

## Lettres de rémission: Records of Punishing and Pardoning Power

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### I. Introduction

A lettre de rémission refers to, in general, a document of the Chancery by which the monarch grant his pardon to a crime or an offense, suspending ordinary judicial procedures whether it is royal, seigniorial, urban or ecclesiastical. To say nothing of exempting suppliants from punishment, it reconstitute their honor and property, though reserving right of claims of civil litigants. While probably from the thirteenth century the terms 'remissio' or 'remittere' appeared in documents of the French Chancery, it was since the early fourteenth century that the lettres de rémission began to be registered in the Chancery.<sup>1)</sup> Nearly all of them are kept in 244 registers of *Trésor des chartes*, which constitute 'série Jj.' of the *Archives Nationales de France*. In this series the registers Jj. 35 through Jj. 266 include 53,829 lettres de rémission of about 95,000 pieces in total from the year 1302(during the reign of Philippe IV) through 1568(Charles IX).<sup>2)</sup>

In this paper lettres de rémission include various kinds of letters patent(*lettres patentes*) written in accordance with the right of grace(*droit de grâce*) that was one of the sovereign attributes.<sup>3)</sup> From juristic or diplomatic point of view, lettres de rémission

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<sup>1)</sup> P. Texier, "La rémission au XIV<sup>e</sup> siècle: Significations et fonctions", *La Faute, la répression et le pardon*, Actes du 107<sup>e</sup> Congrès national des sociétés savantes, 1982, t. 1(Paris, 1984), pp. 193-205.

<sup>2)</sup> M. François, "Note sur les lettres de rémission transcrites dans les registres du Trésor des Chartes", *Bibliothèque de l'Ecole des Chartes*, t. 103(1942), pp. 317-324. For general information of Jj. Registers, see *Les Archives nationales. Etat général des Fonds*, t. 1: *L'ancien régime*, A. N., (Paris, 1978), pp. 212-230. And of the functions and historical significance of *Trésor des chartes*, see O. Guyotjeannin, "*Super omnes thesauros rerum temporalium: les fonctions du Trésor des chartes du roi de France(XIV<sup>e</sup>-XV<sup>e</sup> siècles)*", *Ecrit et pouvoir dans les chancelleries médiévales: Espace français, espace anglais*. Actes colloque international de Montréal, 1995 (Louvain-La-Neuve, 1997). pp. 109-132.

<sup>3)</sup> Regarding their various forms and kinds, see A. Giry, *Manuel de diplomatique*(Paris, 1894), pp.

were sharply distinguished from *lettres d'abolition*. Whereas the former was applied to crimes on the basis of common law such as accidental homicide, theft, assault and injury, the latter to irremissible crimes in principle, including political crimes such as rebellion, treason, and conspiracy or various crimes committed on the occasion of war and troubles such as murder, rape, arson, and pillage. *Lettres de rémission* intended to save criminals who were found guilty but deserved pardon, and by considering fairness, are classified as a kind of *lettres de justice*. In contrast, *lettres d'abolition*, granted mainly for political purposes such as pacifying disorder and restoring normality, are considered as a kind of *lettres de grâce* depended upon exclusively sovereign's "bon plaisir"(good will).<sup>4)</sup>

But, as their distinctions became clear gradually passing through the fifteenth century, it does not mean that much to this research focusing on the period of Hundred Years' War. So, the two types of letters, *lettres de pardon* and *lettres d'abolition*, will be commonly called *lettres de rémission* in this paper.

## II. Development of Pardoning Power

The powers of pardoning crimes and exempting penalties essentially pertain to a certain absolute being with life-or-death authority. Originally the 'indulgentia' was a part of the imperium in the Roman republic, and with the development of Christianity, became a part of the judicial power of bishops who were the heirs of binding and loosing authority. In Carolingian Empire, the right to grant 'misericordia' or 'clementia' was reserved to the emperor in place of Christ, which appeared to be based on his consecration.

But even before disintegration of the Empire, it began to be dispersed among counts, bishops and other local potentates in the wave of feudalization. Thus the princes, barons, castellans, archbishops and bishops, municipalities, and even modest

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765-780.

4) Y.-B. Brissaud, Y.-B. Brissaud, *Le droit de grâce à la fin du Moyen Age(XIVe-XVe siècles). Contribution à l'étude de la restauration de la souveraineté monarchique*, Thèse de doctorat (Université de Poitiers, 1971), pp. 252-263. For distinction between *lettres de justice* and *lettres de grâce*, G. Tessier, *Diplomatique royale française*(Paris, 1962), pp. 254-257, 261-264.

seigneurs had usurped the right of pardon respectively taking advantage of the disintegration of public authority. In feudal France, many lords of high justice holding the right to pass a death sentence were able to nullify sentences of their own passing. Philippe de Beaumanoir, the author of *Coutumes de Beauvaisis* at the end of the thirteenth century said, “He who passed sentence of banishment for a crime in his court can not repeal it for any cause without accord of the count, but the count can do it well.”<sup>5)</sup>

A sharp increase in number of lettres de rémission since the early fourteenth century shows that the recovery of royal authority arisen in the middle of twelfth century was accelerated from then on. But it took more than two centuries before the one of *regalia* was reintegrated into the hands of its former owner. At any rate the history of the right of pardon went in parallel with that of the royal authority. In this sense, it is intriguing to examine how the right evolved before it was firmly reintegrated as a monopoly of absolute monarchs in the modern era. The reintegration came true in a double way; while the right of pardon of the kings extended into the domains of great lords, that of the lords was reduced little by little.

As revealed by the feudal reaction following the death of Philippe IV, the resistance of these lords against the royalty was still tenacious in the early fourteenth century. Furthermore, the subsequent change of dynasty and the Hundred Years War favored their resistance. The royal claim for exclusive right of pardon was raised in the middle of the fourteenth century, but still far from the realities. When granting his pardons to justiciable subjects in the jurisdiction of great lords, the king went as far as to assure that this case would not encroach on their rights afterwards by inserting the formula of ‘non-préjudice’. Still in the middle of the fifteenth century, the so-called ‘princes des fleurs de lys’ like dukes of Bourgogne and Anjou held fast to their claims for the right of pardon as a natural privilege of the ‘pairs de France’. In those days they even pretended to be the ‘sovereign seigneurs’ with ‘plenary power and authority’ calling themselves duke or count ‘par la grâce de Dieu’(‘Dei gratia’).<sup>6)</sup> Some foreign

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5) Philippe de Beaumanoir, *Coutumes de Beauvais*, A. Salmon éd., t. 2(1900), no. 1733: “Li homme qui ont fet en leur court aucun banissement pour cas de crime ne pueent le banissement rapeler sans l’acort le conte pour nule cause, mes ce puet bien fere li cuens, si comme j’ai dit dessus.”

