

infamy^k by marking the letter K^l on his forehead. Guards were also appointed to watch the accuser, in order to prevent his corrupting either the judges or the witnesses.^m

I have already taken notice of that Athenian and Roman law by which the party accused was allowed to withdraw before judgment was pronounced.

21.—*Of the Cruelty of Laws in respect to Debtors in a Republic*

Great is the superiority which one fellow-subject has already over another, by lending him money, which the latter borrows in order to spend, and, of course, has no longer in his possession. What must be the consequence if the laws of a republic make a further addition to this servitude and subjection?

At Athens and Romeⁿ it was at first permitted to sell such debtors as were insolvent. Solon redressed this abuse at Athens^o by ordaining that no man's body should answer for his civil debts. But the decemvirs^p did not reform the same custom at Rome; and though they had Solon's regulation before their eyes yet they did not choose to follow it. This is not the only passage of the law of the Twelve Tables in which the decemvirs show their design of checking the spirit of democracy.

Often did those cruel laws against debtors throw the Roman republic into danger. A man covered with wounds made his escape from his creditor's house and appeared in the forum.^q The people were moved with this spectacle, and other citizens whom their creditors durst no longer confine broke loose from their dungeons. They had promises made them, which were all broken. The people upon this, having withdrawn to the Sacred Mount, obtained, not an abrogation of those laws, but a magistrate to defend them. Thus they quitted a state of anarchy, but were soon in danger of falling into tyranny. Manlius, to render himself popular, was going to set those citi-

^k By the Remmian law.

^l This was the initial of an old Latin word which to-day is written "Calumnia."—P.

^m Plutarch, in a treatise entitled, "How a person may reap advantage from his enemies."

ⁿ "A great many sold their children to pay their debts."—Plutarch, "Life of Solon."

^o Plutarch, "Life of Solon."

^p It appears from history that this custom was established among the Romans before the law of the Twelve Tables.—Livy, dec. 1, book II.

^q Dionys. Halicarn., "Roman Antiquities," book VI.

zens at liberty who by their inhuman creditors^r had been reduced to slavery. Manlius's designs were prevented, but without remedying the evil. Particular laws facilitated to debtors the means of paying;^s and in the year of Rome 428 the consuls proposed a law,^t which deprived creditors of the power of confining their debtors in their own houses.^u A usurer, by name Papirius, attempted to corrupt the chastity of a young man named Publius, whom he kept in irons. Sextus's crime gave to Rome its political liberty; that of Papirius gave it also the civil.

Such was the fate of this city, that new crimes confirmed the liberty which those of a more ancient date had procured it. Appius's attempt upon Virginia flung the people again into that horror against tyrants with which the misfortune of Lucretia had first inspired them. Thirty-seven years after^v the crime of the infamous Papirius, an action of the like criminal nature^w was the cause of the people's retiring to the Janiculum,^x and of giving new vigor to the law made for the safety of debtors.

Since that time creditors were oftener prosecuted by debtors for having violated the laws against usury than the latter were sued for refusing to pay them.

22.—*Of Things that strike at Liberty in Monarchies*

Liberty often has been weakened in monarchies by a thing of the least use in the world to the prince: this is the naming of commissioners to try a private person.

The prince himself derives so very little advantage from those commissioners that it is not worth while to change for their sake the common course of things. He is morally sure that he has more of the spirit of probity and justice than his commissioners, who think themselves sufficiently justified by his nomination and orders, by a vague interest of state, and even by their very apprehensions.

^r Plutarch, "Life of Furius Camillus."

^s See what follows in the 24th chapter of the book of Laws as relative to the use of money.

^t One hundred and twenty years after the law of the Twelve Tables: "Eo anno plebi Romanæ, velut aliud initium libertatis factum est, quod nequi desierunt."—Livy, lib. VIII.

^u "Bona debitoris, non corpus obnoxium esset."—Ibid.

^v The year of Rome 465.

^w That of Plautius, who made an attempt upon the body of Veturius.—Valerius Maximus, book VI. art. 9. These two events ought not to be confounded; they are neither the same persons nor the same times.

^x See a fragment of Dionys. Halicarn. in the "Extract of Virtues and Vices"; Livy's epitome, book II.; and Freinshemius, book II.

Upon the arraignment of a peer under Henry VIII it was customary to try him by a committee of the House of Lords: by which means he put to death as many peers as he pleased.

