

alty to the transgression, doing away with the death punishment, except in extreme cases (though Beccaria went even further), aiming at the prevention rather than at the repression of crime by direct and public punishments. Curiously enough, the humane philosopher, Beccaria, in a trial of a Calabrian bandit named Sartovello, charged with highway robbery on the person of a friend of the penal code reformer, asked the judge, says Linguet, to try the rack and the wheel to extort a confession from the spoiler of the noble marquis' friend.

One of the earliest instances of the free use of the whipping-post, the dungeon and the gibbet on Canadian soil, occurs among Roberval's ephemeral and starving colony of jail-birds, during the winter of 1542-3, at Cap Rouge, nine miles west of Quebec.

Francis I. had given permission to his viceroy, Roberval, to take from French prisons as many convicts under death sentence as he might require for his colonization scheme in Canada. He doubtless chose those malefactors whose physique offered the best guarantees of endurance for outdoor labor.³ Jacques Cartier had brought out fifty colonists, and Roberval two hundred—a motley crew, partly made up of thieves and cut-throats—raw material totally unfit to found a respectable and permanent French colony. When mutiny and ruin threatened to stalk abroad, Roberval was equal to the emergency. He seems to have been a firm believer in the Draconian code. No sooner had one Michel Gaillou been convicted of larceny than he was consigned to the gallows, while Jean de Nantes, for a less grave offence, was kept in irons. Roberval's inexorable rule was applied to both men and women. "To enforce discipline," says Ferland,⁴ "among this disorderly band, a recourse was had to the lash, the dungeon and the gallows, 'by means whereof,' quaintly observes an old chronicler, 'they lived in peace.'" Thouet paints the horrors of that winter in still darker colors, stating that no

less than six soldiers, formerly favorites of Roberval, were "sent to the gallows in one day; for light offences both men and women were shot." What ultimately became of the riotous and famished French colonists of Cap Rouge after the departure in the spring of the viceroy for sunny France, no historian has yet been able to tell. For a certainty, no trace of them remained at the arrival of Champlain, sixty-five years later on.

The gibbet looms out at the very dawn of the colony. The immortal founder of Quebec had scarcely traced the foundations of his future residence amidst the huge oaks and old walnut trees of Stadacona, at the foot of Mountain Hill, when he made the unwelcome discovery of treason lurking in his camp. Imagination pictures Champlain's surprise when his trusty henchman, Capt. Tester, beckoning him aside in the forest, disclosed to him Duval's atrocious plot to assassinate him, plunder the stores, and escape to Spain in some of the Basque vessels trading at Tadousac; but Jean Duval, a Norman blacksmith, the leader of the foul conspiracy, was not destined to go unwhipped of justice, and the founder of Quebec, acting possibly on the old adage, "Salus populi suprema lex esto," by a vigorous policy, nipped crime in the bud.

"Duval's body," says Parkman, "swinging from a gibbet, gave wholesome warning to those he had seduced; and his head was displayed on a pike from the highest roof of the buildings, food for birds and a lesson to sedition.

Some offenders, however, escaped a whipping, perhaps by favor at court, perhaps for want of evidence. Thus we learn, on the authority of the *Journal des Jésuites*⁵ that the king's pilot, Maitre Abraham Martin dit l'Ecossais, the original possessor (1639-46) of the Plains of Abraham, and to which he bequeathed his name, was not by any means a Joseph, though a paterfamilias of respectable dimensions, as shown by Lieut.-Col. Beatson.

⁵ Le 19 (Janvier, 1649) première exécution de la main du bourreau, sur une créature de 15 ou 16 ans, larousse, on accusait en même temps M. Abraham de l'avoir violée; il en fait en prison, et son procès différé à l'arrivée des vaisseaux. [Journal des Jésuites, p. 120.]

³ Histoire de la Colonie Française en Canada. Faillon, Tome I, p. 53.

⁴ Cours d'Histoire du Canada—Ferland, Tome I, p. 44. Voyage de Roberval, traduit de Hackluyt, chap. II.