
Read 8 June, 1858.

In an age when the voice of philanthropy is raised against the extreme penalty of the law, an inquiry into the origin and practice of certain modes of capital punishment, now obsolete, but long known to our ancestors, may not be deemed unworthy the attention of this Society.

Among the manorial rights enumerated in some of our earlier charters, are those of Furca and Fossa, or Gallows and Pit, two modes of capital punishment, of which the former continues to this day, while the latter appears to have been abolished, or to have fallen into disuse, several centuries ago.

Modern refinement, which regards with disgust the coarseness and brutality of past ages, will scarcely allow that our ancestors were actuated by feelings of delicacy in condemning women to be drowned instead of being hung as men; but such appears to have been the fact. It is probably to be ascribed to that reverence for the female sex which was a characteristic of the Teutonic race. Though the criminal had transgressed the law, and brought condign punishment upon herself, her execution was conducted in a manner the least offensive to feminine delicacy. I am, however, at a loss for authorities for the period when the permanent change to hanging took place, although the chroniclers afford us a few incidents which leave room for the inference that its final adoption may be referred to the middle of the fifteenth century.

In the 46th year of Henry III. we find that Ivetta de Balsham received a pardon because, having been hung for a certain felony from hora nona on Monday till sunrise on Tuesday, she yet lived. Ducange cites an instance of the hanging of a woman at Limoges in the year 1414. The criminal is sentenced a estre et morir pendue. In the reign of Charles the Seventh a woman was hung

---

* May it be referred to the growing power of the Turks in Europe, and the desire to abolish in Christendom a mode of execution practised even to this day by that people?

b Cal. Rot. Pat. p. 34 b.

c Gloss. v. Fossa.
at Paris, and the novelty of this mode of execution brought together a vast concourse of people, especially of females. The manner in which the criminal was prepared for the gibbet is particularly described by the chronicler:—“La dite femme fut pendue toute deschevellée, revestue d’une longue robe ceinte d’une corde sur les deux iambes jointes par ensemble au dessous de genoux.”

According to Tacitus, hanging and drowning were the punishments usually awarded to the greatest criminals by the ancient Germans. “Traitors and deserters,” he says, “they hang on trees; the coward and the infamous are plunged under hurdles into bogs andfens.” By the laws of the Burgundians, the adulterous woman was smothered in mud. Grimm informs us that the punishment of drowning was awarded especially to women and sorceresses. To hinder swimming, stones were fastened to the neck of the criminal. Criminals were sometimes drowned in tubs or sewn up in sacks, a punishment for murderers of parents or relations. In this case the offender was sewn up in a skin with a dog, a snake, an ape, and a cock. So late as 1734, in Saxony, a woman was thus drowned with a cat, a dog, and a snake, for the murder of her child.

Our Anglo-Saxon forefathers awarded the punishment of death by drowning to women convicted of theft. The criminal was to be thrown from the cliff or submerged, the precise manner of execution being adapted to the district in which the offence was perpetrated, as we shall see hereafter.

In the tenth century a widow was drowned at London Bridge; and the learned Spelman cites an instance of this description of punishment in the year 1200, from the records of the Cathedral of Rochester. Two women came to the town of Southfleet, in Kent, bringing with them many cloths which they had stolen from the town of Croydon. They were followed by the owners of the cloths, and, being taken and imprisoned, were adjudged by the court of Southfleet to carry hot iron. One of the offenders was acquitted, and the other

---


*b Proditores et trans fugas arboribus suspendunt; ignavos, et imbelles, et corpore infames coeno ac palude, injecta in super crate, mergunt.—De Morib. German. c. xii.

*c Si qua mulier maritum suum, cui legitimè juncta est, dimiserit, necetur in luto.—Lex Burgund. Tit. xxxiv. 1.

*d Deutsche Rechts Alterthümer, p. 696. Gottenb. 1828. This mode of punishment appears to have been derived from the Lex Cornelia.

*e Si libera mulier sit precipitetur de clivo, vel submergatur.—Leg. Æthelbert. Ancient Laws and Institutes, ed. Thorpe.