6) Dukes of Bretagne “par la grâce de Dieu” refused to pay liege-homage to the king, and their

kings who were the vassals of the king of France, such as the kings of England, the dukes of Lorraine and the kings of Naples and Sicily exerted the same right in their own domains in the kingdom of France.<sup>7)</sup>

But the right of pardon of these great feudatories came to an end in different manners; by military defeats or by extinctions of lineage as in the cases of the duke of Bourgogne and the count of Armagnac, with the dissolution of their domains, and by the judicial pressure of the sovereign court, *Parlement*, as in the case of the duke of Bourbon.<sup>8)</sup> As for those of the lesser feudal lords, they were far less viable. Their pardons could be useless only if the royal officials still prosecuted the beneficiaries. By the end of the fifteenth century, in any case, the right of pardon of almost all the feudal lords became null and void.

A similar fate was doomed for the right of pardon exercised by the ecclesiastic lords, to wit high-justiciary prelates who possessed, by holding fiefs, secular jurisdiction distinct from their spiritual jurisdiction. Ecclesiastic jurisdiction used to dispense the criminals from due punishment if shown to be repentant and only subject to penitence and fine, or even to pass sentences of absolution in favor of them. The royalty tried to restrain the practice of a virtual pardon like this. An ordinance of Philippe IV stipulated that the clerics absolved in an ecclesiastical court could be punished by a secular court if they committed a vicious crime, and afterwards the ecclesiastical jurisdictions were constrained to request king's confirmation of their sentences of absolution in order to avoid any dispute.<sup>9)</sup>

However, there were some exceptions. Several prelates and religious communities

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secretaries often employed the formula: "Le Duc est roi en son duché." A. Leguai, "Royauté et principautés en France aux 14<sup>e</sup> et 15<sup>e</sup> siècles: l'évolution de leurs rapports au cours de la guerre de Cent Ans", *Le Moyen Age*, t. 101(1995), pp. 121-135.

7) Y.-B. Brissaud, *Le droit de grâce à la fin du Moyen Age*, pp. 25-32.

8) *Ibid.*, pp. 32-54. "The suppliants were not rare who after having already obtained remission from a prince asked the king to confirm it, while others requested it from the king before obtaining it from the jurisdiction of the prince." C. Gauvard, «*De grâce especial*», *Crime, Etat et société en France à la fin du Moyen Age*(Paris, 1991), t. II, p. 895. For an example of the former, see J. Viard, *Documents parisiens du règne de Philippe VI de Valois(1328-1350)*, t. II(Paris, 1900), no. 354(JJ. 75, no. 499).

9) Y.-B. Brissaud, *Le droit de grâce à la fin du Moyen Age*, pp. 111-114. For several examples of such confirmation, see J. Viard, *Documents parisiens*, t. II, nos. 305(JJ. 74, no. 703), 321(JJ. 74, no. 86), 347(JJ. 75, no. 580), 360(JJ. 68, no. 343), 420(JJ. 78, no. 179), 431(JJ. 78, no. 158).

managed to retain the right to release prisoners on particular occasions including festive days. The chapter of Notre-Dame de Paris led twice a year the procession to the priory of Saint-Martin-des-Champs to release thieves in the priory prison, and that of Rouen, proud of the privilege presumably originated from the grant of king Dagobert, was permitted to pardon a prisoner on every Ascension Day. In the sixteenth century, however, in consequence of the opposition of *Parlement*, these privileges of pardon were limited to the crimes 'piteux et remissibles', exclusive of the felony such as heresy, lèse-majesté, counterfeiting money, assassination, rape and so on.<sup>10)</sup> In sum, these exceptional cases of the privileged are no other than the exceptions which confirm the above-mentioned general trend.

The right of pardon exercised by communes as collective seigneurs also came to be subject to the royal control. Many communes constantly reacted against their seigneurs such as bishops, counts, and dukes, who pretended to the customary right to withdraw banishments and fines on their first entry (*entrée*) into cities, and sometimes entrusted it to VIPs including Papal legates and foreign sovereigns in honor of their first visiting. From the fourteenth century on, moreover, facing even more powerful and tenacious meddlers, the king and his agents, they tried in vain to struggle for the judiciary independence.

Examples of Abbeville and Amiens persuasively show this struggle and frustration. Radulphe Coullart, a cleric who had been banished for committing murder by the échevins of Abbeville, was absolved by his ordinary judge. After this absolution had been confirmed, the bailli of Amiens in 1310 forced the échevins to let him return to the town and live in quiet. Angered by this injunction, armed habitants tried to seize him and even threatened the royal officers. This riot resulted in heavy fine and indemnity imposed on the commune.<sup>11)</sup> In 1338, Philippe de Valois granted a lettre de rémission to a habitant of Amiens banished by the échevins and the prévôt of the city, with a lettre de non-préjudice to "noz amez le maieur et eschevins de la ville d'Amien." But only six years later, the king impaired the municipal jurisdiction again by granting a pardon to a bourgeois of Amiens condemned to banishment for homicide. The mayor and échevins filed a lawsuit against the measure to *Parlement*, which

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<sup>10)</sup> C. Gauvard, «*De grâce especial*», pp. 925-926; Y.-B. Brissaud, *Le droit de grâce à la fin du Moyen Age*, pp. 95-111.

<sup>11)</sup> *Ibid.*, p. 75.

decided for the royalty. And when the king Charles V exempted punishments inflicted on a bourgeois who had insulted a magistrate of Amiens in 1373, the municipality had to accept king's decision and be content with saving face by getting amende honorable from the culprit.<sup>12)</sup> This means that the municipality had no choice but to bow before the royal victory for the right of pardon, which pushed itself into a position of civil litigants in such cases.