23.—*Of Spies in Monarchies*

Should I be asked whether there is any necessity for spies in monarchies my answer would be, that the usual practice of good princes is not to employ them. When a man obeys the laws, he has discharged his duty to his prince. He ought at least to have his own house for an asylum, and the rest of his conduct should be exempt from inquiry. The trade of a spy might perhaps be tolerable, were it practised by honest men; but the necessary infamy of the person is sufficient to make us judge of the infamy of the thing. A prince ought to act towards his subjects with candor, frankness, and confidence. He that has so much disquiet, suspicion, and fear is an actor embarrassed in playing his part. When he finds that the laws are generally observed and respected, he may judge himself safe. The behavior of the public answers for that of every individual. Let him not be afraid: he cannot imagine how natural it is for his people to love him. And how should they do otherwise than love him, since he is the source of almost all bounties and favors; punishments being generally charged to the account of the laws? He never shows himself to his people but with a serene countenance; they have even a share of his glory, and they are protected by his power. A proof of his being beloved is that his subjects have confidence in him: what the minister refuses, they imagine the prince would have granted. Even under public calamities they do not accuse his person; they are apt to complain of his being misinformed, or beset by corrupt men. "Did the prince but know," say the people; these words are a kind of invocation, and a proof of the confidence they have in his person.

24.—*Of Anonymous Letters*

The Tartars are obliged to put their names to their arrows, that the arm may be known which shoots them. When Philip of Macedon was wounded at the siege of a certain town, these words were found on the javelin, "Aster has given this mortal

wound to Philip."^b If they who accuse a person did it merely to serve the public, they would not carry their complaint to the prince, who may be easily prejudiced, but to the magistrates, who have rules that are formidable only to calumniators. But if they are unwilling to leave the laws open between them and the accused, it is a presumption they have reason to be afraid of them; and the least punishment they ought to suffer is not to be credited. No notice, therefore, should ever be taken of those letters, except in cases that admit not of the delays of the ordinary course of justice, and in which the prince's welfare is concerned. Then it may be imagined that the accuser has made an effort, which has untied his tongue. But in other cases one ought to say, with the Emperor Constantius: "We cannot suspect a person who has wanted an accuser, whilst he did not want an enemy."^c

25.—*Of the Manner of governing in Monarchies*

The royal authority is a spring that ought to move with the greatest freedom and ease. The Chinese boast of one of their emperors, who governed, they say, like the heavens, that is, by his example.

There are some cases in which a sovereign ought to exert the full extent of his power; and others in which he should reduce it within narrower limits. The sublimity of administration consists in knowing the proper degree of power, which should be exerted on different occasions.

The whole felicity of monarchies consists in the opinion which the subjects entertain of the lenity of the government. A weak minister is ever ready to remind us of our slavery. But granting, even, that we are slaves, he should endeavor to conceal our misery from us. All he can say or write is that the prince is uneasy, that he is surprised, and that he will redress all grievances. There is a certain ease in commanding; the prince ought only to encourage, and let the laws menace.^d

^b Plutarch's "Morals: Comparison of some Roman and Greek Histories," tom. ii. p. 427.

^c Leg. 6, Cod. Theod. "de famosis libellis."

^d "Nerva," says Tacitus, "increased the ease of government." It is worthy of note that the best editions of Tacitus have "felicitem imperii," and not "facilitatem imperii."—Ed.

26.—*That in a Monarchy the Prince ought to be easy of Access*

The utility of this maxim will appear from the inconvenience attending the contrary practice. "The Czar Peter I," says the *Sieur Perry*,^e "has published a new edict, by which he forbids any of his subjects to offer him a petition till after having presented it to two of his officers. In case of refusal of justice they may present him a third, but upon pain of death if they are in the wrong. After this no one ever presumed to offer a petition to the Czar."

27.—*Of the Manners of a Monarch*

The manners of a prince contribute as much as the laws themselves to liberty; like these he may transform men into brutes, and brutes into men. If he prefers free and generous spirits, he will have subjects; if he likes base, dastardly souls, he will have slaves. Would he know the great art of ruling, let him call honor and virtue to attend his person; and let him encourage personal merit. He may even sometimes cast an eye on talents and abilities. Let him not be afraid of those rivals who are called men of merit; he is their equal when once he loves them. Let him gain the hearts of his people, without subduing their spirits. Let him render himself popular; he ought to be pleased with the affections of the lowest of his subjects, for they too are men. The common people require so very little condescension, that it is fit they should be humored; the infinite distance between the sovereign and them will surely prevent them from giving him any uneasiness. Let him be exorable to supplication, and resolute against demands; let him be sensible, in fine, that his people have his refusals, while his courtiers enjoy his favors.

