

This judgment of imputation, as well as that of conscience, is made by applying the law to the action, and comparing one with the other, in order to decide afterwards the merit of the fact, and to make the author consequently feel the good or evil, the punishment or recompence which the law has thereto annexed. All this necessarily supposes an exact knowledge of the law and of its right sense, as well as of the fact and such circumstances thereof, as may any way relate to the determination of the law. A want of this knowledge must render the application false, and the judgment vicious.

III. Let us produce a few examples. One of the *Examples*, *Horatii*, who remained conqueror in the combat between the brothers of this name and the three *Curiatii*, inflamed with anger against his sister for bewailing the death of one of the *Curiatii* her lover, and for bitterly reproaching him therewith, instead of congratulating him for his victory, slew her with his own hand. He was accused before the *Duumvirs*; and the question was, to know whether the law against murderers ought to be applied to the present case, in order to make him undergo the punishment? This was the opinion of the judges, who in fact condemned the young Roman. But appeal being made to the people, they judged quite otherwise. Their notion was, that the law ought not to be applied to the fact; because a Roman lady, who seemed to be more concerned about her own particular interest, than sensible of the good of her country, might in some measure be considered and treated as an enemy; wherefore they pronounced the young man