*f Da nam man ðæt wif and ðàdrencet hī ðæt Lundenebrigce, and hire sune æþberst and werð útlāh. Cod. Dipl. Æví Saxon. No. dxcii.—MS. Soc. Ant. Lond. lx. fo. 54 b.
was forthwith drowned in a pond called Bikepole. The judges were Sir Henry de Cobham and many other eminent men of the country.

Stowe, in his Survey of London, says, "By S. Giles Churchyard was a large water called a Poole: I read in the yeere 1244 that Ann of Lodbury was drowned therein." The worthy old chronicler does not tell us that this woman was judicially put to death, but the manner in which he relates the circumstance leads us to infer that she was a criminal condemned to that mode of punishment. There was water adapted for this purpose in Smithfield, a very ancient place of execution; and the circumstance, that Tybourn and St. Thomas-a-Watering were both places of execution, may be ascribed to the fact of their offering facilities for either manner of death.

In these three cases the criminals were women; but this description of punishment was also awarded to offenders of the male sex. When the English set sail for the Holy Land, Richard the First published an edict for the preservation of order in his army. He who killed another, while the expedition was afloat, was to be bound to the corpse and thrown into the sea. If the homicide occurred on land, the slayer and the slain were to be bound together and buried in the same grave. Of these two modes of punishment the latter, at least, was known in the English army as recent as the year 1422. At the siege of Meaux by Henry V. a party of English soldiers was surprised and cut off. One man only escaped by flight, and he was forthwith condemned, by the English King, to be buried alive with his slain comrades.

That drowning and burying alive were common punishments of malefactors of either sex we find in the Annals of Sandwich under the year 1313, when the jury of the hundred of Cornylo present before Henry de Stantone and other justices itinerant, at their session at Canterbury, that the Prior of Christ Church had, for nine years past, obstructed the high road leading from Dover Castle to Sandwich by the sea-shore, by means of a water-mill, which the Prior had erected at Lidene; and that the said Prior, ten years before, had diverted the course of a certain stream called the Gestlyng, where felons condemned to death within the hundred should be drowned, but could not be executed in that way for want of water.

It appears also from the Custumal of Sandwich that there was formerly a spot near that town called Thieves-downs, in which criminals were buried alive.

---

a Spelman, Glossarium Archæologicum, v. Furca et Fossa.
b Edit. 1633, p. 11.
c Qui hominem in navi interfecerit, cum mortuo ligatus projiciatur in mare. Si autem eum ad terram interfecerit, cum mortuo ligatus in terrâ infodiatur.—Hoveden, sub anno.
d Barante, Hist. des Ducs de Bourgogne, sub anno 1422.
e Boys, Hist. of Sandwich, p. 664.
f Et omnes qui condemnati sunt in illo casu debent vivi sepeliri in loco ad hoc deputato super Sandoune,
in the Middle Ages.

The Custumals of all the Cinque Ports—at least such of the earlier ones as have come down to us—distinctly describe the punishment of drowning. That of Pevensey directs that the criminal, if of the franchise, shall be precipitated into the sea at high-water; but, if of the geldable, he is to be hung in a place called the Wahstrew.a

The Custumal of Dover says,—“All they that suffer death shall be led to a cliff called Sharpness; and, if he be attaint at the suit of the party, the appellor shall put him to execution; and if he be attaint of the King, the Bailiff shall do it.”b

The convict was therefore precipitated from the cliff into the sea,—a perilous duty in the case of an obstinate and resolute felon. This mode of execution is termed by Ralph de Hengham Infalistatio.c

At Hastings and at Winchelsea drowning appears to have been the sole mode of capital punishment.d

Harrison, in his “Description of Britain,” enumerates the following among other punishments which once obtained in this country:—“Such as havinge wals and bankes neare the sea, and doe suffer the same to decaie, after con-

—Boys' History of Sandwich, p. 465.

