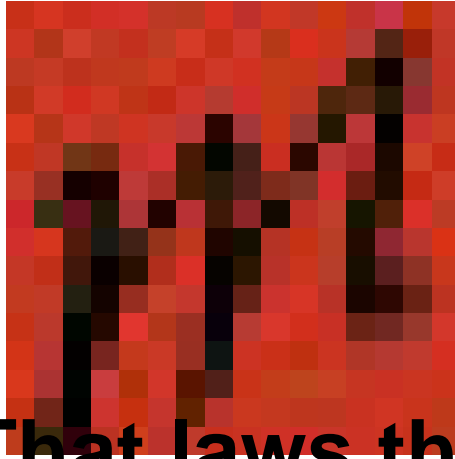


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# XXIX.12 That laws that appear the same are sometimes different in reality

- The Spirit of Law - Book XXIX. On the manner of composing laws -

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## XXIX.12 That laws that appear the same are sometimes different in reality

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Greek and Roman laws punished the receiver of stolen goods the same as the thief [1] ; French law does likewise. The former were reasonable, the latter is not. For the Greeks and for the Romans, the thief being sentenced to a pecuniary penalty, the receiver had to be punished in the same way : for every man who contributes in whatever way to damage must make reparation. But for us, the punishment for theft being capital, we could not without taking things too far punish the receiver the same as the thief. There are a thousand ways in which the man who receives the stolen item can do so innocently ; the man who steals is always guilty ; the one prevents conviction for a crime already committed, the other commits that crime ; everything is passive in one, and there is an action in the other ; the thief must surmount more obstacles, and his heart harden itself for longer against the laws.

The jurisconsults went farther : they regarded the receiver as more repugnant than the thief ; for without them, they say, the theft could not long be hidden. [2] That, once more, might have been valid when the penalty was pecuniary : it was about damage, and the receiver was ordinarily in a better position to repair it ; but the penalty having become capital, one would have to go by different principles.

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[1] Law 1 following *De receptatoribus*.

[2] Law 1 following *De receptatoribus*.