is meant in this case is revealed by one chronicler, who gives details of the drawing: "Attached to horses by the feet, they were dragged through the streets of the city till, after great suffering, they ended their lives and expired."[44]

The chroniclers record only, I think, one case in which it is made clear the victim was actually dragged to pieces, as we see in old pictures of the martyrdom of St. Hippolytus:—

> "In 1238, King Henry III., being at Woodstock, a certain learned squire came to the court. He feigned madness, and demanded of the king that he should give up the crown. The king's attendants sought to drive him away, but the king forbade this. In the middle of the night the man came again, bearing an open knife. He made his way into the king's bed-chamber, but the king was not there, being with the queen. But one of the queen's maids, Margaret Bisseth, was awake, and, sitting by the light of a candle, sang psalms (for she was a holy maid, and one devoted to the service of God). Margaret gave the alarm, and the man was secured. He declared that he had been sent by William Marsh on purpose to

> kill the king. On learning this, the king ordered that, as one guilty of an attempt to kill the king's majesty, he should be torn by horses limb from limb, a terrible example, and a lamentable spectacle to all who should dare to plot such crimes. In the first place he was drawn asunder, then beheaded, and his body was divided into three parts, each of which was dragged through one of the greatest cities of England, and afterwards hung on the robbers' gibbet."[45]

We come now to the question of the punishment for high treason, regarded as the greatest of all crimes, one therefore to be punished with all possible severity. Treason was elaborately defined by 25 Edward III., st. 5. c. 2, but the statute does not prescribe punishment for the offence. Treason seems to have been held to include a number of distinct crimes, to each of which a distinct punishment was allotted. This is the sentence when it had been settled in a form which, with an alteration to be noted presently, endured for centuries:—

> "1. That the aforesaid … be drawn to the gallows of …
>
> 2. He is there to be hanged by the neck, and let down alive.
>
> 3. His bowels are to be taken out,
>
> 4. And, he being alive, to be burnt.
>
> 5. His head is to be cut off.
>
> 6. His body is to be divided into four parts,

> 7. And his head and quarters are to be placed where our lord the king shall direct."

There is no doubt that, originally, the prisoner was drawn to the gallows immediately after trial, but later, the first clause was made to run that the prisoner should be taken from the court to the place whence he came (the prison), and from thence to the place of execution. The sentence is given in this later form by Sir William Stanford in his work, "Les Plees del Coron." 1560, fols. 182, 182b.

It is difficult to say when the sentence, as given above, was first carried out. In relating the execution in 1283 of David, Prince of Wales, the chroniclers give the several punishments in this order: drawing, hanging, beheading, disembowelling, quartering.[46] This is not quite conclusive, as will be seen by the next instance.

In 1305 we come to the condemnation and execution of Sir William Wallace. The sentence, in a highly rhetorical form, states the punishments in the order in which they are given in the case of Prince David, making beheading precede disembowelling. But accounts of the execution given by chroniclers leave no doubt that the punishments followed in what became the usual order, namely, that Wallace, being let down alive, was first disembowelled, beheading following, not preceding this.[47] It may well be, therefore, that in the execution of David the order of punishments, as carried out, differed from their order in the sentence. But we have no evidence of this. Going on the evidence, we may say that in the case of Wallace we have the first recorded instance in which what became the usual

punishment for treason was carried out.

It will be observed that the execution of Wallace (see footnote), included ementulation (abscisis genitalibus) which was not prescribed by the sentence. There is a mystery about this clause. It does not appear in the form of sentence as given by Coke in his "Institutes," yet in passing sentence in 1615 on John Owen, *alias* Collins, he expressly includes ementulation, and gives elaborate reasons why this should form part of the sentence. Again, taking a group of sentences passed in connection with the Popish Plot, we find that ementulation forms part of the sentence in the cases of Ireland, Pickering, and Grove, the "Five Jesuits" and Langhorn, Lord Stafford, Lionel Anderson and others tried with him. It is not found in the sentences passed on Stayley, Coleman, Fitzharris, and Plunket. The law books throw no light on the point; one only mentions the difference without attempting to explain it.[48]

It would seem that a Scot was the first on whom this horrible series of punishments is recorded to have been inflicted. Scots were the last to suffer the penalties of high treason, inflicted in their greatest rigour: these were the men condemned for the Rebellion of 1745.

In July, 1746, seventeen were sentenced according to the usual form: of these, eight were reprieved, the other nine being executed on Kennington Common on July 30th. One of these was Townley:—

> "After he had hung six minutes, he was cut down, and, having life in him, as he lay upon the block to be quartered, the executioner gave him several blows on his

> breast, which not having the effect designed, he immediately cut his throat: after which he took his head off: then ripped him open, and took out his bowels and heart, and threw them into a fire which consumed them: then he slashed his four quarters, and put them with the head into a coffin, and they were carried to the new gaol in Southwark, where they were deposited till Saturday, August 2, when his head was put on Temple Bar, and his body and limbs suffered to be buried."[49]

The last exhibition of this kind was in 1820, when Thistlewood and four others, some of them victims of a plot fostered by the Government, were hanged outside Newgate, their heads being afterwards publicly cut off by a masked man suspected to be a surgeon. The bodies were not quartered. The thing had by this time degenerated into a brutal and bloody farce.

TORTURE AND PEINE FORTE ET DURE.

Sir Thomas Smith (1513-77), Secretary of State to Elizabeth, wrote a book, "De Republica Anglorum," not published till 1583. In it the author says: "Torment or question, which is vsed by the order of the ciuill lawe and custome of other countries, to put a malefactor to excessiue paine, to make him confesse of him selfe, or of his fellowes or complices, is not vsed in England, it is taken for seruile.… The

nature of our nation is free, stout, haulte, prodigall of life and bloud: but contumelie, beatings, seruitude, and seruile torment and punishment it will not abide."

The statement that torture was not used in England is amazing, as it is beyond doubt that Smith himself racked prisoners in 1571.[50] It is, however, true that he expressed extreme reluctance to be put on such work. Hallam is undoubtedly correct in saying that "the rack seldom stood idle in the Tower for all the latter part of Elizabeth's reign."[51] Indeed, there is a tract, attributed to Lord Burghley, defending the manner in which torture had been applied to prisoners.[52] It was published about the same time as Sir Thomas Smith's book. But torture, frequently as it was practised, never had the sanction of the law of England. Coke, in the Third Part of his "Institutes," written in 1628 (first published in 1644), declares: "There is no one opinion in our books, or judiciall Record (that we have seen or remember) for the maintenance of tortures or torments." "So as there is no law to warrant tortures in this land, nor can they be justified by any prescription, being so lately brought in."

It would be idle to speculate as to the amount of alleviation the reflection that torture was illegal may have brought to Southwell, for instance, who was racked ten several times.

A kind of torture, not however applied for the purpose of extracting confessions, was recognised by the law. This was the Peine Forte et Dure, "one of the most singular circumstances," writes Sir James Fitzjames Stephen, "in the whole of the criminal law." It certainly is this: it is moreover, a practice as to which even writers on our criminal law have gone

astray, not excepting Sir James himself.

It is a most remarkable example of judge-made law; the successive stages of its growth can in some measure be traced. Its very name betrays the change made in the punishment, as it is agreed that peine forte et dure was originally "prison forte et dure." The statutory basis of the punishment is found in an Act, 3 Edward I. (1275), c. 12:—

> "It is provided also, That notorious Felons, which openly be of evil name, and will not put themselves in Enquests of Felonies that Men shall charge them with before the Justices at the King's suit, shall have strong and hard Imprisonment (prison forte et dure), as they which refuse to stand to the common Law of the Land: But this is not to be understood of such prisoners as be taken of light suspicion."

Britton, supposed to have written about sixteen years later than the statute, in 1291 or 1292, thus states the punishment:—

> "And if they will not put themselves upon their acquittal, let them be put to their penance until they pray to do it: and let their penance be this, that they be barefooted, ungirt and bareheaded, in the worst place in the prison, upon the bare ground continually, night and day; that they eat only bread made of barley or bran, and that they drink not the day they eat, nor eat the day they drink, nor drink anything but water, and that they be put

in irons."[53]

"Fleta," written about the same time, contains similar details, expressly stating that the punishment is to continue till those who refuse the law "seek what they before contemned."[54]

An actual case, not mentioned in the law books, is recorded in the Chronicle of Bartholomew Cotton. In 1293, for the murder of some Dutch sailors at Sniterleye, thirteen persons were hanged, and the bailiff of the hundred, because he would not put himself upon the inquest (se supponere inquisitioni), was sentenced to prison in this form, viz., that on the day when he ate he should not drink, and the bread which he had should be the worst bread, and the drink that he should have should be putrid water, and that he should remain naked except for a linen garment, and upon the naked ground, and that he should be loaded with iron from the hands to the elbows, and from the feet to the knees, until he should make his submission.[55]

That the "penance" was intended not to kill, but to induce the prisoner to plead, is shown by cases in the Year Book of Edward I. In 1302 one condemned to "the great penance" brought his charter of pardon into court, by means of his friends, ten days after the judgment.[56] In 1357 Cecilia, wife of John de Rygeway, indicted for the murder of her husband, stood mute, and was sentenced to imprisonment accordingly. In this case it was reported to the king "on trustworthy testimony" that Cecilia had lived without food or drink for forty days. This was regarded as miraculous, and Cecilia was in consequence pardoned. Here, in intention at least, the punishment went to the length of depriving of all

food.[57]

In a case recorded in the Year Book of Henry IV. (1406) the court ordered that, in addition to the punishment of being fed on the worst bread and stagnant water, two thieves condemned to penance for standing mute should have put upon them as great a weight as they could bear and more, and should so remain till they were dead. But as Chief Justice Gascoigne, who passed the sentence, afterwards said that the prisoners might live for many years, the words "more than they can bear" cannot be supposed to mean that the prisoners were to be pressed to death.[58]

The punishment reached its most terrible form in the reign of Elizabeth. Harrison, in his "Description of England," says:—

> "Such fellons as stand mute and speake not at their arraignement are pressed to death by huge weights laid vpon a boord, that lieth ouer their brest, and a sharpe stone vnder their backs, and these commonlie hold their peace, thereby to saue their goods vnto their wiues and children, which if they were condemned should be confiscated to the prince."[59]

Here is another addition, the sharp stone under the back.

Harrison's account is confirmed by two recorded cases. In 1586 Margaret Clitherow was indicted at York for harbouring or relieving priests, a capital offence. Refusing to plead, she was condemned by the judge to the peine forte et dure, "so to continue

for three days," without food or drink except barley bread and puddle water, "and a sharp stone under your back." The execution of the sentence is thus described: Her hands and feet were tied to posts so that her body and arms made a cross. A door was laid upon her. "After this they laid weight upon her, which when she first felt, she said 'Jesu! Jesu! Jesu! have mercy upon me!' which were the last words she was heard to speak. She was in dying one quarter of an hour. A sharp stone, as much as a man's fist, put under her back: upon her was laid to the quantity of seven or eight hundredweight at the least, which, breaking her ribs, caused them to burst forth of the skin."[60]

The other case is that of Major Strangewayes, indicted at the Old Bailey on February 24, 1658-9, for the murder of his brother-in-law. He refused to plead, and was sentenced to the peine forte et dure in the usual terms. The press employed on this occasion was triangular in form, the acute angle resting above the region of the heart. "He was prohibited that usuall Favour in that kind, to have a sharp piece of Timber layed under his Back to Accellerate its penetration." The assistants "laid on at first Weight, which finding too light for a sudden Execution, many of those standing by, added their Burthens to disburthen him of his pain.... In the space of eight or ten Minutes at the most, his unfettered Soul left her tortur'd Mansion. And he from that violent Paroxisme falls into the quiet sleep of Death."[61]

From these two narratives and Harrison's statement, in agreement with them, it is clear that the punishment of peine forte et dure, originally severe imprisonment, inflicted to induce a prisoner

to plead, had in the hands of the judges become a sentence of death far more painful than hanging, so that one standing mute was more severely punished than if he had been found guilty of the crime for which he was indicted. The clauses of the sentence show a disordered growth in this severity. If a man was to have laid upon him as great a weight as he could bear "and more," it was superfluous to make provision in the sentence for feeding on alternate days a person who was destined to be pressed to death in a few minutes. Sir William Staunforde, or Stanford, indeed, whose book, "Les Plees del Coron," was published in 1560, expressly contends that the punishment was to continue, not until the prisoner would plead, but till he was dead.

It appears from the cases recorded and from the passage quoted from Harrison, that standing mute was a practice not uncommon. What was the motive for refusing to plead? It is here that those who have written on the subject have been mistaken. It has been generally assumed that the object was to save the forfeiture of goods which would have followed on a condemnation. This is incorrect. It is true that by standing mute the accused could escape corruption of blood and forfeiture of lands, but he did not thus avert forfeiture of goods and chattels. Sir William Stanford says, after citing a sentence, "Observe that the judge does not say, as Britton formerly said, that the punishment should continue till the prisoner makes a direct answer, but that this shall be his diet till he is dead, absolutely, without any condition in the sentence, express or implied, that he shall be released from penance if he consents to plead. For such a release has never at any time been seen, nor is it reasonable that by such repentance the king should be deprived of the

forfeiture of the felon's goods, to which he is entitled by the said judgment of peine forte et dure."[62] When, in 1721, Phillips and Spiggott stood mute, the court gave orders that the sentence on such as refuse to plead should be read to them. It concludes, "And he against whom the judgment shall be given forfeits his goods to the king."

Where the accused was not possessed of land, the practice can be explained by either of two suppositions: either the prisoner refused to recognise the authority of the tribunal, or he desired to save his family from the reproach of a public execution of one of its members. This was the reason alleged to the ordinary of Newgate by Spiggott. A few years earlier, in 1721, Nathaniel Hawes, a highwayman, refused to plead because a handsome suit of clothes had been taken from him, and he was resolved not to go to the gallows in a shabby suit. He gave in when he had borne a weight of 250 lbs. for about seven minutes.[63]

Spiggott, as has been said, bore 350 lbs. for half an hour, and gave way when a further weight of 50 lbs. was put upon him. These cases show that the judges had reverted to the old view that the punishment was inflicted for the purpose of inducing the prisoner to plead.

Another milder form of torture was practised in connection with the peine forte et dure. It is first revealed in the report of a case which was tried at the Newgate Sessions in 1663:—

> "At the same Sessions, George Thorely, being indicted for Robbery, refused to plead, and his two Thumbs were tyed

> together with Whipcord, that the pain of that might compel him to Plead, and he was sent away so tyed, and a Minister perswaded to go to him to perswade him: And an Hour after he was brought again and pleaded. And this was said to be the constant practice at Newgate."[64]

There was no legal authority whatsoever for this punishment.

By 12 George III. (1772), c. 20, it was enacted that persons thereafter arraigned for felony or piracy, standing mute, should be convicted of the crime charged against them. Such a case occurred in 1777.

Francis Mercier was arraigned at the Old Bailey sessions, beginning on December 3, 1777, for the murder of David Samuel Moudrey. He stood mute. A jury was immediately impannelled by the sheriff to inquire whether he stood mute fraudulently, wilfully, and obstinately, or by the providence and act of God. This jury found that he stood mute fraudulently, upon which Mr. Justice Aston (in the absence of the Recorder) at once passed sentence upon him that he should be executed and his body be afterwards dissected and anatomised. He was hanged at the end of Princes Street, Swallow Street (now Princes Street, Hanover Square).

By 7 and 8 George IV. (1827), c. 28, it was enacted that if a prisoner refused to plead, the court might order a plea of "Not Guilty" to be entered.

It had taken five and a half centuries to discover this simple solution of the difficulty.

THE HANGMAN.

Something must be said about that useful public servant, the executioner. Selected by the State to carry out its decrees, it would seem that he should have been invested with a dignity but little inferior to that of the judges who pronounced the sentence carried out by him in co-partnership. Without the practical assistance of the executioner, the solemn sentence of the robed, ermined, and full-bottom-wigged judge would be of no effect. Nevertheless, this officer of the State, practically inculcating on the scaffold the great truths of morality impressed on the public from the bench, this great public officer has never received the homage due to him. In France the executioner is—or was—"the executor of high works," with us he has always been merely "the common hangman." Of the many instances of public ingratitude, this is perhaps the most scandalous. Nor have posthumous honours in the smallest degree compensated for want of respect during life. The statues of London are, with few exceptions, and these recent, almost wholly devoted to royal personages, to soldiers, and to ground landlords. Among them we seek in vain monuments to the executive officer, without whose aid law and order would have been mere empty names. That great work, the Dictionary of National Biography, has done something to redeem this neglect by recording such rare facts as may be discovered in the biographies of hangmen. For this we may be grateful: it is at least a beginning.

Cunningham, in his "Handbook of London," a compilation displaying marvellous industry, says that "the earliest hangman whose name is known was

called Derrick." This is a mistake. There are two, or perhaps three, predecessors whose names have been recorded. Of these predecessors of Derrick, the first is Cratwell, whose execution was witnessed by the chronicler Hall in 1538. Then comes an officer whose name a careless country has omitted to preserve, "the hangman with the stump-leg," who, alas! was also hanged, reaching this end to his career in 1556. [65] A third possible predecessor of Derrick is known only by name. At the trial of Garnet, in 1606, the Earl of Northampton made a speech of which he thought so highly that he afterwards amplified and enlarged it for publication. Here is a specimen of what he would have liked to say had he been permitted:—

> "The bulls which by the practice of you and your Catiline, the lively image of your heart, should by loud lowing, have called all his calves together with a preparation to band against our sovereign, at the first break of day, and to have cropped those sweet olive-buds that environ the regal seat, did more good than hurt, as it happened, by calling in a third bull, which was Bull the hangman, to make a speedy riddance and dispatch of this forlorn fellowship."[66]

Bull is also mentioned in "Tarlton's Jests."

Either before or after Bull came Derrick, hangman in the reign of James I. He is mentioned in Dekker's "Bellman of London," 1608, and was famous; for half a century later his name was a term of abuse.[67] It is said that in some way, not clear, he gave his name to

the form of crane known as a derrick.

According to the Dictionary of National Biography, Derrick was succeeded by Gregory Brandon. When Cunningham wrote there was a tradition that Brandon was of good family, and had a grant of arms. But it has since been found that the story had no better foundation than a practical joke:—

> **January, 1617.** "York Herald played a trick on Garter King-at-Arms, by sending him a coat of arms drawn up for Gregory Brandon, said to be a merchant of London, and well-descended, which Garter subscribed, and then found that Brandon was the hangman; Garter and York are both imprisoned, one for foolery, the other for knavery."[68]

Gregory was succeeded by his son Richard, famous as the executioner of Charles I.

After him came Lowen, an obscure hangman, known only by mention in the account of an execution.[69]

Later came Edward Dun, known as "Esquire Dun," mentioned in Butler's "Hudibras" (pt. iii. c. ii. l. 1534). He was followed by the most famous of all the hangmen of Tyburn, Jack Ketch, hangman from about 1663 to 1686. In January of this year he was for a time superseded by Pascha Rose, a butcher, who was hanged at Tyburn, on May 28th, when Ketch resumed office. Ketch is twice mentioned in Dryden, in the epilogue to the Duke of Guise:—

> "Jack Ketch, says I's, an excellent

physician,"

and again in "The Original and Progress of Satire":—

> "A man may be capable, as Jack Ketch's wife said of his servant, of a plain piece of work, a bare hanging: but to make a malefactor die sweetly, was only belonging to her husband."

Dr. Murray's Dictionary attributes something of Ketch's fame to his introduction into the "puppet-play of Punchinello introduced from Italy shortly after his death": but Cunningham quotes from the Overseers' Books of St. Martin's-in-the-Fields entries of sums "received of Punchinello the Italian popet player, for his Booth at Charing-cross," in March, 1666. But something of his notoriety was due to his bungling in the executions of Lord Russell in 1683, and of the Duke of Monmouth in 1685. As to Lord Russell, "Ketch the executioner severed his head from his body at three strokes, very barbarously."[70] It was worse with Monmouth:—

> "He sayd to the executioner, 'Here are six guinies for you. Pray doe your business well: don't serue me as you did my Lord Russell. I haue heard you strooke him three or fower tymes. Here (to his seruant), take these remaininge guinies, and giue them to him if he does his worke well.' And to the executioner he sayd, 'If you strike me twice I cannot promise you not to stirr.' Then he lay downe, and soone after raised himselfe vpon his

> elbowe, and sayd to the executioner, 'Prithee, let me feele the ax.' He felt the edge, and sayd, 'I feare it is not sharpe enough.' Then he lay downe, the Diuines prayinge earnestly for the acceptance of his repentance, his imperfect repentance, and commended to God his soule and spirit. Soe the executioner did his work: but I heare he had fiue blowes. Soe he died."[71]

As recorded in the Annals, John Price, the Tyburn hangman, was executed in Bunhill-Fields for murder in 1718.

In August, 1721, John Meff was executed at Tyburn. At a previous date, not mentioned, he had been condemned to death for housebreaking, but, as he was going to Tyburn, the hangman, bearing the generic name of "Jack Ketch," was arrested. What became of him is not told, but he probably came to a bad end.

In May, 1736, "Jack Ketch," on his return from doing his office at Tyburn, robbed a woman of 3s. 6d., for which he was committed to Newgate. History is silent as to his fate.

In 1750, the hangman, John Thrift, was condemned for killing a man in a quarrel. His sentence was commuted to one of transportation for fourteen years. He was finally pardoned, and in September "resumed the exercise of his office." "'Old England,' September 22, hints, that having become obnoxious to the Jacobites, for his celebrated operations on Tower-Hill and Kennington-Common, he was pardoned *in terrorem*, and to mortify them."[72]

In 1780, Edward Dennis, the hangman, was condemned for taking part in the No Popery riots. He was respited. Dickens has introduced Dennis as a personage in his story of “Barnaby Rudge.”

It will be seen that out of the few hangmen of Tyburn whose names have come down to us, several ended their useful lives on the gallows, having failed to profit personally by the lessons they were employed by the State to teach.

There was a strange superstition connected with the gallows: what it was will be understood from the following:—

> A man having been hanged at Tyburn, on May 4, 1767, “a young woman, with a wen upon her neck, was lifted up while he was hanging, and had the wen rubbed with the dead man’s hand, from a superstitious notion that it would effect a cure.”

This case is not the only one of its kind on record. [73]

Tyburn is responsible for a few slang expressions. “A Tyburn ticket” was a certificate exempting from parish duties the successful prosecutor of a malefactor. “A Tyburn blossom” was a young pickpocket. “A Tyburn check” was a rope. “A Tyburn tippet” was a halter. Latimer did not disdain to use this word in his great sermons.

The gallows was known as “Deadly Never-green,” the “Three-legged Mare,” the “Three-legged Stool.”

AFTER TYBURN.

What became of the bodies of those done to death at Tyburn? Some were quartered, parboiled, and stuck up on the gates of the city or elsewhere, as the king might direct. These would be but few out of the great total. For two centuries there was regular provision for the decent burial of executed persons, in the circumstances mentioned by Stow.

Stow tells how, in 1348, Ralph Stratford, Bishop of London, bought a piece of ground, called “No Man’s Land,” which he enclosed with a wall of brick, and dedicated for burial of the dead: this was Pardon churchyard. In the following year Sir Walter Manny bought thirteen acres of land adjoining, and here were buried more than fifty thousand persons who died of the frightful pestilence then raging, known as the Black Death. In 1371 Sir Walter founded here the Charterhouse, giving to the monastery the thirteen acres, and also the three acres adjoining, which “remained till our time by the name of Pardon churchyard, and served for burying of such as desperately ended their lives, or were executed for felonies, who were fetched thither usually in a close cart, bailed over and covered with black, having a plain white cross thwarting, and at the fore end a St. John’s cross without, and within a bell ringing by shaking of the cart, whereby the same might be heard when it passed: and this was called the friary cart, which belonged to St. John’s, and had the privilege of sanctuary.”[74]

“It remained till our time,” says Stow, and this is one of those passages telling what Stow had seen—passages that give so vivid an interest to his story of London.

In the Grey Friars' Chronicle we find an instance of the burial in Pardon churchyard of persons executed at Tyburn:—

> "**1537.** Also this yere the xxv day of Marche the Lyncolnechere men that was with bishoppe Makerelle was browte owte of Newgate vn-to the yelde-halle [Guildhall] in roppys, and there had their jugment to be drawne, hongyd, and heddyd, and qwarterd, and soo was the xxix of Marche after, the wyche was on Maundy Thursdaye, and alle their qwarteres with their heddes was burryd at Pardone churche-yerde in the frary."[75]

From Stow's account of the execution, quoted in the Annals, we learn that the number of Lincolnshire men executed on this occasion was twelve.

The priory of St. John's was dissolved in 1540, and with it went the friary cart.

After this, and also before the suppression of the friary cart, bodies were brought back by friends for interment in the parish churchyard. Here is a case in which a body so brought back was refused burial:—

One Awfield had been condemned and executed at Tyburn for "sparcing abrood certen lewed, sedicious, and traytorous bookes. His body was brought into St. Pulchers to be buryed, but the parishioners would not suffer a Traytor's corpes to be layed in the earthe where theire parents, wyeffs, chyldren, kynred, maisters, and old neighbors did rest: and so his carcase was retourned to the buryall grounde neere Tyborne, and there I leave yt."[76]

But many of the poor wretches hanged had no friends who would be at the charge of interment. The demands of the surgeons would be soon satisfied; with how little ceremony the residue would be treated we may learn from the narrative of Richardson, given in the Annals (1741).

We read of two priests and sixteen felons executed at the same time, in 1610, being all thrown together into a pit. The stories of bones found in the neighbourhood of the gallows may probably be referred to forgotten burial places or to pits into which, after a busy day's work, a score of bodies would be tumbled.[77]

Strype, in his edition of Stow's "Survey," has a weird story of the finding of four embalmed heads in Blackfriars, in clearing away rubbish after the Great Fire of 1666:—

> "They came to an old Wall in a Cellar, of great thickness, where appeared a kind of Cupboard. Which being opened, there were found in it four Pots or Cases of fine Pewter, thick, with Covers of the same, and Rings fastened on the top to take up or put down at pleasure. The Cases were flat before, and rounding behind. And in each of them were reposited four humane Heads [he means one in each case; the margin has "Four Heads"], unconsumed, reserved as it seems, by Art; with their Teeth and Hair, the Flesh of a tawny Colour, wrap'd up in black Silk, almost consumed. And a certain Substance, of a blackish Colour, crumbled into Dust, lying at the bottom of the Pots.

"One of these Pots, with the Head in it, I saw in October, 1703, being in the Custody of Mr. Presbury, then Sope-maker in Smithfield. Which Pot had inscribed in the inside of the Cover, in a scrawling Character (which might be used in the times of Henry VIII) J. CORNELIUS. This Head was without any Neck, having short red Hair upon it, thick, and that would not be pulled off; and yellow Hair upon the Temples; a little bald on the top (perhaps a Tonsure) the forepart of the Nose sunk, the Mouth gaping, ten sound Teeth, others had been plucked out; the skin like tanned Leather, the Features of the Face visible. There was one Body found near it buried, and without an Head; but no other Bodies found. The other three Heads had some of the Necks joined to them, and had a broader and plainer Razure: which shewed them Priests. These three Heads are now dispersed. One was given to an Apothecary; Another was intrusted with the Parish Clerk; who it is thought got Money by shewing of it. It is probable they were at last privately procured, and conveyed abroad; and now become Holy Relicks.

"Who these were, there is no Record, as I know of; nor had any of them Names inscribed but one. To me they seem to have been some zealous Priests or Friers, executed for Treason; whereof there were many in the Rebellion in Lincolnshire, An. 1538, or for denying the King's Supremacy, And here privately deposited

by these Black Friers" (book iii. p. 191).

Through the later researches of Dr. Challoner, we now know the story relating to one of these heads. John Cornelius, or Mohun, was born of Irish parents in Bodmin. He studied at Oxford, but not adopting the new religion, went afterwards to Rheims, and later to Rome. He was sent upon the English mission, in which he laboured for about ten years. He was apprehended in April, 1594, in the house of the widow of Sir John Arundel, on the information of a servant of the house. Mr. Bosgrave, a kinsman of Sir John Arundel, seeing him hurried away without a hat, put his own hat on the priest's head; for this he was arrested. Two servants of the family, Terence Carey and Patrick Salmon, were also arrested. Cornelius was sent to London, and there racked to make him give up the names of Catholics who had harboured him. Refusing to make any discovery, he was sent back into the country, tried, and, with his three companions, executed at Dorchester on July 2, 1594. The three were simply hanged: Cornelius, as guilty of high treason, was drawn, hanged, and quartered. His head was nailed to the gallows, but afterwards removed at the instance of the town. His quarters were buried together with the bodies of his companions. Dr. Challoner does not tell how the head of Cornelius was recovered by friends, nor does he say anything more of the others. It is probable that the three other heads of Strype's account were those of the companions of Cornelius ("Memoirs of Missionary Priests," part i., pp. 157-60).

The *Times* of May 9, 1860, contained a letter from Mr. A. J. Beresford Hope, living in the house at the south-west corner of Edgware Road, stating that in

the course of excavations made close to the foot-pavement along the garden of his house, “numerous human bones” were discovered. He says: “These are obviously the relics of the unhappy persons buried under the gallows.” If this was so, they must have been the bones of Cromwell, Ireton, or Bradshaw, buried under the gallows.

ORIGIN AND SITE OF THE TYBURN GALLOWS

As has already been said, the earliest mention of Tyburn in connection with executions is in 1196, when William FitzOsbert, known as “Longbeard,” was hanged here: with probability we can refer to the site an execution taking place a few years earlier. How far back can we, in the absence of records, conjecturally place the dedication of Tyburn to executions? We can say, with a high degree of probability, that Tyburn was not established till after the Conquest, and, further, not till after the death of the Conqueror.

Hanging was not greatly in favour with those whom we must, in spite of objections, call the Anglo-Saxons. Various fanciful definitions of Time have been given. According to Goethe, it is on the roaring loom of Time that the Earth-Spirit weaves the living garments of God. According to Carlyle, Time is the outer veil of Eternity. These poetical definitions seem to have little or no practical value. They would convey nothing, for instance, to the time-keeper of a wharf or great warehouse. It has been reserved for

our race to give a definition of real solid value: "Time is money." The phrase, revealing in three words the soul of a people, has gone the round of the world in its native tongue, hailed from pole to pole as the final definition of Time. We might look with confidence to find in the origins of a people alone capable of making this supreme discovery instances of this practical outlook on the universe. We shall not be disappointed. The laws of our forefathers, based on this commercial view, were administered, with a strict eye to business, on the joint-stock or co-operative principle. To kill a man was mere waste, if money could be screwed out of him or out of those who could be made responsible for him. "Business is Business." Every man—in a sense different from that in which Walpole used the words—every man had his price. Men, according to rank, were carefully appraised: a man's "were" was so much, his "wite" so much. A murderer must pay these sums, or they must be paid by those responsible for him. And not only every man, but every part of each man had its price. One sees in encyclopædias of domestic economy, prepared for the instruction of young and thrifty housekeepers, diagrams setting out the differences in value of such and such parts of an ox, a sheep, or of "a side" of bacon. Such a chart for use by an Anglo-Saxon dispenser of justice would have had to be executed on a large scale. The human body was divided into thirty-four parts, upon each of which was placed a fixed value. It is needless to give here all the thirty-four categories; it will be sufficient to set out the prices to be paid for injuries to the arm and hand:—

> "If the arm-shanks be both broken, the bōt is xxx shillings.

> If the thumb be struck off, for that shall be xxx shillings as bōt. If the nail be struck off, for that shall be v shillings as bōt.
>
> If the shooting (*i.e.*, fore-) finger be struck off, the bōt is xv shillings: for its nail it is iv shillings.
>
> If the middlemost finger be struck off, the bōt is xii shillings, and its nail's bōt is ii shillings.
>
> If the gold (*i.e.*, ring-) finger be struck off, for that shall be xvii shillings as bōt, and for its nail iv shillings as bōt.
>
> If the little finger be struck off, for that shall be as bōt ix shillings, and for its nail one shilling, if that be struck off."[78]

The authors of a code so thoroughly commercial in spirit naturally regarded theft as the worst of crimes, and hanging was probably common for this offence, if the thief could not redeem himself. Thus we read in the laws of Æthelstan: "That no thief be spared over xii pence, and no person over xii years, who we learn, according to folk-right, that he is guilty, and can make no denial: that we slay him and take all that he has."[79]

William the Conqueror abolished capital punishment. For this he has been highly eulogised by Mr. J. R. Green, who writes of "strange touches of a humanity far in advance of his age," of "his aversion to shed blood by process of law." But he omits to tell us that for the punishment of death William substituted punishments which, as Mr. Freeman justly says, "according to modern ideas were worse

than death." It is indeed "a strange touch of humanity" which prescribed the tearing out of a man's eyes and the lopping off of his limbs. A terrible picture of a land haunted by sightless and maimed trunks is conjured up by the words of William's law, "so that the trunk may remain alive as a sign of its crimes."[80]

The penalty for breach of this law, confiscation of all the offender's property, was so severe that we may well believe that capital punishment was actually abolished during the reign of William.

It appears that capital punishment was re-instituted by Henry I. in 1108, and there seems no reason for doubting the statement, though the evidence was not wholly accepted by Sir James Fitzjames Stephen.

> "The English king, Henry, established his peace and settled law, by which, if any one was taken in theft or robbery, he should be hanged."[81]

The institution of the gallows of Tyburn probably dates from this time. The origin of Tyburn is certainly Norman; its early name, "The Elms," testifies to this, for among the Normans the elm was the tree of justice. Here is the record of a symbolic elm so famous that its fall awakened an echo in the distant scriptorium of Peterborough:—

> "**A.D. 1188.** In this year, Philip, king of France, cut down an Elm in his dominions, between Gisors and Trie, where frequently conferences had been held in virtue of an ancient custom instituted by his

> predecessors, between them and the Dukes of Normandy."[82]

Something of this symbolical character was retained by the elm in France long after the name "The Elms" had been forgotten here. Rabelais (1483?-1553) speaks of "juges sous l'orme," and, later, Loyseau (1556-1627) has a great deal to say of these "judges under the elm-tree."[83]

"The Elms" of Smithfield came by the name in the same way, as, there is little doubt, did also "The Elms," now Dean's Yard, in the precincts of Westminster Abbey; "The Elms" in the abbey lands at Covent Garden, and "Homors" in the precincts of Canterbury Cathedral, derived, no doubt correctly, by Professor Willis, from a corruption of Ormeaux, Ormayes, Ormoies, or Ormerie, plantations of elms. [84] In like manner Elms Lane, now Elms Mews, a turning out of the Bayswater or Uxbridge Road, probably preserves the name given to the gallows which the abbat of Westminster had at "Westburn" towards the end of the thirteenth century.[85]

It would not be surprising to find more of such names, in form more or less corrupt, in connection with places in the precincts of old monastic foundations. It may even be hoped that some of the gallows of the abbat of Westminster, in addition to the gallows of "Westburn," have bequeathed place-names still surviving.

Before introducing further evidence as to the establishment of gallows at Tyburn, reference must be made to the confusion existing between "The Elms" of Tyburn and "The Elms" of Smithfield. Maitland, and after him Parton,[86] maintained, in ignorance or oblivion of the facts, that the gallows

(presumably for Middlesex) formerly stood at “The Elms” of Smithfield; that, at some date before 1413, the gallows was removed to St. Giles’s, where it continued till its removal to Tyburn. But this ignores the fact that a gallows did undoubtedly exist at Tyburn at the end of the twelfth century. There is, besides, no evidence whatever that a royal gallows ever existed at St. Giles’s, except when a gallows was erected here for a special case.[87] There may possibly have been here a local, manorial gallows, for, as has been shown, such gallows abounded. There was even another gallows at Tyburn, set up by the Earl of Oxford, who, when challenged, seems to have admitted that he had no right to erect a gallows here.[88]

The confusion will cease if we keep firm hold of the fact that Smithfield was within the liberty of the city, and that the civic gallows was here erected. There is not, so far as I know, any evidence as to the suppression of the civic gallows at Smithfield. There were in late times executions here, but so there were in many other places. Smithfield comes into notice in the second year of the fifteenth century as the place of execution, by burning, for heresy, a character which it retained so long as the punishment was inflicted.[89]

It is not at all probable that the first execution recorded as having taken place at Tyburn in 1196 was actually the first execution there. I have ventured to allot to Tyburn an execution which took place in London in 1177, nineteen years before the execution of William Longbeard. There is evidence of the existence of a gallows at Tyburn at an uncertain date, but going in probability still further back. In 1220 the king, Henry III., ordered the immediate

erection of two good gibbets of the best and strongest material, for hanging thieves and other malefactors, in the place where gallows were formerly erected, namely, at "The Elms" (ad Ulmellos).[90] Strype, in his edition of Stow's "Survey," and, seemingly, Peter le Neve, whom he quotes in the margin, refer this order to "The Elms" of Smithfield, but this is clearly a mistake, as the order evidently concerns the royal gallows, not the gallows in the jurisdiction of the City of London.[91]

The order refers to "the place where gallows were formerly erected, namely, the Elms." It must be taken to be an order to replace decayed gallows. We may safely allow a life of at least fifty years to the old gallows, and it results that gallows had been here from at least as early as 1170.

There is no need to follow further in this place the course of executions at Tyburn. We come now to the question of the site of the gallows.

In one of the most recent books in which reference is made to the site we find this: "It was customary to vary the position of the gallows of Tyburn from time to time, but we may roughly put its approximate position where the Marble Arch now stands." It is to be feared that the writer would be sorely puzzled if he were asked to produce either evidence that the gallows ever stood "where the Marble Arch now stands," or evidence of so much as a single change of position. But statements of the kind, unsupported by evidence, are constantly found in books upon London. Those who make these statements are probably misled by knowledge of the fact that in our times a gallows is brought out for the purpose of a rare execution, and then laid up against the time when it will be again required. But of old the gallows

—of Tyburn, at least—was in constant requisition, and, till a date which is well known, was a permanent structure—permanent, that is, having regard to its material. The gallows of Tyburn was permanent, subject to renewal from time to time, till the year 1759, when, as will be shown, the permanent gallows gave place to a movable gallows. It is in no degree probable that the site of a fixed gallows in frequent and continuous use should be changed without some good reason.

The first information of the site of the gallows other than the vague indication "Tyburn" is found in one of the old chronicles, which tells that, in 1330, Mortimer was executed at "The Elms, about a league outside the city."[92] The distance thus vaguely stated would apply about equally to any one of the conjectured sites from Marylebone Lane to the head of the Serpentine, at which writers have severally placed the gallows.

At first sight it may seem strange that a site so remote from the prisons of Newgate and the Tower should have been chosen. But it was usual, for a reason which will appear, to place the gallows at a considerable distance from the town. The gallows for the county of Surrey was at St. Thomas-a-Waterings, near the second milestone on the Kent Road. Loyseau shows that while the pillory, used for non-capital punishment, was always set up in the principal place or street of a town, capital punishments were carried out at a distance—"le gibet est tousiours emmy les champs."[93] He refers to Lipsius, who in his turn cites ancient authors to prove the practice. There is, of course, good reason why the place of execution should have been fixed far from the abodes of men. In addition to its gallows, Tyburn had its gibbets, on

which bodies of men hanged alive were suffered to hang till they fell to pieces. In other cases bodies were transferred, after hanging, to a gibbet—

"Waving with the weather while their neck will hold."



PART OF A MAP OF MIDDLESEX, 1607, WITH THE FIRST KNOW

In a lease granted by the Prior of the Knights Hospitallers mention is made of Great Gibbet Field and Little Gibbet Field, parcel of the manor of Lilleston.[94] Mr. Loftie says, "We cannot be far wrong in supposing that the gibbets stood near the highway." The word gibbet was formerly used so loosely that we cannot be sure that the fields did not take their name from the gallows. But Tyburn certainly had, as well as its gallows, gibbets on which were exposed bodies. But this page in the early history of Tyburn is almost a blank. The subjects on which it is most difficult to find information are precisely those of occurrence so common that it has not entered the head of contemporaries to notice them. That gibbets, as distinct from gallows, did exist in early times, there is no doubt; their use continued down to the eighteenth century or later. The old writers do not clearly distinguish between gibbet and gallows, but there is a passage in which Matthew Paris certainly means to speak of a gibbet. In writing of the execution of William Marsh, Matthew Paris leaves it doubtful whether Marsh was or was not at once fixed to a gibbet. But from Gregory's chronicle we learn that Marsh was first hanged; from Matthew Paris we learn that the body was afterwards hung "on one of the hooks" of a gibbet.[95] In 1306 the body of Simon Fraser was hung on a gibbet for twenty days. In 1324 the king granted a petition of the prelates to permit burial of the bodies of the six barons hanged (not at Tyburn) in 1322.[96] Bodies would hang together for a much longer time. Jean Marteilhe saw, hanging on a gibbet in 1713, the body of Captain Smith, hanged at Execution Dock in 1708.[97]

Thus there must have been an accumulation of bodies swinging from the gibbets of Tyburn and

poisoning the air. The French have always been more lavish in public monuments than we. The great gibbet of Montfaucon in the outskirts of Paris was a solid stone structure, with provision for hanging thereon—if we may trust the pictures given of it—at least sixty bodies; it is said that the bodies not unfrequently numbered from sixty to eighty. Under cover of the pestilential air, Maître François Villon, poet of the gibbet, and the cut-purses, his friends, rioted in security from intrusion.[98]

There is very good reason to suppose that a single gallows would not be sufficient for the work to be done at Tyburn. A gallows in the ordinary form, two uprights and a cross-beam, could hardly take more than ten victims at a time. We must suppose that the equipment of Tyburn demanded at least two such gallows. We have seen that in 1220 the king ordered two gallows. But in 1571, just in time for Elizabeth's penal laws, a great improvement was made in the form of the gallows; a triangular gallows was introduced, capable of hanging at one time at least twenty-four men. This is the highest number recorded as being hanged at one time, but it does not follow that the capacity of the gallows was exhausted by this number. The evidence for the introduction of the triangular gallows at this time is contained in the account of the execution of Dr. Story:—

> "The first daye of June [1571] the saide Story was drawn upon an herdell from the Tower of London unto Tiborn, wher was prepared for him a newe payre of gallowes made in triangular maner."[99]

There is no earlier account of a triangular gallows.

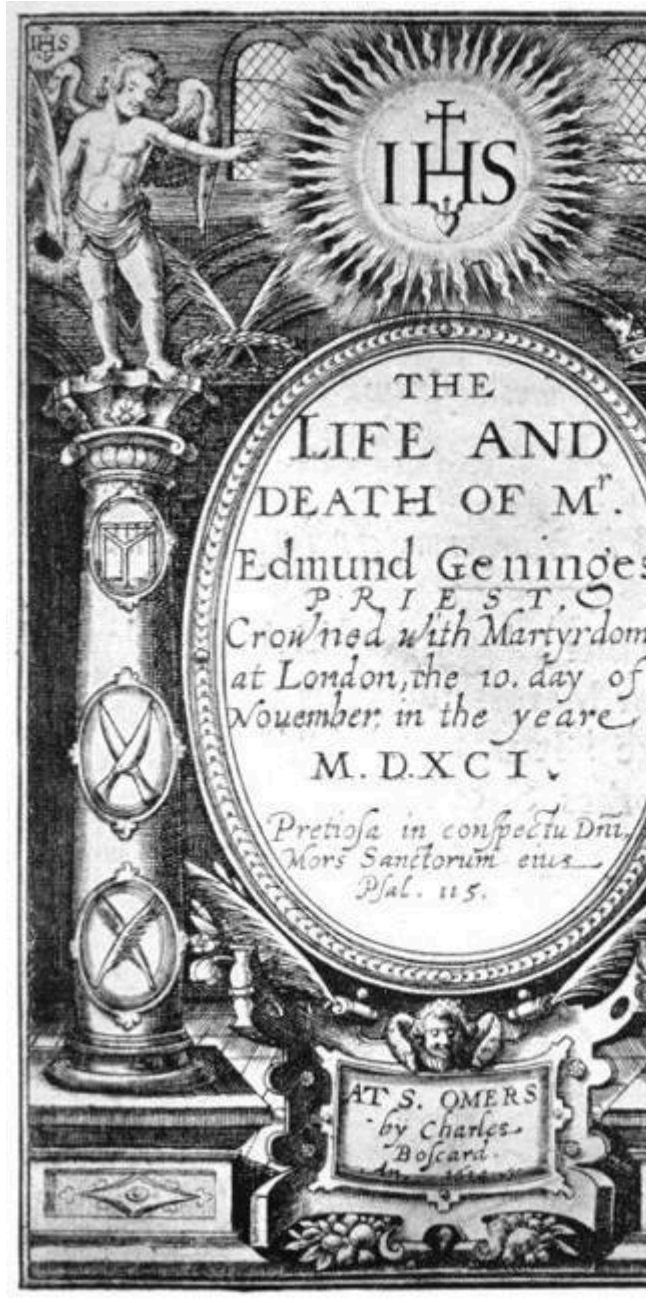
My friend, Mr. P. A. Daniel, tells me that he knows of no reference in the old drama to the triangular form of the gallows of date prior to 1571.

The earliest allusion to this form seems to be in 1589:—

> "Theres one with a lame wit, which will not weare a foure cornerd cap, then let him put on Tiburne, that hath but three corners."[100]

Of about the same date is an allusion in Tarlton's "Newes out of Purgatorie," 1590:—

> "It was made like the shape of Tiborne, three square."[101]


IHS
THE
LIFE AND
DEATH OF Mr.
Edmund Geninges
PRIEST,
Crowned with Martyrdom
at London, the 10. day of
Nouember: in the yeare
M.D.XCI.
Pretiosa in conspectu Dni.
Mors Sanctorum eius
Psal. 115.
AT S. OMERS
by Charles
Boscard.



THE TRIPLE TREE ABOUT 1614.

(In the uppermost lozenge on the lef

A third reference is found in Shakespeare's "Love's Labour Lost," one of his early plays:—

"Thou mak'st the triumviry, the corner-cap of
society,
The shape of Love's Tyburn, that hangs up
simplicity."[102]

These references are followed at a short distance in date by a delineation showing not only the triangular form of the gallows but, roughly, its position. This is in a map of Middlesex, engraved by John Norden for Camden's "Britannia." It was first given in the folio edition of 1607, and reappears in the editions of 1610 and 1637. In this last it bears the number 17 in the left-hand corner. In the edition of 1695, Norden's map is replaced by one by Robert Morden.

In the three maps of the respective editions of 1607, 1610, and 1637, the triangular gallows is shown impinging on the north-east corner of Hyde Park, with the word "Tyborne" against it. Here, then, we have evidence that thirty-six years after the introduction of the triangular gallows it still remained here, clearly a permanent structure, probably the very gallows erected in 1571.[103]

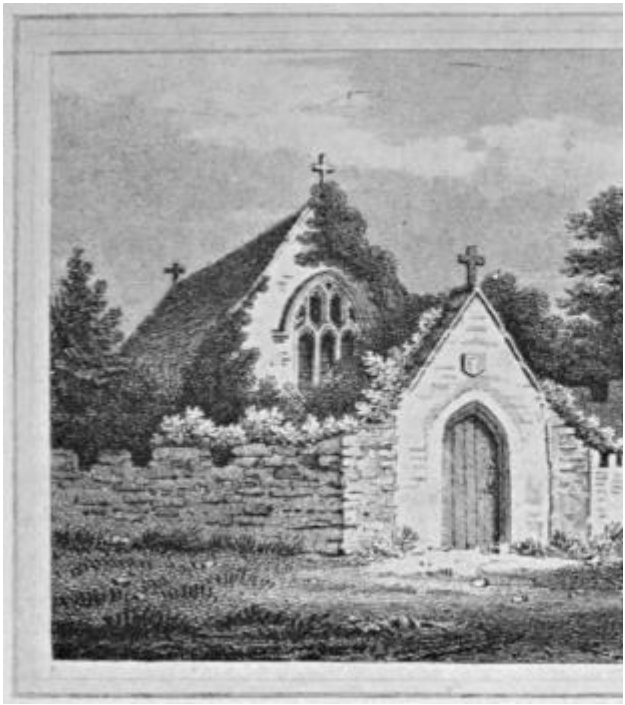
The next piece of evidence is furnished by a representation of the gallows given in the frontispiece of "The Life and Death of Edmund Geninges" published in 1614.

Twelve years later, in 1626, we find evidence fixing for the first time the exact site of the gallows.

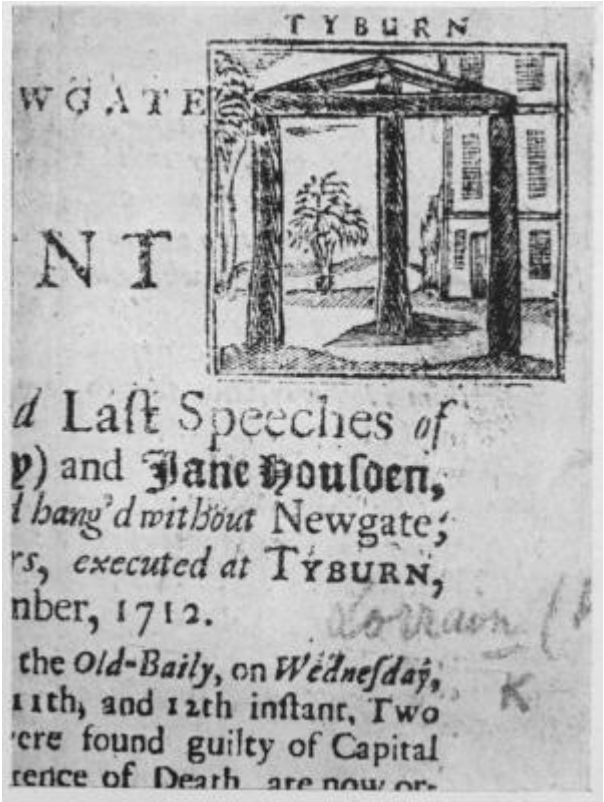
On June 26th of this year, Henrietta Maria, after a day spent in devotion, went with her attendants through St. James's Park to Hyde Park. Whether by accident or design she went towards Tyburn. Charles hated the Queen's French suite, secured to her by treaty. Within six months of the marriage he had resolved to be rid of them. The courtiers made the most of the visit to Tyburn; it was averred that the Queen's confessor had made her walk barefoot to the gallows, "thereby to honour the saint of the day in visiting that holy place, where so many martyrs (forsooth) had shed their blood in the Catholic cause." The incident, thus exaggerated, brought matters to a head. Sixty of the Queen's attendants were compelled to embark for France. The French King was naturally indignant at this violation of his sister's rights: a war might have arisen out of the quarrel. This was averted by the skill of Maréchal de Bassompierre, sent over as Ambassador Extraordinary. Charles appointed Commissioners to discuss matters with the Marshal. The Commissioners expressed the charge in these terms: The Queen's attendants abused the influence they had over the susceptible and religious mind of the Queen to lead her by a long road, across a park, which the Comte de Tilliers, her chamberlain, had taken measures to keep open, in order to take her to the place where it is the custom to execute the most infamous malefactors and criminals of all kinds, the place being at the entrance of a high road; an act which tended to bring shame and ridicule not only on the Queen herself, but also reproach and evil speaking against former kings of glorious memory, as though accusing them of tyranny in having put to death innocent persons that those people regard as martyrs, whereas, on the contrary, not one of them was

executed on account of religion, but for treason in the highest degree.

Marshal de Bassompierre replied with remarkable frankness: “I know of a surety,” he said, “that you do not believe that which you publish to others.” He declared that the Queen had not been within fifty paces of the gallows. He repeats the description of the place as at the entrance of a high road. It is not necessary to follow the discussion further.[104]



THE RUINS OF FARLEIGH CAST



THE TRIPLE TREE IN 1712.

The words “the entrance of a high road” fix definitely the spot indicated, approximately, by Norden’s map. Even without the map, then unknown to me, I felt abundantly justified in writing that the words applied to a road leading out of the road bounding Hyde Park: “This can be no other than the road now known as Edgeware Road: along the whole length of the park there is no other road to which the words could apply.”[105]

In 1626 we have also the mention of “the three wooden stilts” of Tyburn, in Shirley’s “The

Wedding," published in 1629.

In 1649, in an account of the hanging of a batch of twenty-four persons, it is said that eight were hanged "unto each Triangle."[106]

In 1660 the bodies of Cromwell, Ireton, and Bradshaw were "hanged at the several angles of the Triple-tree."[107]

1680. Seller's map of Middlesex shows the gallows, its form not recognisable, near the angle formed by the junction of the roads.

1697. Defoe, in his Essay upon Projects, refers to Watling Street: "The same High Way or Street called Watling Street … went on West to that spot where Tyburn now stands, and there turn'd North-West … to St. Alban's."[108]

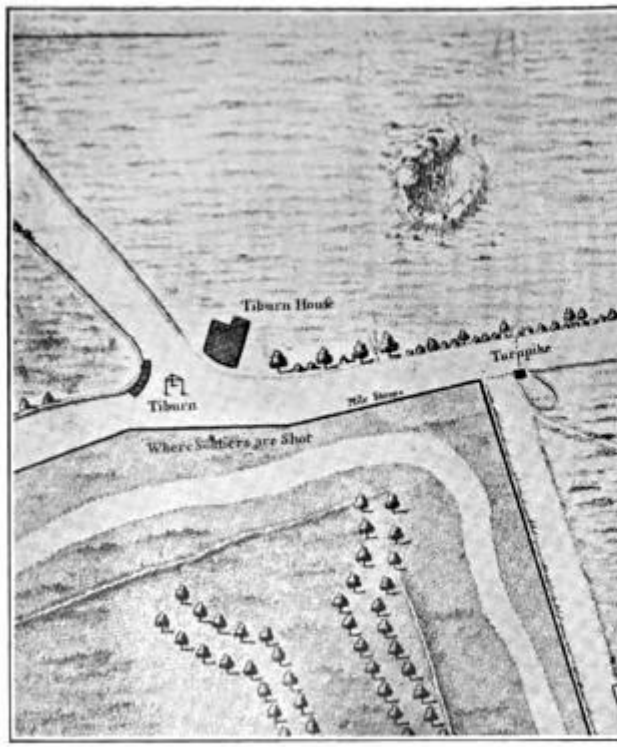
1712. Beginning with this date the accounts published by Lorrain, the Ordinary of Newgate, of the behaviour of condemned criminals, show the prison of Newgate at the top, on one side, and on the other the gallows of Tyburn. The illustration is taken from the broadsheet of September 19, 1712.

1725. In this year a large map of the newly constituted parish of St. George, Hanover Square, was drawn by John Mackay. We have in it the first exact location of the gallows, shown as a triangular structure. In detailed notes on the map, describing the first "beating the bounds" of the parish on Ascension Day, 1725, it is stated that the parish boundary to the west was marked "on the S.E. Leg of Tyburn," fully proving the permanence of the structure. The map was reproduced on a small scale in the *Builder* of July 6, 1901, and was described by Mr. Herbert Sieveking in the *Daily Graphic* of March 11, 1908.

1746 to 1757. In 1746 was published Rocque's beautiful map of London in twenty-four sheets; this was followed by his maps of Middlesex in 1754 and 1757. In all the gallows is shown in the open space formed by the junction of the roads near the Marble Arch.

1747. In the last plate of Hogarth's series of "Industry and Idleness," is shown an execution at Tyburn. The gallows, a triangular structure, is in the same position (approximately) as in Rocque's maps.

1756. In Seale's map, published this year, the triangular gallows is shown in the same position as in Rocque's maps.[109]



THE TRIPLE TREE IN 1746, FROM ROCQU

Tyburn had ceased to be “emmy les champs”; the advance of the town is shown by the inclusion of Tyburn in maps of London. So early as 1719 it was proposed to move the gallows to Stamford Hill:—

> “We hear the famous and ancient Engine of Justice called Tyburn is going to be demolished: and we hear the Place of Execution is to be removed to Stamford-Hill, beyond Newington, on the way to Ware: the Reason given is said to be, because of the great Buildings that are going to be erected in Maribone-Fields.”[110]

Strype, in his edition of Stow’s “Survey” (book iv. p. 120) mentions another report, but Tyburn defied these threats for many years to come.[111] Only in 1759, after an existence of near six hundred and fifty years, did the permanent gallows of Tyburn give place to a movable gallows, put up on the day of an execution and afterwards taken down. It is not a little strange that a monument of great antiquity, so well known, recalling so many tragedies, so intimately connected with the history and life of the people, should have been allowed to disappear without a word or a curse. I have not been able to find any direct reference to the removal of the triple-tree. The date of its removal must fall between June 18 and October 3, 1759. Under the earlier date we find, in the usual terms, the record of an execution at Tyburn. The *Whitehall Evening Post* of October 4, 1759, has the following:—

> "Yesterday morning, about Half an Hour after Nine o'clock, the four malefactors were carried in two carts from Newgate, and executed on the new Moving Gallows at Tyburn.… The Gallows, after the Bodies were cut down, was carried off in a cart."

The same account is given in other newspapers. The *Gentleman's Magazine* states that "the gallows, which is a movable one, was carried there before them and fixed up for that purpose."

The removal of the gallows was followed by the occupation of its site by the toll-house of the turnpike, shifted from the east corner of Park Lane, then called Tyburn Lane, to the corner of Edgeware Road.

The new movable gallows was ordinarily fixed near the corner of Bryanston Street and Edgeware Road (Thomas Smith, "A Topographical and Historical Account of the Parish of St. Marylebone," 1833); but the place of erection was not always exactly the same. Thus we read in the *Gentleman's Magazine* under date August 29, 1783, "The gallows was fixed about 50 yards nearer the Park wall than usual." Tyburn ceased to be the place of execution in 1783, the last execution here taking place on November 7th of that year.

When the turnpike was in its turn removed, its position was recorded by a monument placed on the south side of the road, somewhat to the west of the Marble Arch. It is a slab of cast iron, with a gable top, bearing on both sides the words, "HERE STOOD TYBURN GATE 1829," that being the date of the abolition of the turnpike. This monument correctly

indicated the position of the gate, which stretched across the road: it was not intended to show the position of the gallows, which, however, it did indicate approximately. It was necessarily removed in the improvements carried out near the Marble Arch in the spring of 1908.



