SCOPELISM.

AN ESSAY

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BY

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SCOPELISM.[1]

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The word which forms the title of this essay is not, I believe, to be found in any English dictionary. It is somewhat surprising that it should have been omitted from that very thorough piece of work, the Century Dictionary, for the word in its French form is given by Littré, and in its original in the larger Greek lexicons. Ducange also, in his glossary of mediæval and low Latin, gives it with a quotation and explanation, which I noted down a few years ago, and to which illustrations have been added as occasion afforded. Professor Chauvin, of the University of Liége, some time since sent a learned dissertation on the subject to the Royal Academy of Sciences of Belgium, and to it I am indebted for many references.[2]

There is no doubt that the first mention of scopelism is to be found in Ulpian. He was a famous jurist in the beginning of the third century, and his writings form about one-third of Justinian's Digest. It was while in the service of the Emperor Caracalla that he wrote his treatise *De officio proconsulis*, Of the duties of a proconsul. In the ninth book of his work he speaks of a crime peculiar to the Arabs, which he terms *Scopelismon*. The following is a literal translation of the passage:

"There are those who, after the manner of the provinces, are accustomed to employ threats; as, for example, in the province of Arabia they speak of the crime of scopelism (σκοπελισμόν) of which the particulars are these: they are for the most part ene-

1 Read at a meeting of the Society held April 20, 1897.

2 Chauvin (Victor): Le scopélisme, Bull. Acad. Roy. des Sciences [etc.] de Belgique, Bruxelles, 1892, 3 series, t. xxiii, 23-57.

mies who scopelise (σκωπελίζειν), a field—that is, to place stones as a warning that if any one should cultivate that field he would die a violent death by the arts of those who placed the stones; which thing produced so much fear that no one dared to go to that field, fearing the cruelty of those who had made the scopelism. The authorities are accustomed to follow this matter up severely, even to inflicting the penalty of death, for the thing itself implies a threat of murder."

It is clear, then, that scopelism consisted in placing stones, in a form which shall be considered later, as a warning to all that an attempt to cultivate the field thus scopelised would bring death to the intruder. The crime was regarded as so serious that the proconsul or governor of the province had the right to punish it rigorously, even by the pain of death.

A certain Clodius, in 1730, wrote a dissertation upon scopelism, which was published at Leipzig. He takes the ground that the ceremonial was not merely a menace, but a practice of magic. Del Rio, the celebrated Jesuit of Anvers, whose six books of magical disquisitions were published in 1599, had preceded him in this view. There is, however, nothing in Ulpian's description which justifies the suspicion that any magical incantations accompanied the proceeding. He states with entire clearness that the stones were placed on the field as a menace which threatened death to him who disregarded it.

There is a curious illustration of the belief that magical rites accompanied this mysterious ceremonial known as scopelism to be found in Gabriel Naudé's "Apology for great men suspected of magic," published at Amsterdam in 1712 (page 38). He relates an interesting incident from Pliny's Natural History, book XVIII, § 8. He begins (I translate it into English): "A peasant, one Furius Cresinus, was accused before the Roman people of having practiced *scopelism* on his neighbors' fields, since though they were longer and broader than his they did not yield such fine crops." In a foot-note he adds: Scopelism consisted in casting stones charmed by magic into a neighbor's field. It is further asserted that these charmed stones had power to cause such evil to those who uncovered them that death was the consequence. This sorcery was [first] practiced in Arabia.

Naudé did not obtain this account of the magical qualities of the stones made use of in scopelism from the passage in Ulpian

already quoted. Neither is there anything in the story related by Pliny which justifies such a statement. It is probable that he took the account from the writings of Del Rio. There are so few allusions to scopelism in history or literature that it was worth while to refer to this passage in Naudé, even though it is necessary to show its inaccuracy. The trial of the freedman as given by Pliny is so vividly related that it will bear repeating. He says:

