

Objection 1. It would seem that it was not useful for laws to be framed by men. Because the purpose of every law is that man be made good thereby, as stated above (q. 92, a. 1). But men are more to be induced to be good willingly by means of admonitions, than against their will, by means of laws. Therefore there was no need to frame laws.

Objection 2. Further, As the Philosopher says (Ethic. v, 4), “men have recourse to a judge as to animate justice.” But animate justice is better than inanimate justice, which contained in laws. Therefore it would have been better for the execution of justice to be entrusted to the decision of judges, than to frame laws in addition.

Objection 3. Further, every law is framed for the direction of human actions, as is evident from what has been stated above (q. 90, Aa. 1,2). But since human actions are about singulars, which are infinite in number, matter pertaining to the direction of human actions cannot be taken into sufficient consideration except by a wise man, who looks into each one of them. Therefore it would have been better for human acts to be directed by the judgment of wise men, than by the framing of laws. Therefore there was no need of human laws.

On the contrary, Isidore says (Etym. v, 20): “Laws were made that in fear thereof human audacity might be held in check, that innocence might be safeguarded in the midst of wickedness, and that the dread of punishment might prevent the wicked from doing harm.” But these things are most necessary to mankind. Therefore it was necessary that human laws should be made.

I answer that, As stated above (q. 63, a. 1; q. 94, a. 3), man has a natural aptitude for virtue; but the perfection of virtue must be acquired by man by means of some kind of training. Thus we observe that man is helped by industry in his necessities, for instance, in food and clothing. Certain beginnings of these he has from nature, viz. his reason and his hands; but he has not the full complement, as other animals have, to whom nature has given sufficiency of clothing and food. Now it is difficult to see how man could suffice for himself in the matter of this training: since the perfection of virtue consists chiefly in withdrawing man from undue pleasures, to which above all man is inclined, and especially the young, who are more capable of being trained. Consequently a man needs to receive this training from another, whereby to arrive at the perfection of virtue. And as to those young people who are inclined to acts of virtue, by their good natural disposition, or by custom,

or rather by the gift of God, paternal training suffices, which is by admonitions. But since some are found to be depraved, and prone to vice, and not easily amenable to words, it was necessary for such to be restrained from evil by force and fear, in order that, at least, they might desist from evil-doing, and leave others in peace, and that they themselves, by being habituated in this way, might be brought to do willingly what hitherto they did from fear, and thus become virtuous. Now this kind of training, which compels through fear of punishment, is the discipline of laws. Therefore in order that man might have peace and virtue, it was necessary for laws to be framed: for, as the Philosopher says (Polit. i, 2), “as man is the most noble of animals if he be perfect in virtue, so is he the lowest of all, if he be severed from law and righteousness”; because man can use his reason to devise means of satisfying his lusts and evil passions, which other animals are unable to do.

Reply to Objection 1. Men who are well disposed are led willingly to virtue by being admonished better than by coercion: but men who are evilly disposed are not led to virtue unless they are compelled.

Reply to Objection 2. As the Philosopher says (Rhet. i, 1), “it is better that all things be regulated by law, than left to be decided by judges”: and this for three reasons. First, because it is easier to find a few wise men competent to frame right laws, than to find the many who would be necessary to judge aright of each single case. Secondly, because those who make laws consider long beforehand what laws to make; whereas judgment on each single case has to be pronounced as soon as it arises: and it is easier for man to see what is right, by taking many instances into consideration, than by considering one solitary fact. Thirdly, because lawgivers judge in the abstract and of future events; whereas those who sit in judgment of things present, towards which they are affected by love, hatred, or some kind of cupidity; wherefore their judgment is perverted.

Since then the animated justice of the judge is not found in every man, and since it can be deflected, therefore it was necessary, whenever possible, for the law to determine how to judge, and for very few matters to be left to the decision of men.

Reply to Objection 3. Certain individual facts which cannot be covered by the law “have necessarily to be committed to judges,” as the Philosopher says in the same passage: for instance, “concerning something that has happened or not happened,” and the like.