THE SITE OF TYBURN

It may be well, at the risk of repetition, to summarise the foregoing account in the form of—

THE CHRONOLOGY OF TYBURN.

1108. Earliest date to which the establishment of Tyburn as a place of execution can with probability be assigned.

1177. First record of an execution in London, probably at Tyburn.

1196. First record of an execution, Tyburn being named as the place.

1220. Two new gallows ordered for Tyburn.

1222-1570. Executions at Tyburn recorded at the following dates: 1222, 1242, 1305, 1330 (position indicated, "about a league outside the City of London"), 1386, 1388, 1399, 1400, 1402, 1404, 1424, 1427, 1437, 1441, 1446, 1447, 1455, 1467, 1468, 1483, 1495, 1497, 1499, 1502, 1523, 1525, 1531, 1534, 1535, 1536,* 1537, and each year to 1544, 1549, 1550, 1552, and each year to 1557, 1560,* 1561,* 1562,* 1563,* 1569,* 1570.

(The list shows how continuous were executions here.)

> The years marked * will not be found in the Annals following this. The records are uninteresting and have therefore been omitted. Tyburn is mentioned as to 1536 in Wriothesley's Chronicle, as to 1560, 1, 2, and 3, in Machyn's Diary. Stow mentions Tyburn in 1569.

1571. Erection of the permanent triangular gallows.

1607. Site of triangular gallows shown by map to be to the N. of the N.E. corner of Hyde Park.

1614. Representation of the triangular gallows.

1626. Exact site of gallows proved by accounts of the visit of Henrietta Maria. To the same year must be referred mention of "the three wooden stilts" in Shirley's "The Wedding," printed in 1629.

1649. Eight persons hanged on each of the three beams.

1660. Bodies of Cromwell, Ireton, and Bradshaw "hanged at the several angles of the Triple-tree."

1680. Seller's map of Middlesex shows the gallows (form not recognisable) near the angle formed by the junction of the roads E., W., and N.

1697. "Watling Street … went on West to that spot where Tyburn now stands, and there turned North-West." (Defoe.)

1712. Triangular gallows figured in Lorrain's broadsheet.

1725. Triangular gallows shown in Mackay's map, in the space formed by the junction of the roads.

1746-1757. Triangular gallows shown in the same position in Rocque's maps, London, 1746, Middlesex, 1754, and 1757.

1747. Triangular gallows shown in the same position (approximately) in the last plate of Hogarth's "Industry and Idleness."

1756. Triangular gallows shown as in Rocque's maps, in Seale's map.

1759. Triangular gallows gives place to movable gallows.

1783. Last execution at Tyburn.

ANNALS

ON TYBURN

Oh Tyburn! coud'st thou Reason and Dispute;
Coud'st thou but Judge as well as Execute;
How often would'st thou change the Felon's
Doom,
And truss some stern Chief-Justice in his room?
Then should thy sturdy Posts support the
Laws,
No Promise, Frown, nor popular Applause,
Shou'd sway the Bench to favour a bad Cause.
Nor Scarlet Gown, swell'd with Poetick Fury,
Scare a false Verdict from a trembling Jury.
Justice, with steady Hand and even Scales,
Should stand upright, as if sustain'd by Hales.
Yet still, in Matters doubtful to decide,
A little bearing tow'rds the milder side.

DRYDEN, *Miscellany Poems*, 5th ed., 1727, v. 126.

ANNALS

To tell fully the story of Tyburn for the six centuries of its existence would need many volumes. As a selection has to be made, I have chosen rather to take the older and less familiar incidents than to dwell on those of the eighteenth century, already well known.

In telling the stories found in the old chronicles, I have refrained from giving in my own version what I found adequately told by the old writers. Thus, if I quote Stow, Hall, or Holinshed for events that happened long before their time, it is, of course, not as first-hand authorities, but because their rendering is certainly more interesting than any I could give.

The reader will not fail to observe how extremely meagre are these annals for the first centuries of Tyburn. For the first hundred years, 1177 to 1273, there appear here only eight cases. For this century and down to the year 1535, I have, I think, given all the Tyburn tragedies recorded by the old chroniclers. The explanation of this meagreness is, that the chroniclers noted only executions arising out of political incidents or out of social incidents of extraordinary interest: only in times comparatively late do we get glimpses of the work done by the gallows on small offenders. All through the long era of religious persecutions we hear little of ordinary criminals: only now and again some number is mentioned of those executed or tumbled into a pit together with a priest.

I may be asked how I arrive at the conclusion stated in the introductory remarks, that a moderate estimate would place the number of those executed at Tyburn at fifty thousand. As the gallows was at

work for six hundred years, this number would give an average of less than one hundred a year. Four streams of victims converged on Tyburn. The gallows was fed from the courts of Westminster and Guildhall (see, for example, cases in these Annals under the years 1242, 1295, 1441, and 1495). But the great purveyors of the gallows were the Middlesex Sessions and the Old Bailey Sessions, the first for the county, the latter for the City and its Liberties.

It appears that there are no records of the number of persons hanged in pursuance of sentences passed at the Old Bailey Sessions: fortunately, the case is different as regards the Middlesex Sessions. The labours of Mr. John Cordy Jeaffreson[112] have placed us in possession of exact accounts of the numbers hanged at certain periods for felonies committed in the county of Middlesex. For ten years, 6th to 15th James I., these number 704. Mr. Jeaffreson justly argues that the felonies committed in the City and its Liberties must have exceeded in number those committed in the adjacent county. But, taking them as only equal in number, we get 704 + 704 = 1,408, or a yearly average of over 140. He finds no reason to suppose that executions were less frequent during the reign of Elizabeth. On the assumption that the rates were equal and continuous through the two reigns, we have a total for this period of 66 years of 9,240.

The returns for the reign of Charles I. are defective in respect of some years. Even after making allowance on this account, the average for Middlesex is not higher than 45. Doubling this as before, we get 90, as against the Jacobean 140. Mr. Jeaffreson accepts this remarkable fall, ascribing it to several causes: the spread of education, enabling more

persons to plead their clergy; a growing disposition on the part of juries to convict of petty larceny only on evidence of grand larceny; the larger number of reprieves; the greater readiness of juries to give the prisoner the benefit of doubt; finally, the operation of the Act, 21 James I., c. 6, which in an indirect way put women on a level with men in respect of clergyable offences.

The rate was exceeded, but not very greatly, during the Commonwealth. We will take the average of 90 for the period covered by the reign of Charles I. and the Commonwealth.

Under the years 1535-7, I have written at some length on the results of the social convulsion produced by the dissolution of the monasteries and the enclosures. In estimating the number of executions for the reign of Henry VIII., we may take the Jacobean rate of 140 per annum for the earlier years of the reign, from 1509-35—twenty-seven years. We shall probably be well under the mark in quadrupling the Jacobean rate for the remaining eleven years of this reign, and for the six years of the reign of Edward VI. For the troubled reign of Mary we will double the Jacobean rate. We may now tabulate the results of a calculation on the basis of the foregoing assumptions:—

Reign.	Duration, Years.	Assumed Yearly Average of Executions at Tyburn.	Total.	
Henry VIII.	27	140	3,780	} 9
Ditto	11	560	6,160	

Edward VI.	6	560	3,360
Mary	5	280	1,400
Elizabeth	44	140	6,160
James I.	22	140	3,080
Charles I.	24	90	2,160
Commonwealth	11	90	990
	150		27,090

It is, of course, not claimed that this table presents more than the results of reasonable conjecture—with the data available we cannot get beyond conjecture. The table shows 27,090 executions at Tyburn in 150 years, leaving fewer than 23,000 to be made up in the remaining 450 years to the conjectured number 50,000. This gives a yearly average of less than 52, which is certainly very low.

During the last hundred years of the existence of Tyburn, political executions become more and more rare; the interest of Tyburn becomes more and more a social interest. The salient feature of this period is furnished by the exploits of highwaymen: it might almost be called the era of the knights of the road. Apart from this, the striking feature of the later history of Tyburn, say from the accession of William III., is the constantly increasing ferocity of the laws. The reign of William saw passed the infamous Act inflicting the punishment of death for stealing in a shop to the value of five shillings. Through succeeding reigns Acts were heaped on Acts, making this and that crime a capital offence. No opportunity was lost of loading the Statute Book with these odious Acts, till, as has been estimated, the law of England reckoned two hundred capital offences. Children were hanged or burnt, according to sex; nor did even this satisfy the ferocity of the governing

classes. Theorists advocated a return to the barbarous punishments of rude times: the State, by diminishing the time accorded for repentance, sought to pursue its victims beyond the grave. The heaping up of death-punishments continued beyond the time when Tyburn ceased to uphold the majesty of the law. In the year 1786 an Act was passed imposing duties, denoted by stamps, on perfumery and the like —the duties ranged from one penny upwards. To counterfeit such a stamp was DEATH, so that to defraud the State of one penny put an offender in jeopardy of his life.

All honour to those who, like Fielding, Mandeville, Meredith, Basil Montague, Bentham, Romilly, laboured to bring home to their fellow-citizens a sense of the iniquity of these murderous laws. Nor should we forget their predecessors. Sir Thomas More stated once for all the true view of the case: "This punyshment of theues passeth the limites of Iustice, and is also very hurtefull to the weale publique. For it is too extreame and cruel a punishment for thefte, and yet not sufficient to refrayne and withold men from thefte. For simple thefte is not so great an offense, that it owght to be punished with death." We owe also grateful mention to Samuel Chidley, who, in the time of the Commonwealth, wearied not in protesting against "this over-much justice in hanging men for stealing."

1177. The first recorded execution which can be referred to Tyburn occurred in this year. It is probable that Tyburn was the place of execution, but, leaving this case aside for the time, we come to the execution of William Fitz Osbert, or "Longbeard," expressly stated to have been carried out at Tyburn.

1196. William Fitz Osbert, or Osborn, popularly

known as “Longbeard,” was a citizen of London, described as skilled in the law. He is first made known to us by the story of a vision seen by him and a companion on board a ship, one of the fleet of Richard Cœur de Lion, on its way to the Holy Land.

In a great storm at sea there appeared to them three times St. Thomas of Canterbury, who said to them, “Fear not, for I and the Blessed Martyr Edmund, and the Blessed Confessor Nicholas have taken charge of this ship of the King of England. And if the men of this ship will eschew evil and seek pardon for past offences, God will give them a prosperous voyage.” Having thrice said this, he vanished and the storm ceased. This was in 1190. Richard, on his return, was captured and held to ransom by the emperor. The raising of the ransom proved very grievous to the people. There was trouble in the City of London as to the way of assessing the burden. The poorer sort claimed that the citizens should not be called on to pay so much per head, whether rich or poor, but that the assessment should be according to means. William Longbeard took the part of the poor citizens: it came to be a matter to be fought to the death between the magnates and Longbeard. Moreover, Longbeard had accused of extortion Hubert, Archbishop of Canterbury and Justiciar. An armed band was told off to arrest Longbeard. He resisted, slew two chiefs of the band, but was compelled to fly for protection to the church of St. Mary-le-Bow. Then the archbishop did a thing unheard of. He, a churchman, bound by every consideration to guard the privileges of the church, set at nought the right of sanctuary, kindled a fire, and drove Longbeard out of the church. In his attempt to escape Longbeard was wounded by the son of one of those whom he had

killed in trying to escape arrest. He was hurried to trial: the great men of the city and the king's officers joined in urging the justiciar to inflict the severest punishment on the offender. This was the punishment: His upper garments were taken off, then his hands were bound behind his back, and, attached by ropes to a horse, he was dragged from the Tower through the City to Tyburn, and there hanged alive by a chain.

What was he, unscrupulous demagogue or martyr in the cause of the poor? Each view was held by his contemporaries. He seems to have behaved very badly to his elder brother, whose care for him during his youth he repaid by bringing against him a charge of treason. On the other hand, it is clear that Longbeard's enemies had against him a case which it was necessary to strengthen by baseless accusations. He was charged with blaspheming the Virgin Mary, and with taking his concubine into Bow Church. The last charge seems disproved by the circumstances in which Longbeard fled to the church for refuge. It was also set about that he was put to death for "heresy and cursed doctrine," whereas it is obvious that his offence was political. Be this as it may, his enemies triumphed; Longbeard was drawn and hanged with nine of his fellows. But "the simple people honoured him as a Martyre, insomuch that they steale away the gibbet whereon he was hanged, & pared away the earth, that was be-bled with his blood, and kept the same as holy reliques to heale sicke men." Hubert, the archbishop, drove them away. But two years later the monks of Canterbury presented to the Pope charges against Hubert. The first is that he had violated the peace of the Church of Bow by forcing out Longbeard and his fellows. The Pope advised Richard to remove Hubert from the office of justiciar,

and not to employ churchmen in secular offices. Hubert resisted for a while, but in the end accepted his dismissal.

Stow, in his "Survey" (ed. Thomas, p. 96), says that Longbeard was hanged at "the Elms in Smithfield," but there is no authority for this.

The evidence that "The Elms" of Tyburn was the place of execution is full: "Ad furcas prope Tyburnam," Chronicle of Ralph de Diceto, ed. Stubbs, ii. 143; "ad furcas prope Tiburcinam," Roger of Wendover, ed. Coxe, iii. 95, ed. Hewlett, i. 244; Gervase of Canterbury has "ad Ulmos," ed. Stubbs, i. 533-4; "ad Ulmetum," Matthew Paris, Chron. Maj., ed. Luard, ii. 419; Hist. Anglor., ed. Madden, ii. 57-8.

Diceto, Dean of St. Paul's, is believed to have died about 1202; Roger of Wendover died in 1236: their evidence is, therefore, first-hand.

1177. From the accounts of the execution of Longbeard it is quite clear that in 1196 Tyburn was established as the place of execution; in the detailed accounts given there is no hint that this was the first execution carried out here. It has been shown that gallows existed here as early, probably, as 1170. When, therefore, we find mention of an execution of a date earlier than that of Longbeard, taking place at London, for a crime of which the royal court would necessarily have cognisance, it is at least highly probable that Tyburn, though not expressly mentioned, was the place of execution.

The crime of 1177 is one of those few social crimes, as distinguished from political offences, of which the chroniclers make mention; the story reveals a strange picture of the manners of the time.

During a council held at London the brother of the

Earl of Ferrers was murdered in his inn, the body being afterwards thrown into the mud of the street. When the king heard of this he was greatly moved, and swore that he would visit the crime heavily upon the citizens of London. For it was said that a hundred and more of the sons and relatives of the nobles of the City were in the habit of breaking into the houses of wealthy men for the purpose of robbery. And if they found any one going by night about the streets they forthwith murdered him without pity, so that for fear of them few dared to go about the City by night. So it came about that in the third year before this, the sons and nephews of certain nobles of the City, meeting together by night, for the sake of plunder broke into the stone house of a certain rich man of London, using iron wedges for the purpose of making an opening, by which they entered. But the head of the house had been warned beforehand of their intent, wherefore he put on a leather cuirass, and had with him several nobles and trusty servants also protected by armour, sitting with him in a corner of the house. And when he saw one of those thieves, by name Andrew Bucquinte, pressing on in front of the others with glowing face, he brought forward a pot full of live coals, and hurriedly kindled some wax tapers which he carried in his hand, and rushed upon him. Which beholding, the said Andrew Bucquinte drew his knife from its sheath and struck the master of the house; but he failed to wound him because the blow fell upon the cuirass. And the master of the house quickly drawing his sword from its sheath, returned the blow, and lopped off the right hand of the said Andrew Bucquinte, crying with a loud voice, “Thieves, thieves!” and hearing this all fled except him who had lost his hand, he being held by the master of the house. And when day broke he

took him to Richard de Lucy, the king's justice, who threw him into prison. And the thief, on promise of life and limb, gave up the names of his companions, many of whom were taken, though many also escaped. Among those taken was a certain very noble and very rich citizen of London, by name John Senex, who being unable to clear himself by the ordeal of water, offered to the king five hundred marks of silver for his life. But as he was condemned by the ordeal of water, the king refused to accept the money, and ordered that judgment should be done upon him, and he was hanged.[113]

1222. In one of the ancient records of the City of London, the "Liber de Antiquis Legibus," there occur two short notices:—

> A.D. 1197, Constantine Fitz-Athulf and Robert le Bel (as Sheriffs).
>
> A.D. 1221. In this year Constantine Fitz-Athulf was hanged, and that without trial.

The story of the execution without trial of one who had been sheriff of the great and powerful City compels attention. It is thus told by the chroniclers, the date assigned being 1222 or 1223:—

In this year, on the feast of St. James the Apostle, July 25, the inhabitants of London and those of the neighbouring country, having challenged one another to a wrestling match, met near the hospital of Queen Matilda, outside the City (St. Katherine's Hospital, near the Tower) to decide who were the stronger in this sport. The contest was long, and after great efforts on both sides, the citizens of London had the best of the contest, to the chagrin of their

adversaries. He who took the defeat most to heart was the seneschal of the abbat of Westminster, who devised means to avenge the defeat of his party. Having formed in his mind a plan of vengeance, he issued a fresh challenge for the feast of St. Peter's Chains (August 1st), and sent word for everyone to come to Westminster to wrestle, promising a ram as a prize. That being done the said seneschal got together strong and practised wrestlers, so that the victory might be thus gained. The citizens of London, wishing to distinguish themselves a second time, came in great numbers to the appointed place. The contest began, those on one side and the other trying to throw their opponents to the ground, but the seneschal of whom mention has been made, having brought up people from the neighbourhood and from the country, turned the contest into a fight which would satisfy his revenge. He took up arms without provocation and furiously charged, not without bloodshed, the unarmed citizens of London. The citizens, wounded and insulted, fled in disorder to the City. There ensued a great tumult: the common bell was rung and brought the people together. The story went about, every one gave his opinion, and proposed his plan of revenge. At last the Mayor, Serle, a man prudent and peaceful, advised that complaint should be made to the abbat of Westminster, and said that if he would consent to make suitable reparation, every one should then be satisfied. But Constantine, who had great power in the City, declared amid great applause that it would be better to throw down all the houses belonging to the abbat of Westminster, as well as the seneschal's house. Forthwith an order was drawn up, enjoining the immediate execution of Constantine's project. A blind multitude, a mad populace, entrusted

Constantine with this civil war, flung itself in a tumult on the possessions of the abbat, demolished several houses, and did great damage. In the midst of this scene was Constantine, continually reciting the order, and crying with all his might, “Montjoie! Montjoie! God and our lord Louis be our help!”

This cry, more than anything else, provoked the king’s friends, and made them determine to exact punishment for this sedition, as we will now tell. The facts soon got about, and came to the ear of Hubert de Burgh, the justiciar, who, having got together a number of knights, put himself at their head and went to the Tower of London, from which he sent a message to the elders to come to him without delay. When they were before him he asked who were the principal movers in the sedition; who were they who had dared to trouble the royal city, and break the king’s peace? Then Constantine, constant in his presumption and pride, answered otherwise than was either becoming or prudent. “It is I,” he said, “what wilt thou?” He declared that he was protected by treaty, that he could justify what he had done, which was even less than he ought to have done. He trusted to the oath taken by the king as well as by Prince Louis, by the terms of which the friends and partisans of one or the other were to be left in peace.

The justiciar, hearing this avowal of Constantine, detained him and two of his abettors, without exciting any disturbance. The next morning he sent Fawkes de Bréauté (known to him as a man ready for any cruelty) with an armed force to carry Constantine by way of the Thames to be hanged at The Elms. Quickly and secretly they carried him thither, and when Constantine had the rope round his neck, he offered fifteen thousand marks of silver

if his life might be spared. To whom answer was made that never more should he get up a riot in the king's city. Hanged therefore he was, together with Constantine, his nephew, and a certain Geoffrey, who had proclaimed the order in the City.

Thus was the sentence on Constantine carried out unknown to the citizens, and without disorder. That done, the justiciar made his entry into London, with Fawkes and the armed men who had gone with him. He arrested all known to have taken part in the riot, threw them into prison, and let them out only when he had caused their feet or hands to be lopped off. Numbers fled and never returned. The king took sixty citizens as hostages, and deposed the magistrates and put others in their room. Moreover, he ordered that a great gallows should be set up.[114]

1236. About this time some bold but rash nobles in England, seduced by we know not what spirit, conspired together, and entered into an execrable alliance to ravage England like robbers and night-thieves. Their design, however, became known, and the chief of the conspiracy—to wit, Peter de Buffer, one of the king's doorkeepers—was taken prisoner, and by him others were accused. In order to whose execution a dreadful machine, commonly called a gibbet, was set up in London, and on it two of the chief conspirators were hanged, after having engaged in single combat. One of them was killed in the fight, and was hanged with his head cleft open, and the other, hanged alive, breathed forth his wretched life on the same gibbet amid the lamentations of the assembled multitude.[115]

1239. A certain messenger of the king, named William, had been convicted of manifold crimes, and lay in prison under sentence of death. He brought

accusations of treason against several nobles; he also made a criminal charge against Ralph Briton, a priest and canon of the Church of St. Paul's, London, who had for some time been a familiar friend of the king, and had held the office of treasurer. On this coming to the king's ears he by letter ordered the Mayor of London, William Gromer (or Gerard Batt), to seize Ralph and imprison him in the Tower of London, and the Mayor obeying the king rather than God, at once carried the king's orders into effect. He dragged the said Ralph with violence from his house near St. Paul's, and imprisoned him in the Tower, securing him with chains, commonly called rings. The Dean of London, Master G. de Lucy, informed of this, took counsel with his fellow canons (the bishop being absent), and pronounced a general sentence of excommunication against all the presumptuous perpetrators of this enormity, and placed St. Paul's Church under an interdict. The king, however, although warned by the bishop, did not amend his faults, but continued with threats to heap evils on evils, so that the bishop was about to place the whole of the City of London, which was subject to him, under an interdict: but when the archbishop of Canterbury, as well as the legate, the bishop of London, and many other prelates, were prepared to lay a heavy hand on the City, the king, although unwillingly, ordered the said Ralph to be released, and allowed to depart in peace. But when the king sought to add the condition that Ralph should be so kept as to be ready to give an explanation when the king required it, the churchmen replied that they would not on any account keep him in this manner, like an imprisoned man, but that the church should receive him as absolutely free, just as when the king's attendants tore him by force from his house. In

this manner then was Ralph released.

Not long afterwards, the before-named villain, who had, as above stated, calumniated the nobles and the aforesaid Ralph, was ignominiously hanged outside the City of London, on that instrument of punishment called a gibbet: and when he saw that death was certain, he, although late, openly confessed before the people and his executioners that he had made the aforesaid accusations only for the purpose of prolonging his life.[116]

1242. William de Marisco, or Marsh, was the son of Geoffrey, justiciar or viceroy of Ireland. In 1235 Henry Clement, a messenger from the Irish peers to the king, was murdered in London. William Marsh was accused of the murder, but he always protested his innocence. William was also accused of being implicated in the attempted assassination of the king at Woodstock (p. 30). His father, Geoffrey, was also suspected of being privy to the attempt, and his lands being seized on this account, he fled to Scotland, whence he was finally driven out at the king's instance, dying friendless and poor in France. This is the chronicler's account of the doings of William after his father's fall:—

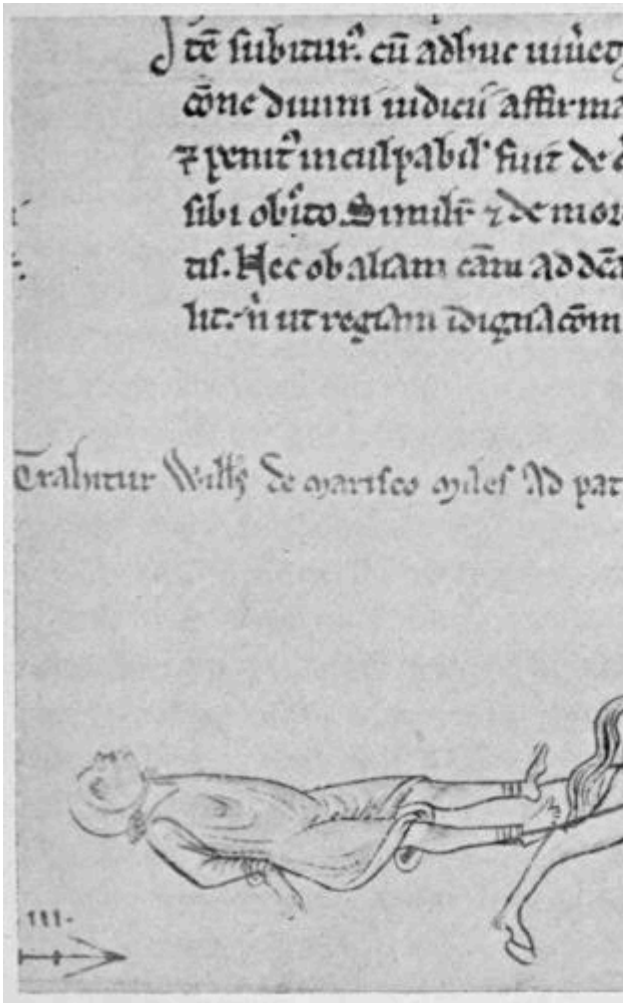
William sought refuge in a certain island not far from Bristol, Devon, or Cornwall, named Lundy, an impregnable retreat. Here, having drawn to himself a number of outlaws and fugitives, he lived by piracy; he gave himself up to plunder and rapine, seizing the goods of merchants trading in those parts, especially wine and provisions. He also made sudden descents on the coasts, carrying off booty, injuring greatly thereby the kingdom of England, by preying upon merchants, both native and foreign. Now, a great number of nobles, English as well as Irish, who could

not honourably dwell at home while the king was engaged in war in parts beyond the sea, journeyed across the countries not far distant from the said island, and ascertained beyond doubt that the said William and his band could be taken only by stratagem. They told the king that he must proceed in the matter not violently, but cautiously, in order to capture these devastators. The king therefore gave his orders to trusted men, engaging them by the promise of a rich reward to undertake the capture of this man and the deliverance of their country. The said William was hateful to the king, because he suspected him of being privy, together with his father, Geoffrey, to the attempted assassination, and to have been wickedly guilty of treason by sending the wretch who went by night to Woodstock to cut the king's throat; also to have killed in London, in the king's presence, a certain messenger sent by an Irish nobleman. William's denial of the charges was not believed, nor even listened to. Therefore he imprudently sought safety in remote places, living like an outlaw and a fugitive.

After narrating other events, the chronicler continues:—

About this time, William Marsh, a knight, of whom mention has been made, while he was still in the above-mentioned island, plundering and planning ambushes, was himself captured by a stratagem, carried out by the king's loyal servants, loaded with chains, brought to London and thrown into the Tower. His capture was brought about by the treachery of some of his band. His stronghold was situated on a very high rock, surrounded on all sides by the sea, absolutely impregnable, for none could get access to it otherwise than by a ladder, and that

in but one place. William sitting down to table, during foggy weather, had imprudently left the watch of this post to a man who, being detained by William by force, was therefore ready to betray him.



SIR WILLIAM DE MARISCO (WILLIAM MARSH) DRA

On the eve of St. James [July 25], by virtue of the

king's mandate, the said William and sixteen of his band, taken with him, were judicially condemned, and put to death ignominiously, for so the king willed.

First, therefore, he was drawn from Westminster to the Tower of London, and thence to that instrument of punishment, commonly called a gibbet: when he had there breathed out his wretched soul, he was hanged on one of the hooks, and when the body was stiff it was let down and disembowelled, and the bowels were at once burnt on the spot. Then the miserable body was divided into four parts, which were sent to four of the chief cities, so that this lamentable spectacle might inspire fear in all beholders. All his sixteen companions were drawn at the tails of horses through the City of London, and hanged on the gallows. But the said William, after sentence was passed on him, and when he was about to face death, protested to his last breath, invoking the divine judgment, that he was innocent, pure, and wholly without blame, as well in respect of the criminal attempt on the king, as of the death of the above-mentioned messenger, that is to say, Clement. Nor did he take refuge in the said island except to avoid by his flight the king's anger, which he had above all things desired to appease, either by ordeal of any kind, or otherwise by submission. But after he had fled to the said island, and had got together his band, he had no choice but to plunder in order to maintain a wretched existence. He poured out his soul to God, in confession to John of St. Giles, a friar of the order of preachers: with contrition and tears he admitted his sins, not seeking to extenuate them, but even accusing himself. Therefore the friar preacher, a discreet man, who received his confession, gave him gentle consolation, and

dismissed him in peace, exhorting him to suffer his punishment with patience, as a means of penance. And, therefore, as has been said, he suffered—dreadful to tell—not one death only, but several horrible deaths.[117]

1255. The story of Little St. Hugh, the Martyr of Lincoln, comes into the Annals of Tyburn through the execution of eighteen Jews supposed to have been guilty. It is interesting to see what Chaucer has made out of this squalid tragedy in the Prioress's Tale, one of the most beautiful of the Canterbury Tales. The reader will not need to be reminded that Norwich had its boy-martyr, St. William, supposed to be done to death in the same way in 1144. Bury St. Edmund's had also its boy-martyr.[118]

Matthew Paris tells the story:—

About the time of the feast of the Apostles Peter and Paul, the Jews of Lincoln stole a boy named Hugh, about eight years of age. They kept him shut up in a very secret room, where they gave him milk, and other food such as is given to children, and sent word to most of the cities of England in which Jews dwelt, summoning from each some Jews to be present at the sacrifice which was to take place in Lincoln, in contempt and derision of Jesus Christ. For, as they said, they had a child hidden in preparation for the sacrifice. And many assembled at Lincoln; and when they were gathered together, they appointed a Jew as judge, as it were Pilate, by whose sentence, approved by all, the boy suffered various tortures. He was beaten till blood was drawn and his body was black and blue: crowned with thorns: spat upon and overwhelmed with jibes: then each one pricked him with knives of the kind called anelaces: he was made to drink gall, and, jeering at him, and

grinding their teeth, they called him false prophet. And when they had thus mocked him in many ways, they crucified him, and thrust a lance into his heart. And when the boy was dead, they took the body down from the cross and took the bowels out of the little body, for what purpose is not known, but it is said that it was for some practice of magic.

Now the mother of the child diligently sought for her son during many days. In the end the neighbours told her that they had last seen the boy playing with some Jewish boys of his own age, and that he went into the house of a certain Jew. At once, therefore, the woman went into that house, where she saw the body of her son, which had been thrown into a well. The bailiffs of the city, having been cautiously got together, the body was found and taken out of the well, and exhibited to the people. But the mother of the boy, crying aloud and lamenting, excited to tears and sighs, all, yes, all the citizens who had flocked together. Now there was present Sir John of Lexinton, a man circumspect, discreet and of elegant literary acquirements, who said: “We had already heard that the Jews have not feared to do such things in contempt of our crucified Lord, Jesus Christ.” And one Jew being arrested, into whose house the boy had gone, in playing about, on whom therefore suspicion fell rather than upon others, he said to him: “Wretch, thou knowest that all thou hast to expect is swift destruction. All the gold of England cannot suffice to free or redeem thee. Nevertheless, I tell thee, however unworthy thou art, how thou canst save thy life, and thy limbs from torture. Both things I promise to thee if thou dost not fear to tell me without falsehood all that has taken place.” Then the Jew, whose name was Copin, thinking he had found a way of escape, said: “Sir John, if your deeds

are as good as your words I will tell you strange things." And Sir John carefully heartened him and pressed him. Then said the Jew: "What the Christians say is true. The Jews nearly every year crucify a boy in derision and contempt of Jesus Christ. But this is not found out every year, because it is done secretly and in remote and hidden places. But our Jews have most pitilessly crucified this boy, named Hugh, and when he was dead and they wished to conceal his death they knew not how either to bury or to hide him. For they had no further need of the body of the innocent for augury: for that purpose they had taken out the bowels. But in the morning, when they thought it was hidden, the earth rejected it and threw it up, and the body appeared for a while on the earth, unburied, which frightened the Jews. Then they threw the body into a well, but even so it could not be hidden. The mother, making enquiry, found the body and gave notice to the bailiffs." Sir John had the Jew put in chains.

And when the canons of the cathedral church of Lincoln learnt of these things, they begged that the little body might be given to them, and this was done. And when it had been seen by a great number of people, the body was buried in the church of Lincoln, as that of a precious martyr. It is to be noted that the Jews had kept the boy alive ten days, and had fed him upon milk, so that he might live to bear all kinds of torture.

When the king returned from the northern parts of England and was informed of what had passed, he blamed Sir John for promising life and limb to such a wretch, and he refused to ratify this, for this blasphemer and murderer had deserved many deaths. And when the criminal saw that an

irrevocable sentence threatened him, he said: “Death threatens me, nor can Sir John save me. Now will I tell the truth to all of you. Almost all the Jews of England consented to the boy’s death of which they are accused. And from almost every city of England in which Jews dwell, certain men, chosen for the purpose, came to the immolation of the child, as to a sacrifice of Passover.”

When he had said other hateful things, he was made fast to the tail of a horse and drawn to the gallows, and given over body and soul to the evil demons of the air. And other Jews, accomplices in the crime, to the number of ninety-one, were taken in carts to London and put in prison. If perchance some Christians shed tears for their fate, their lot was bemoaned with dry eyes by the Caursins, their rivals.

Afterwards, by enquiry made by the justices of our lord the king, it was discovered that the Jews of England, by common accord, had killed this innocent boy by crucifixion, after having beaten him for several days. Later, the mother of the said boy pressed upon the king her accusation of those guilty of the death, and God, the Lord of Vengeance, meted out to them retribution according to their deserts. For on the feast of St. Clement, eighteen of the richest and greatest of the Jews of Lincoln were drawn to new gallows, prepared for them, and left to the winds. And in the Tower of London sixty more were kept in prison, expecting the same fate.

1256. At this same time, certain Jews, infamous by reason of the unhappy death of the boy crucified at Lincoln, found guilty by the oath of twenty-five knights, and condemned to death, lay in prison, to the number of three score and eleven, in order that they might be hanged. They sent, as their rivals

declare, secret messengers to the minorite friars with the view that they should intercede for them, that they might be released from prison, notwithstanding that they were worthy of a most ignominious death. The friars, as the world said (if the world is to be believed in such a matter), were induced by money to procure the freedom of the Jews by their prayers and intercession, from the imprisonment and death they had deserved. But in my opinion, it is to be believed that the friars acted from piety, guided by a spirit of compassion, because, so long as any one is alive in this world, he can still use his will, so that there is hope of him. But for the devil and for those manifestly damned, one can neither hope nor pray, because there is no hope for them. Now death and a final sentence had irrevocably ensnared them. But this way of looking at the matter cannot excuse the friars, nor prevent scandal from blackening their character. The people drew back their hands from giving them alms as they had before done. So it fell out that the devotion of Londoners towards the minorites grew lukewarm, just as the charity of the Parisians grew cold towards the preachers, who there sought to weaken the ancient and approved customs of the University.

In the same year, on the Ides of May, four score and eleven Jews were released from the Tower of London, where they had lain in fetters, for the crucifixion of Saint Hugh, the boy of Lincoln. These Jews, I say, were found guilty upon oath, in accordance with the statement of the Jew who at the first was hanged at Lincoln.[119]

1267. It happened about the Feast of Saint Katherine [November 25] in this year, that a dispute

arose between certain of the craft of the goldsmiths and certain of the craft of tailors: to whom adhered, on the one side and the other, some of the trade of the parmenters [dealers in broadcloth] and some of the tawyers [who prepared fine leather], which persons held great assemblages, and for three nights together went armed through the streets of the City, creating most severe conflicts among themselves. Hence, without doubt, as was said, more than five hundred of these mischievous persons were collected together at night, and in the affray many of them were wounded: but still, no one would act a part that belongs only to the Bailiffs. For every one was waiting by force of arms to take vengeance on his adversary, against the peace and his own fealty to his lordship the King: the Bailiffs and discreet men of the City understanding which, had more than thirty of them seized and imprisoned in Newgate: and these, on the Friday next after the Feast of Saint Katherine, appeared before Laurence de Broc, the Justiciar assigned for gaol delivery, who took proceedings against them in the King's behalf, saying that they, against the peace and their fealty to his lordship the King, had gone armed in the City, and had at night wickedly and feloniously wounded some persons, and had slain others, whose bodies, it was said, had been thrown into the Thames.

They however denied violence and injury, &c., and as to the same put themselves upon the verdict of the venue. But on the morrow, those who by the said venue were found to have been in the conflict aforesaid, were, by the judgment of the said Justiciar, immediately hanged, although not one among them had been convicted of homicide, mayhem, or robbery. Hence, one Geoffrey, surnamed "de Beverley," a parmenter by trade, because certain

of those misdoers had armed themselves in his house, and he himself had been present with them in arms in the said affray, was hanged, together with twelve others who had been indicted, as well goldsmiths as parmenters and tawyers. All this however was done that others, put in awe thereby, might take warning, that so the peace of his lordship the King by all within the City might be the more rigidly maintained.[120]

1278. In the month of November in this year all Jews throughout England were seized on the same day, and imprisoned in London, for clipping the king's coin. And the Jews gave information as to very many Christians in league with them, and chiefly among the more renowned of London. On this occasion two hundred and eighty Jews of both sexes were hanged at London: in other cities of England a very great multitude. The king exacted an immense sum for the ransom of the Christians, some of whom also were delivered to the gallows.[121]

1284. In this year Bow church, which, as we have seen, witnessed a great tragedy in 1196, was once more the scene of a terrible affair. It may be told mainly in the words of Stow:—

In the year 1284, the 13th of Edward I., Laurence Ducket, goldsmith, having grievously wounded one Ralph Crepin in Westcheape, fled into Bow church, into the which, in the night time, entered certain evil persons, friends unto the said Ralph, and slew the said Laurence, lying in the steeple, and then hanged him up, placing him so by the window as if he had hanged himself, and so was it found by inquisition: for the which fact Laurence Ducket, being drawn by the feet, was buried in a ditch without the City: but shortly after, by relation of a boy, who lay with the

said Laurence at the time of his death, and had hid himself there for fear, the truth of the matter was disclosed.

Wherefore a certain woman, Alice atte Bowe, the mistress of Crepin, a clerk, the chief causer of the said mischief, and with her sixteen men, were imprisoned, and later, Alice was burnt, and seven were drawn and hanged, to wit, Reginald de Lanfar, Robert Pinnot, Paul de Stybbenheth, Thomas Corouner, John de Tholosane, Thomas Russel, and Robert Scott. Ralph Crepin, Jordan Godchep, Gilbert le Clerk and Geoffrey le Clerk were attainted of the felony and remained prisoners in the Tower. The church was placed under an interdict by the archbishop: the doors and windows stopped up with thorns. But the body of Laurence was taken from the place where it lay, and given burial by the clergy in the churchyard. After a while, the bishop of Rochester, by command of the archbishop, removed the interdict.[122]

1295. *October 6.* The Treason of Sir Thomas Turberville.

Sir Thomas Turberville, taken prisoner by the French, was released in order that he might return to England and act as a secret agent for the French government. He was detected in corresponding with the Provost of Paris, tried and condemned. This was the manner of his execution: He came from the Tower, mounted on a poor hack, in a coat of ray, and shod with white shoes, his head being covered with a hood, and his feet tied beneath the horse's belly, and his hands tied before him: and around him were riding six torturers attired in the form of the devil, one of whom held his rein, and the hangman his halter, for the horse which bore him had them both

upon it: and in such manner was he led from the Tower through London to Westminster, and was condemned on the dais in the Great Hall there: and Sir Robert Brabazun pronounced judgment upon him, that he should be drawn and hanged, and that he should hang so long as anything should be left whole of him: and he was drawn on a fresh ox-hide from Westminster to the Conduit of London in Cheapside, and then back to the gallows: and there is he hung by a chain of iron, and will hang as long as anything of him may remain.[123]

Here we have the first mention of drawing on an ox-hide, probably at this time generally used in such cases. But as shown on p. 28, one of the chroniclers expressly says that this method of drawing was adopted in the present case in order that the sufferer should not die too soon.

The place of execution is not mentioned. In a footnote Mr. Riley says that it was "probably the Elms in West Smithfield," but, as has been shown, the probability is all in favour of the Elms of Tyburn.

1299. Rishanger reports a strange occurrence not unconnected with our subject: The King ordered to be brought into the Tower of London all the iron manacles and chains which could be found in every place in England, to an inestimable number, but the reason of this was wholly unknown.[124]

1305. *August 23.* William Wallace drawn from Westminster to the Tower and thence to Tyburn, where he was hanged and quartered. In treating of the punishment for high treason, mention has already been made of the manner of carrying out the sentence on Wallace, "the man of Belial," as he is constantly called in the Chronicles. Wallace was hanged on a very high gallows, specially made for

the occasion. Edward was fond of high gallows. At the siege of Stirling Castle, in 1300, he caused to be erected two gallows, sixty feet high, before the gates of the castle, and swore a great oath (jurra graunt serment) that if surrender was not at once made, he would hang every one within the castle, were he earl, baron, or knight, high or low. “On hearing which,” says the chronicler, “those within at once opened the gates and surrendered to the king, who pardoned them.”

The place of execution of Wallace was undoubtedly Tyburn. “The Elms” is mentioned in Chronicles of the reigns of Edward I. and Edward II., ed. Stubbs, i. 141-2. The sentence bore that Wallace’s head should be exposed on London Bridge. This is the first recorded instance of a head being exposed here.[125] In 1283 the head of David III. and of his brother Llewellyn were fixed on the Tower of London.[126]

1306. Two other executions of Scotch leaders followed, both probably at Tyburn, though the place is not expressly mentioned. Symon Frisel [Fraser] was brought to London, and then, according to the chronicler, drawn, on September 7, from the Tower, through the streets to the gallows as traitor, hanged as thief, beheaded as murderer; then his body was hung on a gibbet for twenty days, and finally burnt, the head being fixed on a pole upon London Bridge, near the head of Wallace.

The execution of the earl of Athol followed on November 7. Edward, grievously ill, found his pains relieved by learning of the capture of the earl. Athol claimed to be of royal lineage. “If he is of nobler blood than the other parricides,” said Edward, “he shall be hanged higher than they.” He was carried to

London, and condemned at Westminster. Then, as being of royal descent, he was not drawn, but rode on horseback to the place of execution, where he was hanged on a gallows fifty feet high. Then let down, half alive, so that his torment might be greater, very cruelly beheaded (the chronicler does not say what was done to make the beheading unusually cruel), then the body was thrown into a fire previously kindled in the sight of the sufferer, and reduced to ashes. Then the head was placed on London Bridge among those of other traitors, but higher than the rest, in regard to his royal descent.[127]

1307. In May, John Wallace was brought to London, condemned as a traitor and hanged. His head was set on London Bridge near that of William Wallace.[128]

1330. Edward III. was but a boy when crowned in February, 1327. All power was in the hands of Isabella, his mother, queen of the deposed and murdered king, Edward II., and of her lover, Roger Mortimer, baron of Wigmore and earl of March. For the murder of Edward II. the queen-mother and Mortimer are held to be specially responsible. In 1329 a powerful confederation was formed to overthrow Mortimer. This was for the time defeated, but Edward, now eighteen, chafed under his subjection and took counsel with William de Montacute. It was resolved to seize Mortimer in the castle of Nottingham, where, during the session of Parliament held there, Isabella and her lover lodged. Mortimer was well guarded, and it was necessary to bring into the confederation Sir William Eland, the governor of the castle. He told the confederates of a subterranean passage, unknown to Mortimer, and unwatched, through which a sufficient force could be

introduced. The rest of the story may be told in the words of Stow:—

Then, vpon a certaine night, the King lying without the castle, both he and his friends were brought by torch light through a secret way vnder ground, beginning far off from the sayde castle, till they came euen to the Queenes chamber, which they by chance found open: they therefore being armed with naked swords in their hands, went forwards, leauing the King also armed without the doore of the Chamber, least that his mother shoulde espie him: they which entred in, slew Hugh Turpinton knight, who resisted them, Master John Neuell of Home by giuing him his deadly wound. From thence, they went towarde the Queene mother, whom they found with the Earle of March readie to haue gone to bedde: and hauing taken the sayde Earle, they ledde him out into the hall, after whom the Queene followed, crying, *Bel filz, bel filz, ayes pitie de gentil Mortimer*, Good sonne, good sonne, take pittie vpon gentle Mortimer: for she suspected that her sonne was there, though shee saw him not. Then are the Keyes of the Castle sent for, and euery place with all the furniture is yeelded vp into the kings handes, but in such secret wise, that none without the Castle, except the kinges friendes, vnderstoode thereof. The next day in the morning verie early, they bring Roger Mortimer, and other his friends taken with him, with an horrible shout and crying (the earle of Lancaster then blind, being one of them that made the showt for ioy) towardes London, where hee was committed to the Tower, and afterward condemned at Westminster, in presence of the whole Parliament on Saynt Andrewes euen next following, and then drawne to the Elmes and there hanged on the common Gallowes. Whereon hee hung two dayes and

two nights by the kinges commaundement, and then was buryed in the Gray Fryars Church.[129]

It has been frequently said that Mortimer was the first person executed at Tyburn. The French Chronicle of London says, “Sir Roger Mortimer, and Sir Symon de Bereford, who was of his counsel, were drawn and hanged at London”; and in a note Mr. Riley adds that he “is said to have been the first person executed at Tyburn, but according to Roger of Wendover, William Fitz-Osbert, or Longbeard, was executed there in 1196.” Dr. Lingard says that Mortimer “was executed at Tyburn, the first, as it is said, who honoured with his death that celebrated spot.” The reader now knows that not only Longbeard, but Constantine Fitz-Athulf, had certainly been here executed, and also probably others mentioned in these Annals. It may be taken for granted that the new gallows erected in 1220, and the old gallows replaced by them, had not stood idle. In the century and a half during which the gallows had stood at Tyburn, hundreds, if not thousands of unrecorded executions must have taken place here.[130]

1345. The murder of Sir John of Shoreditch.

Sir John of Shoreditch was a doctor of laws, advocate and knight, a man of great eminence in his profession. This may be inferred from the fact that, in 1343, he was sent, with others, as envoy to the Pope to complain of papal exactions.

In the year 1345, writes the chronicler, on the tenth of the month of July, Sir John, of the king’s council, was secretly suffocated by four of his servants at a certain house of his near Ware. These four servants, suspected and apprehended, confessed their crime, and on the eighteenth day of the same

month, being the Sunday before the festival of St. Margaret, they were in London drawn, hanged, and beheaded, and their heads were set up on Newgate, on poles.[131]

The punishment thus inflicted was the penalty of petty treason, of which they were guilty in killing their master. Tyburn is not mentioned as the place of execution.

1347. The Scotch king, David II., the earl of Fife, and the earl of Menteith were captured. Fife and Menteith were sent to London and tried. From Calais Edward III. sent the judgment to be pronounced on these two "traitors and tyrants." In accordance with the sentence, Menteith was drawn, hanged, disembowelled. His head was set on London Bridge, and the quarters sent to various parts of England. The sentence was not carried out against Fife, as being allied to the king in blood.[132]

This is the sentence as given by Rymer:—

Si est agarde q'ils soient Ajuggez Traitres, &, come Traitres & Tirantz atteintz, Traynez, Penduz, Decolez, & lour Corps Quartirez, & lour Chiefs mys sur le Pount de Loundres, & les Quarters mys a les Quatre Principals Villes du North (c'est assaver) a Everwyk, Noef Chastel sur Tyne, Kardoil, and Berewyk, de les y pendre haut par Cheines, en ensample & terrour des Traitres & Tirantz celles Parties. Tyburn is not mentioned.

1377. Sir John Menstreworth, accused of embezzling from the king large sums allotted to him for the pay of soldiers, fled to France.

About this time (April), writes the chronicler, was captured Sir John Menstreworth, a traitorous knight, who had fled to Pamplona, a city of Navarre.

Brought to London, he was first drawn, then hanged: finally his body was divided into four quarters, which were sent to four principal cities of England; and his head was fixed on London Bridge, where it remained for a long time.[133]

1386. And that yere the goode man at the sygne at the Cocke in Chepe, at the Lyttyll Condyte, was mortheryd in hys bedde be nyght, and therefore hys wyffe was brente, and iiij of hys men were hangyd at Tyborne.[134]

The Grey Friars Chronicle says that three servants were drawn and hanged. This is the record of a terrible judicial error. The Chronicles tell the story, some under the year 1386, some under 1391. We may suppose that the dates are those respectively of the commission of the crime and the discovery of the real criminal. Stow thus tells the whole story in his "Summary," ed. 1598:—

The good man of the Cocke in Cheap at the little conduit was murdered in the night time by a thiefe that came in at a gutter window, as it was knowne long after by the same thiefe, when he was at the gallowes to be hanged for felonie, but his wife was burnt therefore, and three of his men drawne to Tiburne, and there hanged wrongfully. One of the old chroniclers, after telling the story, adds, "and that was ruth." What more can be said in presence of such a calamity?

1388. The struggle for power under the rule of the boy-king, Richard II., ended in the utter rout of one of the two factions. "Appealed of treason" by their successful rivals, the archbishop of York, the duke of Ireland, and the duke of Suffolk, sought safety in flight. Let Stow tell the fate of chief justice Tresilian, of Nicholas Brembre, the City chief of the vanquished

faction, and of others of less note. The end of Tresilian has a curious resemblance to that, three hundred years later, of another great lawyer, lord chancellor Jeffreys. Each had conducted a bloody judicial campaign. After the suppression of the revolt of the peasants, Tresilian had sentenced to death John Ball, and, as averred by an old chronicler, had condemned every one brought before him, whether guilty or not. Tresilian, like Jeffreys, was captured in a disguise. Here, indeed, the parallel ends. Jeffreys died a prisoner in the Tower, and thus escaped the doom of Tresilian. This is Stow's narrative:—

The foresaid Lords being fled as is aforesaide, Robert Trisilian a Cornishman, Lord chiefe Justice to the King, had hid himselfe in an Apothecaries house in the Sanctuary neere to the gate of Westminster, where he might see the Lords going to the Parliament, and comming forth thereby to learne what was done, for all his life time he did all things closely, but now his craft being espied was turned to great folly. For on Wednesday the seuenteenth of February he was betraied of his owne seruant, & about eleuen of the clocke beforenoone, being taken by the Duke of Glocester, and in the Parliament presented, so that the same day in the after noone hee was drawne to Tyborne from the Tower of London through the Citie, & there had his throat cut and his bodie was buried in the gray Friers Church at London. This man had disfigured himselfe, as if he had beene a poore weake man, in a frize coat, all old & torne, and had artificially made himselfe a long beard, such as they called a Paris beard, and had defiled his face, to the end hee might not bee knowen but by his speach. On the morrow, was executed sir Nicholas Brembar, who had done many oppressions, & caused seditions in the Citie, of whom

it was saide, y^{t} whilest he was in full authoritie of Maioralitie, hee caused a common payre of Stockes in euery ward, and a common Axe to be made to behead all such as should bee against him, and it was further said, that hee had indited 8000. & more of the best and greatest of the Citie, but it was said that the said Nicholas was beheaded with the same Axe hee hadde prepared for other: this man if hee hadde liued, hadde beene created Duke of Troy, or of London by the name of Troy.

On the fourth of March Thomas Vske, Undershriue of London, & Iohn Blake Esquire, one of the kings household, were drawne from the Tower to Tyborne and there hanged and beheaded, the head of Thomas Vske was set vp ouer Newgate, to the opprobry of his parents, which inhabited thereby.

Also on the 12. of May … Sir Iohn Bernes knight of the kings Court a lustie young man, was in the same place [Tower hill] beheaded, sir Iohn Salisburie knight was drawne from the Tower to Tyborne and there hanged.

Some of the accounts state that Brembre was hanged at Tyburn, but Knighton says that he was beheaded on Tower Hill, the king having stipulated with Parliament that he should not be drawn nor hanged. Walsingham says that Little Troy was the new name intended to be given by Brembre to London.[135]

1399. In this year took place several executions for the murder of the Duke of Gloucester at Calais. John Hall was charged with having kept the door of the room when the Duke was done to death by being smothered in a feather-bed. On October 17th “the lordes were examyned what peyne the same John

Halle hadde desyrved ffor his knowyng off the deeth off the Duk off Gloucestre: and the lordes seyden, that he were worthy the moste grete peyne and penaunce that he myght have. And so the Juggement was that the same John Halle shulde be drawe ffro the Tour off London to Tyborne, and ther his bowelles shulde be brent and affterwarde he shulde be hangid and quarterid and byhedid. And his heede y-brouht to the same place, wher the Duk off Gloucestre was murdred."[136]

1400. After the deposition of Richard II. and the coronation of Henry IV. a conspiracy was formed to surprise Henry at a tournament to be held at Windsor in December, 1399. The plot was made known by the Earl of Rutland, one of the conspirators. Henry collected an army in London, and set out for the rebels' camp near Windsor. The rebels retreated to Cirencester, where they were overthrown. According to the Chronicle of London (1827), Sir Thomas Blount, Sir Bennet Shelley, Thomas Wyntreshull, and about twenty-seven others, were executed at Oxford. "Afterwards was taken Sr. Bernard Brocas, Sr. Thomas Schelley, Maudelyn parson, Sr. William Fereby prest: and there were drawen, hanged, and beheded at Tyborne." There is, however, great confusion in the various accounts. The Grey Friars Chronicle, for instance, says that Sir Bernard Brocas was beheaded in Cheapside. In Chroniques de Waurin, and in a manuscript in the Bibliothèque Nationale, is a long account of the execution of Sir Thomas Blount. Reference has sometimes been made to it as illustrating the cruelty of the times. Cruel enough they were: so cruel that there existed no need to overcharge a narrative. But this account of the execution is clearly in great part a work of imagination. Sir Thomas is represented as

sitting, disembowelled, near the fire in which his bowels had been burnt, and in this condition he holds a long conversation with Sir Thomas Erpingham. Finally, the executioner asks Sir Thomas whether he would like to drink. Sir Thomas replies, "Nennil, car je ne le scauroye où mettre."[137]

The partisans of the deposed Richard refused to believe that he was dead:—

1402. In the meane time while the kyng was thus occupied in Wales, certain malicious and cruel persons enuiyng and malignyng in their heartes that king Henry contrary to the opinion of many, but against the will of mo had so shortely obteigned and possessed the realme and regalitie, blased abrode & noised daily amongest the vulgare people that kyng Richard (whiche was openly sene dead) was yet liuying and desired aide of the common people to repossesse his realme and roiall dignitie. And to the furtheraunce of this fantasticall inuencion partly moued with indignacion, partely incensed with furious malencolie, set vpon postes and caste aboute the stretes railyng rimes, malicious meters and tauntyng verses against King Henry and his proceedynges. He beyng netteled with these vncurteous ye vnuertuous prickes & thornes, serched out the authours, and amongest other were found culpable of this offence and crime, sir Roger Claryngdon knight, and eight gray Friers whiche according to their merites and desertes were strangeled at Tiborne and there put in execution.[138]

Walter de Baldocke, formerly Prior of Laund in Leicestershire, a ninth minorite friar, and a servant of Sir Roger, were also executed.[139]

1404. The olde Countesse of Oxford, mother to Robert de Vere Duke of Ireland did cause such as were familiar with her, to brute throughout all the parts of Essex, that king Richard was aliue, and that he should shortely come & chalenge his olde estate and dignitie. She caused many harts of silver, and some of golde to be made for badges, such as king Richard was wont to bestowe on his knights, Esquiers & friends, that distributing them in the kings name, she might the sooner allure the knights, and other valiant men of the Countrey, to be at her will and desire.

Also the fame and brute which daily was blazed abroad by one William Serle, sometimes of K. Richards chamber, that the same King Richard was in Scotland, and tarryed with a power of French & Scottishmen, caused many to beleeue that he was aliue. This William Serle had forged a priuie Seale in the said Richards name, and had sent diuers comfortable letters vnto such as were familiar with K. Richard, by which meanes, many gaue the greater credit to the Countesse, insomuch, that some religious Abbots of that country did giue credit vnto her tales who afterward were taken at the Kings commaundement and imprisoned, because they did beleeue and giue credit to the Countesse in this behalfe, and the Countesse had all her goods confiscate, and was committed to close prison: and William Serle, was drawn from pomfret, through the chiefest Citties of England, and put to death at London.[140]

1424. The Parliament sitting in this year “ordained that what prysoner for grand or petty treason was committed to ward, & after wilfully brake or made an escape from the same, it should bee deemed pettie

treason." Sir John Mortimer lay in the Tower, accused of divers points of treason. "Which John Mortimer, after the statute aforesaid escaped out of the tower, and was taken againe vpon the tower wharfe sore beaten and wounded, and on the morrowe brought to Westminster, and by the authoritie of the said parliament, hee was drawne to Tyburne, hanged & headed." (Stow, Annals, p. 365.) Stow refers to Hall, who says: "In the tyme of which Parliament also, whether it were, either for deserte or malice, or to auoyde thynges that might chaunce, accordyng to a prouerbe, whiche saith, a dead man doth no harme: Sir Iohn Mortimer … was attainted of treason and put to execution: of whose death no small slaunder arose emongest the common people."[141]

1427. Ande that same yere a theffe that was i-callyd Wille Wawe was hangyd at Tyborne (Gregory's Chronicle, p. 161).

Insignificant as this record appears, it is really of great interest. As the present annals show, ordinary crimes and their punishment received little or rather no attention from the chroniclers. We have now traversed two and a half centuries since the first recorded execution that we can put to the account of Tyburn. We have found but one case, that of the terrible tragedy of the murdered cook of Chepe, and the judicial error resulting in the execution of four or five innocent persons, in which the actors or sufferers were of humble rank. Gregory's Chronicle is supposed to have been written by William Gregory, skinner, mayor of London. It is certain that the author was a citizen of London. Being this, the phases of daily life in London would naturally have for him a greater interest than for the monk who

looked on the world from the scriptorium of his monastery. To the fact that Gregory was a citizen of London we doubtless owe this notice—too brief—of Wille Wawe. The hanging of thieves was too common to attract attention. We shall admit the probability that Wille was distinguished from the rest of his tribe by superior daring or success: had he, perhaps, robbed the author of the Chronicle?

1437. Also the same yere on William Goodgrom, of London, corsour, for scleynge of a man of court in Hosyere Lane be syde Smythfeld, was hangen at Tybourne (Chronicle of London, 1827, p. 123.)

