

## BOOK XXV

### OF LAWS IN RELATION TO THE ESTABLISHMENT OF RELIGION AND ITS EXTERNAL POLITY

#### 1.—Of Religious Sentiments

THE pious man and the atheist always talk of religion; the one speaks of what he loves, and the other of what he fears.

#### 2.—Of the Motives of Attachment to different Religions

The different religions of the world do not give to those who profess them equal motives of attachment; this depends greatly on the manner in which they agree with the turn of thought and perceptions of mankind.

We are extremely addicted to idolatry, and yet have no great inclination for the religion of idolaters; we are not very fond of spiritual ideas, and yet are most attached to those religions which teach us to adore a spiritual being. This proceeds from the satisfaction we find in ourselves at having been so intelligent as to choose a religion which raises the deity from that baseness in which he had been placed by others. We look upon idolatry as the religion of an ignorant people, and the religion which has a spiritual being for its object as that of the most enlightened nations.

When with a doctrine that gives us the idea of a spiritual supreme being we can still join those of a sensible nature and admit them into our worship, we contract a greater attachment to religion; because those motives which we have just mentioned are added to our natural inclinations for the objects of sense. Thus the Catholics, who have more of this kind of worship than the Protestants, are more attached to their religion than the Protestants are to theirs, and more zealous for its propagation.

When the people of Ephesus were informed that the fathers of the council had declared they might call the Virgin Mary the Mother of God, they were transported with joy, they kissed the hands of the bishops, they embraced their knees, and the whole city resounded with acclamations.<sup>a</sup>

When an intellectual religion superadds a choice made by the deity, and a preference for those who profess it over those who do not, this greatly attaches us to religion. The Mahomedans would not be such good Mussulmans if, on the one hand, there were not idolatrous nations who make them imagine themselves the champions of the unity of God; and on the other Christians, to make them believe that they are the objects of his preference.

A religion burdened with many ceremonies<sup>b</sup> attaches us to it more strongly than that which has a fewer number. We have an extreme propensity to things in which we are continually employed: witness the obstinate prejudices of the Mahomedans and the Jews,<sup>c</sup> and the readiness with which barbarous and savage nations change their religion, who, as they are employed entirely in hunting or war, have but few religious ceremonies.

Men are extremely inclined to the passions of hope and fear; a religion, therefore, that had neither a heaven nor a hell, could hardly please them. This is proved by the ease with which foreign religions have been established in Japan, and the zeal and fondness with which they were received.<sup>d</sup>

In order to raise an attachment to religion it is necessary that it should inculcate pure morals. Men who are knaves by retail are extremely honest in the gross; they love morality. And were I not treating of so grave a subject I should say that this appears remarkably evident in our theatres: we are sure of pleasing the people by sentiments avowed by morality; we are sure of shocking them by those it disapproves.

When external worship is attended with great magnificence

<sup>a</sup> St. Cyril's "Letter."

<sup>b</sup> This does not contradict what I have said in the last chapter of the preceding book: I here speak of the motives of attachment of religion, and there of the means of rendering it more general.

<sup>c</sup> This has been remarked all over the world. See, as to the Turks, the "Missions of the Levant"; the "Collection

of Voyages that contributed to the establishment of an East India Company," vol. iii. p. 201, on the Moors of Bavaria; and Father Labat on the "Mahomedan Negroes," etc.

<sup>d</sup> The Christian and the Indian religions: these have a hell and a paradise, which the religion of Sintos has not.



it flatters our minds and strongly attaches us to religion. The riches of temples and those of the clergy greatly affect us. Thus even the misery of the people is a motive that renders them fond of a religion which has served as a pretext to those who were the cause of their misery.

### 3.—Of Temples

Almost all civilized nations dwell in houses; hence naturally arose the idea of building a house for God in which they might adore and seek him, amidst all their hopes and fears.

And, indeed, nothing is more comfortable to mankind than a place in which they may find the deity peculiarly present, and where they may assemble together to confess their weakness, and tell their griefs.