"I cannot refrain from taking the present opportunity of quoting one illustration afforded us by ancient times, from which it will be found that it was the usage in those days to bring before the people even questions connected with the various methods employed in agriculture, and it will be seen in what way men were accustomed to speak out in their own defense. C. Furius Cresinius, a freedman, having found himself able, from a very small piece of land, to raise far more abundant harvest than his neighbors could from the largest farms, became the object of very considerable jealousy among them, and was accordingly accused of enticing away the crops of others by the practice of sorcery. Upon this a day was named by Spurius Calvinus, the curule ædile, for his appearance. Apprehensive of being condemned, when the question came to be put to the vote among the tribes, he had all his implements of husbandry brought into the Forum, together with his farm servants, robust, well-conditioned, and well-clad people, Piso says. The iron tools were of first-rate quality, the mattocks were stout and strong, the plow-shares ponderous and substantial, and the oxen sleek and in prime condition. When all this had been done, 'Here, Roman citizens,' said he, 'are my implements of magic, but it is impossible for me to exhibit to your view or to bring into this Forum those midnight toils of mine, those early watchings, those sweats, and those fatigues.' Upon this, by the unanimous voice of the people, he was immediately acquitted. Agriculture, in fact, depends upon the expenditure of labor and exertion; and hence it is that the ancients were in the habit of saying, that it is the eye of the master that does more toward fertilizing a field than anything else."[1]

One James Reid was tried for sorcery at Edinburgh on the 21st of July, 1603. Dalzell, in his "Darker Superstitions of Scot-

[1] Pliny, Nat. Hist., B. XVIII, 8. Bohn's edition.

land," Glasgow, 1835, gives a summary of the proceedings taken from the records of the court of judiciary, and he adds a section headed "Scopelismus," in which he says: "Satan amidst familiar intercourse with James Reid, 'inchantit him nyne stanes quhilke the said James cuist upon David Libbertoune's landis for destruction of his coirnes.' Is not this," he continues, "a relic of the Scopelismus of ancient nations—an example of the Deity's injunction, through the mouth of Elisha to the Jews, that they should 'mar many good pieces of land with stones?'"

This illustration of Dalzell's is wrongly taken, as we shall see presently when we come to the passage quoted. He goes on to say:

"The stones cast by the Scottish sorcerer were either to render the land barren or to injure the crop. But few illustrations from foreign or domestic history throw any light on so obscure a subject. Gothofredus interprets the Roman law as only indicating symbolic menaces of treacherous machinations against the safety of the obnoxious person. But he quotes the work of another author, Thebesius, who seems to entertain a different view of the offense by implicating superstition along with it, for he considered something magical connected with the stones, called *stone birds* by the peasants, who were wont to avert the scopelismus of their neighbors yearly, on St. Peter's day, by a solemn formula. The latter may be judged to correspond with an exorcism."[1]

It seems probable that St. Peter's day was selected for this formula on account of his name, Peter being derived from πετρός, a stone or rock. "On this rock," said Christ, referring to Peter, "I will build my church."

Some other commentators have supposed that scopelism meant the deposit of stones on a field in such quantity as to render it incapable of cultivation. This was undoubtedly an ancient custom, forming a part of the means by which in time of war the enemy's country might be despoiled and his sources of future supplies cut off. The prophet Elisha, when foretelling to the kings of Judah, Israel, and Edom that they should defeat the Moabites, said to them:

"And ye shall smite every fenced city, and every choice city, and shall fell every good tree, and stop all wells of water, and mar every good piece of land with stones."

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1 Dalzell, p. 385.

After the Israelites, in fulfillment of this benevolent prophecy, had smitten the Moabites with great slaughter, the account goes on to say:

"And they beat down the cities, and on every good piece of land every man cast his stone and filled it." [1]

It is not difficult to imagine that an army provided with stones for the purpose might so cover the fields as to ruin the growing crops and make the soil useless until after the expenditure of much labor in removing the encumbrances. There is an allusion to the custom in Ecclesiastes, iii, 5, where it is said, "There is a time to cast away stones, and a time to gather stones together." In Job, too, in the poetic language characteristic of that beautiful legend, the fortunate man is told:

"At destruction and famine thou shalt laugh; neither shalt thou be afraid of the beasts of the earth. For thou shalt be in league with the stones of the field; and the beasts of the field shall be at peace with thee." [2]

This theory of the meaning of scopelism, while ingenious and interesting, is certainly at variance with the passage in Ulpian, which distinctly speaks of stones being placed "as a warning," *lapides ponere indicio futuros*, and the extreme gravity of the crime is asserted, inasmuch as it implied a threat of murder.