A coursour, or courser, was a dealer in horses. (Riley, "Memorials of London and London Life," p. 366 and note.)

1441. Roger Bolinbrooke, a great Astronomer, with Thomas Southwell, a Chanon of Saynt Stephens Chappell at Westminster, were taken as conspiratours of the Kings death, for it was said, that the same Roger shoulde labour to consume the kings person by way of Negromancie, & the said Thomas should say Masses in the lodge of Harnesey park beside London, upon certaine instruments, with the which the said Roger should vse his craft of Negromancie, against the faith, and was assenting to the said Roger, in all his workes. And the 5. and twentith day of July being Sun-day, Roger Bolinbrooke, with all his instruments of Negromancie, that is to say, a chayre paynted wherein he was wont to sit, vppon the 4. corners of which chayre stoode foure swords, and vppon euery sword an image of copper hanging, with many other instruments: hee stoode on a high Scaffolde in Paules Churchyard, before y^{e} crosse, holding a sword in his right hand, and a scepter in his left, arrayed in a maruellous attire, and after the

Sermon was ended by maister Low Byshop of Rochester, he abiured all articles longing to the crafte of Negromancie or missowning to the faith, in presence of the Archb. of Canterbury, the Cardinall of Winchester, the byshop of London, Salisbury and many other.

On the Tuesday next following, dame Elianor Cobham, daughter to Reginald Cobham Lord of Stirbrough: Dutchesse of Glocester fledde by night into the Sanctuary at Westminster, which caused her to be suspected of treason.

In the meane time Roger Bolinbrooke, was examined before the Kings Counsaile, where he confessed that he wrought the saide Negromancie at the stirring and procurement of the said Dame Elianor, to know what should befall of her, and to what estate she should come, whereuppon shee was cited to appeare before Henry Chicheley, Archbishop of Canterbury. Henry Beaufort bishoppe of Winchester Cardinall: Iohn Kempe Archb. of Yorke Cardinall: William Ascothe bishop of Salisburie, & other in Saynt Stephens Chappell at Westminster, there to answere to certaine Articles in number 28. of Negromancie, witch-crafte, sorcerie, heresie, and treason, where when shee appeared, the foresaide Roger was brought forth to witnes against her, and said, that shee was cause and first stirred him to labour in the sayd Art. Then on the 11. of August, shee was committed to the ward of Sir John Steward, Sir William Wolfe Knights, Iohn Stanley Esquier, and other, to be conueyed to the Castle of Leedes, there to remaine till 3. weekes after Michaelmas.

Shortly after a commission was directed to the Earles of Huntington, Stafford, Suffolke and Northumberland, the treasurer sir Ralph Cromwall,

Iohn Cornwall, Lord Fanhope, sir Walter Hungerforde, and to certaine Judges of both Benches, to enquire of all manner of treasons, sorceries, & other things that might be hurtfull to the Kings person, before whome the sayde Roger, and Thomas Southwell, as principals, and Dame Elianor as accessary, were indicted of treason in the Guilde Hall of London.

There was taken also Margery Gurdemaine a witch of Eye besides Westminster, whose sorcerie and witchcrafte the said Elianor hadde long time vsed, and by her medicines & drinkes enforced the Duke of Glocester to loue her, and after to wedde her, wherefore, and for cause of relapse, the same Witch was brent in Smithfield, on the twentie-seauen day of October.

The 21. of October, in the Chappell beforesaid, before the Byshops, of London Robart Gilbart, of Lincolne, William Alnewike, of Norwich Thomas Brouns, the sayde Elianor appeared, and Adam Molins Clarke of the Kinges Counsell read certaine articles obiected against her of Sorcerie and Negromancy, whereof some shee denyed, and some shee granted.

The three and twentith of October Dame Elianor appeared againe, and witnesses were brought forth and examined: and she was conuict of the saide Articles: then was it asked if she would say any thing against the witnesses, whereunto shee answered nay, but submitted her selfe. The 27. day of October shee abiured the articles, & was adioyned to appeare againe the ninth of Nouember. In the meane tyme, to wit, on the 26. of October Thomas Southwell dyed in the Tower of London, as himselfe had prophesied that he should neuer die by Justice of the Law.

The 9. of November Dame Elianor appeared before the Archbyshop & other, in the sayde Chappell, and receiued her penance, which shee perfourmed.

On Monday the 13. of November, she came from Westminster by water, and landed at the Temple bridge, from whence with a taper of waxe of 2. pound in her hand, she went through Fleetestreete, hoodlesse (saue a Kerchefe) to Pauls, where shee offered her taper at the high Altar. On the Wednesday next shee landed at the Swan in Thamis streete, and then went through Bridge-streete, Grace church streete, straight to Leaden Hall, & so to Christ church by Aldegate. On Friday she landed at Queene Hiue, and so went through Cheape to Saynt Michaels in Cornehill, in forme aforesaid: at all which times the Maior, Sherifes, & crafts of London, receiued her and accompanied her. This beeing done shee was committed to the ward of sir Thomas Stanley, wherein shee remained during her life in the castle of Chester, hauing yeerely 100. markes assigned for her finding, in the 22. of Henry the sixt, shee was remoued to Kenilworth, there to be safely kept whose pride, false, couetise, and lechery, were cause of her confusion.

The 18. of November Roger Bolingbroke, with Sir Iohn Hum priest, & William Woodham Esquier, were arraigned in the Guildhal of London, where the said Iohn and William hadde their Charters, but Roger Bolingbroke was condemned, and had iudgement of Sir Io. Hody, Chiefe Justice of the Kings Bench, and the same day he was drawne from the Tower to Tyborne and there hanged and quartered: and when the said Roger should suffer, he sayd that he was neuer guilty of any treasō against the Kings person, but he had presumed too far in his cunning, whereof

he cryed God mercy: and the Justice that gaue on him iudgement liued not long after.[142]

1446. Iohn Dauid appeached his master William Catur, an armorer dwelling in S. Dunstons parish in Fleetstreet, of treason, & a day being assigned them to fight in Smithfield, y^{e} master being welbeloued, was so cherished by his friends & plied so w^{h} wine, that being therwith ouercome was also vnluckely slaine by his seruant: but that false seruant (for he falsely accused his master) liued not long vnpunished, for he was after hanged at Tyborne for felony (Stow, p. 385).

Shakespeare has taken this incident for a scene in the Second Part of King Henry VI. Act 2, sc. 3, where the armourer is called Horner, and his servant Peter. In the play, Horner, smitten to death, is made to confess his treason.

1447. And a-non aftyr the dethe of the Duke of Glouceter there were a reste [arrested] many of the sayde dukys [servants] to the nombyr of xxxviij squyers, be-syde alle othyr servantys that nevyr ymagenyd no falsenys of the [that] they were put a-pon of. And on Fryday the xiiij day of Juylle nexte folowynge by jugement at Westemyster, there by fore v personys were dampnyd to be drawe, hanggyd, and hyr bowellys i-brente be fore hem, and thenne hyr heddys to be smetyn of, ande thenne to be quarteryde, and every parte to be sende unto dyvers placys by assygnement of the jugys. Whyche personys were thes: Arteys the bastarde of the sayde Duke of Glouceter, Syr Rogger Chambyrlayne knyght, Mylton squyer, Thomas Harberde squyer, Nedam yeman, whyche were the sayde xiiij day of Juylle i-drawe fro Syn Gorgys thoroughe owte Sowthewerke and on Londyn Brygge, ande so forthe

thorowe the cytte of London to the Tyborne, and there alle they were hanggyde, and the ropys smetyn a-sondyr, they beynge alle lyvynge, and thenne, ar any more of any markys of excecusyon were done, the Duke of Sowthefolke brought them alle yn generalle pardon and grace from our lorde and soverayne Kynge Harry the vj^{te}.[143]

1455. Also this yere was a grete affray in London agaynst the Lombardes. The cawse began of a yong man that took a Dagger from a straunger and broke it. Wherefore the yong man was sent for vnto the Mair and Aldermen beyng at Guyldehall, and there by theym he was commytted for his offence to One of the Countours: and then the mair departyng from the hall toward his mancion to dyner, in Chepe met with him a grete company of yong men of the Mercery, as Apprentices and other lowse men: and taried the Mair and the Sheriffes still in Chepe, not suffryng hym to depart till they had their ffelow, beyng in pryson, as is aforsaid, delyuered: and so by force delyuered their felaw oute of pryson. Wherevpon the same evenyng the hand craftymen Ranne vnto the lombardes howsys, and Robbyd and dispoilid Dyuers of theym. Wherfor the Mair and Shyreffes, with thassistence of good and weldisposed people of the Cite, with greate Jubardy and labour Drove theym thens, and commytted some of theym that had Robbid to Newgate. Whervpon the yong man, which was rescoed by his feloship, seying the greate rumour folowyng vpon his occasion Departed and went to Westm', and ther abode as sayntuary man: Wherby he saved his lyf. ffor anone vpon this came down an Oye determyne, for to do Justice vpon alle theym that soo had Rebellid in the Cyte: vpon which sat that tyme with the Mayr the Duke of Bokyngham with dyuers other grete lordes, for to see

Execucion doon. But the Comons of the Cyte did arme theym secretely in their howses, and were in purpos to haue Rungyn the Comon Bell, callid Bowe Bell: But they were lette by sadde and weladuysed men, which when it come to the knowleyge of the Duke of Bokyngham and other lordes their beyng with hym, they Incontynently arose, feryng longer to abyde: for it was shewed to theym that all the Cite wold arise vpon theym. But yet notwithstondyng in Conclusion ij or iij mysdoers of the Cite were adjuged for the Robbery, And were hanged at Tybourne: and this doon the kyng and the quene and other lordes Rood to Coventre, and with drewe theym from London for these cawsis (Chronicles of London (Kingsford) 1905, pp. 166, 167).

1467. Alle soo that same yere there were many chyrchys robbyd in the cytte of London only of the boxys with the sacrament. And men had moche wondyr of thys, and sad men demyd that there had ben sum felyschippe of heretykys assocyat to gederys. But hyt was knowe aftyr that it was done of very nede that they robbyd, wenyng unto the thevys that the boxys hadde ben sylvyr ovyr gylt, but was but copyr. And by a copyr smythe hit was a spyde of hyr longe contynuans in hyr robbory. At a tyme, alle the hole feleschippe of thevys sat at sopyr to gedyr, and had be fore hem fulle goode metys. But that copyr smythe sayde, “I wolde have a more deynty mosselle of mete, for I am wery of capon, conynge, and chekyns, and such smalle metes. And I mervyl I have ete ix goddys at my sopyr that were in the boxys.” And that schamyd sum of them in hyr hertys. Ande a smythe of lokyers crafte, that made hyr instrumentes to opyn lockys, was ther that tyme, for hyt was sayed at the sopyr in hys howse. And in the mornynge he went to chyrche to hyre a masse, and

prayde God of marcy; but whenn the pryste was at the levacyon of the masse he myght not see that blessyd sacrament of the auter. Thenn he was sory, and a bode tylle a nothyr pryste wente to masse and helpyd the same pryste to masse, and say [saw] howe the oste lay a-pon the auter and alle the tokyns and sygnys that the pryste made; but whenn the pryste hylde uppe that hooly sacrament at the tyme of levacyon he myght se no thynge of that blessyd body of Chryste at noo time of the masse, not somoche at *Agnus Dei*; and thenn he demyd that hit had ben for febyllenys of hys brayne. And he went unto the ale howse and dranke a ob. [a halfpennyworth] of goode alle, and went to chyrche agayne, and he helpyd iij moo prystys to masse, and in no maner a wyse he ne myght se that blessyd sacrament; but then bothe he and hys feleschyppe lackyd grace. And in schorte tyme aftyr iiij of hem were take, and the same lokyer was one of y^{e} iiij, and they were put in Newegate. And by processe they were dampnyd for that trespas and othyr to be hangyd and to be drawe fro Newegate to Tyborne, and soo they were. And the same daye that they shulde dy they were confessyd. And thes iiij docters were hyr confessourys, Mayster Thomas Eberalle, Maystyr Hewe Damylett, Maystyr Wylliam Ive, and Maystyr Wylliam Wryxham. Thenn Mayster Thomas Eberalle wente to masse, and that lokyer aftyr hys confessyon myght see that blessyd sacrament welle i-nowe, and thenne rejoysyd and was gladde, and made an opyn confessyon by fore the iiij sayde docters of devynyte. And I truste that hyr soulys ben savyd.[144]

1468. That yere were meny men a pechyd of treson, bothe of the cytte and of othyr townys. Of the cytte Thomas Coke, knyght and aldyrman, and John

Plummer, knyght and aldyrman, but the kyng gave hem bothe pardon. And a man of the Lorde Wenlockys, John Haukyns was hys name, was hangyd at Tyburne and be heddyd for treson.[145]

1495. The 22. of Februarie were arraigned in Guildhall at London foure persons, to witte, Thomas Bagnall, Iohn Scot, Ihon Hethe, and Iohn Kenington, the which were Sanctuarie men of Saint Martin le grand in London, and lately before taken thence, for forging seditious libels, to the slander of the King, and some of his Councell: for the which three of them were adiudged to die, & the fourth named Bagnall, pleaded to be restored to sanctuary: by reason whereof he was repriued to the Tower till the next terme, and on the 26 of February the other three with a Flemming, and Robert Bikley a yeoman of the Crown were all fiue executed at Tyborne (Stow, ed. Howes, p. 479).

1483. *December 4.* Four yeomen of the Crown were drawn from Southwark to Tyburn, and "there were hanged all" (Chronicle of London, Kingsford, 1905, p. 192).

1495. In this year Perkin Warbeck, a pretender, "A yoongman, of visage beautifull, of countenance demure, of wit subtil," made a descent on the English coasts:—But Perken would not set one foote out of his Shippe, till he sawe all thinges sure; yet he permitted some of his Souldiours to goe on lande, which being trained forth a prettie way from their Shippes, and seeing they coulde haue no comfort of the Countrey, they withdrew againe to their Shippes: at which withdrawing, the Maior of Sandwich, with certaine commons of the Countrey, bikered with the residue that were vppon lande, and tooke aliue of them 169. persons, among the which were fiue

Captaines Mountfort, Corbet, White Belt, Quintin & Genine. And on the twelfth of Julie, Syr Iohn Pechy, Sheriffe of Kent, bought vnto London bridge those 169. persons, where the Sheriffes of London, Nicholas Alwine and Iohn Warner receiued and conueied them, railed in robes like horses in a cart, vnto the tower of London, and to Newgate, and shortlie after to the number of 150. were hanged about the sea coasts in Kent, Essex, Sussex, and Norffolke; the residue were executed at Tiborne and at Wapping in the Whose besides London; and Perken fled into Flanders (Stow, ed. Howes, p. 479).

1499. Perkyn (of whome rehersall was made before) beyng now in holde, coulde not leaue with the destruccion of him selfe, and confusion of other that had associate them selfes with him, but began now to study which way to flye & escape. For he by false persuasions and liberall promises corrupted Strangweyes, Blewet, Astwood and long Rogier hys kepers, beynge seruantes to syr Ihon Dygby, lieutenaunt. In so muche that they (as it was at their araynment openly proued) entended to haue slayn the sayde Master, and to haue set Perkyn and the Erle of Warwyke at large; which Erle was by them made preuy of this enterprice, & thereunto (as all naturall creatures loue libertie) to his destruccion assented. But this craftie deuice and subtil imaginacion, beyng opened and disclosed, sorted to none effect, and so he beyng repulsed and put back from all hope and good lucke with all hys complices and confederates, and Ihon Awater sometyme Mayre of Corffe in Ireland, one of his founders, and his sonne, were the sixten daye of Nouembre arreyned and comdempned at Westmynster. And on the thre and twenty daye of the same moneth, Perkyn and Ihon Awater were drawen to Tyborne, and there

Perkyn standyng on a little skaffolde, redde hys confession, which before you haue heard, and toke it on hys death to be true, and so he and Ihon Awater asked the kyng forgeuenes and dyed paciently. (Hall's Chron., ed. 1809, p. 491).

1497. Henry had prepared "a puissaunt and vigorious army to inuade Scotland," when domestic troubles arose:—"When the lord Dawbeney had his army assembled together and was in his iourney forward into Scotlande, he sodeinly was stayed and reuoked agayne, by reason of a newe sedicion and tumult begonne within the realme of England for the subsedy whiche was graunted at the last parliament for the defence of the Scottes with all diligence and celeritee, whiche of the moost parte was truely satisfied and payde. But the Cornish men inhabityng the least parte of the realme, and thesame sterile and without all fecunditee, compleyned and grudged greatly affirmyng that they were not hable to paye suche a greate somme as was of theim demaunded. And so, what with angre, and what with sorrowe, forgettynge their due obeysaunce, beganne temerariously to speake of the kyng him selfe. And after leuyng the matter, lamentyng, yellyng, & criyng maliciously, sayd, that the kyngs counsayll was the cause of this polling and shauing. And so beyng in aroare, ii. of thesame affinitee, the one Thomas Flamocke, gentleman, learned in the lawes of the realme, and theother Mighell Ioseph a smyth, men of high courages and stoute stomackes, toke vpon theim to be captaynes of this vngracious flocke and sedicious company.... These capiteynes exhorted the common people to put on harneys, & not to be afearde to folowe theim in this quarell, promisyng theim that they shoulde do no damage to any creature, but only to se ponyshement and correccion

done to such persons which were the aucthors & causers that the people were molested and vexed with such vnreasonable exaccions and demaunds." The rebels marching towards London, "the kyng perceauyng the cyuile warre to approche & drawe nerer & nerer, almost to his very gates, determined with all his whole powre to resist and represse thesame.… Wherfore he reuoked agayn the lord Dawbeney which as you have heard, was with a puyssaunt army goyng into Scotland, whose army he encreaced and multiplied with many picked and freshe warryers, that he might the better, and with lesse laboure ouercome these rebelles."

At Wells the rebels were joined by Lord Audley, who became their leader. They reached Blackheath where, although they captured Lord Dawbeney himself, they were overcome. "There were slain of the rebelles whiche fought & resisted ii. thousand men & moo & taken prisoners an infinite nombre, & emongest theim the black smyth & chiefe capteins." The king pardoned all the leaders "sauyng the chiefe capiteynes & firste aucthors of that mischiefe, to whome he woulde neither shewe mercy nor lenity. For he caused the Lord Audeleigh to be drawen from Newgate to the Towre hil in a cote of his awne armes peinted vpon paper, reuersed and al to torne, & there to be behedded the xxviii. day of Iuyn. And Thomas Flamock and Myghell Ioseph he commaunded after the fassyon of treytours to be drawen, hanged, and quartered [at Tyburn], & their quarters to be pytched on stakes, & set vp in diuerse places of Cornewhale, that their sore punyshementes and terrible execucions for their treytorous attemptes and foolish hardy enterprices, might be a warning for other herafter to absteyne from committing lyke cryme and offence."

Michael Joseph, the blacksmith, “was of such stowte stomack & haute courage, that at thesame time that he was drawen on the herdle toward his death, he sayd (as men do reporte) that for this myscheuous and facinorous acte, he should haue a name perpetual and a fame permanent and immortal” (Hall’s Chronicle, ed. 1809, pp. 476-80).

1502. Vpon Monday, beyng the second day of May, was kept at the Guyld hall of London an Oyr determyne, where sat the Mayre, the Duke of Bokyngham, Therle of Oxenford, with many other lordes, Juges, and knyghtes, as commyssioners: before whome was presented as prisoners to be enquyred of, sir James Tyrell, and sir John Wyndam, knyghtes, a Gentilman of the said sir James, named Wellesbourn, and one other beyng a shipman.… Vpon ffriday folowyng, beyng the vj^{te} day of May and the morowe after the Ascension of our Lord, Sir James Tyrell and the forsaid Sir John Wyndam, knyghtes, were brought out of the Toure to the scaffold vpon the Toure hill, vpon their ffete, where they were both beheded. And the same day was the forsaid Shipman laied vpon an herdyll, and so drawen from the Toure to Tybourne, and there hanged, hedid, and quartered. And the forenamed Wellysbourn Remayned still in prison at the kynges commaundment and pleasure (Chronicles of London, Kingsford, 1905, p. 256).

1523. About eight miles from Bath is a village, Farleigh-Hungerford, known locally as Farleigh Castle from the extensive ruins of what was once a proud castle full of life and movement. As the name denotes, the Castle was the seat—one of the seats—of the Hungerford family, established at Heytesbury so far back as the twelfth century. In 1369 the

Hungerford of his day, Sir Thomas Hungerford, purchased the manor of Farleigh. In 1383 he obtained permission to convert the manor-house into a castle. Sir Thomas made a great figure in the world: he is the first person formally mentioned in the rolls of Parliament as holding the office of Speaker.

Wandering among the vast ruins, the visitor, prompted by his guide-book, will not fail to note the spot where was formerly a furnace. If there is in all England a place where ghosts should walk, where the midnight owl should hoot, it is in the ruins of Farleigh Castle. For, now nearly four hundred years ago, Farleigh Castle was the scene of a terrible crime, expiated, perhaps in part only, by the death on the scaffold of one of the principal criminals, and of one or two of the abettors of an over-reaching ambition, or of a lawless passion.

In the Chronicle of the Grey Friars is the following passage:—

1523. And this yere in Feuerelle the xxth day was the lady Alys Hungrford was lede from the Tower vn-to Holborne, and there put in-to a carte at the church-yerde with one of hare seruanttes, and so carred vn-to Tyborne, and there bothe hongyd, and she burryd at the Grayfreeres in the nether end of the myddes of the churche on the northe syde.

Stow, who in his Annals has a marginal reference to this Chronicle, adds a particular omitted by the earlier Chronicler—that the lady was executed for the murder of her husband. The curiosity of antiquaries was naturally excited by this story, half-revealed, half-concealed. The first discovery made was of the inventory of the lady's goods. This was printed in *Archæologia*, vol. xxxviii. (1860). The

goods fell into the hands of the king by forfeiture: so it came about that an inventory existed. It is a list of plate and jewels, of sumptuous hangings, “an extraordinary collection of valuable property.”

Finally more of the story was disclosed by Mr. William John Hardy, in the *Antiquary* of December, 1880. It is one of the greatest interest.

The lady’s name is given as Alice, both by the chronicler and by Stow in his Annals. Stow also, in a list of the monuments in the Grey Friars church, mentions one to “Alice Lat Hungerford, hanged at Tiborne for murdering her husband” (Survey, ed. Thoms, p. 120).

But the lady’s name was not Alice, but Agnes. She was the second wife of Sir Edward Hungerford, who was first married to Jane, daughter of John Lord Zouche of Haryngworth. The date of the death of Sir Edward’s first wife is not known. If we knew it there might arise a new suspicion. Nor do we know the date of Sir Edward’s second marriage, but it must have been not earlier than the latter half of 1518.

Sir Edward Hungerford was one of the great ones of the land. In 1517 he was sheriff for Wilts: in 1518 for Somerset and Dorset. In 1520 he was present at the Field of the Cloth of Gold. In 1521 he was in Commission of the Peace for Somerset.

We have seen that the original seat of the family was at Heytesbury, in Wilts, distant from Farleigh about twelve miles, and here Sir Edward commonly lived. In addition to Farleigh Castle, Sir Edward possessed a great London house, standing with its gardens where now is Charing Cross station. From this house were named Hungerford Street and Hungerford Stairs. On the site of the house and

garden was built by a later Hungerford, in the reign of Charles II., Hungerford Market, which continued till the site was taken for the railway station. The foot-bridge over the Thames, starting from this point, was known as Hungerford Bridge, a name still sometimes given to its successor, the existing railway bridge. It was in Hungerford Street that Charles Dickens, a child of ten, began life by sticking labels on blacking bottles.

Sir Edward made his will on December 14, 1521. By it, after leaving legacies to certain churches and friends, "the residue of all my goods, debts, cattalls, juells, plate, harnesse, and all other moveables whatsoever they be, I freely geve and bequeth to Agnes Hungerforde my wife." She was also appointed sole executrix. Sir Edward died on January 24, 1522, six weeks after making this will.

The husband murdered was not Sir Edward Hungerford, but a first husband, John Cotell. The outlines of the story are given by Mr. Hardy from the Coram Rege Roll for Michaelmas term, 14 Henry VIII.:—

"On the Monday next after the feast of S. Bartholomew, in the 14th year of the now king (25 August, 1522), at Ilchester, before John Fitz James and his fellow-justices of oyer and terminer for the county of Somerset, William Mathewe, late of Heytesbury, in the county of Wilts, yeoman, William Inges, late of Heytesbury, in the county aforesaid, yeoman, [were indicted for that] on the 26th July, in the 10th year of the now Lord the King (1518), with force and arms made an assault upon John Cotell, at Farley, in the county of Somerset, by the procurement and abetting of Agnes Hungerford, late of Heytesbury, in the county of Wilts, widow, at that

time the wife of the aforesaid John Cotell. And a certain linen scarf called a kerchier (quandam flameam lineam vocatam ‘a kerchier’) which the aforesaid William and William then and there held in their hands, put round the neck of the aforesaid John Cotell, and with the aforesaid linen scarf him, the said John Cotell, then and there feloniously did throttle, suffocate, and strangle, so that the aforesaid John Cotell immediately died, and so the aforesaid William Maghewe [Mathewe] and William Inges, by the procurement and abetting of the aforesaid Agnes, did then and there feloniously murder, &c., the aforesaid John Cotell, against the peace of the Lord the King, and afterwards the aforesaid William, and William, the body of the aforesaid John Cotell did then and there put into a certain fire in the furnace of the kitchen in the Castle of Farley aforesaid, and the body of the same John in the fire aforesaid in the Castle of Farley aforesaid, in the county of Somerset aforesaid, did burn and consume.”

The indictment charged that Agnes Hungerford, otherwise called Agnes Cotell, late of Heytesbury, in the county of Wilts, widow, late the wife of the aforesaid John Cotell, well knowing that the aforesaid William Mathewe and William Inges had done the felony and murder aforesaid, did receive, comfort and aid them on 28th December, 1518.

Such was the indictment, “which said indictment the now Lord the King afterwards for certain reasons caused to come before him to be determined, &c.” All three accused were committed to the Tower of London; “and now, to wit, on Thursday next after the quinzaine of St. Martin (November 27, 1522), in the same term, before the Lord the King at Westminster, in their proper persons came the aforesaid William

Mathewe, William Inges, and Agnes Hungerford, brought here to the bar by Sir Thomas Lovell, Knight, Constable of the Tower of London, by virtue of the writ of the Lord the King to him thereupon directed."

So they were brought to trial, and all found guilty. William Mathewe and Lady Agnes Hungerford were sentenced to be hanged; William Inges pleaded benefit of clergy. The plea was contested on the ground that he had committed bigamy, by which he lost his right to claim his clergy. The question was referred to the Bishop of Salisbury, who proved that Inges was a bigamist, and Inges was therefore also sentenced to be hanged. There is no record of a third execution; the servant hanged at the same time as Lady Agnes Hungerford was therefore William Mathewe.

The story is still incomplete: it may be hoped that records somewhere exist the discovery of which will tell us more. It will be observed that Lady Hungerford was indicted, not for the murder of her husband, but for receiving, comforting, and aiding, five months after the fact, those who, by her procurement, had murdered him. What was the nature of the comfort and aid thus given? Had something of the story leaked out, and was Lady Hungerford compelled to protect the murderers? Again, what part in the tragedy was played by Sir Edward? It is clear that at the time of the murder Agnes Cotell was supreme at Farleigh Castle. She brought over from Sir Edward's other house the two men who committed the deed; she was so fully in command of Farleigh Castle that she could secure the use of the furnace for disposing of the body of the murdered man. It is not difficult to divine what were

the relations between Sir Edward and the wife of Cotell, who was probably employed in some capacity on the estate. How did Agnes Cotell account for his disappearance? And not his disappearance only; as a preliminary step towards the marriage, Sir Edward must have been satisfied that Cotell was dead. Did he know the nature of his death? Had he a share in this great crime, or was he merely the helpless victim of an ambitious woman, bent on obtaining a great position, and reckless as to the means to be employed to obtain it? There may have been in Sir Edward a tendency towards degeneracy; his son by the first wife was executed at the Tower in 1540 for an abnormal crime. But if Sir Edward was ignorant of the murder, there must have been suspicions, perhaps necessitating the active interference of Lady Hungerford when she received, comforted, and aided the murderers. There must have been whispers, rising to open denunciation when Lady Hungerford's protector, her husband, all-powerful in the county, had quitted the scene. For more than three years justice was blind and deaf, but only seven months after Sir Edward's death the criminals were indicted. If we take into account the imperfect means of communication then existing, we shall find reason to believe that the law must have been set in motion very soon after Sir Edward's death.

It will have been observed that one of Lady Hungerford's servants pleaded his clergy, that is, he claimed the indulgence accorded by law to those who could read. In 1522 it was still the law that the privilege could be claimed by one who had committed murder. In 1531 an Act was passed by the provisions of which no person committing petty treason, murder, or felony was admitted to his clergy under the status of sub-deacon (23 Henry VIII., c. 1).

William Inges' claim would have been perforce admitted but for the singular objection on the score of bigamy. The exception seems strange, but was founded on well-understood provisions of the law. A bigamist, it must be remembered, was not what we of to-day mean when we use the word. A bigamist was one who had married two wives, the second after the decease of the first, or who had married a widow. We will return presently to this question of bigamy, after noting what Sir Thomas Smith, writing fifty years later, says as to clergy. Let us, however, premise that benefit of clergy means, as indeed the name imports, a privilege of the clergy consisting originally in the right of the clergy to be free from the jurisdiction of lay courts, and to be subject to the ecclesiastical courts only. Sir James Fitzjames Stephen aptly compares it to "the privilege claimed by British and other foreign subjects in Turkey, in Egypt, and in China, of being tried before their own courts." The privilege was extended by 25 Edward III. (1351-2), st. 6, c. 4, to all manner of clerks, as well secular as religious. The statute was construed as being applicable to all persons who could read, and its effect is succinctly stated in "Piers Plowman," written a few years later:—

"*Dominus pars hereditatis mee.* is a meri verset,
That has take fro tybourne. twenti stronge
theves."

This is the description given by Sir Thomas Smith of the process of claiming clergy:—

Of him whom the xij. men pronounce guiltie, the Judge asketh what he can say for himselfe: if he can reade, he demaundeth his Clergie. For in many felonies, as in theft of oxen, sheepe, money, or other such things which be no open robberies, by the high way side, nor assaulting one by night in his house, putting him that is there in feare, such is the favour of our Lawe, that for the first fault the felon shalbe admitted to his Clergie, for which purpose the Bishop must send one with authoritie vnder his seale to be Judge in that matter at euerie gaole deliuerie. If the condemned man demandeth to be admitted to his booke, the Judge commonly giveth him a Psalter, and turneth to what place he will. The prisoner readeth as well as he can (God knoweth sometime very slenderly:) then he asketh of the Bishops commissarie, *legit vt clericus*? The commissarie must say *legit* or *non legit*, for these be wordes formall, and our men of Lawe be very precise in their words formall. If he say *legit*, the Judge proceedeth no further to sentence of death: if he say *non*, the Judge foorthwith, or the next day proceedeth to sentence, which is doone by word of mouth onelie,

[gives the form of the death sentence]

he that claimeth his Clergie, is burned forthwith in the presence of the Judges in the brawne of his hand with a hot yron marked with the letter T. for a theefe, or M. for a mansleer, in cases where Clergie is

admitted, and is deliuered to the Bishops officer to be kept in the Bishops prison, from whence after a certaine time by an other enquest of Clarkes he is deliuered and let at large: but if he be taken and condemned the second time, and his marke espied, he goeth to hanging.[146]

A shrewd observer, Monsieur César de Saussure, gives an account of the proceeding in 1726: Clergy, he says, was formerly a privilege restricted to churchmen, but is to-day extended to lay persons convicted to certain crimes, and particularly of manslaughter. In virtue of this privilege, a New Testament in Latin and in blackletter is presented to the criminal, who is required to read two verses. If the person appointed to make him read says these words, "Legit ut clericus," that is to say, "He reads like a clerk," which he always does, however ill the prisoner has read, the prisoner is simply marked in the palm of the hand with a hot iron, which he has the further right on payment of thirteen pence halfpenny to have plunged in cold water before it is applied. Then he is set free.[147]

The privilege of clergy was constantly narrowed, but was totally abolished only in 1827 by 7 and 8 George IV., c. 28.

The following were the provisions respecting bigamy in the old sense of the word:—

> 4 Edward I. (1276) c. 1, 2. The Statute of Bigamy, Section 5. Concerning Men twice married, called Bigami, whom our Lord the Pope by a Constitution made at the Council of Lyons hath excluded from all Clerks privilege, whereupon certain Prelates when such persons as were twice

> married before the same Constitution, have been called in question for Felony, have prayed for to have them delivered as Clerks … whether they were Bigami before the same Constitution or after, they shall not from henceforth be delivered to the Prelates, but justice shall be executed upon them, as upon other lay people.
>
> 18 Edward III. (1344) Stat. 3, c. 2. (Here summarised.) If a person accused pleads his clergy, and it is alleged that he has married two wives, or one widow, the case shall be sent for determination to the Spiritual Court.

These provisions were abolished by I Edward VI. (1547), c. 12, s. 15, which put the "bigamist" on the same footing as all others.

1525. In the last moneth called December were taken certain traytors in the citie of Couentry, one called Fraunces Philippe scolemaster to the kynges Henxmen, and one Christopher Pykeryng clerke of y^{e} Larder, and one Antony Maynuile gentleman, which by the persuasion of the sayd Fraunces Philip, entended to haue taken the kynges treasure of his subsidie as the Collectors of the same came towarde London, and then to haue araised men and taken the castle of Kylingworth, and then to haue made battaile against the kyng: wherfore the sayd Fraunces, Christopher and Anthony wer hanged, drawen and quartered at Tyborne the xi. day of Februarye, the residue that were taken, were sent to the citie of Couentry and there wer executed. One of the kynges Henxmen called Dygby which was one of the conspirators fled the realme, and after had his

pardon (Hall, p. 673).

1531. This yeare Mr. Risse was beheaded at Tower hill, and one that was his servante was drawne from the Tower of London to Tiburne, where he was hanged, his bowells burnt, and his bodie quartered. [148]

1534. With the aid of Cranmer, the willing instrument of his lust and cruelty, Henry had divorced Catherine, and had married his mistress, Anne Boleyn, the sister of a former mistress. With the same aid he had also invested himself with the supremacy of the Church. But there was a strong feeling throughout the country against these proceedings, and Henry viewed with alarm every manifestation of this feeling. To express disapprobation, however mildly, was regarded as a crime, as evidence of a conspiracy against the State.

Elizabeth Barton, afterwards known as the Holy Maid of Kent, was a domestic servant at Aldington, Kent. From about the year 1525 she was subject to trances, on recovery from which she narrated the marvels she had seen in the world of spirits. Her fame was soon spread abroad; many of the greatest men in the kingdom visited her; some came to believe that she was inspired, among them perhaps Sir Thomas More, and Fisher, Bishop of Rochester. When the great case of the divorce came on, Elizabeth predicted that if Henry married Anne during the life of Catherine he would die within a month. Cranmer, who had now received the reward of his services by being appointed Archbishop of Canterbury, laboured to draw from Elizabeth a confession that “her predictions were feigned of her own imagination only.”

In the Parliament which met in January, 1534,

seven persons, including Elizabeth, were accused of forming a conspiracy in relation to the matter. This was the end:—

1534. The 20. of Aprill, Elizabeth Barton a nunne professed [she had entered a convent in 1527], Edward Bocking, and Iohn Dering, two monks of Christs church in Canterburie, and Richard Risby & another of his fellowes of y^e^ same house, Richard Master parson of Aldington, and Henry Gold priest, were drawne from the Tower of London to Tiborne, and there hanged and headed, the nuns head was set on London bridge, and the other heades on gates of y^e^ citie (Stow, p. 570).

1535. Maurice Chauncy, a monk of the Charterhouse of London, has told the story of the martyrdom of the Carthusians, in a book which some one, I think, has called the swan-song of English monasticism, "Historia Aliquot Martyrum Anglorum Cartusianorum."

Proceedings were taken against the London Carthusians for refusing to admit Henry's claim to be supreme head of the Church. In the London House were at this time Father Robert Lawrence, Prior of Beauvale, and Father Augustine Webster, Prior of Axholme; Beauvale and Axholme being two other Carthusian monasteries.

Together with Father Houghton, Prior of the London House, Father Lawrence and Father Webster were brought to trial and condemned. Let Chauncy tell the story of their execution: with little variation it may stand for that of all the Catholic martyrs from 1535 to 1681:—

Being brought out of prison [the Tower] they were thrown down on a hurdle and fastened to it, lying at

length on their backs, and so lying on the hurdle, they were dragged at the heels of horses through the city until they came to Tyburn, a place where, according to custom, criminals are executed, which is distant from the prison one league, or a French mile. Who can relate what grievous things, what tortures they endured on that whole journey, where one while the road lay over rough and hard, at another through wet and muddy places, which exceedingly abounded.

On arrival at the place of execution our holy Father was the first loosed, and then the executioner, as the custom is, bent his knee before him, asking pardon for the cruel work he had to do. O good Jesu,

> "Quis non fleret,
> Christi servum si videret,
> In tanto supplicio,
> Quis non posset contristari";

beholding the benignity of so holy a man, how gently and moderately he spoke to the executioner, how sweetly he embraced and kissed him, and how piously he prayed for him and for all the bystanders. Then on being ordered to mount the ladder to the gibbet, where he was to be hanged, he meekly obeyed. Then one of the King's Council, who stood there with many thousand people, who came together to witness the sight, asked him if he would submit to the king's command and the Act of Parliament, for if he would he should be pardoned. The holy Martyr of Christ answered: "I call Almighty God, and I beseech you all in the terrible Day of Judgment, to bear witness, that being here about to die, I publicly declare that not through any pertinacity, malice, or rebellious spirit, do I commit

this disobedience and denial of the will of our lord the king, but solely through fear of God, lest I should offend His Supreme Majesty; because our holy mother, the Church, has decreed and determined otherwise than as your king and his Parliament have ordained; wherefore I am bound in conscience and am prepared, and am not confounded, to endure these and all other torments that can be inflicted, rather than go against the doctrine of the Church. Pray for me, and have pity on my brethren, of whom I am the unworthy Prior." And having said these things, he begged the executioner to wait until he had finished his prayer, which was, "*In te Domine speravi*," down to "*In manus tuas*," inclusive. Then on a sign given, the ladder was turned, and so he was hanged. Then one of the bystanders, before his holy soul left his body, cut the rope, and so falling to the ground, he began for a little space to throb and breathe. Then he was drawn to another adjoining place, where all his garments were violently torn off, and he was again extended naked on the hurdle, on whom immediately the bloody executioner laid his wicked hands. In the first place *verenda abscidit*, then he cut open his belly, dragged out his bowels, his heart, and all else, and threw them into a fire, during which our most blessed Father not only did not cry out on account of the intolerable pain, but on the contrary, during all this time until his heart was torn out, prayed continually, and bore himself with more than human endurance, most patiently, meekly, and tranquilly, to the wonder not only of the presiding officer, but of all the people who witnessed it. Being at his last gasp, and nearly disembowelled, he cried out with a most sweet voice, "Most sweet Jesu, have pity on me in this hour!" And, as trustworthy men have reported, he said to the tormentor, while in the

act of tearing out his heart, “Good Jesu, what will you do with my heart?” and saying this he breathed his last. Lastly, his head was cut off, and the beheaded body was divided into four parts.… Our holy Father having been thus put to death the two other before-named venerable Fathers, Robert and Augustine, with another religious named Reynolds, of the Order of St. Bridget, being subjected to the same most cruel death, were deprived of life, one after another; all of whose remains were thrown into cauldrons and parboiled, and afterwards put up at different places in the city. And one arm of our Father was suspended at the gate of our house.[149]

On the subject of these butcheries Mr. Froude remarks, “But we cannot blame the Government” (ii. 382).

1535. The eighteenth of June, three Monks of the Charter-house at London, named Thomas Exmew, Humfrey Middlemore, and Sebastian Nidigate [Newdigate] were drawen to Tiborne, and there hanged and quartered for denying the Kinges supremacie (Stow, pp. 570-1).

1535-7. In 1535 was introduced the first Bill for the dissolution of the monasteries: only the smaller were now touched. The Bill was passed on Henry’s threat that he would have the Bill pass, or take off some of the Commons’ heads. Henry had tired of Anne Boleyn, and Cranmer, always equal to the occasion, “having previously invoked the name of Christ, and having God alone before his eyes,” had declared that the marriage was void and had always been so. In 1536 broke out the first of the revolts caused by the dissolution. Henry had not yet discovered the secret of detaching from the cause of the people their natural leaders by sharing the

plunder with them. The nobility and gentry had their grievances, and made common cause with the people. Henry was furious. He gave orders to "run upon the insurgents with your forces, and with all extremity destroy, burn, and kill man, woman and child, to the terrible example of all others." The chief monks were to be hanged on long pieces of timber out of the steeples. Later, when the revolt had spread to Yorkshire, he wrote: "You must cause such dreadful execution upon a good number of the inhabitants, hanging them on trees, quartering them, and setting their heads and quarters in every town, as shall be a fearful warning." In summing up these operations, Cromwell, with a pleasant wit, speaks of the execution of the rest at "Thyfbourne."[150] The story of the rest will follow. It forms but a small fraction of those murdered by this fell tyrant.

It may well be doubted whether in the history of civilised communities there is any record of a social cataclysm, not resulting from war or pestilence, so terrible as that which overwhelmed the commons of England after the dissolution of the monasteries, followed by measures of plunder extending through the reign of Edward VI. An abbat might not always be a good man of business, witness the dreadful financial condition in which Abbat Samson found the monastery of Bury St. Edmunds.[151] He might even be so pressed for money as to be driven to pledge with the Jews the arm or leg of a saint taken from the reliquary.[152] But he was a good landlord; the lands of the monastery were let to the yeomanry on easy terms. The misery of the French peasantry, largely due to constant English invasions, was so great, that one who knew France well, Chief Justice Fortescue, writing three hundred years before the Great Uprising, had to seek reasons for the fact that

the peasantry did not rebel. “It is not pouerte that kepith Ffrenchmen ffro rysinge, but it is cowardisse and lakke off hartes and corage”: “thai haue no wepen, nor armour, nor good to bie it with all.” With their lot he contrasts that of the English yeoman. The might of England “stondith most vppon archers”: if they were poor, they could not be much exercised in shooting, “wich mey not be done withowt ryght grete expenses.”[153]

For the English yeomen were a prosperous class, the backbone of the country. They were able to serve their country alike in peace and war: having means to send their sons to the universities, not yet appropriated by a class: able to help in the maintenance of the poor: stout soldiers in case of need—the best archers in the world. Latimer’s father was a type of the class. A yeoman, having no lands of his own, he held a farm at a rent of three or four pounds a year. The tillage of the farm kept half a dozen men, there was walk for a hundred sheep: Latimer’s mother milked thirty kine. Latimer recollected buckling on his father’s harness when the stout yeoman-soldier set out for Blackheath. He put Latimer “to schole, or elles I had not bene able to haue preached before the kinges maiestie nowe,” gave his daughters a portion, kept hospitality for his poor neighbours, gave alms to the poor, “and all thys did he of the sayd farme.” The Dissolution changed all that. The rapacity of the new landlords, who turned arable land into pasture, and quadrupled rents, is the despair of contemporaries. Latimer thus speaks of his father’s successor: “Wher he that now hath it, paieth xvi. pounde by yere or more, and is not able to do anything for his Prynce, for himselfe, nor for his children, or geue a cup of drincke to the pore.”[154]

Then, for the first time was heard in England the question since become familiar, “Can I not do as I like with my own?” They say, said Bernard Gilpin, “the Apostle of the North,” in a sermon preached before the Court of Edward VI.—“they saie, their lande is their owne, and forget altogether that the earth is the Lords & the fulnesse thereof. They turn them out of their shrouds as thicke as mice.”[155] Henry Brinklow, puritan of puritans, admits that “but for the faith’s sake,” it had been more profitable to the commonwealth that the abbey lands had remained in the hands of those “imps of Antichrist,” the abbeys and nunneries. “For why? thei neuer inhansed their landys, nor toke so cruel fynes as doo our temporal tyrauntes.”[156]

The governing classes, themselves atheistic,[157] ready to change their professed religion as often as was necessary to keep their grip on the lands stolen from the people, played on the fanaticism of a section of the people by means of imported preachers of the new doctrine, sharked up in every corner of Europe. When the commons, oppressed beyond endurance, rose at last in revolt, they were butchered in thousands by foreign mercenaries, the first seen in England for centuries.[158]

The Guilds, lay associations of men and women banded together for mutual help, were among the oldest things in England—older than King Alfred. They were the precursors of the modern Trades Unions and Benefit Societies, but wider in their constitution, embracing various classes, and more human in their administration.[159] These, too, were swept away.

The very hospitals were seized, the sick thrust forth.

The dispossessed people wandered about, workless, aimless, foodless. “Thousandes in England through such [landlords] begge nowe from dore to dore, which haue kept honest houses.”[160] The Slave Act of the first year of the reign of Edward VI. made it lawful to brand an Englishman on the forehead with the mark of slavery, “to putt a rynge of Iron about his Necke Arme or his Legge for a more knowledge and suretie of the kepinge of him.”[161]

In 1547 Ascham, about the time he was appointed tutor to Elizabeth, wrote, “The life now lived by the greatest number is not life, but misery,” words which a modern writer has said should be inscribed over the century as its motto. “Most lamentable of all,” writes Ascham, “is it, that that noble ornament and strength of England, the yeomanry, is broken and destroyed.”[162]

A contemporary writer draws a picture of “the Decay of England” almost too terrible for belief, yet all that we know tends to confirm his story. “Whether shall then they goo?” he cries in despair. “Foorth from shyre to shyre, and to be scathered thus abrode, within the Kynges maiestyes Realme, where it shall please Almighty God: and for lacke of maisters, by compulsion dryuen, some of them to begge, and some to steale.”[163] Happy those who in defence of their hearths had died in the West and in Norfolk at the hands of Spaniards, Italians, Germans, Albanians!

A calculation based upon the statements of this same writer on the “Decay of England” gives 675,000 persons thrown upon the country by the decay of husbandry.[164] But to this number we must add those turned out of the monasteries, the poor, formerly maintained by the monasteries and by the

yeomanry, the sick and infirm, ejected from the hospitals established for “Christ’s poor,” as they are called in the act of foundation of a hospital in the thirteenth century. And this immense number out of a population estimated at 5,000,000! “And nowe they haue nothynge, but goeth about in England from dore to dore, and axe theyr almose for Goddes sake. And because they will not begge, some of them doeth steale, and then they be hanged.”[165] Great numbers flocked to London, seeking in vain redress of their grievances.

This was the great time of Tyburn.

In his fourth sermon, preached on March 29, 1549, Latimer mentions, quite incidentally, the frightful number of executions taking place in London, when he was “in ward” with the Bishop of Chichester in 1539. “I was desirous to heare of execution done (as ther was euri weke, some in one place of the citye or other) for there was thre wekes sessions at newgate, and fourth-nyghte Sessions at the Marshialshy, and so forth.”[166] That is, sessions every three weeks at the one place and every two weeks at the other. Never had the gallows been so crowded. In the sentence quoted on the title-page of this book Sir Thomas More, writing in Latin in 1516, had said that twenty were “sometimes” hanged together upon one gallows. In the English translation, first published in 1551, the translator changed “sometimes” (“nonnunquam”) into “for the most part.” So had the gallows thriven!

The bitter lamentations of Latimer, Brinklow, Ascham, Lever, Bernard Gilpin, Crowley, are not the cries of partisans of the old order. They had looked for a new heaven and a new earth—to see “the pure light of the gospel” kindled by John a Lasco,

Stumphius, John ab Ulmis, illuminating homes freed for ever from taxation by the spoils of the monasteries. And "the Blessed Reformation" had sent countless thousands to the gallows, had reinstituted white slavery in England, and had established the "pauper," no longer "Christ's poor," as a despised and degraded caste.

But of the judicial murders of this dreadful time we know next to nothing. As Harrison has been more than once quoted it is necessary to refer to a passage giving what purports to be a statement as to the numbers executed in the reign of Henry VIII. He says:—

It appeareth by Cardane (who writeth it vpon the report of the bishop of Lexouia) in the geniture of king Edward the sixt, how Henrie the eight, executing his laws verie seuerlie against such idle persons, I meane great theeues, pettie theeues and roges, did hang vp threescore and twelue thousand of them in his time.[167]

The statement has been repeated by countless writers from Hume downwards, not one of whom has taken the trouble to refer to the original. It is a misquotation hoary with age. Cardan gives the nativity of Henry VIII. and then says: "From these two causes, together with others, there fell out that which the bishop of Lisieux told me at Besançon, namely, that in the two years before his death it was found that seventy-two thousand men perished by the hangman after sentence (*judicio et carnifice*)."[168] Cardan was at Besançon in 1552, not long after the death of Henry. Possibly Harrison, finding the number incredible, as relating to two years, spread the number over the whole reign. But in the statement attributed to the bishop there is nothing to

indicate the class of persons executed. That in one way or another Henry did in the course of his reign destroy seventy-two thousand persons does not seem improbable. It is said that "over 5,000 men were hanged within the space of six years" in a district of North Wales.[169] By the provisions of the Act 27 Henry VIII. (1535-6) c. 25, "rufflers" and vagabonds were to be whipped till their bodies were bloody; for a second offence they were to be again whipped and to lose a part of the right ear; if thereafter they were found idling, they were to be declared felons, and to be punished with death.

1537. The nine and twentith of March were 12. men of Lincolne drawne to Tyborne, and there hanged and quartered, fiue were priests, and 7. were lay men, 1. one was an Abbot, a suffragan, doctor Mackerel; another was the vicar of Louth in Lincolnshire, & two priests (Stow, p. 573).

1537. Alsoe, the 17 daye of Maye, were arrayned at Westmynster these persons followinge: Doctor Cokerell, prieste and chanon, John Pykeringe, layman, the Abbot of Gervase [Jervaulx] and an Abbott condam [quondam] of Fountens, of the order of pyed monkes, the Prior of Bridlington, Chanon, Docter John Pykeringe, fryer of the order of prechers, and Nicholas Tempeste, esquire, all which persons were that daye condemned of highe treason, and had judgment for the same.

And, the 25 daye of Maye, beinge the Frydaye in Whytsonweke, Sir John Bolner, Sir Stephen Hamerton, knightes, were hanged and heddyd, Nicholas Tempeste, esquier, Docter Cokerell, preiste, Abbott condam of Fountens, and Docter Pykeringe, fryer, ware drawen from the Towre of London to Tyburne, and ther hanged, boweld, and quartered,

and their heddes sett one London Bridge and diverse gates in London.

And the same daye Margaret Cheyney, other wife to Bolmer called ["which" says Hall, "some reported was not his wife but his paramour"] was drawen after them from the Tower of London into Smythfyld, and there brente, according to hir judgment, God pardon her sowle, being the Frydaye in Whytson weeke; she was a very fayre creature and a bewtyfull.…

The second daie of June, being Saterdaie after Trinitie Soundaie, this yeare Sir Thomas Percey, knight, and brother to the Earle of Northumberland, was drawen from the Tower of London to Tiburne, and their hanged and beheaded, and Sir Francis Bigott, knight, Georg Lomeley, esquire, sonne to the Lord Lomeley, the Abbott of Gervase, and the Prior of Bridlington, were drawen from the said place to Tiburne, and their hanged and quartered, according to their judgmente, and their heades sett on London Bridge and other gates of London.[170]

1538. The 25. of February, Sir Iohn Allen priest, and also an Irish Gentleman of the Garets, were hanged and quartered at Tyborne (Stow, p. 574).

Also this yere the xxv. day of Februarii was drawne from the Towere to Tyborne, Henry Harford gentleman and Thomas Hever merchand, and there hongyd and qwarterd for tresoun (Grey Friars Chron., ed. Howlett, p. 201).

1538. In Iuly was Edmond Coningsbey attainted of treason, for counterfeatyng of the kynges Signe Manuell: And in August was Edward Clifford for thesame cause attainted, and both put to execucion as traitors at Tiborne. And the Sonday after

Bartelmew day, was one Cratwell hangman of London, and two persones more hanged at the wrestlyng place on the backesyde of Clerkenwel besyde London, for robbyng of a bouthe in Bartholomew fayre, at which execution was aboue twentie thousand people as I my self iudged (Hall's Chron., p. 826).

1538-9. The third daie of Nouembre were Henry Marques of Excester & earle of Deuonshire and sir Henry Pole knight and lorde Mountagew and Sir Edward Neuell brother to the Lorde Burgany sent to the tower which thre wer accused by sir Gefferei Pole brother to the lord Mountagew, of high treason, and the two lordes were arreigned the last day of Decembre, at Westminster before the lord Awdeley of Walden, lord Chauncelor, and then the high stuard of England, and there found giltie, likewise on the third day after was arreigned Sir Edward Neuel, Sir Gefferey Pole and two priestes called Croftes and Collins, and one holand a Mariner and all attainted, and the ninth day of Ianuarie [1539], were the saied two lordes and Sir Edward Neuell behedded at the tower hill, and the two priestes and Holande were drawen to Tiborne, and there hanged and quartered, and sir Gefferey Pole was pardoned (Hall, p. 827).

1539. The eight and twentie daie of Aprill, began a Parliament at Westminster, in the which Margaret countesse of Salsbury Gertrude wife to the Marques of Excester, Reignold Poole, a Cardinall brother to the lorde Mountagew, Sir Adrian Foskew [Fortescue] & Thomas Dingley Knight of saynt Iohnes, & diuerse other wer attainted of high treason, which Foskew and Dynglei wer the tenth daie of Iuli behedded.

According to the Grey Friars Chronicle and Wriothesley's Chronicle they were beheaded at

Tower Hill on the 9th July, “and that same day was drawne to Tyborne ii. of their seruanttes, and ther hongyd and quarterd for tresoun.”[171]

1540. Also this same yere was the xvi. day of Marche was one Somer and iii. vacabundes with hym drawne, hongyd and qwarterd for cleppynge of golde at Tyborne (Grey Friars Chron., p. 203).

1540. Dr. Johnson blamed the Government of his day for suppressing the processions to Tyburn—“the public was gratified by a procession.” From this point of view Henry VIII. was an ideal monarch, though it is open to doubt whether the burnings at Smithfield and the disembowellings at Tyburn were not so frequent as to satiate the lovers of these spectacles.

Thus on July 30, 1540, two Doctors of Divinity and a parson were burnt in Smithfield, and on the same day another Doctor and two priests were hanged on a gallows at Saint Bartholomew’s Gate, beheaded and quartered—six victims.

Five days later the spectacle was offered of other seven or perhaps eight despatched at Tyburn.

The 4. of August, Thomas Empson sometime a monke of Westminster, which had bin prisoner in Newgate more than three yeeres, was brought before the Justices of goale deliuerie at Newgate, and for that hee would not aske the King pardon for denying his supremacie, nor be sworne therto, his monkes coole was plucked from his backe, and his body repried till the King were informed of his obstinacie.

Nothing more is told us of Empson, but it has been supposed that he was executed in this batch:—

The same 4. of August were drawn to Tyborne 6. persons and one lead betwixt twaine, to wit,

Laurence Cooke, prior of Doncaster, William Home a lay brother of the Charterhouse of London, Giles Horne gentleman, Clement Philip gentleman of Caleis, & seruant to the L. Lisle, Edmond Bromholme priest, chaplaine to the said L. Lisley, Darby Gening, Robert Bird, all hanged and quartered, and had beene attainted by parliament, for deniall of the Kings supremacie (Stow, p. 581).

1540. There is nothing new under the sun. The Aliens Act of 1905 was anticipated by the Act 32 Henry VIII. c. 16, Concerning Strangers.

The King our most dradde Souveraine Lord calling unto his blissed remembraunce the infinite nombre of Straungers and aliens of foren countries and nations whiche daily doo increase and multiplie within his Graces Realme and Dominions in excessive nombres, to the greate detriment hinderaunce losse and empoverishment of his Graces naturall true lieges and subjectis of this his Realme and to the greate decay of the same—having this on his blessed remembrance his Grace took measures to drive out aliens not furnished with letters of denization.

This act indirectly furnished Tyburn with two victims:—

1540. On the xxii. daie of December, was Raufe Egerton seruant to the Lorde Audeley lorde Chauncellor, hanged, drawen, and quartered, for counterfetyng of the kynges greate Seale, in a signet, whiche was neuer seen, and sealed a great nomber of Licenses for Denizens, and one Thomas Harman that wrote theim, was executed: for the statute made the last parliament sore bounde the straungiers, whiche wer not Denizens, whiche caused theim to offre to Egerton, greate sommes of money, the desire

whereof caused hym to practise that whiche brought hym to the ende, that before is declared (Hall, p. 841).

1541. On the 28th June:—There was executed at saint Thomas Waterings three gentlemen, John Mantell, John Frowds, and george Roidon: they died for a murther committed in Sussex (as their indictement imported) in companie of Thomas Fines lord Dacres of the south. The truth whereof was thus. The said lord Dacres, through the lewd persuasion of some of them, as hath beene reported, meaning to hunt in the parke of Nicholas Pelham esquire at Laughton, in the same countie of Sussex, being accompanied with the said Mantell, Frowds, and Roidon, John Cheinie and Thomas Isleie gentlemen, Richard Middleton and John Goldwell yeomen, passed from his house of Hurstmonseux, the last of Aprill in the night season, toward the same parke, where they intended so to hunt: and comming vnto a place called Pikehaie in the parish of Hillingleie, they found one John Busbrig, James Busbrig, and Richard Sumner standing togither; and as it fell out through quarelling, there insued a fraie betwixt the said lord Dacres and his companie on the one partie, and the said John and James Busbrig and Richard Sumner on the other: insomuch that the said John Busbrig receiued such hurt, that he died thereof the second of Maie next insuing.