a Et si cely qest dampne soit de la Franchise, il sera amene au pount de la ville a la pleigne meer, et outr le pount botu en le havene: et sil soit del Geldable, sera suspenduz deyns la Lewe en certain lui appelle le Wahstrew [cwealmstow ?]—Custumal of Pevensey. Sussex Arch. Collections, vol. iv. p. 213.

b Lyon's Hist. of Dover, p. 272.

c Infalistatio. This word is found in a curious passage in the Summa Parva of Ralph de Hengham, ch. iii. . . . Commisit feloniam, ob quam fuit suspensus, utlagatus, vel alio modo mortis damnatus, vel demembratus, vel apud Dovere Infalistatus, vel apud Southampton submersus, &c. The learned Selden (who in some degree misunderstood the meaning of falaise, which really signifies the cliff,) observes on this: “It appears that several customs of places made in those days capital punishments several. But what is infalistatus? In regard it is of a custom used in a port town, I suppose it was made out of the French word falaise, which is, fine sand by the water side; or, a bank of the sea; in this sand, or bank, it seems their execution at Dover was. In this place, the copies vary, no one having all the punishments, but for the rarity of the remembrance, I took out of divers copies all these. The old English translation here helped not.”—Notes on Hengham's Summa, Works, iii. pt. ii. p. 1926. We have followed Selden in the use of Infalistatio, but, among the numerous MSS. of the Summa in the British Museum, are some in which the derivation is more obvious. Ducange, v. Infalistatio, says, “Ubi Editor ac Interpres vocem a Falaisiis, seu marinis aggeribus deducit quod apud Dubrenses felones in Falaisius extremo supplicio afficerentur: quo casu legendam esset Infalisiatus.” A suggestion supported by the MSS. in question, some of which have phalizatus, infalisatus, and infalesatus, while others have the word in a more corrupt form. Scarcely two of the MSS. agree. In one of them Winchelsea is substituted for Southampton.

d Omnes autem condemnati in isto casu jactari deberent ultra quoddam Clued' vocatum Stordisdale ex parte occidentali villes versus Boleverthe.—Usages de Hastynges, 1357. For the inspection of a transcript of this Custumal, my acknowledgments are due to Mr. W. Durrant Cooper.
venient admonition, whereby the water entereth and drowneth up the country, are, by a certaine custome, apprehended, condemned, and staked in the breache, where they remaine for ever as parcell of the new wal.”

This savours of the truculent spirit of the ancient Frisian Law, which condemned the criminal who had been found guilty of sacrilege to mutilation and death on the sea-shore, where he was immolated to the gods whose temple he had violated.

We read in the Chronicle of Hector Boethius, that the right of pit and gallows was given by Malcolm Canmore to the Barons of Scotland:—“Constitutum quoque est eodem consilio à rege, uti Barones omnes puteos faciendi ad condemnatas plectendas foeminas, ac patibulum ad viros suspendendos noxios, potestatem habent.”

This passage is thus rendered in Bellenden’s translation:—“It was ordanit als be the said coñsal that free baronis sal mak je battis and draw wellis for punition of criminybl personis.”

But although drowning was the punishment usually awarded to women in Scotland, the sentence was sometimes extended to the other sex. Thus, in the year 1556, Adam Sinclair, convicted of stealing money, chalices, and church ornaments from the parish church of Forrese, was sentenced to be drowned ex speciali gratia Reginae. Pitcairn remarks, that this was perhaps owing to his youth, or at his own request.

In 1599 Grissell Mathou is condemned by the High Court of Justiciary at Edinburgh “to be tane to the North Loch, and thair drownit quhill scho be deid.”

As late as 1611 James Watsoun was drowned in the Scotish capital for stealing a lamb.

Sir Edward Coke observes, that the punishment of drowning had, at the time he wrote, become obsolete in England; but he affords us no clue to the period when it was abolished. I am indebted to Mr. W. Durrant Cooper for the suggestion that the charter of Edward the Fourth to the Cinque Port towns, granting, among other privileges, that of Furca, abolished the ancient mode of punishment

---

*a* Book 2, ch. ii.


*d* Fol. 78.

*e* Pitcairn's Criminal Trials, vol. ii. p. 94.

