



NPNF1-02. St. Augustine's City of God and Christian Doctrine

Chapter 6.—Of the Error of Human Judgments When the Truth is Hidden.

What shall I say of these judgments which men pronounce on men, and which are necessary in communities, whatever outward peace they enjoy? Melancholy and lamentable judgments they are, since the judges are men who cannot discern the consciences of those at their bar, and are therefore frequently compelled to put innocent witnesses to the torture to ascertain the truth regarding the crimes of other men. What shall I say of torture applied to the accused himself? He is tortured to discover whether he is guilty, so that, though innocent, he suffers most undoubted punishment for crime that is still doubtful, not because it is proved that he committed it, but because it is not ascertained that he did not commit it. Thus the ignorance of the judge frequently involves an innocent person in suffering. And what is still more unendurable—a thing, indeed, to be bewailed, and, if that were possible, watered with fountains of tears—is this, that when the judge puts the accused to the question, that he may not unwittingly put an innocent man to death, the result of this lamentable ignorance is that this very person, whom he tortured that he might not condemn him if innocent, is condemned to death both tortured and innocent. For if he has chosen, in obedience to the philosophical instructions to the wise man, to quit this life rather than endure any longer such tortures, he declares that he has committed the crime which in fact he has not committed. And when he has been condemned and put to death, the judge is still in ignorance whether he has put to death an innocent or a guilty person, though he put the accused to the torture for the very purpose of saving himself from condemning the innocent; and consequently he has both tortured an innocent man to discover his innocence, and has put him to death without discovering it. If such darkness shrouds social life, will a wise judge take his seat on the bench or no? Beyond question he will. For human society, which he thinks it a wickedness to abandon, constrains him and compels him to this duty. And he thinks it no wickedness that innocent witnesses are tortured regarding the crimes of which other men are accused; or that the accused are put to the torture, so that they are often overcome with anguish, and, though innocent, make false confessions regarding themselves, and are punished; or that, though they be not condemned to die, they often die during, or in consequence of, the torture; or that sometimes the accusers, who perhaps have been prompted by a desire to benefit society by bringing criminals to justice, are themselves condemned through the ignorance of the judge, because they are unable to prove the truth of their accusations though they are true, and because the witnesses lie, and the accused endures the torture without being moved to confession. These numerous and important evils he does not consider sins; for the wise judge does these things, not with any intention of doing harm, but because his ignorance compels him, and because human society claims him as a judge. But though we therefore acquit the judge of malice, we must none the less condemn human life as miserable. And if he is compelled to torture and punish the innocent because his office and his ignorance constrain him, is he a happy as well as a guiltless man? Surely it were proof of more profound considerateness and finer feeling were he to recognize the misery of these necessities, and shrink from his own implication in that misery; and had he any piety about him, he would cry to God "From my necessities deliver Thou me."¹²⁷³

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