

CHAPTER VII:

On the Legislative Power of Ecclesiastical Authorities

FIFTH QUESTION:

Do church inspectors have legislative power, or the power of making laws that bind the conscience?

Response: There are those who, with sophistic reasoning, deny ecclesiastical power and polity to the [church] inspectors, because they do not have legislative power. Their conclusion is based on this axiom: all power on this earth is legislative, or includes within itself legislative power.

Response 1: It is clear that this axiom is constructed in the air or in apparent meteors, from the marital, paternal, master's power, and from the praetorian and consular power among the Romans. All these are powers, but they are not legislative, nor do they include legislative power within themselves. In England, royal power is power, and indeed supreme; yet it is not legislative, nor does it formally contain it. For laws are made by the parliamentary assemblies, as Thomas Smith testifies in his work on the English Republic, book 2, chapter 2, and as the jurist William Prynne also proves in his English treatise on Parliamentary Law in the year 1643, part 1. In the Venetian Republic there are various subordinate colleges of senators or magistrates and judges; the former are endowed with political power or government, the latter with the power of declaring or judging law; but neither of them has legislative power. Not to digress, in the Dutch Republic the colleges of magistrates have political power, and the colleges of judges have the power of jurisdiction in individual cities; yet neither has legislative power, nor have they ever made laws by which the Dutch Republic and people would be ruled.

Response 2: To the denied power of ecclesiastical government and discipline to the predecessors because they do not have the power of making laws that bind the conscience: We respond that they do make laws, that is, to report, denounce, and impress upon consciences the laws made and promulgated by the one Lawgiver (James 4:12, who can save and destroy), and to bind consciences to their reception and obedience, not indeed formally insofar as the predecessors propose and impress those laws upon the consciences, but formally insofar as they are God's laws. For this is the one foundation of receiving them with divine faith and obeying them; when this is posited it is posited, when it is taken away it is taken away. To this the saying of the Apostle pertains, 2 Thessalonians 2:13, "because when you received the word of God which you

heard from us, you accepted it not as the word of men, but as it is in truth, the word of God, which also effectively works in you who believe." Because by the name and power of Christ the predecessors manifest themselves in consciences, and they are ministers of the laws of conscience, of faith and obedience which have been laid down and fixed, and they are God's fellow workers and laborers (1 Corinthians 3:9; 2 Corinthians 6:1) in putting laws into hearts and inscribing them on the mind (Hebrews 10:16). In scriptural language they can be said to make laws for consciences that bind in conscience, likewise to burden consciences, and to impose that yoke on consciences, just as they are said to forgive and retain sins (John 20:23), to justify many (Daniel 12:3) with Matthew 19:28, to become the saviors of many (1 Timothy 4:16), because they are the instruments and ministers of those divine works (1 Corinthians 3:9; 2 Corinthians 5:18-20). Therefore they make, impose, and proclaim to conscience the divine laws, as if God made, imposed, and proclaimed them through his ministers.

Response 3: I add that they have legislative power to make ecclesiastical laws that bind the conscience, not indeed directly, primarily, and immediately, but indirectly, mediately, and by consequence. Of this kind the supreme political powers have legislation and laws, which by their laws determine indifferent and particular circumstances; which subjects are bound to observe in conscience, as also servants the precepts of their masters, children the precepts of their parents, students of their teachers, soldiers of their military commanders (Matthew 8:9), and sailors of the captains of the ship. Because immediately and directly the divine precepts bind the conscience: children obey your parents, servants your masters, subjects the magistrates, etc. And by consequence: children obey your parents, subjects the magistrates, etc., when they command something here and now that agrees with divine and natural law, or at least does not contradict it. For if a superior commands you to do or omit something that contradicts divine law, then you are not bound in conscience to obey by doing or omitting this, as is clear from Daniel 3 and 6, Acts 4:19, and Acts 5:29. The same applies to ecclesiastical laws, which are called canons, constitutions, decrees: with respect to which the mandate of the Apostle in Hebrews 13:17 must also hold: "Obey your leaders." You see, therefore, that legislative power belongs to the predecessors, inspectors, and leaders of the church, and they make laws (properly speaking, declare, denounce, impress, and impose divine laws on consciences), binding the conscience directly, primarily, and immediately, as far as honoring father and mother (Exodus 20), being subject to every human institution for the Lord's sake (1 Peter 2:13), obeying your leaders (Hebrews 13:17), rendering to Caesar the things that are Caesar's, and paying taxes and tribute (Matthew 22:21; Romans 13:7). They also make laws or constitutions and canons about particular orders, modes, and other circumstantial aspects of conducting sacred rites and exercising ecclesiastical government and discipline, to the reception and observance of all which, insofar as they do not contradict divine and natural law, consciences are bound mediately, indirectly, and by consequence, just as the consciences of subjects are bound to the observance of civil laws and mandates. For example, the citizens and inhabitants of this city are bound by the

law to pay a tax of 22 florins for each barrel of wine bought and brought into their house. Here the well-known saying cannot be applied by the defrauder of taxes: "If I defraud without loss, I can defraud without sin," because that human law was not made nor could be made for my conscience, or bind me in conscience, that is, directly, immediately, and primarily, and consequently it is not unlawful in the court of heaven and conscience to defraud the taxes.

We see, therefore, that in this whole line of argumentation, the statement is a figment: that true and genuine power of government is to formally contain the power properly and principally of making laws for consciences, binding and obliging the conscience primarily, per se, immediately, and directly. If this fabrication were granted or conceded, it would follow that magistrates have no remaining legislative power, nor parents, masters, or teachers any power of commanding children, servants, or students, nor the latter any glory or necessity of obeying. But it is wearisome and shameful to pursue this most absurd phantasm with so many words. In the questions immediately following, the things that can be applied here will be touched upon.