*f* Ibid. vol. iii. p. 208.
by drowning. The right of Furca was, in fact, a part of the Regalia, or rights of royalty, possessed by the Anglo-Saxon kings as inheritors of the old Germanic priesthood.*

It would appear from many passages in the older chroniclers, that, among the Northern nations, the punishment of a criminal often combined at once an execution and a sacrifice to their gods. This is apparent, not only from the Land nama Bok, in which Odin is styled Hango, and Galgavalldr, i.e. Lord of the Gallows, but also from the Frisian law already referred to. The great sacrifice of the Danes recorded by Ditmar, when ninety-nine men, and the same number of horses, dogs, and cocks, the last in the place of hawks, were offered up at one time at Lethra, in the Island of Seland, was doubtless of the same character. A like combination was to be seen in that hideous grove near the Temple at Upsala, described by Adam of Bremen, where the bodies of men, horses, and dogs were hung together on the trees. Here too was a well, into which living men were plunged and drowned to deprecate the wrath of the gods.

In the Chronicle of Jean Juvenal des Ursins, under the year 1417, we find an account of the profligacy of the court of the French Queen, of the singular extravagances in costume, and of the irregularities of certain men of rank, among whom was one named Bourrodon, who, admitting the truth of the accusations preferred against him, was ignominiously executed by drowning in the Seine. That this mode of punishment was usually awarded in France to criminals of the lowest class is shown by the application of the phrase gens de sac et de corde, to common malefactors in those days.

Numerous examples of drowning are recorded in the French Chronicles, but the most horrible are those mentioned by Sauval, who tells us that in the year 1441 such of the English prisoners taken at Pontoise as were unable to obtain their ransom were mercilessly drowned by their captors. We learn from this writer that in Paris criminals were executed at the Pont au Change.

---


*b Comp. pp. 176, 361, 412, and 417, Islands Landnama Bok. 4to. Haun. 1770.


*e Sauval, Ant. de Paris, ii. p. 597.

*f Ib. loc. cit.

*g Ib. loc. cit.
I am informed by Dr. Leemans, of Leyden, that the last instance of the punishment of drowning in the island of Iceland was in the year 1777. In Austria it appears to have ceased a year earlier, when two women were drowned in Meinersen. In Russia it was abolished in the early part of the eighteenth century.

In a volume entitled "Scaligerana, ou Bons Mots avec des Notes de Mons. Le Fevre et Mons. de Calomies," a we find the following:—

"On executa (noya) lors que j'étais à Geneve une jeune femme pour adultere. Elle estoit jolie et brune. Les ministres en plueroient quasi. Monsieur Tremblay me le reconta, car je n'ay pas le cœur d'aller voir faire execution." This must have taken place between 1590 and 1610.

Our honorary Fellow, M. Troyon, has kindly favoured me with the following particulars of this punishment in Switzerland, communicated to him by his friend Professor Cellérier:—

"Voici les faits extraits d'anciens recueils de Genève.

"En 1609 Marie Vaudan, de Vienne en Dauphiné, pour ses adultères et lubricités, fut condamnée à être liée et menée au port d’Longemalle, et là être noyée et submergée, façon accoutumée, etc.

"En 1619 Alexandra Maguin de Geneve, pour avoir souvent commis paillardise, et ensuite tué l’enfant dont elle était accouchee, fut condamnée à être liée et menée en la place de Longemalle, et de là être jetée et noyée dans le fleuve du Rhone, façon accoutumée, etc.

"On peut observer qu'à cette époque, il n'y avait point de code général, ni même de tribunaux proprement dits. C'est le Conseil d'Etat qui jugeait, avec appel au Conseil Souverain des Deux Cents. Il était d'usage de punir l'impurité simple de prison au pain et à l'eau, l'adultère et l'infanticide de mort. Les prostituées de profession qui s'introduisaient dans la ville (aucune n'y était tolérée) étaient noyées, façon accoutumée, surtout quand il s'y joignait adultère ou infanticide, comme dans les cas précédents. Il me parait certain qu'aucune exécution de ce genre n'eût lieu postérieurement à 1619. Ces supplices cessèrent à-peu-près en même temps que ceux des sorciers, dont le dernier eut lieu en 1626, sauf une condamnation analogue qui se rencontre encore en 1652, mais avec circonstances qui indiquent que l'opinion avait changée ou changeait."

