

AQUINAS EXCERPTS

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SUMMA THEOLOGIAE

Latin text and English translation,
Introductions, Notes, Appendices
and Glossaries



de lege

CONSEQUENTER CONSIDERANDUM EST DE PRINCIPIS EXTERIORIBUS ACTUUM. Principium autem exterius ad malum inclinans est diabolus, de cuius tentatione in *Primo* dictum est.¹ Principium autem exterius movens ad bonum est Deus, qui et nos instruit per legem et iuvat per gratiam. Unde primo de lege, secundo de gratia dicendum est. Circa legem autem,

primo, oportet considerare de ipsa lege in communi;
secundo, de partibus eius.

Circa legem autem in communi tria occurrant consideranda,

primo quidem, de essentia ipsius;
secundo, de differentia legum;
tertio, de effectibus legis.

¹Ia. 114

^aPrinciple, that from which anything in any manner starts. A real principle is a cause when a relationship of dependence is involved. 'Objective' is inserted in the translation so as not to suggest an externalism not proper to law as such. The response to positive law imposed on us may be 'artificial', but the Eternal Law, natural law, and the Gospel law of grace shape inner voluntary acts springing from persons born in human nature and reborn in the Spirit. The text uses *exterior* in contrast to the *interior* or subjective principles of human activity hitherto studied in the *Prima Secundae* in the treatises on the psychology of human acts (122e. 6-17, Vol. 17 of this series), their morality (122e. 18-21, Vol. 18), their emotional texture (122e. 22-48, Vols. 19, 20 & 21), the strengthening of them through habits, virtues,

law

WE HAVE NOW TO EXAMINE the objective principles of human activity.^a The devil is among them, and as an influence for evil; how he tempts us has been already discussed in the *Prima Pars*.^b From outside the principle of our going towards good is God, who builds us up by law and supports us by grace. So then we shall speak about law in the first place, and about grace afterwards. About law we look at

first, law in general (90-92)
second, its types (93-108).^c

As for law in general there are three headings,

first, the nature of law (90),^d
second, the varieties of law (91);
three, the effects of law (92).

and Gifts of the Holy Ghost (122e. 49-70, Vols. 22, 23 & 24), and weakening through sin (122e. 71-89, Vols. 25, 26 & 27).

^bAlso 122e. 80. There is no organized system of sin; 122e. 73. 1. The Devil or Antichrist may be referred to as the Prince of Evil or the *Caput Malorum*; 3a. 8, 7 & 8. 1a. 49, 3. Below 122e. 96, 4 note d. On the law of sin in our members see 122e. 91, 6.

^cTypes; the text reads 'parts'. They are not kinds of law strictly speaking, for law is not divided like a genus into species; for example the Eternal Law is not one sort of law among many. 122e; 91. Introduction, Appendix 2.

^dAppendix 1.

Quaestio 90. de essentia legis

Circa primum quaeruntur quatuor:

1. utrum lex sit aliquid rationis;
2. de fine legis;
3. de causa ejus;
4. de promulgatione ipsius.

articulus 1. utrum lex sit aliquid rationis

AD PRIMUM sic proceditur.¹ 1. Videtur quod lex non sit aliquid rationis. Dicit enim Apostolus, *Video aliam legem in membris meis*, etc.² Sed nihil quod est rationis est in membris, quia ratio non utitur organo corporali. Ergo lex non est aliquid rationis.

2. Præterea, in ratione non est nisi potentia, habitus, et actus. Sed lex non est ipsa potentia rationis; similiter etiam non est aliquid habitus rationis, quia habitus rationis sunt virtutes intellectuales, de quibus supra dictum est;³ nec etiam actus rationis est, quia cessante rationis actu lex cessaret, puta in dormientibus. Ergo lex non est aliquid rationis.

3. Præterea, lex movet eos qui subiciuntur legi ad recte agendum. Sed movere ad agendum proprie pertinet ad voluntatem, ut patet ex præmissis.⁴ Ergo lex non pertinet ad rationem, sed magis ad voluntatem, secundum quod etiam Jurisperitus dicit,⁵ *Quod placuit principi, legis habet vigorem*.

SED CONTRA est quod ad legem pertinet præcipere et prohibere. Sed imperare est rationis, ut supra habitum est.⁶ Ergo lex est aliquid rationis.

¹cf 1azæ. 91, 1; 92, 1; 94, 1

²Romans 7, 23

³1azæ. 9, 1

⁴Digest 1, IV, 1. Berlin 1, 35a

⁵1azæ. 17, 1
⁶The opening article sets the key to the treatise: mere force in possession is not law, and domination is obeyed only when charged by reason. Even omnipotence cannot break the order of truth: 1a. 25, 3, 4 & 5. *De potentia* 1, 4-7. One consequence will appear later, that it is of the nature of law to be directive, not compulsive; 1azæ. 96, 5.

The discussion is typical of the *Prima Secundæ* which is about thought directed to action, and of a period when ideas were being converted into institutions.

'Mind' is here preferred to 'reason' to translate *ratio* lest it be thought that all laws have to be reasoned out. The process of reasoning applies to those laws that are like conclusions from principles of natural law, or like constructions laid upon these conclusions; 1azæ. 95. 2. Appendix 6.

⁷Jurisperitus, a juriconsult or jurisprudent; here in fact the authority of Ulpian (d. 228) who, it is said, provided a third of the material for the *Digest* or *Pandects*.

Roman Law, which had grown out of the decisions of magistrates, based on accepted custom and equity, was set out in order by a series of great juriconsults,

Question 90. the nature of law

Here there are four points of inquiry:

1. whether law is a function of reason;
2. about its purpose;
3. its agent;
4. and its promulgation.

article 1. is law a function of mind?

