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XII.6 On the crime against nature

- The Spirit of Law - Book XII. On laws that constitute political liberty in its relation to the citizen -

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XII.6 On the crime against nature

God forbid I should wish to diminish the horror we feel for a crime which religion, morality, and politics all in turn condemn. It should be banned even if it did no more than give to one sex the weaknesses of the other, and prepare an ignominious old age by a shameful youth. What I will say about it will leave it with all its stigmas, and bear only on the tyranny which can abuse the very horror we should feel for it.

As it is the nature of this crime to be hidden, it has often happened that legislators have punished it on the deposition of a child. That was to open a very wide door onto calumny. "Justinian," says Procopius, "published a law against this crime ; he had those guilty of it searched out, not only since the law, but before. The deposition of one witness, sometimes a child, sometimes a slave, was sufficient, especially against the rich and against those who belonged to the Green faction." [1]

It is odd that in our society three crimes : magic, heresy, and the crime against nature – of which it can be proven that the first does not exist ; that the second lends itself to endless distinctions, interpretations, and limitations ; and that the third is very obscure – have all been punished by fire.

I venture to assert that the crime against nature will never make much progress in a society if the people are not already disposed to it by some custom, as were the Greeks, where young men performed all their exercises naked ; as here, where domestic education is no longer current ; as among the Asiatics, where some individuals have a large number of wives whom they disdain while others can have none. Let us not prepare this crime ; let us ban it by strict policy like all violations of morals, and we shall suddenly see nature either defend her rights or reclaim them. Gentle, amiable, and charming, she has bestowed pleasures with a generous hand, and by showering us with delights, she prepares us for even greater future satisfactions than her delights.

[1] *Anecdota sive historia arcana* ['Anecdotes or secret history'. The Greens and Blues were factions of Constantinople which Montesquieu discusses in chapter xx of his *Considerations on the Causes of the Greatness of the Romans and of their Decline.*]