

<http://montesquieu.ens-lyon.fr/spip.php?article2976>



XXIII.7 On fathers' consent to marriage

- The Spirit of Law - Book XXIII. On laws in their relation to the number of inhabitants -

Date de mise en ligne : vendredi 7 septembre 2018

Copyright © Montesquieu - Tous droits réservés

XXIII.7 On fathers' consent to marriage

The consent of fathers is based on their authority, in other words on their right of property ; it is further based on their love, their reason, and on the uncertainty of their children's reason, whom age keeps in a state of ignorance, and passions in a state of euphoria.

In small republics, or singular institutions which we have mentioned, there can be laws that give magistrates oversight of the marriages of children of citizens, which nature had already given to fathers. Love of the public welfare can be such that it equals or surpasses every other love. Thus did Plato want magistrates to regulate marriages ; thus did the Lacedæmonian magistrates direct them.

But in ordinary institutions, it is for the fathers to arrange their children's marriages : their prudence in this regard will always be superior to any other prudence. Nature gives to fathers a desire to provide successors to their children which they scarcely feel for themselves. In the various degrees of progeny, they see themselves moving gradually toward the future. But where would we be if vexation and avarice progressed to the point of usurping the authority of fathers ? Let us listen to Thomas Gage [\[1\]](#) on the conduct of the Spaniards in the Indies :

"To increase the number of people who pay the tribute, all Indians who are fifteen must marry, and the time of the Indians' marriage has even been set at fourteen for males and thirteen for girls. They base this on a canon that says that malice can supplement age." [\[2\]](#) He saw one of these counts being taken ; it was, he says, something shameful. Thus, in the one act on earth that ought to be the freest, the Indians are still slaves.

[\[1\]](#) Relation of Thomas Gage [*A New Survey of the West Indies*], p. 171.

[\[2\]](#) [*La malice peut suppléer à l'âge* : "It is said in jurisprudence that malice can supplement age when a minor is more clever for doing mischief than his age allows" (Furetière).]