THE FIRST POINT:^{1a} 1. Law apparently is not a function of mind, since St Paul says that *I see another law in my members, warring against the law of my mind*.² What is mental does not enter into our members, for thought is not exercised through a physical organ. Hence law is not a function of reason.

2. Besides, in the reason there is but the faculty itself, a disposition it may have, or an activity. Law however, is not the very faculty, nor one of its dispositions, for these, as we have seen,³ are the intellectual virtues, nor an activity, for then it would lapse when reasoning is suspended, as during sleep. Law, therefore, does not belong to the reason.

3. Then also, law motions its subjects to act aright. Yet it has been stated⁴ that setting human activity into motion is properly the work of the will. Therefore law is the office of will rather than of mind; which accords with the words of the Jurist, *what has pleased the sovereign has the force of law*.^{5b}

ON THE OTHER HAND the burden of law is to prescribe or prohibit. Such executive commanding issues from the reason, as already noted.⁶ Consequently law is a function of reason.

notably Gaius (c. 150-180) and Ulpian; their work was incorporated with later edicts, rescripts, and imperial constitutions, which amended the laws or made new ones (cf 1azæ. 95, 4. footnotes), in the systematization of the Emperor Justinian. The revised edition of his *Code* in 529 had been preceded the year before by the *Digest*, a compression of the writings of the classical jurists which was given the force of law. The *Institutes*, a professional manual based on Gaius, appeared about the same time. These, together with the *Novels*, or new legislation, mostly in Greek, form the *Corpus Juris Civilis* (Vol. I, 15th ed. 1928; Vol. II, 9th ed. 1915, by F. Krüger & T. Mommsen, Berlin).

The Roman Law was overlaid in the West by the barbarian invasions; its recovery began from Bologna at the end of the eleventh century. Irnerius headed the line of Glossators which ended with Accursius, an older contemporary of St Thomas, Gratian the line of Canonists; the old *corpus* of Justinian was dead, but the Canonists first and the Civilian afterwards, particularly the Post-Glossators, renewed it and made of it a living law adapted to the politics of Church and State.

Footnote continued on page 6

RESPONSO: Dicendum quod lex quædam regula est et mensura actuum, secundum quam inducitur aliquis ad agendum vel ab agendo retrahitur. Dicitur enim lex a ligando, quia obligat ad agendum. Regula autem et mensura humanorum actuum est ratio, quæ est principium primum actuum humanorum, ut ex prædictis patet.⁷ Rationis enim est ordinare ad finem, qui est primum principium in agendis secundum Philosophum.⁸ In unoquoque autem genere id quod est primum principium est mensura et regula illius generis; sicut unitas in genere numeri, et motus primus in genere motuum. Unde relinquatur quod lex sit aliquid pertinens ad rationem.

1. Ad primum ergo dicendum quod, cum lex sit regula quædam et mensura, dicitur dupliciter esse in aliquo. Uno modo sicut in mensurante et regulante; et quia hoc est proprium rationis, ideo per hunc modum lex est in ratione sola. Alio modo sicut in regulato et mensurato; et sic lex est in omnibus quæ inclinatur in aliquid ex aliqua lege; ita quod quælibet inclinatio proveniens ex aliqua lege potest dici 'lex' non essentialiter, sed quasi participative. Et hoc modo inclinatio ipsa membrorum ad concupiscendum 'lex membrorum' vocatur.⁹

2. Ad secundum dicendum quod, sicut in actibus exterioribus est considerari operationem et operatum, puta ædificationem et ædificatum, ita in operibus rationis est considerare ipsum actum rationis, qui est intelligere et ratiocinari, et aliquid per huiusmodi actum constitutum; quod quidem in speculativa ratione primo quidem est definitio; secundo, enuntiatio; tertio, vero syllogismus vel argumentatio. Et quia ratio etiam practica utitur quodam syllogismo in operabilibus, ut supra habitum est,¹⁰ secundum quod Philosophus docet in *Ethic.*,¹¹ ideo est invenire aliquid in ratione practica quod ita se habeat ad operationes sicut se habet propositio in ratione speculativa ad conclusiones; et huiusmodi propositiones universales

⁷'The ghost story', it has been described, 'of the second life of the Roman Law after the demise of the body in which it first saw the light.' P. Vinogradoff, *Roman and Canon Law in Medieval Europe*, Oxford, 1929. J. Kantorowicz, *Studies in the Glossators of the Roman Law*, Cambridge, 1938.

⁸The quotation from the *Digest*, which is the famous *Lex Regia* that exercised the political writers of the sixteenth century, is part of a text dealing with the act of alienation in the people's alleged contract of subjection to the Emperor. For the cognate maxim, of the *Principes Solutus*, the ruler exempt from law, see 122æ. 96, 5 ad 3.

⁹The mind from itself is an ordaining and ruling power, *virtus ordinativa et regitiva*; CG III, 78. *De veritate* III, 3. In *De anima* III, lect. 15.

¹⁰122æ. I, 1 ad 3; 66, 1

¹¹*Physics* II, 9, 200a22. *Ethics* VII, 8, 1151a16. St Thomas, *lect. 8*

¹²Peter Lombard, *Sentences* II, 30, 8. Quaracchi I, 464

¹³122æ. 13, 3; 76, 1; 77, 2 ad 4

¹⁴*Regula et mensura*, a phrase often repeated. *Rego*, to keep or lead straight, guide,

REPLY: Law is a kind of direction or measure for human activity through which a person is led to do something or held back.⁶ The word comes from *ligando*, because it is binding on how we should act.⁷ Now direction and measure come to human acts from reason, from which, as we have shown,⁷ they start. It is the function of reason to plan for an end, and this purpose, as Aristotle notes,⁸ is the original source of what we do.⁹ The originating principle in any class strikes the note for all there comprised, for instance the unit of calculation in a numerical system, or the first motion that sets going a derivative series of motions. We are left with the conclusion, then, that law is something that belongs to reason.