Wherevpon, as well the said lord Dacres as those that were there with him, and diuerse other likewise that were appointed to go another waie to meet them at the said parke, were indicted of murther; and the seauen and twentith of June the lord Dacres himselfe was arreigned before the lord Audleie of Walden then lord chancellor, sitting that daie as high steward

of England, with other peeres of the realme about him, who then and there condemned the said lord Dacres to die for that transgression. And afterward the nine and twentith of June being saint Peters daie, at eleuen of the clocke in the forenoone, the shiriffs of London, accordinglie as they were appointed, were readie at the tower to haue receiued the said prisoner, and him to haue lead to execution on the tower hill. But as the prisoner should come forth of the tower, one Heire a gentleman of the lord chancellors house came, and in the kings name commanded to staie the execution till two of the clocke in the afternoone, which caused manie to thinke that the king would haue granted his pardon. But neuerthelesse, at three of the clocke in the same afternoone, he was brought forth of the tower, and deliuered to the shiriffs, who lead him on foot betwixt them vnto Tiburne, where he died. His bodie was buried in the church of saint Sepulchers. He was not past foure and twentie yeeres of age, when he came through this great mishap to his end, for whome manie sore lamented, and likewise for the other three gentlemen, Mantell, Frowds, and Roidon. But for the said yoong lord, being a right towardlie gentleman, and such a one, as manie had conceiued great hope of better proofe, no small mone and lamentation was made; the more indeed, for that it was thought he was induced to attempt such follie, which occasioned his death, by some light heads that were then about him.[172]

1541. xxxiii *year of Henry VIII*. In the beginnyng of this yere, v. priestes in Yorke shire began a newe rebellion, with thassent of one Leigh a gentleman, and ix. temporall men, which were apprehended, & shortly after in diuerse places put in execucion, insomuch that on the xvii. daie of Maie, the said

Leigh & one Tatersall, and Thornton were drawen through London to Tiborne and there were executed (Hall, p. 841).

1542. The 20 of March was one Clement Dyer, a vintner, drawen to Tyburne for treason, and hanged and quartered (Wriothesley's Chronicle, i., p. 135).

1542. *December 10.* At this tyme the Quene late before maried to the kyng called Quene Katheryne, was accused to the Kyng of dissolute liuing, before her mariage, with Fraunces Diram, and that was not secretely, but many knewe it. And sithe her Mariage, she was vehemently suspected with Thomas Culpeper, whiche was brought to her Chamber at Lyncolne, in August laste, in the Progresse tyme, by the Lady of Rocheforde, and were there together alone, from a leuen of the Clocke at Nighte, till foure of the Clocke in the Mornyng, and to hym she gaue a Chayne, and a riche Cap. Vpon this the kyng remoued to London and she was sent to Sion, and there kept close, but yet serued as Quene. And for the offence confessed by Culpeper and Diram, thei were put to death at Tiborne (Hall, p. 842).

Culpeper was headed, his body buried at Saint Sepulchers Church by Newgate: Derham was quartered &c. (Stow, p. 583).

1543. The 8. of May one Lech sometime Baylie of Lowth, who had killed Somerset one of our heraults of armes at Dunbar in Scotlande, was drawne to Tyborne and there hanged and quartered. And the 12. of June, Edward Lech his brother and with him a priest for the same fact, were likewise executed at Tyborne (Stow, p. 584).

1544. The 7. of March, Garmaine Gardner, and Larke parson of Chelsey, were executed at Tyborne,

for denying the kings supremacie, with them was executed, for other offences, one Singleton. And shortly after, Ashbey was likewise executed for the supremacie (Stow, p. 586).

Henry VIII. was succeeded by the boy-King Edward VI. in 1547. Two years later the peasants rose against their oppressors. Here are echoes of the risings in the West and in Norfolk.

1549. Item the xxvii. day of the same monythe [August] was iii. persons drawyn, hongyd, and qwarterd at Tyborne that came owte of the West contre (Grey Friars Chronicle, p. 223).

1550. The 27. of January, Humfrey Arundell esquire, Thomas Holmes, Winslowe and Bery Captaines of the rebels in Deuonshire, were hanged and quartered at Tyborne (Stow, p. 603).

1550. The 10. of February one Bel a Suffolke man, was hanged and quartered at Tyborne, for moouing a new rebellion in Suffolke & Essex (Stow, p. 604).

In Machyn's Diary 1550 to 1563 (Camden Society, 1848), we get almost for the first time particulars of the rank and file of the victims of Tyburn. This is accounted for by the probability that, as the editor says, "his business was in that department of the trade of a merchant-taylor which we now call an undertaker or furnisher of funerals." Machyn's spelling is detestable; it requires, as will be seen, frequent emendations.

1552. The ij day of May … the sam day was hangyd at Tyborne ix fello[ns] (p. 18).

The xj day of July [was] hangyd one James Ellys, the grett pykkepurs that ever was, and cutt-purs, and vij more for theyfft, at Tyburne (pp. 21, 22).

1552. The xxj day of Desember rod to Tyborne to be hangyd for a robery done on Honsley heth, iij talmen and a lake [tall men and a lacquey] (Machyn, p. 27).

1553. The xxj day of the same monyth [January] rod unto [Tyburn] ij felons, serten was for kyllyng of a gentylman [of] ser Edward North knyght, in Charturhowsse Cheyr [Ch. yard?]—the vij yere of kyng Edward the vj (Machyn, p. 30).

"Rod" means rode in a cart.

Edward died on July 6, 1553. The rebellion in favour of Lady Jane Grey was quickly put down, and Mary made her entry into London on August 3rd.

At the end of January, 1554, broke out Sir Thomas Wyatt's rebellion. It was suppressed, but not till after Wyatt had made his way into the heart of the City. The gallows of Tyburn was supplemented by numerous others:—

The xij of February was mad at evere gate in Lundun a newe payre of galaus and set up, ij payre in Chepesyde, ij payr in Fletstrett, one in Smythfyld, one payre in Holborne, on at Ledyn-hall, one at Sant Magnus London [bridge], on at Peper allay gatt, one at Sant Gorgeus, on in Barunsay [Bermondsey] strett, on on Towr hylle, one payre at Charyngcrosse,[173] on payr besyd Hyd parke corner (Machyn, p. 55).

On these gallows 58 persons were executed; at Hyde Park Corner three were hanged in chains; only seven were quartered, "ther bodys and heds set a-pon the gattes of London."

Wyatt was beheaded on Tower Hill on April 11: after and by xj of the cloke was he quartered on the skaffold, and hys bowelles and ys members burnt be-

syd the skaffold … and so ther was a care [car] and a baskete, and the iiij quarters and hed was putt in-to a basket to nuwgat to be parboyled (Machyn, p. 60).

The body was the next day set upon the gallows at Hay Hill, near Hyde Park. One execution only took place at Tyburn. William Thomas, Clerk to the Council, imprisoned in the Tower, tried to commit suicide; on May 9th he was arraigned at Guildhall for conspiring the Queen's death, found guilty, and sentenced.

The xviij day of May was drane a-pon a sled a proper man named Wylliam Thomas from the Toure unto Tyborne; … he was clarke to the consell; and he was hangyd, and after ys hed stryken of, and then quartered; and the morow after ys hed was sett on London bryge, and iij quarters set over Crepullgate (Machyn, p. 63).

1555. The tenth of May, William Constable, *alias* Fetherstone, a Millers sonne about the age of eighteene yeares, who had published King Edw. the 6. to be aliue, and sometime named himselfe to bee K. Edw. the 6. was taken at Eltham in Kent, and conueyed to Hampton court, where being examined by the counsell, hee required pardon, & said he wist not what hee did, but as he was perswaded by many; from thence he was sent to the Marshalsea, & the 22. of May he was caried in a cart through London to Westminster with a paper on his head, wherein was written, that he had named himselfe to be king Edw. After he had beene carried about Westminster hall before the Judges, he was whipped a bout the pallace, and through Westminster into Smithfield, and then banished into the North, in which countrie hee was borne, and had beene sometime Lackey to sir Peter Mewtas (Stow, p. 626).

But William's whipping did not cure him of his folly:—

The 26. of February [1556] Willi. Constable *alias* Fetherstone was arraigned in the Guild hall of London, who had caused letters to bee cast abrode, that king Edward was aliue, and to some he shewed himselfe to be king Edward, so that many persons both menne and women were troubled by him, for the which sedition the said William had bin once whipped and deliuered, as is aforesaid: But now he was condemned, and the 13. of March he was drawne, hanged and quartered at Tyborne (Stow, p. 628).

1556. The vij day of Marche was hangyd at Tyborne x theyffes for robere and odur thynges (Machyn, p. 101).

1556. A conspiracie was made by certaine persons, whose purpose was to haue robbed y^e^ Q. exchequer, called the receit of the exchequer, in the which there was of y^e^ Q. treasure about 50000 l. the same time, to the intent they might be able to maintaine war against the queene. This matter was vttered by one of the conspiracie named White, wherby Vdall [or Woodall], Throckmorton, Peckham, Iohn Daniel & Stanton were apprehended, and diuerse others fled into Fraunce.

The 28. of Aprill, John Throckmorton and Richard Vdall were drawne to Tyborne, and there hanged and quartered.

The 19. of May, William Stanton was likewise executed.

The 8. of June, William Rossey, Iohn Dedike, and Iohn Bedell were executed at Tyborne (Stow, p. 628).

[Henry Peckham and John Daniel were, on July 8th, hanged and beheaded on Tower Hill.]

Machyn says that Rossey's head was put on London bridge, Bedell's on Ludgate, and Dedike's, or Dethyke's, on Aldersgate (p. 107).

1557. The conspirators who had fled to France on the discovery of their plot:—there remaining attempted diuers times to stirre rebellion within this Realme, by sending Bookes, Billes, and Letters, written and printed, farced full of vntruthes, and at length the sayd Stafforde and other English rebels, and some strangers, entred this Realme, on the foure and twentieth of Aprill, & tooke by stealth the castle of Skarborough in the countie of Yorke, and set out a shamefull proclamation, wherein he traiterously called and affirmed the queene to be vnrightfull and most vnworthie queene, and that the king had brought into this realme the number of twelve thousand Spaniardes, and that into their hands were deliuered 12. of the strongest holdes in this Realme. In which proclamation the sayde Stafforde named himselfe Protector and gouernor of this Realme, but hee with the other his complices, by the good diligence of the Earle of Westmerland and other noble men, were apprehended on the last of Aprill.…

The eyght and twentieth day of May, Thomas Stafford was beheaded on the tower hill, and on the morrowe three of his companie, to wit, Stretchley, Bradford and Proctor, were drawne to Tyborne, and there hanged & quartered (Stow, pp. 630, 631).

1556. *July 2.* We have already learnt how a hangman was hanged in 1538. Under the above date Machyn records the execution of another:—

The ij day of July rod in a care [rode in a cart] v.

unto Tyborne: on was the hangman with the stump-lege for stheft [theft], wyche he had hangyd mony a man and quartered mony, and hed [beheaded] many a nobull man and odur [other] (Machyn, p. 109).

1557. The sam day [May 25] was hangyd at Tyburne xvij; on was a nold voman of lx yere, the trongyest [strongest?] cut-purs a voman that has been herd off; and a lad a cut-purs, for ys tyme he be-gane welle (Machyn, p. 137).

Mary died in 1558, and Elizabeth came to the throne.

1570. The 27. of May, Thomas Norton and Christopher [Norton], of Yorkeshire, being both condemned of high treason, for the late rebellion in the North, were drawne from the Tower of London to Tiborne and there hanged, headed, and quartered (Stow, p. 666).

A tract, the "Confessions" of Thomas Norton and Christopher Norton, reprinted in "State Trials," vol. i., 1083-6, contains particulars of these executions. Thomas, the uncle of Christopher, was first hanged and quartered, in the presence of his nephew. Then the hangman executed his office on Christopher, "and being hanged a little while, and then cut down, the butcher opened him, and as he took out his bowels, he cried and said, 'Oh, Lord, Lord, have mercy upon me!' and so yielded up the ghost. Then being likewise quartered, as the other was, and their bowels burned, as the manner is, their quarters were put into a basket provided for the purpose, and so carried to Newgate, where they were parboiled; and afterwards their heads set on London Bridge, and their quarters set upon sundry gates of the city of London."

1570. The 25. of May in the morning, was found hanging at the bishop of Londons palace gate in Paules church-yard, a Bull, which lately had beene sent from Rome containing diuerse horrible treasons against the Queenes maiesty for the which one Iohn Felton was shortly after apprehended, and committed to the tower of London.…

The fourth of August … was arraigned at Guild hal of London Iohn Felton, for hanging a bull at the gate of the bishop of Londons palace, and also two young men, for coyning and clipping of coine, who all were found guilty of high treason, and had iudgment to be drawne, hanged and quartered.

The eight of August, Iohn Felton was drawne from Newgate into Paules Churchyeard, and there hanged on a gallowes new set vp that morning before the Bishoppes palace gate, and being cut downe aliue, he was bowelled and quartered. After this time the same morning the sherifs returned to Newgate, and so to Tiborne with two young men which were executed for coyning and clipping as is aforesaid (Stow, pp. 666-7).

Here we have the quarrel between the Pope and Elizabeth come to a head, with dreadful results to English Catholics—results extending in an aggravated form over centuries.

In “Pilgrim’s Progress” Bunyan describes the Pope in his cave, alive, indeed, but “by reason of age, and also of the many shrewd brushes that he met with in his younger days, grown so crazy and stiff in his joints, that he can now do little more than sit in his cave’s mouth, grinning at pilgrims as they go by, and biting his nails because he cannot come at them.”

A sense of humour, or even a sense of proportion,

might have counselled to laugh at this impotent railing. But there was the temptation, always present to governments, to appeal to the ignorance and fanaticism of the mass. And behind and above all there was the question of the abbey lands:—

"The thief doth fear each bush an officer."

So for the next hundred years it became the most pressing duty of governments to tear out the bowels of men who acknowledged the Pope as spiritual father; and when governments became slack in the work, Parliament immediately set up a howl for blood.

1571. The execution of Dr. John Story is one of the horrors of Tyburn: it is further memorable from the fact that, as we have seen (p. 64), the triangular gallows, destined to become famous as the Triple Tree, first came into use on this occasion.

Dr. Story was a bitter persecutor under Mary.

There is no more difficult question than that of determining how far we must condemn, how far we may absolve those, on either side, who used their power to inflict punishments on men who differed from them in religion. In his "Prince" Machiavelli divides men of the ruling class into three categories. There is, in the first place, the man who understands of himself; next comes he who understands when a thing is shown to him; last comes he who can neither generate a new idea, nor comprehend it when put before him. The first, he says, is most excellent; the second excellent; the third useless. But incapacity to generate new ideas, inability to assimilate them, are things not criminal. The mass of men will always be found in the third category. Dr. Story was not one of

those rare spirits who rise above the ideas current in their time.

In this matter of persecution it is impossible for us of to-day to place ourselves in the position of men in the sixteenth century. Nothing could be more false than to represent the reformers as advocates of religious liberty. They made no such claim for themselves: they would have regarded themselves as traitors to their trust if, when their opportunity came, they did not in their turn send to the stake the obstinate heretics who refused to yield to their arguments and rejected "the truth." Latimer could jest in the sermon he preached on the occasion of the burning of Friar Forest.[174] Forest, it is true, was a Catholic. The reformers persecuted others than Catholics, and here it is even more difficult to acquit them. Claiming liberty to discard old beliefs, they persecuted those who went further than they in the same direction. In 1549 was appointed a Commission, and in 1551 another, with extended scope. Among the Commissioners we find Cranmer, Ridley, Latimer, Coverdale—more than thirty names of the brightest lights of the Reformation. They were appointed to try heretics—Anabaptists and those who rejected the Book of Common Prayer—to try, to condemn, and to hand over to the civil power.[175] Latimer was earnest to persuade the hearers of one of his great sermons that to go boldly to death did not prove that death was suffered in a righteous cause. He jeered at the constancy of the Anabaptists: "The Anabaptistes that were brente here in dyuers townes in England, as I heard of credible menne (I saw them not my selfe) went to their death euen *Intrepide*. As ye wyll saye, with out any feare in the world chearfully. Well, let them go."[176]

Without reckoning too nicely the allowances to be made for the difficulty of achieving emancipation from the ideas of one's age, posterity has perhaps done rough justice in allowing subsequent martyrdom to atone for the errors of those who persecuted. Catholics have beatified Story; Protestants venerate the memory of those who suffered after having enforced the new doctrines by the aid of the gallows and the stake.

After the accession of Elizabeth, Story had more than one narrow escape. In 1563 he was imprisoned in the Marshalsea, whence he escaped, and, with the aid of the chaplain of the Spanish Ambassador, fled to Flanders. The Spanish Ambassador disclaimed knowledge of the matter, but it may well be that the English Government was nettled, and readily lent itself to a plan for capturing Story. In his adopted country he received a place in the customs. On a certain day in August, 1570, he was invited to examine a ship at Bergen-op-Zoom. While he was busy in the hold the hatches were shut down on him, the sail was hoisted, and the ship sailed for Yarmouth with Story on board. The capture was a great event. "The locks and bolts of the Lollards' Tower were broken off at the death of queen Mary, and never since repaired. Now they were repaired for the reception of Dr. Story."[177] He was executed at Tyburn on June 1, 1571. He was the object of general execration: care was probably taken that he should suffer all the torments of the horrible sentence. He was let down from the gallows alive, and while the executioner was "rifling among his bowels," Story rose and dealt him a blow.

1572. The 11. day of February Kenelme Barney, and Edmond Mather were drawne from the Tower of

London: and Henry Rolfe from the Marshalsea in Southwarke, all three to Tyborne, and there hanged, bowelled and quartered for treason: Barney and Mather for conspiracie against some of her maiesties priuie counsell, and Rolfe for counterfeiting the Q. maiesties hand (Stow, p. 670).

1572. The 28. of Nouember, John Hall gentleman, and Oswald Wilkinson late of Yorke, and gailor of Yorke castle (being before arraigned and condemned of treason) were drawne from the Tower of London to Tiborne, and there hanged and quartered (Stow, p. 673).

1573. The 16. of June, Thomas Woodhouse, a priest of Lincolnshire, who had lien long prisoner in the Fleete, was arraigned in the Guild hall of London, and there condemned of high treason, who had iudgement to be hanged and quartered, and was executed at Tyborne the nine-teenth of June (Stow, p. 676).

1576. The 30. of May, Tho. Greene goldsmith was drawne from Newgate of Lond. to Tyborne, and there hanged, headed, and quartered, for clipping of coine both gold and siluer (Stow, p. 680).

1578. The third of Februarie, early in the morning, Iohn Nelson, for denying the Queenes supremacie, and such other traiterous words against her maiestie, was drawne from Newgate to Tiborne, and there hanged, bowelled and quartered (Stow, p. 684).

1578. The 7. of Februarie, one named Sherewood was drawne from the Tower of London to Tyborne, and there hanged, bowelled and quartered (Stow, p. 684).

Thomas Sherwood was a layman. In the Tower he was cruelly racked to make him tell where he had

heard mass.

1581. The 18. of July, Euerard Haunce [Hanse] a seminary priest, was in the Sessions hall in the olde Baily arraigned, where he affirmed that himselfe was subiect to the Pope in ecclesiasticall causes, and that the Pope hath now the same authoritie here in England that hee had an hundred yeeres past, with other trayterous speeches, for the which hee was condemned to bee drawne, hanged, bowelled, and quartered, and was executed accordingly on the last of July (Stow, p. 694).

1581. On the 20. of November, Edm. Champion [Campion] Jesuit, Ralfe Sherwine, Lucas Kerbie, Edward Rishton, Thomas Coteham, Henrie Orton, Robert Iohnson, and Iames Bosgraue, were brought to the high bar at Westminster, where they were seuerally, and all together indicted vpon high treason, for that contrary both to loue and dutie, they forsooke their natiue countrey, to liue beyond the seas vnder the Popes obedience, as at Rome, Rheimes, and diuerse other places, where (the pope hauing with other princes practised the death and depriuation of our most gracious princesse and vtter subuersion of her state and kingdome, to aduance his most abhominable religion) these menne hauing vowed their alleagiance to the pope, to obey him in all causes whatsoeuer, being there, gaue their consent, to ayd him in this most trayterous determination. And for this intent and purpose they were sent ouer to seduce the harts of her maiesties louing subiects, and to conspire and practise her graces death, as much as in them lay, against a great daie, set & appoynted, when the generall hauocke should be made, those onely reserued that ioyned with them. This laid to their charge, they boldly

denied, but by a iurie they were approoued guiltie, and had iudgement to bee hanged, bowelled, and quartered (Stow, p. 694).

The account of the executions of some of these will follow. According to Camden, Elizabeth did not at all believe them guilty of plotting the destruction of the country; they were tried and executed to take away the fear which had possessed many men's minds that religion would be altered if she married a foreign prince.

1581. The first of December, Edmond Champion [Campion] Jesuit, Ralfe Sherwine, and Alexander Brian seminary priests, were drawne from the tower of London to Tyborne, & there hanged, bowelled and quartered (Stow, p. 694).

In writing of the illegal use of torture by Elizabeth's Government, under Elizabeth's sanction, reference was made to a pamphlet, ascribed to Lord Burghley, "A Declaration of the favourable Dealing," &c., issued in 1583. Here are two passages from the "Declaration" relating to Campion and Brian (here called Briant): "That very Campion, I say … was never so racked, but that he was presently able to walke, and to write."

"A horrible matter is also made of the starving of one Alexander Briant; how he should eat clay out of the walles, gathered water to drinke from the droppings of houses, with such other false ostentations of immanitie; where the trueth is this: that whatsoever Briant suffered, in want of foode, he suffered the same wilfully, and of extreme impudent obstinacie, against the minde and liking of those that dealt with him." His gaolers wished to have a specimen of his handwriting, and as he refused to write, "then was it commaunded to his keeper to

give unto him such meate, drinke, and other convenient necessaries, as he woulde write for; and to forbeare to give him anything for which he woulde not write. But Briant, being thereof advertised, and oft moved to write persisting so in his curst heart, by almost two dayes and two nightes, made choise rather to lacke foode, then to write for the sustenance, which he might readely have had for writing, and which he had, indede, readely and plentifully, so soone as he wrote." Thus the Government, or the Government's apologist. This was the best case to be made out.

1582. On the 28. day of May, Thomas Ford, Iohn Shert, & Robert Iohnson, priests, hauing bin before indicted, arraigned, and condemned for high treason intended, as yee haue heard of Champion and other, were drawne from the Tower to Tiborne, and there hanged, bowelled, and quartered. And on the 30. Luke Kirby, William Filby, Thomas Cottam, and Laurence Richardson, were for the like treason in the same place likewise executed (Stow, p. 694).

1584. *January 11.* On the 10. of January at a sessions holden in the Justice hall in the Old baily of London, for goale deliuery of Newgate, Willi. Carter of the Cittie of London, was there indicted, arraigned and condemned of high treason, for printing a seditious and trayterous booke in English, entituled, A treatise of schisme: and was for the same (according to sentence pronounced against him) on the next morrowe drawne from Newgate to Tyborne, and there hanged, bowelled, and quartered. And forthwith against slanderous reports spread abroad in seditious bookes, letters, and libels, therby to inflame our countrey-men, & her maiesties subiectes, a booke was published, entituled, A declaration of the

fauourable dealing of her maiesties commissioners, &c. (Stow, p. 698).[178]

1584. *February 12.* The 7. of February, were arraygned at Westminster Iohn Fen [James Fenn], George Haddocke [Haydock], Iohn Munden, Iohn Nutter, and Thomas Hemerford, all fiue found guiltie of high treason, in being made priestes beyond the seas, and by the Popes authoritie, since a statute made in *Anno primo* of her maiesties raygne, and hadde iudgement to be hanged, bowelled, & quartered: which were all executed at Tyborne on the 12. of February (Stow, p. 698).

1584. The 21. of May, Francis Throckmorton Esquire was arraygned in the Guild hall of the cittie of London, where being found guiltie of high Treason, hee was condemned, & had iudgement to be drawne, hanged, bowelled, & quartered. The 10. of July next following, the same Francis Throckmorton was conveyed by water from the Tower of London, to the Blacke fryers stayres, and from thence by land to the sessions hall in the Olde baily without Newgate, where hee was deliuered to the sheriffes of London, laid on a hurdle, drawne to Tyborne, & there executed according to his iudgement. A discouery of whose treasons, practised and attempted against the Queenes maiestie and the realme, were in the moneth of June published and printed in a booke intituled, A true and perfect Declaration of the treasons practised and attempted by Francis Throckmorton, &c.[179] (Stow, p. 628).

1585. *July 6.* The fift of July, Thomas Aufield [Alfield], a seminarie priest, and Thomas Welley [Webley] diar, were arraygned at the sessions hall in the Old baily, found guiltie, condemned and had iudgement, as felons to be hanged: for publishing of

books containing false, seditious, and slaunderous matter, to the defamation of our Soueraygne lady the Queene, these were on the next morrow executed at Tyborne accordingly[180] (Stow, p. 708).

1586. The 19. of January, Nicholas Deuorox [Nicholas Wheeler, Woodfen, or Devereux] was condemned for treason, in being made a Seminarie priest at Rhemes in Fraunce, since the feast of Saynt Iohn Baptist in Anno primo of her Maiesties raygne, and in remaining here after the term of fortie dayes after the session of the last parliament. Also Edmond Barbar [Edward Strancham] being made a priest as aforesayd, and comming into this realme after the sayd terme of fortie dayes, was likewise condemned of treason, and both drawne to Tyborne, and there hanged, bowelled, and quartered on the 21. of January (Stow, p. 718).

1586. The 18. of Aprill, in the assises holden at London in the Justice hall, Willi. Thomson *alias* Blackborne made priest at Rhemes, and Richard Lea *alias* Long [his real name was Sergeant] made priest at Lyons in France, and remainging here contrarie to the statute, were both condemned, and on the twentith day of Aprill drawne to Tiborne, and there hanged, bowelled, and quartered (Stow, p. 719).

1586. The 18. of June, Henry Elks clearke and batchelor of art, for counterfeiting the queens signe manuel to the presentation of the parsonage of Alsaints in Hastings, directed to the Archbishop of Canterburie, or to his commissarie generall (the dioces of Chichester being voyd) that he might be instituted parson there, was drawne to Tyborne, and there hanged, bowelled, and quartered (Stow, p. 719).

The 8. of October … I. Low [John Lowe], I. Adams

[John Adams], and Richard Dibdale, being before condemned for treason, in being made Priests by authority of the Bishop of Rome, were drawne to Tyborne, and there hanged, bowelled, and quartered (Stow, p. 740).

1588. *August.* The 26. of August, at the sessions hal without Newgate of London, were condemned 6. persons, for being made priests beyond the seas, & remaining in this realme contrary to a statute thereof made, 4. temporall men for being reconciled to the Romane Church; & 4. other for releeuing & abetting the others. And on the 28. W. Deane, & H. Webley, were hanged at y^{e} Miles end. W. Gunter at the Theater, R. Moorton & Hugh Moore at Lincolnes Inne fields, Tho. Acton [Thomas Holford] at Clarkenwell, Tho. Felton & Iames Clarkson [Claxton] betweene Brainford & Hounslow. And on the 30. of August, R. Flower, Ed. Shelley, R. Leigh, R. Martine, I. Roch, & Margaret Ward gentlewoman (which Margaret hadde conueyed a cord to a priest in Bridewell, whereby he let himself downe & escaped) were hanged at Tiborne (Stow, p. 749-50).

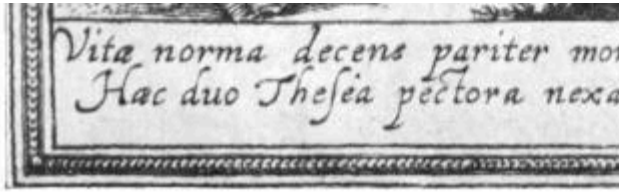
1590. The 11. of July, 16. fellons hanged at Tyborn (Stow, "Summary," p. 427).

1591. The 10. of December 3. Seminary priests for being in this realm contrary to the statute and 4. other, for relieuing them, were executed, two of them, to wit, a Seminary named Ironmonger [Edmund Genings], and Swithen Wels, gentleman, in Grayes Inne field, Blaston [Polydore Plasden] and White, Seminaries, and three other their abbettors at Tyborne (Stow, p. 764). [The names of these three others were, Bryan Lacy, Sydney Hodson, and John Mason]. In "The Life and Death of Mr. Edmund Geninges Priest, Crowned with Martyrdome at

London the 10. day of November (*sic*) in the yeare MDXCI. S. Omers, 1614," is an account of the trial and execution. Wells on returning to London found his house shut up, and was told that his wife was in Newgate. He went to Justice Yonge to ask for restitution of wife and keys, when he was at once sent to Newgate. He pleaded that he was not aware of the doings in his house. "Then the Justice … told him in playne termes, he came time inough to taste of the sauce, although he were ignorant how the meate sauoured." The manner of the execution of Edmund Genings is thus told:—

He being ripped vp, & his bowelles cast into the fire, if credit may be giuen to hundreds of People standing by, and to the Hangman himselfe, the blessed Martyr vttered (his hart being in the Executioners hand) these words, *Sancte Gregori ora pro me*, which the Hangman hearing, with open mouth swore this damnable oath; Gods woundes, See his hart is in my hand, and yet *Gregory* in his mouth; ô egregious Papist!


Vitæ norma decens pariter
Hac duo Theſea pectora nexa



DRAWING ON HURDLES TO TYBURN, *ter*

1592. *January 22.* William Patenson, condemned as a priest, drawn, hanged, and quartered at Tyburn. (Challoner's Memoirs pt. i. p. 147).

June 23. Roger Ashton executed at Tyburn for procuring from Rome a dispensation to enable him to marry his cousin (Challoner's Memoirs, pt. i. p. 148).

1593. The 21. of March, Henry Barrow, gentleman, Iohn Greenewood clarke, Daniel Studley girdler, Saxio Billot, gentleman, Robert Bowley, Fishmonger, were indicted of Felony at the sessions hall without Newgate beefore the Maior, the two lord Chiefe Justices of both benches, and sundry of the Judges & other commissioners of Oyer and determiner; the sayd Barrow and Greenwood for writing sundry seditious bookes, tending to the slaunder of the Queene and state; Studley, Billot, and Bowley, for publishing and setting foorth the same Bookes, and on the 23. they were all arraygned at Newgate, found guiltie, and had iudgement. On the last of March Henry Barrow and Iohn Greenwood were brought to Tyborne in a carre, and there fastened to the Gallowes, but being stayde and returned for the time, they were there hanged on the sixt of Aprill (Stow, p. 764-5).

1594. The 18. of February, [William] Harington, a seminarie priest, was drawne from Newgate to Tyborne, & there hanged, cut downe aliue, struggled with the hang-man, but was bowelled & quartered (Stow, p. 766).

1594. The last of February, Rodericke Loppez, a Portingale (as it was said) professing physicke, was arraygned in the Guild hall of London, found guiltie, and had iudgement as of high treason, for conspiring her Maiesties destruction by poyson.

The 7. of June, Rodericke Loppez, with the other two Portingales … were conuayd by water from Westminster to the Bishoppe of Winchesters staires in Southwarke, from thence to the K. bench, there laid on hurdles, and conuayd by the Sheriffes of London ouer the bridge, vp to Leaden hall, and so to Tyborne, & there hanged, cut downe aliue, holden downe by strength of men, dismembred, bowelled, headed & quartered, their quarters set on the gates of the cittie (Stow, p. 766, 768).

Camden's account of this affair (greatly abbreviated) is that certain Spaniards prevailed on Roderigo Lopez, a Portuguese Jew, the Queen's physician, Stephen Ferreira Gama, and Emanuel Loisie, both Portuguese, to poison the Queen. The convictions were obtained on the strength of confessions. "How far," says Lingard, "these confessions made in the Tower, and probably on the rack, are deserving of credit, may be doubted" (ed. 1849, vol. vi. p. 554).

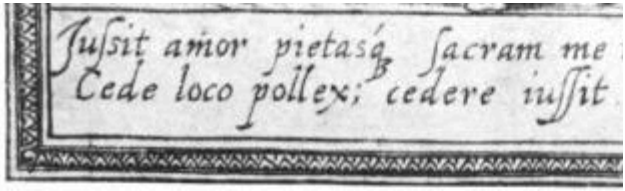
It is a strange feature in the case that while Camden, like Stow, speaks of the execution of all three, Lingard shows that Ferreira was saved.

The probability seems to be that Lopez fell a victim to the rivalry between Essex and the Cecils, each eager to prove greater zeal in the Queen's service.[181]

Arising out of similar plots, real or pretended, were at this time other executions:—

On March 2, 1594, an Irish fencing master was hanged and quartered at Tyburn for a design to kill the Queen (Camden: Stow, “Summary,” p. 439), and “in less than two months from the beginning” of 1595, Edmund Yorke and Richard Williams were for the same reason executed at Tyburn (Camden, in Kennett’s “Complete History,” ii. p. 532).


Jussit amor pietasq; sacram me
Cede loco pollex; cedere iussit



EXECUTIONS AT TYBURN, *temp.* EL

1595. The 20. of February, Robert Southwell, a Jesuit, was arraygned at the Kinges Bench barre, and the next day executed at Tyborne (Stow, p. 768).

Southwell was not only a Jesuit and martyr, but a poet of whom Ben Jonson said that he would willingly have destroyed many of his own poems could he have claimed the authorship of Southwell's "Burning Babe."

Southwell was ordained priest in 1584. With a full knowledge of the danger he incurred, he desired to go to England as a missionary priest. He landed in England in 1588. After many narrow escapes he was at last arrested by Topcliffe, the English Torquemada, in 1592, kept in prison for more than two years, and so brutally tortured and ill-used that his father petitioned Elizabeth that he might at once suffer death if guilty, or be better treated. Southwell had inspired sympathy, for at his execution the bystanders prevailed on the executioner to let him hang till dead.

1598. The 25. of January, one named Ainger was hanged at Tyborne, for wilfully and secretly murthering of his owne father a Gentleman and Counsellor of the Law at Graies Inne, in his chamber there (Stow, p. 786).

About the middle of November, 1597, a body was found floating on the Thames, and was identified as that of Richard Ainger, Anger, or Aunger, "a double reader" of Gray's Inn, who had been missing for

some time. On view of the body the surgeons gave it as their opinion that Ainger had met his death, not by drowning, but by suffocation, and that the body had been thrown into the river after death. Suspicion attached to one of his sons, Richard, and to Edward Ingram, a porter of the Inn.

The Privy Council addressed a letter to Mr. Recorder of London, Mr. Topcliffe, Nicholas Fuller, William Gerrard, and Mr. Altham, requiring them to examine strictly the two suspected persons, "and yf by those persuasions and other meanes you shall use you shall not be able to bring them to confesse the truthe of this horrible facte, then we require you to put them both or either of them to the manacles in Bridewell, that by compulsory meanes the truthe of this wicked murther may be discovered, and who were complices and privy to this confederacy and fact" ("Acts of the Privy Council," New Series, xxviii. 187). The case is interesting as showing that torture was at this time used in ordinary criminal cases. All the dictionaries speak of manacles as instruments of restraint merely. In the present case they were evidently an instrument of torture. Its nature must have been well known to Shakespeare's audiences, for in "The Tempest," referred to the year 1610, Prospero says:—

"I'll manacle thy neck and feet together"

(Act I., sc. 2).

From the Middlesex Sessions Rolls we learn that the murder was done on the night of November 12th. Richard Ainger the younger, Agnes, his wife, and Edward Ingram were tried for the crime. Richard and his wife pleaded Guilty, and were sentenced to be

hanged. From Stow's account it would appear that Richard alone was hanged. Ingram was found Not Guilty (Middlesex County Records, i. 241).

1598. On the tenth of July, 19. persons for fellony were hanged at Tyborne, & one pressed to death at Newgate of London (Stow, p. 787).

1598. The ninth of November, Edward Squire, of Greenewich was arraigned at Westminster condemned of high Treason, and on the 13. drawne from the Tower to Tyborne, and there hanged, bowelled, and quartered (Stow, p. 787).

1601. After the capture of Essex—

On the 12th of February, Thomas Lea (a kinsman of Sir Henry Lea's, who had wore the Honour of the Garter) told Sir Robert Crofts, Captain of a Man of War, that 'twould be a glorious Enterprize for six brave mettl'd Fellows to go to the Queen, and compel her to discharge Essex, Southampton, and the rest that were in Prison. He was a Man himself of great Assurance and Resolution, had Commanded a Company in Ireland, was very intimate with Tir-Oen, and an absolute Creature of the Earl of Essex's. This did Crofts immediately discover to the Council; insomuch that Lea was sought for, and found in the dusk of the Evening about the door of the Q.'s Privy-Chamber. He seem'd very Thoughtful, was extreamly Pale, and in a great Sweat, and frequently ask'd, Whether her Majesty was ready to go to Supper? And, Whether the Council would be there? In this Posture he was seiz'd and Examin'd, the next day had his Trial, and by Crofts's Evidence and his own Confession, condemn'd and carried away to Tyburn, where he own'd that he had been indeed a great Offender; but as to this Design, was very Innocent; and having moreover protested, that he had never

entertain'd the least ill Thought against the Queen, he was there executed. And this, as the Times were, appear'd a very seasonable piece of Rigour.[182]

1601. The xxvii. of February, Marke Bakworth [Barkworth], and Thomas Filcoks [Roger Filcock], were drawne to Tyborne, and there hanged, & quartered, for comming into the Realme contrary to the statute. Also the same day, and in the same place, was hanged a Gentlewoman, called Mistris Anne Line, a widow, for relieuing a priest contrary to the same statute (Stow, p. 794).

The crime for which Mistress Line suffered was that, Mass having been said in her house, she assisted the priest in his escape.

An account of these executions is given in Hist. MSS. Commission, MSS. of the Duke of Rutland, 1888, i. 369, 370.

Mr. Barkwey cominge to the hurdle prayed and with a chearfull voyce and smylinge countenance sunge all the waye he went to execution.

The 27th daye of Februarie 1600 [1601], beinge the first Friday in Lent, the said Mr. Barkwey was brought to Tyborne there to be executed. Cominge up into the carte in his blacke habite, his hoode being taken of, his heade beinge all shaven but for a rounde circle on the nether parte of his heade, and his other garment taken of also, beinge turned into his sherte, having a pare of hose of haere, most joyfully and smylingly looked up directly to the heavens and blessed him with the signe of the crosse, sayinge, "*In nomine Patris, Filii et Spiritus Sancti, Amen.*" Then he turned himselfe towardes the gallowe tree wheron he was to suffer, made the signe of the crosse theron and kissed it and the rope also,

the which beinge put about his necke, he turned himselfe and with a chearfull smylinge countenance and pleasant voyce sunge in manner and forme followinge, viz.: "*Haec est dies Domini gaudeamus, gaudeamus, gaudeamus in ea*"—usinge the same very often with these wordes, viz.: "*In manus tuas, Domine, commendo spiritum meum.*" Also he used these speaches to the people—"I doe confesse that I am one of the Blessed Societie after the holy order of St. Benedicte." The minister called on him to be penitent for his sinnes, and he said, "Hold thy peace, thou arte a simple fellowe." Then the minister wild him to remember that Christ Jesus dyed for him. And he, elevatinge his eyes to heaven and holdinge the rope in his handes—being festned together—so highe as he could reache, aunswered "And so doe I for him, and I would I had a thousand, thousand lyves to bestowe upon him in this cause," sayinge "*et majorem charitatem nemo habet.*" And then turninge himselfe againe, sunge as before, and desired all Catholiques to praye for him, and he would praye for them. And beinge asked if he would praye for the Queene he saied, "God blesse her, and send her and me to meete joyfully in heaven," and prayed also for Mr. Recorder who pronounced judgment against him, and for Mr. Wade, Ingleby, Parrat, and Singleton, who were the prosecutors of his death. And the carte beinge drawne awaye, in his goinge of from the carte saied the same wordes as before, "*Haec est dies Domini; gaudeamus in ea*," and beinge presently cut downe, he stoode uprighte on his feete and strugled with the Executioners, cryinge, "Lord, Lord, Lord," and beinge holden by the strengthe of the executioners on the hurdle in dismembringe of him he cryed, "O God," and so he was quartered.

[I omit the account of the execution of Roger

Filcock.]

There was executed also one Mistriss Lynde [Anne Line], condempned at the Sessions house the 26th day of February for the escape of a supposed preist. Her weakness was suche that she was carryed to the said Sessions betwixt two in a chaire.

There was also condempned with her one Ralphe Slyvell for rescuinge the said supposed preist, but repryved.

The said Mistriss Lynde, carryed the next daye to her execution, many tymes in the waye was stayed and urged by the minister who urged what meanes he could to perswade her to convert from her professed faithe and opinion, most constantlie persevered therin and so was brought to the place of execution and there shewed the cause of her cominge thither, and beinge further urged amongest other thinges by the minister that she had bene a common receavor of many preistes she aunswered, “Where I have receaved one I would to God I had bene able to have receaved a thousand.” She behaved herself most meekely, patiently, and vertuously to her last breath. She kissed the gallowes and before and after her private prayers blessinge herself, the carte was drawne awaye, and she then made the signe of the crosse uppon her, and after that never moved.

1601. The 13. of March, sir Gilley Merike Knight, and Henry Cuffe Gentleman, were drawne to Tyborne, the one from the Tower, the other from Newgate, and there hanged, bowelled, and quartered, as being actors with the late Earle of Essex. They both dyed very resolutely (Stow, p. 794).

Merrick was the steward and Cuff the secretary of the Earl.

1601. *August 24.* Thomas Hackshot, and Nicholas Tichburne, laymen, rescued a priest, Thomas Tichburne, from the custody of a constable. The two were arrested, condemned and executed at Tyburn (Challoner's Memoirs, pt. i., p. 206).

1602. The xviii. of Aprill Peter Bullocke, stationer, and one named Ducket, for printing of Bookes offensiue were Hanged at Tyborne (Stow, p. 803).

This is a very bald account of an interesting case. James Duckett was a convert from Protestantism. As an apprentice he more than once got into trouble for his opinions; and his master, thinking that he himself might be involved, at last gave back the indenture to Duckett. Duckett now maintained himself by dealing in Catholic books, a commerce which frequently got him into prison, where it is said that he spent nine years out of twelve. A bookbinder, the Peter Bullocke mentioned above, lay in prison under sentence of death, and hoping to receive a pardon, informed against Duckett, a former customer. Duckett's house was searched, popish books were discovered, and Duckett was condemned to death. The informer did not receive the reward of his betrayal; the informer and his victim rode to Tyburn in the same cart (Challoner's Memoirs, pt. i., pp. 207-9).

The xx. of Aprill, Stichborne [Thomas Tichburn], W. Kenson [Robert Watkinson], and Iames Page [Francis Page], Semenarie Priestes, were drawne to Tyborne, and there hanged, bowelled, and quartered, for comming into this Realme, contrary to the Statute of Anno. 27, &c. (Stow, p. 803).

Thomas Tichburn is the priest for the rescue of whom his cousin Nicholas Tichburn, and Thomas Hackshot suffered in 1601. Page was the priest who was celebrating Mass in Mistress Line's house in

1601, but contrived to escape.

1603. The xvii. of Februarie, W. Anderson [or Richardson] a Seminary Priest was drawne to Tyborne and there hanged, bowelled and quartered, for being found in England contrary to the statute of Anno. 27. (Stow, p. 812).

Anderson was the last of Elizabeth's victims; she died a few weeks later.

1604. Master Robert Dow of London Merchant Taylor, in his most Christian charitie, pitying the miserable or rather desperate Estate of the poore condemned prisoners in Newgate, where very often and very many of them after Judgement of Death, and at their very Execution remaine most carelesse of their Soules health, Jesting and deriding their imminent danger and to the Judgement of the world die reprobate.

Upon tender Consideration whereof, and good hope of after reformation of such poore prisoners there, as through temptation of Sathan are, and will be too apt to fall into like danger the sayd Master Dow hath giuen competent Maintainance for ever, vnto Saint Sepulchers parish for the towling of the great Bell and for some especiall man, by them to bee appointed to come to the sayd Prison, the midnight before execution, and then distinctly and solemnly to ring a hand bell: then to pronounce with a lowd voice at the prison grate, a Godly and Christian remembrance on exhortation, appoynted by the Lord Bishoppe, beginning thus.

O ye prisoners within condemned, this day to dye, remember your sinnes, call to God for Grace, whilst yet you have time.

And in the Morning when they are in the Cart, iust

against the Church, the partie aforesayd to put them in minde againe of their former liues, and present death, saying the great bell of this Church, which I told you last night should Toll for you from sixe of the clocke vntil ten, now tolleth to the end to moue good people to pray to God for you whilest your selues with them may pray for remission of your sinnes, &c. And at ten a clocke or at such time as knowledge may be truely had of the Prisoners execution the sayd great Bell shall bee rung out for the space of a quarter of an houre, (to the end all people may understand the execution is past) and then cease (Stow, pp. 862).

We are now in the reign of James I. In 1605 was the Gunpowder Plot, the memory of which is still kept alive by bonfires, and by the farcical search of the cellars of the Houses of Parliament. Gunpowder Plot does not come into the Annals of Tyburn, as none of the conspirators suffered here.

1607. *February 26.* Robert Drury, priest, for being in England, executed at Tyburn (Challoner's Memoirs, pt. ii., pp. 13-5).

1608. The 11. of Aprill, George Ieruis [Gervase or Jarvis] a Seminary priest, according to his iudgement was executed at Tyborne (Stow, p. 893).

The 23. of June, Thomas Garnet, a Jesuite was executed at Tyborne, hauing fauor offred him, if he would haue taken the oath of alleageance aforesayd, but he refused it (Stow, p. 893).

Thomas Garnet was related to Father Henry Garnet, executed for the Gunpowder Plot in 1606. Thomas Garnet was convicted on evidence that while a prisoner in the Tower he had written in several places "Thomas Garnet priest." The Earl of Exeter,

one of the Privy Council, present at the execution, would not suffer the rope to be cut till the victim was quite dead (Challoner's Memoirs, pt. ii., pp. 17-9).

1610. *December 10.* John Roberts, and Thomas Somers, or Watson, or Wilson. These were priests. Roberts was apprehended for the fifth time at Mass and hurried away in his vestments. Somers had been deported, together with about a score of priests, earlier in the year, but returned to England. With Roberts and Somers were executed sixteen persons condemned for various offences. The priests were suffered to hang till they were dead and then bowelled, beheaded, and quartered, and buried with the sixteen in a pit (Challoner's Memoirs, pt. ii., p. 37).

1612. William Scot and Richard Newport, or Smith. These were missionary priests who had been banished but returned to England (Challoner's Memoirs, pt. ii., pp. 39-44).

The burning of Protestant heretics went on through the reigns of Elizabeth and James—"the fires of Smithfield" were not extinguished by the death of "bloody Mary." Anabaptists and Arians were burnt, the printers, the distributors, even in one case the binder, of books "seditiously penned against the Book of Common Prayer" were hanged.

It is painful to find the genial Howell writing thus in 1635:—

I rather pity than hate Turk or Infidel, for they are of the same metal and bear the same stamp as I do, tho' the Inscriptions differ. If I hate any, 'tis those Schismaticks that puzzle the sweet peace of our Church, so that I could be content to see an Anabaptist go to Hell on a Brownist's back ("Familiar

Letters," ed. Jacob, p. 337).

December 5. John Almond, condemned for having taken orders beyond the seas and for remaining in the kingdom, drawn, hanged and quartered (Challoner's Memoirs, pt. ii., pp. 44-51).

1615. The murder of Sir Thomas Overbury is, with the possible exception of the supposed murder of Sir Edmund Berry Godfrey, a little more than sixty years later, the greatest of all English *causes célèbres*. The story involves many persons of high rank, including one in the highest, King James himself; its events are extremely complicated, and some details are of a nature requiring delicate handling in the telling. It has been told, after the fullest study of the facts, by Mr. Andrew Amos, in "The Great Oyer of Poisoning," 1846, a volume of over five hundred pages, of which indeed many are filled with digressions seriously interfering with the narrative. It is not possible to give here more than the barest outline of the case.

Sir Thomas Overbury has a place in English literature as a prose writer and poet whose works have not been wholly forgotten. He was also a courtier in the Court of James, compared with which that of Charles II. was almost pure. James's correct attitude towards "the Bishop of Rome" has, however, saved him from the severe criticisms passed on Charles, of more than doubtful orthodoxy. Some of the details in Harington's "Nugæ Antiquæ" might be held to suggest that Milton had in view the Court of James when he wrote of the rabble of Comus, who forgot everything but

"To roll with pleasure in a sensual sty."

Overbury, after leaving Oxford, made a tour on the

Continent, returning from his travels a finished gentleman. In 1601, on a visit to Scotland, he met Robert Carr, then a page in a noble family. Hence arose a close intimacy destined to be fatal to Overbury. On the accession of James to the English throne, Carr, James's "favourite," rose rapidly; he became Viscount Rochester. Carr and Overbury played into one another's hands: Carr procured a knighthood for Overbury, Overbury became the mentor of Carr, who had neither learning nor the graces of a Court. The fatal woman now comes on the scene. At the age of thirteen, Frances Howard, daughter of the Earl of Suffolk, was married to the Earl of Essex, a year older. Their friends agreed that it was yet too early for the pair to live together; the boy went on his travels, the girl to her mother. On his return, Essex found his wife acknowledged as the greatest beauty in the Court, the object of general adoration. Among her admirers was Carr, for whom she had conceived a passion which knew no bounds. Overbury had been instrumental in bringing together Carr and the lady; it was he who wrote the love-letters to which Carr owed the conquest of the countess's heart. The lady naturally hated her husband, whose return interfered with her way of life: it was only in obedience to the King's command that she consented to live with Essex. The lady and her lover formed the design of procuring a divorce from Essex, preparatory to their marriage. Overbury strongly objected; he spoke of the countess to Carr in terms which, repeated to the lady, fixed his doom. It was contrived that the King should offer to Overbury a foreign appointment. This Carr advised him to refuse, and then represented the refusal to James in such a light that on April 21st Overbury was thrown into the Tower. The lieutenant and the under-keeper

of the Tower were displaced in favour of officers on whom Carr and his mistress could rely, and the work of despatching Overbury began. Poisons were procured from Franklin, a physician, by Mrs. Turner, and sent in tarts and jellies to the Tower, where Weston, the under-keeper, took charge of them. Overbury was drenched with rosealgar, sublimate of mercury, arsenic, diamond powder. It was averred that he had swallowed poison enough to kill twenty men. He died on September 15, 1613.

The business of the divorce now went on without hindrance. To be rid of his wife, Essex was ready enough to allow a slur to be cast on his manhood; with the aid of the lawyers, the churchmen, a complaisant jury of matrons, and a young lady who, with muffled head, personated the countess for the occasion, the divorce was carried through. In view of the approaching marriage, Carr was created Earl of Somerset, and on December 26 the marriage took place. With magnificent effrontery, the lady was married “in her hair,” the mark of a virgin-bride.

But some time afterwards an apothecary’s boy, who had been got out of the way, and was now at Flushing, began to talk of what he knew; inquiry was made, and in the end the criminals were put upon their trial. On October 23, 1615, Richard Weston, the under-keeper of the Tower, was hanged at Tyburn. He was followed by Mrs. Turner, hanged on November 9th, at the same place; on the 20th Sir Gervase Elwes, the lieutenant of the Tower, was executed on Tower Hill, and on December 9th, James Franklin, the physician, was executed at St. Thomas a Waterings.

In the following year the countess was tried in Westminster hall, pleaded guilty, and was

condemned. The next day the earl was brought to trial by his peers in the same place, and also found guilty. Neither was executed; each received a pardon. They lived together afterwards in the same house, hating one another with a perfect hatred; the countess died of a loathsome disease.

There are mysteries in the case remaining mysteries after the most careful study of the facts. In spite of all attempts made to persuade Somerset to plead guilty, and throw himself on the King's mercy, he steadfastly refused. Mr. Amos inclines to believe him innocent of complicity in the murder. There are serious difficulties in the way of this theory, but it is certain that Somerset had the means of terrifying the King. Secret messages passed between the Tower and the palace, informing the king that the prisoner had threatened to refuse to go to the Court of his own will. Bacon consulted the judges as to what could be done to silence Somerset if he "should break forth into any speech of taxing the King." At the trial two servants were placed, one on either side of the prisoner, with a cloak on his arm. Their orders were that if Somerset "flew out" on the King, they should instantly throw the cloaks over his head, and carry him by force from the bar.

Was James an accomplice in the murder of Overbury? Mayerne, the King's physician, attended Overbury in the Tower and prescribed for him. Mayerne was not produced as a witness, nor were his prescriptions put in evidence.

Or is the mystery connected with the death of Prince Henry, James's son? The Prince was seized with sudden illness almost immediately after dining with his father. "In Mayerne's collection of cases for which he wrote prescriptions," says Mr. Amos,

"everything that relates to Prince Henry's last illness is torn out of the book."

We can but fall back on the certainty that Somerset had it in his power to make some revelation of which James was terribly afraid.[183]

1616. *July 1.* Thomas Maxfield, a missionary priest, drawn, hanged, and quartered at Tyburn. It is said that on the occasion of Maxfield's execution, the gallows was adorned with garlands and wreaths of flowers. Thirteen criminals were executed at the same time. The Sheriff called on the hangman to cut down Maxfield while still alive, as indeed the law required, but this was opposed by the people, and the victim was suffered to hang till dead (Challoner, pt. ii. pp. 62-3).

We now come to the reign of Charles I.

1626. The visit of the queen, Henrietta Maria, to Tyburn has been mentioned (p. 65).

1628. This Summer there was a great Army prepared for forraigne seruice, whereof the Duke of Buckingham was Generall, who went to Portsmouth, to set all things in readinesse for present dispatch: And vpon Saturday the 23. of August, as hee was going thorow his Hall, which was filled with Commaunders, and strangers, suddainly and vnexpectedly Iohn Felton a Lieutenant, stabd the Duke into the breast, with a knife, and slily withdrew himselfe, vndiscerned of any to doe the fact, the Duke stepping to lay hold on him, drew out the knife and began to stagger, the bloud gashing out at his mouth, at which dreadfull sight, certaine Commanders with their strength held him vp, the Duke being depriued of speech and life. And then all

the doores and passages being stopped, and many with their weapons drawne to kill the Murtherer, the offender himselfe seeing the vproare, boldly confessed, saying, I am the man that did it, and being examined by the Lords, was committed. The King at that time was but sixe miles from Portsmouth: The Corpes was brought to London, on Saturday the 30. of August, the Nobility, Friends, and Officers brought the Corpes by night with Torches lighted to Wallingford house neere Charing-Crosse: the Murtherer was brought to the Tower the 5. of September.

Thursday the 27. of Nouember, the aforenamed Iohn Felton, was brought from the Tower, and Arraigned at the Kings Bench, where he very penitently confessed the fact, saying, I haue slaine a most Noble loyall Subiect, and wish that this my right hand might be here cut off, as a true testimony of my hearty sorrow, and had his Judgement to be hanged: from thence he was sent to the Gate-house, where he remained till Saturday, and then sent to Tibourne, and there executed, where hee humbly and heartily repented his offence, and asked forgiuenesse of God, the King, and the Dutchesse, and of all the Land, saying, he had slaine a most Noble loyall Subiect, and desired all men do pray for him. The next day being Sunday, his Body was sent by Coach towards Portsmouth, and was there hanged in Chaines (Stow, ed. 1631, p. 1044).

A paper was found in Felton's hat, containing the following:—

"Let no man commend for doing it, but rather discommend themselves; for if God had not taken away their hearts for their sins he had not gone so long unpunished.

"That man in my opinion is cowardly and base, and deserveth neither the name of a gentleman nor a soldier, that is unwilling to sacrifice his life for the honour of God and the good of his King and country. —JOHN FELTON." ("Autobiography of Sir Simonds D'Ewes," i. 385.)

Only one or two priests were executed in England during the first fifteen years of Charles's reign.

Between 1641 and 1651 the following priests were drawn, hanged, and quartered at Tyburn merely for being priests. No other charge was made against them, but this sufficed:—

1641. *July 26.* William Ward.

1642. *January 21.* Thomas Reynolds and Bartholomew Roe.

April 26. Edward Morgan.

October 12. Thomas Bullaker.

December 12. Thomas Holland.

1643. *April 17.* Henry Heath.

December 11. Arthur Bell.

1644. *September 7.* John Duckett and Ralph Corby.

1645. *February 1.* Henry Morse.

1646. *June 30.* Philip Powel.

1651. *May 19.* Peter Wright. Thirteen malefactors hanged at the same time.

These were victims of the Parliament. Charles had more than one contest with the Parliament on the subject of the execution of priests. In January, 1641, Thomas Goodman, a priest and Jesuit, had been condemned. The king reprieved him; the two Houses

remonstrated and urged that the law might be executed. Charles reminded Parliament of the inconvenience which might ensue to Protestant Englishmen and others abroad, but having said this he left the final decision to the Houses. Goodman petitioned the king: “He would esteem his blood well shed to cement the breach between your majesty and your subjects.” He was suffered to die in Newgate.

Much the same happened later in the year. Seven priests were condemned on December 8th. The French ambassador exerted himself in their behalf. Charles consulted the two Houses as to a reprieve, to be followed by banishment. He did in fact reprieve them. The Houses petitioned for execution. Charles replied that he desired to banish the priests, “but if you think the execution of these persons so very necessary to the great and pious work of reformation, we refer it wholly to you, declaring hereby that upon such your resolution signified to the ministers of justice, our warrant for their reprieve is determined, and the law to have its course.”[184] These also were suffered to linger out their lives in Newgate.

1654. To get a respite for a while from this massacre of priests, we may deal here with the last case that occurred for some years.

John Southworth was sent on the English mission in 1619. He escaped imprisonment till 1627, when he was tried at Lancaster, condemned, reprieved in 1630, and given over to the French ambassador for transportation beyond seas. If he was sent abroad, which seems uncertain, he was soon back, and after a long interval was again arrested, and once more released. He was finally apprehended in 1654. On his arraignment he pleaded that he was not guilty of

treason, but in spite of persuasion acknowledged that he was a priest. The court, with, it is said, great reluctance, passed the inevitable sentence. On June 28th five coiners were drawn, hanged, and quartered with Father Southworth.

Father Southworth was an old man of 72; nothing was alleged against him but that he was a priest, that he was "a dangerous seducer."