Another critic suggested that scopelism consisted in the erection of a stone pile as a place of outlook from which the intending cultivator might be readily seen and advantageously attacked. There is some color for this view in so far as the meaning of σκοπελός, the root word, extends. It implies a rock, a peak, a headland, a promontory, and the Latin form *scopulus* has the same application; but the language of Ulpian is not susceptible of such an explanation.

In all ages and among all peoples the custom has prevailed of heaping stones to mark the grave of a murdered man, of one who has committed suicide, or of a great criminal. It has been generally supposed that the purpose was to show abhorrence of a crime, but it is probable that it was done to keep down the restless body of the man who either by his own act or by the sudden attack of his enemy was

> "Cut off even in the blossoms of his sin,
> Unhousell'd, disappointed, unanneal'd."

[1] 2 Kings, iii, 19, 25. [2] Job, v, 22, 23.

This despairing cry of the unhappy ghost brings to mind the enquiry of Hamlet in his first interview with his father's spirit:

> Why the sepulchre
> Wherein we saw thee quietly inurn'd,
> Hath oped his ponderous and marble jaws
> To cast thee up again.

It was a part of the popular belief that the man who had perished without receiving the last rites of religion could not be restricted to his grave, but with the inconsistency of fear the heap of stones was piled over his body in the hope of preventing visits which were often hostile and always terrifying.

The cairn then was erected to protect the living as well as to signalize where the dead lay buried. In like manner, down to recent times in England, the suicide was buried where four cross-roads meet, without a coffin or shroud, without funeral rites, and with a wooden stake driven through his body into the soil beneath. This was not done to add especial marks of ignominy to the interment of the self-murderer. As he necessarily died in mortal sin, the stake which nailed him in his grave was to prevent the foul fiend from carrying off the body which was his legitimate forfeit, and the intersecting roads formed the figure of a cross, which, with kindly superstition, it was thought might have some protecting power. It was also not unusual for a cross to have been erected at such a site.

A remarkable illustration of this popular credence in the power of the fiends to carry off the bodies of those who died unabsolved, and of the precautions that might prevent it, is to be found in the story of the Witch of Berkeley, which Southey immortalized in a ballad. The original account is given by the old chronicler, William of Malmesbury, who wrote his history, in Latin, in the early part of the twelfth century. The ancient historian asserts that he received the account from one of his own acquaintances, who was an eye-witness, and whom he says he "would have been ashamed to disbelieve." Thomas Wright, in his "Narratives of Sorcery and Magic," gives the following summary of the tragic occurrence:

"No sooner had her unearthly master given the miserable woman warning that the hour had appeared when he should take final possession than she called to her death-bed her children and the monks of a neighboring monastery, confessed her

evil courses and her subjection to the devil, and begged that they would at least secure her body from the hands of the fiends. 'Sew me,' she said, 'in the hide of a stag, then place me in a stone coffin, and fasten in the covering lead and iron. Upon this place another stone, and chain the whole down with three heavy chains of iron. Let fifty psalms be sung each night and fifty masses be said by day, to break the power of the demons. If you can thus keep my body three nights, on the fourth day you may securely bury it in the ground.' These directions were executed to the letter; but psalms and masses were equally unavailable. The first night the priests withstood the efforts of the fiends; the second they became more clamorous, the gates of the monastery were burst open in spite of the strength of the bolts, and two of the chains which held down the coffin were broken, though the middle one held firm. On the third night the clamor of the fiends increased until the monastery trembled from its foundations, and the priests, stiff with terror, were unable to proceed with their service. The doors at length burst open of their own accord and a demon, larger and more terrible than any of the others, stalked into the church. He stopped at the coffin, and with a fearful voice ordered the woman to arise. She answered that she was held down by the chain; the demon put his foot to the coffin, the last chain broke asunder like a bit of thread, and the covering of the coffin flew off. The body of the witch then arose, and her persecutor took her by the hand and led her to the door, where a black horse of gigantic stature, its back covered with iron spikes, awaited them, and, seating her beside him on its back, he disappeared from the sight of the terrified monks. But the horrible screams of his victim were heard through the country for miles as they passed along."

