

Objection 1. It would seem lawful for the accused to defend himself with calumnies. Because, according to civil law (Cod. II, iv, De transact. 18), when a man is on trial for his life it is lawful for him to bribe his adversary. Now this is done chiefly by defending oneself with calumnies. Therefore the accused who is on trial for his life does not sin if he defend himself with calumnies.

Objection 2. Further, an accuser who is guilty of collusion with the accused, is punishable by law (Decret. II, qu. iii, can. Si quem poenit.). Yet no punishment is imposed on the accused for collusion with the accuser. Therefore it would seem lawful for the accused to defend himself with calumnies.

Objection 3. Further, it is written (Prov. 14:16): “A wise man feareth and declineth from evil, the fool leapeth over and is confident.” Now what is done wisely is no sin. Therefore no matter how a man declines from evil, he does not sin.

On the contrary, In criminal cases an oath has to be taken against calumnious allegations (Extra, De iuramento calumniae, cap. Inhaerentes): and this would not be the case if it were lawful to defend oneself with calumnies. Therefore it is not lawful for the accused to defend himself with calumnies.

I answer that, It is one thing to withhold the truth, and another to utter a falsehood. The former is lawful sometimes, for a man is not bound to divulge all truth, but only such as the judge can and must require of him according to the order of justice; as, for instance, when the accused is already disgraced through the commission of some crime, or certain indications of his guilt have already been discovered, or again when his guilt is already more or less proven. On the other hand it is never lawful to make a false declaration.

As regards what he may do lawfully, a man can employ either lawful means, and such as are adapted to the end in view, which belongs to prudence; or he can use unlawful means, unsuitable to the proposed end, and this belongs to craftiness, which is exercised by fraud

and guile, as shown above (q. 55, Aa. 3, seqq.). His conduct in the former case is praiseworthy, in the latter sinful. Accordingly it is lawful for the accused to defend himself by withholding the truth that he is not bound to avow, by suitable means, for instance by not answering such questions as he is not bound to answer. This is not to defend himself with calumnies, but to escape prudently. But it is unlawful for him, either to utter a falsehood, or to withhold a truth that he is bound to avow, or to employ guile or fraud, because fraud and guile have the force of a lie, and so to use them would be to defend oneself with calumnies.

Reply to Objection 1. Human laws leave many things unpunished, which according to the Divine judgment are sins, as, for example, simple fornication; because human law does not exact perfect virtue from man, for such virtue belongs to few and cannot be found in so great a number of people as human law has to direct. That a man is sometimes unwilling to commit a sin in order to escape from the death of the body, the danger of which threatens the accused who is on trial for his life, is an act of perfect virtue, since “death is the most fearful of all temporal things” (Ethic. iii, 6). Wherefore if the accused, who is on trial for his life, bribes his adversary, he sins indeed by inducing him to do what is unlawful, yet the civil law does not punish this sin, and in this sense it is said to be lawful.

Reply to Objection 2. If the accuser is guilty of collusion with the accused and the latter is guilty, he incurs punishment, and so it is evident that he sins. Wherefore, since it is a sin to induce a man to sin, or to take part in a sin in any way—for the Apostle says (Rom. 1:32), that “they... are worthy of death... that consent” to those who sin—it is evident that the accused also sins if he is guilty of collusion with his adversary. Nevertheless according to human laws no punishment is inflicted on him, for the reason given above.

Reply to Objection 3. The wise man hides himself not by slandering others but by exercising prudence.