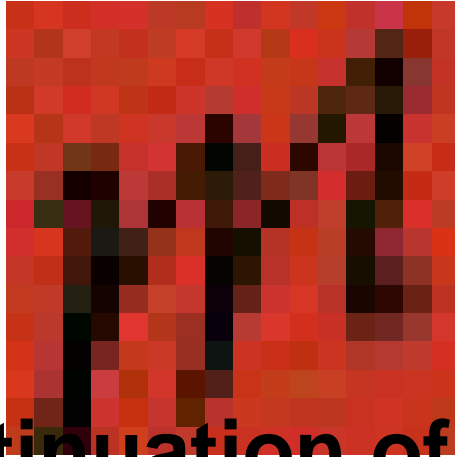


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V.15 Continuation of the same subject

- The Spirit of Law - Book V. That the laws made by the legislator must be relative to the principle of the government -

Date de mise en ligne : mercredi 22 août 2018

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V.15 Continuation of the same subject

In warm climates, where despotism ordinarily reigns, passions are more promptly felt, and more promptly assuaged [1]; the mind is more advanced; the perils of the dissipation of assets are less great; one can less readily distinguish oneself, there is less intercourse among the young people kept inside the house; one marries earlier, and can therefore enter majority earlier than in our European climates. In Turkey, majority begins at fifteen. [2]

Cession of assets cannot obtain there; in a government where no one's fortune is assured, one lends rather to the person than to assets.

It enters naturally into moderated governments, [3] and especially into republics, because of the greater confidence one must have in the probity of the citizens, and the well-being which a form of government which everyone seems to have chosen for himself must inspire.

If in the Roman republic legislators had established the cession of goods, [4] they would not have fallen into so many seditions and civil discords, and would not have suffered the dangers of the damage nor the perils of the reparations.

Poverty and the uncertainty of fortunes in despotic states naturalize usury, each state raising the cost of its money in proportion to the risk of lending it. Misery therefore comes from all sides in those unhappy countries; one is deprived of everything, even the resource of borrowing.

Because of this, there is no way for a merchant to conduct much business; he lives from one day to the next. If he took on too much merchandise, he would lose more from the interest he paid to purchase it than he would earn on the merchandise. Thus, laws on commerce have no place; they come down to simple political order.

There is no way for a government to be unjust without having hands to carry out its injustices; but it is impossible for those hands not to work for themselves. Embezzlement is therefore natural in despotic states.

This crime being the usual one, confiscations are useful. That is how the people are consoled; the money derived from it is a considerable tribute which the prince would have difficulty levying on ruined subjects: in that country there is not even any family one wants to preserve.

In moderated states it is a completely different matter. Confiscations would make possession of property uncertain; they would despoil innocent children, they would destroy a family when the only purpose was to punish an offender. They would harm republics by taking away the equality which is their soul, by depriving a citizen of his physical necessities. [5]

One Roman law [6] would specify confiscation only in the case of lese-majesty against the king himself. It would often be very wise to follow the spirit of that law, and limit confiscations to certain crimes. In countries where a local custom has disposed of inherited properties, Bodin [7] quite rightly says that only acquired property should be confiscated.

[1] See the book [XIV] on the laws in their relation to the nature of the climate.

[2] Laguilletière, *Lacedæmon Ancient and Modern*, p. 463.

V.15 Continuation of the same subject

[3] The same is true of temporization of good-faith bankruptcies.

[4] It was not established until the Julian law *De cessione bonorum* ['on the cession of goods']; prison was avoided, and the ignominious splitting up of property.

[5] It seems to me they were too fond of confiscations in the republic of Athens.

[6] 'Authentica'?, "De bona damnatorum" (*Code De bonis damnatorum*).

[7] Book V, ch. iii.