

carried on under such a government in its full natural fury, and less extent is given to the law of nations than in other states.

Such a prince has so many imperfections, that they are afraid to expose his natural stupidity to public view. He is concealed in his palace, and the people are ignorant of his situation. It is lucky for him that the inhabitants of those countries need only the name of a prince to govern them.

When Charles XII was at Bender,^r he met with some opposition from the senate of Sweden; upon which he wrote word home that he would send one of his boots to command them. This boot would have governed like a despotic prince.

If the prince is a prisoner, he is supposed to be dead, and another mounts the throne. The treaties made by the prisoner are void, his successor will not ratify them; and, indeed, as he is the law, the state, and the prince: when he is no longer a prince, he is nothing: were he not therefore deemed to be deceased, the state would be subverted.

One thing which chiefly determined the Turks to conclude a separate peace with Peter I was the Muscovites telling the Vizier that in Sweden another prince had been placed upon the throne.^s

The preservation of the state is only the preservation of the prince, or rather of the palace where he is confined. Whatever does not directly menace this palace or the capital makes no impression on ignorant, proud, and prejudiced minds; and as for the concatenation of events, they are unable to trace, to foresee, or even to conceive it. Politics, with its several springs and laws, must here be very much limited; the political government is as simple as the civil.^t

The whole is reduced to reconciling the political and civil administration to the domestic government, the officers of state to those of the seraglio.

Such a state is happiest when it can look upon itself as the only one in the world, when it is environed with deserts, and separated from those people whom they call Barbarians. Since it cannot depend on the militia, it is proper it should destroy a part of itself.

^r The king was not then at Bender, but at Demotica.—D.

^s Continuation of Puffendorf's introduction to the "History of Europe," in the article of Sweden, chap. x.

^t According to Sir John Chardin, there is no council of state in Persia.*

* See Chardin, chap. xi.

As fear is the principle of despotic government, its end is tranquillity; but this tranquillity cannot be called a peace: no, it is only the silence of those towns which the enemy is ready to invade.

Since strength does not lie in the state, but in the army that founded it, in order to defend the state the army must be preserved, how formidable soever to the prince. How, then, can we reconcile the security of the government to that of the prince's person?

Observe how industriously the Russian government endeavors to temper its arbitrary power, which it finds more burdensome than the people themselves. They have broken their numerous guards, mitigated criminal punishments, erected tribunals, entered into a knowledge of the laws, and instructed the people. But there are particular causes that will probably once more involve them in the very misery which they now endeavor to avoid.

In those states religion has more influence than anywhere else; it is fear added to fear. In Mahommedan countries, it is partly from their religion that the people derive the surprising veneration they have for their prince.

It is religion that amends in some measures the Turkish constitution. The subjects, who have no attachment of honor to the glory and grandeur of the state, are connected with it by the force and principle of religion.

Of all despotic governments there is none that labors more under its own weight than that wherein the prince declares himself proprietor of all the lands, and heir to all his subjects. Hence the neglect of agriculture arises; and if the prince intermeddles likewise in trade, all manner of industry is ruined.

Under this sort of government, nothing is repaired or improved.^u Houses are built only for the necessity of habitation; there is no digging of ditches or planting of trees; everything is drawn from, but nothing restored to, the earth; the ground lies untilled, and the whole country becomes a desert.

Is it to be imagined that the laws which abolish the property of land and the succession of estates will diminish the avarice and cupidity of the great? By no means. They will rather stimulate this cupidity and avarice. The great men will be

^u See Ricaut, "State of the Ottoman Empire," p. 196.

prompted to use a thousand oppressive methods, imagining they have no other property than the gold and silver which they are able to seize upon by violence, or to conceal.

To prevent, therefore, the utter ruin of the state, the avidity of the prince ought to be moderated by some established custom. Thus, in Turkey, the sovereign is satisfied with the right of three per cent. on the value of inheritances.^v But as he gives the greatest part of the lands to his soldiery, and disposes of them as he pleases; as he seizes on all the inheritances of the officers of the empire at their decease; as he has the property of the possessions of those who die without issue, and the daughters have only the usufruct: it thence follows that the greatest part of the estates of the country are held in a precarious manner.