But this natural idea never occurred to any but such as cultivated the land; those who have no houses for themselves were never known to build temples.

This was the cause that made Jenghiz Khan discover such a prodigious contempt for mosques.<sup>e</sup> This prince examined the Mahomedans; <sup>f</sup> he approved of all their doctrines, except that of the necessity of going to Mecca; he could not comprehend why God might not be everywhere adored. As the Tartars did not dwell in houses they could have no idea of temples.

Those people who have no temples have but a small attachment to their own religion. This is the reason why the Tartars have in all times given so great a toleration; <sup>g</sup> why the barbarous nations, who conquered the Roman Empire did not hesitate a moment to embrace Christianity; why the savages of America have so little fondness for their own religion; why, since our missionaries have built churches in Paraguay, the natives of that country have become so zealous for ours.

As the deity is the refuge of the unhappy, and none are more unhappy than criminals, men have been naturally led to think temples an asylum for those wretches.<sup>h</sup> This idea appeared still more natural to the Greeks, where murderers, chased from

<sup>e</sup> Entering the mosque of Bochara, he took the Koran, and threw it under his horse's feet.—"Hist. of the Tartars," p. 273.

<sup>f</sup> Ibid. p. 342.

<sup>g</sup> This disposition of mind has been communicated to the Japanese, who, as it may be easily proved, derive their origin from the Tartars.

<sup>h</sup> See Chardin, "Persia," vol. ii. 31, edit. of 1735.

their city and the presence of men, seemed to have no houses but the temples, nor other protectors than the gods.

At first these were only designed for involuntary homicides; but when the people made them a sanctuary for those who had committed great crimes they fell into a gross contradiction. If they had offended men they had much greater reason to believe they had offended the gods.

These asylums multiplied in Greece. The temples, says Tacitus,<sup>i</sup> were filled with insolvent debtors and wicked slaves; the magistrate found it difficult to exercise his office; the people protected the crimes of men as the ceremonies of the gods; at length the Senate was obliged to retrench a great number of them.

The laws of Moses were perfectly wise. The man who involuntarily killed another was innocent; but he was obliged to be taken away from before the eyes of the relatives of the deceased. Moses, therefore, appointed an asylum for such unfortunate people.<sup>j</sup> The perpetrators of great crimes deserved not a place of safety, and they had none: <sup>k</sup> the Jews had only a portable tabernacle, which continually changed its place; this excluded the idea of a sanctuary. It is true that they had afterwards a temple; but the criminals who would resort thither from all parts might disturb the divine service. If persons who had committed manslaughter had been driven out of the country, as was customary among the Greeks, they had reason to fear that they would worship strange gods. All these considerations made them establish cities of safety, where they might stay till the death of the high-priest.

### 4.—Of the Ministers of Religion

The first men, says Porphyry,<sup>l</sup> sacrificed only vegetables. In a worship so simple every one might be priest in his own family.

The natural desire of pleasing the deity multiplied ceremonies. Hence it followed, that men employed in agriculture became incapable of observing them all and of filling up the number.

Particular places were consecrated to the gods; it then be-

<sup>i</sup> "Annal." lib. II.  
<sup>j</sup> Numb. xxxv.

<sup>k</sup> Ibid.  
<sup>l</sup> "De Abstinencia animal." II. 5.



came necessary that they should have ministers to take care of them; in the same manner as every citizen took care of his house and domestic affairs. Hence the people who have no priests are commonly barbarians; such were formerly the Pedalians,<sup>m</sup> and such are still the Wolgusky.<sup>n</sup>

Men consecrated to the deity ought to be honored, especially among people who have formed an idea of a personal purity necessary to approach the places most agreeable to the gods, and for the performance of particular ceremonies.

The worship of the gods requiring a continual application, most nations were led to consider the clergy as a separate body. Thus, among the Egyptians, the Jews, and the Persians,<sup>o</sup> they consecrated to the deity certain families who performed and perpetuated the service. There have been even religions which have not only estranged ecclesiastics from business, but have also taken away the embarrassments of a family; and this is the practice of the principal branch of Christianity.

