

THE CRIMINAL PROSECUTION AND CAPITAL PUNISHMENT OF ANIMALS

INTRODUCTION

THE present volume is the result of the revision and expansion of two essays entitled "Bugs and Beasts before the Law," and "Modern and Mediæval Punishment," which appeared in *The Atlantic Monthly*, in August and September 1884. Since that date the author has collected a vast amount of additional material on the subject, which has also been discussed by other writers in several publications, the most noteworthy of which are Professor Karl von Amira's *Thierstrafen und Thierprocesse* (Innsbruck, 1891), Carlo d'Addosio's *Bestie Delinquenti* (Napoli, 1892), and G. Tobler's *Thierprocesse in der Schweiz* (Bern, 1893), but in none of these works, except the first-mentioned, are there any important statements of facts or citations of cases in addition to those adduced in the essays already mentioned, for which the writer was indebted chiefly to the

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extensive and exceedingly valuable researches of Berriat-Saint-Prix and M. L. Ménebréa, and the *Consilium Primum* of Bartholomew Chassenée, cited in the appended bibliography. Professor Von Amira is a very distinguished and remarkably keen-sighted jurist and treats the matter exclusively from a jurisprudential point of view, his main object being to discover some general principle on which to explain these strange phenomena, and thus to assign to them their proper place and true significance in the historical evolution of the idea of justice and the methods of attaining it by legal procedure.

— Von Amira draws a sharp line of technical distinction between *Thierstrafen* and *Thierprocesse*; the former were capital punishments inflicted by secular tribunals upon pigs, cows, horses, and other domestic animals as a penalty for homicide; the latter were judicial proceedings instituted by ecclesiastical courts against rats, mice, locusts, weevils, and other vermin in order to prevent them from devouring the crops, and to expel them from orchards, vineyards, and cultivated fields by means of exorcism and excommunication. Animals, which were in the service of man, could be arrested, tried, convicted and executed, like any other members of his household; it was, therefore, not necessary to summon them to appear in court at a specified time to answer for their conduct, and thus make them,

in the strict sense of the term, a party to the prosecution, for the sheriff had already taken them in charge and consigned them to the custody of the jailer. Insects and rodents, on the other hand, which were not subject to human control and could not be seized and imprisoned by the civil authorities, demanded the intervention of the Church and the exercise of its supernatural functions for the purpose of compelling them to desist from their devastations and to retire from all places devoted to the production of human sustenance. The only feasible method of staying the ravages of these swarms of noxious creatures was to resort to "metaphysical aid" and to expel or exterminate them by sacerdotal conjuring and cursing. The fact that it was customary to catch several specimens of the culprits and bring them before the seat of justice, and there solemnly put them to death while the anathema was being pronounced, proves that this summary manner of dealing would have been applied to the whole of them, had it been possible to do so. Indeed, the attempt was sometimes made to get rid of them by setting a price on their heads, as was the case with the plague of locusts at Rome in 880, when a reward was offered for their extermination, but all efforts in this direction proving futile, on account of the rapidity with which they propagated, recourse was had to exorcisms and sprinklings with holy water.

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D'Addosio speaks of the actions brought against domestic animals for homicide as penal prosecutions, and those instituted against insects and vermin for injury done to the fruits of the field as civil suits (*processi civili*); but the latter designation is not correct in any proper sense of the term, since these actions were not suits to recover for damages to property, but had solely a preventive or prohibitive character. The judicial process was preliminary to the utterance of the malediction and essential to its efficacy. Before fulminating an excommunication the whole machinery of justice was put in motion in order to establish the guilt of the accused, who were then warned, admonished, and threatened, and, in cases of obduracy, smitten with the *anathema maranatha* and devoted to utter destruction. As with all bans, charms, exorcisms, incantations, and other magical hocus-pocus, the omission of any formality would vitiate the whole procedure, and, by breaking the spell, deprive the imprecation or interdiction of its occult virtue. Ecclesiastical thunder would thus be robbed of its fatal bolt and reduced to mere empty noise, the harmless explosion of a blank cartridge.

The Church was not wholly consistent in its explanations of these phenomena. In general the swarms of devouring insects and other noxious vermin are assumed to have been sent at the instigation of Satan (*instigante sathana, per*

maleficium diabolicum), and are denounced and deprecated as snares of the devil and his satellites (*diaboli et ministrorum insidias*); again they are treated as creatures of God and agents of the Almighty for the punishment of sinful man; from this latter point of view every effort to exterminate them by natural means would be regarded as a sort of sacrilege, an impious attempt to war upon the Supreme Being and to withstand His designs. In either case, whether they were the emissaries of a wicked demon or of a wrathful Deity, the only proper and permissible way of relief was through the offices of the Church, whose bishops and other clergy were empowered to perform the adjurations and maledictions or to prescribe the penances and propitiations necessary to produce this result. If the insects were instruments of the devil, they might be driven into the sea or banished to some arid region, where they would all miserably perish; if, on the other hand, they were recognized as the ministers of God, divinely delegated to scourge mankind for the promotion of piety, it would be suitable, after they had fulfilled their mission, to cause them to withdraw from the cultivated fields and to assign them a spot, where they might live in comfort without injury to the inhabitants. The records contain instances of both kinds of treatment.

It was also as a protection against evil spirits that the penalty of death was inflicted upon

made to higher tribunals and the judgments of the lower courts annulled or modified. In one instance a sow and a she-ass were condemned to be hanged; on appeal, and after a new trial, they were sentenced to be simply knocked on the head. Occasionally an appeal led to the acquittal of the accused.

In 1266, at Fontenay-aux-Roses, near Paris, a pig convicted of having eaten a child was publicly burned by order of the monks of Sainte Geneviève. In 1386, the tribunal of Falaise sentenced a sow to be mangled and maimed in the head and forelegs, and then to be hanged, for having torn the face and arms of a child and thus caused its death. Here we have a strict application of the *lex talionis*, the primitive retributive principle of taking an eye for an eye and a tooth for a tooth. As if to make the travesty of justice complete, the sow was dressed in man's clothes and executed on the public square near the city-hall at an expense to the state of ten sous and ten deniers, besides a pair of gloves to the hangman. The executioner was provided with new gloves in order that he might come from the discharge of his duty, metaphorically at least, with clean hands, thus indicating that, as a minister of justice, he incurred no guilt in shedding blood. He was no common pig-killer, but a public functionary, a "master of high works" (*maître des hautes œuvres*), as he was officially styled. (*Vide Appendix G.*)

We may add that the west wall of the south

branch of the transept in the Church of the Holy Trinity (*Sainte-Trinité*) at Falaise in Normandy was formerly adorned with a fresco-painting of this execution, which is mentioned in *Statistique de Falaise* (1827, t. I. 83), and more fully described by l'Abbé Pierre-Gilles Langevin, in his *Recherches Historiques sur Falaise* (1814, p. 146). In a Supplement (p. 12) to this work, published several years later, the Abbé states that, about the year 1820, the entire church, including the fresco, was whitewashed, so that the picture has since then been invisible, and, so far as can be ascertained, no engraving or other copy of it has ever been made. Unfortunately, too, as the same writer informs us, *la châsse de la bannière* (banner-holder) was fastened to the wall of the church on this very spot, thus covering and permanently destroying at least a portion of the painting.

In 1394, a pig was found guilty of "having killed and murdered a child in the parish of Roumaygne, in the county of Mortaing, for which deed the said pig was condemned to be haled and hanged by Jehan Petit, lieutenant of the bailiff." The work was really done by the hangman (*pendart*), Jehan Micton, who received for his services the sum of "fifty souls tournois." (*Vide* Appendix H.) In another case the deputy bailiff of Mantes and Meullant presented a bill, dated March 15, 1403, which contained the following items of expense incurred for the in-

carceration and execution of an infanticide
SOW :

“ Cost of keeping her in jail, six sols parisis.

“ Item, to the master of high works, who came from Paris to Meullant to perform the said execution by comand and authority of the said bailiff, our master, and of the procurator of the king, fifty-four sols parisis.

“ Item, for a carriage to take her to justice, six sols parisis.

“ Item, for cords to bind and hale her, two sols eight deniers parisis.

“ Item, for gloves, two deniers parisis.”

This account, which amounted in all to sixty-nine sols eight deniers parisis, was examined and approved by the auditor of the court, De Baudemont, who affixed to it his own seal with signature and paraph and “ in further confirmation and approbation thereof caused it to be sealed with the seal of the Chatellany of Meullant, on the 15th day of March in the year 1403.” (See Appendix I.) In the following year a pig was executed at Rouvres for the same offence.