An interesting historical incident, which describes the death of Manfred, King of Naples, seems also to bear upon this part of the subject. When that monarch was defeated by Charles of Anjou, near Benevent, in 1266, determined not to survive the loss of his kingdom, he rushed madly into the fight and perished. It was not until three days later that his body was discovered under heaps of the slain. By order of the papal legate it was refused Christian burial, as Manfred had been excommunicated, and the body of the warrior was consigned to a hole near the bridge of Benevent. As the French army passed by the spot,

inspired by the remembrance of his valor, every soldier dropped a stone upon the humble grave, and a rude but stately monument was the result. The widespread belief in the danger of the unabsolved body from fiendish malice had probably some part in the formation of the pile. His body was not destined to remain under it, for the bishop of Cosenza, by direction of Pope Clement IV, caused the cairn to be removed and the relics of the hero were buried on the banks of the river Verde with "extinguished torches" and without funeral rites. Dante, in his Purgatory, describes his meeting with Manfred, when the latter relates his tragic story, concluding thus:

> Most horrible indeed had been my crime;
> But goodness infinite has arms so large
> They can embrace whoe'er returns to him.
> Cosenza's bishop, when on Clement's charge,
> He chased my dust in anger, had he read
> This text of mercy in God's Bible's marge,
> My scattered bones above the bridge's head
> Would still be lying near to Benevent,
> Safe in the keeping of its storm-built bed.[1]

Sir Walter Scott, in the Lay of the Last Minstrel, tells how the famous wizard, Michael Scot, was buried in the chancel of Melrose Abbey in such wise that the red cross of St. Andrew, in the east oriel window, should throw its protecting reflection on the grave. The monk of St. Mary's Aisle relates how he—

> dug his chamber among the dead,
> Where the floor of the chancel was stained red,
> That his patron's cross might over him wave
> And scare the fiends from the wizard's grave.

This famous Michael Scot was not a mere legendary character. He may take rank with his contemporary, the English Roger Bacon—they were born in the same year, 1214—men whose learning, unusual for their time, caused them to be regarded as possessed of supernatural knowledge, and whose intellectual supremacy led them to attempt its possession. There is still extant, though of extreme rarity, a treatise by Michael Scot on Physiognomy and Some Philosophical Subjects, which was first printed in 1477.

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[1] Dante: Purgatory, canto III (Minchin).

Many analogous beliefs are to be found in the strange legends which relate to vampyrism.

Dismissing this interesting subject of the two-fold purpose of a cairn, it is sufficient to repeat that such a heap of stones in all ages and in all countries indicated a violent death. The true explanation of the heaped-up stones would seem to be that it was a cairn—a menace of death to the violator of the scopelised field. Of like nature is the coffin which figures on the missives sent by the Kuklux, the White Caps, and other lawless ruffians, and the skull and crossbones on the pirate's flag. Professor Chauvin coincides in this theory.

The term scopelism is found only in the treatise of Ulpian, in dictionaries which have quoted from him, and in one or two treatises already referred to. Chauvin mentions a rather rare book which he had seen, the title of which was: *L'injuste locataire détrompé, ou catéchisme pour inspirer de l'horreur de la coutume fatale appelée scopéle ou scopélisme*, par une curé de Hesbaye (Jean Herbeto) à Liége, 1706, small 8vo, 62 pages.

Hesbaye is one of the most fertile arable regions of Belgium, and it seems from the catechism of this curate that the tenants who, failing to pay their rent or from bad management of their farms, had been evicted, used violence to prevent the new tenant from taking possession. He tells them that in this they are as wicked as the Arabs. It is obvious that the good curate had seen this uncommon word scopelism in some commentary on Justinian's Digest.

A somewhat analogous offense to scopelism existed in Germany under the title of *Landzwang*. In the penal code of Charles the Fifth, known as the famous Carolinian code, Landzwang is defined as a threat on the part of dangerous outlaws to commit a crime, that crime having relation to agriculture and the rights of owners. In another section it is spoken of as "oppression, extortion of a country by outlaws," and it further provides that "as soon as they are brought to prison they shall be put to death by the sword as Landzwingers." These offenders seem to have been ordinary ruffians who oppressed the cultivators of the soil in various ways.