This victory sought after the principle that the source of all the justice and pardon resided in the king's person. The king Charles V, revoking remissions delegated to the bailli of Lille and Douai, declared that any sires, princes, knights and others except himself, his lieutenant, his chancellor and constable should not call the banished back to the city.<sup>13)</sup> But it was in the reigns of Charles VII and Louis XI that such a declaration came into force all over the kingdom. It was not until then that the French king, and he alone could pardon, of his own will and on his full authority, all kinds of crime and all criminals in the kingdom. This power, entrusted to the consecrated king as God's vicar, was the exclusive means that allowed him to step into the life of all his subjects, keeping out all the rivals claiming such a power. And finally the principle of royal exclusivity was established by the ordinance of Blois in 1498 proclaiming that the right of pardon as a sovereign attribute could not be given to anybody else.<sup>14)</sup>

### III. Formulas and Proceedings of Lettres de rémission

Lettres de rémission appeared in the middle of the fourteenth century as a new type of document that intended to nullify the punishments of all kinds of crime, and took a distinct form from the others. By the end of the century, the formulas of the lettres was fixed, and their drawing up became an essential activity of the Chancery.<sup>15)</sup>

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<sup>12)</sup> Ibid., pp. 81-83.

<sup>13)</sup> *Ordonnances des roys de France de la troisième race(O.R.F.)*(Paris, 1723-1849), t. XII, p. 103(21 septembre 1364): "Aucun sires, princes, chevaliers, ou aultres, ne puisse ou doyt rendre la ville(Douai) aulx banis d'icelle, ne iceulx rappeller, fors nous, ou nostre lieutenant, nostre chancelier ou nostre connestable."(Requoted from Y.-B. Brissaud, p. 88).

<sup>14)</sup> *O.R.F.* t. XXI, p. 191(mars 1498), art. 70: "Combien que à nous seul et à nos successeurs rois de France, appartienne de donner graces, pardons et remissions... reservez en signe de souveraineté [...] pour ces causes avons révoqué et révoquons par édit perpetuel et irrevocable, leurdit pouvoir et puissance quand à ce..."(Requoted from Y.-B. Brissaud, p. 165).

<sup>15)</sup> G. Tessier, "L'activité de la chancellerie royale française au temps de Charles V", *Le Moyen*

Lettres de rémission are officially classified as the *lettres patentes* and usually sealed with the great seal of green wax hanging on red and green silk lace (“grand sceau de cire verte sur lacs de soie rouge et verte”).<sup>16)</sup> They have a stereotyped, if not all the same, form. As for the language used in lettres de rémission, in the early fourteenth century all the lettres were written in Latin, but since then the frequency in use of the French steadily increased the same as in other kinds of royal letters. So, by the early fifteenth century the French came to replace the Latin.

The lettres begin by informing that the French king lets everybody know that the letter was prepared according to “l’humble supplication” of the suppliant *N* him[her]self or ‘ses parens et amis charnelz’ in place of him[her]. Here is disclosed, whether briefly or in details, the identity of the suppliant: his job and position, status, age, residence, family relations and so on. Then are described detailed account of his crime(s) and deeds after the crime, and enumerated various extenuating circumstances and motives that deserve king’s pardon.

The latter part of every letter, composed of a series of formulas, is almost identical. At first is mentioned the formula pronouncing pardon of the suppliant: for example, “voulans miséricorde préférer à rigueur de justice, de grâce especial, de certaine science et auctorité royal remettons, quittons et pardonnons, et le restituons à sa bonne fame, renommée, au païs et à ses biens quelconques.” Then follow provisory clauses reserving the right of claim for the injured party, that is, “sauf le droit de partie civile,”<sup>17)</sup> and lastly the injunction to the relevant judge not to prosecute the suppliant any more for this pardoned case and to restitute his honor and property. And the letters end up with notices of the seal, the reservation of rights, the date and place of the grant, the granting authority, present councillors and the signature of chancellor in charge.

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*Age*, t. 48(1938), pp 14-52, 81-113. For an outline of criminal procedure in the medieval France, see A. Laingui, A. Lebigre, *Histoire du droit pénal*, t. II: *La procédure criminelle*, Titre II(Paris, 1979)

<sup>16)</sup> The ‘cire verte’ as sign of perpetuity meant the perpetual effect of lettres. As for the diplomatic characteristics of lettres de rémission, see R. Scheurer, “L’enregistrement à la chancellerie de France au cours du XVe siècle”, *Bibliothèque Ecole des chartes*, t. 120(1962), pp. 104-129. And for the various royal seals and markers; G. Tessier, *Diplomatique royale française*, pp. 190-206, pp. 254-257, 261-264.

<sup>17)</sup> The precise meaning of this formula was explained well enough in following phrase of JJ. 86 no. 495(december 1358, lettre for Jehan de Barre): “sauf tant que chascun puisse poursuivre ses dommages et injures par voie de justice et civilement pardevant nostre treschier seigneur et pere ou nous noz gens...”

Now we need to examine the proceedings of the pardon. They begin by the supplication of the suppliants themselves called “povre home” usually in letters or their parents and relatives, except in extraordinary cases like a general pardon by the royal initiative.<sup>18)</sup> To receive, examine and report the supplications for royal pardon was the task of the maîtres de requêtes of *Hôtel du roi* who accompanied the king. Besides them, according to the royal order of 1359, a limited number of officials including Chancellor, councillors of Grand Conseil, chamberlains, and so on was qualified to receive and report them.<sup>19)</sup> The maîtres de requêtes, at first, were supposed to report the supplications to the king on whose way to his chamber from his chapel after the mass. But the royal order of 1359 provided that the supplications should be reported to the king in the presence of the Conseil, once or twice a week, and the special session was fixed on every Friday from the fifteenth century on.<sup>20)</sup> The reported supplications went through the deliberations of the Conseil. The formula “par le Roi en son conseil” or “per regem in consilio” at the end of letters means the king’s presence, and “par le roi a la relation de N.” or “per regem ad relationem Concilii/dominatorum N, N” means his absence.<sup>21)</sup>

But a considerable number of pardons were granted as a political gesture of the royal authority on special events; the so-called ‘joyeux avènement’ in celebration of the coronation of new kings, birth and marriage of royal family members, and the first entry of the king into a city. On such occasions, the king was expected to have mercy upon the criminals by opening the prisons of the city where he made his first entry. Therefore the banished returned when they heard of the visit of the king, to become prisoners spontaneously. But even in these cases, they were supposed to submit written supplications to the prévôt. And a royal delegate, usually a maître de requête visited in advance the prisons of the city in order to interrogate the prisoners.<sup>22)</sup>

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<sup>18)</sup> For an early example of general pardon, see S. Luce, *Histoire de la Jacquerie*(Paris, 1859), Pièce juscatives XXIII(10 août 1358), p. 281. A general pardon had not actual effect of granting pardon to all culprits related to the incident, but only guaranteed the subsequent grant of individual pardons.