Brutes and human criminals were confined in the same prison and subjected to the same treatment. Thus “ Toustain Pincheon, keeper of the prisons of our lord the king in the town of Pont de Larche,” acknowledges the receipt, “ through the hand of the honourable and wise man, Jehan Monnet, sheriff (*vicomte*) of the said

town, of nineteen sous six deniers tournois for having found the king's bread for the prisoners detained, by reason of crime, in the said prison." The jailer gives the names of the persons in custody, and concludes the list with "Item, one pig, conducted into the said prison and kept there from the 24th of June, 1408, inclusive, till the 17th of the following July," when it was hanged "for the crime of having murdered and killed a little child" (*pource que icellui porc avoit muldry et tue ung pelltit enfant*). For the pig's board the jailer charged two deniers tournois a day, the same as for boarding a man, thus placing the porker, even in respect to its maintenance, on a footing of perfect equality with the human prisoners. He also puts into the account "ten deniers tournois for a rope, found and furnished for the purpose of tying the said pig that it might not escape." The correctness of the charges is certified to by "Jean Gaulvant, sworn tabellion of our lord the king in the viscounty of Pont de Larche." (*Vide* Appendix J.) Again in 1474, the official of the Bishop of Lausanne sentenced a pig to be hanged "until death ensueth," for having devoured an infant in its cradle in the vicinity of Oron, and to remain suspended from the gallows for a certain length of time as a warning to wrong-doers. It is also expressly stated that, in 1585, the body of a pig, which had been executed for the murder of a child at Saint-

Omer, at the hostelry of Mortier d'Or, was left hanging "for a long space" on a gibbet in a field near the highway. (Derheims: *Histoire de Saint-Omer*, p. 327.) A little later a similar spectacle met the eyes of Guy Pape, as he was going to Châlons-sur-Marne in Champagne, to pay homage to King Henry IV. In his own words: *dum ibam ad civitatem Cathalani in Campania ad Regem tunc ibi existentem, vidi quemdam porcum, in furcis suspensum, qui dicebatur occidisse quemdam puerum.* (Quaestio CCXXVIII: *De poena bruti delinquentis.* Lugduni, MDCX.)

On the 5th of September, 1379, as two herds of swine, one belonging to the commune and the other to the priory of Saint-Marcel-le-Jeussey, were feeding together near that town, three sows of the communal herd, excited and enraged by the squealing of one of the porklings, rushed upon Perrinot Muet, the son of the swine-keeper, and before his father could come to his rescue, threw him to the ground and so severely injured him that he died soon afterwards. The three sows, after due process of law, were condemned to death; and as both the herds had hastened to the scene of the murder and by their cries and aggressive actions showed that they approved of the assault, and were ready and even eager to become *participes criminis*, they were arrested as accomplices and sentenced by the court to suffer the same penalty. But the prior,

Friar Humbert de Poutiers, not willing to endure the loss of his swine, sent an humble petition to Philip the Bold, then Duke of Burgundy, praying that both the herds, with the exception of the three sows actually guilty of the murder, might receive a full and free pardon. The duke lent a gracious ear to this supplication and ordered that the punishment should be remitted and the swine released. (*Vide Appendix K.*)

A peculiar custom is referred to in the *procès verbal* of the prosecution of a porker for infanticide, dated May 20, 1572. The murder was committed within the jurisdiction of the monastery of Moyen-Montier, where the case was tried and the accused sentenced to be "hanged and strangled on a gibbet." The prisoner was then bound with a cord and conducted to a cross near the cemetery, where it was formally given over to an executioner from Nancy. "From time immemorial," we are told, "the justiciary of the Lord Abbot of Moyen-Montier has been accustomed to consign to the provost of Saint-Diez, near this cross, condemned criminals, wholly naked, that they may be executed; but inasmuch as this pig is a brute beast, he has delivered the same bound with a cord, without prejudicing or in any wise impairing the right of the Lord Abbot to deliver condemned criminals wholly naked." The pig must not wear a rope unless the right to do without it be

expressly reserved, lest some human culprit, under similar circumstances, should claim to be entitled to raiment.

“Twill be recorded for a precedent ;
And many an error, by the same example
Will rush into the state : it cannot be.”

In the case of a mule condemned to be burned alive together with a man guilty of buggery, at Montpellier, in 1565, as the quadruped was vicious and inclined to kick (*vitiosus et calcitrosus*), the executioner cut off its feet before consigning it to the flames. This mutilation was an arbitrary and extra-judicial act, dictated solely by considerations of personal convenience. Hangmen often indulged in capricious and supererogatory cruelty in the exercise of their patibulary functions, and mediæval as well as later writers on criminal jurisprudence repeatedly complain of this evil and call for reform. Thus Damhouder, in his *Rerum Criminalium Praxis* (*cap. de carnifice*, p. 234), urges magistrates to be more careful in selecting persons for this important office, and not to choose evil-doers, “assiduous gamblers, public whoremongers, malicious back-biters, impious blasphemers, assassins, thieves, murderers, robbers, and other violators of the law as vindicators of justice. Indeed, these hardened wretches sometimes took the law into their own hands. For example, on the 9th of June, 1576, at Schweinfurt in Franconia, a sow, which had bitten off the ear and

torn the hand of a carpenter's child, was given into custody, whereupon the hangman, without legal authority, took it to the gallows-green (Schindrasen) and there "hanged it publicly to the disgrace and detriment of the city." For this impudent usurpation of judiciary powers Jack Ketch was forced to flee and never dared return. Hence arose the proverbial phrase Schweinfurter Sauhenker (Schweinfurt sow-hangman), used to characterize a low and lawless ruffian and vile fellow of the baser sort. It was not the mere killing of the sow, but the execution without a judicial decision, the insult and contempt of the magistracy and the judicatory by arrogating their functions, that excited the public wrath and official indignation.

Buggery (*offensa cujus nominatio crimen est*, as it is euphemistically designated in legal documents) was uniformly punished by putting to death both parties implicated, and usually by burning them alive. The beast, too, is punished and both are burned (*punitur etiam pecus et ambo comburuntur*), says Guilielmus Benedictinus, a writer on law, who lived about the end of the fourteenth century. Thus, in 1546, a man and a cow were hanged and then burned by order of the parliament of Paris, the supreme court of France. In 1466, the same tribunal condemned a man and a sow to be burned at Corbeil. Occasionally interment was substituted for incineration. Thus in 1609, at Niederrad,

a man and a mare were executed and their bodies buried in the same carrion-pit. On the 12th of September, 1606, the mayor of Loens de Chartres, on complaint of the dean, canons, and chapter of the cathedral of Chartres, condemned a man named Guillaume Guyart to be "hanged and strangled on a gibbet in reparation and punishment of sodomy, whereof the said Guyart is declared accused, attainted and convicted." A bitch, his accomplice, was sentenced to be knocked on the head (*assommée*) by the executioner of high justice and "the dead bodies of both to be burned and reduced to ashes." It is furthermore added that if the said Guyart, who seems to have contumaciously given leg-bail, cannot be seized and apprehended in person, the sentence shall, in his case, be executed in effigy by attaching his likeness in painting to the gibbet. It was also decreed that all the property of the absconder should be confiscated and the sum of one hundred and fifty livres be adjudged to the plaintiffs, out of which the costs of the trial were to be defrayed. (*Vide* Appendix L.) This disgusting crime appears to have been very common; at least Ayrault in his *Ordre Judiciaire*, published in 1606, states that he has many times (*multoties*) seen brute beasts put to death for this cause. In his *Magnalia Christi Americana* (Book VI, (III), London, 1702) Cotton Mather records that "on June 6, 1662, at New Haven, there was a most

unparalleled wretch, one Potter by name, about sixty years of age, executed for damnable Bestialities." He had been a member of the Church for twenty years and was noted for his piety, "devout in worship, gifted in prayer, forward in edifying discourse among the religious, and zealous in reforming the sins of other people." Yet this monster, who is described as possessed by an unclean devil, "lived in most infandous Buggeries for no less than fifty years together, and now at the gallows there were killed before his eyes a cow, two heifers, three sheep and two sows, with all of which he had committed his brutalities. His wife had seen him confounding himself with a bitch ten years before; and he then excused himself as well as he could, but conjured her to keep it secret." He afterwards hanged the bitch, probably as a sort of vicarious atonement. According to this account he must have begun to practice sodomy when he was ten years of age, a vicious precocity which the author would doubtless explain on the theory of diabolical possession. In 1681, a habitual sodomite, who had been wont to defile himself with greyhounds, cows, swine, sheep and all manner of beasts, was brought to trial together with a mare, at Wünschelburg in Silesia, where both were burned alive. In 1684, on the 3rd of May, a bugger was beheaded at Ottendorf, and the mare, his partner in crime, knocked on the head; it was expressly enjoined

that in burning the bodies the man's should lie underneath that of the beast. In the following year, fourteen days before Christmas, a journeyman tailor, "who had committed the unnatural deed of carnal lewdness with a mare," was burned at Striga together with the mare.

For the same offence Benjamin Deschauffour was condemned, May 25, 1726, to be tied to a stake and there burned alive "together with the minutes of the trial;" his ashes were strewed to the wind and his estates seized and, after the deduction of a fine of three thousand livres, confiscated to the benefit of his Majesty. In the case of Jacques Ferron, who was taken in the act of coition with a she-ass at Vanvres in 1750, and after due process of law, sentenced to death, the animal was acquitted on the ground that she was the victim of violence and had not participated in her master's crime of her own free-will. The prior of the convent, who also performed the duties of parish priest, and the principal inhabitants of the commune of Vanvres signed a certificate stating that they had known the said she-ass for four years, and that she had always shown herself to be virtuous and well-behaved both at home and abroad and had never given occasion of scandal to any one, and that therefore "they were willing to bear witness that she is in word and deed and in all her habits of life a most honest creature." This document, given at Vanvres on Sept. 19, 1750, and signed by

“Pintuel Prieur Curé” and the other attestors, was produced during the trial and exerted a decisive influence upon the judgment of the court. As a piece of exculpatory evidence it may be regarded as unique in the annals of criminal prosecutions.

