

Objection 1. It would seem that an advocate does not sin by defending an unjust cause. For just as a physician proves his skill by healing a desperate disease, so does an advocate prove his skill, if he can defend an unjust cause. Now a physician is praised if he heals a desperate malady. Therefore an advocate also commits no sin, but ought to be praised, if he defends an unjust cause.

Objection 2. Further, it is always lawful to desist from committing a sin. Yet an advocate is punished if he throws up his brief (Decret. II, qu. iii, can. Si quem poenit.). Therefore an advocate does not sin by defending an unjust cause, when once he has undertaken its defense.

Objection 3. Further, it would seem to be a greater sin for an advocate to use unjust means in defense of a just cause (e.g. by producing false witnesses, or alleging false laws), than to defend an unjust cause, since the former is a sin against the form, the latter against the matter of justice. Yet it is seemingly lawful for an advocate to make use of such underhand means, even as it is lawful for a soldier to lay ambushes in a battle. Therefore it would seem that an advocate does not sin by defending an unjust cause.

On the contrary, It is said (2 Paralip. 19:2): “Thou helpest the ungodly... and therefore thou didst deserve... the wrath of the Lord.” Now an advocate by defending an unjust cause, helps the ungodly. Therefore he sins and deserves the wrath of the Lord.

I answer that, It is unlawful to cooperate in an evil deed, by counseling, helping, or in any way consenting, because to counsel or assist an action is, in a way, to do it, and the Apostle says (Rom. 1:32) that “they... are worthy of death, not only they that do” a sin, “but they also that consent to them that do” it. Hence it was stated

above (q. 62, a. 7), that all such are bound to restitution. Now it is evident that an advocate provides both assistance and counsel to the party for whom he pleads. Wherefore, if knowingly he defends an unjust cause, without doubt he sins grievously, and is bound to restitution of the loss unjustly incurred by the other party by reason of the assistance he has provided. If, however, he defends an unjust cause unknowingly, thinking it just, he is to be excused according to the measure in which ignorance is excusable.

Reply to Objection 1. The physician injures no man by undertaking to heal a desperate malady, whereas the advocate who accepts service in an unjust cause, unjustly injures the party against whom he pleads unjustly. Hence the comparison fails. For though he may seem to deserve praise for showing skill in his art, nevertheless he sins by reason of injustice in his will, since he abuses his art for an evil end.

Reply to Objection 2. If an advocate believes from the outset that the cause is just, and discovers afterwards while the case is proceeding that it is unjust, he ought not to throw up his brief in such a way as to help the other side, or so as to reveal the secrets of his client to the other party. But he can and must give up the case, or induce his client to give way, or make some compromise without prejudice to the opposing party.

Reply to Objection 3. As stated above (q. 40, a. 3), it is lawful for a soldier, or a general to lay ambushes in a just war, by prudently concealing what he has a mind to do, but not by means of fraudulent falsehoods, since we should keep faith even with a foe, as Tully says (De offic. iii, 29). Hence it is lawful for an advocate, in defending his case, prudently to conceal whatever might hinder its happy issue, but it is unlawful for him to employ any kind of falsehood.