By the laws of Bantam,^w the king seizes on the whole inheritance, even wife, children, and habitation. In order to elude the cruellest part of this law, they are obliged to marry their children at eight, nine, or ten years of age, and sometimes younger, to the end that they may not be a wretched part of the father's succession.

In countries where there are no fundamental laws, the succession to the empire cannot be fixed. The crown is then elective, and the right of electing is in the prince, who names a successor either of his own or of some other family. In vain would it be to establish here the succession of the eldest son; the prince might always choose another. The successor is declared by the prince himself, or by a civil war. Hence a despotic state is, upon another account, more liable than a monarchical government to dissolution.

As every prince of the royal family is held equally capable of being chosen, hence it follows that the prince who ascends the throne immediately strangles his brothers, as in Turkey; or puts out their eyes, as in Persia;^x or bereaves them of their understanding, as in the Mogul's country; or if these precautions are not used, as in Morocco, the vacancy of the throne is always attended with the horrors of a civil war.

^v See concerning the inheritances of the Turks, Ancient and Modern Sparta. See also Ricaut on the Ottoman empire.

^w "Collection of Voyages that contributed to the establishment of the

East India Company," tom. i. The law of Pegu is less cruel: if there happen to be children, the king succeeds only to two-thirds. Ibid. tom. iii. p. 1.

^x Chardin, chap. i. and iii.

By the constitution of Russia^y the Czar may choose whom he has a mind for his successor, whether of his own or of a strange family. Such a settlement produces a thousand revolutions, and renders the throne as tottering as the succession is arbitrary. The right of succession being one of those things which are of most importance to the people to know, the best is that which most sensibly strikes them. Such as a certain order of birth. A settlement of this kind puts a stop to intrigues, and stifles ambition; the mind of a weak prince is no longer enslaved, nor is he made to speak his will as he is just expiring.

When the succession is established by a fundamental law, only one prince is the successor, and his brothers have neither a real nor apparent right to dispute the crown with him. They can neither pretend to nor take any advantage of the will of a father. There is then no more occasion to confine or kill the king's brother than any other subject.

But in despotic governments, where the prince's brothers are equally his slaves and his rivals, prudence requires that their persons be secured; especially in Mahomedan countries, where religion considers victory or success as a divine decision in their favor; so that they have no such thing as a monarch *de jure*, but only *de facto*.

There is a far greater incentive to ambition in countries where the princes of the blood are sensible that if they do not ascend the throne they must be either imprisoned or put to death, than amongst us, where they are placed in such a station as may satisfy, if not their ambition, at least their moderate desires.

The princes of despotic governments have ever perverted the use of marriage. They generally take a great many wives, especially in that part of the world where absolute power is in some measure naturalized, namely, Asia. Hence they come to have such a multitude of children that they can hardly have any great affection for them, nor the children for one another.

The reigning family resembles the state; it is too weak itself, and its head too powerful; it seems very numerous and extensive, and yet is suddenly extinct. Artaxerxes^a put all his children to death for conspiring against him. It is not at all prob-

^y See the different constitutions, especially that of 1722.

^a See Justin

able that fifty children would conspire against their father, and much less that this conspiracy would be owing to his having refused to resign his concubine to his eldest son. It is more natural to believe that the whole was an intrigue of those oriental seraglios, where fraud, treachery, and deceit reign in silence and darkness; and where an old prince, grown every day more infirm, is the first prisoner of the palace.

After what has been said, one would imagine that human nature should perpetually rise up against despotism. But, notwithstanding the love of liberty, so natural to mankind, notwithstanding their innate detestation of force and violence, most nations are subject to this very government. This is easily accounted for. To form a moderate government, it is necessary to combine the several powers; to regulate, temper, and set them in motion; to give, as it were, ballast to one, in order to enable it to counterpoise the other. This is a masterpiece of legislation, rarely produced by hazard, and seldom attained by prudence. On the contrary, a despotic government offers itself, as it were, at first sight; it is uniform throughout; and as passions only are requisite to establish it, this is what every capacity may reach.