Hence: 1. Taken as a rule and measure, law can be present in two manners, first, and this is proper to the reason, as in the ruling and measuring principle, and in this manner it is in the reason alone; second, as in the subject ruled and measured, and in this manner law is present wherever it communicates a tendency to something, which tendency can be called derivatively, though not essentially, a 'law'. The inclination to concupiscence of our physical parts in this sense is called 'the law of members'.¹⁰

2. As with outward acts a distinction can be drawn between the doing and the deed, for instance the actual work on a building and the work that is built, so also with the activities of reason the actual thinking, namely understanding and reasoning, and what is thought out, namely first a definition, next a proposition, and finally a syllogism or argument, can be considered apart.¹¹ And because the practical reason makes use of a sort of syllogism in settling on a course of action, as already noted¹⁰ in accordance with the teaching of Aristotle,¹¹ a proposition can be discerned which is to practice what a premise is to the conclusions the theoretic reason draws.¹² General propositions of this type in the practical reason which bears on

conduct, direct, draw the boundaries, mark the limits, rule, control. *Métier*, to measure, mete out, judge one thing by another. The illustrations from number and motion suggest that the notion of law should be at once fixed and dynamic. Hooker speaks of a 'rule or canon whereby actions are framed'; *Ecclesiastical Polity* I, 3, 1.

⁷*Ligo*, to bind, oblige; this etymology comes from Cassiodorus. Isidore's, from *lego*, to collect, pick out, read aloud, is noted below; art. 4 ad 3. Cicero gives *lex* from *delectus* (*deligere*), which, like the Greek *nomos*, implies a just apportioning. St Augustine relates the term to *diligendo*, chosen loving.

⁸The end, or final cause: as purposed, in *ordine intentionis*, the first of the causes; as accomplished, in *ordine executionis*, the last; 122æ. I, 1 & 2.

⁹By Peter Lombard, *Sentences* II, 30, 8. cf below 122æ. 91, 6.

¹⁰Apprehension, judgment, reasoning—the three mental operations that make the headings for the classical curriculum of formal logic.

¹¹The theoretical reason and the practical reason are not different psychological faculties; the distinction refers to the double interest of one single mind, namely

rationis practicæ ordinatæ ad actiones habent rationem legis: quæ quidem propositiones aliquando actualiter considerantur, aliquando vero habitu- aliter a ratione tenentur.

3. Ad tertium dicendum quod ratio habet vim movendi a voluntate, ut supra dictum est.¹² Ex hoc enim quod aliquis vult finem, ratio imperat de his quæ sunt ad finem. Sed voluntas de his quæ imperantur, ad hoc quod legis rationem habeat, oportet quod sit aliqua ratione regulata; et hoc modo intelligitur quod *voluntas principis habet vigorem legis*: alioquin voluntas principis magis esset iniquitas quam lex.

articulus 2. utrum lex ordinetur semper ad bonum commune

AD SECUNDUM sic proceditur.¹ Videtur quod lex non ordinetur semper ad bonum commune sicut ad finem. Ad legem enim pertinet præcipere et prohibere. Sed præcepta ordinantur ad quædam singularia bona. Non ergo semper finis legis est bonum commune.

2. Præterea, lex dirigit hominem ad agendum. Sed actus humani sunt in particularibus. Ergo et lex ad aliquod particulare bonum ordinatur.

3. Præterea, Isidorus dicit, *Si ratione lex constat, lex erit omne quod ratione consistenterit.*² Sed ratione consistit non solum quod ordinatur ad bonum commune, sed etiam quod ordinatur ad privatum bonum unius. Ergo* lex non ordinatur solum ad bonum commune, sed etiam ad bonum privatum unius.

SED CONTRA est quod Isidorus dicit quod *lex est nullo privato commodo, sed pro communi utilitate civium conscripta.*³

RESPONSIO: Dicendum quod, sicut dictum est,⁴ lex pertinet ad id quod est principium humanorum actuum, ex eo quod est regula et mensura. Sicut autem ratio est principium humanorum actuum, ita etiam in ipsa ratione est aliquid quod est principium respectu omnium aliorum: unde ad hoc

truth for its own sake and truth in doing and making; 1a. 79, 11. The syllogism referred to is not an apodictic or demonstrative deduction, but a syllogism in the wide sense, of one proposition following from another, as when reasoning leads to a decision; *Prior Analytics* I, 1. 24b18. *Topics*, I, 1. 100a5. *Ethics* VII, 3-5. 1145b20-47b20. St Thomas, *lect.* 2-3. cf Vol. 18 of this series, Appendices 8 & 9.

*Piana & Faucher leave the rest of the sentence unsaid

¹²112æ. 17, 1

¹cf 112æ. 95, 4; 96, 1. III *Sentences* 37, 2, ii ad 5. *In Ethic.* V, *lect.* 2

²*Etymologies* II, 10, & V, 3, PL 82, 130 & 199

⁴art. 1

³*Ibid* V, 21. PL 82, 203

what has to be done have the character of law; sometimes they are actually adverted to, sometimes they are convictions held merely as habits of mind.

3. The reason gets its motive force from the will, as we have shown.¹²¹ For it is because a person wills an end that his reason effectively governs arrangements to bring it about. To have the quality of law in what is so commanded the will must be ruled by some reason, and the maxim, *the prince's will has the force of law*, has to be understood with that proviso, otherwise his will would make for lawlessness rather than law.¹

article 2. is law always ordained to the common good?