<sup>19)</sup> *O.R.F.* t. 3, p. 388, art. 18-20(27 janvier 1359).

<sup>20)</sup> *Ibid.*, art. 21; t. 8, p. 409, art. 12(7 janvier 1400); *L’Ordonnance cabochienne*(26-27 mai 1413), A. Coville éd.(Paris, 1891), p. 140, art. 213.

<sup>21)</sup> O. Morel, “La mention “per regem ad relationem... inscrite sur le repli des actes royaux au 14<sup>e</sup> siècle”, *Bibliothèque de l’Ecole des Chartes*, t. 59(1898), pp. 73-80; *Id.*, *La grande chancellerie royale et l’expédition des lettres royaux de l’avènement de Philippe de Valois à la fin du XIV<sup>e</sup> siècle*(1328-1400)(Paris, 1900), pp. 299-310.

<sup>22)</sup> C. Gauvard, «*De grâce especial*», p. 925. As for the example at the time of Charles VI’s first

Lettre de rémission was drawn up by the royal notaries based on the reported supplication, and finally sealed in the presence of the maîtres de requête and secretaries through the 'visa' of the chancellor.<sup>23)</sup> Many lettres were in fact the outcome of pecuniary compromise in which the Chambre des comptes intervened. Occasionally this settlement money or fine was so excessive enough to impoverish the persons and communities for pardon, as in case of the revolts of Maillotins of Paris and the Harelle of Rouen in 1382.<sup>24)</sup> In these cases the pardon was no better than a commutation of punishment to monetary compensation, in other words, that of a penal case to a civil.

For the official conservation the beneficiary had to register the granted letters in Chancery by paying service charges including seal fee. Although the exemption of such fees was not rare, the royal pardon doubtless required no little cost making allowance for travel expenses<sup>25)</sup> and possibilities of bribery besides various indemnities and fees. At any rate it must have been more favorable to the rich.<sup>26)</sup>

Nevertheless, it would be imprudent to assert that anybody rich in personal connections and resources could get the letters easily, and that the right of pardon was abused at the king's whim and at the mercy of 'Grand Diable d'Argent'.<sup>27)</sup> In fact there was a formality of verification (*entérinement*) as follows: "in case that the fact will be found to happen in the ways as stated above and that the contrary will not be proven...."(ou cas que.... le fait sera trouvé estre venu par la maniere dessus devisée et que le contraire ne sera prouvé...)" or "if it be so..."("si ita est..."). The suppliant was obliged

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entry into Rouen in 1382, see L. Douët-d'Arcq, *Choix de pièces inédites relatives au règne de Charles VI*, t. 1(Paris, 1863), no. 14(JJ. 120 no. 225).

<sup>23)</sup> Y.-B. Brissaud, *Le droit de grâce à la fin du Moyen Age*, pp. 240-242; G. Tessier, "La chancellerie royale française d'après l'Ordonnance cabochienne(1413)", *Le Moyen Age*, t. 69(1963), pp. 679-690.

<sup>24)</sup> J. Viard, *Documents parisiens*, t. 2, no. 394(JJ. 76, no. 182); L. Douët-d'Arcq, *Choix de pièces*, t. 2, no. 135(JJ. 138 no. 273); J. Juvénal des Ursins, *Histoire de Charles VI, roi de France*, J. A. C. Buchon éd.(Paris, 1875), pp. 343-344.

<sup>25)</sup> About 82% of the lettres de rémission surveyed by C. Gauvard were limited geographically to the north of Loire except Bretagne. C. Gauvard, "L'image du roi justicier en France à la fin du Moyen Age, d'après les lettres de rémission", *La Faute, la répression et le pardon*, t. 1, pp. 165-192.

<sup>26)</sup> F. Lot, "Les frais de justice au XIVe siècle", *Bibliothèque Ecole des chartes*, t. 33(1872), pp. 217-253, 558-596, t. 34(1873), pp. 204-232. The Cabochien ordinance set a limit on the registration fee to 20 sous parisis. *L'Ordonnance cabochienne*, p. 154, art. 228.

<sup>27)</sup> P. Texier, "La rémission au XIVe siècle", p. 200.

to appear before the competent judge at a specified time, usually within a year following the pardon.<sup>28)</sup>

His *lettre de rémission* was submitted to the court, and from then on his person was put under court custody during the interrogation and investigation. The submitted *lettre* was to be read in the presence of the opponent or civil litigants, and during the audience he kept himself bareheaded and knelt down. As well as reviewing the previous trial record, the judge performed field investigation at the crime site or birth-place of the suppliant. Based on the investigation the court decided on whether the content of the *lettre*, legality of the pardon, and so on were trustworthy.

When the verification was refused by the judge, the validity of pardon would be also denied.<sup>29)</sup> On the contrary, neither fault nor defect being found, the judge had to register finally the *lettre de rémission*, and only then might the pardon have its whole effects: “en imposant sur les choses dessus dictes et chascune d’icelle *silence perpetuelle* a noz procureurs...” Of all the effects of the pardon, the most contentious one was probably the restitution of property to its beneficiary, because this measure intruded on the right of confiscation of high justiciaries as well as their jurisdiction. It was a serious source of frequent conflicts between the royal jurisdiction and the local justices, in particular those of municipal magistrates.