The Carolina or criminal code of the emperor Charles V., promulgated at the diet of Ratisbon in 1532, ordained that sodomy in all its forms and degrees should be punished with death by fire “according to common custom” (“so ein Mensch mit einem Viehe, Mann mit Mann, Weib mit Weib, Unkeuschheit treibet, die haben auch das Leben verwircket, und man soll sie der gemeinen Gewohnheit nach mit dem Feuer vom Leben zum Tode richten.” Art. 116.), but stipulated that, if for any reason the punishment of the sodomite should be mitigated, the same measure of mercy should be shown to the beast. This principle is reaffirmed by Benedict Carpzov in his *Pratica Nova Rerum Criminalium* (Wittenberg, 1635), in which he states that “if for any cause the sodomite shall be punished only with the sword, then the beast participant of his crime shall not be burned, but shall be struck dead and buried by the knacker or field-master (*Caviller oder Feldmeister*).” The bugger was also bound to compensate the owner for the loss of the animal, or, if he left no property, the value must be paid out of the public treasury. “If the criminal act was not fully consummated,

then the human offender was publicly scourged and banished, and the animal, instead of being killed, was put away out of sight in order that no one might be scandalized thereby" [Jacobi Döpleri, *Theatrum Poenarum Suppliciorum et Executionum Criminalium, oder Schau-Platz derer Leibes- und Lebens-Strassen*, etc. Sondershausen, 1693, II. p. 151.]

All Christian legislation on this subject is simply an application and amplification of the Mosaic law as recorded in Exodus xxii. 19 and Leviticus xx. 13-16, just as the cruel persecutions and prosecutions for witchcraft in mediæval and modern times derive their authority and justification from the succinct and peremptory command: "Thou shalt not suffer a witch to live." In the older criminal codes two kinds or degrees of sodomy are mentioned, *gravius* and *gravissimum*; the former being condemned in the thirteenth verse and the latter in the fifteenth and sixteenth verses of Leviticus. Döpler tells some strange stories of the results of the *peccatum gravissimum*; and the fact that a sober writer on jurisprudence could believe and seriously narrate such absurdities, furnishes a curious contribution to the history of human credulity.

It is rather odd that Christian law-givers should have adopted a Jewish code against sexual intercourse with beasts and then enlarged it so as to include the Jews themselves. The

question was gravely discussed by jurists, whether cohabitation of a Christian with a Jewess or *vice versa* constitutes sodomy. Damhouder (*Prax. Rer. Crim. c.*, 96, n. 48) is of the opinion that it does, and Nicolaus Boër (*Decis.*, 136, n. 5) cites the case of a certain Johannes Alardus or Jean Alard, who kept a Jewess in his house in Paris and had several children by her; he was convicted of sodomy on account of this relation and burned, together with his paramour, "since coition with a Jewess is precisely the same as if a man should copulate with a dog" (*Döpl., Theat.*, II. p. 157). Damhouder, in the work just cited, includes Turks and Saracens in the same category, "inasmuch as such persons in the eye of the law and our holy faith differ in no wise from beasts."

But to resume the subject of the perpetration of felonious homicide by animals, on the 10th of January, 1457, a sow was convicted of "murder flagrantly committed on the person of Jehan Martin, aged five years, the son of Jehan Martin of Savigny," and sentenced to be "hanged by the hind feet to a gallows-tree (*à ung arbre esproné*)." Her six sucklings, being found stained with blood, were included in the indictment as accomplices; but "in lack of any positive proof that they had assisted in mangling the deceased, they were restored to their owner, on condition that he should give bail for their appearance, should further evidence be forth-

coming to prove their complicity in their mother's crime." Above three weeks later, on the 2nd of February, to wit "on the Friday after the feast of Our Lady the Virgin," the sucklings were again brought before the court; and, as their owner, Jehan Bailly, openly repudiated them and refused to be answerable in any wise for their future good conduct, they were declared, as vacant property, forfeited to the noble damsel Katherine de Barnault, Lady of Savigny. This case is particularly interesting on account of the completeness with which the *procès verbal* has been preserved. (See Appendix M.)

Sometimes a fine was imposed upon the owner of the offending animal, as was the case with Jehan Delalande and his wife, who were condemned, on the 18th of April, 1499, by the bailiff of the Abbey of Josaphat near Chartres, to pay a fine of eighteen francs and to be confined in prison until this sum should be paid, "on account of the murder of a child named Gilon, aged five and a half years or thereabouts, perpetrated by a porker, aged three months or thereabouts." The pig was condemned to be "hanged and executed by justice." The owners were punished because they were supposed to have been culpably negligent of the child, who had been confided to their care and keeping, and not because they had, in the eye of the law, any proprietary responsibility for the infanticidal animal. The mulct implied remissness on their

part as guardians or foster-parents of the infant. In general, as we have seen, the owner of the blood-guilty beast was considered wholly blameless and sometimes even remunerated for his loss. (*Vide* Appendix N.)

According to the laws of the Bogos, a pastoral and nominally Christian tribe of Northern Abyssinia, a bull, cow or any other animal which kills a man is put to death; the owner of the homicidal beast is not held in any wise responsible for its crime, nevertheless he practically incurs a somewhat heavy penalty by not receiving any compensation for the loss of his property. This exercise of justice is quite common among the tribes of Central Africa. In Montenegro, horses, oxen and pigs have been recently tried for homicide and put to death, unless the owner redeemed them by paying a ransom.

On the 14th of June, 1494, a young pig was arrested for having "strangled and defaced a young child in its cradle, the son of Jehan Lenfant, a cowherd on the fee-farm of Ciermont, and of Gillon his wife," and proceeded against "as justice and reason would desire and require." Several witnesses were examined, who testified "on their oath and conscience" that "on the morning of Easter Day, as the father was guarding cattle and his wife Gillon was absent in the village of Dizy, the infant being left alone in its cradle, the said pig entered during the said time the said house and dis-

figured and ate the face and neck of the said child, which, in consequence of the bites and defacements inflicted by the said pig, departed this life (*de ce siècle trépassa*).” The sentence pronounced by the judge was as follows, “We, in detestation and horror of the said crime, and to the end that an example may be made and justice maintained, have said, judged, sentenced, pronounced and appointed, that the said porker, now detained as a prisoner and confined in the said abbey, shall be by the master of high works hanged and strangled on a gibbet of wood near and adjoinant to the gallows and high place of execution belonging to the said monks, being contiguous to their fee-farm of Avin.” The crime was committed “on the fee-farm of Clermont-lez-Montcornet, appertaining in all matters of high, mean and base justice to the monks of the order of Premonstrants,” and the prosecution was conducted by “Jehan Levoisier, licentiate in law, the grand mayor of the church and monastery of St. Martin de Laon of the order of Premonstrants and the aldermen of the same place.” The plaintiffs were the friars, who preferred charges against the pig and procured the evidence necessary to its conviction. (*Vide* Appendix O.)

In 1394, a pig was hanged at Mortaign for having sacrilegiously eaten a consecrated wafer; and in a case of infanticide, it is expressly stated in the plaintiff’s declaration that the pig killed

the child and ate of its flesh, "although it was Friday," and this violation of the *jejunium sextae*, prescribed by the Church, was urged by the prosecuting attorney and accepted by the court as a serious aggravation of the porker's offence.

Nothing would be easier than to multiply examples of this kind. Infanticidal swine were hanged in 1419 at Labergement-le-Duc, in 1420 at Brochon, in 1435 at Trochères, and in 1490 at Abbeville; the last-mentioned execution took place "under the auspices of the aldermanity and with the tolling of the bells." It was evidently regarded as a very solemn affair. The records of mediæval courts, the chronicles of mediæval cloisters, and the archives of mediæval cities, especially such as were under episcopal sovereignty and governed by ecclesiastical law, are full of such cases. The capital punishment of a dumb animal for its crimes seems to us so irrational and absurd, that we can hardly believe that sane and sober men were ever guilty of such folly; yet the idea was quite familiar to our ancestors even in Shakespeare's day, in the brilliant Elizabethan age of English literature, as is evident from a passage in Gratiano's invective against Shylock :

"thy currish spirit
Govern'd a wolf, who, hang'd for human slaughter,
Even from the gallows did his fell soul fleet,
And, whilst thou lay'st in thy unhallow'd dam,
Infus'd itself in thee; for thy desires
Are wolfish, bloody, starv'd, and ravenous."