THE SECOND POINT:¹ 1. Not always, it would seem, is the common good the shaping purpose of law.² For it is the office of law to prescribe and prohibit. Such precepts are aimed at the individual good. Consequently the purpose of law is not always the common good.

2. Moreover, law directs man in his actions. These, however, are always about particular matters. Hence law also is for the sake of particular benefit.

3. Furthermore, Isidore^b remarks that *if law is founded on reason, then law will be all that stands to reason.*² Now reason stands for what is for the good of the private individual as well as of the community. Therefore law is not only ordered to the common good but to private individual good as well.

ON THE OTHER HAND there is Isidore saying, *law is enacted for no private benefit, but for the common service of citizens.*³

REPLY: To be a principle of human acts, as we have said,⁴ is part of the nature of law, since it is for them a rule and measure. As their beginning lies in the reason, so also one phase of its activity is the start of what follows; this first and foremost is where law comes in. Now the deeds we

¹The influence of reason on will is like that of a formal cause, of will on reason like that of an efficient cause; the result is meaning in motion, which in law is a reasonable ordination for the love of the common good, art. 2. For the interplay of reason and will see 1a. 82, 4; 112æ. 9, 1. The examination of freedom fastens on their deliberation, not on executive spontaneity; 1a. 83, 3 & 4. *De malo* IV, 1. *De veritate* XXIV, 4, 5 & 6. For the dialectic of love see Vol. 1 of this series, Appendix 10.

¹²¹Lawlessness, *iniquitas*, from *in-equus*, unequal, unfair, unjust.

^aCommon good; Appendix 4.

^bSt Isidore of Seville, d. 636. His twenty books of *Etymologies* was the main encyclopedia of classical learning for the Middle Ages.

oportet quod principaliter et maxime pertineat lex. Primum autem principium in operativis, quorum est ratio practica, est finis ultimus. Est autem ultimus finis humanæ vitæ felicitas vel beatitudo, ut supra habitum est.⁵ Unde oportet quod lex maxime respiciat ordinem qui est in beatitudine.

Rursus cum omnis pars ordinetur ad totum sicut imperfectum ad perfectum, unus autem homo est pars communitatis perfectæ, necesse est quod lex proprie respiciat ordinem ad felicitatem communem. Unde et Philosophus, præmissa definitione legalium, mentionem facit de felicitate et communiōe politica: dicit enim in *V Ethic.* quod *legalia iusta dicimus factiva et conservativa felicitatis et particularium ipsius politica communicatione*;⁶ perfecta enim communitas civitas est, ut dicitur in *I Politic.*⁷

In quolibet autem genere id quod 'maxime' dicitur est principium aliorum, et alia dicuntur secundum ordinem ad ipsum: sicut ignis, qui est maxime calidus, est causa caliditatis in corporibus mixtis, quæ intantum dicuntur calida inquantum participant de igne. Unde oportet, cum lex maxime dicatur secundum ordinem ad bonum commune, quod quodcumque aliud præceptum de particulari opere non habeat rationem legis nisi secundum ordinem ad bonum commune.

Et ideo omnis lex ad bonum commune ordinatur.

I. Ad primum ergo dicendum quod præceptum importat applicationem ad ea quæ lege regulantur. Ordo autem ad bonum commune, qui pertinet ad legem, est applicabilis ad singulares fines. Et secundum hoc etiam de particularibus quibusdam præcepta dantur.

⁵1A2Æ. I, 6 & 7; 2, 5 & 7; 69, I

⁶*Ethics* V, I, 1129b17. St Thomas, *lect.* 2

⁷*Politics* I, I, 1252a5. St Thomas, *lect.* I

⁸*Felicitas*, from *feo*, to produce, whence also *secundus* and *femina*. *Beatitudo*, from *beo*, to gladden, enrich. Objective beatitudo, the cause of our happiness; subjective beatitudo, the state of happiness. The ordering of all rightful activity to happiness is the theme running throughout St Thomas's moral theology: Vol. 18 of this series, Appendices 1-4. For human happiness, see 1A2Æ. 2-5; for God's happiness, which is the theological common good, see 1A. 26.

⁹The thought derives from Plato on love as the desire and pursuit of the whole. When the whole is rendered as an economic or political group then the full life it offers is bound to be at some cost to the inclinations of the part considered in isolation. This community-life was more comprehensive to a Greek philosopher than to a Christian theologian, who looked beyond it to the higher city of God and was prepared to dispute its claims to be submitted to.

¹⁰On this point of the subordination of the individual to the group, Maritain's distinction between individuals and persons is useful. A human being can be considered as a part of a greater whole, and then, considered as a unit or individual within it he subserves its needs. As a person, however, he can rise above it and enter into an association in which there is no subjection and, properly speaking, no law. *Quis legem dat amantibus?* The political community occupies an intermediate posi-

perform, these being the concern of the practical reason, all originate from our last end. We have shown that the last end of human living is happiness or well-being.⁵ Consequently law is engaged above all with the plan of things for human happiness.

Again, since the subordination of part to whole is that of incomplete to rounded-off reality, and since a human individual man is part of the full life of the community, it must needs be that law properly speaking deals with this subordination to a common happiness.⁶ Thus Aristotle, having explained what he means by 'legal', mentions the happiness of the body politic when he says in the *Ethics*⁶ that *we call those acts legally just that tend to produce and preserve happiness and its components for the political community*, the perfect community, according to the *Politics*,⁷ being the State.⁸

When we speak of 'a-most-of-all' in any class of things then it is the principle and centre of reference for them all, as fire, for instance, which is the hottest thing of all, is the cause of heat in bodies mixed with other elements, and they are called hot in so far as they share its nature.⁹ And since we speak of law most of all in terms of the common good, it follows that any other precept about more particular business will not have the nature of law except in so far as it enters into this plan for the common good.