I shall not here treat of the consequences of the law of celibacy: it is evident that it may become hurtful in proportion as the body of the clergy may be too numerous; and, in consequence of this, that of the laity too small.

By the nature of the human understanding we love in religion everything which carries the idea of difficulty; as in point of morality we have a speculative fondness for everything which bears the character of severity. Celibacy has been most agreeable to those nations to whom it seemed least adapted, and with whom it might be attended with the most fatal consequences. In the southern countries of Europe, where, by the nature of the climate, the law of celibacy is more difficult to observe, it has been retained; in those of the north, where the passions are less lively, it has been banished. Further, in countries where there are but few inhabitants it has been admitted; in those that are vastly populous it has been rejected. It is obvious that these reflections relate only to the too great extension of celibacy, and not to celibacy itself.

<sup>m</sup> Lilius Giralduſ, p. 726.  
<sup>n</sup> A people of Siberia. See the account given by Mr. Everard Ysbrant

Ides, in the "Collection of Travels to the North," vol. viii.  
<sup>o</sup> Mr. Hyde.

5.—Of the Bounds which the Laws ought to prescribe to the Riches of the Clergy

As particular families may be extinct, their wealth cannot be a perpetual inheritance. The clergy is a family which cannot be extinct; wealth is, therefore, fixed to it forever, and cannot go out of it.

Particular families may increase; it is necessary then that their wealth should also increase. The clergy is a family which ought not to increase; their wealth ought then to be limited.

We have retained the regulations of the Levitical laws as to the possessions of the clergy, except those relating to the bounds of these possessions; indeed, among us we must ever be ignorant of the limit beyond which any religious community can no longer be permitted to acquire.

These endless acquisitions appear to the people so unreasonable that he who should speak in their defence would be regarded as an idiot.

The civil laws find sometimes many difficulties in altering established abuses, because they are connected with things worthy of respect; in this case an indirect proceeding would be a greater proof of the wisdom of the legislator than another which struck directly at the thing itself. Instead of prohibiting the acquisitions of the clergy we should seek to give them a distaste for them; to leave them the right and to take away the deed.

In some countries of Europe, a respect for the privileges of the nobility has established in their favor a right of indemnity over immovable goods acquired in mortmain. The interest of the prince has in the same case made him exact a right of amortization. In Castile, where no such right prevails, the clergy have seized upon everything. In Aragon, where there is some right of amortization, they have obtained less; in France, where this right and that of indemnity are established, they have acquired less still; and it may be said that the prosperity of this kingdom is in a great measure owing to the exercise of these two rights. If possible, then, increase these rights, and put a stop to the mortmain.

Render the ancient and necessary patrimony of the clergy



sacred and inviolable, let it be fixed and eternal like that body itself, but let new inheritances be out of their power.

Permit them to break the rule when the rule has become an abuse; suffer the abuse when it enters into the rule.

They still remember in Rome a certain memorial sent thither on some disputes with the clergy, in which was this maxim: "The clergy ought to contribute to the expenses of the state, let the Old Testament say what it will." They concluded from this passage that the author of this memorial was better versed in the language of the tax-gatherers, than in that of religion.

#### 6.—Of Monasteries

The least degree of common sense will let us see that bodies designed for a perpetual continuance should not be allowed to sell their funds for life, nor to borrow for life; unless we want them to be heirs to all those who have no relatives and to those who do not choose to have any. These men play against the people, but they hold the bank themselves.

#### 7.—Of the Luxury of Superstition

"Those are guilty of impiety towards the gods," says Plato,<sup>p</sup> "who deny their existence; or who, while they believe it, maintain that they do not interfere with what is done below; or, in fine, who think that they can easily appease them by sacrifices: three opinions equally pernicious." Plato has here said all that the clearest light of nature has ever been able to say in point of religion. The magnificence of external worship has a principal connection with the institution of the state. In good republics, they have curbed not only the luxury of vanity, but even that of superstition. They have introduced frugal laws into religion. Of this number are many of the laws of Solon; many of those of Plato on funerals, adopted by Cicero; and, in fine, some of the laws of Numa on sacrifices.<sup>q</sup>

Birds, says Cicero,<sup>r</sup> and paintings begun and finished in a day are gifts the most divine. We offer common things, says a Spartan,<sup>s</sup> that we may always have it in our power to honor the gods.

