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XII.5 On certain accusations which particularly call for moderation and prudence

- The Spirit of Law - Book XII. On laws that constitute political liberty in its relation to the citizen -

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XII.5 On certain accusations which particularly call for moderation and prudence

An important maxim : great circumspection is required in the pursuit of magic and heresy. Accusation for these two crimes can hugely threaten freedom, and be the source of limitless tyrannies, if the legislator is unable to contain it. For as it does not bear directly on the acts of a citizen, but rather on the notion someone has formed of his character, it becomes dangerous in proportion to the ignorance of the people ; and then a citizen is always in danger, because the best conduct in the world, the purest morality, and the practice of one's every duty, are no protection against suspicions for those crimes.

Under Manuel Komnenos, the *protestator* [1] was accused of conspiring against the emperor, and for that purpose making use of certain secrets that make men invisible. It is said in the life of that emperor [2] that Aaron was caught reading a book of Solomon's, the reading of which conjured legions of demons. Now by supposing there is in magic a force that conjures hell, and beginning with that, the man who is called a magician is seen as the one person on earth most likely to shake and overturn society, and the impulsion is to punish him without measure.

Indignation grows when magic is credited with the power to destroy religion. The history of Constantinople [3] tells us that, based on a revelation received by a bishop that a miracle had ceased because of one individual's magic, the man and his son were condemned to death. On how many extraordinary circumstances did this crime not depend ? That the existence of revelations should not be rare, that the bishop should have received one, that it was genuine, that there had been a miracle, that said miracle had ceased, that there had been magic, that the magic had been able to overpower religion, that this individual was a magician, and finally that he had perpetrated this act of magic.

Emperor Theodoros Laskaris attributed his illness to magic. People who were accused of it had no other recourse than to handle a hot iron without burning themselves. Among the Greeks it would have helped to be a magician to defend oneself for magic. Such was the excess of their peculiarity that with the most uncertain of crimes they combined the most uncertain kinds of evidence.

Under the reign of Philip the Tall, the Jews were driven out of France, accused of using lepers to poison springs. This absurd accusation should make us doubt all accusations that are based on public animosity.

I have not said here that heresy should not be punished ; I am saying that one must be very circumspect in punishing it.

[1] Nicetas Acominatus, *Life of Manuel Komnenos*, book IV.

[2] *Ibid.*

[3] *History of the emperor Maurice* by Theophylactus, ch. xi.