Therefore every law is shaped to the common good.

Hence: I. A precept implies a decisive application to the matters which law regulates.⁸ These include individual ends, for the plan for the common good, which is the concern of law, really has to come down to them. That is why precepts are given in certain particular cases.

¹¹Between a group which owns us and a circle of friends; our characteristic activity within it is free obedience to lawful commands. cf below, art. 3, note g. T. Gilby, *Between Community and Society*, A Theology of the State, London & New York, 1953.

¹²The perfect community, namely possessing autarky, self-sufficient to provide the advantages of life in the main; *Ethics* VIII, 9, 1160a23. St Thomas, *lect.* 9. The polis or City-State of Aristotle; the *Res Publica* of the Romans. Typically for St Thomas a *regnum*, a realm or kingdom; the *Regnum* in the Middle Ages was his own Kingdom of Sicily. *Communitas* here includes the whole body of free citizens, just as *universitas regni* includes all tenants-in-chief of the Crown.

¹³The example, as in the *quarta via* (1A. 2, 3) may be taken merely to illustrate the argument; for 'fire' read 'Sun' as the principle of thermal energy in our world. The cosmology of the four elements may be here neglected.

¹⁴*Applicatio*, also *usus activus*, technical terms for that part of a human act which marks the passage from intention to execution. Activity that was previously a judgment and choice within the mind and will now begin to take effect as a deed. cf 1A2Æ. 16, I & 4.

2. Ad secundum dicendum quod operationes quidem sunt in particularibus; sed illa particularia referri possunt ad bonum commune—non quidem communitate generis vel speciei, sed communitate causæ finalis, secundum quod bonum commune dicitur finis communis.

3. Ad tertium dicendum quod, sicut nihil constat firmiter secundum rationem speculativam nisi per resolutionem ad prima principia indemonstrabilia, ita firmiter nihil constat per rationem practicam nisi per ordinationem ad ultimum finem, qui est bonum commune. Quod autem hoc modo ratione constat legis rationem habet.

articulus 3. *utrum ratio cuiuslibet sit factiva legis*

AD TERTIUM sic proceditur: 1. Videtur quod cuiuslibet ratio sit factiva legis. Dicit enim Apostolus quod *cum gentes, quæ legem non habent, naturaliter ea quæ legis sunt faciunt, ipsi sibi sunt lex.*¹ Hoc autem communiter de omnibus dicit. Ergo quilibet potest facere sibi legem.

2. Præterea, sicut Philosophus dicit, *intentio legislatoris est ut inducat virtutem. Ergo cuiuslibet hominis ratio est factiva legis.*

3. Præterea, sicut princeps civitatis est civitatis gubernator, ita quilibet paterfamilias est gubernator domus. Sed princeps civitatis potest in civitate legem facere. Ergo quilibet paterfamilias potest in sua domo facere legem.

SED CONTRA est quod Isidorus dicit in lib. v *Etymol.* et habetur in *Decretis*, *Lex est constitutio populi, secundum quam majores natu simul cum plebibus aliquid sanxerunt.*² Non est ergo cuiuslibet facere legem.

RESPONSIO: Dicendum quod lex proprie primo et principaliter respicit ordinem ad bonum commune. Ordinare autem aliquid in bonum commune est vel totius multitudinis vel alicujus gerentis vicem totius multitudinis.

¹cf 122æ. 97, 3. 222æ. 50, 1 ad 3; 60, 6

²Romans 2, 14

³Etymologies v, 10. PL. 82, 200. Gratian, *Decretum* I, II, 1. Leipzig, 1, 3

⁴The common good is not a generic class-heading, like 'common biological benefit' which can be treated like a univocal concept with respect to men and animals; it is an analogical concept, variously modulated according to the degrees of participation in being as good, and good as cause, that is, as final cause. cf 12æ. 13, 2 & 5. Vol. 3 of this series. It will follow that law as a theological concept is also analogical: cf Appendix 2.

⁵Law, as already noticed, comes from the practical reason, the activities of which are doing and making; 122æ. 57, 3 & 4. Human law, in particular, is 'made up'. Whose reason is *factiva legum*? cf Appendix 5.

2. Human activities indeed always take place in particular situations; these, however, are relevant to the common good—common here involves acting for a universal final cause, not coming under a general classification according to genus or species.^b Common good spells common end.

3. For the theoretic reason nothing is established unless it can be taken back to indemonstrable first principles, likewise for the practical reason nothing is established unless it can be taken on to our ultimate end, which is the common good. Whatever stands to reason in this manner has an essential quality of law.

article 3. *can anybody legislate?*

THE THIRD POINT:^{1a} 1. It seems that anybody's reason can make law. St Paul says, *When the Gentiles, who have not the law, do by nature the things contained in it, these are a law unto themselves.*² He is speaking of everybody without exception. Therefore anybody can make a law for himself.

2. In addition, Aristotle says that *a lawmaker's wish is to lead men into virtue.*³ This anybody can do. Hence any man's reason can pass a law.

3. Then also, as a prince is governor of the State so a head of the family is governor of the household. But a sovereign can legislate for the State. So also can any head of the family do the same for his household.

ON THE OTHER HAND Isidore says, and he is repeated in the *Decretum*,^b that *law is a constitution of the people in which those of high birth sanction something in conjunction with the commonalty.*⁴ Consequently to make law is not for anybody.