The guilt of this judicial murder rests wholly with Cromwell. The life of Southworth was in his hands; he was deaf to the suit of the French and Spanish ambassadors for Southworth's life (Challoner's Memoirs, pt. ii. pp. 196-200).

No more Catholics were executed in England till the Popish Plot broke out in 1678.

1649. With exquisite humour, none the less delightful because it was probably unconscious, the admirers of Cromwell have set up his statue near to the House of Commons, his back turned towards it. He might just have left the House with the key of the locked door in his pocket. Why is the statue there? It cannot be simply in recognition of the fact that Cromwell cut off the head of a king. To cut off a king's head may be a meritorious deed, or it may be an infamous deed, or neither the one nor the other in any notable degree. But, taken by itself, it does not seem to demand an expression of national gratitude. Yet what else could the statue have been intended to commemorate? What, besides, did Cromwell do? He set up in place of monarchy a Thing so detestable that in a few years the people were glad to have back a Stuart at any price: anything was better than the military despotism of Cromwell and his majors-general. Great soldier he was, great and pitiless. The proper place for Cromwell's statue was Drogheda.

Our hearts have burnt within us as we have read the story of ship-money levied by Charles I. without the authority of Parliament. But Cromwell also levied taxes illegally. When his old friend Cony refused to pay, and reminded Cromwell how he had often declared that the man who paid an illegal tax was worse than he who demanded it, Cromwell threw his old friend into prison. When Cony was brought into court on his habeas corpus, Cromwell threw into prison the three counsel who argued the case. Cony, deprived of the aid of counsel, pleaded his own cause. It was too clear to suffer greatly from want of skill in the pleading: the judge could not decide adversely to Cony, but was unwilling to give judgment against Cromwell. He deferred his decision. Cromwell removed him from the bench.

Enclosing went on as before; the country was desolated by civil war; the people fell into poverty deeper and deeper. The wicked laws, "taking away the life of men only for theft," continued in force to the bitter disappointment of those who had looked for better things: "You have sate now," wrote Samuel Chidley, addressing his Highness the Lord Protector and the Parliament, "you have sate now above these 40 days twice told, and passed some Acts for transporting Corn and Cattel out of the Land, and against Charls Stuart's, &c., but (as I humbly conceive) have left undone matters of greater concernment; amongst which, the not curbing this over-much justice in hanging men for stealing is one; the not suppressing the pressing of men to death for not answering against themselves is another."

Samuel Chidley, who, for greater emphasis, printed his arguments in red ink, gave instructions that a copy of his book "should be nailed upon

Tiburne Gallowes before the execution, with this motto written on the top:—

‘Cursed be that bloody hand
Which takes this downe without Command.’

… but the party could not naile it upon Tiburne Gallow-tree, for the crowd of people, and therefore was forced to naile it on the tree which is upon the bank by the Gallowes; and there it remained, and was read by many both before and after execution, and its thought will stand there still, till it drop away.”

A notable incident in the history of Tyburn!

Cromwell had enough to do to keep himself in his military saddle: he had no time to waste on an impatient idealist.[185] Samuel Chidley discovered, as others have since found, that the more things change the more they remain the same. Hanging for theft went on as briskly as ever. Indeed, by the irony of fate the Reign of the Saints furnishes us with an account of the greatest number recorded as being executed at one time at Tyburn. In the Thomasson collection of Tracts in the British Museum is one bearing the following title:—

“A true and perfect Relation of the Tryall, Condemning, and executing of the 24. Prisoners, who suffered for severall Robberies and Burglaries at Tyburn on Fryday last, which was the 29. of this instant June, 1649, expressing the penitent end of the said Prisoners, the grief of the many Thousands there, and the Speech of John Mercer (who was there executed) concerning Unity in this Kingdom, and the bringing home and setling of the King.”

The names of the criminals are given, twenty-three

men and one woman. The prisoners were tied in eight carts, the sexton of St. Sepulchre's made his official speech to the culprits, "which being ended the carts were drave unto Tiburne the Fatall place of execution, where William Lowen the new Hangman fastned eight of them unto each Triangle."

It would seem that there was nothing unusual, nothing to attract attention, in the number executed. In the bound volume there is, following the tract, "The Perfect Weekly Account … from Wednesday June 27, to Wednesday the 4 of July, 1649, Beginning Wednesday June 27." This little newspaper of eight pages does not so much as mention the execution.

1650. *October 2.* Captain Ashley was sentenced by the High Court of Justice to have his head cut off, and one Benson to be hanged, for conspiring against the Commonwealth in the tresonable Engagement of Colonel Andrews.

October 7. Mr. Benson was executed at Tyburn according to the sentence of the High Court of Justice; but in regard that Captain Ashley only subscribed the Engagement, but acted nothing in it, he was pardoned by the Parliament (Whitelocke).

1653. "The ambassador of Portugal had a very splendid equipage, and in his company his brother don Pantaleon Sa, a Knight of Malta, and a man eminent in many great actions, who out of curiosity accompanied his brother in this embassy, that he might see England. This gentleman was of a haughty and imperious nature, and one day being in the New Exchange, upon a sudden accident and mistake had a quarrel with … Mr. Gerard, … who had then returned some negligence and contempt to the *rodomontados* of the Portuguese, and had left him

sensible of receiving some affront. Whereupon he repaired thither again the next day [November 22], with many servants, better armed and provided for any encounter, imagining he should find his former adversary, who did not expect the visitation. But the Portuguese not distinguishing of persons, and finding many gentlemen walking there, and amongst the rest one he believed very like the other, he thought he was not to lose the occasion; he entered into a new quarrel, in which a gentleman, utterly unacquainted with what had formerly passed, and walking there accidentally was killed, and others hurt; upon which the people rising from all the neighbouring places, don Pantaleon thought fit to make his retreat to his brother's house; which he did, and caused the gates to be locked, and put all the servants in arms to defend the house against the people which had pursued him, and flocked now together from all parts to apprehend those who had caused the disorder and had killed a gentleman.… Cromwell was quickly advertised of the insolence, and sent an officer with soldiers to demand and seize upon all who had been engaged in the action. And so the ambassador came to be informed of the truth of the story, with which he was exceedingly afflicted and astonished."

The ambassador pleaded the privilege accorded to ambassadors, but the officer was resolute; finally after an appeal to Cromwell, don Pantaleon and the rest were given up and sent to Newgate.

"The ambassador used all the instances he could for his brother, being willing to leave the rest to the mercy of the law, but could receive no other answer but that justice must be done. And justice was done to the full, for they were all brought to their trial at the sessions at Newgate, and there so many of them

condemned to be hanged as were found guilty. And the rest of those who were condemned were executed at Tyburn; and don Pantaleon himself was brought to the scaffold on Tower Hill."[186]

Strangely enough Gerard, with whom the quarrel began, was executed (for high treason against the Protector) on the same day and on the same scaffold.

1658. On June 8, Slingsby and Hewet were executed on Tower Hill: Colonel Ashton, Mr. Stacy, and Mr. Bestely were drawn, hanged, and quartered in the streets of the City, and on July 6 several of "the new conspirators" were executed in London and at Tyburn.

These were Cromwell's last executions. He died on September 3, 1658.

1660. A terrible vengeance followed. Between October 13 and 17 eight of the Regicides were executed "at the Round or railed Place neer Charing Crosse." "And now the stench of their burnt bowels had so putrified the air, as the inhabitants thereabout petitioned His Majesty there might be no more executed in that place: therefore on Friday [*October 19*], Francis Hacker, without remorse, and Daniell Axtell, who dissolved himself into tears and prayers for the King and his own soul, were executed at Tyburn, where Hacker was only hanged, and his brother Rowland Hacker had his body entire, which he begged, and Axtell was quartered."[187]

To finish with the story of the regicides:—

Colonel Okey, Colonel Barkstead, and Miles Corbet were basely betrayed by Downing, who had been chaplain in Okey's regiment; the States General, in violation of their fundamental maxim to receive and protect those who took refuge in their territory,

basely surrendered them. They were executed at Tyburn on April 16, 1662.

A miserable vengeance was wreaked on the dead—on the "carcases" of Cromwell, Ireton, and Bradshaw.

1660. *December 4.* A resolution was passed in the House of Commons; the Lords made an addition, and finally the Resolution stood thus:—

December 8. Resolved, by the Lords and Commons assembled in Parliament, That the carcases of Oliver Cromwell, Henry Ireton, John Bradshaw, Thomas Pride, whether buried in Westminster Abbey or elsewhere, be, with all expedition, taken up and drawn upon a hurdle to Tyburn, and there hanged up in their coffins for some time: and after that buried under the said gallows: and that James Norfolke Esquire, Serjeant at Arms attending the House of Commons, do take care, that this order be put in effectual execution by the common executioner for the County of Middlesex, and all such others to whom it shall respectively appertain: who are required in their several places to conform to and observe this order, with effect; And the Sheriff of Middlesex is to give his assistance herein, as there shall be occasion: And the Dean of Westminster is desired to give directions to his officers of the Abbey to be assistant in the execution of this order.[188]

A new gallows had been erected for the purpose. Let Evelyn tell us of the use to which it was put on January 30, 1661:—

1661. *January 30.* This day (O the stupendous and inscrutable judgments of God!) were the carcases of those arch-rebels, Cromwell, Bradshawe (the judge who condemned his Majesty) and Ireton (son-in-law to the Usurper) dragged out of their superb tombs in

Westminster among the Kings, to Tyburn, and hanged on the gallows there from nine in the morning till six at night, and then buried under that fatal and ignominious monument in a deep pit: thousands of people who had seen them in all their pride being spectators.[189]

Here is another account, showing the feelings of a partisan:—

"The odious carcasses of O. Cromwell, H. Ireton, and J. Bradshaw drawn upon sledges to Tyburn, and being pull'd out of their Coffins, there hang'd at the severall Angles of that Triple-tree till Sun-set. Then taken down, beheaded, and their loathesome Truncks thrown into a deep hole under the Gallowes. Their heads were afterwards set upon Poles on the top of Westminster Hall."[190] Here Pepys saw them.

Neal says that the bodies were drawn upon hurdles, but the two words were at this time used indifferently for the same thing.

There were various legends on the subject. One was that Cromwell was not buried in Westminster Abbey, but on Naseby field. Another, that his friends contrived that the body of Charles I. was substituted for that of Cromwell, and was hanged on the gibbet. It was said that persons present observed a seam on the neck—the head having been joined to the body after decollation.[191]

Many bodies, including those of Cromwell's mother and daughter, Admiral Blake and John Pym, were taken from the Abbey, and buried in a pit in St. Margaret's churchyard.[192]

1660. On June 9 the House of Commons resumed debate on the Act of general Pardon, Indemnity, and

Oblivion, and a list was produced of some who, though they did not sit at the trial of Charles I., on January 27, 1648, did sit on some of the preceding days. The subject was considered on subsequent occasions, and finally an Act was passed, 13 Charles II., c. 15 (1661), enacting that Lord Monson, Sir Henry Mildmay, and Robert Wallop (and others who had fled) should on January 27, 1662, be "carried to the Tower of London and from thence drawne upon Sledges with Ropes about theire necks, and according to the manner of persons executed for High Treason quite through the streets of London unto the Gallows att Tiburn," and then carried back in like manner to the Tower or such other prison as the king may think fit, and remain prisoners during their lives.

Accordingly on January 27, 1662:—"This morning, going to take water, upon Tower-hill we met with three sleddes standing there to carry my Lord Monson and Sir H. Mildmay and another to the gallows and back again, with ropes about their necks: which is to be repeated every year, this being the day of their sentencing the king."[193]

The Act, however, contains nothing as to the repetition of the ceremony.

1661. This year witnessed the outbreak of the Fifth Monarchy men. John James, a small-coal man, was executed at Tyburn. "The sheriff and hangman were so civil to him in his execution, as to suffer him to be dead before he was cut down, beheaded, bowelled, and quartered. His quarters were set on the gates of the City, his head was first fixed on London bridge, but afterwards upon a pole, near Bulstake Alley, Whitechapel, in which was James's meeting-house."[194]

1662. *December 22.* Thomas Tonge, George Phillips, Francis Stubbs and Nathaniel Gibbs, convicted of taking part in a plot to seize the Tower and Whitehall, to kill the King and declare a Commonwealth. They were drawn to Tyburn on two hurdles, hanged, beheaded and quartered; their heads were set up on poles on Tower Hill.[195]

1668. *May 9.* This day Thomas Limerick, Edward Cotton, Peter Messenger, and Richard Beasley, four of the persons formerly apprehended in the Tumult during the Easter Holydays, having upon their Trial at Hicks-Hall been found guilty and since sentenced as Traytors, were accordingly Drawn, Hang'd, and Quartered at Tyburn, where they showed many signs of their penitence, their quarters permitted Burial, only two of their Heads ordered to be fixt upon London-Bridge.[196]

1670. In February of this year ended the brilliant career of Claude Duval, the famous highwayman. There had been highwaymen before Duval, as he was succeeded by others. But the great merit of Duval is that he gave a tone and dignity to the profession which it never wholly lost. Before giving any account of this prince of highwaymen it may be permitted to say something on this branch of the profession of the art of thieving.

The century from 1650 to 1750 may be considered the era of the highwayman. When civil war rages bands of marauders will spring up, whose operations present a resemblance to the methods of a soldiery not kept well in hand. Thus during the Commonwealth James Hinde was the captain of a band of twenty or more whose operations were coloured by a pretence of acting for the king. On November 11, 1651, Hinde was examined by the

Council of State, and "confessed his serving of the king in England, Scotland and Ireland." Highwayman as he was, his pretensions as a servant of the king must have been admitted, as he was condemned at the Old Bailey, sent to Worcester, and drawn, hanged, and quartered, for high treason against the State. Accounts of his exploits were printed even a century after his death. The catalogue of the British Museum contains more than twenty entries relating to this worthy.

The prevalence of highway robbery is shown by the great number of Proclamations issued during the reigns of Charles II. and his immediate successors. Thus royal Proclamations offering rewards for the apprehension of highwaymen were issued on December 23 and 30, 1668. These were followed by others in 1677, 1679-80, 1681, 1682-3. In this last eleven notorious robbers are specially named. In 1684 and 1684-5, two more Proclamations were issued, followed in 1687 by an Order in Council of the same tenor. In 1690 came a new Proclamation. These Proclamations were not wholly successful in breaking up gangs, for in December, 1691, the Worcester waggon was plundered by sixteen highwaymen of £2,500 of the King's money.

Still worse, in 1692 seven highwaymen robbed the Manchester carrier of £15,000 of royal treasure. A Proclamation was now issued raising the reward for capture. In the earliest Proclamations this had been fixed at £10, afterwards raised to £20. The reward now offered was £40. In the same year, 1692, was passed the Act 4 William and Mary, c. 8, taking effect after March 25, 1693. The reward of £40 was to be paid by the sheriff, or if he was not in funds, by the Treasury. Under date April 8, 1693, Luttrell

writes, “Some moneys have been issued out of the Exchequer pursuant to the late Act for taking highwaymen.”

To return to Duval. He was born in Normandy, and came over to England as page to the Duke of Richmond. His best-known exploit is told at length in memoirs, ascribed to William Pope (reprinted in “Harleian Miscellany,” iii. 308-16):—

This is the place where I should set down several of his exploits; but I omit them, both as being well known, and because I cannot find in them more ingenuity than was practised before by Hind and Hannum, and several other mere English thieves.

Yet, to do him right, one story there is that savours of gallantry, and I should not be an honest historian if I should conceal it. He with his squadron overtakes a coach, which they had set over night, having intelligence of a booty of four-hundred pounds in it. In the coach was a knight, his lady, and only one serving-maid, who, perceiving five horsemen making up to them, presently imagined they were beset; and they were confirmed in this apprehension by seeing them whisper to one another, and ride backwards and forwards: the lady to show she was not afraid, takes a flageolet out of her pocket and plays. Du Vall takes the hint, plays also, and excellently well, upon a flageolet of his own; and in this posture, he rides up to the coach-side. “Sir” (says he, to the person in the coach), “your lady plays excellently, and I doubt not but that she dances as well; will you please to walk out of the coach, and let me have the honour to dance one currant with her upon the heath.” “Sir” (said the person in the coach), “I dare not deny anything to one of your quality and good mind; you seem a gentleman, and your request is very

reasonable." Which said, the lacquey opens the boot; out comes the knight, Du Vall leaps lightly off his horse, and hands the lady out of the coach. They danced, and here it was that Du Vall performed marvels; the best master in London, except those that are French, not being able to show such footing as he did in his great riding French boots. The dancing being over, he waits on the lady to her coach; as the knight was going in says Du Vall to him, "Sir, you have forgot to pay the musick." "No, I have not" (replies the knight;) and, putting his hand under the seat of the coach, pulls out an hundred pounds in a bag, and delivers it to him; which Du Vall took with a very good grace, and courteously answered, "Sir, you are liberal, and shall have no cause to repent your being so; this liberality of yours shall excuse you the other three-hundred pounds": and giving him the word, that if he met with any more of the crew, he might pass undisturbed, he civilly takes his leave of him.

Here is the account of the lying in state after the execution:—

After he had hanged a convenient time, he was cut down, and, by persons well dressed, carried into a mourning-coach, and so conveyed to the Tangier-tavern in St. Giles's, where he lay in state all that night, the room hung with black cloth, the hearse covered with escutcheons, eight wax-tapers burning, and as many tall gentlemen with long black cloakes attending; mum was the word, great silence expected from all that visited, for fear of disturbing this sleeping lion. And this ceremony had lasted much longer, had not one of the judges (whose name I must not mention here, lest he should incur the displeasure of the ladies) sent to disturb this

pageantry.

The “Memoirs” are not to be taken too seriously. They are satirical, as is sufficiently shown by the title —“Intended as a severe Reflexion on the too great Fondness of English Ladies towards French Footmen: which, at that Time of Day was a too common Complaint.”

According to the “Memoirs” Duval’s tomb bore the family arms curiously engraved and under them this epitaph:—

Here lies Duval: reader, if male thou art,
Look to thy purse: if female, to thy heart.
Much havoc hath he made of both: for all
Men he made stand, and women he made fall.
The Second Conqueror of the Norman race,
Knights to his arms did yield, and ladies to his face.
Old Tyburn's glory, England's bravest thief:
Duval, the ladies' joy: Duval, the ladies' grief.

It must be admitted that the accounts of St. Paul's, Covent Garden, do not mention this monument.

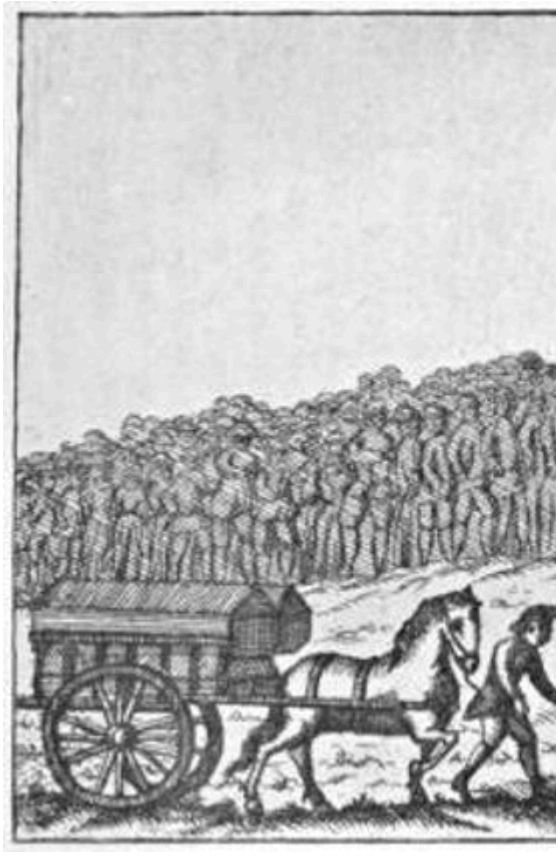
It is probable that Duval did really introduce gentler methods into the practice of robbery. The author of "Hudibras" in a "Pindaric Ode" claims this merit and one other for Duval:—

Taught the wild Arabs on the road
To act in a more gentle mode:
Take prizes more obligingly than those
Who never had been bred filous
And how to hang in a more graceful fashion
Than e'er was known before to the dull English nation.

The third chapter of Macaulay's History gives an excellent account of highwaymen in the reign of Charles II.

1677. Thomas Sadler is said to have been in prison fifteen times before he planned his last and greatest exploit. With the aid of two accomplices, he stole from Great Queen Street, the Lord Chancellor's mace and purse (the official purse, one of the emblems of the office). Sadler was so delighted with his success, that in crossing Lincoln's Inn Fields he made one of

the confederates precede him with the mace on his shoulder, while he himself strutted behind him, followed by the purse-bearer. They bore their plunder to a house in the City, where it was locked up in a cupboard. Curiosity led a maid to look through a chink in the door, when to her wonderment she saw what she took to be the King's crown. This led to the discovery of the robbery. On his trial Sadler behaved with superb frankness. "'My lord,' he said, addressing the court, 'I own the fact, and it was I and this man' (pointing to one that stood by him at the bar) 'that robbed my Lord Chancellor: and the three others are clear of the fact, though I cannot say but they were confederates with us in the concealment of the prize after it was taken. This I declare' (said he) 'to the honourable bench, that I may be clear of the blood of these other three persons.'"… "However, the court went on in a legal way, and another witness began to demonstrate in what manner he was taken: to whom the prisoner answered in this manner: 'Prithee, fellow, do not make such a long narration of my being taken; thou seest I am here, and I own that I and this man, as aforesaid, are guilty of the fact.'"



THE

It seems that one of the confederates was reprieved. Sadler, and Johnson, one of his companions, were among the five men executed at Tyburn on March 16, 1677 (“A Perfect Narrative,” &c., 1676-7, reprinted in Harleian Mis., v. 505-6).

1678. We now come to one of the blackest pages, not only in the history of England, but in the history of civilised communities.

Eighteen years of misgovernment had brought the

people to a point at which an outbreak of some kind became inevitable. Dunkirk had been ceded to the French: the sound of Dutch guns had been heard in the Thames. The Court was known to be under French influence. “There were two things,” says Bishop Parker, “which, like Circe’s cups, bewitched men and turned them into brutes, viz., popery and French interest, and, if either of these happened to be whispered in the House of Commons, they quitted their calm and moderate proceedings, and ran immediately into clamour and high debates.” Politicians had for years played on the fears of the people. France was to send a great army to reduce the country to popery and slavery. “They kept the people in constant fear: and there was scarce greater uproar when Hannibal was at the gates of Rome.” Charles had no successor in direct line; on his decease the crown would fall to his brother, the Duke of York, known to be a catholic. This was the position “when the Popish Plot broke out, a transaction which had its roots in hell, and its branches in the clouds.”

Two men saw a private advantage in this state of things. It is impossible to say anything of the infamy of Titus Oates which would not fall short of the reality; his associate in the invention of the Popish Plot, Tonge, was a fanatic, who could forge on occasion.

“God Almighty,” he said, “will do His own work by His own methods and ways.” Between them the two produced a story of murder and massacre, which they contrived to lay before the King. It was so manifestly absurd that it would have failed of its effect but that Sir Edmund Berry Godfrey, a magistrate, who had taken the depositions of these

men, suddenly disappeared. His body was found a few days later at the foot of Primrose Hill, transfixed by Godfrey's own sword. There is little doubt that, but for family interests, the case would have been recognised as one of suicide. But the discovery came in the very nick of time to save the authors of the Popish Plot. It was set about that Godfrey had been murdered by the papists in Somerset House, the palace of the Catholic queen. The politicians, Lord Shaftesbury at their head, were not slow to see the advantage to be gained by playing upon the credulity of the people.

The word went round that the plot must be handled as if it were true, whether it were so or not. It soon became dangerous to express doubt. To do this was to incur the certain danger of being reckoned a papist, a concealed papist, one inclined to popery; and the prison or the gallows was the fate of the doubter. The courts sat merely to condemn men denounced by Oates and his gang. Three men were hanged at Tyburn as guilty of the murder of Godfrey. Even those who to-day contend that Godfrey was murdered admit that these men were innocent. Theories have been constructed based on the evidence of infamous informers who contradicted one another on every point, and when this fails, the writer's imagination is employed to patch up the story.

On November 26, 1678, William Stayley was drawn to Tyburn and there hanged and quartered. He had been convicted, on the evidence of two infamous informers, of a design to assassinate Charles. But this case, a judicial murder, does not properly belong to the Popish Plot.

On account of the plot were executed sixteen

persons, three for the murder of Godfrey, thirteen for high treason. Except perhaps in the case of one, Coleman, it is now universally admitted that not one was guilty of the crime for which he suffered. Here is a list of the victims:—

1678. *December 3.* Edward Coleman, secretary to the Duchess of York.

1679. *January 24.* William Ireland and John Grove.

February 21. Robert Green and Lawrence Hill, for the murder of Sir Edmund Berry Godfrey.

February 28. Henry Berry, for the same.

May 9. Thomas Pickering, for high treason.

June 20. Thomas Whitebread, William Harcourt, John Fenwick, John Gavan, and Anthony Turner, known as "The Five Jesuits," all for high treason.

July 14. Richard Langhorn, for high treason.

1680. *December 29.* Viscount Stafford, for high treason.

1681. *July 1.* Dr. Oliver Plunket, the catholic primate of Ireland, for high treason.

Lord Stafford was executed on Tower Hill all the others at Tyburn. The sixteenth victim was Thomas Thwing, drawn, hanged, and quartered at York. In addition to these, eight priests were executed in 1679, under the penal laws, now revived, making it death for a priest to be in England. Many died in prison, thousands suffered imprisonment, banishment, loss of goods.[197]

Together with Dr. Plunket was executed Edward Fitz-Harris, but this case, like that of Stayley, does not properly belong to the Popish Plot.

The story would be incomplete without telling what befell the infamous creatures by whose means this innocent blood was shed. Shaftesbury, the politician who took up the Plot and directed the operations of the perjurers, died in exile. Bedloe, one of the chief witnesses, died in his bed, asserting with his last breath the truth of his perjured evidence.

On May 8 and 9, 1685, Oates was tried on two indictments for perjury. The evidence was full and complete. The sentence passed upon him was that he should pay a fine of a thousand marks on each indictment: that he should be stripped of his canonical habits: that he should be put in the pillory at Westminster and at the Royal Exchange: that he should be whipped from Aldgate to Newgate, and on the next day but one from Newgate to Tyburn. Further, that on April 24, as long as he lived, he should stand in the pillory at Tyburn: every ninth of August in the pillory at Westminster: on every tenth of August in the pillory at Charing Cross: on every eleventh of August in the pillory near the Temple Gate, and on every second of September, in the pillory at the Royal Exchange.

Of the sentence and its execution more presently.

Dangerfield was, next to Oates and Bedloe, the worst of the informers. He also was brought to trial. He was condemned to be put in the pillory and whipped. On July 4, 1685, he was being brought back from Tyburn, having been whipped on the road thither, when a Mr. Francis jeered at him, as he sat in the coach. Dangerfield replied by an insult, and Francis struck at him with a cane, the point of which entered Dangerfield's eye. Of the wound he died the next day. For this, Francis was tried, found guilty of murder, and executed at Tyburn, he being carried

thither in a coach.[198]

Miles Prance, a third informer, was also brought to trial. He had been dragged into the business of informing by Bedloe, and, in fear of his life, concocted a story of Godfrey's murder. He confessed his perjuries, and was, in consequence, let off with standing in the pillory, a fine and a whipping being remitted.

To return to Oates. In sentencing him the judge remarked upon the inadequacy of the punishment allotted by the law to a perjurer whose false testimony had shed innocent blood. Indeed, if the punishment of death was ever due to any man, it was due to Oates. The whipping was so severe that none but Oates could have survived it. That he did survive was hailed by his partisans as a miracle.

Luttrell records that in September, 1688, "Oates stood in the pillory over against the Royal Exchange, according to annual custom." This was his last appearance in the pillory prior to his re-establishment as Protestant champion by the following resolution of the House of Commons:—

1689. *June 11.* Resolved that the Prosecution of Titus Oates, upon Two Indictments for Perjury in the Court of King's Bench, was a design to stifle the Popish Plot: And that the Verdicts given thereupon were corrupt: And that the Judgments given thereupon were cruel and illegal.

A heated contest arose between Lords and Commons on the subject. The sentence was illegal, [199] and finally Oates received a pardon and was set at liberty. But it was not alone a passion for justice which animated those who insisted on the illegality of the sentence. Oates was by many regarded as one

who had rendered inestimable services to the cause of liberty and religion.

Paul may plant, Apollos may water: the labour of each supposes that of the other. Shaftesbury, Burnet, Oates—to which of the three are we to award the palm? It is certain that but for Oates there would have been no Popish Plot; it is arguable that but for the Popish Plot there would have been no Glorious Revolution.

Oates's services were rewarded with a considerable pension.

To recur to the executions on account of the Popish Plot. Most unfairly Charles has been blamed for these executions. Never once, says Fox, did he exercise his glorious prerogative of mercy. At the outset Charles was warned from the bench that the two Houses would interpose if he attempted to exercise this prerogative. Had he done this, it would probably have led to a general massacre of Catholics. Grave crimes are with justice laid to the charge of both Charles I. and Charles II., but against these crimes must be set the fact that each did what in him lay to prevent the shedding of innocent Catholic blood. We have seen how Charles I. resisted the importunities of the Commons, thirsting for the blood of priests against whom was no charge but that of being priests. Charles II. strove in vain against the mad fury of the times. Here is a revolting account, recently published, showing the influences brought to bear on Charles when he scrupled to order the execution of men whom he believed to be innocent, as we now know they were:—

Mr. Speaker told him frankly how universal an expectation was fixed upon the execution of Ireland, Grove, and Pickering, who are condemned. But His

Majesty did, on the other side, manifest wonderful reluctance thereunto—that he had no manner of satisfaction in the truth of the evidence, but rather of its falsehood.… Most of the Board did labour with His Majesty to show … the ill-grounded scruple His Majesty had taken, and that the evidence and trial were much fairer than His Majesty had been told, and that he could not be answerable for any wrong done or innocent blood shed, but it lay upon the witnesses and jury, if such a thing could be thought of in this case. None laboured herein more vigorously than the Lord Treasurer, Lord Chancellor, and the Lord Lauderdale, who, it seems, had in private done their uttermost before. At last it was ordered that when the Judges come on Friday, so many of them as sat upon that trial are to inform His Majesty how the proofs appeared. And the Bishops that are of the Board are then to be present, and to assist His Majesty as to the point of conscience in this matter.[200]

Ireland and Grove were executed on January 24, 1679. Pickering was respited. On April 27th the Commons voted an address praying for his execution. Finally in this case also Charles had to yield. Lord Russell was the bearer of Charles's answer that he would comply with the prayer. Pickering was executed on May 9th.

1680. *March 8.* Was executed at Tyburn twelve men and three women for several crimes (Luttrell, i. 38).

1683. In this year we have the executions for the Rye House Plot, the object of which was to capture Charles II. on his return from Newmarket.

July 20. Capt. Thomas Walcott, John Rouse, and William Hone, were drawn, about 9 in the morning,

upon sledges, the two last in one, and the 1st by himself, to Tyburn, and there hanged and quartered, according to the sentence past on them on the 14th at the Old Baily, for the late conspiracy.

July 21. The quarters of Walcot, Hone, and Rouse are buried, but their heads are sett on these places following: Hone on Aldersgate, Walcot on Algate, and Rouse on Guildhall (Luttrell, i. 270-1).

William lord Russell was executed in Lincoln's Inn Fields on July 21, 1683.

1684. Sir Thomas Armstrong was concerned in the Rye House Plot, but had fled to Holland and was outlawed. He was taken at Leyden by order of the States, brought to England, and committed to Newgate. Brought to the king's bench bar, he was refused trial, and sentence of death was passed upon him as an outlaw:—

The 20th June, Sir Thomas Armstrong was drawn upon a sledge, with a very numerous guard to Tyburn; where being come, Dr. Tenison prayed with him, who seemed very penitent: he prayed himself also very fervently; which done, he delivered a paper to the sheriffs, and submitted himself to the sentence: after he had hang'd about half an hour he was taken down, and quartered according to his sentence, and his quarters were brought back in the sledge to Newgate.… Sir Thomas Armstrong's quarters are disposed off: a fore-quarter is sett on Temple bar, his head on Westminster, another quarter is sent down to the town of Stafford, for which he was a Parliament man (Luttrell, i. 311-2).

The head was taken down after the Revolution.

We now enter on the short and troubled reign of James II.

1685. James Burton was outlawed for having taken part in the Rye House Plot (1683). Elizabeth Gaunt, a poor woman, gave him shelter and finally got him a passage to Holland. Burton returned, took part in Monmouth's rebellion in 1685, and after Monmouth's defeat again sought refuge in London. At the entreaty of his wife, Fernley, a barber, a neighbour of Mrs. Gaunt, gave him shelter. To save his own neck Burton gave information against his benefactors for protecting him. He was not ashamed to appear in court against them, and the Crown lawyers were not ashamed to produce his evidence. Fernley was hanged at Tyburn, Elizabeth Gaunt was burnt in the same place on October 23, 1685. In prison she wrote her Last Speech. She says, "I did but relieve an unworthy, poor, distressed family, & lo I must dye for it; well, I desire in the Lamb-like nature of the Gospell to forgive all that are concerned, & to say, Lord, lay it not to their charge; but I fear it will not; nay I believe, when he comes to make inquisition for blood, it will be found at the door of the furious Judge: … my blood will also be found at the door of the unrighteous Jury, who found me guilty upon the single oath of an out-lawd man."

"Pen, the quaker," says Burnet, "told me, he saw her die. She laid the straw about her for burning her speedily; and behaved herself in such a manner, that all the spectators melted in tears" (Burnet, "Hist. of his Own Time," i. 649).

"Since that terrible day," writes Macaulay, "no woman has suffered death in England for any political offence." This is true only if we except the cases in which women were burnt as guilty of

treason for coining. It was by a narrow chance that Mrs. Gaunt was the last. On January 19, 1693, Mrs. Merryweather was sentenced to be burnt for printing treasonable pamphlets, but, after being more than once reprieved, was pardoned on February 23rd (Luttrell).

1686. *May 20-2.* Sessions at Old Bailey, when 16 received sentence of death.

The 28th, five men of those lately condemned at the Sessions were executed at Tyburn; one of them was Pascha Rose, the new hangman, so that now Ketch is restored to his place (Luttrell, i. 378).

1686. On the night of April 12 two of his Majesty's mails from Holland were robbed, near Ilford, of £5,000 in gold, belonging to some Jews in London. Richard Alborough, Oliver Hawley, and John Condom were indicted for the robbery. Alborough pleading guilty was sentenced to death, & the same sentence was passed on the others after trial.

July the 2d, Oliver Hawley and John Condom were executed at Tyburn (Luttrell, i. 374-82.)

Here is a strange incident:—

At the Sessions at the Old Baily held on October 13-16 fourteen persons received sentence of death.

Edward Skelton, one of the criminalls that received sentence of death this last sessions at the Old Baily, has been beg'd of the King by 18 maids clothed in white, and since is married to one of them in the Presse yard (Luttrell, i. 387.)

1686. Samuel Johnson, rector of Corringham, is described as a "political divine." In 1682 he published a famous piece, "Julian the Apostate," Julian being for the nonce the Duke of York. Johnson

represented that popery was a modern form of paganism; he argued against unconditional obedience to the Crown. After the Rye House Plot proceedings were taken against him, and he was fined and imprisoned. On his release he wrote and distributed other tracts, one, published after the Duke of York came to the throne, was “An Humble and Hearty Address to all the English Protestants in this present Army.” In this he appealed to the soldiers not to be “unequally yoked with idolatrous and bloody Papists”:—On November 16, 1686, Samuel Johnson, clerk, convicted upon an information of writing and publishing two libells, was this day brought to the court of Kings bench, where he offered something in arrest of judgment, but the Court overruled it, and the chief justice told him he blasphemously wrested scripture; so the court pronounced judgment on him, to stand thrice in the pillory, pay a fine of 500 marks, and to be whipt from Newgate to Tyburn.…

The 20th, Samuel Johnson, clerk, was brought before the commissioners for the diocese of London, and other the clergy in the chapter house of St. Pauls, and there degraded and devested accordingly, and delivered over as a secular person (Luttrell, i. 388).

The execution of the sentence on Mr. Johnson is thus described: And immediately they proceeded to execute the said Sentence, and to degrade him by putting on his Head a square Cap, and then taking off again; then they pulled off his Gown, then his Girdle, which he demanded as his proper Goods, bought with his Money, which they promised to send; but they cost him Twenty Shillings to have them again. After all, they put a Bible into his Hand;

which he would not part with, but they took it from him by Force.… On the Monday after, viz. Two-and-twentieth of November, the judgment in the King's Bench were executed with great Rigour and Cruelty, the Whipping [from Newgate to Tyburn] being with a Whip of Nine Cords, Knotted, shewed to the Committee; and that Mr. Rouse the Under Sheriff tore off his Cassock upon the pillory and put a Frize Coat upon him ("Journals of the House of Commons," June 24, 1689, x. 194).

In 1689, after the accession of William III., Parliament annulled the judgment.

1690. The same day [September 12] 6 persons were executed at Tyburn; some of them behaved themselves very impudently, calling for sack, and drank king James's health, and affronted the ordinary at the gallows, and refused his assistance; and bid the people return to their obedience and send for king James back (Luttrell, ii. 103).

1690. In this year occurred a famous case of stealing an heiress. This was made a felony by 3 Henry VII. (1487), c. 3:—

Where Wymmen aswell Maydens as Wydowes and Wyfes havyng substaunce somme in goods moveable, and somme in landes and tenements, and summe beyng heires apparaunte unto their auncesters, for the lucre of suche substaunce been oft tymes taken by mysdoers contrarie to their Will, and after maried to such mysdoers or to other by their assent, or defoulled, to the great displesire of God and contrarie to the Kyngs lawes and dispargement of the seid Women and utter hevynesse and discomforte of their frendes and to the evyll example of all other.…

The Act goes on to make the offence a felony.

We will let Luttrell tell the story of the abduction and its result, day by day:—

November 7. One Mrs. Mary Wharton, a young heiresse of about £1500 per ann., and about 13 years of age, comeing home with her aunt, Mrs. Byerley, in their coach about 9 at night, and alighting out of it at her own aunt, was violently seized on and putt into a coach and 6 horses and carried away.

November 15. Mrs. Wharton, who was lately stole, is returned home to her friends, having been married against her consent to Captain Campbell [brother to Lord Argyle].... A proclamation hath been published by their majesties for the discovering and apprehending captain James Campbell, Archibald Montgomery, and sir John Jonston, for stealing away Mrs. Wharton. [The proclamation included "divers others."]

November 25. Sir John Jonston, concerned in the stealing of Mrs. Wharton, is taken and committed to Newgate.

December 10. The sessions began at the Old Baily, and held the 11th, 12th, 13th, and 17th dayes of this month, where 22 persons received sentence of death (and among them sir John Jonston, for stealing Mrs. Wharton), 9 were burnt in the hand, 1 ordered to be transported, and 6 sentenced to be whipt.

December 18. Intercession has been made to his majestie on the behalf of sir John Jonston, lately condemned, for his pardon; which he hath denied unlesse it be desired by the friends of Mrs. Wharton.

December 23. Sir John Jonston, condemned for stealing Mrs. Wharton, went up in a mourning coach to Tyburn, and was executed for the same; and his

body was delivered to his friends, in order to it's being buried (Luttrell, ii. 128-48).

Here is a further notice of Mistress Wharton. Let us hope she was happily married:—

1692. *March 19.* On Thursday last colonell Byerley was married to Mrs. Wharton, stole formerly by Campdell (Luttrell, ii. 394).

1690. *December 22.* Thirteen persons were executed at Tyburn for several crimes; also a woman at Newgate for setting the prison on fire; and also a notorious highway man, commonly called the Golden Farmer [this was William Davis, known by this title], was executed in Fleetstreet, at the end of Salisbury court, and is after to be hang'd in chains upon Bagshott heath (Luttrell, ii. 148).

1692. *September 22.* Information is given of near 300 coyners and clippers dispersed in divers parts of this citty, on which warrants are out against severall; one from the lords of the treasury, another by the cheife justice, and a 3d by the masters of the mint (ii. 571).

1692. Towards the end of the year Luttrell has several entries in his diary relating to a celebrated highwayman, "captain" James Whitney:—

December. Witney, the notorious highway man, offers to bring in 80 stout men of his gang to the kings service, if he may have his pardon (ii. 630).

December 6. This morning his majestie sent a party of horse to look after Whitney, the great highwayman, on some notice he was lurking between Barnet and St. Albans: they mett with him at the first of the said towns, who finding himselfe attackt, made his defence and killed one of them,

and wounded some others: but at last was taken and brought to London. His majestie was very glad he was taken, being a great ringleader of that crew (ii. 633).

This must have been a mistake, as shown by the following entries:—

December 20. The lords C. and B. were on Satturday last to meet Whitney, a great highwayman, on honour; he offers to bring in 30 horse, with as many stout men, to serve the king, provided he may have his pardon, and will give a summe of money besides: but the issue thereof not known (ii. 644).

1693. *Tuesday, 3d January.* On Satturday last Whitney, the famous highwayman, was taken without Bishopsgate; he was discovered by one Hill as he walkt the street, who observed where he housed, then, calling some assistance, he went to the door; but Whitney defended himselfe for an hour, but the people encreasing, and the officers of Newgate being sent for, he surrendered himselfe, but had before stabb'd the said Hill with a bagonet, but not mortall: he was cuff'd and shackled with irons and committed to Newgate; and on Sunday 2 more of his gang were also seized and committed; one kept a livery stable in Moor feilds (iii. 1).

January 7. Strongly reported yesterday that Whitney had made his escape out of Newgate, but he continues closely confined there, and has 40 pound weight of iron on his leggs; he had his taylor make him a rich embroidered suit, with perug and hatt, worth £100; but the keeper refused to let him wear them, because they would disguise him from being known (iii. 5).

On the 8th five of Whitney's gang apprehended but

2 of them escaped.

1693. At the Old Baily sessions "8 highwaymen received sentence of death, Whitney, Grasse, Fetherstone, Nedland, Poor, Holland and 2 more" (iii. 16).

January 28. Yesterday 9 persons were carried to Tyburn, where 8 were executed, 7 hyghwaymen, and one for clipping; Whitney was brought back, having a repreive for 10 dayes, and was brought back to Newgate with a rope about his neck, a vast crowd of people following him.

Last night Whitney was carried in a sedan to Whitehall and examined; 'tis said he discovers who hired the persons to rob the mailes so often.

Whitney, 'tis said, has been examined upon a design to kill the King.…

Whitney, 'tis said, will be executed next week; others say his repreive is grounded on the discovery of his accomplices, with their houses of reception, and way of living (iii. 24).

1693. *February 2.* Yesterday being the 1st instant, capt. James Whitney, highwayman, was executed at Porter's block, near Cow crosse in Smithfeild; he seemed to dye very penitent; was an hour and halfe in the cart before turn'd off (iii. 27).

Luttrell mentions that in January there were near 20 highwaymen in Newgate (iii. 10).

1693. *April 27.* A person was this day convicted at sessions house for sacriledge, rape, burglary, murder, and robbing on the highway; all committed in 12 hours time (Luttrell, iii. 85).

October 24. Yesterday, 14 malefactors were

executed at Tyburn; 6 of them clippers (Luttrell, iii. 212).

1694. *July 19.* Yesterday 11 men and 3 women were executed at Tyburn; amongst them was Wilkinson the goldsmith, with several others for clipping; one Paynes, convicted for murder, who by the confession of one of his accomplices has killed 5 or 6 persons in a short time; he kickt the ordinary out of the cart at Tyburn, and pulled off his shoes, sayeing, hee'd contradict the old proverb, and not dye in them (Luttrell, iii. 345).

1694. On Wensday the 12th instant 18 persons were executed at Tyburn; 7 men, and 1 woman burnt for clipping and coyning [this does not mean that the men were burnt, but the woman only], 8 highway men, and 2 for burglary (Luttrell, iii. 413).

1695. *January 10.* Several persons have malitiously spread abroad that Tyburn was hung in mourning, but upon examination it proves a mistake (Luttrell, iii. 424).

The Queen had died on December 28.

1695. At the Old Bailey Sessions:—

July 6. Mr. Moor, the rich tripeman of Westminster, was found guilty of clipping and coyning; and some others will be tried for the like offence (Luttrell, iii. 495).

July 13. Yesterday four men were executed at Tyburn, three of them for clipping, one of which was John Moore, the tripeman, said to have gott a good estate by clipping, and to have offered 6000 l. for his pardon (Luttrell, iii. 497).

July 16. Moor the tripeman being hang'd for clipping, the duke of Somerset has seized upon his

house, worth 1000 l., being within his mannor of Isleworth.

This day a rich chandler of Lambeth and a housekeeper in Long Acre were seized for clipping (Luttrell, iii. 499).

1695. About this time Luttrell tells of the arrests of "nests" of coiners, among them an attorney in the Temple, and a merchant in Birchin Lane; at one time 105 coiners and clippers lay in Newgate awaiting trial. The condition of the coinage became a great question of State so pressing that after six Proclamations on the subject an Act 7 and 8 William III c. 1 (1695-6) was passed "An Act for remedying the Ill State of the Coin of the Kingdome." The Act recites that "the Silver Coins of this Realm (as to a great part thereof) doe appeare to bee exceedingly diminished by such persons who (notwithstanding several good laws formerly provided and many examples of justice thereupon) have practised the wicked and pernicious crime of Clipping until att length the course of the Moneys within this Kingdom is become difficult and very much perplext, to the unspeakable wrong and prejudice of His Majestie and His good Subjects in their Affairs as well Publick as particular and noe sufficient Remedy can bee applied to the manifold Evils ariseing from the clipping of the Moneys without recoining the clipt pieces."

Then follow very lengthy provisions for dealing with coins of "Sterling Silver or Silver of a courser Allay then the Standard" from which we may infer that the Government had played its part in the debasing of the coinage.

This was followed, in the same year, by an Act, c. 19 "to incourage the bringing Plate into the Mint to be coined and for the further remedying the ill State

of the Coine of the Kingdome." The next year saw another Act 8 and 9 William III. c. 2, "for the further remedying the ill State of the Coin of the Kingdome," an Act, c. 8, for "Incouraging the bringing in wrought Plate to be coined"; c. 26, "for the better preventing the counterfeiting the current Coine of the Kingdome." Other Acts of the same kind were 9 William III. c. 2; c. 21; these are in addition to numerous Proclamations. Nothing can better show the state of the coinage than the record of petitions of seamen and shipwrights in the King's yards who had been paid in clipped and counterfeit half-crowns.

In February, 1696, came to a head "the Assassination Plot," the most dangerous of all the Plots formed against William III. The King was, according to custom, to go to hunt in Richmond Park on February 15. Advantage was to be taken of this to assassinate him. For some reason he did not go, and the execution of the scheme was deferred. But meanwhile one of the conspirators gave information to the Government. Numerous arrests were made, followed by trials and executions. On March 18 Robert Charnock, Edward King, and Thomas Keys were executed at Tyburn. They were followed on April 3 by Sir John Friend and Sir William Perkins. The populace of London flocked to Tyburn in numbers exceeding all precedent to witness the execution of Friend, found guilty by the Court of high treason, and by the people of a crime that touched them more nearly—the brewing of execrable beer. Three non-juring divines attended the condemned men to the scaffold, Jeremy Collier, and two of less note, Shadrach Cook and William Snatt, who absolved the criminals "in a manner more than ordinarily practised in the Church of England." For this Cook and Snatt were committed to Newgate.

Macaulay says that they were not brought to trial. It appears, however, that they were actually indicted, and found guilty of high crimes and misdemeanours (Luttrell, iv. 80) and imprisoned for a short time. Collier kept out of the way, and was in consequence outlawed, remaining under the sentence to the end of his days. Numerous tracts were written on the subject.

On April 29 Brigadier Rookwood, Charles Cranburne, and Major Lowick were executed at Tyburn, they also having been condemned for the Plot.

This completes the story of the executions at Tyburn for the Assassination Plot, but it is impossible to refrain from mentioning a case dismissed by Macaulay in a sentence referring to "Major John Bernardi, an adventurer of Genoese extraction, whose name has derived a melancholy celebrity from a punishment so strangely prolonged that it at length shocked a generation which could not remember his crime." It is hardly fair to call Bernardi an adventurer. Apart from this, the reader would certainly not gather from Macaulay's remark that no crime was ever proved against Bernardi. In writing of a shocked generation the historian probably referred to some very mild remarks of Dr. Johnson, in his "Life of Pope." Pope wrote an epitaph on Secretary Trumball, who, from his official position, took a leading part in persuading Parliament to consent to the imprisonment of Bernardi. The concluding lines of Pope's epitaph are:—

Such this man was, who, now from earth
remov'd
At length enjoys the liberty he lov'd.

On this Johnson wrote: “The thought in the last line is impertinent, having no connection with the foregoing character, nor with the condition of the man described. Had the epitaph been written on the poor conspirator who lately died in prison, after a confinement of more than forty years, without any crime proved against him, the sentiment had been just and pathetical; but why should Trumball be congratulated upon his liberty, who had never known restraint?”

Major Bernardi was arrested on suspicion of being concerned in the Assassination Plot; he was in the company of Rookwood when the latter, afterwards condemned and executed, was arrested. Against Bernardi there was but one witness, an informer. Even taking this informer’s testimony without abatement the case against Bernardi did not reach higher than suspicion. But the resources of civilisation were equal to the occasion. A clause in an Act, 8 & 9 William III. (1696-7) c. 5, gave power to keep in Newgate Bernardi and five others named, till January 1, 1697-8. An Act, 9 William III. (1697-8) c. 4. gave power to prolong the imprisonment for a second year. A third Act, 10 William III. (1698) c. 19, enacted that the same six persons should be kept in custody during his Majesty’s pleasure.

The rest of the story would be incredible if it were not supported by Acts of Parliament. The Act last mentioned necessarily expired on William’s death, but on the accession of Anne another Act was passed, 1 Anne (1701) st. 1, c. 29. for continuing the imprisonment of these men during the Queen’s pleasure. Anne, however, released one. This Act lapsed on the Queen’s death. On the accession of George I. a similar Act was passed, 1 George I.

(1714) st. 2, c. 7. During this reign two of the prisoners died in Newgate. Once more the death of the sovereign put the prisoners in a position to move to be brought to trial or admitted to bail. But an Act of the same tenor as the preceding Acts was passed, 1 Geo. II. (1727) st. 1, c. 4, once more continuing the imprisonment during the sovereign's pleasure. In vain was the king petitioned; in vain did Bernardi's doctors depose to his lamentable state, "his miserable lameness, and swelling in his arms, by humours flowing to an old wound"; in vain did his wife pray for her husband's liberation. Finally, in 1736, after an imprisonment of 40 years, Bernardi, then in his eighty-second year, was set free, not by the clemency of the King, but as he had himself foreseen, "by the great and merciful God himself above, the King of Kings and only Ruler of Princes."[201] Thus ended the imprisonment of this sick and aged man, the longest imprisonment recorded in the law-books, an imprisonment awarded and continued through several reigns on mere suspicion of one never brought to trial. The case is instructive, as showing how with strict observance of constitutional forms, it is possible to emulate the dark deeds of uncontrolled despotism.

Magna Carta, the magnificent conception of a great English ecclesiastic of the thirteenth century, would perhaps be found even to-day, if a time of stress came upon us, to be still a counsel of perfection. If that is so, the blame must rest upon William III. and his advisers. Strange that men to whom power was given in order that they might protect us from arbitrary government should have exceeded those they displaced in the exercise of arbitrary power! Cromwell derided Magna Carta in terms not to be reproduced here.[202] The accession

of William was almost immediately followed by the suspension of habeas corpus, resting upon the great Charter.

Macaulay tells us that Charles II. “would gladly have refused his assent to that measure,” the habeas corpus Act. We will not dispute it; but Charles did not ask for the suspension of habeas corpus when the Rye House Plot broke out. Macaulay tells us that James II. hated the Act. This, again, we will not dispute. But he did not ask for its suspension when Monmouth invaded England. William did not wait for the Assassination Plot to ask Parliament to suspend the Act. Before he had been on the throne a month he established an evil precedent which has ever since been followed; no minister has since ever hesitated to ask Parliament to suspend habeas corpus, and no Parliament has ever refused the request when made. Suspended four times in the reign of William and Mary and William, once in the reign of Anne, thrice in the reign of George I., four times in the reign of George II., and twenty times in the reign of George III. (Ireland is left out of account), habeas corpus was reduced to the point at which it afforded exactly the amount of protection that a man would receive from a waterproof coat, worn in sunshine, and carefully left at home when rain falls.[203]

1696. *December 31.* Yesterday 14 men were executed at Tyburn, 10 of them for clipping and coining, the other 4 for robbery (Luttrell, iv. 162).

1697. *July 20.* The 16th past, 14 malefactors were executed at Tyburn; 3 men and 1 woman for coining, 2 men for counterfeiting stamp’t paper, a woman for murthering her bastard child; and 7 more for robbery and burglary; and the French woman, who murdered

Mrs. Pullein, was hanged at the end of Suffolk Street, where the fact was committed (Luttrell, iv. 254).

1697. *November 4.* Yesterday 6 persons were executed at Tyburn; two for coining, one for robbing on the high way, and 3 for counterfeiting stampt paper, of which Mr. Salisbury the minister was one; he had the favour to goe to Tyburn in a mourning coach, and his body was brought back in a herse.

Salisbury was a non-juring parson of Sussex; the evidence against him showed that he did not commit the forgery for want, "as having a good estate and a good living, but only to prejudice king William's Government" (Luttrell, iv. 292, 302).

A few days later Luttrell records the committal of another parson for the same offence.

1698. *December 22.* Yesterday fourteen men and one woman were executed at Tyburn; two of the men were drawn in a sledge, and were for coining; one man was carried in a coach, for robbing on the high way; and the rest in carts, for burglary and robbery on the high way; and one for murther (L., iv. 464).

Including these, Luttrell records the execution at Tyburn this year of 62 persons.

1699. Luttrell records the execution this year at Tyburn of 51 persons.

In this year was passed the Act so often and so strongly denounced by Romilly in later years (10 William III., c. 12 in the folio edition of the Statutes), which came into operation after May 20. It was directed against burglary and horse stealing as well as against "the crime of stealing goods privately out of shops and warehouses, commonly called Shoplifting." The notoriety of the Act was earned by

its inflicting the penalty of death for shoplifting to the value of five shillings. This Act also established the "Tyburn ticket,"[204] as it came to be called, a certificate awarded for the apprehension and prosecution of offenders. This gave exemption from parish and ward offices. It further enacted that all persons convicted of theft, who had benefit of clergy should, instead of being burnt in the hand, be "burnt in the most visible part of the left cheek nearest the nose," the burning to be done in court in presence of the judge. Luttrell records in connection with the May sessions that "two were burnt in the left cheek, according to the new act of parliament"; at the next sessions eighteen were so branded. But the innovation did not prove successful. Luttrell says that retaliation was threatened—"the said offenders for the future threaten whatever house they break into, &c., they will mark the persons on the cheek to prevent distinction." The provision was repealed by 5 and 6 Anne (1706), c. 6, and burning in the hand was again established. The repealing Act states in the preamble that "the said punishment [of burning on the cheek] hath not had its desired effect, by deterring such offenders from the further committing such crimes and offences, but on the contrary, such offenders being rendered thereby unfit to be intrusted in any service or employment to get their livelihood in any honest and lawful way, become the more desperate." But the penalty of death for stealing to the value of five shillings remained.

1700. *March 16.* Three prisoners were this week taken in the very act of coining in Newgate.

April 20. Yesterday, one Larkin, *alias* Young, with another, were executed at Tyburn; the former for coyning in Newgate (Luttrell, iv. 624, 636).

1705. *December 12.* "One John Smith, condemned lately at the Old Baily for burglary, was carried to Tyburn to be executed, and was accordingly hanged up, and after he had hung about 7 minutes, a reprieve came, so he was cutt down, and immediately lett blood and put into a warm bed, which, with other applications, brought him to himself again with much adoe" (Luttrell, v. 623).

The story is told at greater length by James Mountague in "The Old Bailey Chronicle," 1700-83, i. 51-3:—

"After hanging five minutes and a quarter, a reprieve was brought.... The malefactor was cut down and taken with all possible expedition to a public house where proper means was pursued for his recovery, and with so much success that the perfect use of all his faculties was restored in about half an hour."

The account given by Smith of his sensations was that when first turned off he felt excessive pain, but that it almost immediately ceased. The last circumstance he recollected was like an irregular and glimmering light before his eyes: the pain he felt in hanging was infinitely surpassed when his blood was recovering its usual course of circulation.

Hatton, in his "New View of London" 1708, i. 84-5, says that Smith hanged for about a quarter of an hour; he adds that the executioner, while Smith was hanging, pulled his legs, and used other means to put a speedy period to his life.

Smith did not profit by this severe lesson. For a while indeed he served the cause of law and order, as will be seen by the following:—

1706. *March.* Smith, who, sometime since was

half-hanged and cut down, having accused about 350 pickpockets, house breakers, &c., who gott to be soldiers in the guards, the better to hide their roguery, were last week upon mustering the regiments drawn out and immediately shipt off for Catalonia: and about 60 women, who lay under condemnation for such crimes, were likewise sent away to follow the camp (Luttrell, vi. 25).

And again: **1706.** *November 9.* The officers of her majesties guards yesterday drew out their companies in St. James's Park, which were viewed by Smith (sometime since hang'd at Tyburn, but a reprieve coming was cut down before dead) and two other persons in masks, in order to discover felons and housebreakers: out of which 2 serjeants with 6 soldiers were seized as criminals and committed to the Marshalsea prison (Luttrell, vi. 105).

Smith had received an unconditional pardon; later he was again tried for burglary, and acquitted on a point of law. Lesson number 2. But Smith was a third time apprehended on a charge of burglary and committed for trial. The prosecutor died, and Smith was discharged. It is said that finally he was drowned at sea.