28.—*Of the Regard which Monarchs owe to their Subjects*

Princes ought to be extremely circumspect with regard to raillery. It pleases with moderation, because it is an introduction to familiarity; but a satirical raillery is less excusable in them than in the meanest of their subjects, for it is they alone that give a mortal wound.

^e "State of Russia," p. 173, Paris edition, 1717.

Much less should they offer a public affront to any of their subjects; kings were instituted to pardon and to punish, but never to insult.

When they affront their subjects, their treatment is more cruel than that of the Turk or the Muscovite. The insults of these are a humiliation, not a disgrace; but both must follow from the insolent behavior of monarchs.

Such is the prejudice of the eastern nations, that they look upon an affront from the prince as the effect of paternal goodness; and such, on the contrary, is our way of thinking, that besides the cruel vexation of being affronted, we despair of ever being able to wipe off the disgrace.

Princes ought to be overjoyed to have subjects to whom honor is dearer than life, an incitement to fidelity as well as to courage.

They should remember the misfortunes that have happened to sovereigns for insulting their subjects: the revenge of Chærea, of the eunuch Narses, of Count Julian, and, in fine, of the Duchess of Montpensier, who, being enraged against Henry III for having published some of her private failings, tormented him during her whole life.

29.—*Of the civil Laws proper for mixing some portion of Liberty in a despotic Government*

Though despotic governments are of their own nature everywhere the same, yet from circumstances—from a religious opinion, from prejudice, from received examples, from a particular turn of mind, from manners or morals—it is possible they may admit of a considerable difference.

It is useful that some particular notions should be established in those governments. Thus in China the prince is considered as the father of his people; and at the commencement of the empire of the Arabs, the prince was their preacher.^f

It is proper there should be some sacred book to serve for a rule, as the Koran among the Arabs, the books of Zoroaster among the Persians, the Veda among the Indians, and the classic books among the Chinese. The religious code supplies the civil and fixes the extent of arbitrary sway.

It is not at all amiss that in dubious cases the judges should consult the ministers of religion.^g Thus, in Turkey, the Cadis

^f The Caliphs. ^g "History of the Tartars," 3d part, p. 277, in the remarks.

consult the Mollahs.^k But if it is a capital crime, it may be proper for the particular judge, if such there be, to take the governor's advice, to the end that the civil and ecclesiastical power may be tempered also by the political authority.

30.—*The same Subject continued*

Nothing but the very excess and rage of despotic power ordained that the father's disgrace should drag after it that of his wife and children. They are wretched enough already without being criminals: besides, the prince ought to leave suppliants or mediators between himself and the accused, to assuage his wrath or to inform his justice.

It is an excellent custom of the Maldivians,ⁱ that when a lord is disgraced he goes every day to pay his court to the king till he is taken again into favor: his presence disarms the prince's indignation.

In some despotic governments^j they have a notion that it is trespassing against the respect due to their prince to speak to him in favor of a person in disgrace. These princes seem to use all their endeavors to deprive themselves of the virtue of clemency.

Arcadius and Honorius, by a law^k on which we have already descanted,^l positively declare that they will show no favor to those who shall presume to petition them in behalf of the guilty.^m This was a very bad law indeed, since it is bad even under a despotic government.

The custom of Persia, which permits every man that pleases to leave the kingdom, is excellent; and though the contrary practice derives its origin from despotic power, which has ever considered the subjects as slaves,ⁿ and those who quit the country as fugitives, yet the Persian practice is useful even to a despotic government, because the apprehension of people's withdrawing for debt restrains or moderates the oppressions of pashas and extortioners.

^k It is plain here that Montesquieu confounds the Mollahs with the Mufti.

ⁱ See Francis Pirard.

^j As at present in Persia, according to Sir John Chardin, this custom is very ancient. "They put Cavades," says Procopius, "into the castle of oblivion; there is a law which forbids any one to speak of those who are shut up, or even to mention their name."