Whether the *lettre* was verified or not, the court also had to settle the problem of civil actions unless it had been settled amicably out of court. In fact the pardon only affected the penal punishments, not the right of the civil litigants including that of the king. Although the right of vengeance of the injured party remained intact, it was to be settled not by violence but by civil conciliation. The civil settlement was based on the material and moral reparation including monetary indemnity for damage, offer of lifetime annuity for the bereaved family and wedding expenses of the victim’s daughters, pious donation for the deceased, and ‘*amendes honorables*’.<sup>30)</sup> Thus the punishment

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<sup>28)</sup> Y.-B. Brissaud, *Le droit de grâce à la fin du Moyen Age*, pp. 464-468.

<sup>29)</sup> Regardless of the reason, in case that a *lettre de rémission* was not verified, the suppliant had to take out a new letter to avoid subsequent prosecution. For an example, see L. Douët-d’Arcq, *Choix de pièces inédites*, t. 2, no. 30(JJ. 170, no. 9).

<sup>30)</sup> Y.-B. Brissaud, *Le droit de grâce à la fin du Moyen Age*, pp. 446-449. Some *lettres de rémission* specified measures of reparation as a provisory clause. For instance, “Il fera un pelerinage a Nostre Dame de Brie et fera celebrer xiii messes”(JJ. 172, no. 254); “Il paiera lx

and pardon by the state power tried to not only keep aloof from the conflicts of private interests but also enforce a peaceful conciliation between them. This shows that both public and private peace was being secured under the control and intervention of the royal authority.

#### IV. Pieces of Information in Lettres de rémission: Why pardoning?

Now let us dig up a wide variety of information from the contents and proceedings of the lettres de rémission. At first the part for supplication informs not only identities of suppliants and their 'amis charnels' but also their motives. To evoke the 'amour naturel' of their family and 'amis charnels' whose higher status would be more helpful to pardon was likely to contribute to mitigating circumstances.<sup>31)</sup>

It is remarkable that a considerable number of suppliants were in fact the fugitives who left their home for fear of the 'rigueurs'(rigors) and uncertainties of justice, and the vengeance of the injured party. Expenses and damages following the trial, and fear of belated prosecution particularly in the cases of political crime, were also likely to incite their flight. According to a survey of the Poitevin lettres de rémission from 1376 to 1403 by Y.-B. Brissaud, out of 247 criminal cases pardoned by the king there were 85, almost one-third, fugitive cases. And C. Gauvard who conducted a survey of lettres de rémission during the reign of Charles VI, suggests that more than 45% of the beneficiaries of pardon were fugitives.<sup>32)</sup> The fugitive criminals, who suffered much hardship, were considered as paying the penalty of banishment judged by default. So living in exile itself constituted a mitigating circumstance, furthermore during the period the fugitives could prepare for their pardon, for example, by trying to

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s. p. a l'ostel dieu lez Nostre Dame de Paris"(JJ. 173, no. 155); "(Il) fera dire et celebrer cent messes pour le salut de... et donnera c s. a la dame des Barres et c s. a l'église des Blans Menteaux a Paris"(JJ. 173, no. 179) in P. Le Cacheux, *Actes de la chancellerie d'Henri VI concernant la Normandie sous la domination anglaise(1422-1435)*, t. 1(Paris-Rouen, 1907), nos. 7, 94, 97.

<sup>31)</sup> C. Gauvard, «*De grâce especial*», p. 649. As for the meaning of 'amis charnels', see J. M. Turlan, "Amis et amis charnels d'après les actes du Parlement au XIVe siècle", *Revue historique de droit français et étranger*, t. 47(1969), pp. 645-698.

<sup>32)</sup> Y.-B. Brissaud, *Le droit de grâce à la fin du Moyen Age*, p. 208; C. Gauvard, «*De grâce especial*», pp. 163-164.

compromise with their victims. C. Gauvard says that the king regarded flight as an element which might be part of the preparatory process for peace.<sup>33)</sup>

One of the most various and interesting point is the reasons taken into consideration for pardon. Above all, the identity and career of suppliants could have affected, and so heavier the crime, it was desirable to give more detailed information of them. High standing, for instance, “bon et honorable lignage”, “sa noble lignée” or “extrait du plus noble et grant lignage” was in itself a merit to set forth by priority, with the background of influential ‘amis charnels’. On the contrary, lack of the ties of kinship and friendship as in the case of vagrants and brigands often aggravated the circumstances. If they had served the king, the career would be a valuable asset offsetting faults, as was pronounced in some lettres de rémission: “qui expose volontiere et souvent son corps ou service du seigneur en doit avoir remuneration.” The “bons et agréables services” expected from him afterwards, too, could be taken into consideration. Pardoning the crimes linked to battles of men-at-arms in particular was not far from the pardon of their faults by a commander under the promise of more devoted services in the field. And Professional skill of specialists such as minter(*monnayeur*) and executioner(*bourreau*) was a merit favorable to draw a mercy from the authorities.<sup>34)</sup>

The penitence and troubles in the meantime also deserved the “pitié et compacion.” Though the imprisonment was not in itself recognized as a punishment, sufferings in prison usually expressed as “en grant povreté et misère au pain et à l’eau” and occasionally prolonged for several months, and the experience of torture like being “batus tout nu de verges bien durement et asprement en sa prison” were very frequently mentioned as mitigating circumstances,<sup>35)</sup> along with the aforesaid hardship in exile. Performing fast and abstinence, going on a pilgrimage or the crusade, and denouncing themselves, in short, all marks of repentance worked to their advantage.

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<sup>33)</sup> In addition, she suggests: “this flight known to all was part of ritual of peace.” C. Gauvard, “Les sources judiciaires de la fin du Moyen Age peuvent-elles permettre une approche statistique du crime”, *Commerce, Finances et Société(XIe-XVIe siècle)*, P. Contamine et al.(Paris, 1993), pp. 469-488. However, it should be kept in mind that “the bannishment was not a light penalty” to such an extent as to being compared to “une mort vivante.” To meet his death in a place away from home also came back to haunt the banished and refugees. Id., *«De grâce especial»*, pp. 468. 512.

<sup>34)</sup> Y.-B. Brissaud, *Le droit de grâce à la fin du Moyen Age*, pp. 380-385.