Smith's recovery from hanging does not stand alone. In 1740 there was a case of a man who was left hanging for the usual time, and recovered:—

1740. *November 25.* "Yesterday only five of the Malefactors were executed at Tyburn: two of them, viz., George Wight and Abraham Hancock having obtain'd a Reprieve thro' the Intercession of a Noble Peer.

"Duel, executed for the Rape, was brought to Surgeons-Hall, in order for Anatomy, but after he

was stripp'd and laid on the Board, and one of the Servants was washing him, to be cut up, he perceived Life in him, and found his Breath to come quicker and quicker, on which a Surgeon bled him, and took several Ounces of Blood from him, and in about two Hours he came so much to himself as to sit up in a Chair, groan'd very much, and seem'd in great Agitation, but could not speak: tho' it was the Opinion of most People if he had been put in a warm Bed and proper Care taken, he would have come to himself. Whether he's now living we know not, but a great Mob assembled at Surgeons-Hall on this Occasion, and according to *their Law*, he could not be executed again: but according to the Law of the Land, the Sheriffs have a Power to carry him again to Tyburn and execute him, his former sentence, *of being hung till he was dead*, not having been executed. Its reckon'd his coming to Life was owing to the wrong Disposition of the Halter" (*London Daily Post and General Advertiser*).

Duel or Dewell did not recollect being hanged: he said that he had been in a dream; that he dreamed of Paradise, where an angel told him his sins were forgiven. He made a complete recovery. At the next sessions at the Old Bailey he was ordered to be transported for life.

Some years before this, the problem of the recovery of persons hanged had received careful attention. Thus, we find the following in the *Gentleman's Magazine* for 1733 (April 27), p. 213:—

Mr. Chovet, a Surgeon, having by frequent Experiments on Dogs, discovered, that opening the Windpipe, would prevent the fatal Consequences of the Halter, undertook Mr. Gordon, and made an Incision in his Windpipe: the Effect of which was,

that when Gordon stopt his Mouth, Nostrils, and Ears for some Time, Air enough came thro' the Cavity to continue Life. When he was hang'd he was perceived to be alive after all the rest were dead: and when he had hung 3 quarters of an Hour, being carried to a House in Tyburn Road, he opened his Mouth several Times and groaned, and a Vein being open'd he bled freely. 'Twas thought, if he had been cut down 5 Minutes sooner, he might have recover'd.

Two cases of recovery, not assisted by the surgeon, are recorded in the *Gentleman's Magazine* for 1736. On July 26 one Reynolds, a turnpike leveller,[205] was hanged and cut down in the usual course. But as the coffin was being fastened down, Reynolds thrust back the lid, whereupon the executioner was for tying him up again. This however the mob would not suffer. Reynolds was carried to a house where he vomited a quantity of blood, but he died after being made to drink a glass of wine.

On September 23rd two men were hanged at Bristol, cut down and put into coffins, when both revived. One died later in the day; what befel the other is not told.

The *Gentleman's Magazine* for 1767 (p. 90) records the execution at Cork, on January 24th, of Patrick Redmond who hung for twenty-eight minutes. "The mob carried off the body to a place appointed, where he was, after five or six hours actually recovered by a surgeon who made the incision in his windpipe called bronchotomy. The poor fellow has since received his pardon, and a genteel collection has been made for him."

More interesting than any of these cases is an earlier one fully recorded in a little book published

in 1651, “Newes from the Dead, or a true and exact narration of the miraculous deliverance of Anne Greene, who being executed at Oxford, December 14, 1650, afterwards revived, and by the care of certain Physitians there is now perfectly recovered. Together with the manner of her suffering, and the particular means used for her recovery. Written by a Scholler in Oxford for the satisfaction of a friend who desired to be informed concerning the truth of the businesse. Whereunto are prefixed certain Poems casually written upon that subject.”

One of the poems is by “Chris. Wren, Gent. Com. of Wad. Coll.”

Anne Greene was convicted of killing her newly-born child, but it is open to doubt whether the child was born alive. This is the account of the execution: “She was turned off the ladder,[206] hanging by the neck for the space of almost half an houre, some of her friends in the meantime thumping her on the breast, others hanging with all their weight upon her legs, sometimes lifting her up, and then pulling her doune again with a sudden jerk, thereby the sooner to despatch her out of her pain; insomuch that the Under-sheriff fearing lest thereby they should break the rope forbad them to do so any longer.”

The body was carried in a coffin into a private house, and showing signs of life, “a lusty fellow that stood by (thinking to do an act of charity in ridding her out of the small reliques of a painfull life) stamped several times on her breast and stomach with all the force he could.” Dr. Petty, the Professor of Anatomy, coming in with another, they set themselves to recover her. They bled her freely, and put her into bed with another woman. After about two hours she could speak “many words intelligible.”

On the 19th (having been hanged on the 14th) she was up; within a month she was recovered, and went to her friends in the country, taking her coffin with her.

On June 19, 1728, Margaret Dickenson was hanged at Edinburgh. After hanging for the usual time, the body was cut down, put into a coffin, and so into a cart for carriage to the place of interment. The man in charge of the cart stopped in a village to drink, and while so engaged, saw the lid of the coffin move: at last the woman sat up in her coffin. Most of those present fled in terror, but a gardener, who happened to be there, opened a vein. Within an hour Margaret was put to bed, and on the next day walked home. The story is told in the "Newgate Calendar" of 1774, with a picture of Margaret sitting up in her coffin.

These cases, astounding as they are, are eclipsed by one known only by the barest statement of the fact. In the 28th of Henry III. (1264) a woman, Ivetta de Balsham, was, for some felony, hanged at three o'clock one afternoon. She was let down from the gallows at sunrise the next morning, and found to be alive. A pardon was granted to her. The date of the pardon is August 16th, and the execution must have taken place some time before this date. But even if Ivetta was hanged on midsummer day she must have been hanging twelve long hours.[207]

1712. *December 23.* Richard Town was executed at Tyburn. Being bankrupt, he absconded, and was apprehended, having twenty guineas and other money in his possession (Montague, "The Old Bailey Chronicle," i. 69-70).

Sir James Fitzjames Stephen says that setting in the pillory for fraudulent concealment of goods to

the value of £20 "continued to be the statutory penalty for fraudulent bankruptcy from 21 James I. (1623) c. 19, s. 7 till the year 1732."[208] The reference is to the Act 5 George II. c. 30. Sir James appears, however, to have overlooked a previous Act, 4 & 5 Anne (1705), c. 4, s. 1 of which made fraudulent bankruptcy a felony without benefit of clergy. It is said that there were but few executions for this offence. The most remarkable case is that of John Perrott, who was executed at Smithfield (not at Tyburn) on November 11, 1761. The story, of singular interest, is told in great detail in the *Gentleman's Magazine* for the year, xxxi. 585-92.

1715. *December 7.* Nine adherents of the Pretender were executed at Tyburn.

There followed other executions:—

1716. *May 14.* Colonel Oxburgh.

May 25. Richard Gascoign.

July 18. Rev. William Paul and John Hall.

In his account of the execution of Paul and Hall, Mr. Lorrain, the ordinary of Newgate, says: "The cart being drawn away, and they being turned off, the People gave a mighty shout, and with loud Acclamations said, God save King George. To which I say, Amen."

As mention has been made of Mr. Lorrain, it may be not amiss to say something about him. The Rev. Paul Lorrain, probably of Huguenot extraction, was the ordinary of Newgate from 1698 to 1719. The British Museum possesses nearly fifty of the broadsheets issued by him, giving accounts of the behaviour, last speeches, and execution of the criminals who came under his care in Newgate. The

worthy ordinary was perhaps inclined to estimate too highly the effect of his ministrations on these criminals. His representations of their penitent attitude procured for them the name of "Paul Lorrain's Saints" (*Tatler*, No. 63). There is a good-humoured reference to this weakness in the *Spectator*, No. 338.

1718. *March 17.* Execution of Ferdinando Marquis de Palleotti.

The Duke of Shrewsbury, being at Rome, fell in love with Palleotti's sister, and upon the lady's conversion to Protestantism, married her. Ferdinando visited his sister in England. He was addicted to gambling, and made such demands upon his sister's purse that at length she refused further supplies. He was arrested for debt, and liberated by her. Walking in the street one day, he ordered his servant to call upon a gentleman in the neighbourhood, and ask for a loan. The servant showing reluctance to fulfil the order, the marquis drew his sword and ran him through the body. According to the ordinary, the marquis thought it a great hardship that he should die for so small a matter as killing his servant (James Mountague, "The Old Bailey Chronicle," i. 185-8).

A few hours after the execution of the marquis, James Shepherd, an adherent of the Pretender, was drawn to Tyburn and there hanged and quartered.

1718. *May 31.* The hangman of Tyburn, John Price, known by the common name Jack Ketch, was hanged, for murder, near the scene of the crime, in Bunhill-Fields.

1721. *February 8.* On this day were executed at Tyburn four men, one of whom had undergone the peine forte et dure.

Four men were indicted for highway robberies. Two refusing to plead, the court gave orders to read the judgment appointed to be executed on such as stand mute or refuse to plead to their indictment.

"That the prisoner shall be sent to the prison from whence he came, and put into a mean room, stopped from the light, and shall there be laid on the bare ground without any litter, straw, or other covering, and without any garment about him except something about his middle. He shall lie upon his back, his head shall be covered and his feet shall be bare. One of his arms shall be drawn with a cord to the side of the room, and the other arm to the other side, and his legs shall be served in the like manner. Then there shall be laid upon his body as much iron or stone as he can bear, and more. And the first day after he shall have three morsels of barley bread, without any drink, and the second day he shall be allowed to drink as much as he can, at three times, of the water that is next the prison door, except running water, without any bread; and this shall be his diet till he dies: and he against whom the judgment shall be given forfeits his goods to the King.

"This having no effect on the prisoners, the executioner (as is usual in such cases) was ordered to tie their thumbs together, and draw the cord as tight as he was able, which was immediately done; neither this, nor all the admonitions of the court being sufficient to bring them to plead, they were sentenced to be pressed to death. They were carried back to Newgate. As soon as they entered the press-room, Phillips desired that he might return to the bar and plead, but Spiggott continuing obstinate was put under the press. He bore three hundred and fifty pounds weight for half an hour, but then fifty more

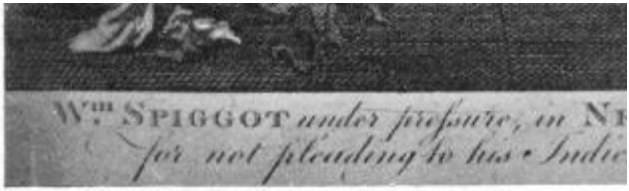
being added,[209] he begged that he might be carried back to plead, which favour was granted."

After the treatment he was very faint and almost speechless for two days. One of his reasons given to the ordinary of Newgate for enduring the press was that none might reproach his children by telling them their father was hanged. Before he was taken out of the press, he was in a kind of slumber and had hardly any sense of pain left.[210]

1721. *July 5.* Barbara Spencer was burnt at Tyburn for coining. At the stake "she was very desirous of praying, and complained of the dirt and stones thrown by the mob behind her, which prevented her thinking sedately on futurity. One time she was quite beat down by them" (Villette, i. 32-6).

1721. *December 22.* Nathaniel Hawes, a young man of 20, had been out of prison but a few days when he robbed a man on the highway of 4s. He refused to plead, because a handsome suit of clothes had been taken from him, and he was resolved not to go to the gallows in a shabby suit. The court ordered that his thumbs should be tied together. The cord was pulled by two officers till it broke, and this was repeated several times without effect. He was then put in the press, and gave in when he had borne a weight of 250 lbs. for about seven minutes. (Reference has already been made to this case on p. 41 in treating of the peine forte et dure).


Wm SPIGGOT under Pressure, in N
for not pleading to his Indic



THE PEINE FORTE ET DURE, 1721.

1724. *November 16.* John, or Jack Sheppard, for burglary.

Jack Sheppard does not seem to have committed any crime worse than burglary: his hands were not stained with blood. He was famed for several remarkable escapes from prison. He had once escaped from Newgate and being again arrested, unusual care was taken of him. But he once more and for the last time escaped, being soon after captured while drunk. For better security he was lodged in a strong room called the Castle, where he was hand-cuffed, loaded with a heavy pair of irons, and chained to a staple in the floor. The Sessions at the Old Bailey began on October 14th, and Jack, knowing that the keepers would be busy in attending the court, thought that this would be the only time to make a push for his liberty.

"The next day, about two in the afternoon, one of the keepers carried Jack his dinner, examined his irons, and found all fast. Jack then went to work. He got off his hand-cuffs, and with a crooked nail he found on the floor, opened the great padlock that fastened his chain to the staple. Next he twisted asunder a small link of the chain between his legs, and drawing up his feet-locks as high as he could, he made them fast with his garters. He attempted to get up the chimney, but had not advanced far before his progress was stopped by an iron bar that went across within-side, and therefore being descended, he went to work on the outside, and with a piece of his

broken chain picked out the mortar, and removing a small stone or two about six feet from the floor, he got out the iron bar, an inch square and near a yard long, and this proved of great service to him. He presently made so large a breach, that he got into the Red-Room over the Castle, there he found a great nail, which was another very useful implement. The door of his room had not been opened for seven years past; but in less than seven minutes he wrenched off the lock, and got into the entry leading to the Chapel. Here he found a door bolted on the other side, upon which he broke a hole through the wall, and pushed the bolt back. Coming now to the chapel-door, he broke off one of the iron spikes, which he kept for further use, and so got into an entry between the chapel and the lower leads. The door of this entry was very strong, and fastened with a great lock, and what was worse, the night had overtaken him, and he was forced to work in the dark. However, in half an hour, by the help of the great nail, the chapel spike, and the iron bar, he forced off the box of the lock, and opened the door, which led him to another yet more difficult, for it was not only locked, but barred and bolted. When he had tried in vain to make this lock and box give way, he wrenched the fillet from the main post of the door, and the box and staples came off with it: and now St. Sepulchre's chimes went eight. There was yet another door betwixt him and the lower leads; but it being only bolted within-side, he opened it easily, and mounting to the top of it, he got over the wall, and so to the upper leads.

"His next consideration was, how to get down; for which purpose looking round him, and finding the top of the Turner's house adjoining to Newgate, was the most convenient place to alight upon, he resolved

to descend thither; but as it would have been a dangerous leap, he went back to the Castle the same way he came, and fetched a blanket he used to lie on. This he made fast to the wall of Newgate, with the spike he stole out of the Chapel, and so sliding down, dropped upon the Turner's leads, and then the clock struck nine. Luckily for him, the Turner's garret-door on the leads happened to be open. He went in, and crept softly down one pair of stairs, when he heard company talking in a room below. His irons giving a clink, a woman started, and said, 'Lord! What noise is that?' Somebody answered, 'The dog or the cat'; and thereupon Sheppard returned up to the garret, and having continued there above two hours, he ventured down a second time, when he heard a gentleman take leave of the company, and saw the maid light him down stairs. As soon as the maid came back, and had shut the chamber door, he made the best of his way to the street door, unlocked it, and so made his escape about twelve at night."

But on October 31st Jack made merry at a public-house in Newgate Street, with two ladies of his acquaintance, afterwards treated his mother in Clare Market with three quarterns of brandy, and in a word got so drunk that he forgot all caution and was once more apprehended.

He still had schemes for eluding justice. He had got hold of a penknife; with this on the road to Tyburn he would cut the cords binding his hands, jump from the cart into the crowd and run through Little Turnstile, where the mounted officers could not follow him, and he reckoned on the sympathy of the mob to help him to make good his escape. But he was searched, and the knife was taken from him. He had one last hope; he urged his friends to get

possession of his body as soon as cut down, and put it into a warm bed; so he thought, and precedents were not wanting, his life might be prolonged. This, too, came to naught (Villette, i. 261-6).

In the twenty-third year of his age "died with great difficulty, and much pitied by the mob," the prince of prison-breakers.

Villette says: "I don't remember any felon in this kingdom, whose adventures have made so much noise as Sheppard's." Six or more stories of his life appeared: among his biographers was Defoe. Sir James Thornhill painted his portrait, reproduced in a mezzotint engraving. The *British Journal* of November 28, 1724, contained verses on this portrait:—

Thornhill, 'tis thine to gild with fame
Th' obscure, and raise the humble name:
To make the form elude the grave,
And Sheppard from oblivion save.
…
Apelles Alexander drew,
Cæsar is to Aurellius due,
Cromwell in Lilly's works doth shine,
And Sheppard, Thornhill, lives in thine.

Nor did the pulpit disdain to draw a moral from Sheppard's career:—

"O that ye were all like Jack Sheppard! Mistake me not, my brethren, I don't mean in a carnal, but in a spiritual sense, for I purpose to spiritualise these things.… Let me exhort ye then, to open the Locks of your Hearts with the Nail of Repentance: burst asunder the Fetters of your beloved Lusts: mount the Chimney of Hope, take from thence the Bar of good

Resolution, break through the Stone-wall of Despair, fix the blanket of Faith with the Spike of the Church. Let yourselves down to the Turner's House of Resignation, and descend the Stairs of Humility; so shall you come to the Door of Deliverance from the Prison of Iniquity, and escape from the Clutches of that old Executioner, the Devil" (Villette, i. 253-72).

A few days before, on November 11, Joseph Black, better known as "Blueskin," a companion of Jack Sheppard, had been hanged at Tyburn.[211]

1725. *May 24.* Jonathan Wild, "the thief-taker."

Jonathan Wild, whose exploits were celebrated by Fielding in "Jonathan Wild, the Great," invented a new method which may be described as running with the hare and riding with the hounds. He was in league with great numbers of thieves of all kinds, from highwaymen downwards. This body was described as "a corporation of thieves of which Wild was the head or director." He divided the country into districts, assigning gangs for the working of each. These gangs accounted to him for the proceeds of their robberies. He selected by preference convicts returned from transportation, because, in case of accident, they could not give legal evidence against him; moreover, they were in his power, and if any rebelled he could hang them. For fifteen years he carried on this system. His depredations were on a large scale: he had in his pay several artists to alter watches, rings, and other objects of value, so as not to be recognised by their owners.

At his trial he circulated among the jury a list of persons apprehended and convicted by his means: 35 for highway robbery, 22 for burglary, 10 for returning from transportation. It would be too tedious, he said, to give a list of minor cases. Written

in his name is an elegy, of which these are a few lines:—

Ye Britons! curs'd with an unthankful mind,
For ever to exalted merit blind,
Is thus your constant benefactor spurn'd?
Are thus his faithful services return'd?
This dungeon his reward for labours past?
And Tyburn his full recompence at last?

On the way to Tyburn he was cursed and pelted. The rest of the batch being tied up, the executioner told Wild he might have any reasonable time to prepare himself. This so incensed the mob that they threatened to knock the hangman on the head if he did not at once perform the duties of his office. The body was buried in the churchyard of Old St. Pancras, but was afterwards removed, by surgeons as was supposed.

1726. *May 9.* Catherine Hays and Thomas Billings, executed for the murder of John Hays, the husband of Catherine. Thomas Wood, also condemned for the murder, died on May 4 in the "Condemned-Hold."

Hays's body was cut up by the murderers, and the head thrown into the Thames, but it was recovered and set up on a pole in the churchyard of St. Margaret's, Westminster. This led to identification and discovery of the criminals. Catherine Hays was drawn on a sledge to Tyburn. Here she was chained to a stake and faggots were piled around her. A rope round her neck was passed through a hole in the stake. When the fire had got well alight and had reached the woman, the executioner pulled the rope, intending to strangle her, but, the fire reaching his hands, he was forced to desist. More faggots were then piled on the woman, and in about three or four

hours she was reduced to ashes. Billings was put in irons as he was hanging on the gallows, his body was then cut down, carried to a gibbet about a hundred yards distant, and there suspended in chains (Villette i. 394-428).

Thackeray's "Catherine, A Story," originally published in *Fraser's Magazine*, is based on this case, much as Fielding's "Jonathan Wild the Great" is based upon the career of that worthy.

1732. *October 9.* Thirteen executed at Tyburn.

1733. *January 29.* Twelve malefactors, condemned in the three preceding sessions, executed at Tyburn.

1733. *May 28.* John Davis, feigning sickness, begged that he might not be tied in the cart. When he came to the Tree, he jumped from the cart and ran across two fields. A countyman knocked him down, and he was brought back and hanged.

1733. *December 19.* Thirteen executed at Tyburn. Among them were a man and a woman condemned for coining. They were, as usual, drawn in a sledge: the man, after being hanged, was slashed across the body. The woman, chained to a stake, was first strangled and then burnt.

1737. *March 12.* Twelve malefactors executed at Tyburn.

1738. *January 18.* Thirteen, convicted in October and December, executed at Tyburn.

1738. *November 8.* Eleven executed at Tyburn.

1739. *March 14.* Eleven executed at Tyburn.

December 20. Eleven executed at Tyburn.

1741. We are so fortunate as to possess an account of an execution written at this time by Samuel

Richardson, the first great English novelist. It is found in a volume, printed without the author's name; a kind of Polite Letter Writer, bearing this portentous title:—

"Letters written to and for particular friends on the most important occasions. Directing not only the requisite style and forms to be observed in writing familiar letters; but how to think and act justly and prudently in the common concerns of Human Life, containing one hundred and seventy-three letters, none of which were ever before published."

Letter CLX. (p. 239), is as follows:—

From a Country Gentleman in Town to his Brother in the Country, describing a publick Execution in London.

DEAR BROTHER,—I have this day been satisfying a Curiosity I believe natural to most People, by seeing an Execution at Tyburn. The Sight has had an extraordinary Effect upon me, which is more owing to the unexpected Oddness of the scene, than the affecting Concern which is unavoidable in a thinking Person, at a Spectacle so awful, and so interesting, to all who consider themselves of the same Species with the unhappy Sufferer.

That I might the better view the Prisoners, and escape the Pressure of the Mob, which is prodigious, nay, almost incredible, if we consider the Frequency of these Executions in London, which is once a Month; I mounted my Horse, and accompanied the melancholy Cavalcade from Newgate to the fatal Tree. The Criminals were Five in Number. I was much disappointed at the Unconcern and Carelessness that appeared in the Faces of Three of the unhappy Wretches: The countenances of the

other Two were spread with that Horror and Despair which is not to be wonder'd at in Men whose Period of Life is so near, with the terrible Aggravation of its being hasten'd by their own voluntary Indiscretion and Misdeeds. The Exhortation spoken by the Bell-man, from the Wall of St. Sepulchre's Church-yard, is well intended; but the Noise of the Officers, and the Mob, was so great, and the silly Curiosity of People climbing into the Cart to take leave of the Criminals, made such a confused Noise, that I could not hear the Words of the Exhortation when spoken, though they are as follow:

All good People, pray heartily to GOD for these poor Sinners, who are now going to their Deaths: for whom this great Bell doth toll.

You that are condemn'd to die, repent with lamentable Tears. Ask Mercy of the Lord for the Salvation of your own Souls, thro' the Merits, Death, and Passion of Jesus Christ, who now sits at the Right-hand of God, to make Intercession for as many of you as penitently return unto him.

Lord have Mercy upon you! Christ have Mercy upon you!

Which last Words the Bell-man repeats three times.

All the way up to Holborn the Croud was so great, as at every twenty or thirty Yards to obstruct the Passage; and Wine, notwithstanding a late good Order against that Practice, was brought to the Malefactors, who drank greedily of it, which I thought did not suit well with their deplorable Circumstances: After this, the Three thoughtless young Men, who at first seemed not enough concerned, grew most shamefully daring and wanton; behaving themselves in a manner that

would have been ridiculous in Men in any Circumstances whatever: They swore, laugh'd, and talk'd obscenely, and wish'd their wicked Companions good Luck, with as much Assurance as if their employment had been the most lawful.

At the Place of Execution, the Scene grew still more shocking; and the Clergyman who attended was more the subject of Ridicule, than of their serious Attention. The Psalm was sung amidst the Curses and Quarrelling of Hundreds of the most abandon'd and profligate of Mankind: Upon whom (so stupid are they to any Sense of Decency) all the Preparation of the unhappy Wretches seems to serve only for Subject of a barbarous Kind of Mirth, altogether inconsistent with Humanity. And as soon as the poor Creatures were half dead, I was much surprised, before such a number of Peace-Officers, to see the Populace fall to halling and pulling the Carcasses with so much Earnestness as to occasion several warm Rencounters, and broken Heads. These, I was told, were the Friends of the Persons executed, or such as, for the sake of Tumult, chose to appear so, and some Persons sent by private Surgeons to obtain Bodies for Dissection. The Contests between these were fierce and bloody, and frightful to look at: So that I made the best of my way out of the Crowd, and, with some Difficulty, rode back among a large Number of People, who had been upon the same Errand as myself. The Face of every one spoke a kind of Mirth, as if the Spectacle they had beheld had afforded Pleasure instead of Pain, which I am wholly unable to account for.

In other Nations, common Criminal Executions are said to be little attended by any beside the necessary Officers, and the mournful Friends; but here, all was

Hurry and Confusion, Racket and Noise, Praying and Oaths, Swearing and singing Psalms: I am unwilling to impute this Difference in our own to the Practice of other Nations, to the Cruelty of our Natures; to which Foreigners, however to our Dishonour, ascribe it. In most Instances, let them say what they will, we are humane beyond what other Nations can boast; but in this, the Behaviour of my Countrymen is past my accounting for; every Street and Lane I passed through, bearing rather the Face of a Holiday, than of that Sorrow which I expected to see, for the untimely Deaths of five Members of the Community.

One of the Bodies was carried to the Lodging of his Wife, who not being in the way to receive it, they immediately hawked it about to every Surgeon they could think of; and when none would buy it, they rubb'd Tar all over it, and left it in a Field hardly cover'd with Earth.

This is the best Description I can give you of a Scene that was no way entertaining to me, and which I shall not again take so much Pains to see. I am, dear Brother, Yours affectionately.

Mandeville, writing some years earlier, gives an account, even more unfavourable, of the behaviour of the crowd.[212]

The batch of convicts whose execution is described by Richardson did not happen to include a highwayman. Here is a portion of Swift's account of "Clever Tom Clinch, going to be hanged," a piece written in 1727:—

His waistcoat, and stockings, and breeches, were
white;
His cap had a new cherry ribbon to tie't.

The maids to the doors and the balconies ran,
And said, ‘Lack-a-day, he’s a proper young man!’
But, as from the windows the ladies he spied,
Like a beau in the box, he bow’d low on each
side.

Richardson’s long description may be supplemented by the chaplain’s account of the last scene:—

The rev. Paul Lorrain, Ordinary of Newgate, as has been said elsewhere, was in the habit of printing an account of the behaviour of criminals, after condemnation. He gives long accounts of his sermons. In the broadsheet relating to an execution at Tyburn on March 22, 1704, he describes the proceedings at Tyburn. The Ordinary exhorts the criminals to clear their consciences by making a free confession. The malefactors then address the people praying them to take warning from the example before them. Then the Ordinary proceeds to prayer: afterwards to the rehearsal of the Articles of the Christian faith: then comes the singing of penitential hymns[213]: then prayer again. “And so, taking my leave of them, I exhorted them to cry to God for Mercy to the last Moment of their Lives, which they did, and for which they had some time allow’d them. Then the Cart drew away, and they were turn’d off, as they were calling upon God.”



T

1743-1745. At the Old Bailey sessions, September 7-12, were indicted James Stansbury and Mary his wife, for the robbery of Mr. or Captain George Morgan. The case is very interesting, as having furnished to Hogarth the motive of one of his prints in the series of “The Effects of Industry and Idleness.” Captain Morgan, going home in the early hours of

the morning of July 17, seeing a lady in the street, feared for her safety, and gallantly offered to escort her home. He was taken into a house where he was robbed and assaulted. The house, in Hanging-Sword Alley, Fleet Street, bore an execrable reputation, in virtue of which it was known as "Blood-Bowl House." At the trial Mary Stansbury asked a witness, "Have I not let you go all over the house, to see if there were any trap-doors as it was represented?" The witness, Sharrock, replied that he had looked all over the house and saw no trap-door. It will be recollected that in Hogarth's print the body of a murdered man is being thrust through a trap-door. The same witness spoke of the house as "Blood-Bowl House." Stansbury asked him how he came to know of the Blood Bowl, to which Sharrock replied that he had seen it in the newspapers. (I have been less fortunate: I have not found accounts in contemporary newspapers referring to the name or to the trap-door). Stansbury was acquitted: his wife was sentenced to death, the sentence being afterwards commuted to one of transportation.

Stansbury was afterwards convicted of burglary. He described himself as a clockmaker, living in Whitechapel, from which we may infer that Hanging-Sword Alley had become too hot for him. It would seem too that he had not retired from Blood Bowl House with a fortune.

Mr. Nicholls in his notes on the print gives the name of Blood-Bowl to the Alley, but there is no evidence that it was ever officially known by this name. The alley is Hanging-Sword Alley in Rocque's map of 1746; it bears the same name in Hatton's "New View," 1708, and in Stow's "Survey of London" we read: "Then is Water Lane, running down by the

west side of a house called the Hanging Sword, to the Thames." The alley appears under this name in various books giving the names of streets: it was Hanging-Sword Alley when Dickens wrote "Bleak House," and it is Hanging-Sword Alley to-day.

1749. *February 20.* Usher Gahagan was executed at Tyburn. Gahagan was a scholar. He edited Brindley's edition of the classics, and translated into Latin verse Pope's Essay on Criticism. He also, while in prison, translated into Latin verse Pope's "Temple of Fame," and "Messiah"—"with a Latin Dedication to his Grace the Duke of Newcastle." His offence was filing gold money. These verses were addressed to him:—

Who without rapture can thy verses read,
Who hear thy fate, and sorrow not succeed,
Who not condole thee betwixt fear and hope,
Who not admire thee, thus translating Pope?
Translating Pope in never-dying lays,
Bereft of books, of liberty and ease:
Translating Pope, beneath severest doom,
In numbers worthy old Augustan Rome:
Whose ablest sons might glory in thy strains,
Tho' sung in Massy, Dire, incumb'ring chains.

The catalogue of the library of the British Museum includes ten works by Usher Gahagan.

1749. *October 18.* Fifteen malefactors were executed at Tyburn. There had been a riot in the Strand, where a number of sailors had wrecked a house in which a sailor had been maltreated. There exists a well-known print of the riot. The *London Magazine* gives the following account of the execution:—

About nine in the morning the criminals were put

into the carts. Mr. Sheriff Janssen, holding his white wand, and on horseback, attended the execution, accompanied by his proper officers. At Holborn-bars Mr. Sheriff dismissed very civilly the party of foot-guards, who otherwise would have marched to Tyburn. The multitude of spectators was infinite. Though a rescue had been threatened by many (on account of Wilson and Penlez, the two ill-fated young rioters, both of whom were expected to suffer) there yet was not the least disturbance, except during a moment at the gallows, where a vast body of sailors, some of whom were armed with cutlasses, and all with bludgeons, began to be very clamorous as the unhappy sufferers were going to be turned off, which Mr. Sheriff perceiving, he rode up to them and enquired in the mildest terms the reason of their tumult. Being answered that they only wanted to save the bodies of their brethren from the surgeons, and the Sheriff promising that the latter should not have them, the sailors thanked the above magistrate, wished every blessing to attend him, and assured him that they had no design to interrupt him in the execution of his office. The criminals seemed very penitent, and were turned off about twelve.

It would appear that in 1750 the immemorial custom of halting at St. Giles's, for "the bowl," was abolished:—

1750. *February 7.* The criminals on their way to Tyburn were under double guard. The procession closed with the two under-sheriffs, who did not permit the carts to stop for the malefactors to drink by the way. There were thirteen criminals.

1750. *May 16.* Thirteen executed at Tyburn.

1750. *July 6.* Three women were executed at Tyburn. They were drunk, contrary to an express

order of the Court of Aldermen against serving them with strong liquor.

1750. *August 8.* Six executed at Tyburn. "It is remarkable that the above six malefactors suffered for robbing their several prosecutors of no more than six shillings" (*London Magazine*).

1750. *October 3.* Twelve malefactors executed at Tyburn. One of them was the celebrated "Gentleman Highwayman," Mr. Maclean. Another was William Smith, the son of a clergyman in Ireland. Smith was convicted of forgery. The *Universal Magazine* of October, 1750, gave long accounts of these worthies, and printed an ode by Smith on his melancholy condition. This is one stanza:—

Justice has ranked me with the dead:
I bow, and own the just decree;
Yet, e'er each sense, each thought is fled,
How shall I front the fatal tree?

Hope, faith, the Christian world, inform me how
With resignation to embrace the blow.
But ah, Eternity! tremendous word!
There, there, I sink, I tremble! Help me Lord!

Smith had in an advertisement "entreated contributions for his decent interment, and that his poor body might not fall unto the surgeons, and perpetuate the disgrace of his family." According to a newspaper of the time the surgeons got possession of one body only (not Smith's): the rest were delivered to the friends. Smith edited several volumes of "Classicks." The publisher seized the opportunity to advertise them.

We have a full account of James Maclean, "The

Gentleman Highwayman," given by Horace Walpole, who was robbed by him (Letters, ed. 1857, i. lxvi. to lxvii., ii. pp. 218-9, 224, and in the *World*, No. 103, December 19, 1754). This is the account in the *World*:

An acquaintance of mine was robbed a few years ago, and very near shot through the head by the going off of the pistol of the accomplished Mr. Maclean: yet the whole affair was conducted with the greatest good breeding on both sides. The robber, who had only taken a purse *this way*, because he had that morning been disappointed of marrying a great fortune, no sooner returned to his lodgings than he sent the gentleman two letters of excuses, which, with less wit than the epistles of Voiture, had ten times more natural and easy politeness in the turn of their expression. In the postscript, he appointed a meeting at Tyburn at twelve at night, where the gentleman might *purchase again* any trifle he had lost, and my friend has been blamed for not accepting the rendezvous, as it seemed liable to be construed by ill-natured people into a doubt of the *honour* of a man who had given him all the satisfaction in his power, for having unluckily been near shooting him through the head.

The first Sunday after his condemnation three thousand people went to see him. He fainted away twice with the heat of his cell. He was only twenty-six when executed.

A long account of his behaviour in prison was given in a pamphlet by the Rev. Dr. Allen. The rev. gentleman was greatly concerned to know whether Maclean, by his association with "licentious young People of Figure and Fortune," who affected to despise "all the principles of Natural and Revealed

Religion, under the polite Name of Free-thinking," had not "fallen into the fashionable way of thinking and talking on these Subjects." Maclean was able to give his reverend monitor satisfactory assurances on this point. Maclean's brother was the minister of the English church at The Hague. Maclean lived in fashionable lodgings in St. James's Street, and frequented masquerades, where he at times won or lost considerable sums. The skeleton of Maclean appears in the fourth plate of Hogarth's "Stages of Cruelty," showing the interior of Surgeons' Hall.

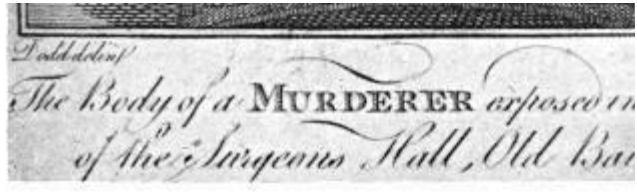
1750. *December 31.* Fifteen executed at Tyburn.

1751. *February 11.* Three boy-burglars executed at Tyburn.

1752. In this year the State made a determined effort to "put down" murder. It was a question that had long exercised the academic mind. So far back as 1701 a writer, known only as "J. R., M.A.," had published a tract, "Hanging not Punishment enough for Murtherers, High-way Men and House-Breakers." J. R. inquired why, since at the last Great Day there will be degrees of torment, we should not imitate the Divine Justice? He invoked, not only the Divine example, but the practice of our own laws. "If Death then be due to a Man, who surreptitiously steals to the Value of Five Shillings (as it is made by a late Statute) surely he who puts me in fear of my Life, and breaks the King's Peace, and it may be murthers me at last, and burns my House, deserves another sort of Censure: and if the one must die, the other should be made *to feel himself die*."

J. R. therefore proposed hanging alive in chains, the victim being left to starve, or he might be broken on the wheel, or whipped to death.


The Body of a MURDERER
of the Surgeons Hall, Old



THE BODY OF A MURDERER DISSECTED ACCORDING TO

About 1730 J. R., M.A., was followed by a writer who had no scruple in revealing his name. George Ollyffe, M.A., published “An Essay humbly offer’d for an Act of Parliament to prevent Capital Crimes, and the Loss of many Lives, and to promote a desirable Improvement and Blessing in the Nation.” Ollyffe argued that a swift death has no terrors. “An execution that is attended with more lasting Torment, may strike a far greater Awe, much to lessen, if not to put a stop to, their shameless Crimes.” He, like J. R., speaks with approval (somewhat modified, indeed) of the ancient practice of hanging men alive on gibbets. This plan has, however, its disadvantages; it is “tedious and disturbing,” more than “the tender and innocent part of mankind” can bear—as spectators. He recommends breaking on the wheel, “by which the Criminals run through ten thousand thousand of the most exquisite Agonies, as there are Moments in the several Hours and Days during the inconceivable Torture of their bruised, broken, and disjointed Limbs to the last Period.” Or the twisting of a little cord hard about the arms or legs “would particularly affect the Nerves, Sinews, and the more sensible Parts to produce the keenest Anguish.”

Ollyffe recommended that these things should be done on gibbets about twenty poles from the usual places of execution, so that “their cries may not much disturb the common Passengers.”

The State followed J. R. and Ollyffe—at a distance

—in the Act 25 George II. (1752), c. 37, An Act for better preventing the horrid Crime of Murder. The preamble runs: "Whereas the horrid Crime of Murder has of late been more frequently perpetrated than formerly, and particularly in and near the Metropolis of this Kingdom, contrary to the known Humanity and natural Genius of the British Nation; and whereas it is thereby become necessary, that some further Terror and peculiar Mark of Infamy be added to the Punishment of Death now by Law inflicted on such as shall be guilty of the said heinous Offence.…"

The Act directs that persons condemned for murder shall be executed on the next day but one after sentence, unless Sunday intervenes, when the execution shall take place on Monday.

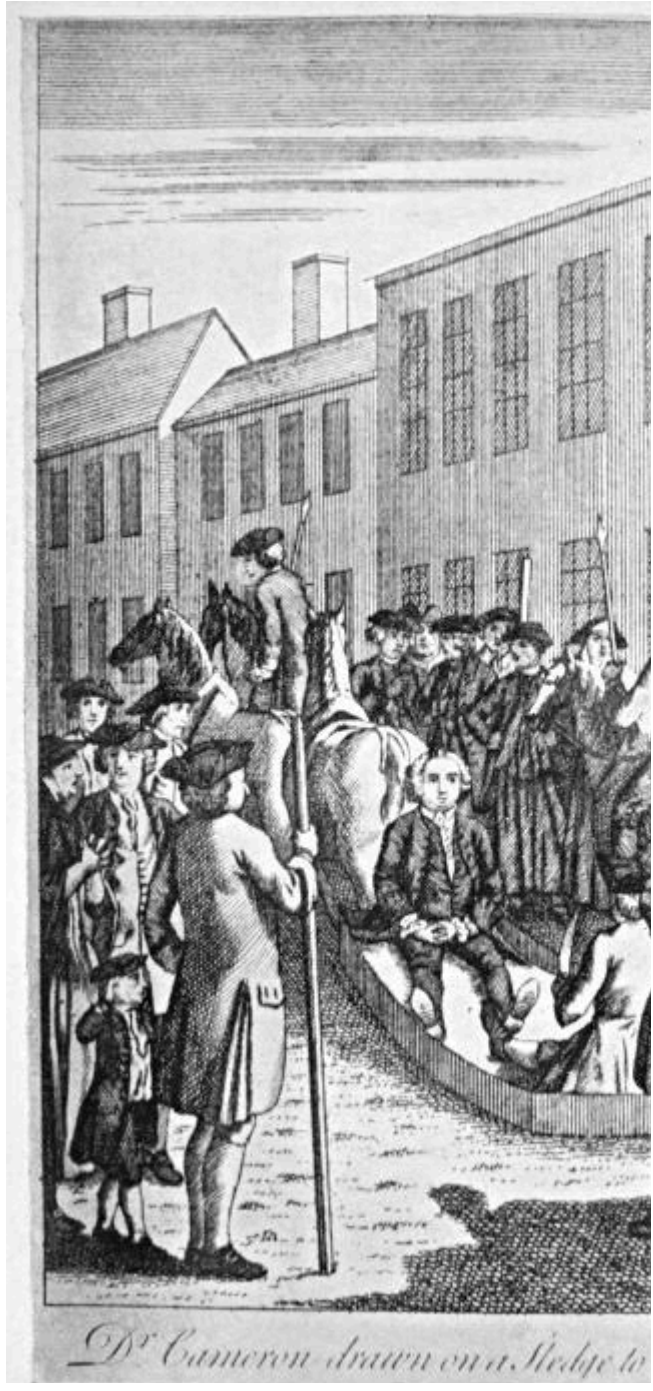
Bodies to be given to the Surgeons' Company at their Hall or where else the Company may appoint, with a view to dissection; or the judge may appoint that the body be hanged in chains (not alive as proposed by J. R. and Ollyffe). In no case whatsoever is the body of a murderer to be buried except after dissection. Incidentally, the Act mentions that hanging in chains was already practised in case of "the most atrocious Offences."

In one point only did the State go beyond its two advisers. The words of the Act show clearly that the interval between the passing of the sentence and its execution was purposely abridged. The interval had been allowed so that, with the aid of the ordinary, or other minister of religion, the condemned man might have time to repent, and to make his peace with Heaven. The abridgment of the interval must therefore be regarded as intended to lessen the chances of repentance, and to send the criminal to

judgment still unrepentant. Thus regarded, the action of the State denoted a daring attempt to prejudice the final award of the Day of Doom; it was a distinct invasion of the jura regalia of the Most High.

The first to suffer under this Act was Thomas Wilford, a one-armed lad of seventeen, who married on a Wednesday, and murdered his wife through jealousy on the following Sunday. If we may trust the *Gentleman's Magazine*, Wilford, sentenced on June 30, was hanged, not on the next day but one after sentence, but on the very next day, July 1: "Wilford to be executed the next morning, and then his body to be dissected and anatomised, according to the late Act."

The fourth plate of Hogarth's "Stages of Cruelty" shows the dissection of a criminal at Surgeons' Hall, but as the print was published in 1751, Hogarth did not take the idea from the Act. Of course, the bodies of criminals frequently found their way to Surgeons' Hall before the passing of this Act, but was the enactment suggested by Hogarth's plate?


Dr Cameron drawn on a Hedge to



DRAWING TO TYBURN ON A SLEDGE, 1

In 1725 Mandeville proposed that the bodies of the hanged should be given to the surgeons for dissection, not as an aggravation of capital punishment, but in order to supply a want felt by anatomists; Mandeville was a doctor. He says: “Where then shall we find a readier Supply; and what Degree of People are fitter for it than those I have named? When Persons of no Possessions of their own, that have slipp’d no Opportunity of wronging whomever they could, die without Restitution, indebted to the Publick, ought not the injur’d Publick to have a Title to, and the Disposal of what the others have left?” (“An Enquiry into the Causes of the Frequent Executions at Tyburn,” 1725, p. 27.)

1752. *July 13.* Eleven executed at Tyburn.

1753. *June 7.* Dr. Archibald Cameron, condemned for high treason for being concerned “in the late rebellion,” and not surrendering in time. It might have been expected that vengeance would have been satiated by the numerous executions that had already taken place: then, too, “the late rebellion” was eight years old. Dr. Cameron was nevertheless sentenced to be drawn, hanged, and quartered. The quartering was omitted. He was, moreover, suffered to hang for twenty minutes, so that the burning of his bowels was done before eyes closed in death. Dr. Cameron met death, not so much with fortitude, which implies, in a way, an effort, as with perfect equanimity.

1754. *February 4.* Twelve executed at Tyburn.

1757. *October 5.* Twelve executed at Tyburn.

1758. *December 18.* Some surgeons attempting to carry off the body of a man executed at Tyburn, the mob opposed, a riot ensued, in which several persons were wounded. In the end the mob was victorious, and carried off the body in triumph.

1759. Between June 18 and October 3 in this year the old triangular gallows, in use for nearly two hundred years, was removed, and the new "movable" gallows took its place (see pp. 69, 70).

1760. *May 5.* Earl Ferrers had more than one relative of unsound mind: he himself had given many proofs of madness. Without any cause, he shot his steward, who had been for thirty years in his service. He was undoubtedly a homicidal lunatic who would to-day be confined in an asylum. On his trial by the House of Lords he produced witnesses to prove his insanity, but "his lordship managed this defence himself in such a manner as showed perfect recollection of mind, and an uncommon understanding." The plea was not accepted, the earl was sentenced to death. Under the ferocious Act of 1752 the execution should have taken place the next day but one, but, in consideration of the earl's rank, the execution was deferred to May 5. The sentence, however, bore that the body should be anatomised.

On the appointed day the earl rejected the mourning coach provided by his friends, and obtained permission to make the journey from the Tower to Tyburn in his own landau, drawn by six horses. He was dressed in a suit of light-coloured clothes, embroidered with silver, said to be his wedding suit. To the sheriff he said: "You may

perhaps, sir, think it strange to see me in this dress, but I have my particular reasons for it."

The procession was the grandest that had ever made that fatal journey. First came a very large body of Middlesex constables, preceded by one of the high constables: then a party of horse grenadiers, and a party of foot soldiers.

Mr. Sheriff Errington in his chariot, accompanied by his under-sheriff.

The landau, escorted by two other parties of soldiers.

Mr. Sheriff Vaillant's chariot, carrying the sheriff and under-sheriff.

A mourning coach and six, with some of his lordship's friends.

A hearse and six, provided for the conveyance of his lordship's corpse from Tyburn to Surgeons' Hall.

The procession was two hours and three quarters on the way, which gave time to the chaplain to worry the earl about his religion—the world would naturally be very inquisitive concerning the religion his lordship professed. His lordship replied that he did not think himself accountable to the world for his sentiments on religion. He greatly blamed my Lord Bolingbroke for permitting his sentiments on religion to be published to the world. But he did not believe in salvation by faith alone.

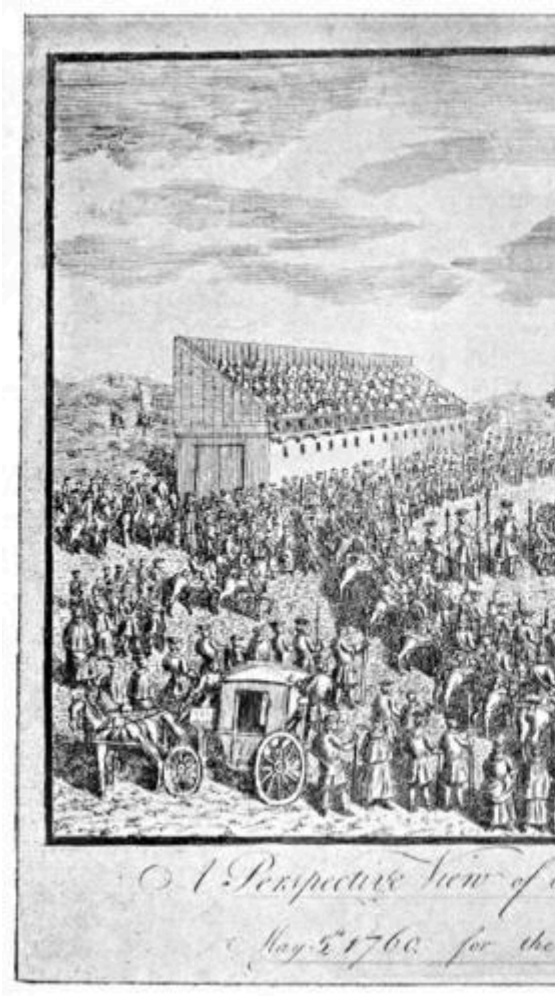
He gave his watch to Sheriff Vaillant, and intended to give five guineas to the hangman. By mischance it was to the hangman's assistant that the earl handed the money, whence arose a dispute between these officers of the State. The enjoined dissection was performed perfunctorily; the body was publicly

exposed in a room for three days, and then given up to friends. There exists an engraving showing the body as exposed in the coffin.

Walpole gives a long account of the execution. It was remarkable, among other things, for the introduction of a new device. “Under the gallows was a new-invented stage, to be struck from under him.… As the machine was new, they were not ready at it: his toes touched it, and he suffered a little, having had time by their bungling to raise his cap: but the executioner pulled it down again, and they pulled his legs, so that he was soon out of pain, and quite dead in four minutes.” The “drop” was no more used at Tyburn, but it became a feature of the new gallows of Newgate.

Walpole says that “the executioners fought for the rope, and the one that lost it cried.”

There is a story that Ferrers was hanged by a silk rope, or, in another version, that he desired to be hanged by such a rope. Timbs, in his “Curiosities of London,” even asserts that the bill for this rope of silk is still in existence; he does not say where. The legend must have arisen later. It is a detail which would have delighted Walpole; he mentions the rope, as we have seen; his silence as to its particular character seems conclusive. But the curious in the matter may consult an article by M. Feuillet de Conches (“Causeries d’un Curieux,” 1862, ii. 333-40); Abraham Hayward, “Biographical and Critical Essays,” ii. 30; an article in the *Quarterly Review*, lxxxv. 378, and the account of Earl Ferrers in the “Dictionary of National Biography.”



THE EXECUTION OF EARL FERRE

The experience gained by the State during six centuries of hanging enabled it to make two immense advances in the art. To the great Elizabethan era we owe the invention of a machine on which a number of victims, up to at least twenty-four, could be simultaneously choked out of life. This

enabled the spectators to concentrate their attention on one spot, and therefore to lose not one jot of the moral lesson inculcated with so great pains.

What was behind the invention of the “drop” is not so clear. On first sight we are inclined to deem it the whim of some “faddist”: indeed, it exhales a strong and disagreeable odour of humanitarianism. As such we are naturally inclined to condemn it. Our conservative instincts are also against the daring innovation. Here was a new principle: the fall would dislocate the neck, and the victim would die otherwise than by strangulation. The “fall,” resulting in immediate death, would deprive the public of what was regarded as the most diverting episode of the piece—the tugging by friends at the legs of the suspended man, the thumping him on the chest, rough methods of accelerating his death. But on consideration it seems probable that the State began to have a real concern as to the effect of mere hanging. We have seen (pp. 221-3) how “half-hanged Smith” was brought back to life—a life which, thus prolonged, did indeed prove useful to the State. But awkward questions arose as to the proper way of dealing with such cases: the mob, indeed the public, and the legal experts took different views. Moreover, a new art was arising, based on these cases of recovery. Bronchotomy, as applied to victims of the scaffold, did not, for all I have been able to find, become recognised as a branch of the healing art till some years later than 1760. But so early as 1733, Mr. Chovet had made such progress in “preventing the fatal consequences of the Halter” that the State may well have trembled. Here was a new development of smuggling. On the whole it seems safer to conclude that the “fall” was adopted as a means of bringing to naught these ingenious attempts to rob the State of

its due.

1767. Mrs. Brownrigg, the wife of James Brownrigg, at one time a domestic servant, was the mother of a large family. To support the household Mrs. Brownrigg learnt midwifery, and received an appointment as midwife to women in the workhouse of St. Dunstan's-in-the-West. She had the character of being skilful and humane: she was reputed to be a faithful wife and an affectionate mother. About 1763 Brownrigg took a house in Fetter Lane, and in February, 1765, Mrs. Brownrigg took as apprentice a poor girl of the precinct of Whitefriars: a little later another girl was bound apprentice to her by the governors of the Foundling Hospital. Mrs. Brownrigg treated these poor girls with unimaginable cruelty. She tied them up naked, and flogged them with a horse-whip, made her husband and son do the same: starved them and gave them insufficient clothing. This went on for two years. At last the neighbours, constantly hearing groans in the Brownriggs' house, watched, and at last caught sight of one of the poor creatures in a most deplorable condition. Information was given and the girls were rescued. But relief came too late to save Mary Clifford, who died of the most terrible wounds inflicted on her by these monsters. On September 12, father, mother, and eldest son were tried for the murder of Mary Clifford: only Elizabeth Brownrigg was found guilty. She was executed on September 14, her body was carried to Surgeons' Hall to be anatomised. Afterwards "her skeleton has since been exposed in the niche opposite the first door in the Surgeons' Theatre, that the heinousness of her cruelty may make the more lasting impression on the minds of the spectators." The *Gentleman's Magazine* adds to a full account of the story an engraving showing the "Hole" under the

stairs in which the poor wretches were confined, and the kitchen in which one of the girls is shown tied up to be flogged. The case made a profound impression on the public, and to this day remains the most shocking case of its kind on record.

1767. *October 14.* William Guest, a teller in the Bank of England, was convicted of filing guineas. Guest's crime was high treason: he was therefore drawn to the gallows in a sledge. "After the three others were tied up, he got into the cart: he was not tied up immediately, but was indulged to pray upon his knees, attended by the ordinary, and another clergyman of the Church of England. He joined in prayers with the clergymen with the greatest devotion, and his whole deportment was so pious, grave, manly, and solemn as to draw tears from the greatest part of the spectators." There exists a print showing Guest in the sledge on the way to Tyburn.

1768. *March 23.* James Gibson, attorney-at-law, convicted of forgery, and Benjamin Payne, footpad, were executed at Tyburn. For a long time, as has been shown, the "respectability" of criminals had been recognised by permitting them to be carried to their doom in a mourning coach, instead of in the ordinary cart. To Gibson, as the erring member of an honoured profession, this indulgence was granted. Gibson desired that the footpad might be allowed to accompany him in the coach. There is something pathetic in this practical recognition of the truth that death makes all men equal. The authorities might well have granted the request, but it was refused.

1769. The manufacture of silk fabrics was highly protected, but protection did not bring prosperity to the workers. The condition of the weavers of Bethnal Green and Spitalfields was deplorable, leading to

constant disturbances. The destruction of looms, and the cutting of woven silk—capital offences—became frequent.

On December 20 three men were executed at Tyburn for destroying silk-looms. Their execution had been preceded on the 6th by that of two others, hanged at Bethnal Green for cutting woven silk. In connection with this execution at Bethnal Green a grave question arose. The sentence passed on the condemned men was that they should be taken from the prison to the usual place of execution, but the Recorder's warrant for the execution directed they should be hanged at the most convenient place near Bethnal Green church. The variation of place was directed by the King. A long correspondence ensued between the Sheriffs and the Secretary of State. The point raised was whether the King had power thus to vary the sentence. The condemned men were respited in order that the opinion of the judges might be taken. It was unanimous that the King had the power of fixing the place of execution, and the men were executed at Bethnal Green, as directed. There was great apprehension of tumult, and not without cause, for in the *Gentleman's Magazine* we read: "The mob on this occasion behaved outrageously, insulted the Sheriffs, pulled up the gallows, broke the windows, destroyed the furniture, and committed other outrages in the house of Lewis Chauvette, Esq., in Spitalfields." The mob dispersed only on being threatened with military execution.

It was observed that when the Recorder next passed sentence of death, he omitted direction as to the place of execution.

1771. On October 16, Mary Jones was executed at Tyburn for stealing from a draper's shop on Ludgate

Hill some pieces of worked muslin. The annals of Tyburn contain the record of no more poignant tragedy than this. It is a story so piteous that, once heard, it ever after haunts the memory. Mary Jones was a young woman whose age is variously given as nineteen and twenty-six: all accounts tell of her great beauty. She was married, lived in good credit, and wanted for nothing till her husband was carried off by a press-gang. Then she fell into great straits, having neither a bed to lie on, nor food to give to her two young children, who were almost naked. On her trial her defence was simple: "I have been a very honest woman in my lifetime. I have two children: I work very hard to maintain my two children since my husband was pressed." Her beauty and her poverty prove Mary's averment that she had been a very honest woman. But when the jury gave in a verdict of guilty, Mary cursed judge and jury for a lot of "old fogrums." It was really for this that she died on the gallows. The theft had not been completed: she was arrested in the shop and gave up the goods. It was her first offence. Her neighbours in Red Lion street, Whitechapel, presented a petition in her behalf, but there was against her the record of her "indecent behaviour." One of the two children was at her breast when she set out in the cart on the journey from Newgate to Tyburn. Her petulance had gone: "she met death with amazing fortitude."

So perished Mary Jones, whose husband had been torn from her side, who was now, in her turn, torn from her helpless babes. Poor Mary Jones! Beautiful Mary Jones, with your great crown of auburn hair! Our hearts are wrung as we seem to see you setting out on your last journey in this world, with your little one at your breast. Your last prayer was for your babes, your last thoughts of your husband, to

whom, as honest as beautiful, you remained true in spite of the temptation to stay your children's hungry cries with bread earned by your shame.

History does not tell us more. Did the husband return from fighting the battles of his country—or rather of its politicians—to find that his true wife had perished on the gallows? Better far that he should have met his death in some glorious victory or inglorious defeat, reddening with his blood some distant sea. And the little ones, robbed by the cruel State of father and mother—what became of them? These are things it behoves us to know, for they are one side of glory, of imperialism. How many Mary Joneses, how many broken hearts and ruined lives are behind the naval victories celebrated by painting, by song, by sculptured tombs in temples dedicated to the Prince of Peace? Or are we to dry our tears, comforting ourselves with the reflection that "the suffering is irrelevant"?

Mary Jones did not die wholly in vain. Six years later, after "John the Painter" had been hanged on a gallows sixty feet high, for setting fire to the rope-house in Portsmouth Dockyard, ingenuity discovered a chance of adding one more capital offence to the two hundred or so already on the Statute-book. A Bill was promoted for making it a hanging matter to set fire to private dockyards. Sir William Meredith, a "faddist" of his day, inveighed against the Bill and the atrocious cruelty of the laws. He cited the case of Mary Jones. "I do not believe," he said, "that a fouler murder was ever committed against law, than the murder of this woman by law."[214] A girl of fourteen had lately been sentenced to be burnt for hiding, at her master's bidding, some white-washed farthings. The faggots had been laid, the cart was

setting out, when a reprieve, granted at the instance of the Lord Mayor, saved this poor child from the flames. “Good God, Sir,” he cried, “are we taught to execrate the fires of Smithfield, and are we lighting them now to burn a poor harmless child, for hiding a white-washed farthing?” This speech, delivered in Parliament, was printed by the Society for the Diffusion of Knowledge upon the Punishment of Death, founded by Basil Montague in 1808, and was also printed separately in several editions down to 1833.