15.—*The same Subject continued*

In warm climates, where despotic power generally prevails, the passions disclose themselves earlier, and are sooner extinguished;^b the understanding is sooner ripened; they are less in danger of squandering their fortunes; there is less facility of distinguishing themselves in the world; less communication between young people, who are confined at home; they marry much earlier, and consequently may be sooner of age than in our European climates. In Turkey they are of age at fifteen.^c

They have no such thing as a cession of goods; in a government where there is no fixed property, people depend rather on the person than on his estate.

The cession of goods is naturally admitted in moderate governments,^d but especially in republics, because of the greater

^b See the book of laws as relative to the nature of the climate, Spirit of Laws, XIV.

^c Laquilletière, "Ancient and Modern Sparta," p. 463.
^d The same may be said of compositions in regard to fair bankrupts.

confidence usually placed in the probity of the citizens, and the lenity and moderation arising from a form of government which every subject seems to have preferred to all others.

Had the legislators of the Roman republic established the cession of goods,^e they never would have been exposed to so many seditions and civil discords; neither would they have experienced the danger of the evils, nor the inconvenience of the remedies.

Poverty and the precariousness of property in a despotic state render usury natural, each person raising the value of his money in proportion to the danger he sees in lending it. Misery, therefore, pours from all parts into those unhappy countries; they are bereft of everything, even of the resource of borrowing.

Hence it is that a merchant under this government is unable to carry on an extensive commerce; he lives from hand to mouth; and were he to encumber himself with a large quantity of merchandise, he would lose more by the exorbitant interest he must give for money than he could possibly get by the goods. Hence they have no laws here relating to commerce; they are all reduced to what is called the bare police.

A government cannot be unjust without having hands to exercise its injustice. Now, it is impossible but that these hands will be grasping for themselves. The embezzling of the public money is therefore natural in despotic states.

As this is a common crime under such a government, confiscations are very useful. By these the people are eased; the money drawn by this method being a considerable tribute which could hardly be raised on the exhausted subject: neither is there in those countries any one family which the prince would be glad to preserve.

In moderate governments it is quite a different thing. Confiscations would render property uncertain, would strip innocent children, would destroy a whole family, instead of punishing a single criminal. In republics they would be attended with the mischief of subverting equality, which is the very soul of this government, by depriving a citizen of his necessary subsistence.

^e There was no such establishment made till the Julian law, *De cessione bonorum*; which preserved them from prison and from an ignominious division of their goods.

There is a Roman law^f against confiscations, except in the case of *crimen majestatis*, or high treason of the most heinous nature. It would be a prudent thing to follow the spirit of this law, and to limit confiscations to particular crimes.^g In countries where a local custom has rendered real estates alienable, Bodin very justly observes that confiscations should extend only to such as are purchased or acquired.^h

16.—Of the Communication of Power

In a despotic government the power is communicated entire to the person intrusted with it. The vizier himself is the despotic prince; and each particular officer is the vizier. In monarchies the power is less immediately applied, being tempered by the monarch as he gives it.ⁱ He makes such a distribution of his authority as never to communicate a part of it without reserving a greater share to himself.

Hence in monarchies the governors of towns are not so dependent on the governor of the province as not to be still more so on the prince; and the private officers or military bodies are not so far subject to their general as not to owe still a greater subjection to their sovereign.

In most monarchies it has been wisely regulated that those who have an extensive command should not belong to any military corps; so that as they have no authority but through the prince's pleasure, and as they may be employed or not, they are in some measure in the service, and in some measure out of it.

This is incompatible with a despotic government. For if those who are not actually employed were still invested with privileges and titles, the consequence must be that there would be men in the state who might be said to be great of themselves; a thing directly opposite to the nature of this government.

