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**XXVI.8 That one must not
determine by the principles of
what is called Canon Law
things determined by the
principles of civil law**

Publication date: vendredi 7 septembre 2018

- The Spirit of Law - Book XXVI. On laws in the relation they must have with the order of things on which they bear -

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By Roman civil law, a man who remove a private item from a sacred place is punished only for the crime of theft [1] ; by canon law, he is punished for the crime of sacrilege. [2] Canon law takes cognizance of the place, civil law of the thing. But to take cognizance only of the place is to reflect neither on the nature and definition of the theft, nor on the nature and definition of sacrilege.

As the husband can ask for separation on the grounds of his wife's infidelity, the wife used to ask for it on the grounds of the husband's infidelity. [3] This practice contrary to the provision of Roman laws [4] had made its way into church courts, [5] which considered only at the maxims of canon law ; and indeed, to see marriage only through purely spiritual notions and in relation to things of the afterlife, the violation is the same. But the political and civil laws of almost all peoples have rightly distinguished between these two things. They have required of women a degree of reserve and continence which they do not require of men, because the violation of chastity supposes in women a renunciation of all virtues ; because the woman, by violating the laws of marriage, abandons the state of her natural dependency ; because nature has marked the infidelity of women by clear signs, and the woman's children born of adultery necessarily belong to the husband and are the husband's responsibility, whereas the husband's adulterous children do not belong to the wife, nor are they her responsibility.

[1] Law 5 ff., ad *Legem Juliam peculatus et de sacrilegis et de residuis*.

[2] Ch. *Quisquis inventus*, XVII, question 4 ; *Cujas, Observationum*, book XIII, ch. xix, vol. III.

[3] Beaumanoir, *Coûtumes de Beauvaisis*, ch. xviii.

[4] Law I, Codex, ad *legem Juliam De adulteriis et de stupro*.

[5] Today in France, they do not deal with this sort of thing.