<sup>35)</sup> A. Longnon, *Paris pendant la domination anglaise(1420-1436): Documents extraits des registres de la Chancellerie de France*(Paris, 1878), no. 64(JJ. 172, no. 429); L. Douët-d’Arcq, *Choix de pièces*, t. 2, no. 122(JJ. 120, no. 152).

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Settlement and conciliation with the injured party was a more important element. As mentioned before, the pardon did not infringe the right of civil litigants, and furthermore its validity could be stopped if the beneficiaries neglected their duty of indemnity for victims. Therefore, if the injured party had forgiven them or left a will to do so, a notarial document of the fact would have facilitated their pardon.<sup>36)</sup>

A mitigating circumstance mentioned in almost all the lettres de rémission is a good conduct and reputation of the suppliants. Therefore the phrases repeated the most frequently in the lettres de rémission are as follows: (“il a touajours esté et est”) “de bonne vie, fame, renommée et honneste conversacion sans avoir jamais esté repris d’aucun autre méfait, crime ou maléfice”, or “toute sa vie preudoms et loyalz homes,” “tenus et repputez come bons et loyaulx subgetz” “sans aucun vilain, blame ou reproche” and so on. Maleficence and bad reputation of the victims, who were “home de mlavaisee vie et de conversation deshonneste”, “mechant homme” or traitors, rebels, heretics and the like could be advantageous circumstances to the suppliants as well. In addition, a certain defect on the victim’s part, for instance his disease, debility, carelessness, and fault could mitigate the suppliant’s responsibility.<sup>37)</sup>

In the case of homicide that took a considerable share of crimes, whether it was deliberate or not was always a primary consideration.<sup>38)</sup> It was commonplace in the lettres de rémission that the criminals who had committed a homicide unintentionally in fighting each other or in making a counterattack, at once fled away for fear of the “rigueur de justice” and supplicated the pardon long after. At any rate, it goes without saying that in this case the suppliants and the pardoning authorities alike were apt to emphasize the unintentionality of the suppliants and minimize their aggressive acts.

Not to speak of accidental homicide in the course of medical treatment, working, and playing, the crime under constraint also deserved a pardon. For example, some

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<sup>36)</sup> Y.-B. Brissaud, *Le droit de grâce à la fin du Moyen Age*, pp. 400-406; P. Texier, “La rémission au XIVe siècle”, p. 198. For example, A. Longnon, *Paris pendant la domination anglaise*, no. 157(JJ. 175, no. 31).

<sup>37)</sup> J. Viard, *Documents parisiens*, t. 2, nos. 291(JJ. 74, no. 47), 380(JJ. 76, no. 280), 395(JJ. 76, no. 194, 415(JJ. 77, no. 257); L. Douët-d'Arcq, *Choix de pièces*, t. 2, no. 89(JJ. 132, no. 260).

<sup>38)</sup> *The customs of Beauvaisis* also advised to put ‘pitié et miséricorde’ before ‘rigueur de droit’ for the “cas de mesaventure.”: “Pluseur cas avienent souvent es queus il est grans mestiers que li seigneur soient piteus et misericort et qu’il n’euvrent pas tous jours selonc rigueur de droit.” Philippe de Beaumanoir, *Coutumes de Beauvais*, t. 2, no. 1939.

collaborators of the English were pardoned, because “pour eschiver la mort, il leur promiet qu’il les serviroit bien et layaument à son pover, jusques à tant qu’il eust gaingné sa rançon.”<sup>39)</sup> The same was true of the homicide provoked by fury of the suppliants at the moment of crime. Such expressions as “de chaude cole,” “en chaude mélé” and “par tentacion de l’ennemi” suggested that the crimes had been committed on the impulse of the moment without any plot (“sans guet appense”)<sup>40)</sup> and that they were to be extenuated.

Therefore, a ‘faida’ driven by justifiable fury, especially the homicide committed for saving one’s honor impaired by insults was able to be justified even more easily. Although in 1367 a seigneur named Robert de Beaujeu brought 50 armed members together and pillaged the residence of his vassal who had insulted him, he could receive a pardon. Vengeance on adultery was justified for the same reason. So many husbands were granted pardons for the vengeance on wanton wives and their lovers among whom a number of clerics stood out.<sup>41)</sup> Meanwhile, even in these cases, if the revengers left corpses of their victims intact or allowed them to receive extreme unction, the circumstance would work to their advantage.<sup>42)</sup>

Unsound mental condition such as insanity and drunkenness could be a mitigating circumstance, and the latter “could excuse even the lèse-majesté.”<sup>43)</sup> In this context, young age of suppliants, in other words, “faiblesse de la jeunesse” was often mentioned as a mitigating circumstance for their crime. According to C. Gauvard, 81% of those who were between 10 and 30 years old and 71% of those who were qualified as “jeunes enfants” and “jeunes” saw their age evoked as the first mitigating circumstance by the Chancery. As poverty and disease went with the image of the old in many lettres de rémission, so violence and madness that of the youth.<sup>44)</sup> Moreover, whereas the “chaud cole” acted as an

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<sup>39)</sup> Y.-B. Brissaud, *Le droit de grâce à la fin du Moyen Age*, p. 433.

<sup>40)</sup> L. Douët-d’Arcq, *Choix de pièces*, t. 2, no. 4(JJ. 155, no. 273), no. 89(JJ. 132, no. 260); A. Longnon, *Paris pendant la domination anglaise*, no. 1(JJ. 171, no. 214), no. 157(JJ. 175, no. 31).

<sup>41)</sup> Y.-B. Brissaud, *Le droit de grâce à la fin du Moyen Age*, pp. 427-431. As for examples of adultery in which clerics were involved, see L. Douët-d’Arcq, *Choix de pièces*, t. 2, no. 10(JJ. 163, no. 97), 109(JJ. 162, no. 389) etc.

<sup>42)</sup> C. Gauvard, «*De grâce especial*», pp. 761-762.

<sup>43)</sup> *Ibid.*, p. 449.

<sup>44)</sup> *Ibid.*, pp. 380-381. For example, pardon for murder of a “povre jeune homme de l’aage de xx ans ou environ” “eu regard a sa jeunesse et ignorance.” P. Le Cacheux, *Actes de la chancellerie d’Henri VI*, t. 1, no. 95(JJ. 178, no. 164).

