

I

#### 7. THE CENSORSHIP

AS the law is the declaration of the general will, the censorship is the declaration of the public judgment: public opinion is the form of law which the censor administers, and, like the prince, only applies to particular cases.

The censorial tribunal, so far from being the arbiter of the people's opinion, only declares it, and, as soon as the two part company, its decisions are null and void.

It is useless to distinguish the morality of a nation from the objects

of its esteem; both depend on the same principle and are necessarily indistinguishable. There is no people on earth the choice of whose pleasures is not decided by opinion rather than nature. Right men's opinions, and their morality will purge itself. Men always love what is good or what they find good; it is in judging what is good that they go wrong. This judgment, therefore, is what must be regulated. He who judges of morality judges of honour; and he who judges of honour finds his law in opinion.

The opinions of a people are derived from its constitution; although the law does not regulate morality, it is legislation that gives it birth. When legislation grows weak, morality degenerates; but in such cases the judgment of the censors will not do what the force of the laws has failed to effect.

From this it follows that the censorship may be useful for the preservation of morality, but can never be so for its restoration. Set up censors while the laws are vigorous; as soon as they have lost their vigour, all hope is gone; no legitimate power can retain force when the laws have lost it.

The censorship upholds morality by preventing opinion from growing corrupt, by preserving its rectitude by means of wise applications, and sometimes even by fixing it when it is still uncertain. The employment of seconds in duels, which had been carried to wild extremes in the kingdom of France, was done away with merely by these words in a royal edict: "As for those who are cowards enough to call upon seconds." This judgment, in anticipating that of the public, suddenly decided it. But when edicts from the same source tried to pronounce duelling itself an act of cowardice, as indeed it is, then, since common opinion does not regard it as such, the public took no notice of a decision on a point on which its mind was already made up.

I have stated elsewhere<sup>[40]</sup> that as public opinion is not subject to any constraint, there need be no trace of it in the tribunal set up to represent it. It is impossible to admire too much the art with which this resource, which we moderns have wholly lost, was employed by the

Romans, and still more by the Lacedæmonians.

A man of bad morals having made a good proposal in the Spartan Council, the Ephors neglected it, and caused the same proposal to be made by a virtuous citizen. What an honour for the one, and what a disgrace for the other, without praise or blame of either! Certain drunkards from Samos<sup>[41]</sup> polluted the tribunal of the Ephors: the next day, a public edict gave Samians permission to be filthy. An actual punishment would not have been so severe as such an impunity. When Sparta has pronounced on what is or is not right, Greece makes no appeal from her judgments.