We here perceive that ancient usage common at one time to every nation of Teutonic race, and recognised by a well known authority. a

---

a Cologne, 12mo. 1695, p. 5.

b Consuetudo verò quandoque pro lege observatur, in partibus ubi fuerit more utentium approbata, et
Lersner\textsuperscript{a} gives us a grim catalogue of the public executions at Frankfort from the fourteenth to the seventeenth century, among which are many drownings. The executions took place in the river, and the criminal was thrown from the bridge. In some instances, out of regard to the feelings of family connexions, to avoid the ignominy of a public execution, the sentence was carried into effect at night. Murder, bigamy, robbery, sorcery, forging, and cheating at cards and dice, were alike punished by drowning, which was awarded to offenders of either sex. The bodies of the drowned were sometimes buried near the spot to which they had drifted.\textsuperscript{b}

In 1536 the body of a citizen who had murdered his wife and hung himself was ordered to be inclosed in a tun and thrown into the river; but, if the water of the Maine were too low, it was to be buried near the Knacker House.\textsuperscript{c}

A memorable instance of drowning occurred in Bavaria in the fifteenth century. On the 14th of October, 1436, Agnes Bernauerinn, wife of Duke Albert the Pious, was thrown off the bridge of the city of Straubing into the Danube by order of her father, Ernest Duke of Bavaria. She appears not to have been put into a sack, and her limbs not to have been securely bound, for she rose to the surface of the water and swam to the shore, crying “Help! help!” but the executioner put a long pole into her hair and kept her down.\textsuperscript{d}

The most memorable instance of drowning in Bohemia is that of John Nepomuk, Canon of Prague, who, on the 28th of April, 1383, was, by order of king Wenceslas, thrown off the bridge of that city. He was confessor to the Queen, and was thus punished for not revealing the secrets of the confessional. The event made a deep impression on the popular mind, and it is said that five stars appeared in the water as he fell. Nepomuk was beatified in 1720, and canonized on the 19th of May, 1729.

Here we may remark that in these cases the criminals were precipitated from the bridges and not from the bank of the river. The bridge was probably selected

\textsuperscript{a} Frankfurter Chronik, Band ii. xxxiv. Capitel.
\textsuperscript{b} Ib. loc. cit. sub anno 1506. Hans Sebald Beham, the engraver, is said, by his biographers, to have been put to death in this way at Frankfort, but we can find no mention of his execution in the Chronicle of Lersner.
\textsuperscript{c} Ib. sub anno 1536. The horse-slaughterer of the city was also the public executioner.
\textsuperscript{d} The Life of Agnes was published at Munich by F. I. Lipowsky in 1801. It is illustrated by a plate of her tomb, well executed, but the portrait facing the title-page is that of a lady in the costume of the seventeenth century!
in accordance with inveterate heathen superstition. It is remarkable that among
the nations of classical antiquity, Pontifex (the bridge builder,) should be the
name for the priestly order. Kemble observes, that the erection of a bridge
was with the Franks one of the rights of royalty, and that the structure had
"probably something of a holy character, and stood in near relation to the priest-
hood." In Germany we are told the Spirit of the Bridge still demands its victims. The consecration of chapels on those structures, where the criminal's last shrift was probably made, has not obliterated the manifest traces of heathenism
which yet linger in the countries of Europe.

The Carolina, or Codex Criminalis Imperatoris Caroli V., the fundamental law
for the Criminal Courts of Germany from the year 1532 to the end of the Empire,
ordains the punishment of drowning for parricide in such places as have the means
of carrying it into effect, and, for such as have not the means, directs the burial
alive of the criminal, after which a stake was to be driven through the earth into
his breast. This recals the barbarous practice until lately observed at the burial
of the felo de se in England.