<sup>p</sup> "Of Laws," book X.  
<sup>q</sup> "Rogum vino ne respergito."—  
"Law of the Twelve Tables."  
<sup>r</sup> Cicero derives these appropriate

words from Plato ("Laws," book XII).  
—Ed.  
<sup>s</sup> Plutarch attributes this beautiful idea to Lycurgus.—Ed.

The desire of man to pay his worship to the deity is very different from the magnificence of this worship. Let us not offer our treasures to him if we are not proud of showing that we esteem what he would have us despise.

"What must the gods think of the gifts of the impious," said the admirable Plato, "when a good man would blush to receive presents from a villain?"

Religion ought not, under the pretence of gifts, to draw from the people what the necessity of the state has left them; but as Plato says,<sup>t</sup> "The chaste and the pious ought to offer gifts which resemble themselves."

Nor is it proper for religion to encourage expensive funerals. What is there more natural than to take away the difference of fortune in a circumstance and in the very moment which equals all fortunes?

#### 8.—Of the Pontificate

When religion has many ministers it is natural for them to have a chief and for a sovereign pontiff to be established. In monarchies, where the several orders of the state cannot be kept too distinct, and where all powers ought not to be lodged in the same person, it is proper that the pontificate be distinct from the empire. The same necessity is not to be met with in a despotic government, the nature of which is to unite all the different powers in the same person. But in this case it may happen, that the prince may regard religion as he does the laws themselves, as dependent on his own will. To prevent this inconvenience, there ought to be monuments of religion, for instance, sacred books which fix and establish it. The King of Persia is the chief of the religion; but this religion is regulated by the Koran. The Emperor of China is the sovereign pontiff; but there are books in the hands of everybody to which he himself must conform. In vain a certain emperor attempted to abolish them; they triumphed over tyranny.

#### 9.—Of Toleration in point of Religion

We are here politicians, and not divines; but the divines themselves must allow that there is a great difference between tolerating and approving a religion.

<sup>t</sup> "On Laws," book II.



When the legislator has believed it a duty to permit the exercise of many religions, it is necessary that he should enforce also a toleration among these religions themselves. It is a principle that every religion which is persecuted becomes itself persecuting; for as soon as by some accidental turn it arises from persecution, it attacks the religion which persecuted it; not as religion, but as tyranny.

It is necessary, then, that the laws require from the several religions, not only that they shall not embroil the state, but that they shall not raise disturbances among themselves. A citizen does not fulfil the laws by not disturbing the government; it is requisite that he should not trouble any citizen whomsoever.

10.—*The same Subject continued*

As there are scarcely any but persecuting religions that have an extraordinary zeal for being established in other places (because a religion that can tolerate others seldom thinks of its own propagation), it must, therefore, be a very good civil law, when the state is already satisfied with the established religion, not to suffer the establishment of another.<sup>u</sup>

This is then a fundamental principle of the political laws in regard to religion; that when the state is at liberty to receive or to reject a new religion it ought to be rejected; when it is received it ought to be tolerated.

11.—*Of changing a Religion*

A prince who undertakes to destroy or to change the established religion of his kingdom must greatly expose himself. If his government be despotic, he runs a much greater risk of seeing a revolution arise from such a proceeding, than from any tyranny whatsoever, and a revolution is not an uncommon thing in such states. The reason of this is that a state cannot change its religion, manners, and customs in an instant, and with the same rapidity as the prince publishes the ordinance which establishes a new religion.

Besides, the ancient religion is connected with the constitu-

<sup>u</sup>I do not mean to speak in this chapter of the Christian religion; for, as I have elsewhere observed, the Christian religion is our chief blessing. See

the end of the preceding chapter, and the "Defence of the Spirit of Laws," part II.

tion of the kingdom and the new one is not; the former agrees with the climate and very often the new one is opposed to it. Moreover, the citizens become disgusted with their laws, and look upon the government already established with contempt; they conceive a jealousy against the two religions, instead of a firm belief in one; in a word, these innovations give to the state, at least for some time, both bad citizens and bad believers.