That such cases usually came under the jurisdiction of monasteries and so-called spiritualities and were tried by their peculiarly organized tribunals, will not seem strange, when we remember that these religious establishments were great landed proprietors and at one time owned nearly one-third of all real estate in France. The frequency with which pigs were brought to trial and adjudged to death, was owing, in a great measure, to the freedom with which they were permitted to run about the streets and to their immense number. The fact that they were under the special protection of St. Anthony of Padua conferred upon them a certain immunity, so that they became a serious nuisance, not only endangering the lives of children, but also generating and disseminating diseases. It is recorded that in 1131, as the Crown Prince Philippe, son of Louis the Gross, was riding through one of the principal streets of Paris, a boar, belonging to an abbot, ran violently between the legs of his horse, so that the prince fell to the ground and was killed. In some cities, like Grenoble in the sixteenth century, the authorities treated them very much as we do mad dogs, empowering the carnifex to seize and slay them whenever found at large. On Nov. 20, 1664, the municipality of Naples passed an ordinance that the pigs, which frequented the streets and piazzas to the detriment and danger of the inhabitants, should be removed from the city to a wood or other uninhabited place or be

slaughtered within twelve days on pain of the penalties already prescribed and threatened, probably in the order issued on Nov. 3, of the same year. It would seem, however, that these ordinances did not produce the desired effect, or soon fell into abeyance, since another was promulgated four years later, on Nov. 29, 1668, expelling the pigs from the city and calling attention to the fact that they corrupted the atmosphere and thus imperiled the public health. Sanitary considerations and salutary measures of this kind were by no means common in the Middle Ages, but were a gradual outgrowth of the spirit of the Renaissance. It was with the revival of letters that men began to love cleanliness and to appreciate its hygienic value as well as its æsthetic beauty. Little heed was paid to such things in the "good old times" of earlier date, when the test of holiness was the number of years a person went unwashed, and the growth of the soul in sanctity was estimated by the thickness of the layers of filth on the body, as the age of the earth is determined by the strata which compose its crust.

The freedom of the city almost universally enjoyed by mediæval swine is still maintained by their descendants in many towns of Southern Italy and Sicily, where they ramble at will through the streets or assemble in council before the palace of the prefect (cf. D'Addosio, *Bestie Delinquenti*, pp. 23-5).

In the latter half of the sixteenth century the tribunals began to take preventive measures against the public nuisance by holding the inhabitants responsible for the injuries done to individuals by swine running at large and by threatening with corporal as well as pecuniary punishment all persons who left "such beasts without a good and sure guard." Thus it is recorded that on the 27th of March, 1567, "a sow with a black snout," "for the cruelty and ferocity" shown in murdering a little child four months old, having "eaten and devoured the head, the left hand and the part above the right breast of the said infant," was condemned to be "exterminated to death, and to this end to be hanged by the executioner of high justice on a tree within the metes and bounds of the said judicature on the highway from Saint-Firmin to Senlis." The court of the judicatory of Senlis, which pronounced this sentence on complaint of the procurator of the seigniority of Saint-Nicolas, also forbade all the inhabitants and subjects of the said seignioralty to permit the like beasts to go unguarded on pain of an arbitrary fine and of corporal chastisement in default of payment. (*Vide* Appendix P.)

But although pigs appear to have been the principal culprits, especially as regard infanticide, other quadrupeds were frequently called to answer for similar crimes. Thus, in 1314, a bull belonging to a farmer in the village of

Moisy, escaped into the highway, where it attacked a man and injured him so severely that he died a few hours afterwards. The ferocious animal was seized and imprisoned by the officers of Charles, Count of Valois, and after being tried and convicted was sentenced to be hanged. This judgment of the court was confirmed by the Parliament of Paris and the execution took place at Moisy-le-Temple on the common gallows. An appeal based upon the incompetency of the court was then made by the Procurator of the Order of the Hospital of the Ville de Moisy to the Parliament of La Chandeleur, which decided that the bull had met with its deserts and been justly put to death, but that the Count of Valois had no jurisdiction on the territory of Moisy, and his officials no power to institute proceedings in this case. The sentence was right in equity, but judicially and technically wrong, and could not therefore serve as a precedent.

There is also extant an order issued by the magistracy of Gisors in 1405, commanding payment to be made to the carpenter who had erected the scaffold on which an ox had been executed "for its demerits." Again on the 16th of May, 1499, the judicial authorities of the Cistercian Abbey of Beaupré near Beauvais condemned a red bull to be "executed until death inclusively," for having "killed with furiosity a lad of fourteen or fifteen years of age, named Lucas Dupont," who was employed in tending the horned cattle of the farmer Jean

Boulet. (*Vide* Appendix Q.) In 1389, the Carthusians of Dijon caused a horse to be condemned to death for homicide; and as late as 1697 a mare was burned by the decision and decree of the Parliament of Aix, which, it must be remembered, was not a legislative body, but a supreme court of judicature, thus differing in its functions from the States General, the only law-making and representative assembly in France, that may be said to have corresponded in the slightest degree to the modern conception of a parliament.

In 1474, the magistrates of Bâle sentenced a cock to be burned at the stake "for the heinous and unnatural crime of laying an egg." The *auto da fé* was held on a height near the city called the Kohlenberg, with as great solemnity as would have been observed in consigning a heretic to the flames, and was witnessed by an immense crowd of townsmen and peasants. The statement made by Gross in his *Kurze Basler Chronik*, that the executioner on cutting open the cock found three more eggs in him, is of course absurd; we have to do in this case not with a freak of nature, but with the freak of an excited imagination tainted with superstition. Other instances of this kind have been recorded, one in the Swiss Prättigau as late as 1730, although in many cases the execution of the gallinaceous malefactor was more summary and less ceremonious than at Bâle.

The *oeuf coquatri* was supposed to be the pro-

duct of a very old cock and to furnish the most active ingredient of witch ointment. When hatched by a serpent or a toad, or by the heat of the sun it brought forth a cockatrice or basilisk, which would hide in the roof of the house and with its baneful breath and "death-darting eye" destroy all the inmates. Many naturalists believed this fable as late as the eighteenth century, and in 1710 the French savant Lapeyronie deemed this absurd notion worthy of serious refutation, and read a paper, entitled "Observation sur les petits oeufs de poule sans jaune, que l'on appelle vulgairement oeufs de Coq," before the Academy of Sciences in order to prove that cocks never lay and that the small and yolkless eggs attributed to them owe their peculiar shape and condition to a disease of the hen resulting in a hydropic malformation of the oviduct. A farmer brought him several specimens of this sort, somewhat larger than a pigeon's egg, and assured him that they had been laid by a cock in his own barnyard. On opening one of them, M. Lapeyronie was surprised to find only a very slight trace of the yolk resembling "a small serpent coiled." He now began to suspect that the cock might be an hermaphrodite, but on killing and dissecting it discovered nothing in support of this theory, the internal organs being all perfectly healthy and normal. But although the unfortunate chanticleer had fallen a victim to the scientific investigation of

a popular delusion, the eggs in question continued to be produced, until the farmer by carefully watching the fowls detected the hen that laid them. The dissection showed that the pressure of a bladder of serous fluid against the oviduct had so contracted it, that the egg in passing had the yolk squeezed out of it, leaving merely a yellowish discoloration that looked like a worm. Another peculiarity of this hen was that she crowed like "a hoarse cock" (*un coq enrroué*), only more violently; a phenomenon also a source of terror to the superstitious, but ascribed by M. Lapeyronie to the same morbid state of the oviduct and the consequent pain caused by the passage of the egg (*Mémoires de l'Académie de Sciences*. Paris, 1710, pp. 553-60.)

A Greek physiologus of the twelfth century, written in verse, calls the animal hatched from the egg of an old cock *επτεινάρια*, a name which would imply some sort of winged creature. It was "sighted like the basilisk," and endowed also in other respects with the same fatal qualities.

In the case of a valuable animal, such as an ox or a horse, the severity of retaliatory justice was often tempered by economical considerations and the culprit confiscated, but not capitally punished. Thus as early as the twelfth century it is expressly stated that "it is the law and custom in Burgundy that if an ox or a horse commit one or several homicides, it shall

not be condemned to death, but shall be taken by the Seignior within whose jurisdiction the deed was perpetrated or by his servitors and be confiscated to him and shall be sold and appropriated to the profit of the said Seignior; but if other beasts or Jews do it, they shall be hanged by the hind feet" (Coustumes et Stilles de Bourgoigne, § 197 in Giraud: *Essai sur l'Histoire du Droit Francais*, II. p. 302; quoted by Amira). It was a cruel irony of the law that conferred upon pigs and Jews a perfect equality of rights by sending them both to the scaffold.

Animals were put on a par with old crones in bearing their full share of persecution during the witchcraft delusion. Pigs suffered most in this respect, since they were assumed to be peculiarly attractive to devils, and therefore particularly liable to diabolical possession, as is evident from the legion that went out of the lunatic and were permitted, at their own request, to enter into the Gadarene herd of swine. But Beelzebub did not disdain to become incarnate in all sorts of creatures, such as cats, dogs of high and low degree, wolves, night-birds and indeed in any beast, especially if it chanced to be black. Goats, it is well known, were not a too stinking habitation for him, and even to dwell in skunks he did not despise. The perpetual smell of burning sulphur in his subterranean abode may render him proof against any

less suffocating form of stench. The Bible represents Satan as going about as a roaring lion; and according to the highest ecclesiastical authorities he has appeared visibly as a raven, a porcupine, a toad and a gnat. Indeed, there is hardly a living creature in which he has not deigned to disport himself from a blue-bottle to a bishop, to say nothing of his "appearing invisibly at times" (*aliquando invisibiliter apparens*), if we may believe what the learned polyhistor Tritheim tells of his apparitions. As all animals were considered embodiments of devils, it was perfectly logical and consistent that the Prince of Darkness should reveal himself to mortal ken as a mongrel epitome of many beasts—snake, cat, dog, pig, ape, buck and horse each contributing some characteristic part to his incarnation.