REPLY: The chief and main concern of law properly so called is the plan for the common good. The planning is the business of the whole people or of their vicegerent.^c Therefore to make law is the office of the entire

^aThe *Decretum*, or *Concordantia Discordantium Canonum*, of Master Gratian, a Camaldolese monk and the Father of Canon Law. The work, published in Bologna, 1141, was not a miscellany of texts, but a systematic distribution of the existing legislation of the Western Church according to the *sic et non* method of the schools. It enjoyed in Canon Law a prestige equal to that of Peter Lombard's *Sentences* in theology; piety quickly bred the legend that they were half-brothers. Together with the Decretals of Gregory IX, edited by St Raymond of Peñafort, it inaugurated the *Jus Novum*. Edited by E. L. Richter, *Corpus Juris Canonici*, 2nd ed. Leipzig, 1922. cf *Studia Gratiana*, J. Forchelli & A. M. Stickler, 2 vols., Bologna, 1953-4.

^cVicegerent: *gero*, to bear, support the character, sustain the charge. *Gerere vicem*, to act on behalf of; also *obtinere vicem*, to take the place of. Here the public personage, the figure who personifies the community, and is its guardian and, in the fullest sense, its caretaker, *qui curam habet*. cf Appendices 4 (4) & 5.

Et ideo condere legem vel pertinet ad totam multitudinem, vel pertinet ad personam publicam quæ totius multitudinis curam habet; quia et in omnibus aliis ordinare in finem est ejus cujus est proprius ille finis.

1. Ad primum ergo dicendum quod, sicut supra dictum est,⁵ lex est in aliquo non solum sicut in regulante, sed etiam participative sicut in regulato. Et hoc modo unusquisque sibi est lex in quantum participat ordinem alicujus regulantis; unde et ibidem subditur, *Qui ostendunt opus legis scriptum in cordibus suis*.⁶

2. Ad secundum dicendum quod persona privata non potest inducere efficaciter ad virtutem: potest enim solum monere;⁷ sed si sua monitio non recipiatur, non habet vim coactivam, quam debet habere lex ad hoc quod efficaciter inducat ad virtutem, ut Philosophus dicit.⁷ Hanc autem virtutem coactivam habet multitudo, vel persona publica, ad quam pertinet poenas infligere, ut infra dicitur,⁸ et ideo solius ejus est leges facere.

3. Ad tertium dicendum quod, sicut homo est pars domus ita domus est pars civitatis; civitas autem est communitas perfecta, ut dicitur in *1 Politic*.⁹ Et ideo, sicut bonum unius hominis non est ultimus finis sed ad commune bonum ordinatur, ita etiam bonum unius domus ordinatur ad bonum unius civitatis quæ est communitas perfecta. Unde ille qui gubernat aliquam familiam potest quidem facere aliqua præcepta vel statuta, non tamen quæ proprie habent rationem legis.

articulus 4. utrum promulgatio sit de ratione legis

AD QUARTUM sic proceditur:¹ 1. Videtur quod promulgatio non sit de ratione legis. Lex enim naturalis maxime habet rationem legis. Sed lex naturalis non indiget promulgatione. Ergo non est de ratione legis quod promulgetur.

*Piana: *moveve*, he can dissuade or promote

⁵art. 1 ad 1

⁶122æ. 92, 2 ad 3. 222æ. 64, 3

⁷*Politics* I, 1. 1252a5

⁸*De veritate* XVII, 3. *Quodl.* 1, IX, 2

⁹The text here speaks of a *multitudo*; this does not mean the multitude, the masses, the populace, but the entire people, the whole body of citizens, *universitas civium*, a citizen being a male adult who takes a responsible part in political affairs. The *populus*, says St. Augustine, is not just a crowd, but an association for the common welfare united in consent to law: *De civitate Dei* II, 21 & XIX, 21.

¹The first mention of the enforcement of law, the *anagkaskike dynamis* of *Ethics* X, 9, 1180a21. St. Thomas, *lect.* 14. Discussed below, 122æ. 92, 2; 95, 1. The notion of legal sanction, like that of legal obligation, is not a distinct and specific feature of law as such. That law obliges is implied in its being a just command; that its infringement will be followed by a penalty extrinsic to its content is a quality of positive and human law. cf. Appendix 7. Also Vol. 18 of this series, Appendix 18.

people^d or of the public personage who has care of them. For, as elsewhere to plan for an end belongs to the power matching that end.

Hence: 1. As already observed,⁵ law is present not only in the ruling principle but derivatively as well in the subject ruled. In this last manner each is a law unto himself, in so far as he enters into the plan of the governing authority. So St. Paul goes on to say that people show *the work of the law written in their hearts*.⁶

2. A private person can persuade, yet he cannot effectively bring another to virtue, for if his advice is not taken he lacks the force, such as a law should possess, to compel good conduct;⁷ this is noted by Aristotle.⁷ This coercive strength resides in the people or public figure who personifies them; such authority can inflict penalties, as will be shown,⁸ and to it, therefore, the making of law is reserved.

3. As a human being is part of a household so a household is part of a state, which, according to Aristotle,⁹ is the complete community.¹ And as one individual's good is not an ultimate end, since it is subordinate to the common good, so the good of a household is subordinate to the good of a political community.² Consequently the ruler of a family can issue precepts and standing orders, nevertheless these are not such as to possess the nature of law properly so called.³

article 4. is promulgation essential to law?

THE FOURTH POINT:¹ 1. It would seem that promulgation is not essential to law. For natural law, which is law in the fullest sense of the word, needs no promulgation. This, therefore, is not essential to law.

¹The domestic and economic community is not the political community in miniature; *Politics* I, 1. 1252a7. It is a community of a different kind, with less power and less justice. The power of the father or master is confined to the infliction of light penalties. Full justice, the *justum simpliciter* or *politicum*, which goes with the reception of law in the strict sense of the word, lies between distinct and independent parts, namely free and lawful men in a polity. Within a group constituted by kinship or economic dependence there is a lesser and metaphorical *jus*, namely the *paternum* and *dominatum*. 222æ. 57, 4; 65, 2 ad 3. *Ethics* V, 6. 1134b7-18. V. 12. 1161b16-62a33. *Politics* I, 3-7. 1252b35-55b40. cf also the differences between the virtues of family loyalty, *pietas*, respect to superiors, *obsequantia*, and obedience, *obediencia*; 222æ. 101, 3; 102, 1; 104, 2.