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excuse mainly for male criminals, the weakness that relieved many female criminals of legal responsibilities was their “simplesce”<sup>45)</sup> : the mental weakness that was accepted as a mark of female inferiority served as a beneficial excuse for their faults.

Another noteworthy motive of the royal pardon was a concern for the reproduction of family and fecundity. Children and women, especially those in pregnancy and in childbed could have the benefit of preferential consideration.<sup>46)</sup> So were men with wife and children to support (“povre homme chargé de feme et d’enfens”). According to C. Gauvard, in the case of 95% of married suppliants, their responsibility of family support was evoked as the first mitigating circumstance by the Chancery.<sup>47)</sup> The reason why adolescence or youth of the suppliants was mentioned as a mitigating circumstance was probably related to not only the service expected from them but also the fertility especially in times of serious decline in population and labor shortage.

In a society whose wealth was relied on its population, the execution of a death sentence was far from a soft option. Hence, perhaps, a popular practice by which a condemned criminal should be saved from the gallows at the request of a young girl who proposed to him. A bourgeois de Paris states that a very handsome young man in his early twenties to be hanged on the gallows for plundering escaped from the execution when a young woman from Les Halles boldly proposed marriage.<sup>48)</sup> This custom persisted rather by popular pressure, along with the custom granting a pardon to a lucky condemned criminal who narrowly escaped execution by the miracle that the rope for hanging gave way.

Already before the fourteenth century, Beaumanoir commented that all the judgements ought to be executed without delay, but they could be rightly deferred in order to know whether the sovereign would have pity and mercy.<sup>49)</sup> This meant that it was

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45) For exmaple, pardon granted to a “povre lingère” who involved herself in sorcery “comme simple femme que elle estoit et est...” L. Douët-d’Arcq, *Choix de pièces*, t. 2, no. 120(JJ. 120, no. 202).

46) Philippe de Beaumanoir, *Coutumes de Beauvais*, t. 1, no. 246.

47) C. Gauvard, «*De grâce especial*», p. 385.

48) *Journal d’un bourgeois de Paris*, 1405-1449, C. Beaune éd.(Paris, 1990), p. 272; P. Le Cacheux, *Actes de la chancellerie d’Henri VI*, t. 1, no. 33(JJ. 172, no. 460). And also see, P. Lemerrier, “Une curiosité judiciaire au Moyen Age: la grâce par mariage subséquent”, *Revue historique de droit français et étranger*, t. 33(1955), pp. 464-474.

49) Philippe de Beaumanoir, *Coutumes de Beauvais*, t. 1, no. 246; “ainçois doivent tuit li jugement

only by the sovereign's mercy that those who committed a serious crime like homicide, if intentional or not, could be exempted from execution they deserved. The legal adage that "the power of life or death depends upon the sovereign authority of the king" came true by around 1500. And by then, the royal will, irrespective of various motives for pardon, expressed well by the formula "Car tel est nostre plaisir" was sufficient to save a criminal from death.<sup>50)</sup>

## V. Conclusion: Mode d'emploi of Lettres de rémission

Lettres de rémission were neglected by historians for a long time, mainly on account of their weaknesses such as commonplace formality, repetitiveness, and fragmentary record. The most decisive reason why their value as a historical source was underestimated has something to do with doubts on their credibility. In view of primary purpose of the document, the facts and circumstances unfavorable to suppliant were likely to be kept silent, while those favorable to be overstated and even fabricated. It is well known that the poet François Villon who was arrested for having killed a priest managed to take out two lettres de rémission for the same case in a month but under different names: one under the name of François des Loges, dit de Villon and the other under that of François de Montcorbier. Furthermore, this "maistre es ars" was also described as a man of "bien et honorablement gouverné sans jamais avoir esté atteint, reprints, ne convaincu d'aucun autre villain cas, blasme ou reprouche, comme à homme de bonne vie."<sup>51)</sup>

However, lettre de rémission ought to have a certain degree of vraisemblance that could convince notaries of the Chancery, maîtres de requêtes and members of the Conseil. In fact, the Cabochien ordinance in 1413 pointed out "...pluseurs grâces, dons

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estre mis a execucion sans delai. Nepourquant aucun cas en pueent estre excepté, si comme li cas qui aviennent par mescheance ou par mesaventure. L'en ne mesfet pas en detrier le jugement pour savoir se li souverains en vourroit avoir pitié ou merci...

<sup>50)</sup> L. de Mas Latrie, "De la formule «car tel est notre plaisir» dans la chancellerie française", *Bibliothèque de l'Ecole des Chartes*, t. 42(1881), pp. 560-564.

<sup>51)</sup> P. Champion, *Villon, sa vie et son temps*(Paris, 1984), pp. 260-264; P. Braune, "La valeur documentaire des lettres de rémission du Trésor des chartes", *La Faute, la répression et le pardon*, pp. 207-221.

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et rémissions ont été faicts, eues et obtenues de nous moult légèrement”, and gave instruction to the maîtres de requêtes and others as follows: “que ilz expriment bien au long à nous et à nostre conseil le cas duquel ilz nous feront la requeste...”<sup>52)</sup> Above all, the lettre granted to suppliant had to go through proceedings of verification before competent judges and possibly civil litigants, as mentioned above.

But, behind those somewhat superficial weaknesses, lettres de rémission proved to hide a rich repository of information. First of all, they are the serial source which recorded repetitive events in a fixed form over a long period, and thus allowed various quantitative approach. So to speak, they are a medieval version of big data. Secondly, they are records of all sorts of people who happened to be brought to justice, and thus unlike any other kind of official letters, hold the everyday life and mentality of common men as if caught in snapshots. Thirdly, these special records of crime and pardon reveal intriguing interactions between the authorities and the people in details and graphically more than other judicial records.

Consequently, the records could have much attraction for not only judicial history but also sociology, anthropology, and folklorism. Interestingly, a brief communication by Lémonce Celier in 1958 summarized the rural mores viewed through lettres de rémission from western provinces of France in the second half of the fifteenth century in several topics as follows; habitation, clothes and food, arms, motives of quarrels, farm work, crafts, games and pastime, pilgrimage and pious works, superstitions and sorcery, feudal rights and justice, and traits of manners.<sup>53)</sup>

Actually plenty of research works have been carried out from different points of view but on a basis of common positive evaluation on the records.<sup>54)</sup> In particular,

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<sup>52)</sup> *L'Ordonnance cabochienne*, pp. 141-142, art. 215.