It was during the latter half of the seventeenth century, when, as we have seen, criminal prosecutions of animals were still quite frequent and the penalties inflicted extremely cruel, that Racine caricatured them in *Les Plaideurs*, where a dog is tried for stealing and eating a capon. Dandin solemnly takes his seat as judge, and declares his determination to "close his eyes to bribes and his ears to brigue." Petit Jean prosecutes and L'Intime appears for the defence. Both address the court in florid and high-flown rhetoric and display rare erudition in quoting Aristotle, Pausanias and other ancient as well

as modern authorities. The accused is condemned to the galleys. Thereupon the counsel for the defendant brings in a litter of puppies, *pauvres enfants qu'on veut rendre orphelins*, and appeals to the compassion and implores the clemency of the judge. Dandin's feelings are touched, for he, too, is a father; as a public officer, also, he is moved by the economical consideration of the expense to the state of keeping the offspring of the culprit in a foundling hospital, in case they should be deprived of paternal support. To the contemporaries of Racine the representation of a scene like this had a significance, which we fail to appreciate. It strikes us as simply farcical and not very funny; to them it was a mirror reflecting a characteristic feature of the time and ridiculing a grave judicial abuse, as Cervantes, a century earlier, burlesqued the institution of chivalry in the adventures of Don Quixote. (See Appendix R.)

Lex talionis is the oldest kind of law and the most deeply rooted in human nature. To the primitive man and the savage, tit for tat is an ethical axiom, which it would be thought immoral as well as cowardly not to put into practice. No principle is held more firmly or acted upon more universally than that of literal and exact retributions in man's dealings with his fellows—the iron rule of doing unto others the wrongs which others have done unto you. Hebrew legislation demanded “life for life, eye for eye, tooth for tooth, hand for hand, foot for

foot, burning for burning, wound for wound, stripe for stripe." An old Anglo-Saxon law made this retaliatory principle of *membrum pro membro* the penalty of all crimes of personal violence, including rape; even a lascivious eye was to be plucked out, in accordance with the doctrine that "whosoever looketh on a woman to lust after her hath committed adultery with her already in his heart." ["Corruptor puniatur in eo in quo deliquat: oculos igitur amittat, propter aspectum decoris, quo virginem concupivit; amittat et testiculos, qui calorem stupri induxerunt." Cf. Bracton, 147*b*; Reeves, I. 481.] This was believed to be God's method of punishment, smiting with disease or miraculously destroying the bodily organs, which were the instruments of sin. Thus Stengelius (*De Judiciis Divinis*, II. 26, 27) records how a thunderbolt was hurled by the divine hand in such a manner as to castrate a lascivious priest: *impurus et saltator sacerdos fulmine castratus*. The same sort of retributive justice was recognized by the Institutes of Manu, which punished a thief by the amputation or mutilation of his fingers.

In the covenant with Noah it was declared that human blood should be required not only "at the hand of man," but also "at the hand of every beast;" and it was subsequently enacted, in accordance with this fundamental principle, that "if an ox gore a man or a woman that they die, then the ox shall be surely

G

Receipt dated Jan. 9, 1386, in which the hangman of Falaise acknowledges to have been paid by the Viscount of Falaise ten sous and ten deniers tournois for the execution of an infanticidal sow, and also ten sous tournois for a new glove.

Quittance originale du 9, janvier 1386, passée devant Guiot de Montfort, tabellion à Falaise, et donnée par le bourreau de cette ville de la somme de *dix sols et dix deniers tournois* pour sa peine et salaire d'avoir trainé, puis pendu à la justice de Falaise une truie de l'âge de 3 ans ou environ, qui avoit mangé le visage de l'enfant de Jonnet le Maux, qui étoit au bers et avoit trois mois et environ, tellement que ledit enfant en mourut, et de *dix sols tournois pour un gant neuf* quand le bourreau fit la dite execution; cette quittance est donné à Regnaud Rigault, vicomte de Falaise; le bourreau y declare qu'il se tient pour bien content des dites sommes, et qu'il en tient quitte le roy et ledit vicomte.

Charange: *Dictionnaire des Titres Originaux*. Paris, 1764. Tome II. p. 72. Also *Statistique de Falaise*, 1827. Tome I. p. 63.

H

Receipt, dated Sept. 24, 1394, in which Jehan Micton, hangman, acknowledges that he received the sum of fifty sous tournois from 'Thomas de Juvigney, viscount of Mortaing, for having hanged a pig which had killed and murdered a child in the parish of Roumaygne.

A tous ceulx qui ces lettres verront ou orront, Jehan Lours, garde du scel des obligations de la viconté de Mortaing, salut, Sachent tous que par devant Bynet de l'Espiney, cleric tabellion juré ou siege dudit lieu de Mortaing, fut present mestre Jehan Micton, pendart,¹ en la viconté d'Avrenches, qui recognut et confessa avoir eu et repceu de homme sage et pourveu Thomas de Juvigney, viconte dudit lieu de Mortaing, c'est assavoir la somme de cinquante souls tournois pour sa paine et salaire d'estre venue d'Avrenches jusques à Mortaing, pour faire acomplir et pendre à la justice dudit lieu de Mortaing, un porc, lequel avait tué et meurdís un enfant en la paroisse de Roumaygne, en ladite viconté de Mortaing. Pour lequel fait ycelui porc fut condanney à estre trayné et pendu, par Jehan Pettit, lieutenant du bailli de *Co rin*, es assises dudit lieu de Mortaing, de laquelle somme dessus dicte le dit pendart se tint pour bien paíé, et en quita le roy nostre sire, ledit

¹ In modern French *pendard* means hang-dog. M. Lejeune states that he can recall no other instance of its use as synonymous with *bourreau* or hangman. Perhaps a facetious clerk may have deemed it applicable to a person whose office was in the present case that of a hang-pig.

viconte et tous aultres. En tesmoing de ce, nous avons sellé ces lettres dudit scel, sauf tout autre droit. C'en fut fait l'an de grace mil trois cens quatre-vings et quatorze, le XXIIII^e jour de septembre. Signé J. LOURS. (Countersigned) BINET.

[Extract from the manuscripts of the *Bibliothèque du Roi*. Vide *Mémoires, ibid.* pp. 439-40.]

I

Attestation of Symon de Baudemont, lieutenant of the bailiff of Mantes and Meullant, made by order of the said bailiff and the King's proctor, on March 15, 1403, and certifying to the expenses incurred in executing a sow that had devoured a small child.

A tous ceuls qui ces lettres verront : Symon de Baudemont, lieutenant à Meullant, de noble homme Mons. Jehan, seigneur de Maintenon, chevalier chambellan du Roy, notre sire, et son bailli de Mante et dudit lieu de Meullant : Salut. Savoir faisons, que pour faire et accomplir la justice d'une truie qui avait devoré un petit enfant, a convenu faire necessairement les frais, commissions et dépens ci-après déclarés, c'est à savoir : Pour dépense faite pour elle dedans le geole, six sols parisis.

Item, au maître des hautes-oeuvres, qui vint de Paris à Meullant faire ladite exécution par le commandement et ordonnance de nostre dit maistre le bailli et du procureur du roi, cinquante-quatre sols parisis.

Item, pour la voiture qui la mena à la justice, six sols parisis.

Item, pour cordes à la lier et hâler, deux sols huit deniers parisis.

Item, pour gans, deux deniers parisis.

Lesquelles parties font en somme toute soixante neuf sols huit deniers parisis ; et tout ce que dessus est dit nous certifions être vray par ces présentes scellées de notre

scel, et à greigneur confirmation et approbation de ce y avons fait mettre le scel de la châtellenie dudit lieu de Meullant, le XV^e de mars l'an 1403. Signé de Baudemont, avec parasse, et au dessous est le sceau de la châtellenie de Meullant.

[Extract from the manuscripts of M. Hérison, judge of the civil court of Chartres, communicated by M. Lejeune to the *Mémoires de la Société Royale des Antiquaires de France*. Tome viii, pp. 433-4.]

J

Receipt, dated Oct. 16, 1408, and signed by Toustain Pincheon, jailer of the royal prisons in the town of Pont de Larche, acknowledging the payment of nineteen sous and six deniers tournois for food furnished to sundry men and to one pig kept in the said prisons on charge of crime.

Pardevant Jean Gaulvant, tabellion juré pour le roy nostre sire en la viconté du Pont de Larche, fut présent Toustain Pincheon, geolier des prisons du roy notre sire en la ville du Pont de Larche, lequel cognut avoir eu et recue du roy nostre dit sire, par la main de honorable homme et saige Jehan Monnet, viconte dudit lieu du Pont de Larche, la somme de 19 sous six deniers tournois qui deus lui estoient, c'est assavoir 9 sous six deniers tournois pour avoir trouvé (livré) le pain du roi aux prisonniers debtenus, en cas de crime, es dites prisons. (Here the names of these prisoners are given.) *Item* à ung porc admené es dictes prisons, le 21^e jour de juing 1408 inclus, jusques au 17^e jour de juillet après en suivant exclut que icellui porc fu pendu par les gares à un des posts de la justice du Vaudereuil, à quoy il avoit esté condempné pour ledit cas par monsieur le bailly de Rouen et les conseuls, es assises du Pont de Larche, par lui tenues le 13^e jour dudict mois de juillet, pource que icellui porc avoit muldry et tué ung petit enfant, auquel

temps il a xxiiii jours, valent audit pris de 2 deniers tournois par jour, 4 sols 2 deniers, et pour avoir trouvé et baillé la corde qu'il esconvint à lier icelui porc qu'il reschapast de ladite prison où il avait esté mis, x deniers tournois. Du 16 Octobre 1408.