General Charles Hervey, an officer of the British government in India, in his account of his efforts to suppress the murderous Thugs and Dacoits, mentions an incident in which stones were

associated with a supposed menace. Under date of April 27, 1867, he remarks:

"The first of the milestones leading out of Delhi along the grand trunk road, in the direction of *Kwrnál*, was observed this morning to be smeared with a reddish color. This has lately happened at *Meerut* and other places, and on the gateway pillars of European residents—the work, I apprehend, of local *Budmaashees*, whose object is to create a sense of something being intended. I give it no other importance. The mutiny is too recent to be readily forgotten, or for any attempt to reënact anything in that way so soon. Hereafter we may look for its occurrence."[1]

In southern India it is not unusual to see in the field of a ryot or peasant five stones placed in a row and daubed with red. They are regarded as the guardians of the field.

Scopelism has a definite purpose—to forbid the conversion of pastoral into arable lands, under penalty of death, the threat being signified by the ominous pile of stones which gave rise to the name. It is not difficult to understand the reason for this aversion to the cultivation of the soil. The Arabs were a pastoral people of wandering habits, and fenced fields and crops of grain deprived them of so much opportunity for pasture. It was the old contest which began between Cain and Abel—the nomad opposing the tiller of the soil. The present generation has witnessed the like struggle between the Indians and the pioneer farmers, and the cowboys of today cut the barbed-wire fence which prevents their cattle from pasturing on the cultivated meadow-lands of the west, risking their lives in the lawless act.

Another phase of the same contest was the tyranny of the early Norman kings of England and of the feudal aristocracy of later times, by which vast tracts of land were forbidden to be cultivated in order that the wild animals might be preserved for the sports of the lordly owners of the soil.

There was yet another form assumed by this opposition of interests in which, as asserted, rustic habitations and even towns disappeared before the encroachments of the pastoral enemy. The effect produced on the morals of the people by this condition of things is described by Sir Thomas More in his Utopia with characteristic vividness.

1 Some records of crime, etc., by General Charles Hervey (sometime general superintendent of the operations for the suppression of Thuggee and Dacoitie in India). London, 1892, II, 11.

. . . "But yet this is not the only necessary cause of stealing. There is another which, as I suppose, is proper and peculiar to you Englishmen alone. What is that? quoth the Cardinal. Forsooth, my lord (quoth I), your sheep that were wont to be so meek and tame, and so small eaters, now, as I heare say, be become so great devourers and so wild that they eat up and swallow down the very men themselves. They consume, destroy, and devour whole fields, houses, and cities. For look in what parts of the realm doth grow the finest and therefore dearest wool, these noble men and gentlemen, yea, and certain Abbots, holy men, no doubt, not contenting themselves with the yearly revenues and profits that were wont to grow to their forefathers and predecessors of their lands . . . leave no ground for tillage; they inclose all into pastures, they throw down houses, they pluck down towns, and leave nothing standing but only the church, to be made a sheep-house. . . . Therefore that one covetous and unsatiable cormorant and very plague of his native country may compass about and inclose many thousand acres of ground together within one pale or hedge, the husbandmen be thrust out of their own, or else either by *coveyne* and fraud or by violent oppression they be put besides it, or by wrongs and injuries they be so wearied that they be compelled to sell all; by one means therefore or by other, either by hook or crook, they must needs depart away, poor, silly, wretched souls. . . . Away they trudge, I say, out of their known and accustomed houses, finding no place to rest in. All their household stuff . . . they be constrained to sell for a thing of nought, and when they have wandered abroad till that be spent, what can they then else do but steal, and then justly, pardy, be hanged, or else go about a begging."

Having thus shown how the converting fields and farms into pasture lands resulted in the production of thieves, he goes on to speak of their consorting with vagabonds, and treats of the matter in a style which might become our own day. He denounces the prodigality of the times and says: "Now . . . harlots, stews, and wine-taverns, ale-houses, and tippling-houses, with so many naughty, lewd, and unlawful games, as dice, cards, tables, tennis, bowls, quoits, do not all these send the haunters of them straight a stealing when their money is gone? Cast out these pernicious abominations, make a law that they which plucked down farms and towns of husbandry shall reëdify them,

or else yield and uprender the possession thereof to such as will go to the cost of building them anew. Suffer not these rich men to buy up all, to ingross and forestall, and with their monopoly to keep the market alone as please them. Let not so many be brought up in idleness, let husbandry and tillage be restored, let cloth-making be renewed, that there may be honest labour for this idle sort to pass their time in profitably. . . . Doubtless, unless you find a remedy for these enormities, you shall in vain advance yourselves of executing justice upon felons."