Were the governor of a town independent of the pasha, expedients would be daily necessary to make them agree; which is highly absurd in a despotic state. Besides, if a particular governor should refuse to obey, how could the other answer for his province with his head?

^f Authentica bona damnatorum.—Cod. de bon. damn.
^g They seem to have been too fond of confiscations in the republic of Athens.

^h Book V. chap. iii.
ⁱ "Ut esse Phœbi dulcius lumen solet Jamjam cadentis"
—Sen. "Trias," act v. sc. i.

In this kind of government, authority must ever be wavering; nor is that of the lowest magistrate more steady than that of the despotic prince. Under moderate governments, the law is prudent in all its parts, and perfectly well known, so that even the pettiest magistrates are capable of following it. But in a despotic state, where the prince's will is the law, though the prince were wise, yet how could the magistrate follow a will he does not know? He must certainly follow his own.

Again, as the law is only the prince's will, and as the prince can only will what he knows, the consequence is, that there are an infinite number of people who must will for him, and make their wills keep pace with his.

In fine, as the law is the momentary will of the prince, it is necessary that those who will for him should follow his sudden manner of willing.

17.—Of Presents

It is a received custom in despotic countries never to address any superior whomsoever, not excepting their kings, without making them a present.^j The Mogul^k never receives the petitions of his subjects if they come with empty hands. These princes spoil even their own favors.

But thus it must ever be in a government where no man is a citizen; where they have all a notion that a superior is under no obligation to an inferior; where men imagine themselves bound by no other tie than the chastisements inflicted by one party upon another; where, in fine, there is very little to do, and where the people have seldom an occasion of presenting themselves before the great, of offering their petitions, and much less their complaints.

In a republic, presents are odious, because virtue stands in no need of them. In monarchies, honor is a much stronger incentive than presents. But in a despotic government, where there is neither honor nor virtue, people cannot be determined to act but through hope of the conveniences of life.

It is in conformity with republican ideas that Plato^l ordered those who received presents for doing their duty, to be pun-

^j Chardin, chap. xi.
^k "Collection of Voyages that con-

tributed to the establishment of the East India Company," tom. i. p. 80.
^l Book XII. of Laws.

ished with death. "They must not take presents," says he, "neither for good nor for evil actions."

A very bad law was that among the Romans^m which gave the magistrates leave to accept small presents,ⁿ provided they did not exceed one hundred crowns in the whole year. They who receive nothing expect nothing; they who receive a little soon covet more, till at length their desires swell to an exorbitant height. Besides, it is much easier to convict a man who knows himself obliged to accept no present at all, and yet will accept something, than a person who takes more when he ought to take less, and who always finds pretexts, excuses, and plausible reasons in justification of his conduct.

18.—Of Rewards conferred by the Sovereign

In despotic governments, where, as we have already observed, the principal motive of action is the hope of the conveniences of life, the prince who confers rewards has nothing to bestow but money. In monarchies, where honor alone predominates, the prince's rewards would consist only of marks of distinction, if the distinctions established by honor were not attended with luxury, which necessarily brings on its wants: the prince, therefore, is obliged to confer such honors as lead to wealth. But in a republic where virtue reigns—a motive self-sufficient, and which excludes all others—the recompenses of the state consist only of public attestations of this virtue.

It is a general rule, that great rewards in monarchies and republics are a sign of their decline; because they are a proof of their principles being corrupted, and that the idea of honor has no longer the same force in a monarchy, nor the title of citizen the same weight in a republic.

The very worst Roman emperors were those who were most profuse in their largesses; for example, Caligula, Claudius, Nero, Otho, Vitellius, Commodus, Heliogabalus, and Caracalla. The best, as Augustus, Vespasian, Antoninus Pius, Marcus Aurelius, and Pertinax, were economists. Under good emperors the state resumed its principles; all other treasures were supplied by that of honor.

^m Leg. 5, sec. ad leg. Jul. repet.

ⁿ Munuscula.

19.—New Consequences of the Principles of the three Governments

I cannot conclude this book without making some applications of my three principles.