By the ancient Danish laws, women convicted of theft were condemned to be
buried alive, a mode of punishment not unknown in France. In the year 1331
Marote Duflos, "on suspicion of larceny," was scourged and subjected to this cruel
death at Abbeville; and we read in the Scandalous Chronicle, under the year
1460, that a woman named Perette Mauger, a notorious thief and receiver of
stolen goods, was, by order of the Provost of Paris, buried alive in front of the
gibbet in that city. The grim functionary had precedents for this mode of
execution, which we may suppose had been long disused, for we are told that it
created a great sensation in Paris. It would appear to have been resorted to only

---

a The Saxons in England, book ii. ch. 2.
b Grimm, D. M. p. 563.
c Brantome, Vie des dames Galantes, Discours vii. intimates that it was the punishment of offenders of
another description: "Les plus grandes et superbes dames disent à leurs galands inferieurs: 'Donnez
vous bien de garde d'en dire un mot, tant seul soit-il, autrement il vous va de la vie: Je vous feray jetter
en sac dans l'eau, ou je vous feray couper les jarretz.'"
d "mulieres pro furto non debent suspendi, sed humari debant." Jus Danic. apud Ludewig.—Vide
Ducange, Gloss. v. "Humari."
e Ducange, v. "Infoditus."
g Sauval gives a list of criminals who suffered this punishment at Paris, among whom is Marie de
Romainville, "soupçonnée de larcin," in 1295, and Amelotte de Christeuil, for robbery, in 1302. An
individual named Prevot, found guilty of perjury, was sentenced by Philip Augustus to be buried alive.—
on occasions when the authorities were desirous of inflicting the extreme penalty with every mark of ignominy. At Franckfort, in the year 1638, a criminal was “unter den Galgen gerichtet und daselbsten begraben.”

We have few details of the manner in which the punishments of drowning and burying alive were effected; and probably the most authentic illustrations may be found in the representations of martyrdoms in ancient MSS., where the saint is seen precipitated into the river, or lowered into a draw-well; but the following account, in the Transactions of the Society of Northern Antiquaries, affords a graphic sketch of the manner in which the criminal was sometimes consigned to the earth when buried alive.

On the 20th of October, 1835, some labourers were engaged in digging a boundary-trench through the moor near Haraldskær, in the district of Veile, in North Jutland, when one of them, at the depth of 1 1/2 ells under the surface of the ground, observed an arm and a foot of a human body. The next day they pursued the search, and began by pulling at the limbs they had discovered, but could not get the body up, a circumstance which caused them no little surprise, as it lay in the soft soil of the moor. On digging round it, however, they observed on closer examination that it was fastened down in the mire with wooden hooks tight over each knee, and one over each elbow. The body was still further secured by cross-bands of strong boughs, one over the breast, the other across the abdomen. The head lay to the east, with the feet to the west. The boughs and hooks having been removed, the body was taken up, and found to be that of a woman, preserved in a mummy-like state. Fragments of the dress in which it had been clad showed that it had been concealed in that spot for many centuries. A few weeks after, a further search led to the discovery of several remnants of clothing and eight fragments of wooden hooks and stakes; but, as the water increased, and the weather was not favourable, the examination was suspended until July in the following year, when a complete investigation of the spot was undertaken. The depth of the morass was then ascertained to be about eleven ells (Danish). The body was submitted to the inspection of an anatomist, who pronounced it to be that of a woman about fifty years old. There were the full number of

---

*a* Lersner, loc. cit.

*b* Annaler for Nordisk Oldtystighed, 1836-7, p. 160.

*c* We learn no details of this mode of execution from the “Praxis Criminis” of Milleus, fol. Par. 1558, nor from “La Practique et Enchiridion des Causes Criminelles, par Josse de Damhoudere,” Louvain, 4°, 1554, although in the latter there is express mention of “la fosse” as one of the punishments common at that day.
teeth, but they were much worn. The hair was twenty inches long, and of a light brown colour, the skin resembling tanned leather, and the bones saturated with the ferruginous water of the moor.

