

Objection 1. It would seem that the evidence of two or three persons is not sufficient. For judgment requires certitude. Now certitude of the truth is not obtained by the assertions of two or three witnesses, for we read that Naboth was unjustly condemned on the evidence of two witnesses (3 Kings 21). Therefore the evidence of two or three witnesses does not suffice.

Objection 2. Further, in order for evidence to be credible it must agree. But frequently the evidence of two or three disagrees in some point. Therefore it is of no use for proving the truth in court.

Objection 3. Further, it is laid down (Decret. II, qu. iv, can. Praesul.): "A bishop shall not be condemned save on the evidence of seventy-two witnesses; nor a cardinal priest of the Roman Church, unless there be sixty-four witnesses. Nor a cardinal deacon of the Roman Church, unless there be twenty-seven witnesses; nor a subdeacon, an acolyte, an exorcist, a reader or a doorkeeper without seven witnesses." Now the sin of one who is of higher dignity is more grievous, and consequently should be treated more severely. Therefore neither is the evidence of two or three witnesses sufficient for the condemnation of other persons.

On the contrary, It is written (Dt. 17:6): "By the mouth of two or three witnesses shall he die that is to be slain," and further on (Dt. 19:15): "In the mouth of two or three witnesses every word shall stand."

I answer that, According to the Philosopher (Ethic. i, 3), "we must not expect to find certitude equally in every matter." For in human acts, on which judgments are passed and evidence required, it is impossible to have demonstrative certitude, because they are about things contingent and variable. Hence the certitude of probability suffices, such as may reach the truth in the greater number of cases, although it fail in the minority. No it is probable that the assertion of several witnesses contains the truth rather than the assertion of one: and since the accused is the only one who denies, while several witnesses affirm the same as the prosecutor, it is reasonably established both by Divine and by human law, that the assertion of several witnesses should be upheld. Now all multitude is comprised of three elements, the beginning, the middle and the end. Wherefore, according to the Philosopher (De Coelo i, 1), "we reckon 'all' and 'whole' to consist of three parts." Now we have a triple voucher when two agree with the prosecutor: hence two witnesses are required; or for the sake of greater certitude three, which is the perfect number. Wherefore it is written (Eccles. 4:12): "A threefold cord is not easily broken": and Augustine, commenting on Jn. 8:17, "The testimony of two men is true," says (Tract. xxxvi) that "there is here a mystery by which we are given to understand that Trinity wherein is

perpetual stability of truth."

Reply to Objection 1. No matter how great a number of witnesses may be determined, the evidence might sometimes be unjust, since it is written (Ex. 23:2): "Thou shalt not follow the multitude to do evil." And yet the fact that in so many it is not possible to have certitude without fear of error, is no reason why we should reject the certitude which can probably be had through two or three witnesses, as stated above.

Reply to Objection 2. If the witnesses disagree certain principal circumstances which change the substance of the fact, for instance in time, place, or persons, which are chiefly in question, their evidence is of no weight, because if they disagree in such things, each one would seem to be giving distinct evidence and to be speaking of different facts. For instance, one say that a certain thing happened at such and such a time or place, while another says it happened at another time or place, they seem not to be speaking of the same event. The evidence is not weakened if one witness says that he does not remember, while the other attests to a determinate time or place. And if on such points as these the witness for prosecution and defense disagree altogether, and if they be equal in number on either side, and of equal standing, the accused should have the benefit of the doubt, because the judge ought to be more inclined to acquit than to condemn, except perhaps in favorable suits, such as a pleading for liberty and the like. If, however, the witnesses for the same side disagree, the judge ought to use his own discretion in discerning which side to favor, by considering either the number of witnesses, or their standing, or the favorableness of the suit, or the nature of the business and of the evidence.

Much more ought the evidence of one witness to be rejected if he contradict himself when questioned about what he has seen and about what he knows; not, however, if he contradict himself when questioned about matters of opinion and report, since he may be moved to answer differently according to the different things he has seen and heard.

On the other hand if there be discrepancy of evidence in circumstances not touching the substance of the fact, for instance, whether the weather were cloudy or fine, whether the house were painted or not, or such like matters, such discrepancy does not weaken the evidence, because men are not wont to take much notice of such things, wherefore they easily forget them. Indeed, a discrepancy of this kind renders the evidence more credible, as Chrysostom states (Hom. i in Matth.), because if the witnesses agreed in every point, even in the minutest of details, they would seem to have conspired together to say the same thing: but this must be left to the prudent discernment of the judge.

Reply to Objection 3. This passage refers specially to the bishops, priests, deacons and clerics of the Roman Church, on account of its dignity: and this for three reasons. First because in that Church those men ought to be promoted whose sanctity makes their evidence of more weight than that of many witnesses. Secondly, because those who have to judge other men, often have many opponents on account of their justice, wherefore those who

give evidence against them should not be believed indiscriminately, unless they be very numerous. Thirdly, because the condemnation of any one of them would detract in public opinion from the dignity and authority of that Church, a result which would be more fraught with danger than if one were to tolerate a sinner in that same Church, unless he were very notorious and manifest, so that a grave scandal would arise if he were tolerated.