1st Question.] It is a question whether the laws ought to oblige a subject to accept a public employment. My opinion is that they ought in a republic, but not in a monarchical government. In the former, public employments are attestations of virtue, depositions with which a citizen is intrusted by his country, for whose sake alone he ought to live, to act, and to think; consequently he cannot refuse them.^o In the latter, public offices are testimonials of honor; now such is the capriciousness of honor that it chooses to accept none of these testimonies but when and in what manner it pleases.

The late King of Sardinia^p inflicted punishments on his subjects who refused the dignities and public offices of the state. In this he unknowingly followed republican ideas: but his method of governing in other respects sufficiently proves that this was not his intention.

2d Question.] Secondly, it is questioned whether a subject should be obliged to accept a post in the army inferior to that which he held before. Among the Romans it was usual to see a captain serve the next year under his lieutenant.^q This is because virtue in republics requires a continual sacrifice of our persons and of our repugnances for the good of the state. But in monarchies, honor, true or false, will never bear with what it calls degrading itself.

In despotic governments, where honor, posts, and ranks are equally abused, they indiscriminately make a prince a scullion, and a scullion a prince.

3d Question.] Thirdly, it may be inquired, whether civil and military employments should be conferred on the same person. In republics I think they should be joined, but in monarchies separated. In the former it would be extremely dangerous to

^o Plato, in his "Republic," book VIII., ranks these refusals among the marks of the corruption of a republic. In his "Laws," book VI., he orders them to be punished by a fine. At Venice they are punished with banishment.

^p Victor Amadeus.

^q Some centurions having appealed to the people for the employments which they had before enjoyed, "It is just, my comrades," said a centurion, "that you should look upon every post as honorable in which you have an opportunity of defending the republic."—Livy, dec. 5, lib. XLII.

make the profession of arms a particular state, distinct from that of civil functions; and in the latter, no less dangerous would it be to confer these two employments on the same person.

In republics a person takes up arms only with a view to defend his country and its laws; it is because he is a citizen he makes himself for a while a soldier. Were these two distinct states, the person who under arms thinks himself a citizen would soon be made sensible he is only a soldier.

In monarchies, they whose condition engages them in the profession of arms have nothing but glory, or at least honor or fortune, in view. To men, therefore, like these, the prince should never give any civil employments; on the contrary, they ought to be checked by the civil magistrate, that the same persons may not have at the same time the confidence of the people and the power to abuse it.^r

We have only to cast an eye on a nation that may be justly called a republic, disguised under the form of monarchy, and we shall see how jealous they are of making a separate order of the profession of arms, and how the military state is constantly allied with that of the citizen, and even sometimes of the magistrate, to the end that these qualities may be a pledge for their country, which should never be forgotten.

The division of civil and military employments, made by the Romans after the extinction of the republic, was not an arbitrary thing. It was a consequence of the change which happened in the constitution of Rome; it was natural to a monarchical government; and what was only commenced under Augustus,^s succeeding emperors^t were obliged to finish, in order to temper the military government.

Procopius, therefore, the competitor of Valens the emperor, was very much to blame when, conferring the proconsular dignity^u upon Hormisdas, a prince of the blood royal of Persia, he restored to this magistracy the military command of which it had been formerly possessed; unless, indeed, he had very particular reasons for so doing. A person that aspires to the

^r "Ne imperium ad optimos nobilium transferretur, Senatum militia vetuit Gallienus, etiam adire exercitum."—Aurelius Victor, "de virii illustribus."
^s Augustus deprived the senators, pro-

consuls, and governors of the privilege of wearing arms.—Dio, lib. LIII.
^t Constantine. See Zozimus, lib. II.
^u Ammianus Marcellinus, lib. XXVI.
"More veterum et bella rectoro."

sovereignty concerns himself less about what is serviceable to the state than what is likely to promote his own interest.

4th Question.] Fourthly, it is a question whether public employments should be sold. They ought not, I think, in despotic governments, where the subjects must be instantaneously placed or displaced by the prince.