1771. *January 1.* John Clark and John Joseph Defoe executed at Tyburn, for robbery of a gold watch and money. Defoe was said to be a grandson of the immortal author of “Robinson Crusoe.”

1773. *September 13.* Mrs. Herring was thus executed for murdering her husband:—

She was placed on a stool something more than two feet high, and, a chain being placed under her arms, the rope round her neck was made fast to two spikes, which, being driven through a post against which she stood, when her devotions were ended, the stool was taken from under her, and she was soon strangled. When she had hung about fifteen minutes, the rope was burnt, and she sunk till the chain supported her, forcing her hands up to a level with her face, and the flame being furious, she was soon consumed. The crowd was so immensely great that it was a long time before the faggots could be placed for the execution.

1773. *October 27.* The two sheriffs and under-sheriff attended the execution of five malefactors on horseback, and two persons clothed in black walked all the way before the prisoners to the place of execution, where they were allowed an hour and a

half in their devotions, a circumstance not remembered for a great many years past.

A vivid picture of the manners of the times is given in these two extracts from the *Gentleman's Magazine* of 1774.

The first passage shows the extraordinary prevalence of highway robbery, which at this time seems to have become a recognised form of out-door sport among young men:—

"As lord Berkeley was passing over Hounslow Heath in the dusk of the evening [of November 11] in his post-chaise, the driver was called to stop by a young fellow, genteelly dressed and mounted, but the driver not readily obeying the summons, the fellow discharged his pistol at the chaise, which lord Berkeley returned, and, in one instant, a servant came up, and shot the fellow dead. By means of the horse, which he had that morning hired, he was traced, and his lodgings in Mercer-street, Long-Acre, discovered; where Sir John Fielding's men were scarce entered, when a youth, booted and spurred, came to enquire for the deceased by the name of Evan Jones. This youth, upon examination, proved to be an accomplice, and impeached two other young men belonging to the same gang, one of whom was clerk to a laceman in Bury-street, St. James's, after whom an immediate search being made, he was traced along the road to Portsmouth, and, at three in the morning, was surprised in bed at Farnham, and brought back to London, by Mr. Bond and other assistants. The other accomplice was also apprehended, and all three were carried before Sir John Fielding, when it appeared, that these youths, all of good families, had lately committed a number of robberies in the neighbourhood of London: that

their names were Peter Holtum, John Richard Sauer, and William Sampson: that Sampson in particular, had 50 guineas due to him for wages when he was apprehended, and that he had frequently been intrusted with effects to the amount of 10,000*l.* An evening paper says, that there are no less than seven of these youths in custody, from 18 to 20 years of age, some of whose parents are in easy, some in affluent circumstances, all of them overwhelmed with sorrow by the vices of their unhappy sons."

Here is a batch of executions:—

1774. *November 30.* The six following malefactors, were executed at Tyburn, pursuant to their sentence, viz., John Coleby and Charles Jones, for breaking into the dwelling-house of Lancelot Keat, and stealing goods: William Lewis, for publishing a forged draught upon Mess. Drummond and Co. for 48*l.* 18s.: John Rann, alias Sixteen-string Jack, for robbing the rev. Dr. Bell, near Gunnerbury-lane: and William Lane and Samuel Trotman, for robbing the Knightsbridge stage-coach.

Lewis, the unhappy sufferer for forgery, was a most ingenious copyist, and could counterfeit copper-plate writing to astonishing exactness. He was far from an abandoned character, and died an example of penitence, which, in some measure, atoned for the injury he had done the public. He composed a prayer in the cells, which does credit to his understanding.

The friends of Coleby and Jones, in passing the house of Mr. Keat, their prosecutor, in order to the interment of their bodies, committed the most outrageous acts of violence that have been known in any civilised country, by breaking the windows,

attempting to set the house on fire, and threatening the life of Mr. Keat.

1776. *January 17.* Robert and Daniel Perreau executed at Tyburn.

They were twin brothers, natives of St. Kitts. Robert was an apothecary "in high practice" in Golden Square, then a fashionable quarter. Daniel lived "a genteel life" with his mistress, Mrs. Rudd. Robert Perreau sought a loan of Drummonds, the bankers, on bonds, afterwards found to be forged. The evidence made it probable that the actual forgery was by Mrs. Rudd, but that all three were acting in concert. The brothers were both found guilty on their trials, but a strong feeling existed that the sentence on Robert was harsh. A petition to commute the sentence to one of transportation was presented on behalf of seventy-eight "capital Bankers and Merchants" of the City. The king was, however, obdurate, and after the acquittal of Mrs. Rudd let the law take its course. The execution was witnessed by 30,000 persons. The brothers, born together, were not divided in death. They fell from the cart with their four hands clasped together.

Mr. Bleackley has told the story at length in "Some Distinguished Victims of the Scaffold," 1905.

1777. *June 27.* Execution of Dr. Dodd.

William Dodd, born in 1729, was the popular preacher of his day. He came, a young man of 21, from Cambridge to London in 1750. He hesitated between adopting literature as a profession and the Church, but took orders in 1751. He still dabbled in literature, and is said to have been the author of a work, "The Sisters," which gave no very favourable idea of the purity of his mind. In 1758 he became

chaplain of the Magdalen Hospital, and fine ladies came to hear his sermons "in the French style." In 1763 he was made one of the king's chaplains, an appointment he lost when, in 1774, Mrs. Dodd wrote to the wife of the Lord Chancellor, offering a bribe for the living of St. George, Hanover Square. Dodd got into debt: he had to sell a proprietary chapel in which he had sunk money: it is said that he even "descended so low as to become the editor of a newspaper." He fell still lower: in his need he forged the signature of his patron, Lord Chesterfield, to a bond for £4,200. The forgery was discovered, and warrants were issued against Dodd and his broker. Dodd made partial restitution, offered security for the remainder, and the affair might have been settled had not the Lord Mayor, who had issued the warrants, refused to let the case be hushed up. Dodd was tried on February 22, 1766. The evidence was irresistible. Only a legal point stood in the way of sentence. This point was decided adversely to Dodd, and on May 26 sentence of death was passed. "They will never hang me," said Dodd, and indeed everything possible was done to save him. "The exertions made to save him were perhaps beyond example in any country. The newspapers were filled with letters and paragraphs in his favour. Individuals of all ranks and degrees exerted themselves in his behalf: parish officers went from house to house to procure subscriptions to a petition to the king, and this petition, which, with the names, filled twenty-three sheets of parchment, was actually presented. The Lord Mayor and Common Council went in a body to St. James's, to solicit mercy for him, but all this availed nothing; government were resolved to make an example of him." Foremost among those who pleaded for Dodd was Dr. Johnson. There was

nothing in common between the shallow flippancy of Dodd, and the great, rough, earnest nature of Johnson; being once asked whether Dodd's sermons were not addressed to the passions, "They were nothing, Sir," growled the lexicographer, "be they addressed to what they may." But to misery Johnson's heart was more tender than a woman's; he was agitated when application was made to him on behalf of Dodd; he paced up and down the room, and promised to do what he could. He wrote the speech delivered by Dodd before the passing of the sentence and more than one petition in his behalf.

All was in vain: "If I pardon Dodd, I shall have murdered the Perreaus." So the king is reported to have said—and, indeed, although Dodd's partisans fell foul of court and jury, it is not easy to see how, if Dodd had been pardoned, the punishment of death for forgery could ever after have been inflicted. There is a pathetic touch in the fact that, many years before his fall, Dodd preached a sermon, afterwards printed, deprecating the frequency of capital punishment. In "Prison Thoughts" he foretold the abolition of the procession to Tyburn, or perhaps of public executions:—

"… yes, the day—
I joy in the idea—will arrive
When Britons philanthropic shall reject
The cruel custom, to the sufferer cruel,
Useless and baneful to the gaping crowd!"

On June 27 the fatal procession set out from Newgate. On this occasion "there was perhaps the greatest concourse of people ever drawn together by a like spectacle." "Just before the parties were turned off Dr. Dodd whispered to the executioner. What he said cannot be known; but it was observed that the man had no sooner driven away the cart, than he ran immediately under the gibbet, and took hold of the doctor's legs, as if to steady the body." Another account says that the executioner, gained over by Dodd's friends, had arranged the knot in a particular manner, and whispered to him as the cart drew off, "You must not move an inch!" When cut down the body was conveyed to the house of an undertaker in Goodge Street, where a hot bath was in readiness. Under the direction of Pott, a celebrated surgeon of the day, every effort was made to restore animation. But in vain. The crowd was so enormous that there had been great delay in the transport of the body, and this was fatal. Nevertheless, there were not wanting people who believed that Dodd had been resuscitated and carried abroad.

1779. *April 19.* The Rev. James Hackman executed at Tyburn for the murder of Miss Martha Ray.

As the spectators were leaving the performance of "Love in a Village" at Drury Lane, on the night of April 7, a gentleman, seeing Miss Ray, with whom he had some little acquaintance, in difficulty in getting to her coach, stept forward and offered his

assistance. When close to the coach he heard the report of a pistol, and felt the lady fall. For a moment he thought that she had fallen in fright at the report, but on stooping down, to help her to rise, he found his hands covered with blood. With the aid of a light-boy, he got the lady into the Shakespeare tavern. She was dead. The murdered woman was Miss Martha Ray, the mistress of Lord Sandwich, First Lord of the Admiralty; her murderer the Rev. Mr. Hackman.

Hackman was born in 1752. He was apprenticed to a mercer, but, disliking the business, his friends bought for him a commission in a foot regiment. While with a recruiting party at Huntingdon, he was invited to the country house of Lord Sandwich, and fell violently in love with the Earl's mistress. In 1776 he left the army, took orders, and in 1779 was presented to the living of Wiverton, in Norfolk. It is doubtful whether he ever officiated there. He had not been able to forget Martha Ray. He continued his attentions, and offered her marriage. On the fatal day, having written a letter to a friend, announcing his intention to destroy himself, he went to the theatre armed with two pistols. After discharging one at the lady, he shot himself and fell at the lady's feet, beating his head with the butt-end of a pistol and calling on the bystanders to kill him. On his trial his only defence was that a momentary frenzy overcame him. The letter contained nothing to indicate an intention to kill Miss Ray. He was executed on April 19.

Boswell records a stormy discussion between Dr. Johnson and Mr. Beauclerk on the subject of the murder. Did the fact that Hackman carried two pistols indicate an intention to kill Miss Ray as well as himself? Johnson held that it did; Beauclerk

maintained the contrary, citing the case of a man inordinately fond of muffins, which disagreed with him. Determined to enjoy a last repast, he ate his muffins and then shot himself. He had ready two pistols for the purpose. As too often happens, neither disputant could convince the other (ed. Hill, iii. 383-5).

Here is a portion of a Grub Street ballad on the tragedy:—

A Sandwich favourite was this fair,
  And her he dearly loved:
By whom six children had, we hear:
  This story fatal proved.

A clergyman, O wicked one,
  In Covent Garden shot her:
No time to cry upon her God,
  Its hop'd he's not forgot her.

Martha Ray bore several children to the Earl. One of them, Basil Montagu, is in our days remembered, if at all, by a savage snarl of Carlyle at the man and his parentage ("Reminiscences," i. 224), "considerably a humbug if you probed too strictly." Basil has already been mentioned in this book as the founder of the Society for the Diffusion of Knowledge upon the Punishment of Death. By his numerous writings on this subject he did perhaps more than any other man to bring home to the public the frightful cruelty of our criminal law. He may at least be credited with sincerity in this matter. On one occasion, in 1801, he posted through the night to Huntingdon, arriving with a respite just in time to save the lives of two men.

Lord Sandwich gave to the world a thing and its

name. He was an inveterate gambler, and, in order that he might continue this diversion uninterruptedly, he caused to be served to him thin slices of meat placed between bread. Hence the "sandwich," known to all civilised men.

1779. *August 25.* Four malefactors were carried to Tyburn for execution, and had been tied up for near twenty minutes when a report was spread that a reprieve was come to Newgate for one of them. They were all untied and left in the cart while one of the sheriffs went to Lord Weymouth to learn the truth. No reprieve having been granted, the execution took place at near one o'clock.

1779. *October 27.* Isabella Condon, condemned for coining, was at Tyburn first strangled, and then burnt.

1780. *April 12.* A man was executed at Tyburn for robbing the house of Jeremiah Bentham. This was the father of Jeremy Bentham. One wonders whether this execution directed his thoughts to the question of capital punishment.

1781. *July 27.* Francis Henry de la Motte, executed at Tyburn for giving to the French Government information as to the movement of British ships. The sentence was in the usual form for high treason, that he should be hanged "but not till you are dead," but he was allowed to hang for nearly an hour. The head was severed from the body, four incisions made in the body, and part of the entrails thrown into a fire. Then the body was delivered to an undertaker, and was buried in St. Pancras churchyard.

1783. *August 29.* William Wynne Ryland executed at Tyburn for forgery. Ryland was an engraver of repute in the manner of Bartolozzi. He is the subject

of a careful study, perhaps too sympathetic, by Mr. Bleackley, in his "Some Distinguished Victims of the Scaffold," 1905.

1783. *November 7.* On this day took place the last execution at Tyburn. The occasion requires us to give in full the account, not otherwise particularly interesting. It is quoted from the *Gentleman's Magazine*:—

This morning was executed at Tyburn, John Austin, convicted the preceding Saturday of robbing John Spicer, and cutting and wounding him in a cruel manner. From Newgate to Tyburn he behaved with great composure. While the halter was tying, his whole frame appeared to be violently convulsed. The Ordinary having retired, he addressed himself to the populace: "Good people, I request your prayers for the salvation of my departing soul: let my example teach you to shun the bad ways I have followed: keep good company, and mind the word of God." The cap being drawn over his face, he raised his hands and cried, "Lord have mercy on me: Jesus look down with pity on me: Christ have mercy on my poor soul!" and, while uttering these words, the cart was driven away. The noose of the halter having slipped to the back part of his neck, it was longer than usual before he was dead.

The transference of executions to Newgate involved the suppression of the processions which for six hundred years had been a feature of the city's life. The change did not receive the approval of Dr. Johnson. "The age," he said, "is running mad after innovation: all the business of the world is to be done in a new way: Tyburn itself is not safe from the fury of innovation!" It having been argued that this was an improvement—"No, Sir (said he eagerly), it is

not an improvement: they object that the old method drew together a number of spectators. Sir, executions are intended to draw spectators. If they do not draw spectators, they don't answer their purpose. The old method was most satisfactory to all parties: the public was gratified by a procession: the criminal was supported by it. Why is all this to be swept away?"

From the "moral lesson" point of view Dr. Johnson was quite right. But the procession was abolished simply because the best quarter of the town had extended to Tyburn.

On December 9, 1783, the first executions took place in front of Newgate prison, on the new gallows, with a "drop." The illustration shows

THE DAWN OF THE NEW ERA.



THE NEW

The ten persons seem to fill the stage, but it would be doing an injustice to the designer of this national monument to assume that he had not taken into account the possible demands of the State.

On February 2, 1785, twenty men swung in a batch in front of the debtors' door. Of these, five—FIVE—were hanged for assaulting a man and robbing him of two glass drops, set in metal, value 3d.; a one-inch rule, value 2d.; two papers of nails, value 1d.;

one knife, value 1d.; two shillings, and a counterfeit half-penny.

Tyburn gallows was in full vigour when the claims of a "genteel" neighbourhood demanded its abolition. In the last year of its existence one hundred and eight persons were condemned to death at the Old Bailey sessions—fifty-eight in a single sessions. Most of the condemned were reprieved: the crimes of these must have been light, for John Kelly was actually hanged for robbing another of sixpence-farthing.

Within view of the accursed spot Catholics have instituted an Oratory of the English Martyrs. It is well: the world cannot afford to forget the example of those who, whether at Tyburn or Smithfield, gladly faced the most horrible of deaths rather than be false to themselves.

But in honouring them, let us not forget the thousands of martyrs for whom no one has claimed the crown of martyrdom—the martyrs to ferocious laws, not seldom put in force against the innocent, the martyrs to cruel injustice, to iniquitous social conditions. Thousands have had the life choked out of them at Tyburn on whom pity might well have dropped a pardoning tear: to whom compassion might well have stretched out a helping hand.

If not a sparrow falls unheeded, these obscure martyrs may not have died in vain.



FOOTNOTES

[1] “My opinion is that we have gone too far in laying it [capital punishment] aside, and that it ought to be inflicted in many cases not at present capital. I think, for instance, that political offences should in some cases be punished with death. People should be made to understand that to attack the existing state of society is equivalent to risking their own lives” (“Hist. of the Criminal Law of England,” 1880, i. 478).

[2] Spelman, “Glossarium” (*s.v.* Furca) gives a notable instance of the drowning of a woman about A.D. 1200.

[3] Walsingham, Gesta Abbatum Monas. S. Albani, ed. Riley, i. 39-41.

[4] Chron. of the Reigns of Stephen, &c., ed. Howlett, ii. Preface p. 1.

[5] Matthew Paris, Chron. Maj., ed. Luard, v. 56-60, 369. The “Statute of Winchester,” 13 Edward I. (1285), enacted that trees and brushwood should be cut down for 200 feet in width on either side of highways between market towns.

[6] “De Corona,” book iii. Second Treatise, chap. i.

[7] “Subito enim et sine certa causa, quasi lymphatico metu correpti, de villa in villam cum cornuum strepitu, quod Anglice Uthes dicitur, fere per totam Angliam deduxerunt” (“Hist. Coll. of Walter of Coventry,” ed. Stubbs, ii. 206).

[8] “Hist. of the Norman Conquest,” ii. 34.

[9] “De sorte qu’on a long-temps douté si un ecclésiastique pouvoit, sans hazard

d'irrégularité, faire exercer Justice de sang en sa terre; estant chose étrange qu'on puisse commettre à autruy, ce qu'on ne peut faire soi-mesme" (Loyseau, Œuvres, ed. 1701, p. 4).

[10] Placita de Quo Waranto, p. 479.

[11] Chron. William of Malmesbury, ed. Stubbs, i. 171.

An interesting story is told of the rescue by a bishop of a man in the year 1184. One, Gilbert Plumpton, actually had the rope round his neck when the bishop passed by. He ordered the executioners to let the man down, alleging that the day was Sunday, and besides the feast of St. Mary Magdalene. But he had heard the people crying out that Plumpton was innocent, and he believed them. On threat of excommunication the executioners loosed the rope. The bishop prevailed with the king to spare Plumpton's life. Plumpton remained in prison till the death of the king (Chron. Roger de Hoveden, ed. Stubbs, ii. 286).

[12] Annales de Waverleia (in Annales Monastici), ed. Luard, ii. 395. Waverley Abbey, which, by the way, has nothing to do with Scott's "Waverley," was founded in 1218, being the first Cistercian Abbey in England. The abbey is, of course, in ruins, but the abbat's mill still exists, and the place retains more of the character of a monastery than any I have seen. Cobbett, who was born at Farnham, not far distant, speaks of the ruins, which probably inspired one of the best passages in his writing. ("Hist. of the Protestant Reformation," pars. 184, 155.) In one of the abbey's charters mention is made of the oak of Tilford as existing in the time of Stephen. It is to-day one of the sights of this part of Surrey.

[13] Rot. Hund., i. 407, 417, 418, 422, 425, 429; Plac. de Quo War., pp. 478, 480.

[14] Spelman, "Glossarium," *s.v.* Trailbaston. Rot. Parl. i. 178, 218-9; ii. 174; iii. 24.

[15] Annals of Tewkesbury, in Annal. Monas., ed. Luard i. 511-6.

[16] Dugdale, Monast. Anglic., ed. in 8 vols., vi. 240.

[17] Annals of Dunstable, in Annal. Monast., ed. Luard, iii. 261.

[18] Rot. Parl., i. 45.

[19] Ducange, "Glossarium," *s.v.* Furca.

[20] Loyseau, "Traité des Seigneuries," ed. 1610, p. 46.

[21] Camden's "Britannia," ed. Gough, 1789, ii. 238.

[22] Thorpe, "Ancient Laws and Inst. of England," fo. ed., p. 125.

[23] Chron. Roger de Hoveden, ed. Stubbs, iii. 36.

[24] Borough Customs (Selden Soc.), pp. 73, 74.

[25] Boys' "Hist. of Sandwich," p. 465.

[26] Liber Custumarum, ed. Riley. i. 150.

[27] Harrison, in Holinshed's Chron. An instance is recorded in Machyn's Diary: "1557. The vj day of Aprell was hangyd at the low-water marke at Wapyng be-yond santt Katheryns vij for robyng on the see," p. 131. According to Hentzner, who visited England about 1598, 300 pirates were hanged yearly in London.

[28] Borough Customs (Selden Soc.), pp. 73,

74.

[29] Fortescue, “De Laudibus Legum Angliæ, with the Summs of Sir Ralph de Hengham.” Notes by Selden, 1741, p. 33, *note*.

[30] Borough Customs (Selden Soc.), pp. 73, 74.

[31] The Act making poisoning high treason was repealed by 1 Edward VI., c. 12, sec. 12, which made poisoning wilful murder, to be punished as murder. Harrison was therefore mistaken in writing of the punishment as if it still existed. Curiously enough Bacon, on the trial of the Earl of Somerset, eulogised Henry’s Act, without hinting at its repeal.

[32] “The Christian Prudence of this Customary Law” is defended in a little work, “Hallifax and its Gibbet-Law Placed in a True Light,” 1708, containing an illustration copied in Gough’s edition of Camden’s “Britannia,” and in the enlarged “Magna Britannia,” ed. 1731, vi. 384. In “Hallifax and its Gibbet-Law” it is stated, with every appearance of probability, that the custom goes back to a date before the Norman Conquest. It appears that the last persons executed were Abraham Wilkinson and Anthony Mitchell in 1650 for stealing 9 yards of cloth and two colts.

[33] Thorpe, “Anc. Laws and Inst. of England,” fo. ed., p. 252.

[34] Chron. Benedict of Peterborough, ed. Stubbs, i. 122-3.

[35] “Gleanings from Westminster Abbey” (Sir Gilbert Scott), 1863, pp. 282-90, where the original authorities are mentioned.

[36] Chrons. of the Reigns of Edward I. and Edward II., ed. Stubbs, i. 132.

[37] “Historical Memorials of Westminster

Abbey," 1868, pp. 384-5.

[38] Chron. Walter of Coventry, ed. Stubbs, ii. 251-2; Gregory's Chron. (Camden Socy.), p. 63; Chron. Grey Friars, in Mon. Francisc., ed. Howlett, ii. 146; Capgrave, ed. Hingeston, p. 151. Coggeshall, Chron. Angl., ed. Stevenson, p. 11.

[39] "Tractus" is the usual form; for the other forms see, for example, Chron. Angliæ, ed. Thompson, p. 2; Chron. Barth. Cotton, ed. Luard, pp. 132, 159, 164, 166.

[40] See illustration in Annals, under year 1242.

[41] Annals, under year 1196.

[42] "Et super corium bovinum tractus, ne concito moreretur" (Annales de Vigornia, in Annales Monastici, ed. Luard, iv. 523).

[43] "Liber Assisarum, Le Livre des Assises et Pleas del' Corone," &c. Sir Robert Brook, 1679. This sentence contains the first mention of the hurdle in this connection. In the Popish Plot sentences "sledge" and "hurdle" are used indifferently as names for the same thing.

[44] Chronicles: Waverley, ed. Luard, ii. 378; Flores Hist. ed. Luard, iii. 24-6; Osney (in Annales Monastici, ed. Luard, iv. 251); Cotton, ed. Luard, p. 148; an account unfavourable to the prior is found in Liber de Antiq. Leg., Riley's translation, pp. 150-3.

[45] Matthew Paris, Chron. Majora, ed. Luard, iii. 497, 498.

[46] Chrons. Osney, Worcester, in Annales Monas. ed. Luard, iv. 294, 488. Between the executions for high treason of Prince David and Sir William Wallace, comes that, in 1295, of Sir Thomas de Turberville. His crime was undoubtedly high treason, but the punishment

was abnormal; he was drawn to the gallows, and there hanged, no doubt alive, by a chain of iron. See Annals, under the year. A passage in "Fleta," written about 1285, seems to indicate that at the time the character of the punishment was not rigorously fixed: "If he is found guilty, he shall undergo the last punishment (ultimum supplicium) with aggravation of the corporeal penalty" (book i., chap. xxi).

[47] "Primo per plateas Londoniæ ad caudas equinas tractus usque ad patibulum altissimum sibi fabricatum, quo laqueo suspensus, postea semivivus dimissus, deinde abscisis genitalibus et evisceratis intestinis ac in ignem crematis, demura absciso capite ac trunco in quatuor partes secto, caput palo super pontem Londoniæ affigitur; quadrifida vero membra ad partes Scotiæ sunt transmissa" ("Flores Hist.," ed. Luard, iii. 124).

Another chronicler expressly states "ultimo decollatur," and a third, "demum decollatus est." Walsingham, Ypodigma, ed. Riley, p. 235; Chron. Rishanger, ed. Riley, pp. 225, 226.

[48] Hawkins (William), "A Treatise of the Pleas of the Crown," 1771, c. 48, p. 443. See for details, Sir William Stanford, "Les Plees del Coron.," 1560, fol. 182, 182b. Sir Matthew Hale, "Hist. Placit. Coronæ," i. 350-1. "Les Reports de Henry Rolle," 1675, i. 185-7, containing a good example of law-French of the time of James I., the most exquisite jargon ever invented by man. Coke, "Institutes," part iii., 1644, p. 210, where Coke gives scriptural authority for all the horrors of the sentence. In passing sentence on the Gunpowder Plot men Coke gave an elaborate justification of each part of the sentence ("State Trials," ii. 184).

[49] "State Trials," xviii. 350-1.

[50] Ellis, “Original Letters,” 1st series, ii. 261.

[51] “Constitut. Hist.,” ed. 1854, i. 148.

[52] “A Declaration of the favourable Dealing of her Majesties Commissioners appointed for the Examination of certaine Traytours, and of Tortures unjustly reported to be done upon them for Matters of Religion, 1583.” Reprinted in “Harleian Miscellanies,” iii. 565-8, and in “Somers’s Tracts,” i. 209-12. In the latter the tract is ascribed to Burghley. I think that the only non-official defence of torture published in England is contained in a pamphlet published in 1656, under the Commonwealth, by Sir R. Wiseman (the title belongs to the Restoration). He writes: “So that to bring men to the rack in such cases [where there was only one witness] for trials sake is not to be censured for cruelty.... This rigour of the Law (if it be any) is recompensed with advantage to the whole Commonwealth; for by the terror hereof it is free from the machinations of wicked and lewd men.” (“The Law of Laws,” 1656.) It was written when Cromwell’s power and life were the object of numerous plots, but there is nothing in the book to connect this defence of torture with current affairs. The last *recorded* case of torture in England, and the last that a careful inquirer could discover, was on May 21, 1640, Jardine, David, “A Reading on the Use of Torture in England,” 1837, pp. 57, 58, 108, 109.

[53] Ed. Oxford, 1865, i. 26-7.

[54] Book i. c. 34, § 33.

[55] Chron. Barth. Cotton, ed. Luard, p. 228.

[56] Chron. Year Books of Edward I., years 30-31, p. 499.

[57] Rymer, “Fœdera,” vi. 13.

[58] Year Book, 8 Henry IV., Michaelmas term.

[59] Holinshed, i. 185.

[60] Mr. John Mush’s Life of Margaret Clitherow, in “The Troubles of Our Catholic Forefathers,” by Father John Morris, 3rd series, 1877, p. 432.

[61] “The Unhappy Marksman,” in Thomasson Tracts, Brit. Mus. (E. 972), reprinted in “Harleian Mis.,” vol. iv.

[62] “Et sic nota que il ne dit coē Britton ad dit deuant, s. que ceo serra son diet taque il voet doner direct respons, mes que ceo serra son diet tanqz il soit mort absolutement: sans ascun condition en le iudgement expresse ou implie, s. que a tel teps que il voile responder, il serra release de son penance. Car tiel releas nad estre view a nul teps. & ne serroit reason que per tiel repentance: le roy serroit tolle del forfaiture de les biens le felon, a quel il est intitle per le dit iugemt du pain fort et dure” (Fols. 150b, 151).

[63] See Annals, 1721, February 8th and December 22nd.

[64] A Report of Divers Cases, &c., collected by Sir John Kelyng Knight, ed. 1708, p. 27.

[65] See in Annals, under 1538, July, and 1556, July 2nd.

[66] “State Trials,” ii. 335.

[67] Blount, “Glossogr.,” 1656: “Deric … is with us abusively used for a Hang-man.”

[68] George Lord Carew, to Sir Thomas Roe, in “Cal. of State Papers,” Domestic series, 1611-8, p. 428.

[69] See in Annals, under 1649.

[70] Luttrell, i. 271.

[71] “Autobiography of Sir John Bramston” (Camden Society), p. 192.

[72] *Gentleman’s Magazine*, 1750, pp. 233, 425.

[73] Ibid., 1767, p. 276.

[74] Stow’s “Survey,” ed. Thoms, p. 161.

[75] Grey Friars’ Chron., ed. Howlett, pp. 199, 200.

[76] Ellis, “Original Letters,” 1824, ii. 298.

[77] Challoner’s “Memoirs of Missionary Priests,” 1842, pt. ii. p. 37.

[78] Laws of Alfred, in Thorpe’s “Anc. Laws and Inst. of England,” fo. ed., p. 42.

[79] Thorpe, p. 97.

[80] Laws of William the Conqueror, De Suppliciorum modo: “Interdicimus eciam ne quis occidatur vel suspendatur pro aliqua culpa, sed enerventur” (other texts have “eruantur”) “oculi, et abscindantur pedes, vel testiculi, vel manus, ita quod truncus remaneat vivus, in signum prodicionis et nequicie sue: secundum enim quantitatem delicti debet pena maleficis infligi. Ista precepta non sint violata super forisfacturam nostram plenam. Testibus, &c.” (Thorpe, “Ancient Laws and Institutes of England,” fol. ed., p. 213).

[81] Chron. Roger de Hoveden, ed. Stubbs, i. 165.

[82] Chron. Benedict of Peterborough, ed. Stubbs, ii. 59.

[83] “En France … nous voyons aujourd’huy, qu’il n’y a presque si petit Gentil-

homme, qui ne prétend avoir en propriété la Justice de son village ou hameau; tel même qui n'a ni village, ni hameau, mais un moulin ou une basse court près sa maison, veut avoir Justice sur son meusnier, ou sur son fermier: tel encore qui n'a ni basse court ni moulin; mais le seul enclos de sa maison, veut avoir Justice sur sa femme et sur son valet: tel finalement qui n'a point de maison, prétend avoir Justice en l'air sur les oyseaux du Ciel disant en avoir eu autrefois." Loyseau, Charles, "Discours de l'abus des Justices de Village," p. 1 (in Œuvres).

[84] Stanley, "Hist. Mem. of Westminster Abbey," ed. 1882, p. 354; Brayley, "Londiniana," iv. 215; "Arch. Cantiana," vii. 96, 97.

[85] Placita de Quo Waranto, p. 479.

[86] Maitland, "History of London," ii. 1363; Parton, "Some Account of the Hospital and Parish of St. Giles," p. 38.

[87] Thus Sir John Oldcastle was executed here in 1417, and those implicated in Babington's conspiracy in 1586, but in each case there were special reasons for the selection of St. Giles's.

[88] Placita de Quo Waranto, p. 479.

[89] Burnings in Smithfield for heresy took place in the following years: 1401, 1410, 1415, 1422, 1431, 1438, 1441, 1494, 1499. The writ in the first case is given in Rot. Parl., iii. 459: "Item, mesme ceste Mesquerdy, March 2, 1400-1, un Brief feust fait as Meir & Viscontz de Londres, par advis des Seigneurs Temporelx en Parlement, de faire execution de William Sautre, jadys Chapelein Heretic, dont le tenure s'ensuyte." Then follows in Latin the text of the writ, Henry to the Mayor and

Sheriffs of London. It recites that the Archbishop of Canterbury, with the consent and assent of the bishops and the whole of the clergy of the province assembled in his provincial council, condemned William for heresy, degraded him, and decreed that he be left to the secular court, and Holy Mother Church has no more to do in the premises. The writ orders that in some public and open place within the liberty of the said city they shall cause, for the reason set forth, Sawtre to be publicly, before the people, committed to the fire and to be burnt.

Smithfield, long established as a place of execution, was naturally selected by the civic authorities; hence the evil celebrity of Smithfield as the place of burning of heretics. The fires of Smithfield, associated in the popular mind with "bloody Mary," were kindled long before her time, and continued long after her.

[90] "Henricus Dei gratia et cetera Vicecomiti Midilsex' salutem. Precipimus tibi quod sine omni dilatione in loco ubi furche prius erecte fuerunt videlicet ad ulmellos fieri facias duos bonos gibettos de forti et optimo mæremio ad latrones et alios malefactores suspendendos et custum quod ad hoc posueris per visum et testimonium legalium hominum computabitur tibi ad scaccarium. Teste H. de Burgo Justiciario nostro apud Sanctum Albanum xxij die Maii. Rotuli Litterarum Clausarum, 1833" (Records Commission, i. 419).

[91] Stow's "Survey of London," ed. Strype, book iii., p. 238; "Liber Custumarum," ed. Riley, i. 147-51; Stow's "Survey," ed. Thoms, pp. 24, 25. By the last two "Humeaus" is correctly understood to mean "The Elms" of

Smithfield, in the jurisdiction of the City of London.

[92] Chron. Avesbury, ed. Thompson, p. 285.

[93] Loyseau (Charles), "Traité des Seigneuries," ed. 1601, p. 46; ed. 1704, p. 24.

[94] Smith (Thomas), "A Topographical and Historical Account of the Parish of St. Marylebone," 1833, pp. 38, 39; Loftie (W.J.), "Hist. of London," ii. 228-9.

[95] Matthew Paris, Chron. Majora, ed. Luard, iv. 196; Gregory's Chron., p. 65.

[96] Chron. Murimuth, ed. Thompson, pp. 36, 43.

[97] "Mémoires d'un Protestant condamné aux Galères de France," ed. 1881, p. 432.

[98] Maillard (Firmin), "Le Gibet de Montfaucon," 1863, pp. 16 and 17, and frontispiece.

[99] Harleian Misc., iii. 100-8.

[100] Martin Marprelate, "Pappe with an Hatchet," 1589.

[101] Shakespeare Socy., 1844, p. 73. This has been repeatedly quoted (following Cunningham) as from "Tarlton's Jests," published in 1611, twenty-one years later.

[102] Act. IV. sc. 3. The play is allotted to the period 1590-4.

[103] I am indebted to Mr. Herbert Sieveking for knowledge of this map. He has described it in an article which has not appeared at the time when this is written.

[104] In Mr. Croker's translation we find the following: "It really requires the concurrent testimony of all writers to make us believe that

the queen of England was forced by ‘those meddling priests’ to walk in penance to Tyburn, and there on her knees, under the gibbet, glorify the blessed martyrs of the Gunpowder Plot” (pp. 3, 4). The passage contains several inaccuracies. In the first place, the testimony of all writers was not concurrent, as is shown in the text; next, it was not charged that the Queen “glorified” the martyrs, but that she prayed for their souls; finally, “the blessed martyrs of the Gunpowder Plot” do not come into the story, as not one of them was executed at Tyburn.

There exists a rare print, often reproduced, of the supposed scene. It is of much later date and has no value whatever as evidence.

[105] In the *Athenæum*, August 17, 1907.

[106] In Annals under date.

[107] Ibid.

[108] Quoted by Mr. John W. Ford in the *Athenæum*, August 31, 1907.

[109] The testimony of maps is not wholly either in favour of a triangular gallows, or of the site as indicated by the maps of Mackay and Rocque. In a few the gallows is shown as consisting of three pieces. In one map such a gallows is shown at some distance to the west of Edgeware Road. But the maps are small and unimportant with one exception—John Seller’s map of the county of Middlesex, 1710 and 1742. In these the gallows of three pieces is placed just within the angle formed by the junction of the roads. But the evidence that at these dates, 1710-42, the gallows was triangular, and that it stood in the centre of the open space is too clear to be upset by the evidence of this map.

[110] Mr. Alfred Robbins, in *Notes and Queries*, November 9, 1907.

[111] Strype, writing in 1720 about Hanover Square then partly built, says: “And it is reported that the common Place of Execution of Malefactors at Tyburn, shall be appointed elsewhere, as somewhere near Kingsland; for the removing any Inconveniences or Annoyances, that might thereby be occasioned to that Square, or the Houses thereabouts.”

[112] Middlesex County Records, 4 vols., 1897-1902.

[113] Chrons. of Benedict of Peterborough, ed. Stubbs, i. 155, 56; Roger of Hoveden, ed. Stubbs, ii. 131.

Ordeal of water was of two kinds: In one the person undergoing the ordeal was thrown into deep water; if, without swimming, he floated, he was deemed guilty; if he sank, innocent. In this case the ordeal was probably of boiling water, in which the person plunged his arm into boiling water; the arm was bound up, and on its appearance after a certain time judgment was given.

[114] Chronicles: Matthew Paris, Chron. Maj., ed. Luard, iii. 71-3; “Hist. Anglor.,” ed. Madden, ii., 251-2; “John of Oxenede,” ed. Ellis, 147; Chron. Dunstable (in Annales Monastici) ed. Luard, iii. 78-9.

Evidently, what was at first a riot had developed into a revolt, for “Montjoie!” was the cry of the French prince, Louis, who, brought over by the barons, had but recently given up his pretensions to the English crown. The alleged violation of the king’s oath afterwards furnished Louis with a pretext for refusing a restitution demanded by the English

king.

"The Elms," mentioned as the place of execution, was certainly The Elms of Tyburn, as shown by Sir J. H. Ramsay, in the *Athenæum* of September 7, 1907.

[115] Chron. Matthew Paris, Chron. Maj., ed. Luard, iii. 370. Tyburn is not mentioned as the place of execution.

[116] Chron. Matthew Paris, Chron. Maj., ed. Luard, iii. 543-5; "Flores Hist.," ed. Luard, ii. 231. Tyburn is not expressly mentioned as the place of execution.

[117] Matthew Paris, Chron. Maj., ed. Luard, iv. 193-6. Matthew of Westminster, "Flores Histor.," ii. 253. The names of William's captors, William Bardulf and Richard de Warenne, are given in "Liber de Antiquis Legibus," Riley's translation, p. 9.

The place of Marsh's execution is not given in the great chronicles, but we are able to supply it from Gregory's Chronicle (Camden Society, 1876): "Henry III., Anno xxv. Ande that yere dyde Saynt Roger, Byshoppe of London. And Wylliam Marche was drawe and hangyd at Tyburne," p. 65. This may make us less doubtful in allotting to Tyburn executions the place of which is not specially mentioned.

[118] See "The Jews of Angevin England," by Joseph Jacobs, pp. 19-21, 75.

[119] Matthew Paris, Chron. Maj., ed. Luard, v. 516-9, 552. A full list of authorities is given by Mr. Albert M. Hyamson, "A History of the Jews in England," (1908), p. 87.

[120] "Liber de Antiquis Legibus," translated by H. T. Riley, 1863, pp. 104, 105. Tyburn is not mentioned as the place of execution.

[121] Annals of Dunstable, in Annales Monastici, ed. Luard, iii. 279. Tyburn is not expressly mentioned.

[122] Chronicles: Annals of Dunstable, in Annal. Monas., ed. Luard, iii. 314; Ann. de Wigornia, in Annal. Monas., iv. 489, 490; the French Chronicle of London, Riley's translation, 248; Stow's "Survey of London," ed. Thoms, 96. (Stow gives the number hanged as sixteen.) Tyburn is not expressly mentioned.

[123] Chron. Bartholomew Cotton, ed. Luard, pp. 304-6. The passage in Norman French in the Chronicle is here given as translated by Mr. Riley in the French Chronicle of London, 1863, p. 295.

[124] Chron. Rishanger, ed. Riley, p. 194.

[125] The authorities for the trial, sentence, and execution of Wallace are the following:—

Chron. of the Reigns of Edward I. and Edward III., ed. Stubbs, i. 139.

Year Book of Edward III., years 11 and 12, 170-3.

Matthew of Westminster, "Flores Hist.," ed. Luard, iii. 124.

Chron. Knighton, ed. Lumby i. 404.

Walsingham, "Ypodigma Neustriæ," ed. Riley, p. 235.

Chron. of William Rishanger, ed. Riley, pp. 225-6.

Maitland Club, Chron. de Lanercost, p. 203; and Documents illustrative of Sir William Wallace.

[126] Annales Monastici, ed. Luard, iv. 294, 489. The treatment under Edward I. of "the Celtic fringe" was severe. We see here how

Scotch and Welsh were dealt with. In Ireland, in 1301, it was accounted no offence to kill "a mere Irishman."

[127] Matthew of Westminster, "Flores Hist.," ed. Luard, iii. 134-5.

[128] Chrons. of the Reigns of Edward I. and Edward II., ed. Stubbs, i. 150, 255. Tyburn is not mentioned in either case.

[129] Stow, Annals, ed. Howes, 1615, pp. 229, 230. The editions of Stow's Annals quoted throughout are this, and the continuation to 1631.

[130] Several Chronicles mention Tyburn in connection with the execution of Mortimer: "Drawn from the Tower to the Elms and there hanged with contumely," Chron. of the Reigns of Edward I. and Edward II., ed. Stubbs, i. 352. "Drawn from the Tower of London to the gallows at the Elms, about a league outside the City of London, and there hanged," Chron. Avesbury, ed. Thompson, p. 285. "Hangyd and drawne at Tyburn for tresoun," Chron. Grey Friars, ed. Hewett, p. 152. "Hanged at the Elms on the common thieves' gallows, where he hung two days," Chron. Murimuth, ed. Thompson, p. 62. Murimuth was a canon of St. Paul's in 1325; he died in 1347. In another text (Cotton MS. Nero D. x., in the British Museum) quoted in the Chronicle, it is said: "He was drawn by horses, on the common ox-hide, from the Tower of London to the Elms of Tybourne and there hanged."

This last passage is interesting: the expression "the common ox-hide" indicates that the ox-hide was now regularly used in drawing.

The interesting indictment of Mortimer, in Norman French, is given in Chron. Knighton,

ed. Lumby, i. 454-8.

[131] Chron. Murimuth, ed. Thompson, p. 171.

[132] Chron. Murimuth, ed. Thompson, p. 253; Rymer, “Fœdera,” v. 549-50.

[133] Walsingham, “Hist. Anglic.,” ed. Riley, i. 326; Chron. Angliæ ed. Thompson, p. 399. Tyburn is not expressly mentioned.

[134] Gregory’s Chronicle, p. 93.

[135] Stow, Annals, 303, 304; Chronicles of London, C. L. Kingsford, 1905, pp. 16, 17; Chron. Knighton, ii. p. 293; Walsingham, Hist. Ang., ii. 173-4.

[136] Chrons. of London, Kingsford, 1905, p. 55.

[137] Authorities: Chronicle of London (1827), p. 36; I. Julius B II. in Chronicles of London (C. L. Kingsford, 1905), pp. 62-3; Gregory’s Chron. (Camden Society, 1876), p. 102; Grey Friars Chron., ed. Howlett, p. 161; Chroniques de Waurin, ed. Hardy, vol. ii. pp. 41-3; Notices et Extraits des Manuscrits, &c., tome i, Paris, 1787. English translation, 1789.

[138] Hall’s Chronicle, ed. 1809, p. 26.

[139] Walsingham, “Hist. Anglic.,” ed. Riley, ii. 249.

[140] Stow, Annals, 330. Here again Gregory’s Chronicle supplies the place of execution—Tyburn (p. 104).

[141] Stow, Annals, p. 365; Hall’s Chronicle, ed. 1809, p. 128.

Stow evidently took his account of Mortimer from a chronicle which has been printed only quite lately in Chronicles of London. C. L. Kingsford, 1905, pp. 282-3, 341-2.

[142] Stow, Annals, ed. Howes, 1615, pp. 381-2.

The "Swan" in Thames Street became the "Old Swan" (it is so called in Braun and Hogenberg's map), and still retains the name.

[143] Gregory's Chron., p. 188. Stow adds, "but ye yeoman of ye crowne had their liuelode, and the hangman had their cloths, or wearing apparrell. The Pardon for liues was obtained through the earnest sute and labor of master Gilbert Worthington, then parson of S. Andrewes in Holborn a doctor of Diuinity a famous man and a greate preacher in those daies" (p. 386).

[144] Gregory's Chronicle, pp. 234-5. Here again it is to the citizen of London that we owe this curious illustration of the life of the times.

[145] Gregory's Chronicle ("Camden Soc.," 1876), pp. 236-7. Lord Wenlock was killed in the battle of Tewkesbury.

[146] Smith, Sir Thomas, "De Republica Anglorum," ed. 1583, pp. 83, 84.

[147] Lettres et Voyages, 1725-9, (Lausanne, 1903), p. 129.

[148] Wriothesley's Chronicle (Camden Soc.), i. 17. Holinshed supplies the date, December 4, and gives the names as Sir Rees Griffin and John Hewes (iii. 928). Pennant, a Welshman, corrects these names to Sir Rhys ap Gryffydd, and John Hughes. He gives particulars of the family of Sir Rhys.

[149] This was the inner gate, still standing, of the London Charterhouse.

[150] Calendar of State Papers, Henry VIII., ed. Gairdner, xi. No. 780; xii. (1), No. 479.

[151] Chron. Jocelin of Brakelond (Camden

Society), p. 28.

[152] As, for example: In 1175, William of Waterville, Abbat of Peterborough, designed to pledge with the Jews the arm of St. Oswald. The monks objecting, the abbat took with him ten armed knights, and forced his way into the cloisters and the church, inflicting mortal wounds on some monks and servants of the monastery who resisted him. For this he was deposed by the Archbishop of Canterbury. Chron. Benedict of Peterborough, ed. Stubbs, i. 106.

[153] Fortescue, "The Governance of England," ed. Plummer, 1885, pp. 137-41.

[154] Latimer's Seven Sermons, ed. Arber, pp. 40-1.

[155] A Godly Sermon, 1552. And again: —"It is myne owne; whoe shall warne me to do wyth myne owne as me selfe lysteth?" Select Works of Robert Crowley (E. Engl. Text Soc., 1872), p. 157.

[156] "Complaynt of Roderyck Mors," (E. Engl. Text Soc., 1874), p. 9.

[157] Latimer's Seven Sermons, pp. 121, 149.

[158] In "Who Killed Sir Edmund Berry Godfrey?" I have given a list of fifty-two of the captains of these hosts. Four thousand of the people are said to have been butchered in Devon, and five thousand in Norfolk.

[159] "English Gilds" (E. Eng. Text. Soc., 1870).

[160] Bernard Gilpin, *op. cit.*

[161] Statute 1 Edward VI. c. 3.

[162] "Rogeri Aschami Epistolarum libri quatuor, Oxoniæ," 1703 p. 294. The date is

about 1547. The comment is that of Mr Jamieson in Barclay's "Ship of Fools."

[163] "The Four Supplications" (E. Eng. Text Soc., 1871), p. 98.

[164] Ibid., pp. xvii-xviii.

[165] Ibid., p. 102. It is true that the "decay of husbandry" existed in a less intense form before the Dissolution. There were several Acts against pulling down "towns," and for keeping up houses for husbandry, the first being 4 Henry VII. (1488-9), c. 19.

[166] Latimer's, Seven Sermons, p. 120.

[167] Holinshed, i. 186.

[168] Opera Omnia, 1663, v. p., 508.

[169] Hist. MSS. Comm. Welsh MSS. of Lord Mostyn (1898) p. x.

[170] Wriothesley's Chron. (Camden Society), pp. 63, 64.

[171] Hall, p. 827-8; Grey Friars Chron., p. 202; Wriothesley's Chron. i., 101-2.

[172] Holinshed's Chronicle iii. 954. Hall says that "greate moane was made for them al, but moste specially for Mantel, who was as wittie, and as towarde a gentleman, as any was in the realme, and a manne able to haue dooen good seruice" (p. 842).

[173] This gallows is shown in Braun & Hogenberg's map of London (*Athenæum*, March 31, 1906: "A Neglected Map of London").

[174] "I played the fool after my customable manner."

[175] Rymer, "Fœdera," xv. 181-3, 250-2. At this very time the reformers contended "that there is no church in earth that erreth

not as well in faith as manners." Strype, "Life of Cranmer," p. 203.

[176] Fourth Sermon, 1549, ed. Arber, p. 116.

[177] Cal. State Papers, Domestic, 1547-80.

[178] This was the tract defending the manner in which torture had been used (see pp. 35 *and note*, 161-2). The treatise printed by Carter condemned Catholics for going to Protestant churches.

[179] This was also published in Latin and in Dutch. It is reprinted in the Harleian Mis., vol. iii. Throckmorton was put on the rack but made no admissions. Threatened again with the rack, he "voluntarily" made a confession which he afterwards withdrew. But this sufficed. The crime charged against him was "bringing in of Foreigners into England, and deposing the Queen" (Camden, in Kennett's "Complete History," ii. 497-8).

[180] This case brings to our notice a third pamphlet issued by the Government in defence of its proceedings. This was entitled, "The Execution of Justice in England, for Maintenance of publique and Christian Peace, against certeine Stirrers of Sedition, and Adherents to the Traytours and Enemies of the Realme, without any Persecution of them for Questions of Religion, as is falsely reported and published by the Fautors and Fosterers of their Treasons: xvii. December, 1583." Reprinted in Harleian Mis., ii. 137-55, and in Somer's Tracts, i. 189-208.

This also has been ascribed to Lord Burghley. It is a defence of the penal laws against Catholics. A recent Act, 23 Eliz. (1581) c. 1, made it high treason, punishable with drawing, hanging, and quartering, to convert

any one to the Church of Rome, or to be converted.

It is proverbially dangerous to argue with the master of legions; it was equally dangerous to argue with the mistress of the rack, the gallows, and the ripping-knife. Alfield and Webley had circulated copies of an answer to "The Execution of Justice in England." They experienced this "Justice" in consequence; were tortured in prison and afterwards hanged.

[181] For an account of Lopez see "A History of the Jews in England," by Mr. Albert M. Hyamson, 1908, pp. 136-9.

[182] Camden's "History of Q. Elizabeth," in Kennett's "History," ii. 632. Lingard says: "No man who will read a report of his trial can entertain a doubt of his innocence."

[183] **1618.** *March 1*. Touching the News of the Time: Sir George Villiers, the new Favourite, tapers up apace, and grows strong at Court: His Predecessor the Earl of Somerset hath got a Lease of 90 years for his Life, and so hath his *Articulate* Lady, called so, for articling against the frigidity and impotence of her former Lord. She was afraid that Coke, the Lord Chief Justice (who had used such extraordinary art and industry in discovering all the circumstances of the poisoning of Overbury) would have made white *Broth* of them, but that the *Prerogative* kept them from the *Pot*: yet the Subservient Instruments, the lesser Flies could not break thorow, but lay entangled in the Cobweb; amongst others Mistress Turner, the first inventress of *yellow Starch*, was executed in a Cobweb Lawn Ruff of that colour at Tyburn, and with her I believe that *yellow Starch*, which so much disfigured our Nation, and rendered them so ridiculous

and fantastic, will receive its Funeral. (Howell's "Familiar Letters," ed. Jacobs, 1890, p. 20).

[184] Journals of the House of Lords, iv. pp. 662, 723.

[185] A vivid picture of the tyrant in 1654 is drawn in a few words by a foreign ambassador. The Protector, he says, was living in fear with redoubled precautions, grudging to be approached by any sort of person (Gardiner, "Hist. of Commonwealth," ii. p. 463, *note*). He had just issued a proclamation ordering a return to be made by all housekeepers of London, Westminster, and Southwark of persons lodging in their houses. This was followed by the arrest of more than 500 persons.

[186] Clarendon's "Hist. of the Rebellion," ed. 1888, v. 295-7.

[187] "Hist. MSS. Comm.," Report v. pt. i. p. 174.

[188] "Journals of the House of Commons," viii. 202.

[189] John Evelyn, "Diary," ed. 1850, i. 345.

[190] Sir George Wharton, "Gesta Britannorum," 1662.

[191] "Harleian Miscellany," ii. 285-7.

[192] Neal's "History of the Puritans," iv. 317-9.

[193] Pepys' "Diary," ed. Wheatley, ii. 180-1.

[194] "State Trials," vi. 67-120.

[195] "State Trials," vi. ed., pp. 225-74.

[196] *London Gazette*, No. 259, May 7-11,

1668.

[197] Fuller particulars of the trials and executions are given in the author's "Who Killed Sir Edmund Berry Godfrey?" 1905.

[198] This is, I think, the first case recorded in which a criminal was allowed to make the journey to Tyburn in a coach. It became a common practice: "Il y a des Gentlemen qui obtiennent la permission de faire ce voyage en carosse" (Henri Misson, "Mémoires," &c., 1698, p. 24).

[199] Mr. Pike, however, in his "History of Crime in England," contends that "it is not by any means certain that there was any serious legal objection to the punishment inflicted on Oates, except, perhaps, so far as it related to his canonical habits." He thinks the sentence was justified by law and precedent (ii. 232-3).

[200] Hist. MSS. Comm., Manuscripts of the Marquess of Ormonde. New series, vol. iv., 1907.

[201] "A Short History of the Life of Major John Bernardi," written by himself in Newgate, 1729.

[202] Clarendon's "History of the Rebellion," ed. Oxford, 1849, vi. 105.

[203] On few subjects has there been so profuse an expenditure of insincere writing as on this. Thus Hallam writes: "That writ [of habeas corpus] rendered more actively remedial by the Statute of Charles II., but founded upon the broad basis of Magna Carta, is the principal bulwark of English liberty; and if ever temporary circumstances, or the doubtful plea of political necessity, shall lead men to look on its denial with apathy, the most distinguishing characteristic of our

constitution will be effaced" (Hist. of Mid. Ages, ch. viii., pt. ii.). Hallam was, of course, perfectly well acquainted with the facts of repeated suspension.

[204] It is said that in 1818 a "Tyburn ticket" was sold (as a curiosity) for £280.

[205] Turnpike levelling was made a capital offence by 8 Geo. II. (1735) c. 20.

[206] Hanging on the triangular gallows at Tyburn was effected by placing the sufferer, with the rope round his neck, on a cart. This being drawn from under him, he was left hanging. Elsewhere the usual way was to make the sufferer mount a ladder, which was turned, so leaving him suspended. When several persons were executed in this way, they were hanged, not simultaneously, but one after the other.

[207] 48º Regis Henrici Tertii.

Pardonatio concessa Ivettæ de Balsham eo quod suspense fuit pro quadam felonia ab hora nona die Lunæ usque ortum solis diei Martis sequent et tamen viva evasit, apud Cantuar 16º Augusti. Cal. Rot. Patentium (1802), p. 34.

[208] The punishment of the pillory for fraudulent bankruptcy was previously enacted by 1 James I. c. 15, s. 4.

[209] According to Monsieur César de Saussure, who was in England in 1726, the weight was increased every four hours ("Lettres et Voyages," pp. 126-7).

[210] Villette, ("Annals of Newgate," i. 16-24). An account of the origin and development of this practice has been given on pp. 36-43.

[211] Swift wrote some verses on Blueskin.

[212] "An Enquiry into the Causes of the frequent Executions at Tyburn," 1725.

[213] Pope, in his "Dunciad" speaks of "—— hymning Tyburn's elegiac lines" (i. 41).

[214] In 1810 the Archbishop of Canterbury and six Bishops voted against Romilly's Bill to abolish capital punishment for stealing privately in a shop to the value of five shillings ("Life of Romilly," ii. 130).

[215] This is the Shoplifting Act. It is also frequently cited as 10 & 11 Will. III., c. 23.