[Derived from manuscripts of the *Bibliothèque du Roi*,
Vide Mémoires, cit., pp. 428 and 440-1.]

K

Letters patent, by which Philip the Bold, Duke of Burgundy, on Sept. 12, 1379, granted the petition of the friar Humbert de Poutiers, prior of the town of Saint-Marcel-lez-Jussey, and pardoned two herds of swine which had been condemned to suffer the extreme penalty of the law as accomplices in an infanticide committed by three sows.

Phelippe, filz du Roi de France, duc de Bourgoingue, au bailli de noz terres au conté de Bourgoingue, salut.

Oye la supplication de frère Humbert de Poutiers, prieur de la pricurté de la ville de Saint-Marcel-lez-Jussey, contenant que comme le V^e jour de ce présent mois de septembre, Perrinot, fils Jehan Muet, dit *le Hochebet*, pourchier commun de ladite ville, gardant les pors des habitans d'icelle ville ou finaige d'icelle, et au cry de l'un d'iceulx pors, trois truyes estans entre lesdits pors ayent couru sus audit Perrenot, l'ayent abattu et mis par terre entre eulx, ainsi comme par Jehan Benoit de Norry qu'il gardoit les pourceaulx dudit suppliant, et par le père dudit Perrenot a esté trouvé blessier à mort par lesdites truyes, et si comme icelle Perrenot la confessè en la présence de son dit père e dudit Jehan Benoit, et assez tost après il soit eu mort. Et pour ce que ledit suppliant auquel appartient la justice de ladite ville ne fust repris de negligence son maire arresta tous lesdits porcs pour en faire raison et justice en la manière qu'il appartient, et

encore les détient prisonniers tant ceux de ladite ville comme partie de ceulx dudit suppliant, pour ce que dit ledit Jehan Benoit ils furent trouvez ensemble avec lesdites truyes, quand ledit Perrenot fut ainsi blessié. Et ledit prieur nous ait supplié que il nous plaise consentir que en faisant justice de trois ou quatres desdits porcs le demeurant soit delivré. Nous inclinans à sa requeste, avons de grâce espediale outroyé et consenty, et par ces présentes outroyons et consentons que en faisant justice et execution desdites trois truyes et de l'ung des pourceaulx dudit prieur, que le demeurant desdits pourceaulx soit mis à delivre, nonobstant qu'ils aient esté à la mort dudit pourchier. Si vous mandons que de notre presente grâce vous faictes et laissiez joyr et user ledit prieur et autres qu' il appartiendra, sans les empescher au grâce.

Donné à Montbar, le XII^e jour de septembre de l'an de grâce mil CCC LXX IX. Ainsi signé. Par monseigneur le duc : *J. Potier.*

[Published by M. Garnier in the *Revue des Sociétés Savantes*, Dec. 1866, pp. 476 *sqq.*, from the archives of Côte-d'Or and reprinted by D'Addosio in *Bestie Delinquenti*, pp. 277-8.]

L

Sentence pronounced by the Mayor of Loens de Chartres on the twelfth of September, 1606, condemning Guillaume Guyart to be hanged and burned together with a bitch. Extract from the records of the clerk's office of Loing under the date of Sept. 12, 1606.

Entre le procureur de messieurs¹ demandeur et accusateur au principal et requérant le profit et adjudication de troys deffaulx et du quart d'abondant, d'une part, et Guillaume Guyard, accusé, deffendeur et défailant, d'autre part.

Veü le procès criminel, charges et informations, décret de prise de corps, adjournement à troys briefs jours, les dicts trois deffaulx, le dict quart d'habondant, le recollement des dicts témoins et *reconnaissance faicte par les dicts témoins de la chienne dont est question*, les conclusions dudict procureur, tout veü et eu sur ce conseil, nous disant que lesdicts troys deffaulx et quart d'habondant ont esté bien donnés pris et obtenus contre ledict Guyard accusé, attainct et convaincu.

Pour réparation et punition duquel crime condempnons ledict Guyard estre pendu et estranglé à une potence qui, pour cest effet, sera dressée aux lices du Marché aux Chevaux de ceste ville de Chartres, au lieu et endroit où

¹ Under this term are included the dean, canons, and chapter of the Cathedral of Chartres.

les dict sieurs ont tout droit de justice. Et auparavant ladicte exécution de mort, que ladicte chienne sera assommée par l'exécuteur de la haute justice audict lieu, et seront les corps morts, tant dudict Guyard que de la dicte chienne brûlés et mis en cendres, si le dict Guyard peut estre pris et apprehendé en sa personne, sy non pour le regard du dict Guyard, sera la sentence exécuté par effigie en un tableau qui sera mis et attaché à ladicte potence, et déclarons tous et chascuns ses biens acquis et confisqués à qui il appartiendra, sur cieux préalablement pris la somme de cent cinquante livres d'amende que nous avons adjudées auxdicts sieurs, sur laquelle somme seront pris les fraicts de justice. Prononcé et exécuté par effigie, pour le regard du dict Guyard les jour et an cy dessus. Signé *Guyot*.

[A true copy of the original extract extant in the office of M. Hérison, judge of the civil court of Chartres, made by M. Lejeune and communicated to the Société Royale des Antiquaires de France. *Vide* Mémoires of this Society, cit., pp. 436-7.]

M

Sentence pronounced by the judge of Savigny on Jan. 1457, condemning to death an infanticidal sow. Also the sentence of confiscation pronounced nearly a month later on the six pigs of the said sow for complicity in her crime.

Jours tenus au lieu de Savigny, près des foussés du Chastelet de dit Savigny, par noble homme Nicolas Quarroillon, ecquier, juge dudit lieu de Savigny, et ce le 10^e jour du mois de janvier 1457, présens maistre Philebert Quarret, Nicolas Grant-Guillaume, Pierre Bome, Pierre Chailloux, Germain des Muliers, André Gaudriot, Jehan Bricard, Guillaume Gabrin, Philebert Hogier, et plusieurs autres tesmoins à ce appellés et requis, l'an et jour dessus dit.

Huguemin Martin, procureur de noble damoiselle Katherine de Barnault, dame dudit Savigny, demandeur à l'encontre de Jehan Bailly, alias Valot dudit Savigny, et promoteur des causes d'office dudit lieu de Savigny, demandeur à l'encontre de Jehan Bailly, alias Valot dudit Savigny *deffendeur*, à l'encontre duquel par la voix et organ de honorable homme et saige Mr. Benoit Milot d'Ostun, licencié en loys et bachelier en décret, conseiller de monseigneur le duc de Bourgoingne, a été dit et proposé que le mardi avant Noel dernier passé, *une truie*, et six coichons ses suignens, que sont présentement prisonniers de ladite dame, comme ce qu'ils été prins en

flagrant délit, ont commis et perpetré mesmement ladite truye murtre et homicide en la personne de Jehan Martin en aige de cinq ans, fils de Jehan Martin dudit Savigny, pour la faulte et culpe dudit Jehan Bailly, alias Valot, requerant ledit procureur et promoteur desdites causes d'office de ladite justice de madite dame, que ledit défendeur répondit es chouses dessus dites, desquelles apparoissoit à souffisance, et lequel par nous a esté sommé et requis ce il vouloit avoher ladite truhie et ses suignens, sur le cas avant dit, et sur ledit cas luy a esté faicte sommacion par nous juge avant dit, pour la première, deuxième et tierce fois, que s'il vouloit rien dire pourquoi justice ne s'en deust faire l'on estoit tout prest de les oïr en tout ce qu'il voudrait dire touchant la pugnycion et exécution de justice que se doit faire de ladite truhie ; veu ledit cas, lequel deffendeur a dit et respondu qui'l ne vouloit rien dire pour le present et pour ce ait esté procédé en la manière qui s'ensuit ; c'est assavoir que pour la partie dudit demandeur, avons esté requis instamment de dire droit en ceste cause, en la présence dudit défendeur présent et non contredisant, pourquoy nous juge, avant dit, savoir faisons à tous que nous avons procédé et donné nostre sentence deffinitive en la manière que s'ensuit ; c'est assavoir que veu le cas lequel est tel comme a esté proposé pour la partie dudit demandeur, et duquel appert à souffisance tant par tesmoing que autrement dehuëment hue. *Aussi conseil avec saiges et praticiens*, et aussi considéré en ce cas l'usage et coustume du pais de Bourgoingne, aiant Dieu devant nos yeulx, nous disons et pronunçons par notre dite sentence, déclairons la tryue de Jehan Martin, de Savigny, estre confisquée à la justice de Madame de Savigny, pour estre mise à justice et au dernier

supplice, et estre pendus par les pieds derriers à ung arbre esproné en la justice de Madame de Savigny, considéré que la justice de madite dame n'est mie présentement élevée, et icelle truye prendre mort audit arbre esproné, et ainsi le disons et prononçons par notre dicte sentence et à droit et au regard des coichons de ladite truye pour ce qui n'appert aucunement que iceuls coichons ayent mangiés dudit Jehan Martin, combien que aient estés trovés ensanglantés, l'on remet *la caisse d'iceulx coichons* aux tres jours, et avec ce l'on est content de les rendre et bailler audit *Jehan Bailly*, en baillant caucion de les rendre s'il est trové qu'il aient mangiers dudit Jehan Martin, en païant les poutures, et fait l'on savoir à tous, sous peine de l'amende et de 100 sols tournois qu'ils le dieut et déclairent dedans les autres jours, de laquelle nostre dicte sentence, après la prononciation d'icelle, ledit procureur de ladite dame de Savigny et promoteur des causes d'office par la voix dudit maistre Benoist Milot, advocat de ladite dame ; et aussi ledit procureur a requis et demandé acte de nostre dicte court à lui estre faicte, laquelle luy avons ouctroyé, et avec ce instrument, je, Huguenin de Montgachot, cleric, notaire publique de la court de monseigneur le duc de Bourguoigne, en la présence des tesmoins ci-dessus nommés, je lui ai ouctroyé, ce fait l'an et jour dessus dit et présens les dessus tesmoins. *Ita est.* Ainsi signe, Mongachot, avec paraphe, et de suite est écrit :

