ALFRED MARKS

TYBURN TREE

Alfred Marks

Tyburn Tree

Its History and Annals

EAN 8596547169970

DigiCat, 2022
Contact: DigiCat@okpublishing.info

Table of Contents

PREFACE

Table of Contents

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.

ILLUSTRATIONS

Table of Contents

“Newgate Calendar,” 5 vols., 1773.

ADDENDA.

Table of Contents

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

Table of Contents

HISTORY

Table of Contents

INTRODUCTION

Table of Contents

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?

Table of Contents

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,