That this woman came by a violent death, and was staked down alive in the mud, was shown by a considerable heaving up of the left knee, close over which one of the wooden hooks was so tightly secured that it was found difficult to disengage it from the ground. The features are said to have expressed a feeling of desperation. The hands and feet were well preserved, and apparently did not belong to a person of the working class. The body bore no marks of injury, except those from the exhumation.

German antiquaries have maintained that the woman thus interred was Queen Gunhild, who, according to historical notices, was enticed to Denmark by Harald Blue-tooth, and there by his order sunk in a moor; but, although the clothes found with the body resemble those discovered in other graves of the last period of paganism in Denmark, there seems to be no reason for ascribing it to Gunhild. Be this as it may, the foregoing account affords us a vivid picture of this particular mode of punishment.

Nor is this the only discovery of the kind in northern Europe. In the year 1817 a body was found in the turf-moor at Erideburg, in East Friesland, fastened down with stakes and branches of oak. By order of the authorities it was examined, and found to be that of a woman.*

The facts here reviewed lead to certain deductions. We have seen that our Teutonic forefathers, in the times of heathenism, regarded the criminal as a fit offering to the gods. The two principal modes of sacrifice in such cases, were hanging and drowning, and the ignominy of one of these punishments, which, though now obsolete, continued long after the establishment of Christianity, was probably heightened by the fact that it was inflicted more paganorum. We have seen that death on the sea-shore, where the tide ebbed and flowed, was the punishment inflicted on the criminal convicted of sacrilege; and this leads me to conclude with a few remarks on a memorable passage in English history.

The chroniclers,—especially William of Poictiers and Ordericus Vitalis—tell us, that after the fatal battle of Hastings, when Harald's mother supplicated for the body of her gallant son, she was tauntingly told, that the sea-shore was the appropriate place of sepulture for a perjured man. Ordericus says, that the corpse was delivered to one of the retainers of the victor, with orders to bury it near the

* Spangenberg, Neues Vaterl. Archiv, B. ii. s. 59.
coast which Harald had so long defended; while William of Poictiers informs us, that the same sentiment was expressed in derision by the triumphant Normans: —"Dictum est illudendo, oportere situm esse custodem litoris et pelagi, quae cum armis ante vesanus insedit."

The concluding words of this passage seem to be purely inferential on the part of the historian, who appears not to have perceived the full intent and significance of the taunt he has recorded; expressing, as I conceive it must have expressed, all the bitterness inspired by a recent conflict and a hard-won victory. All Europe regarded Harald as a sacrilegious criminal, and he was so stigmatised by historians long after the Norman succession; even Adam of Bremen, in an incidental allusion to his fate, bestows on him the epithet "vir maleficus;"* and his burial on the sea-shore—"quod accessus maris operire solet,"—was, in the opinion of the foe he had stoutly resisted, the last act of indignity they could offer to his remains.


---

POSTSCRIPT.

In the book of the Customs of London, compiled about the year 1320, it appears that in the liberties of Walter FitzWalter, the castellan of the city, which constituted the ward of Castle Baynard, the felon convicted of treason was bound to the post fixed in the Thames at Woodwharf to which ships were fastened, for two flowings and two ebbings of the tide; but if he was condemned for common larceny, he was taken to the Elms in Smithfield, to be hung like other criminals of that description.

Si nul larroun seit pris en son Sokne, il deit aver soun cep [stocks] et soun emprisonement e son sokne. E serra de ilveke menez tauntq a la Gihale, devaunt le Meire; e la purverront son jugement qe lui doit estre done. Mes son jugement ne serra mie pupplie tauntqil viegne en la court le dit Robert e en sa franchise. E serra le jugement tiel, sil ad mort deservi par traisoun, qil serra lie au pilier qi estet en Tamise a Wodewharf, la ou hom attache les neefs, deus mountees e deus retretes del eue. E sil soit dampnez pur comun larcin, e doit estre mene au Humeaus, e suffir la son jugement, com autres commons larouns.—Liber Custumarum, (preserved at Guildhall,) fol. 80, b.