Item, en oultre, nous juge dessus nommé, savoir faisons que incontinent après nostre dicte sentence ainsi donnée par nous les an et jour, et en la présence des temoings que dessus, avons sommé et requis ledit Jehan Bailli, se il vouloit avoher lesdits coichons, et

se il vouloit bailler caucion pour avoir recreance d'iceulx; lequel a dit et répondu qui ne les avohait aucunement, et qui ni demandait rien en iceulx coichons; et qui s'en rapportoit à ce que en ferions; pourquoy sont demeurez à la dicte justice et seigneurie dudit Savigny, de laquelle chose ledit Huguenin Martin, procureur et promoteur des causes d'offices, nous en a demandé acte de court, lequel lui nous avons ouctroyé et ouctroyons par ces présentes, et avec ce ledict procureur de ladicte dame, à moy notaire subscript, m'en demanda instrument, lequel je luy ait ouctroyé en la présence desdits tesmoins cy-dessus nommés.

Item, en après, nous Nicolas Quaroillon, juge avant dit, savoir faisons à tous que incontinent après les choses dessus dictes, avons fait delivrer réalement et de fait ladicte truie à maistre Etienne Poinceau, maistre de la haute justice, demeurant à Châlons-sur-Saône, pour icelle mettre à exécution selon la forme et teneur de nostre dicte sentence, laquelle délivrance d'icelle truie faite par nous comme dit est, incontinent ledit maistre Estienne a mené sur une chairette ladicte truie à ung chaigne esproné, estant en la justice de ladite dame Savigny, et en icelluy chaigne esproné, icelluy maistre Estienne a pendu ladite truie par les piez derriers; en mectant à exécution deue nostre dicte sentence, selon la forme et teneur de laquelle délivrance et exécution d'icelle truie, ledit Huguenin Martin, procureur de ladicte dame de Savigny nous a demandé acte de nostre dicte court à lui estre faite et donnée, laquelle luy avons ouctroyée, et avec ce à moi, notaire subscript, m'a demandé instrument ledit procureur à luy estre donnée, je luy ai ouctroyé en la présence des temoings

cy-dessus nommez, ce fait les au et jour dessus ditz. Ainsi signé Mongachot, avec paraphe.

Nearly a month later, on "the Friday after the Feast of the Purification of Our Lady the Virgin" (which occurred on Feb. 2.), "the six little porklets or sucklings" were brought to trial. The following is the *procès verbal*.

Jours tenus au lieu de Savigny, sur la chaussée de l'Estang dudit Savigny, par noble homme Nicolas Quarroillon, escuier, juge dudit lieu de Savigny, pour noble damoiselle Katherine de Barnault, dame dudit Savigny, et ce le vendredy après la feste de la Purification Notre Dame Vierge, présens Guillaume Martin, Guiot de Layer, Jehan Martin, Pierre Tiroux et Jehan Bailly, tesmoings, etc.

Veue les sommacions et réquisitions faicte par nous juge de noble damoiselle Katherine de Barnault, dame de Savigny, à Jehan Bailly alias Valot de advohé on repudié les coichons de la truie nouvellement mise à exécution par justice à raison du murtre commis et perpetré par la dicte truie en la personne de Jehan Martin, lequel Jehan Bailli a esté remis de advoher lesdites coichons et de baillier caucion d'iceulx coichons rendre, s'il estoit trouvé qu'ils feussions culpables du délict avant dict commis par ladicte truie et de payer les poutures, comme appert par acte de nostre dicte court, et autres instrumens souffisans ; pourquoi le tout veu en conseil avec saiges, déclairons et pronuncons par nostre sentence deffinitive, et à droit : iceulx coichons compéter et appartenir comme biens vaccans à ladite dame de Savigny et les luy adjugeons comme raison, l'usence et la coustume de païs le vueilt. De laquelle nostre dicte

sentence, ledit procureur de ladite dame en a demandé acte, de nostre dicte court a luy estre donnée et ouctroyée. Avec ce en a demandé instrument à moy notaire subscript, lequel il luy a ouctroyé en la présence des dessus nommés. Signé Mongachot avec paraphe.

[Extract from the archives of Monjeu and Dependencies, belonging to M. Lepelletier de Saint-Fargeau. (Savigny-sur-Etang, boîte 25e, liasse 1, 2, & 3, etc.)
Vide Mémoires, cit., pp. 441-5.]

N

Sentence pronounced April 18, 1499, in a criminal prosecution instituted before the Bailiff of the Abbey of Josaphat, in the Commune of Sèves, near Chartres, against a pig condemned to be hanged for having killed an infant. In this case the owners of the pig were fined eighteen francs for negligence, because the child was their fosterling.

Le lundi 18 avril 1499.

Veü le procès criminel faict par-devant nous à la requeste du procureur de messieurs le religieux, abbé et convent de Iosaphat, à l'encontre de Jehan Delalande et sa femme, prisonniers ès prisons de céans, pour raison de la mort advenue à la personne d'une jeune enfant, nommée Gilon, âgée de un an et demi ou environ ; laquelle enfant avoit été baillée à nourrice par sa mère : ledict meurtre advenu et commis par un pourceau de l'aage de trois mois ou environ, aulxdits Delalande et sa femme appartenant ; les confessions desdicts Delalande et sa femme ; les informations par nous et le greffier de ladite jurisdiction faictes à la requête dudict procureur ; le tout veü et en sur ce conseil aulx saiges, *ledit Jehan Delalande et sa femme, avons condampnés et condampnons en l'amende envers de justice de dix-huit francs, qu'il a convenus pour ce faire, tel que de raison, et à tenir prison jusqu'à plein payement et satisfaction d'iceulx à tout le moins qu'ils avoient baillé bonne et seure caution d'iceulx.*

Et en tant que touche le dict pourceau, pour les causes

contenues et établies audict procès, *nous les avons condamnés et condamnons à être pendu et exécuté par justice, en la juridiction des mes dicts seigneurs, par notre sentence définitive, et à droit.*

Donné sous la contre scel aux causes dudict baillage, les an et jour que susdicts. *Signé C. Briseg avec paraphe.*

[The complete record of this trial contains the minutest details of the proceedings, ending with the execution of the pig, and was taken from the archives of the Abbey Josaphat at the time of the Revolution by M. B., Secretary-general of the department. Since then it has disappeared; but this copy of the original, made at that time, is declared by M. Lejeune to be perfectly exact. *Vide Mémoires, cit., pp. 434-5.*]

O

Sentence pronounced June 14, 1494, by the grand mayor of the church and monastery of St. Martin de Laon, condemning a pig to be hanged and strangled for infanticide committed on the fee-farm of Clermont-lez-Montcornet.

A tous ceulx qui ces présentes lettres verront ou orront, Jehan Lavoisier licentie ez loix, et grand mayeur de l'église et monastère de monsieur St. Martin de Laon, ordre de Prémontré, et les echevins de ce même lieu ; comme il nous eust été apporté et affirmé par le procureur-fiscal ou syndic des religieux, abbé et convent de Saint-Martin de Laon, qu'en la cense de Clermont-lez-Montcornet, appartenant en toute justice haulte, moyenne et basse auxdits relligieux, ung jeune pourceaulx eust éstranglé et *défacié* ung jeune enfant estant au berceau, fils de Jehan Lenfant, vachier de ladite cense de Clermont, et de Gillon sa femme, nous advertissant et nous requérant à cette cause, que sur ledit cas voulussions procéder, comme justice at raison le désiroit et requerroit ; et que depuis, afin de savoir et cognoitre la vérité dudit cas, eussion ouï et examiné par serment, Gillon, femme dudit Lenfant, Jehan Benjamin, et Jehan Daudancourt, censiers de ladite cense, lesquels nous eussent dit et affirmé par leur serment et conscience, que le lendemain de Pasques dernier passé ledict Lenfant estant en la garde de ses bestes, ladicte Gillon sa femme desjettoit de ladicte cense, pour aller au village de Dizy., ayant délaissé

en sa maison ledit petit enfant. Elle le renchargea à une sienne fille, âgée de neuf ans. pendant et durant lequel temps ladite fille s'en alla jouer autour de ladite cense, et laissé ledit enfant couché en son berceau ; et ledit temps durant, ledit pourceaulz entra dedans ladite maison. et défigura et mangea le visage et gorge dudit enfant. Tôt après ledit enfant, au moyen des morsures et dévisagement que lui fit ledit pourceaulz, de ce siecle trépassa : savoir faisons Nous, en detestation et horreur dudit cas, et afin d'exemplaire et gardé justice, avons dit, jugé, sentencié, prononcé et appointé, que ledit pourceaulz *estant detenu prisonnier* et enferme en ladite abbaye, sera par le maistre des hautes-oeuvres, pendu et estranglé, en une fourche de bois, auprès et joignant des fourchee patibulaires et haultes justices desdits relligieux, estant auprès de leur cense d'Avin. En temoing de ce nous avons scellé ces presentes de notre scel.