²For the subjection of the individual to the common good, see above art. 2, note d. Note also the observation, "The common good prevails over any particular good when they are in the same class; it may well be that a private good can be better according to its type;" 222æ. 152, 4 ad 3.

³An ordinance serving a sectional interest is not a law in the full sense of the term, though it may be a precept deserving obedience, and like judicial decisions on determinate cases may bind under law, *sententia*; 122æ. 96, 1 ad 1.

2. Præterea, ad legem pertinet proprie obligare ad aliquid faciendum vel non faciendum. Sed non solum obligantur ad implendam legem illi coram quibus promulgatur lex, sed etiam alii. Ergo promulgatio non est de ratione legis.

3. Præterea, obligatio legis extenditur etiam in futurum, quia *leges futuris negotiis necessitatem imponunt*, ut *jura* dicunt.² Sed promulgatio fit ad prææsentes. Ergo promulgatio non est de necessitate legis.

SED CONTRA est quod dicitur in *Decretis* quod *leges instituuntur cum promulgantur*.³

RESPONSIO: Dicendum quod, sicut dictum est,⁴ lex imponitur aliis per modum regulæ et mensuræ. Regula autem et mensura imponitur per hoc quod applicatur his quæ regulantur et mesurantur. Unde ad hoc quod lex virtutem obligandi obtineat, quod est proprium legis, oportet quod applicetur hominibus qui secundum eam regulari debent. Talis autem applicatio fit per hoc quod in notitiam eorum deducitur ex ipsa promulgatione. Unde promulgatio ipsa necessaria est ad hoc quod lex habeat suam virtutem.

Et sic ex quatuor prædictis potest colligi definitio legis, quæ nihil est aliud quam quædam rationis ordinatio ad bonum commune, ab eo qui curam communitatis habet, promulgata.

1. Ad primum ergo dicendum quod promulgatio legis naturæ est ex hoc ipso quod Deus eam mentibus hominum inseruit naturaliter cognoscendam.

2. Ad secundum dicendum quod illi coram quibus lex non promulgatur obligantur ad legem observandam, in quantum in eorum notitiam devenit per alios, vel devenire potest promulgatione facta.

3. Ad tertium dicendum quod promulgatio prææsens in futurum extenditur per firmitatem scripturæ, quæ quodammodo semper eam promulgat. Unde Isidorus dicit quod *lex a legendo vocata est, quia scripta est*.⁵

²*Codex* I, XIV, 7. Berlin I, 68a. Here called the '*jura*', the '*Rights*'.

³*Decretum* I, IV, appendix to 3. Leipzig I, 6

⁴art. I

⁵*Etymologies* II, 10. PL 82, 130

⁶This fourth clause, that law needs to be promulgated, is taken from the Canonists. A *summula* of Bulgarus, an early Glossator, had started, 'Inasmuch as laws should be known and understood by all,' yet Gratian seems to have been the first to bring out the importance of promulgation (see *Sed contra* of the article). The conclusion is that law has to be reasonably received as well as reasonably declared.

The leading principle is that nobody is bound to what he does not know about; *De veritate* XVII, 3. Ignorance which is not wilful, either by choice or from negligence

2. Besides, to render obligatory the doing or not doing of some action is proper to law. Yet not only those in whose presence a law is promulgated are under this obligation but others as well. Therefore promulgation is not of the very nature of law.

3. Moreover, the obligation of law extends even to the future, for, as the *Laws* declare, they *impose a necessity on future transactions*.² Promulgation, however, is to people who are present. Hence it is not an indispensable condition of law.

ON THE OTHER HAND the *Decretum* states that *laws are instituted when they are promulgated*.³

REPLY: It has been already noted⁴ that law is laid on subjects to serve as a rule and measure. This means that it has to be brought to bear on them. Hence to have binding force, which is an essential property of a law, it has to be applied to the people it is meant to direct. This application comes about when their attention is drawn to it by the fact of promulgation. Hence this is required for a measure to possess the force of law.⁵

To sum up, from the four foregoing discussions the following definition can be gathered. Law is nought else than an ordinance of reason for the common good made by the authority who has care of the community and promulgated.⁶

Hence: 1. Natural law is promulgated by God's so instilling it into men's minds that they can know it because of what they really are.⁶

2. Those who are not present when a law is promulgated are obliged to its observance in that, given the fact of promulgation, the law is or can be brought to their attention by others.

3. Promulgation in the present stretches into the future through being perpetuated in a written code, which, as it were, ensure a lasting promulgation. Accordingly Isidore etymologizes, *law (lex) gets its name from reading (legendo), because it is written down*.⁵

always excuses; 122æ. 6, 6. The distinction between *ignorantia juris* and *ignorantia facti*, ignorance of the law and practical ignorance that a course of action is covered by a law, was well accepted in the thirteenth century; St Thomas makes it equivalent to Aristotle's distinction between defective moral science and a mistaken judgment in the contingent case; *In Ethic.* III, lect. 3 & 11.

⁶A resumé of the Question. cf Appendix I.

⁶A natural right is not created, though it may be supported, by human law, whereas a right according to human law gets its *robur auctoritatis* from the legislation which contains and creates it; 222æ. 60, 5.