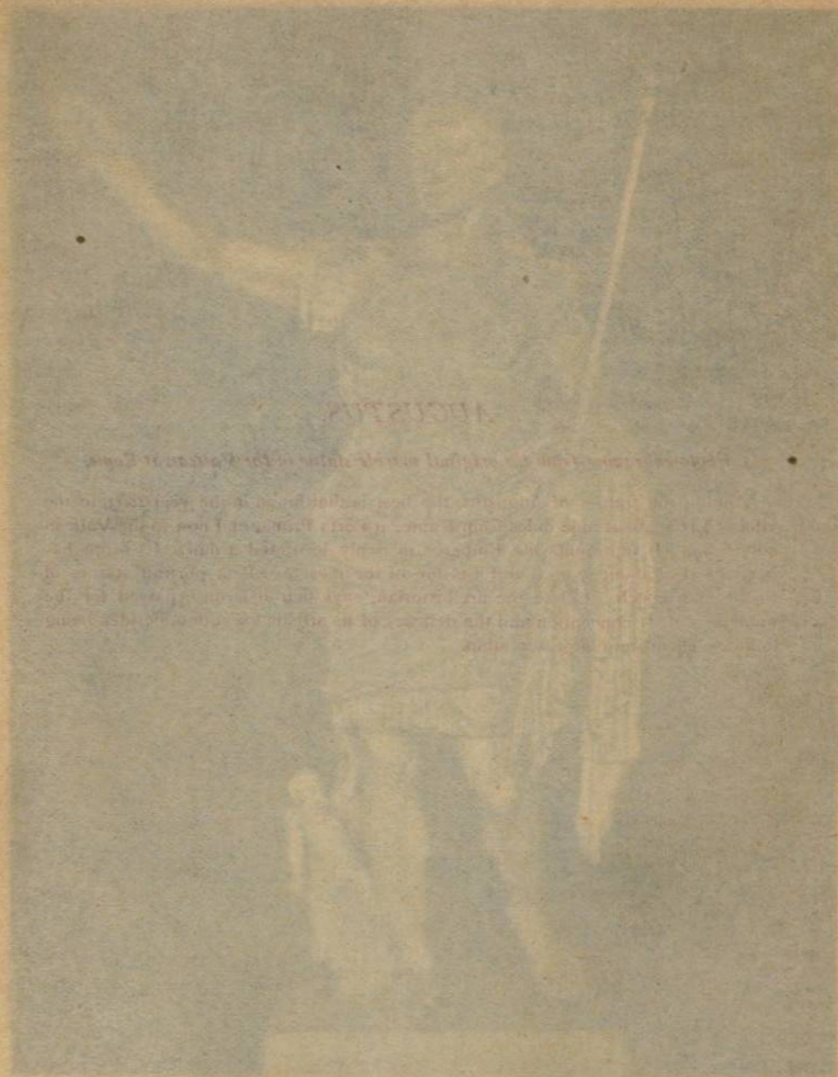
^k The fifth law in the cod. "ad leg. Jul. Maj."

^l In the 8th chapter of this book.

^m Frederick copied this law in the "Constitutions of Naples," book I.

ⁿ In monarchies there is generally a law which forbids those who are invested with public employments to go out of the kingdom without the prince's leave. This law ought to be established also in republics. But in those that have particular institutions the prohibition ought to be general, in order to prevent the introduction of foreign manners.

CHOICE EXAMPLES OF CLASSIC SCULPTURE



CHOICE EXAMPLES OF CLASSIC SCULPTURE.

Nothing less than the most powerful and high-spirited power ordained that the ruler should be a man of high moral character, his wife and children should be educated and brought up without any regard to the interests of the state, but rather to the interests of the ruler himself.

In some despotic governments they have a notion that it is necessary to pay every day to pay his court to the ruler, and he is never again into favor: his presence disarms the ruler's indignation.

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AUGUSTUS.

Photo-engraving from the original marble statue in the Vatican at Rome.

Among the statues of Augustus, the best is that found in the year 1863, in the villa of Livia, about nine miles from Rome, at Porta Prima, and now in the Vatican collection. It represents the Emperor in richly decorated armor. Its origin has been fixed at about 17 B.C., and it is one of the most excellent portrait statues of the Roman epoch. Lübke, the art historian, says that it is unsurpassed for the nobleness of its conception and the delicacy of its artistic execution, besides being in an excellent state of preservation.

The custom of Persia, which permits every man that pleases to leave the kingdom, is excellent; and though the country is a despotic power, which has a great number of subjects as slaves, and those who quit the country by themselves, and the Persian practice is to give a despotic government, because the appointment of governors is drawn by the emperor or his son, the appointment of pashas is also drawn by the emperor.

The law of Persia is generally a law of honor, and those who are invested with offices are bound to go out of the country when the prince leaves. The law is also established also in Persia, and in those that have particular offices, the prohibition ought to be general, in order to prevent the appointment of foreign governors.

