

Objection 1. It would seem unlawful for an advocate to take a fee for pleading. Works of mercy should not be done with a view to human remuneration, according to Lk. 14:12, “When thou makest a dinner or a supper, call not thy friends. . . nor thy neighbors who are rich: lest perhaps they also invite thee again, and a recompense be made to thee.” Now it is a work of mercy to plead another’s cause, as stated above (a. 1). Therefore it is not lawful for an advocate to take payment in money for pleading.

Objection 2. Further, spiritual things are not to be bartered with temporal things. But pleading a person’s cause seems to be a spiritual good since it consists in using one’s knowledge of law. Therefore it is not lawful for an advocate to take a fee for pleading.

Objection 3. Further, just as the person of the advocate concurs towards the pronouncement of the verdict, so do the persons of the judge and of the witness. Now, according to Augustine (Ep. cliii ad Macedon.), “the judge should not sell a just sentence, nor the witness true evidence.” Therefore neither can an advocate sell a just pleading.

On the contrary, Augustine says (Ep. cliii ad Macedon.) that “an advocate may lawfully sell his pleading, and a lawyer his advice.”

I answer that, A man may justly receive payment for granting what he is not bound to grant. Now it is evident that an advocate is not always bound to consent to plead, or to give advice in other people’s causes. Wherefore, if he sell his pleading or advice, he does not act against justice. The same applies to the physician who attends on a sick person to heal him, and to all like persons; provided, however, they take a moderate fee, with due consideration for persons, for the matter in hand, for the labor entailed, and for the custom of the

country. If, however, they wickedly extort an immoderate fee, they sin against justice. Hence Augustine says (Ep. cliii ad Macedon.) that “it is customary to demand from them restitution of what they have extorted by a wicked excess, but not what has been given to them in accordance with a commendable custom.”

Reply to Objection 1. Man is not bound to do gratuitously whatever he can do from motives of mercy: else no man could lawfully sell anything, since anything may be given from motives of mercy. But when a man does give a thing out of mercy, he should seek, not a human, but a Divine reward. In like manner an advocate, when he mercifully pleads the cause of a poor man, should have in view not a human but a Divine meed; and yet he is not always bound to give his services gratuitously.

Reply to Objection 2. Though knowledge of law is something spiritual, the use of that knowledge is accomplished by the work of the body: hence it is lawful to take money in payment of that use, else no craftsman would be allowed to make profit by his art.

Reply to Objection 3. The judge and witnesses are common to either party, since the judge is bound to pronounce a just verdict, and the witness to give true evidence. Now justice and truth do not incline to one side rather than to the other: and consequently judges receive out of the public funds a fixed pay for their labor; and witnesses receive their expenses (not as payment for giving evidence, but as a fee for their labor) either from both parties or from the party by whom they are adduced, because no man “serveth as a soldier at any time at his own charge*” (1 Cor. 9:7). On the other hand an advocate defends one party only, and so he may lawfully accept fee from the party he assists.

* Vulg.: ‘Who serveth as a soldier,’