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# XXVI.24 That police statutes are of a different order from other civil laws

- 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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## XXVI.24 That police statutes are of a different order from other civil laws

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There are criminals whom the magistrate punishes ; there are others whom he chastises : the first are subject to the force of the law, the others to his authority ; the former are cut off from society, the latter obliged to live in accordance with society's rules.

In the maintenance of order, it is rather the magistrate who punishes than the law ; in judgments of crimes, it is rather the law which punishes than the magistrate. Matters of order are things of each moment, where little usually is at issue ; little or nothing in the way of formalities is called for. Police actions are prompt, and they deal with things that recur every day ; great punishments are therefore not appropriate to them. They are perpetually occupied with details ; great examples are therefore not their province. The service of order has statutes more than laws ; the men who are its agents are constantly under the eye of the magistrate : it is therefore the magistrate's fault if they lapse into excesses. Thus we must not confuse great violations of the laws with simple violations of order : these things are of different kind.

Whence it follows that the nature of things has not been respected in that republic of Italy [\[1\]](#) where carrying firearms is punished as a capital crime, and where it is not more fatal to make bad use of them than to carry them.

It further follows that the much-lauded act of the emperor who had a baker impaled whom he had caught defrauding is the act of a sultan who knows not how to be just without offending justice itself.

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[\[1\]](#) Venice.