But in monarchies this custom is not at all improper, by reason it is an inducement to engage in that as a family employment^v which would not be undertaken through a motive of virtue; it fixes likewise every one in his duty, and renders the several orders of the kingdom more permanent. Suidas^w very justly observes, that Anastasius had changed the empire into a kind of aristocracy, by selling all public employments.

Plato^x cannot bear with this prostitution: "This is exactly," says he, "as if a person were to be made a mariner or pilot of a ship, for his money. Is it possible that this rule should be bad in every other employment of life, and hold good only in the administration of a republic?" But Plato speaks of a republic founded on virtue, and we of a monarchy. Now, in monarchies (where, though there were no such thing as a regular sale of public offices, still the indigence and avidity of the courtier would equally prompt him to expose them to sale) chance will furnish better subjects than the prince's choice. In short, the method of attaining to honors through riches inspires and cherishes industry,^y a thing extremely wanting in this kind of government.

5th Question.] The fifth question is, in what kind of government censors are necessary. My answer is, that they are necessary in a republic, where the principle of government is virtue. We must not imagine that criminal actions only are destructive of virtue; it is destroyed also by omissions, by neglects, by a certain coolness in the love of our country, by bad examples, and by the seeds of corruption: whatever does not openly violate but elude the laws, does not subvert but weaken them, ought to fall under the inquiry and correction of the censors.

^v Voltaire exclaims, "Let us lament that Montesquieu has defamed his work by such paradoxes. But we can forgive him: his uncle purchased the office of President in the country, and left it to him. After all we find the man. No one of us is without his weak point."—Ed.

^w Fragments taken from the embassies of Constantine Porphyrogenitus.
^x "Repub." lib. VIII.
^y We see the laziness of Spain, where all public employments are given away.

We are surprised at the punishment of the Areopagite for killing a sparrow which, to escape the pursuit of a hawk, had taken shelter in his bosom. Surprised we are also that an Areopagite should put his son to death for putting out the eyes of a little bird. But let us reflect, that the question here does not relate to a criminal sentence, but to a judgment concerning manners in a republic founded on manners.

In monarchies there should be no censors; the former are founded on honor, and the nature of honor is to have the whole world for its censor. Every man who fails in this article is subject to the reproaches even of those who are void of honor.

Here the censors would be spoiled by the very people whom they ought to correct: they could not prevail against the corruption of a monarchy; the corruption rather would be too strong against them.

Hence it is obvious that there ought to be no censors in despotic governments. The example of China seems to derogate from this rule; but we shall see, in the course of this work, the particular reasons of that institution.

BOOK VI

CONSEQUENCES OF THE PRINCIPLES OF DIFFERENT GOVERNMENTS WITH RESPECT TO THE SIMPLICITY OF CIVIL AND CRIMINAL LAWS, THE FORM OF JUDGMENTS, AND THE INFLICTING OF PUNISHMENTS

1.—*Of the Simplicity of Civil Laws in different Governments*

MONARCHIES do not permit of so great a simplicity of laws as despotic governments. For in monarchies there must be courts of judicature; these must give their decisions; the decisions must be preserved and learned, that we may judge in the same manner to-day as yesterday, and that the lives and property of the citizens may be as certain and fixed as the very constitution of the state.

In monarchies, the administration of justice, which decides not only in whatever belongs to life and property, but likewise to honor, demands very scrupulous inquiries. The delicacy of the judge increases in proportion to the increase of his trust, and of the importance of the interests on which he determines.

We must not, therefore, be surprised to find so many rules, restrictions, and extensions in the laws of those countries—rules that multiply the particular cases, and seem to make of reason itself an art.

The difference of rank, birth, and condition established in monarchical governments is frequently attended with distinctions in the nature of property; and the laws relating to the constitution of this government may augment the number of these distinctions. Hence, among us goods are divided into real estates, purchases, dowries, paraphernalia, paternal and maternal inheritances; movables of different kinds; estates held in fee-simple, or in tail; acquired by descent or convey-