INDEX

Abbey lands, 157

ab Ulmis, John, an imported preacher, 142

a Lasco, John, an imported preacher, 142

Æthelstan, laws of, 19, 56

Alfred, laws of, 55

Aliens Act of 1905 anticipated, 147

Amos, Andrew, his "Great Oyer of Poisoning," 178, 181

Anabaptists—
Commission to try, 158
Latimer jeers at their constancy, 158
burnt, 177

Anglo-Saxon penal legislation, 55

Arians burnt, 177

Ascham, Roger, on destruction of Yeomanry, 140

Assassination Plot, 215-16
strange sequel to, 216-19

Athol, Earl of, hanged on a high gallows, 101

Bacon, Francis, in trial of Robert Carr, 181, 22 *note*

Bagshot Heath, gibbet on, 211

Ball, John, and revolt of the peasants, 106

Barclay, Alexander, "Ship of Fools," iv, 140 *note*

Barkworth, Mark, manner of his death, 173

Barton, Elizabeth, "The Holy Maid of Kent," 133

Bassompierre, Maréchal de, 66

Bedloe, William, perjurer, dies, 202

Beheading, 31-4

Bentham, Jeremy, 78
his father robbed, 266

Bernardi, Major John—
imprisoned without trial for forty years, 216
Dr. Johnson on, 217
dies in prison, 218

Bethnal Green—
weavers of, riotous, 254-55
two weavers hanged near church, 255
constitutional question arises, 255

Bigamy—
a bar to benefit of clergy, 127-29
old meaning of word, 129
provisions as to, 131-32
bigamist put on footing of others, 132

Black Death, 49

Blake, Admiral, his body removed, 192

Bleackley, Horace—
tells story of the Perreaus, 261
of W. W. Ryland, 266

"Blood-Bowl House"—
in Hanging-Sword Alley, 241
figures in print by Hogarth, 241

Boiling to death, *see* Executions

Boleyn, Anne, 132-33

Bones discovered at corner of Edgware Road, 53

Borough Customs, 19-20

Bosgrave, James, condemned to death, 160-61

Bow Church, 80-1, 97-8

Bowel-burning—
remarkable case, 109
at Charing Cross, 190
And *see* Treason

Boy martyr—
of Lincoln, 91-4
of Norwich, 91

Brabant, merchants of, robbed, 9-10

Bradshaw, John, his dead body hanged on Tyburn gallows, 190

Breaking on the wheel—
not in use in England, 23-4
adoption recommended, 246

Bréauté, Fawkes de, hangs Constantine Fitz-Athulf 85-6

Brembre, Nicholas, his misdeeds and fate, 107

Brentford, gallows at, 15

Brinklow Henry, on rapacity of landlords, 139

Briton, Ralph—
a priest, imprisoned on false accusation, 87
released, 87-8

Bronchotomy, 225, 252

Brownrigg, Mrs., her cruelty to apprentices, 253-54

Buckingham, George Villiers, Duke of, 181 *note*
assassinated by Felton, 182

Bucquinte, Andrew, a burglar, 82-3

Buffer, Peter de, a robber, 86

Bunyan "Pilgrim's Progress," 156

Burgh, Hubert de, justiciar, 85-6

Burghley, Lord—
defends use of torture, 35-6, 161-62, 162-63 and *note*
pamphlets ascribed to, 35, 161, 163, 164 *note*

Burial of persons executed—
in Pardon churchyard, 49-50
refused in St. Sepulchre's, 50
corpses thrown into pits, 51, 177

Burnet, Dr. Gilbert, 204, 207

Burning—
in hand 130-31
in cheek enacted in 1699, repealed in 1706, 221
of women, 4, 105, 207, 230, 235-36, 257

Bury St. Edmund's—
boy-martyr of, 91
monastery of, 137

Butler, Samuel—
mentions Dun, the hangman, 46
Ode on Duval, 197-98

Camden, William, historian—
"Britannia," 23 *note*, 65
"History of Elizabeth" quoted, 161, 164 *note*, 168, 170-71

Cameron, Dr. Archibald—
executed long after rebellion, 249
behaviour, and manner of death, 249

"Can I not do as I like with my own?" 139 and *note*

Canterbury, Archbishop of, votes against repeal of Shoplifting Act, 257 *note*

Capital offences, number of, 6, 257

Capital punishment—
abolished by William the Conqueror, 56
re-instituted by Henry I., 56

Cardan, Jerome, misquoted by Harrison, 142-43

Carlyle, Thomas, on Basil Montague, 265

Carr, Robert, Viscount Rochester and Earl of Somerset—
friendship with Overbury, 178
makes conquest of Countess of Essex, 179
marries her after her divorce, 180
refuses to plead guilty to charge of murdering Overbury, 180-81
condemned and pardoned, 180
in possession of some secret, 180-81
Was he guilty? 180
means devised to silence him, 181

Carter, William, drawn and hanged for printing a book, 162-63

Catur, William, slain in single combat, 115

Caursins, rivals of the Jews as money-lenders, 94

"Celtic fringe," 100 *note*

Chains and manacles, ordered to be brought to Tower, 99

Challoner, Dr. Richard, historian, quoted, 52, 167, 176, 177, 182, 185

Charing Cross—
Station on site of Hungerford House, 125
gallows set up at, 152 and *note*
Pillory at, 202

Charles I.—
and Henrietta Maria, 65-6
executions under, 76-7
conflict with Parliament as to execution of priests, 184, 204

Charles II.—
his court almost pure compared with that

of James I., 178
proclamations, 194-5
supposed design to assassinate, 200
unjustly blamed for Popish Plot executions, 204-5
and Rye House Plot, 205

Charterhouse—
of London, 49, 133
Prior of, 134
of Beauvale, 134
of Axholmes, 134
Priors of Beauvale and Axholme, 134
execution of the three Priors, 134-36
three Monks of London House executed, 136
Horne, William, a lay brother of, executed, 147

Chaucer—
his Prioress, 7
her story, 91

Chauncy, Maurice, his account of the martyrdom of the Carthusians, 133-36

Chelsea, gallows at, 15

Chidley, Samuel, 79
writes against "over-much justice," 186-87

Children burnt or hanged, 78, 246, 257-58

Chiltern Hundreds—
origin of stewardship of, 8-9
forests, 11

"Christ's poor," 141
become "paupers," 142

Church, no church that erreth not, 158 *note*

Churches robbed, 118

Ciltria, *see* Chiltern

Clergy, benefit of—
right to claim barred by bigamy, 127
could be claimed by murderer till 1531, 129
what it was, 129, 130-31
extended in 1351-52 to all clerks, 129, 130
constantly narrowed, 131
in 1726, 131
abolished in 1827, 131

Clitherow, Margaret, manner of her death, 39

Cobbett, William—
on "Histories of England," 4
on "rooks and daws," 5
on Waverley Abbey, 15 *note*

Cobham, Dame Eleanor, Duchess of Gloucester, 113-15
her penance, 114-15

Cock tavern in Cheapside, murder of landlord, 105, 111

Coin—
debased state of, 214
men in royal dockyards paid in clipped money, 215

Coining—
became a common offence, 214, 219, 220
legislation as to coin, 214-15
in Newgate prison, 221

Coke, Lord Chief Justice—
on punishment for high treason, 32, 33

note
on torture, 36
busy in discovery of murder of Overbury, 181 *note*

Collier, Jeremy—
outlawed for absolving Friend and Perkins, 216

Common Prayer, Book of—
Commission to try those who reject, 158
death to write against, 177

Commonwealth, executions under, 77, 187-88

Cony—
refuses to pay illegal tax, 186
Cromwell imprisons him, 186

Cornelius, John, story of his head, 51-2

Cornishmen, revolt of, 121-22

Cotell, John, murdered by his wife, afterwards Lady Hungerford, 126-27

Courts—
multiplicity of, 16-19
conflicts between, 16-19
petty, in France, 57 *note*

Cranmer, Thomas—
pronounces divorce of Catherine, 132
of Anne Boleyn, 136-37

Crimes—
extraordinary accumulation of, 213

Criminal begged of the King by 18 maids, 208

Cromwell, Oliver—
bones found (?), 53
guilty of the blood of Southworth, 185

Why has he a statue? 185-86
his military despotism, 186, 187 and *note*
throws into prison Cony, and his counsel, 186
removes judge from bench, 186
greatest recorded number of executions at one time during Commonwealth, 187-88
arrests 500 persons, 187 *note*
and Don Pantaleon Sa, 189
his last executions, 190
his body hanged on Tyburn gallows, 190-92
legends on this subject, 192
body of his mother and of others removed from Westminster Abbey, 192
his mother's body removed, 192

Cromwell, Thomas, calls Tyburn "Thyfbourne," 137

Cunningham, Peter, "Handbook of London," 45, 46, 47, 64 *note*

Dangerfield, Thomas, perjurer—
pilloried and whipped, 202
killed by Francis, 202

Daniel, P. A., on references to Triple Tree, 64

David, Prince of Wales, execution of, 31

David II., of Scotland, 104

David III., of Wales, head exposed on Tower of London, 100

Death—
Penalty of, for relieving a priest, 166
for being reconciled to Roman Church,

165-66

"Decay of England," 141 and *note*

Defoe, Daniel, 67
biographer of Jack Sheppard, 233
his grandson, 258

Derrick, a kind of crane, said to be named after a hangman, 45

Dickens, Charles—
against public executions, 4
Dennis, the hangman in Barnaby Rudge, 48
in Hungerford Street, 126
Hanging-Sword Alley, 242

Dictionary of National Biography, 44

Disembowelling, *see* High Treason

Dissection—
enacted, to add terror to death-sentence, 247
of Earl Ferrers, 251
of Mrs. Brownrigg, 253-54

Dodd, Dr., 261-63
intercession of Dr. Johnson, 262

Dow, Master Robert, makes provision for tolling bell of St. Sepulchre's, 175-76

"Drawing"—
what it was, 27
several kinds of, 27-30
simple dragging to gallows, 27
on an ox-hide, 28, 29
on a hurdle, 29
on a sledge, 29 *note*
dragging to death, 29-30

dragging to pieces, 30

"Drop"—
introduced at execution of Earl Ferrers, 251
a feature of the gallows at Newgate, 251
its object, 252-53

Dryden—
"On Tyburn," 74
on Jack Ketch, 46

Ducket, Laurence, story of, 97-8

Dunning, a noted robber, 11, 17

Dunstable—
district around, infested by robbers, 17
Priory, 17-18

Duval, Claude—
a famous highwayman, 194, 195-98
William Pope's "Memoirs," not to be taken too seriously, 197

Ecclesford, gallows at, 16

Ecclesiastics—
ought not to shed blood, 13
but have gallows, 13
power to stay execution, 13

Edgar, King, 13

Edward I., 11, 14, 16, 18, 24
Year Book of, 38

Edward II., 101

Edward III., 101, 104

Edward IV., 119

Edward VI., 77, 137, 139, 142, 150, 153
Slave Act of, 140
revolt of peasants, 150-51
death of, 151

Effigy to be hanged, 18

Elizabeth, Queen, 140, 155
executions under, 76-7
penal laws of, 164 and *note*
last of her victims, 175
and the Pope, 156
torture in constant use under, 35-6, 161-62
does not believe in charges on which priests were executed, 161

Elm—
symbol of justice among Normans, 57
famous elm cut down, 57
"Judges under the elm-tree," 57

"Elms, The," 81, 85, 86 *note*
of Tyburn, 57, 60 and *note*
of Smithfield, 57, 60 and *note*
of Westminster Abbey, 57-8
of Covent Garden, 58
of Canterbury, 58
of Westbourne, 58
confusion between Tyburn and Smithfield, 58-9
new gallows ordered for, 60
first indication of site of, 61
Longbeard executed here, 81
Mortimer erroneously said to have been the first, 103 and *note*
Constantine, Fitz-Athulf, 85, 86 and *note*
and execution of Turberville, 99
of Wallace, 100

Elms Lane (now Mews), Bayswater, 58

Ementulation—
part of the punishment for high treason, 32
but not always forming part of sentence, 32, 33

Essex (Robert Devereux) Earl of, 168, 170-71, 174

Essex (Robert Devereux), Earl of Essex (son of the foregoing), marries Frances Howard, and is divorced, 179-80

Execution—
various ways of, 19-26
by breaking neck, 19
by throwing into sea, 19
by burial alive, 19-20
must be carried out by prosecutor, 20
by tying to a stake at low water, 20
by throwing into a well, 20
by "infalistation," 20
by throwing into harbour, 20
by burning, 20
by boiling, 21, 22
by hanging alive in chains, 22, 31 *note*
by being built into a sea-wall, 22
by beheading, 23
by flaying alive, 24-5
by enclosing within walls, 25
by crucifixion, 26
by drawing, *i.e.*, dragging to death, 30
by dragging to pieces, 30
place of, question arises as to, 255

Execution Dock, 63

Executions—

Adams, John, 165
Ainger, Richard, 169-70
Alfield, Thomas, 164 and *note*
Alice atte Bowe, 97-8
Allen, Sir John, 144
Almond, John, 177
Anderson (or Richardson), William, 175
ap Gryffydd, Sir Rhys, 132 and *note*
Armstrong, Sir Thomas, 206
Arundell, Humfrey, 151
Ashbey, ——, 150
Ashton, Col., 190
——, Roger, 167
Athol, Earl of, 101
Austin, John, 266-67
Awater, John, 121
Axtell, Daniel, 190
Babington, Arthur, 58 *note*
Barkstead, Col., 190
Barkworth, Mark, 171-74
Barney, Kenelme, 159
Barrow, Henry, 167
Barton, Elizabeth, 133
Beasley, Richard, 193-94
Bedell, John, 154
Bel, ——, a Suffolk man, 151
Bell, Arthur, 184
Benson, ——, 188
Bernes, Sir John, 107
Berry, Henry, 201
Bery, ——, 151
Bestely, ——, 190
Bigott, Sir Francis, 144
Billings, Thomas, 235-36
Bird, Robert, 147
Blake, John, 107

Blount, Sir Thomas, 108, mythical details, 109
“Blueskin” (Joseph Black), 234
Booking, Edward, 133
Bolinbrooke, Roger, 115
Bolner (or Bulmer), Sir John, 144
Bosgrave, Thomas, 52
Bradford, ——, 154
Brembre, Nicholas, 107
Brian, Alexander, 161-62
Bridlington, Prior of, 144
Brocas, Sir Bernard, 108
Bromholme, Edmund, 147
Brownrigg, Elizabeth, 253
Bullaker, Thomas, 184
Bullocke, Peter, 174
Campion, Edmund, 160-61
Carey, Terence, 52
Carter, William, 162-63
Charnock, Robert, 215
Cheyney, Margaret, 144
Clarendon, Sir Roger, 109
Clark, John, 258
Claxton (or Clarkson), James, 165-66
Clifford, Edward, 145
Clinch, Tom, 240
Clitherow, Margaret, 39
Cokerell, Dr., 143, 144
Coleby, John, 260
Coleman, Edward, 33, 201
Collins, ——, a priest, 145
Condom, John, 208
Condon, Isabella, 266
Coningsbey, Edmond, 145
Conspirators of 1236, 86-7
Constable, William, *alias* Fetherstone, 153

Constantine, nephew of Constantine Fitz-Athulf, 86
Cooke, Laurence, Prior of Doncaster, 147
Copin, a Jew of Lincoln, 94
Corbet, Miles, 190
Corby, Ralph, 184
Cornelius, John, 52
Cottam, Thomas, 160-61
Cotton, Edward, 193-94
Cranburne, Charles, 216
Cratwell, the hangman, 145
Croftes, ——, a priest, 145
Cuffe, Henry, 174
Culpeper, Thomas, 150
Dacres, Lord (of the South), 148
Daniel, John, 154
David III., 100
David, Prince of Wales, 32
David, John, 115
Davy, Margaret, 22
Deane, W., 165-66
de Bereford, Sir Symon, 103
Dedike (or Dethyke), John, 154
Defoe, John Joseph, 258
de la Motte, F. H., 266
de Marisco, William, *see* Marsh
Derham, Francis, 150
Dering, John, 133
Dibdale, Richard, 165
Dickenson, Margaret (who revives), 226
Dingley, Thomas, and others, 146
Dodd, Dr., 263
Drury, Robert, 176
Duckett, John, 184
Duel (who revives), 223-24
Duval, Claude, 196

Dyer, Clement, 149
Egerton, Ralph, 147
Elks, Henry, 165
Ellys, James, a great pickpurse, and seven others, 151
Elwes, Sir Gervase, 180
Empson, Thomas, 146-47
Exeter, Marquis of, 145
Exmew, Thomas, 136
Felton, John, 156
——, John, 182-83
——, Thomas, 165-66
Fenn, James, 163
Fenwick, John, 201
Fereby, Sir William, 108
Fernley, ——, 207
Filby, William, 162
Filcock, Roger, 171-74
Fitz-Athulf, Constantine, 83, 85-6
Fitz-Harris, Edward, 33, 201
Fitz Osbert (or Osborn), William, 79-81
Flamock, Thomas, 123
Flower, Richard, 166
Ford, Thomas, 162
Fortescue, Sir Adrian, 145
Fountains, former Abbat of, 143-44
Francis, ——, 202
Franklin, James, 180
Fraser, Simon, 63, 100
Friend, Sir John, 215
Frowds, John, 148
Gahagan, Usher, 242
Gardner, Garmaine, 150
Garet, ——, 144
Garnet, Henry, 176
——, Thomas, 176-77

Gascoign, Richard, 227
Gaunt, Elizabeth, 206
Gavan, John, 201
Gening, Darby, 147
Genings, Edmund, 166
Geoffrey, one so called, 86
Geoffrey “de Beverley,” and twelve others, 96
Gerard, ——, 188-90
Gervase (or Jarvis), George, 176
Greenwood, John, 167
Gibbs, Nathaniel, 193
Gibson, James, 254
Gold, Henry, 133
Golden Farmer, the (William Davis), 211
Goodgrom, William, 112
Gordon (who revives), 224
Green, Robert, 201
Greene, Anne (who revives), 225-26
——, Thomas, 160
Grey Friars, eight, 109
Grove, John, 32, 201
Guest, William, 254
Gunter, William, 165-66
Gurdemaine, Margery, a witch, 114
Hacker, Francis, 190
Hackman, Revd. James, 264
Hackshot, Thomas, 174, 175
Hall, John, 108
——, John, 159-60
——, John, 227
Hamerton, Sir Stephen, 144
Hanse, Everard, 160
Harcourt, William, 201
Harford, Henry, 144
Harington, William, 167

Harman, Thomas, 147
Hawes, Nathaniel, 230
Hawley, Oliver, 208
Haydock, George, 163
Hays, Catherine, 235-36
Heath, Henry, 184
Hemerford, Thomas, 163
Herring, Mrs., 258
Hever, Thomas, 145
Hewet, Dr., 190
Hill, Lawrence, 201
Hinde, James, 194
Hodson, Sydney, 166
Holande, ——, a mariner, 145
Holford (or Acton), Thomas, 165-66
Holland, Thomas, 184
Holmes, Thomas, 151
Hone, William, 205
Home, Giles, 147
——, William, 147
Houghton, Father, Prior of the Charterhouse, 134-36
Hughes, John, 132 and *note*
Hungerford, Lady Alice (Agnes), 124, 127
Hungerford, Lord, 128
Inges, William, 127, 128
Ireland, William, 32, 201
Ivetta de Balsham (who revives), 226, 227 and *note*
James, John, 193
Jervaulx, Abbat of, 143, 144
Johnson, Robert, 160-61
Johnson, a confederate of Sadler, 199
Jones, Charles, 260
——, Mary, 256
Jonston, Sir John, 210-11

Joseph, Michael, 123
Kelly, John, title page (back), 268
Kerbie, Lucas, 160-61
Keys, Thomas, 215
King, Edward, 215
Lacy, Bryan, 166
Lane, William, 260
Langhorn, Richard, 32, 201
Larke, ——, Parson of Chelsea, 150
Larkin, for coining in Newgate prison, 221
Laund, Prior of, 110
Lawrence, Father, Prior of Beauvale Charterhouse, 134-36
Lea, Thomas, 171 and *note*
Lech, bailiff of Louth, his brother Edward, and a priest, 150
Leigh, ——, 149
Leigh, Richard, 166
Lewis, William, 260
Limerick, Thomas, 193-94
Line, Anne, 171-74
Llewellyn, brother of David III., 100
Loisie (Louis), Emanuel, 168
Lomeley, George, 144
"Longbeard," *see* Fitz Osbert
Lopez, Roderigo, 168
Lowe, John, 165
Lowick, Major, 216
Maclean, James, 244-45
Mantell, John, 148
Marsh, William, 62-3, and 16 of his band, 90-1
Martin, Richard, 166
Mason, John, 166
Master, Richard, 133
Mather, Edmund, 159

Mathewe, William, 127, 128
Maudelyn, parson, 108
Maxfield, Thomas, and thirteen criminals, 182
Maynvile, Anthony, 132
Menstreworth, Sir John, 105
Menteith, Earl of, 104-5
Mercer, John, and 23 others, 187-88
Merrick, Sir Gilly, 174
Messenger, Peter, 193-94
Middlemore, Humfrey, 136
Milksop, John, 17
Mitchell, Anthony, 23 *note*
Monmouth, Duke of, 47
Moore, Hugh, 165-66
Morgan, Edward, 184
Morse, Henry, 184
Mortimer, John, 111
——, Roger, 61, 101-3
Morton, Robert, 165-66
Moudrey, David Samuel, 42
Mountagew, Lord, 145
Munden, John, 163
Nelson, John, 160
Nevell, Sir Edward, 145
Newdigate, Sebastian, 136
Newport (or Smith), Richard, 177
Norton, Christopher, 155
——, Thomas, 155
Nutter, John, 163
Okey, Col., 190
Oldcastle, Sir John, 58 *note*
Oxburgh, Col., 227
Page, Francis, 174-75
Palleotti, Marquis de, 228
Patenson, William, 167

Paul, Rev. William, 227
Payne, Benjamin, 254
Paynes, a desperate character, 213
Peckham, Henry, 154
Percy, Sir Thomas, 144
Perkins, Sir William, 215
Perreau, Robert and Daniel, 260-61, 262
Perrott, John, 227
Philip, Clement, 147
Philippe, Francis, 132
Phillips, George, 193
Pickering, Thomas, 32, 201, 204-5
Plasden, Polydore, 166
Plunket, Dr. Oliver, 32, 201
Powel, Philip, 184
Price, John, hangman, 228
Proctor, ——, 155
Pykeryng, Christopher, 132
——, John, 143, 144
Redmond, Patrick (who revives), 225
Reynolds, a Brigittine monk, 136
——, Thomas, 183
—— (who revives), 224
Richardson, Lawrence, 162
Risby, Richard, and another, 133
Roberts, John, and sixteen felons, 177
Roch, John, 166
Roe, Bartholomew, 183
Roidon, George, 148
Rolfe, Henry, 159
Rookwood, Brigadier, 216
Rose, Richard, 21, 22
Rossey, William, 154
Rouse, John, 205
Russell, Lord William, 47, 206
Ryland, Wm. Wynne, 266

Sa, Don Pantaleon, 188-90
Sadler, Thomas, 198-99
Salisbury, Sir John, 107
Salmon, Patrick, 52
Sawtre, William, 59
Scot, John, and four others, 119-20
——, William, 177
Senex, John, 83
Sergeant (or Lea), Richard, 165
Serle, William, 110
Shelley, Sir Bennet, 108
——, Edward, 166
Sheppard, Jack, 233
Shert, John, 162
Sherwine, Ralfe, 160-61
Sherwood, Thomas, 160
Singleton, ——, 150
“Sixteen-string Jack,” 260
Slingsby, ——, 190
Smith, Captain John, 63
Smith, John, known as “half-hanged,” 221
——, William, 244
Somer, ——, and three vagabonds, 146
Somers (or Wilson), Thomas, and sixteen felons, 177
Southwell, Robert, 169
Southworth, John, 185
Spiggott, 229
Squire, Edward, 170
Stacy, ——, 190
Stafford, Thomas, 154
——, Viscount, 33, 201
Strancham, Edward, 165
Stansbury, James, 241-42
Stanton, William, 154
Stayley, William, 32, 200

Story, Dr. John, 64, 157, 159
Strangewayes, Major, 39-40
Stretchley, ——, 154
Stubbs, Francis, 193
Tatersall, ——, 149
Tempeste, Nicholas, 144
Thistlewood, Arthur, 33, 34
Thomas, William, 152
Thompson (or Blackborne), William, 165
Thornton, ——, 149
Throckmorton, Francis, 163
——, John, 154
Thwing, Thomas, 201
Tichburn, Nicholas, 174, 175
——, Thomas, 174-75
Tonge, Thomas, 193
Town, Richard, 227
Townley, Francis, 33
Tresilian, Chief Justice, 106-7
Trotman, Samuel, 260
Turberville, Sir Thomas, 98-9
Turner, Anthony, 201
——, Mrs. 180
Tyrell, Sir James, 123
Uske, Thomas, 107
Walcott, Thomas, 205
Wallace, John, 101
——, Sir William, 31, 32 and *note*, 99-100, 101
Warbeck, Perkin, 121
Ward, Margaret, 166
Ward, William, 183
Watkinson, Robert, 174-75
Wawe, Wille, 111-12
Webley, Henry, 165-66
——, Thomas, 164 and *note*

Webster, Father, 134-36
Wells, Swithin, 166
Weston, Richard, 180
White, Eustachius, 166
Whitebread, Thomas, 201
Whitney, James, 213
Wild, Jonathan, 235
Wilford, Thomas, 248
Wilkinson, Abraham, 23 *note*
——, Oswald, 159-60
□, □, 213
William, a messenger of the King, 88
William "Longbeard," *see* Fitz Osbert
Wilson, Penlez, and 13 others, 243
Winslowe, ——, 151
Woodall, Richard, 154
Woodfen (Wheeler, or Devereux), Nicholas, 164-65
Woodhouse, Thomas, 160
Wright, Peter, and 13 malefactors, 184
Wyndham, Sir John, 123
Wyntreshull, Thomas, 108
Yorke, Edmund, Williams, Richard, and an Irish fencing-master, 168
Various, of unnamed persons——
1238, "a learned squire," 30
1255, 18 Jews of Lincoln, 94
1267, 13 rioters, 96
1271, 33 rioters, 30
1278, 280 Jews in London, and a very great multitude elsewhere, 97
1284, 7 (or 16?) for murder of Duket, 97-8
1293, 13 persons, 37
1345, 4 servants of Sir John, 104
1386, wife and 3 (4?) servants, of

landlord of the “Cock,” 105-6
1455, 2 or 3 for riot in London, 117
1467, 4 men, a fellowship of church robbers, 119
1483, 4 yeomen of the Crown, 120
1495, 150 adherents of Perkin Warbeck, 120
1502, a shipman, 123
1532, certain traitors, 132
1537, 7 men of Lincolnshire, 143
1540, several, in London, 146
1549, 3 out of the West, 150-51
1550, 9 felons, 151
1552, 3 tall men and a lacquey, 151
1553, 2 felons, 151
1554, 58 after Wyatt’s rebellion, 152
1556, “hangman with the stump-leg,” 155
” 10 thieves, 153
1557, a woman of 60 and a lad, 155
1570, 2 coiners, 156
1590, 16 felons, 166
1598, 19 felons, 170
1640, 24 felons, 187-88
1679, 8 priests, 201
1680, 12 men and 3 women, 205
1690, 6 persons, 209
” 13 ” 211
1693, 14 ” 213
1694, 18 ” 213
” 14 ” 213
1696, 14 ” 219
1697, 14 ” 219
1732, 13 ” 236
1733, 12 ” 236
” 13 ” 236

1736, 2 men at Bristol (who revive), 224
1737, 12 persons, 236
1738, 13 " 236
" 11 " 236
1739, 11 " 236
" 11 " 236
1750, 13 " 243
1750, 13 persons, 243
1750, 3 women drunk, 244
1750, 6 for robbing of 6s., 244
1750, 11, and Maclean, 244
1750, 15 persons, 246
1751, 3 boys, 246
1752, 11 persons, 249
1754, 12 " 249
1757, 12 " 249
1769, 5 weavers, 255
1773, 5 persons, 258
1780, man for robbing Jeremiah Bentham, 266
1785, 20, 5 for one robbery, 268
frequency of, in 1539, 141-42
under Henry VIII., 142-43
5,000, in Wales, 143

Eye—
gallows at, 15
a witch of, 114

Eyes, tearing out of, 56

Farleigh Castle, 124-29

Ferrers, Earl of, murdered (1177), 82

Ferrers, Earl—
a homicidal lunatic, 249

his splendid procession, 250
"drop" introduced at his execution, 251
legend of the silk rope, 251

Fielding, Henry,—
law reformer, iv, 78
"Jonathan Wild, the Great," 234

Fielding, Sir John, 259

Fife, Earl of, 104

Fifth-Monarchy men, outbreak of, 193

Fisher, John, Bishop of Rochester—
attempt to poison, 21-2
and Elizabeth Barton, 133

Fitz-Athulf, Constantine, 83-6, 103

Fitz Osborn (or Osbert), William, known as "Longbeard," his execution the first recorded at Tyburn, 79, 103

Flaying alive, 24-5

Fleet Street, gallows set up in, 152

"Fleta" quoted, 31 *note*, 37

Forests bordering on highways—
cleared, 8, 10 *note*
in England, 7-9

Fortescue, Chief Justice, quoted, iv, 138

France—
etiquette of the gallows, 19
hanging on trees, 19
the elm, as a symbol of justice, 57
petty courts, 57 *note*

Franchises—
granted by the Crown, 7

value of franchise of furca et fossa, 18

Freeman, Edward Augustus, historian,
"Norman Conquest" quoted, 13, 56

French Peasantry, miserable condition of, as
compared with English yeomen, 138

Friars—
mitigate punishment, vi
minorite, plead for Jews of Lincoln, 94-5
lose favour thereby, 95

Froude, James Anthony, historian, "We cannot
blame the Government," 136

Fry, Mrs., quoted, iv

"Furca et fossa," 7

Gahagan, Usher, edits Latin authors, translates
Pope into Latin, hanged for filing gold,
242

Gallows—
great number of, in 13th century, 7
prioresses have, 7
ordinary form of, 63
triangular, 63-4, 249
how many could be hanged at a time? 64
new, erected at "The Elms" in 1220, 60,
103
at "The Elms" in 1170, 60
great number set up in London in 1554,
152
and bodies of Cromwell, Ireton, and
Bradshaw, 191
movable, introduced, 249
at Bethnal Green, 255
high gallows, 99, 100-1, 257

And *see* Tyburn gallows

Gascoigne, Chief Justice, on peine forte et dure, 38

Gaunt, Elizabeth, last woman burnt in England for political offence, 207

Geninges, Edmund—
"Life and Death" of, 65
manner of his death, 166-67

George I., 217, 219, 227

George II., 218, 219

George III., 219, 262

Gibbet—
always remote from towns, and why, 62-3
scanty information as to, 62
term used loosely, 62
of Montfaucon, 63
mention of, 86-7, 88, 100

Gibbets on Kennington Common (illustration)

Gilpin, Bernard, "Apostle of the North," on rapacity of landlords, 139

Glastonbury Abbey, Charter of, 13

Gloucester, Duke of, murdered, 108, 116

Gloucester, statute of, 14

Godfrey, Sir Edmund Berry, 178
probably self-murdered, 200
supposed murder used politically, 200
three men hanged for his murder, 201

Goodman, Thomas—
Parliament petitions for his execution, 184
dies in Newgate, 184

Governing classes, ferocity of, 78, 246-48, 257-58

Governments, under temptation to appeal to ignorance of people, 156-57

Green, J. R., historian, quoted, 56

Greenford, gallows at, 15

Gregory's Chronicle, 63, 91 *note*, 110 *note*, 111-12

Grey, Lady Jane, 151

Guilds—
older than King Alfred, 140
destroyed, 140

Guillotine, machine resembling, in use in England before the Conquest, 23

Gunpowder Plot, 66 *note*
does not come into Annals of Tyburn, 176

Habeas Corpus—
not suspended by Charles II., 218
nor by James II., 219
suspended by William III. four times, 219
suspended by Anne once, 219
suspended by George I. thrice, 219
suspended by George II. four times, 219
suspended by George III. twenty times, 219
insincere writing about, 219 *note*

Halifax, machine resembling guillotine in use at, 23

Hallam, Henry, historian, on habeas corpus, 219 *note*

Halliford, gallows at, 16

Hampstead, gallows at, 16

"Hanged, drawn and quartered," *see* "Drawing"

Hanging—
at Spalding, 19
on trees, 19, 137
in chains, 80, 99, 236, 246, 247
from a ladder, 135, 225
from a cart, 225
not enough, essays on the question, 246-47
revival after, *see* Revival

Hanging-Sword Alley, 241-42

Hangman—
several hanged, 3, 45-8
public ingratitude towards, 44
Cratwell, 45, 145
"Hangman with the stump-leg," 45, 155
Bull, 45
Derrick, 45
Brandon, Gregory, 45, 46
Brandon, Richard, 46
Lowen, 46, 188
Dun "Esquire," 46
Ketch, Jack, 46, 47, 207
his name became generic, 47
Rose, Pascha, 46, 207
Price, John, 47, 228
Meff, John, 47
Thrift, John, 48
Dennis, Edward, 48
and Jonathan Wild, 235

Hanover Square, 69 *note*

Harington, William, manner of his death, 167

Harrison, William, historian—
his "Description of England," 21-4, 22 *note*, 38-9, 40
misquotes Cardan, 142-43

Hawes, Nathaniel, put in the Press, 41

Hay Hill, Hyde Park, gallows set up at, 152

Hays, Catherine—
murders her husband, 235-36
inspires Thackeray's "Catherine, A Story," 236

Heads, strange discovery of, 51-2

Heiress—
stealing one made a felony, 209
case of Mary Wharton, 209-11

Henrietta Maria, Queen of Charles I., visit to Tyburn, 65, 66 and *note*, 67, 182
print representing of no historical value, 67 *note*

Henry I., 17, 24, 56-7

Henry II., 24

Henry III.—
Attempt to assassinate, 30, 88, 89, 90
orders new gallows, 60 and *note*, 63
mentioned, 93-4
pardons woman who revives after hanging, 226-27 and *note*

Henry IV., 108, 109
Year Book of, 38

Henry VI., 112-15
pardons murderers of Duke of Gloucester

after drawing and hanging, 116, 117

Henry VII., 119, 121, 122, 123, 141 *note*

Henry VIII., 77, 126, 132
divorces Catherine, 132
invests himself with supremacy of the Church, 133, 134
divorces Anne Boleyn, 136
procures dissolution of monasteries, 136
his order to kill man, woman, and child, 137
and Cardan, 142-43
his executions, 142-43, 146
and Catherine Howard, 150

Heretics—
Protestant, burnt under James I., 177

Heytesbury, a seat of the Hungerford family, 124, 125, 126

Highwaymen—
era of, 78
proclamations as to, 194-95
Hind and Hannum, 195
Duval, 195-98
rewards for capture of, 195
rob mail of £2,500, 195
Manchester carrier of £15,000, 195
mail of £5,000, 207
excellent account given by Macaulay, 198
The Golden Farmer, 211
Witney, James, 211-13
seven executed, 212
20 in Newgate (1693), 213
8 executed (1694), 213
“The Gentleman Highwayman,” 244
strange story of, 259

Highway robbery, an out-door sport, 258-59

Hinde, James, a noted highwayman, 194, 195

Hogarth, William—
representation of Tyburn gallows, 68, 72
print of Idle Apprentice, 241
"Blood-Bowl House," 241
"Stages of Cruelty," 245, 248

"Homors" of Canterbury Cathedral, corruption of "Ormeaux," 58

Hope, A. J. B., on discovery of bones, 53

Hospitals seized, 140

Hounslow Heath, 151, 259

Howard, Catherine, 150

Howard, Frances—
Countess of Essex, 179
passion for Carr, 179
poisons Overbury, 179
procures divorce from Earl of Essex, 179-80
marries Carr, 180
pleads guilty to charge of murdering Overbury, 180
is condemned and pardoned, 180
her end, 180

Howell, James, quoted, 177, 181 *note*

Hubert, Archbishop of Canterbury, 80-1

Hue and Cry—
described by Bracton, 12
raised in a panic, 12
raised, 17

"Humeaux," 60 *note*

And *see* "The Elms"

Hungerford, Lady Alice (Agnes)—
murders her first husband, John Cotell, 124, 126-27
hanged at Tyburn, 124
buried in Grey Friars Church, 125
second wife of Sir Edward Hungerford, 125
inherits all his goods, 126
indicted in Somerset, 126
trial removed to Westminster, 127
sentenced to be hanged, 127

Hungerford, Sir Thomas, 124
Sir Edward, 125, 126, 128, 129

Hungerford—
House, 125
Market, 125
Stairs, 125
Bridge, 126
Street, 126

Hurdle—
mitigates punishment of drawing, vi
first mention of, 29 and *note*
"hurdle" and "sledge," words used indifferently, 29 *note*, 192

Hyde Park Corner, gallows erected at, 152

Ickneild Street, 17

Ina, Law of, 7

Ireton, Henry, body hanged at Tyburn, 190

Isabella, wife of Edward II., 101

Iveney, gallows at, 16

James I., 176
executions in reign of, 76
his "favourites," 178, 181 *note*
correct attitude towards the "Bishop of Rome," 178
gross immorality of his Court, 178
Was he an accomplice in the murder of Overbury? 181
or guilty of the death of Prince Henry? 181

Jardine, David, on torture, 36 *note*

Jeaffreson, John Cordy, "Middlesex County Records," 76-7

Jeffreys, Lord Chancellor, 106

Jews accused of murder of boy at Lincoln, 91-5
eighteen hanged, 94
280 hanged in London and a multitude elsewhere, 97
lend money on relics, 138 and *note*

Johnson, Dr. Samuel—
on procession to Tyburn, 146
on Bernardi's imprisonment, 217
and Dr. Dodd, 262
on murder of Miss Ray, 264-65

Johnson, Samuel (Rector of Corringham)—
writes against the Duke of York, 208
and the Government, 208
sentenced to be whipped to Tyburn, 208
degraded, 209
sentence annulled, 209

"John the Painter" hanged on gallows 60 feet high, 257

Jones, Mary—

her piteous story, 255-58
Sir W. Meredith on, 257-58

Judges, ferocity of, 28, 36, 40, 42, 166, 207

Judicial error, terrible in 1386, 105

"Juges sous l'orme," 57

Jura regalia, 7
of the Most High, 248

Kennington Common—
execution on, 33, 48
gibbets on, (illustration)

Ketch, Jack, 207
a famous hangman, 46-7
beheads Lord William Russell and Duke of Monmouth, 47
his name becomes generic, 47
For other hangmen *see* under Hangman

Knightsbridge, gallows at, 15

Laleham, gallows at, 16

Landlords, rapacity of, 139

Latimer, Hugh—
his father a typical yeoman, 138-39
his sermons quoted, 138-39, 141-42
on frequency of executions, 141-42
jests at the burning of Friar Forest, 158 and *note*
on commission to try heretics, 158
jeers at burning of Anabaptists, 158

Law-French, an exquisite jargon, 33 *note*

Lawyers, the object of resentment, 19

Leofstan, Abbat, founds Wardenship of
Chiltern Hundreds, 8-9

Limbs, lopping off of, 56, 86

Lincoln—
Jews of, accused of murder of boy, 91-5
18 hanged, 94
Cathedral and Little St. Hugh, 93

Lingard, Dr. John, historian, quoted, 168, 171 *note*

Lipsius, Justus, his "De Cruce," v, 62

Llewellyn, brother of David III., head exposed
on Tower of London, 100

Loftie, W. J., quoted, 62

Lombards, attack on, 116

London to be called "Little Troy," 107

London Bridge, first heads exposed on, 100-1

Lopez Roderigo—
accused of designing to poison Elizabeth,
167-68
probably innocent, but executed, 168

Lorrain, Paul—
Ordinary of Newgate, 67
his loyalty, 227
his broadsheets, 228
his "saints," 228
account of last scene, 240-41

Lundy Island, William Marsh establishes
himself as a pirate there, 88-9

Macaulay, Thomas Babington, historian—
gives excellent account of highwaymen, 198
on Elizabeth Gaunt, 207
on Jeremy Collier, 216
on Major Bernardi, 216
on habeas corpus, 218-19

Machiavelli, Niccolò, his “Prince” quoted, 157

Machyn, Henry, value of his Diary, 151

Maclean, James—
“The Gentleman Highwayman,” 244-45
robs Horace Walpole, 244-45
not a free-thinker, 245
his skeleton in Surgeons’ Hall, 245

Magna Carta—
a conception of the thirteenth century, 218
derided by Cromwell, 218
the basis of habeas corpus, 218

Mails robbed, 195, 207

Manacles, a form of torture, 170

Mandeville, Bernard de, 78
describes an execution at Tyburn, 240
on supply of bodies for dissection, 248-49

Maps of London and of Middlesex, 65-8

Marble Arch—
gallows did not stand here, 61
improvements, 70

Marteilhe, Jean, 63

Martyrdom, held to atone for errors of persecutors, 158-59

Mary, Queen, 77, 151, 159, 177
Wyatt's Rebellion, 151-52
conspiracy to rob Exchequer, 153-55

Menteith, Earl of, 104

Mercenaries, Foreign, 140 and *note*, 141

Meredith, Sir William—
law reformer, 78
on case of Mary Jones and another, 257-58

Middlesex County Records, 76

Mildmay, Sir Henry, drawn to Tyburn on a sledge, 192-93

Milksop, John, a thief, strange case of, 17

Milton, "Comus" quoted, 178

Minorite Friars—
plead for imprisoned Jews, 94-5
lose favour thereby, 95

Misson, Henri—
"Mémoires" quoted, 202 *note*

Monasteries—
Dissolution of, 136
results of, 137-43
destroys yeomanry, 139

Monks—
power to release thieves, 13-14
good landlords, 138, 139, 142
maintained the poor, 141

Monmouth, Duke of—
execution, 47
rebellion of, 206

Monson, Lord, drawn to Tyburn on a sledge,

192-93

Montague, Basil—
law reformer, 78
founds Society for the Diffusion of Knowledge upon the Punishment of Death, 258
son of the Earl of Sandwich, 265
Carlyle on, 265

More, Sir Thomas—
quoted on title page
on punishment for theft, 79
and Elizabeth Barton, 133
on numbers hanged, 142

Mortimer, Edmund—
invades the franchise of Montgomery, 18

Mortimer, Roger—
said in error to be the first executed at Tyburn, 103
his indictment, 104 *note*

Mourning-coach—
allowed to "gentlemen" on their way to Tyburn, 202 and *note*
first recorded case, 202 *note*
a seat in one refused to a foot-pad, 254

Mute, prisoners standing—
to be treated as guilty, 42
to be taken to plead "not guilty," 43
And *see* Peine forte et dure

Necromancy, a story of, 112-15

Newbury, hundred of, fifteen gallows in, 7

Newgate—

heads set on, 104, 107
the “drop,” 257, 267
transfer of executions to, 267
capacity of new gallows, 268
20 men hanged at a time, 268

Norden, map of Middlesex, 65, 67

Norwich, riot at, 29, 30

Oates, Titus—
and Tonge invent the Popish Plot, 199-200
pilloried, whipped, and imprisoned, 202
last appearance in pillory, 203
re-established as Protestant champion, 203-4
his services rewarded, 204

Ordeal of water, 83 and *note*

Orton, Henry, condemned to death, 160-61

Overbury, Sir Thomas—
murder of, 178-79
a poet, 178

Ox-hide used for “drawing,” 28, 99
“The common,” 104

Paddington, gallows at, 15

Pardon Churchyard, burials in, 49-50

Parliament—
petitions for execution of priests, 157, 184
conflict on subject of Oates, 203 and *note*, 204
petitions for execution of Pickering, 205

Paston Letters, 10

Peasants, revolt of, in 1381, 106; in 1549, 150

Peine forte et dure—
judge-made, 36
successive stages of growth, 36-40
writers mistaken as to results of, 36, 41
originally severe imprisonment to make accused plead, 37, 38
Clitherow, Margaret, 39
Strangewayes, Major, 39, 40
Harrison on, 38, 39
became a punishment worse than hanging, 40
Stanford, Sir William, on, 41 and *note*
Spiggott's case, 41, 229-30
Hawes's case, 41, 230
abolished in 1772, 42
Thorely's case, 42
Mercier's case, 42
Chidley's remonstrance, 187

Penal Laws, defended by Elizabeth's Government, 164 *note*

Pepys, Samuel—
sees head of Cromwell and others on Westminster Hall, 192
sees Lord Monson and Sir H. Mildmay being drawn to Tyburn, 193

Perreau, Robert and Daniel—
and Mrs. Rudd, 260-61
Mr. Bleackley's account of, 261
and Dr. Dodd, 262

Persecution, religious, considered a duty by the Reformers, 157-58

Peterborough, Abbat of, kills some of his monks, 138 *note*

Philip, husband of Queen Mary, 154

“Piers Plowman” quoted, 130

Pike, Luke Owen, “History of Crime” quoted, 203 *note*

Pirates, numerous, where and how executed, 20 and *note*

Pits for burial at Tyburn, 51

Placita de Quo Waranto, 14, 15

Poaching affray, 148-49

Poisoning made high treason, 21-2
Act so making it repealed, 22
“Great Oyer of Poisoning,” 178-81

Poisons, administered to Overbury, 179

Pope—
advises Richard I., 81
Elizabeth’s quarrel with, 156-57
Bunyan describes his impotent railing, 156

Pope, Alexander—
his epitaph on Trumball, 216
“Tyburn’s elegiac lines,” 240 *note*

Pope, William, Memoirs of Du Val, 195-97

Popish Plot, 199-205
Sixteen persons executed for, 201

Population of England—
under Henry VIII., estimated at 5,000,000, 141

Prance, Miles, a perjurer, his punishment, 202-3

Preachers of new doctrines imported, 139-40, 142

Predatory Classes, civilisation has improved
their opportunities of plunder, 11, 12-13

Pretenders, adherents of, executed—
in 1715, 227
in 1718, 228
in 1746, 33
in 1753, 249

Pride, Thomas, 191

Princes Street, Hanover Square, gallows in,
42-3

Procession to Tyburn—
halts at St. Giles's hospital, 4
great concourse, 145, 215, 243, 250, 261
Dr. Johnson on, 146, 267
not allowed to stop for drink, 243
grandest, 250
greatest known, 263
Dr. Dodd on, 263

Pym, John, his body removed, 192

Quartering, *see* Treason

"Rageman," statute so called, 14

Ray, Miss Martha—
murdered by Hackman, 263-64
mistress of Lord Sandwich, 264, 265
mother of Basil Montague, 265
Grub Street ballad on, 265

Rebellion—
of 1745, 33, 249
in Cornwall (1497) 121-22
in Lincolnshire and Yorkshire (1536), 137;

(1541), 149
in the West and Norfolk (1549), 150-51
in favour of Lady Jane Grey (1553), 151
Wyatt's (1554), 151-52
in the North (1569), 155
Great, 185
Monmouth's (1685), 206

Regicides, execution of, 190

Religious liberty not understood in the 16th century, 157-58

Reprieve, story of, 266

"Resources of civilisation," 217-19

Revival after hanging, 221-27
John Smith, 221-23
Duel, 223-24
Chovet studies the question, 224
Gordon, 224
Reynolds, 224
two men at Bristol, 224
Patrick Redmond, 225
Anne Greene, 225-26
Margaret Dickenson, 226
Ivetta de Balsham, after hanging 12 hours, 226-27 and *note*
planned by Jack Sheppard, 233
of Dr. Dodd attempted, 263

Richard I.—
punishment ordered by, 19
his crusade, 79
imprisonment and ransom, 79-80
removes the justiciar, 81

Richard II., 106, 108, 109, 110

Richardson, Samuel, describes an execution at

Tyburn, 50-1, 236-40

Riley, Henry Thomas, quoted, 60 *note*

Riots—
in London in 1222, 84-6
in London in 1267, 95-7
in Norwich in 1271, 29-30
in London in 1668, 193-94
in Strand in 1749, 242-43
in Bethnal Green in 1769, 255

Rishton, Edward, condemned to death, 160-61

Robbery—
ancient forms of, crude and limited, 10, 13
modern improvement and extension, 10, 11

Rochester, Bishop of, attempt to poison, 21-2

Rocque, John, his maps, 68

Romilly, Samuel, law reformer, vi, 78, 257 *note*

Rose, Richard, boiled to death, 21, 22

Rotuli Hundredorum, 14, 15, 16

Royal Exchange, pillory at, 202, 203

Russell, Lord William,—
executed for Rye House Plot, 47, 206
and execution of Pickering, 205

Rye House Plot—
executions for, 205-6
and Elizabeth Gaunt, 206

Sadler, Thomas, steals Chancellor's mace, 198-99

St. Alban's—

Leofstan, Abbat of, *see* Leofstan
highwaymen at, 211

St. George, Hanover Square—
map of Parish, 68
Dr. Dodd and the living of, 261

St. Giles-in-the-Fields—
"St. Giles's bowl," 4, 243
supposed site of royal gallows, 58-9, 58 *note*

Tangier tavern, lying in state of Claude Duval, 197

St. Hugh (Little) of Lincoln—
story of, 91-5
Chaucer's "Prioress's Tale," 91

St. John of Jerusalem, Priory of, 49, 50

St. Margaret, Westminster, exhumed bodies buried in a pit, 192

St. Mary-le-Bow, occurrences at, 80-1, 97-8

St. Pancras (old church), Jonathan Wild buried at, 235

St. Paul's Cathedral, 87

St. Paul's, Covent Garden, 197

Saint Sepulchre's—
burial in, refused, 50
burial in, 150
tolling of great bell established, 175-76

St. Thomas-a-Waterings—
gallows of, 61
executions at, 148, 180

Salisbury, a non-juring parson, forges to prejudice the Government, 220

Samson, Abbat of Bury St. Edmund's, 137

Sandwich, Lord—
"protector" of Martha Ray, 264
invents the sandwich, 265

Saussure, César de—
quoted, iv
on benefit of clergy, 131
on peine forte et dure, 230 *note*

Savoy, custom of, 10

Scots, the first and last, on whom the full punishment for treason inflicted, 33

Sessions—
at Newgate every 3 weeks in 1539, 142
at the Marshalsea every fortnight, 142

Shaftesbury, Earl of, directs the Popish Plot, 200-2

Shakespeare quoted, 64-5, 65 *note*, 116, 157, 170

Shard, Justice, strains the law, 28

Shelley, Percy Bysshe, poet, quoted, v

Sheppard, Jack—
a great prison-breaker, 230
story of his last escape, 231-33
re-captured and hanged, 233
life written by Defoe, 233
portrait by Thornhill, 233
inspired a sermon, 234

Shepperton, gallows at, 16

"Ship of Fools," iv, 140 *note*

Shirley's "Wedding" quoted, 67

Shoplifting Act, vi, 220, 246
denounced by Romilly, 220

Shoreditch, Sir John of, his murder, 103-4

Sidmouth, Viscount, vi

Sieveking, Mr. Herbert, vi, 65 *note*, 68

Sisamnes, story of, 24

"Sixteen-string Jack," 260

Slavery, re-established in England, 140

Sledge, "sledge" and "hurdle," words used indifferently, 192

Smith, Sir Thomas—
"De Republica Anglorum," quoted, 35
tortures, 35
on benefit of Clergy, 130-31

Smithfield—
"The Elms" of, the civic gallows, 57, 58, 59
burnings here for heresy, 59 and *note*
single combat in, 115
"Fires of Smithfield," not extinguished by death of "bloody Mary," 177
Sir W. Meredith on, 257-58
execution of highwayman at, 213
execution of bankrupt at, 227

Society, for the Diffusion of Knowledge upon the Punishment of Death, 258

Sorcery, a story of, 112-15

Southwell, Robert—
tortured, 36
poet and martyr, 168-69

Spalding, hanging at, 19

Spaniards, rumour that Philip has brought in 12,000, 154

Spiggott, ——, put in the Press, 41, 229-30

Stafford, Thomas, his rebellion and execution, 154

Staines, gallows at, 16

Stanford, Sir William, "Les Plees del Coron," 33 *note*, 40, 41 and *note*

Stanley, Dean, quoted, 25, 58 *note*

States General—
surrender Regicides, 190
and Sir Thomas Armstrong, 206

Statute Book, 200 capital offences on, 6

Statutes cited—
3 Edw. I. (1275), c. 12, 37
4 Edw. I. (1276) ("Rageman"), 14
4 Edw. I. (1276), c. 1, 2, 131
6 Edw. I. (1278) (Statute of Gloucester), 14
13 Edw. I. (1285) (Statute of Winchester), 10 *note*
18 Edw. III. (1344), St. 3, c. 2, 132
25 Edw. III. (1352), St. 5, c. 2, 30-1
25 Edw. III. (1352), St. 6, c. 4, 129
3 Henry VII. (1487), c. 3, 209
4 Henry VII. (1488-9), c. 19, 141 *note*
22 Henry VIII. (1530-1), c. 9, 21 and *note*
23 Henry VIII. (1531), c. 1, 129
26 Henry VIII. (1534), c. 1, 133
27 Henry VIII. (1535-6), c. 25, 143
32 Henry VIII. (1540-1), c. 16, 147
1 Edw. VI. (1547), c. 3 (Slave Act), 140
1 Edw. VI. (1547), c. 12, 22, 132

1 Eliz. (1559), c. 1, 163
23 Eliz. (1581), c. 1, 164
27 Eliz. (1584), c. 2, 175
1 James I. (1603), c. 15, 227 *note*
21 James I. (1623), c. 6, 77; c. 19, 227
13 Charles II. (1661), c. 15, 192
4 & 5 Will. and Mary (1692), c. 8, 195
7 & 8 Will. III. (1695-6), c. 1, 214; c. 19, 215
8 & 9 Will. III. (1696-7), c. 2, c. 8, c. 26, 215; c. 5, 217
9 Will. III. (1697), c. 2, c. 21, 215; c. 4, 217
10 Will. III. (1698), c. 12,[215] vi, 78, 220-21, 246
10 Will. III. (1698), c. 19, 217
1 Anne (1701), St. 1, c. 29, 217
4 & 5 Anne (1705), c. 4, 227
5 & 6 Anne (1706), c. 6, 221
1 Geo. I. (1714), st. 2, c. 7, 217
1 Geo. II. (1727), st. 1, c. 4, 218
5 Geo. II. (1732), c. 30, 227
8 Geo. II. (1735), c. 20, 224 *note*
25 Geo. II. (1752), c. 37, 247, 250
12 Geo. III. (1772), c. 20, 42
26 Geo. III. (1786), c. 49, 78
7 & 8 Geo. IV. (1827), c. 27, vi
7 & 8 Geo. IV. (1827), c. 28, 43, 131
5 Edw. VII. (1905), c. 13, 147
Acts suspending habeas corpus cited generally, 219
See also under Æthelstan, Alfred, Henry I., Ina, William the Conqueror.

Stephen, Sir James Fitzjames, opinion that we have gone too far in abolishing the

penalty of death, 6
quoted, 12, 18, 36, 57, 129, 227

Stirling Castle, siege of, 99-100

Story, Dr. John—
a bitter persecutor, 157
his execution memorable, 157
triangular gallows first used for, 157
his career, 159
kidnapped, 159
executed, 159

Stow, John, burial of executed persons, 49-50

Strangeways, Major, manner of his death, 39-40

Stumphius, an imported preacher, 142

Strype, John, historian, quoted, 51-2, 69 and *note*, 158 *note*

Surgeons and bodies of executed criminals, 239, 243, 244, 248-49, 249

Surgeons' Hall, 223, 248
Hogarth's "Stages of Cruelty," 245
bodies of murderers to be given to, 247, 248-49
body of Earl Ferrers in, 250, 251
body of Mrs. Brownrigg, 253-54

Swift, Jonathan—
on "Blueskin," 234 *note*
on "Clever Tom Clinch," 240

Tarlton, Richard—
his "Jests," 45, 64 *note*
his "Newes out of Purgatorie," 64

Teddington, gallows at, 15

Temple Bar, heads exposed on, 33

Thieves and robbers pursued without mercy, 13

Thistlewood and four others, manner of execution, 33, 34

Throckmorton, Francis, alleged treason of, 163-64 and *note*

Thumbs, tying together, 42

Tilford, the oak of, 15 *note*

“Time is money,” 54

Tonge, Dr. Ezrael, 199

Topcliffe, Richard, the English Torquemada, 169

Torture—
- illegal, but practised, 35, 36
- Hallam on use of, 35
- use of, denied by Sir Thomas Smith, who practised it, 35
- use of, defended by Lord Burghley, 35-6, 161-62, 162-63 and *note*
- use of, defended by Sir R. Wiseman, 36 *note*
- Jardine on, 36 *note*
- last recorded case, 36 *note*
- of Edmund Campion, 161-62
- of Alexander Brian, 161-62
- the Government’s defence of, 161-62
- of Francis Throckmorton, 164 *note*
- of Southwell, 169
- used in ordinary cases, 169-70

Tower of London, place for exposing heads,

100

Townley, Francis, manner of execution, 33

"Trailbaston," inquisition so called, 16

Travellers, murder of, 9

Treason, high—
defined by Statute, 30-1
punishment of, 31-4
form of sentence, 31
later form, 31
last execution for, 33-4

Treason, petty, 28, 104, 105, 129

Treasury of king at Westminster robbed, 11, 24-5

Turberville, Sir Thomas de—
drawn to gallows on an ox-hide, 28 *note*, 99
execution of, 31 *note*, 98, 99

Turner, Mrs., inventress of "yellow starch," 181 *note*

Tyburn Gallows—
probable number of persons executed at, 3, 75-8
methods of execution, 3, 4
superstition, 48
slang expressions, 48
burials from, 49-53
site of, 54-70
gallows, when first set up, not before Conquest, 54
probably about 1108, 56-7
first known as "The Elms," 57
no evidence of supposed changes of site of

royal gallows, 58, 60-1
Earl of Oxford has gallows here, 59
gallows in constant use, 61
permanent, 61
movable, 61, 69-70
why so far from city, 61-3
and gibbets, 62
original form of gallows, 63
triangular, 63-4, 67-8, 71
proposals to remove, 69
removed, 69-70
last execution at, 70, 72
chronology of, 71-2
Dryden on, 74
annals of meagre, 75
mention of, sometimes omitted, 91 *note*
first recorded execution, 79
mistake as to Roger Mortimer, 103
said to be hung with garlands, 182
Chidley nails his protest near, 187
whipping from Newgate to, 202, 208, 209
pillory at, 202
said to be hung in mourning, 214
reason of removal to Newgate, 267, 268
martyrs of, 268
Oratory near, 268

Tyburn Gate, 70

Tyburn ticket, 220 and *note*

Villon, François, poet of the gibbet, 63

Wallace—
execution of, 31-2, 32 *note*, 99, 100
his head the first exposed on London

Bridge, 100

Walpole, Horace—
robbed by Maclean, 244-45
his account of execution of Earl Ferrers, 251

Wapping—
execution of pirates at, 20 and *note*
Execution Dock, 63

Warbeck, Perkin, pretender, 120-21

Watling Street, 8, 17, 67

Waverley Abbey, reference to, 15 *note*

Weavers of Bethnal Green, 254-55

"Were" and "wite," 55

Westbourne, gallows at, 16, 58

Westminster, Abbat of—
has 16 gallows in Middlesex, 13, 15-16, 58
houses wrecked, 84-5

Westminster Abbey, Dean's Yard, formerly "The Elms," 58

Wharton, Mary, stolen, 209-11

Whitney, James, a noted highwayman, 211-13

Wild, Jonathan—
director of a great system of robbery, 234-35
exploits celebrated by Fielding, 234
pelted on way to Tyburn, 235

William the Conqueror abolishes capital punishment, 56
substitutes other punishments, 56

William III.—

Shoplifting Act, 78
Assassination Plot, 215-17
imprisons Bernardi without trial, 217
the first king who suspends habeas corpus, 218-19

William, the sacrist of Westminster Abbey, 11, 24-5

Winchester—
roads near, unsafe, 9-10
Statute of, 10 *note*

Woman burnt for treason—
Mrs. Gaunt, in 1685, the last, except for coining, 207
narrow escape of Mrs. Merewether, 207

Wren, Sir Christopher, 225

Wyatt, Sir Thomas—
his rebellion, 151-52
beheaded, 152

"Yellow Starch," 181 *note*

Yeomen, English—
a prosperous class, 138
helped to maintain poor, 139, 141
destroyed, 139, 140, 141

Yonge, Justice—
his methods, 166

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