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XXV.12 On penal laws

- The Spirit of Law - Book XXV. On laws in their relation with the establishment of religion and its external policy -

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Penal laws in religious matters should be avoided. They instill some fear, it is true ; but since the religion also has its own penal laws that inspire fear, the one is eclipsed by the other. Between these two different fears, minds turn vicious. [1]

Religion has such great threats, and it has such great promises, that when they are present to our mind, whatever the magistrate may do to force us to renounce it, it is as if they leave us nothing when they take it away, and they are taking nothing away when they leave it to us.

So it is not by filling the soul with this great object, by bringing closer the moment when it should seem of greater importance, that they can manage to detach it ; it is surer to attack a religion with favor, with the comforts of life, with hope of fortune ; not with what draws attention but with what makes one forget ; not by what upsets, but by what leaves us tepid when other passions act on our souls and those which religion inspires are silenced. The general rule : when it comes to changing religion, inducements are stronger than penalties.

The character of the human mind has appeared even in the order of the penalties that have been applied. Just remember the persecutions of Japan [2] : their cruel tortures elicited more disgust than did the long punishments that weary more than they frighten, that are more difficult to overcome because they appear less difficult.

In a word, history tells us sufficiently that penal laws have never had any but destructive effect.

[1] *[Les âmes deviennent atroces. "On appelle une âme atroce, une âme noire" (Académie, 1762).]*

[2] *Recueil des voyages qui ont servi à l'établissement de la Compagnie des Indes*, vol. V, part I, p. 192.