<sup>53)</sup> L. Célier, “Les moeurs rurales au XVe siècle d'après les lettres de rémission”, *Bulletin philologique et historique(jusqu'à 1715)*, 1958, pp. 411-419.

<sup>54)</sup> To take some examples, R. Vaultier, *Le folklore pendant la guerre de Cent Ans d'après les Lettres de Rémission du Trésor des Chartes*(Paris, 1965); M. Pineau, “Les lettres de rémission lillois(fin du XVe-début du XVIe siècle): une source pour l'étude de la criminalité et des mentalités?”, *Revue du Nord*, t. 55(1973), pp. 231-239; P. Braune, “La sorcellerie dans les lettres de rémission du Trésor des chartes”, *Etudes sur la sensibilité au Moyen Age*, 102e Congrès national des Sociétés savantes, 1977(Paris, 1979). pp. 257-278; M. Bourin et B. Chevalier, “Le comportement criminel dans les pays de la Loire moyenne, d'après les lettres de rémission(vers 1380-vers 1450)”, *Annales de Bretagne*, t. 88(1981), pp. 245-263; P. Charbonnier,

Claude Gauvard has not only synthesized previous researches but also opened up a new path by applying elaborate methods and novel analytic frame to lettres de rémission.<sup>55)</sup>

First of all, she prepares a very detailed list of all the information items extracted from lettres de rémission and thoroughly probes into each of them like a competent detective. She seems to attempt to construct, as it were, a social history of crimes through the statistical works on various items as follows: criminal site, time and tool, relation with victims, behavior after crime and most importantly types of crimes, motives of crime and pardon according to estates, professions, sex, age, wealth, living space and so on. Furthermore, based on this source that uniquely allows to use quantification methods and reveals all sorts of stories closer to everyday life than any other one, she tries to look into medieval social aspects and mentalities. So wide range of topics become the subjects of her researches as follows: kinship and various sociabilities, social stratum, social antagonism or solidarity between nobles and non-nobles or masters and journeymen in particular, self-awareness of age, generational conflicts, attitude towards the marginal, senses of time, geographic mobility, violence, code of honor and so on.

However, more profound interest of her researches does not consist in the reality of crimes and violence but its expression and discourse partly reflected in the norms that the society and the nascent state would impose. What she tried to pick up in the judicial archives is a dialogue among three voices: those of criminals, state power and social opinion. And she also intends “to understand how the crime and violence could construct the society and the state while simultaneously threatening their existence.”<sup>56)</sup> So her analysis of the texts of crime mainly intends to reveal the values that the crime

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“L’entrée dans la vie au XVe siècle, d’après les lettres de rémission”, *Les entrées dans la vie: Initiations et apprentissages*, 12e Congrès de la Société des historiens médiévistes de l’Enseignement Supérieur, 1981(Nancy, 1982), pp. 71-103; C. Gauvard, “Les jeunes à la fin du Moyen Age : une classe d’âge?”, *Les entrées dans la vie*, pp. 225-244; J. Hoareau-Dodinau, *Les atteintes verbales à l’autorité, en particulier dans les lettres de rémission (XIVe-XVe siècles)*, thèse de doctorat(Univ. de Limoges, 1994).

55) C. Gauvard, «*De grâce especial*», *Crime, Etat et société en France à la fin du Moyen Age*: The thèse is originally titled “Une question d’Etat et de Société: violence et criminalité en France à la fin du Moyen Age”(Univ. de Paris-I, 1989).

56) *Ibid*, p. 11.

upset, the obsessions of the state and the society reflected partly in the hierarchy of crimes, and the norms and propagandas that the state was anxious to infuse into society by punishment and pardon for crimes, for instance the image of ideal subject represented by the formula of “bon sujet loyal...” in numerous lettres de rémission.<sup>57)</sup>

Eventually her researches initiated by questioning why the repression and the pardon by the power coexisted arrive at a significant reflection on attributes and image of royal power. Dyad ‘justicia-misericordia’ was originated from the double face of royal power, that is, rigorous and clement. As an essential and complementary component of royal power it represented the severity of Moses and the mercy of Christ, terror of punishment and gentleness of pardon, and power of death which sets up scaffolds for vengeance and power of life which opens prison doors for peace. Gauvard sees in this ambivalence of the power a close intricacy of the religious and the political.<sup>58)</sup> And it also explains why the number of lettres de rémission sharply increased in this period. The royal pardon contributed to reinstating peace and extending the royal jurisdiction into all parts of the kingdom.

The example of lettres de rémission clearly shows that there is a very close correlation between attributes of the power and advance in tradition of records. The violence and disorder of the period aggravated by prolonged war, struggle of rival princes, Great Schism and many revolts ultimately led to the consolidation of the state power as a guardian of peace and order. Lettres de rémission point to a mechanism by which not only punishing but also pardoning could reinforce the state power. Finally, various researches on lettres de rémission demonstrate that new questions and perspectives of historians are able to attach new values to records.

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57) For example, the phrase of “bon Francoys, nostre loyal subget et vray obeissant...” C. Gauvard, “Résistants et collaborateurs pendant la guerre de Cent ans: le témoignage des lettres de rémission”, *La «France anglaise» au Moyen Age*, Actes du 111e Congrès National des Sociétés Savantes, 1986(Paris, 1988), t. 1, pp. 123-138.

58) C. Gauvard, «*De grâce especial*», pp. 895-934. Also see the following articles by the same author: “De la théorie à la pratique: justice et miséricorde en France pendant le règne de Charles VI”, *Revue des Langues Romanes*, t. 92(1988), pp. 317-325; “L’image du roi justicier en France à la fin du Moyen Age, d’après les lettres de rémission”, *La faute, la répression et le pardon*, pp. 165-192; “Le roi de France et l’opinion publique à l’époque de Charles VI”, *Culture et idéologie dans la genèse de l’Etat moderne*, Actes de la table ronde, le C.N.R.S. et l’Ecole française de Rome, 1984(Rome, 1985). pp. 353-366.