12.—*Of penal Laws*

Penal laws ought to be avoided in respect to religion: they imprint fear, it is true; but as religion has also penal laws which inspire the same passion, the one is effaced by the other, and between these two different kinds of fear the mind becomes hardened.

The threatenings of religion are so terrible, and its promises so great, that when they actuate the mind, whatever efforts the magistrate may use to oblige us to renounce it, he seems to leave us nothing when he deprives us of the exercise of our religion, and to bereave us of nothing when we are allowed to profess it.

It is not, therefore, by filling the soul with the idea of this great object, by hastening her approach to that critical moment in which it ought to be of the highest importance, that religion can be most successfully attacked: a more certain way is, to tempt her by favors, by the conveniences of life, by hopes of fortune; not by that which revives, but by that which extinguishes the sense of her duty; not by that which shocks her, but by that which throws her into indifference at the time when other passions actuate the mind, and those which religion inspires are hushed into silence. As a general rule in changing a religion the invitations should be much stronger than the penalties.

The temper of the human mind has appeared even in the nature of punishments. If we take a survey of the persecutions in Japan,<sup>v</sup> we shall find that they were more shocked at cruel torments than at long sufferings, which rather weary than affright, which are the more difficult to surmount, from their appearing less difficult.

<sup>v</sup>In the "Collection of Voyages that contributed to the establishment of an East India Company," vol. v.



In a word, history sufficiently informs us that penal laws have never had any other effect than to destroy.

13.—*A most humble Remonstrance to the Inquisitors of Spain and Portugal*

A Jewess of eighteen years of age, who was burned at Lisbon at the last *auto-da-fé*, gave occasion to the following little piece, the most idle, I believe, that ever was written. When we attempt to prove things so evident we are sure never to convince.

The author declares, that though a Jew he has a respect for the Christian religion; and that he should be glad to take away from the princes who are not Christians a plausible pretence for persecuting this religion.

"You complain," says he to the Inquisitors, "that the Emperor of Japan caused all the Christians in his dominions to be burned by a slow fire. But he will answer, we treat you who do not believe like us, as you yourselves treat those who do not believe like you; you can only complain of your weakness, which has hindered you from exterminating us, and which has enabled us to exterminate you.

"But it must be confessed, that you are much more cruel than this emperor. You put us to death who believe only what you believe, because we do not believe all that you believe. We follow a religion, which you yourselves know to have been formerly dear to God. We think that God loves it still, and you think that he loves it no more: and because you judge thus, you make those suffer by sword and fire who hold an error so pardonable as to believe that God still loves what he once loved.<sup>w</sup>

"If you are cruel to us, you are much more so to our children; you cause them to be burned because they follow the inspirations given them by those whom the law of nature and the laws of all nations teach them to regard as gods

"You deprive yourselves of the advantage you have over the Mahommedans, with respect to the manner in which their religion was established. When they boast of the number of their believers, you tell them that they have obtained them by

<sup>w</sup> The source of the blindness of the Jews is their not perceiving that the economy of the gospel is in the order of the decrees of God; and that it is in this light a consequence of his immutability.

violence, and that they have extended their religion by the sword; why then do you establish yours by fire?

"When you would bring us over to you, we object to a source from which you glory to have descended. You reply to us, that though your religion is new, it is divine; and you prove it from its growing amidst the persecutions of pagans, and when watered by the blood of your martyrs; but at present you play the part of the Diocletians, and make us take yours.

"We conjure you, not by the mighty God whom both you and we serve, but by that Christ, who, you tell us, took upon him a human form, to propose himself as an example for you to follow; we conjure you to behave to us as he himself would behave were he upon earth. You would have us become Christians, and you will not be so yourselves.

