

Objection 1. It would seem that an accusation is not rendered unjust by calumny, collusion or evasion. For according to Decret. II, qu. iii*, “calumny consists in falsely charging a person with a crime.” Now sometimes one man falsely accuses another of a crime through ignorance of fact which excuses him. Therefore it seems that an accusation is not always rendered unjust through being slanderous.

Objection 2. Further, it is stated by the same authority that “collusion consists in hiding the truth about a crime.” But seemingly this is not unlawful, because one is not bound to disclose every crime, as stated above (a. 1; q. 33, a. 7). Therefore it seems that an accusation is not rendered unjust by collusion.

Objection 3. Further, it is stated by the same authority that “evasion consists in withdrawing altogether from an accusation.” But this can be done without injustice: for it is stated there also: “If a man repent of having made a wicked accusation and inscription† in a matter which he cannot prove, and come to an understanding with the innocent party whom he has accused, let them acquit one another.” Therefore evasion does not render an accusation unjust.

On the contrary, It is stated by the same authority: “The rashness of accusers shows itself in three ways. For they are guilty either of calumny, or of collusion, or of evasion.”

I answer that, As stated above (a. 1), accusation is ordered for the common good which it aims at procuring by means of knowledge of the crime. Now no man ought to injure a person unjustly, in order to promote the common good. Wherefore a man may sin in two ways when making an accusation: first through acting unjustly against the accused, by charging him falsely with the commission of a crime, i.e. by calumniating him; secondly, on the part of the commonwealth, whose good is intended chiefly in an accusation, when anyone with wicked intent hinders a sin being punished. This again happens in two ways: first by

having recourse to fraud in making the accusation. This belongs to collusion [prevaricatio] for “he that is guilty of collusion is like one who rides astraddle [varicator], because he helps the other party, and betrays his own side”‡. Secondly by withdrawing altogether from the accusation. This is evasion [tergiversatio] for by desisting from what he had begun he seems to turn his back [tergum vertere].

Reply to Objection 1. A man ought not to proceed to accuse except of what he is quite certain about, wherein ignorance of fact has no place. Yet he who falsely charges another with a crime is not a calumniator unless he gives utterance to false accusations out of malice. For it happens sometimes that a man through levity of mind proceeds to accuse someone, because he believes too readily what he hears, and this pertains to rashness; while, on the other hand sometimes a man is led to make an accusation on account of an error for which he is not to blame. All these things must be weighed according to the judge’s prudence, lest he should declare a man to have been guilty of calumny, who through levity of mind or an error for which he is not to be blamed has uttered a false accusation.

Reply to Objection 2. Not everyone who hides the truth about a crime is guilty of collusion, but only he who deceitfully hides the matter about which he makes the accusation, by collusion with the defendant, dissembling his proofs, and admitting false excuses.

Reply to Objection 3. Evasion consists in withdrawing altogether from the accusation, by renouncing the intention of accusing, not anyhow, but inordinately. There are two ways, however, in which a man may rightly desist from accusing without committing a sin—in one way, in the very process of accusation, if it come to his knowledge that the matter of his accusation is false, and then by mutual consent the accuser and the defendant acquit one another—in another way, if the accusation be quashed by the sovereign to whom belongs the care of the common good, which it is intended to procure by the accusation.

* Append. Grat. ad can. Si quem poenituerit. † The accuser was bound by Roman Law to endorse (se inscribere) the writ of accusation. The effect of this endorsement or inscription was that the accuser bound himself, if he failed to prove the accusation, to suffer the same punishment as the accused would have to suffer if proved guilty. ‡ Append. Grat. ad can. Si quem poenituerit.