

Objection 1. It would seem that judgment is not rendered perverse by being usurped. For justice is rectitude in matters of action. Now truth is not impaired, no matter who tells it, but it may suffer from the person who ought to accept it. Therefore again justice loses nothing, no matter who declares what is just, and this is what is meant by judgment.

Objection 2. Further, it belongs to judgment to punish sins. Now it is related to the praise of some that they punished sins without having authority over those whom they punished; such as Moses in slaying the Egyptian (Ex. 2:12), and Phinees the son of Eleazar in slaying Zambri the son of Salu (Num. 25:7-14), and “it was reputed to him unto justice” (Ps. 105:31). Therefore usurpation of judgment pertains not to injustice.

Objection 3. Further, spiritual power is distinct from temporal. Now prelates having spiritual power sometimes interfere in matters concerning the secular power. Therefore usurped judgment is not unlawful.

Objection 4. Further, even as the judge requires authority in order to judge aright, so also does he need justice and knowledge, as shown above (a. 1, ad 1,3; a. 2). But a judgment is not described as unjust, if he who judges lacks the habit of justice or the knowledge of the law. Neither therefore is it always unjust to judge by usurpation, i.e. without authority.

On the contrary, It is written (Rom. 14:4): “Who art thou that judgest another man’s servant?”

I answer that, Since judgment should be pronounced according to the written law, as stated above (a. 5), he that pronounces judgment, interprets, in a way, the letter of the law, by applying it to some particular case. Now since it belongs to the same authority to interpret and to make a law, just as a law cannot be made save by public authority, so neither can a judgment be pronounced except by public authority, which extends over those who are subject to the community. Wherefore even as it would be unjust for one man to force another to observe a law that was not approved by public authority, so too it is unjust, if a man compels another to submit to a judgment that is pronounced by other than

the public authority.

Reply to Objection 1. When the truth is declared there is no obligation to accept it, and each one is free to receive it or not, as he wishes. On the other hand judgment implies an obligation, wherefore it is unjust for anyone to be judged by one who has no public authority.

Reply to Objection 2. Moses seems to have slain the Egyptian by authority received as it were, by divine inspiration; this seems to follow from Acts 7:24, 25, where it is said that “striking the Egyptian. . . he thought that his brethren understood that God by his hand would save Israel [Vulg.: ‘them’].” Or it may be replied that Moses slew the Egyptian in order to defend the man who was unjustly attacked, without himself exceeding the limits of a blameless defence. Wherefore Ambrose says (De Offic. i, 36) that “whoever does not ward off a blow from a fellow man when he can, is as much in fault as the striker”; and he quotes the example of Moses. Again we may reply with Augustine (QQ. Exod. qu. 2)* that just as “the soil gives proof of its fertility by producing useless herbs before the useful seeds have grown, so this deed of Moses was sinful although it gave a sign of great fertility,” in so far, to wit, as it was a sign of the power whereby he was to deliver his people.

With regard to Phinees the reply is that he did this out of zeal for God by Divine inspiration; or because though not as yet high-priest, he was nevertheless the high-priest’s son, and this judgment was his concern as of the other judges, to whom this was commanded[†].

Reply to Objection 3. The secular power is subject to the spiritual, even as the body is subject to the soul. Consequently the judgment is not usurped if the spiritual authority interferes in those temporal matters that are subject to the spiritual authority or which have been committed to the spiritual by the temporal authority.

Reply to Objection 4. The habits of knowledge and justice are perfections of the individual, and consequently their absence does not make a judgment to be usurped, as in the absence of public authority which gives a judgment its coercive force.

* Cf. Contra Faust. xxii, 70 † Ex. 22:20; Lev. 20; Dt. 13,17