Ce fut fait le quatorzième jour de juing, l'an 1494, et scellé en cire rouge ; et sur le dos est écrit :

Sentence pour ung pourceaulz executé par justice, admené en la cense de Clermont, et étranglé en une fourche les gibez d'Avin.

[M. Boileau de Maulaville, in *L'Annuaire de l'Aisne* 1812, p. 88. *Vide* Mémoires, cit., pp. 428 and 446-7.]

P

Sentence pronounced, March 27, 1567, by the royal notary and proctor of the bailiwick and bench of the court of judicatory of Senlis, condemning a sow with a black snout to be hanged for her cruelty and ferocity in murdering a girl of four months, and forbidding the inhabitants of the said seignioralty to let such beasts run at large on penalty of an arbitrary fine.

A tous ceulx qui ces présentes lettres verront, Jehan Lobry, notaire royal et procureur au bailliage et siège présidial de Senlis, bailly et garde et seigneurie de Saint-Nicolas d'Acy, les le dit Senlis, pour M.M. les religieux, prieur et coivent du dict lieu, salut ; savoir faisons :

Veule procès extraordinairement fait à la requête du Procureur de la seigneurie du dict Saint-Nicolas, pour raison de la mort advenue à une jeune fille âgée de quatre mois ou environ, enfant de Lyénor Darmeige et Magdeleine Mahieu sa femme, demeurant au dict Saint-Nicolas, trouvée avoir esté mangée et devorée en la tete, main senestre et au dessus de la mamelle dextre par une truie ayant le museau noire, appartenant à Louis Mahieu, frère de la dite femme et son proche voisin ;

Le procès verbal de la visitation du dict enfant en la presence de son parrain et de sa marraine qui l'ont recogneu ;

Les informations faites pour raison du dit cas, interrogatoires des dits Louis Mahieu et sa femme, avec la

visitation faicte de la dicte truye à l'instant du dit cas advenu et tout considéré en conseil, il a été conclu et advisé par justice que POUR LA CRUAUTÉ ET FEROCITÉ COMMISE PAR LA DITE TRUYE, elle sera exterminée par mort et pour ce faire sera pendue par l'executeur de la haulte justice en ung arbre estant dedans les fins et mottes de la dicte justice sur le grande chemin rendant de Saint-Firman au dit Senlis, en faisant deffenses à tous habitans et sujet des terres et seigneurie du dit Saint-Nicolas de ne plus laisser échapper telle et semblables bestes sans bonne et seure garde, sous peine d'amende arbitraire et de punition corporelle s'ily échoit, sauf et sans préjudice à faire droit sur les conclusions prises par le dit Procureur à l'encontre des dits Mahieu et sa femme ainsi que de raison, au témoin de quoy nous avon scellé les présentes du scel de la dicte justice.

Ce fu faist le jeudi 27^e jour de Mars 1557 et exécuté ledit jour par l'executeur de la haulte justice du dit Senlis.

[Dom. Grenier, *Manuscripts de la Bibliothèque Nationale de Paris*, tome xx. p. 87. Quoted by D'Addosio, who, however, confounds the prosecution of 1567 with that of 1499.]

Q

Sentence of death upon a bull, May 16, 1499, by the bailiff of the Abbey of Beaupré, for furiously killing Lucas Dupont, a young man of fourteen or fifteen years of age.

A tous ceux qui ces presentes lettres verront, Jean Sondar, Lieutenant du Bailly du temporel de l'église & abbaye nôtre Dame de Beauprés de l'ordre de Cisteaux, pour venerables & discrettes personnes & mes tres-honorez seigneurs, messeigneurs les religieux abbé & convent de ladite abbaye, salut. Comme à la requeste du procureur de mesdits seigneurs, & par leur justice temporelle qu'ils ont en leur terre & seigneurie du Caurroy eût été nagaires prins & mis en la main d'icelle leur justice ung thorreau de poil rouge, appartenant à Jean Bouillet censier & fermier de mesdits seigneurs, demeurant en leur maison & cense dudit Caurroy, lequel thorreau étant aux champs & sur le territoiere d'icelle église, auroit par furiosité occis & mis à mort un joine fils, nommé Lucas Dupont, de l'âge de quatorze à quinze ans, ou environ, serviteur dudit censier, lequel il avoit mis à la garde de ces bestes à corne, entre lesquelles estoit ledit thorreau. Duquel thorreau ledit procureur de mesdits seigneurs requeroit la justice estre faite, & qu'il fut executé jusqu'à mort inclusive-ment par la justice de mesdits seigneurs pour occasion de icelui crimme de omicide & de la detestation d'iceluy.

Sur quoy enqueste & information eussent été faites de la forme & maniere iceluy homicide, par laquelle ledit procureur nous eust requis sur ce luy estre fait droit. Savoir faisons que veu ladicte enqueste & information & sur tout en conseil & advis, nous par nostre sentence & jugement, avons dies & jugié, que pour raison de l'omicide, dont dessus est touchié, fait par ledit thorreau en la personne d'iceluy Lucas, & pour la detestation du crime d'iceluy homicide, ledit thorreau nommé confisqué à mesdits seigneurs sera executé jusques à mort inclusive-ment par leur dite justice, & pendu à une fourche ou potence es mettes de leur dite terre & seigneurie dudit Caurroy, aupres du lieu ou solloit estre assise la justice. Et ad ce le avons condamné & condamnons. En tesmoing de ce avons mis nostre scel à ces lettres qui furent faites & pronunchiés audit lieu du Caurroy en la presence de Guillaume Gave du Mottin, Jehan Custien l'aisné, Jehan Henry, Jehan Bouillet, hommes & subjets de mesdits seigneurs, Jehan Charles, & Clement le Carpentier, & plusieurs autres les sezieme jour de May l'an mil quatre cens quatre-vingt-dix-neuf. Ainsi signé, Ileugles, ad ce commis.

[The original records of this trial for homicide are in the archives of the Abbey of Beaupré. Vide *Voyage Littéraire de deux Religieux Benedictins de la Congregation de St. Maur*. Seconde Partie, pp. 166-7. Paris, 1717. The Benedictins were Dom. Edmond Martene and Dom. Ursin Durand.]

R

Scene from Racine's comedy *Les Plaideurs*, in which a dog is tried and condemned to the galleys for stealing a capon.

After the accused had been found guilty, his counsel brings in the puppies and thus appeals to the compassion of the court :

" Venez, famille desolée ;
Venez, pauvres enfants qu'on veut rendre orphelins ;
Venez faire parler vos esprits enfantins.
Oui, messieurs, vous voyez ici notre misère ;
Nous sommes orphelins, rendez-nous notre père,
Notre père par qui nous fûmes engendrés,
Notre père qui nous

DAUDIN.

Tirez, tirez, tirez.

L'INTIME.

Notre père, messieurs

DAUDIN.

Tirez donc, Quels vacarmes !

Ils ont pissé partout.

L'INTIME.

Monsieur, voyez nos larmes.

DAUDIN.

Ouf ! je me sens déjà pris de compassion.
Ce que c'est qu' à propos toucher la passion !
Je suis bien empêché. La vérité me presse ;
Le crime est avéré, lui-même il le confesse.
Mais, s'il est condamné, l'embarras est égal ;
Voilà bien des enfants réduits à l'hôpital."

Les Plaideurs, Act III, sc. 3.

S

Record of the decision of the Law Faculty of the University of Leipsic condemning a cow to death for having killed a woman at Machern near Leipsic, July 20, 1621.

Am 1621 den 20 July ist Hanss Fritzchen weib Catharina alhier zu Machern wohnende von Ihrer eigen Mietkuhe,¹ da sie gleich hochleibss schwanger gang, auff Ihren Eigenen hofe zu Tode gestossen worden. Vber welch vnerhörten Fall der Juncker Friederich von Lindenau, als Erbsass diesess ortes, in der Juristischen Facultet zu Leipzig sich darüber dess Rechtes belernet: Welche am Ende dess Vrtels, diese wort also aussgesprochen: So wird die Kuhe, als abschewlich thier, an Einen abgelegenen öden ort billig geführet, daselbst Erschlagen oder Erschossen, vnd vnabgedecht begraben. Christoph Hain domalss zu Selstad wohnend hat sie hinder der Schäfferey Erschlagen vnd begraben, welches geschehen den 5. Augusti auff den Abend, nach Eintreibung dess Hirtenss zwischen 8 vnd 9 vhren.

[Extract from the parish-register of Machern, near Leipsic, printed in *Anzeiger für Kunde der deutschen Vorzeit*. No. 4, April 1880, col. 102.]

¹ *Mietkuhe*, a cow pastured or wintered for pay.