It is to be observed that Ulpian intimates that it was "for the most part enemies," *plerumque inimici*, who practiced scopelism; but this may imply that quarrels over the meditated innovation had preceded the ceremonial threat. It is doubtful whether these words really belong to the text, as in other manuscript copies of Ulpian's treatise they do not appear.

History does not give us much information concerning the Arab tribes before the introduction of Islamism, but occasional allusions show that they were a fierce and revengeful race. The Korân contains many denunciations of the immoralities and cruelties of these pagans, as they are termed. There is an interesting allusion in the Mishnah to a custom which prevailed among them of erecting a cumulative heap of stones. The Mishnah was a code of laws drawn up by the Jews in Galilee about the second century of the Christian era and completed three hundred years later. The Margamah, in the passage referred to, was a heap of stones, sometimes put together under a sacred tree, and the cult consisted in throwing a stone on the heap in proof of a visit to the spot. It is thought to be referred to in the book of Proverbs, xxvi, 8, where it said, "As he that bindeth a stone in a sling, so is he that giveth honor to a fool." The gloss on this is, "or putteth a precious stone in a heap of stones;" and the version of the Vulgate is, "as one who throws a stone on a Margamah." The revised version gives it thus: "As a bag of gems in a heap of stones, so is he that giveth honor to a fool."[1]

[1] "The ordinary artificial mark of a Semitic sanctuary was the sacrificial pillar, cairn, or rude altar. The sacred fountain and the sacred tree are common symbols at sanctuaries, but they are not invariably found, and in most cases they have but a secondary relation to the ordinary ritual. In the more advanced type of sanctuary, the real meeting-place between man and his god is the altar. The altar in its developed form is a raised structure upon which sacrifices are presented to the god." Lectures on the religion of the Semites. First series: The fundamental institutions. W. Robertson Smith. New York [London], 1889, p. 183.

It was a belief of the ancient Arabs that the spirit hovered around the grave of its mortal body or the stones which indicated it, in the shape of an owl. If the tenant of the grave had been murdered the bird continually cried *Eskuni* (give me drink), until the blood money was paid or the crime was avenged. This is mentioned by Conder in his book on Syrian Stone-lore. These Arab superstitions have some interest in connection with their dangerous custom of scopelism.

There is another example of what I have termed a cumulative stone-cult. In New Mexico there is a stone of large size which it is the duty of every visitor to the locality to push forward a space. What the legend is that necessitates this performance I have not been able to discover.

Stones in their uncarved or rudely carved state figure largely in archeology and folk-lore, and it seemed to me that this very curious and little known custom known as scopelism was worth preserving in recorded shape.

LA SENTENZA DATA A QVELLI CHE HA AVELENATO MOLTE PERSONE IR MILANO L'AN. 1630

Riferito in Senato dal Magnifico Senator Monti Presidente del Magistrato [illegible] quali con onto pestifero hanno appestata la Citta udito il Magnifico Presid[illegible] [illegible]anità ib Processo formato contro Guglielmo Piazza e Gio. Giacomo Mora li raccolti i voti de Padri il Senato en oncorso in questa sentenza

Che li sopranominati Mora, e Piazza posti sopra d'un Carro syno condotti al loro solito della Giustitia. Nel [illegible]re ne luoghi oue hanno delinquato syno tenagliati. Auanti la Barberia del Mora si tagli all' uno, et all' altro la mano dritta. Si fompino loro l'ossa al solito con la Rota la quale si leui in al[illegible] in quella uiui s'intreccino ilor corpi. Dopo sei hore si scannino, e subito li loro cadaueri si abbrucino e se ceneri si gettino in fiume. La casa del Mora si spiani et in quel largo si drizzi una Col[illegible] a quale si chiami Infame et in essa si scriui il tutesso ne ad alcuno sia permesso mai piu riedificare detta casa. Si dia satisfattione a creditori di detta Casa de beni di condennati, e non bastan[illegible] no satisfatti del Publico. Li beni del detto Mora e Piazza siano confischino

DESCRITTIONE DELLA ESECVTIONE DI GIVSTITIA FATTA IN MILANO CONTRO QVELLI LI QVALI HANNO COMPOSTO, E SPARSO GL'VNTI PESTIFERI

FIG. 1.