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XII.18 How dangerous it is in republics to punish excessively the crime of lese-majesty

- The Spirit of Law - Book XII. On laws that constitute political liberty in its relation to the citizen -
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When a republic has succeeded in destroying those who tried to overturn it, one must quickly put an end to acts of vengeance, punishments, and even to rewards.

It is not possible to create great punishments, and consequently great changes, without placing great power in the hands of some citizens. It is therefore better in this situation to pardon much than to punish much, to exile few rather than to exile many ; to leave property alone rather than multiply confiscations. Under pretext of the republic's vengeance, one would establish the tyranny of the avengers. The purpose is to destroy not the dominator, but the domination. The objective is to revert as quickly as possible to the ordinary course of government where the laws protect everyone and target no one.

We find in Appian the edict and the formula of proscriptions. [1] You would say that the only object is the good of the republic, so dispassionate is the language, so many advantages are shown, so preferable to others are the means adopted, so secure will the wealthy be and so tranquil the populace, so great is the fear of putting the life of citizens in danger, so great is the desire to appease the soldiers : a horrible example, which illustrates how close great punishments are to tyranny.

The Greeks placed no limits on the reprisals they exercised against tyrants or those they suspect of being tyrants : they put the children to death, [2] and sometimes five of the closest relatives. [3] They drove out huge numbers of families. Their republics were shaken by it ; exile or the return of the exiled were always events that marked change in the constitution.

The Romans were wiser. When Cassius was condemned for aspiring to tyranny, they debated whether they would put his children to death : they were sentenced to no punishment. "Those who wanted to change this law," says Dionysius of Halicarnassus, "at the end of the war with the Marsi and the civil war, and exclude from office the children of those proscribed by Sulla, are surely criminals." [4]

[1] *Civil Wars*, book IV.

[2] Dionysius of Halicarnassus, *Roman Antiquities*, book VIII.

[3] *Tyranno occiso quinque ejus proximos cognatione magistratus necato* ['After a tyrant's death, the magistrate shall have his five closest relatives put to death'] (Cicero, *De inventione*, book II).

[4] Book VIII, p. 547. [The edition of 1758 adds [Annex 4](#) here.]