"But if you will not be Christians, be at least men; treat us as you would, if having only the weak light of justice which nature bestows, you had not a religion to conduct, and a revelation to enlighten you.

"If Heaven has had so great a love for you as to make you see the truth, you have received a singular favor; but is it for children who have received the inheritance of their father, to hate those who have not?

"If you have this truth, hide it not from us by the manner in which you propose it. The characteristic of truth is its triumph over hearts and minds, and not that impotency which you confess when you would force us to receive it by tortures.

"If you were wise, you would not put us to death for no other reason than because we are unwilling to deceive you. If your Christ is the son of God, we hope he will reward us for being so unwilling to profane his mysteries; and we believe that the God whom both you and we serve will not punish us for having suffered death for a religion which he formerly gave us, only because we believe that he still continues to give it.

"You live in an age in which the light of nature shines more brightly than it has ever done; in which philosophy has enlightened human understandings; in which the morality of your gospel has been better known; in which the respective rights of mankind with regard to each other and the empire which one conscience has over another are best understood. If you do not, therefore, shake off your ancient prejudices,



which, whilst unregarded, mingle with your passions, it must be confessed that you are incorrigible, incapable of any degree of light or instruction; and a nation must be very unhappy that gives authority to such men.

"Would you have us frankly tell you our thoughts? You consider us rather as your enemies than as the enemies of your religion; for if you loved your religion you would not suffer it to be corrupted by such gross ignorance.

"It is necessary that we should warn you of one thing; that is, if any one in times to come shall dare to assert, that in the age in which we live, the people of Europe were civilized, you will be cited to prove that they were barbarians; and the idea they will have of you will be such as will dishonor your age, and spread hatred over all your contemporaries."

#### 14.—*Why the Christian Religion is so odious in Japan*

We have already mentioned the perverse temper of the people of Japan.\* The magistrates considered the firmness which Christianity inspires, when they attempted to make the people renounce their faith, as in itself most dangerous; they fancied that it increased their obstinacy. The law of Japan punishes severely the least disobedience. The people were ordered to renounce the Christian religion; they did not renounce it; this was disobedience; the magistrates punished this crime; and the continuance in disobedience seemed to deserve another punishment.

Punishments among the Japanese are considered as the revenge of an insult done to the prince; the songs of triumph sung by our martyrs appeared as an outrage against him: the title of martyr provoked the magistrates; in their opinion it signified rebel; they did all in their power to prevent their obtaining it. Then it was that their minds were exasperated, and a horrid struggle was seen between the tribunals that condemned and the accused who suffered; between the civil laws and those of religion.

\* Book IV. chap. xxiv.

#### 15.—*Of the Propagation of Religion*

All the people of the East, except the Mahommedans, believe all religions in themselves indifferent. They fear the establishment of another religion, no otherwise than as a change in government. Among the Japanese, where there are many sects, and where the state has had for so long a time an ecclesiastical superior, they never dispute on religion.<sup>y</sup> It is the same with the people of Siam.<sup>z</sup> The Calmucks<sup>a</sup> do more, they make it a point of conscience to tolerate every species of religion; at Calicut it is a maxim of the state, that every religion is good.<sup>b</sup>

But it does not follow hence, that a religion brought from a far distant country, and quite different in climate, laws, manners, and customs, will have all the success to which its holiness might entitle it. This is more particularly true in great despotic empires: here strangers are tolerated at first, because there is no attention given to what does not seem to strike at the authority of the prince. As they are extremely ignorant, a European may render himself agreeable by the knowledge he communicates: this is very well in the beginning. But as soon as he has any success, when disputes arise and when men who have some interest become informed of it, as their empire, by its very nature, above all things requires tranquillity, and as the least disturbance may overturn it, they proscribe the new religion and those who preach it: disputes between the preachers breaking out, they begin to entertain a distaste for religion on which even those who propose it are not agreed.

<sup>y</sup> See Kempfer.  
<sup>z</sup> Forbin's "Memoirs."

<sup>a</sup> "History of the Tartars," part V.  
<sup>b</sup> Pirard's "Travels," chap. xxvii.