Quæstio 91. de legum diversitate

Deinde considerandum est de diversitate legum, et circa hoc quæruntur sex:

1. utrum sit aliqua lex æterna;
2. utrum sit aliqua lex naturalis;
3. utrum sit aliqua lex humana;
4. utrum sit aliqua lex divina;
5. utrum sit una tantum vel plures;
6. utrum sit aliqua lex peccati.

articulus 1. utrum sit aliqua lex æterna

AD PRIMUM sic proceditur:¹ 1. Videtur quod non sit aliqua lex æterna. Omnis enim lex aliquibus imponitur. Sed non fuit ab æterno cui aliqua lex posset imponi: solus enim Deus fuit ab æterno. Ergo nulla lex est æterna.

2. Præterea, promulgatio est de ratione legis. Sed promulgatio non potuit esse ab æterno, quia non erat ab æterno cui promulgaretur. Ergo nulla lex potest esse æterna.

3. Præterea, lex importat ordinem ad finem. Sed nihil est æternum quod ordinetur ad finem: solus enim ultimus finis est æternus. Ergo nulla lex est æterna.

SED CONTRA est quod Augustinus dicit, *Lex quæ summa ratio nominatur non potest cuiuspiam intelligenti non incommutabilis æternaque videri.*²

RESPONSIO: Dicendum quod, sicut supra dictum est,³ nihil est aliud lex quam dictamen practicæ rationis in principe qui gubernat aliquam communitatem perfectam. Manifestum est autem, supposito quod mundus divina providentia regatur, ut in *Primo* habitum est,⁴ quod tota communitas

¹cf 1A2Æ. 93, 1

²1A2Æ. 90, 1 ad 2; 3 & 4

³De lib. arbit. 1, 6. PL. 32, 1229

⁴Ia. 22, 1 ad 2

⁵Appendix 2. Question 91 sets out the various laws that are more closely examined elsewhere (cf below, Introduction to 1A2Æ. 93), but does not propose specific kinds of law disjunctively opposed by the logic of division. The Eternal Law is not a particular kind of law, but the exemplar transcending yet causing all laws. Moreover the basis of the division is not constant—for an attempt at an essential division of human law, see 1A2Æ. 95, 4 below. Natural law and positive law differ because some acts are good and therefore commanded, while others are good because commanded; the divine law comes from God's intervention in history, revealed in the Old and New Covenants, and comprehends laws that operate in the manner both of natural and positive law; the Pauline law of sin issues from the claim of the flesh on the spirit, the reign of concupiscence powerfully and sombrelly described by Augustine and others.

Question 91. varieties of law

Now let us look at the diversity of laws.^a And here there are six points of inquiry:

1. is there an Eternal Law?
2. natural law?
3. human law?
4. a divine law?
5. is the divine law one or several?
6. is there a law of sin?

article 1. is there an Eternal Law?

THE FIRST POINT.¹ 1. There is no Eternal Law it seems. Every law supposes subjects on which it is imposed. Yet there was none such from eternity; God alone is from eternity.^b Therefore no law is eternal.

2. Moreover, promulgation is an essential condition of law. Now promulgation from all eternity is out of the question, since because from eternity there was no one to be addressed. Hence no law can be eternal.

3. Furthermore, law implies a plan for an end. Nothing, however, can be eternal which is planned for an end; only the ultimate end itself is eternal. Consequently no law is eternal.

ON THE OTHER HAND Augustine says, *That law which is named the supreme reason cannot be otherwise understood than as unchangeable and eternal.*^{2c}

REPLY: As stated above,³ law is nothing but a dictate of practical reason issued by a sovereign who governs a complete community. Granted that the world is ruled by divine Providence, and this we have shown in the *Prima Pars*,⁴ it is evident that the whole community of the universe is governed by God's mind.^a Therefore the ruling idea of things which exists in God as the effective sovereign of them all has the nature of law.

As is manifest from this variety, the idea of law is analogical, and does not bear a fixed meaning which can be divided into separate compartments according to genera and species. Neither the Eternal Law nor natural law are proper concepts of positive legal science.

^aFrom eternity: God's eternity; 1a. 2 & 3. The eternity of creation; 1a. 46, 1 & 2. *De potentia* III, 14, 15, 16. *De eternitate mundi*. Also Exposition, *De causis*, lect. 11. ^bGod as eternal knowledge of himself and others; 1a. 14, 1-6. The Eternal Ideas, 1a. 15, 3. Vol. 4 of this series. God the exemplar cause of all things; 1a. 44, 3. ^cProvidence is to the Eternal Law as a practical conclusion is to the theory of practice; Providence is to the divine government as prudence or practical wisdom is to the actual execution of activity; 1a. 22, 1; 103, 6.

universi gubernatur ratione divina. Et ideo ipsa ratio gubernationis rerum in Deo sicut in principe universalitatis existens legis habet rationem. Et quia divina ratio nihil concipit ex tempore, sed habet æternum conceptum, ut dicitur *Proverb.*⁵ inde est quod huiusmodi legem oportet dicere æternam.

1. Ad primum ergo dicendum quod ea quæ in seipsis non sunt apud Deum existunt, in quantum sunt ab ipso cognita et præordinata, secundum illud *Rom.*, *Qui vocat ea quæ non sunt tanquam ea quæ sunt.*⁶ Sic igitur æternus divinæ legis conceptus habet rationem legis æternæ, secundum quod a Deo ordinatur ad gubernationem rerum ab ipso præcognitarum.

2. Ad secundum dicendum quod promulgatio fit et verbo et scripto; et utroque modo lex æterna habet promulgationem ex parte Dei promulgantis, quia et Verbum divinum est æternum, et scriptura libri vitæ est æterna. Sed ex parte creaturæ audientis aut inspicientis non potest esse promulgatio æterna.

3. Ad tertium dicendum quod lex importat ordinem ad finem active in quantum scilicet per eam ordinantur aliqua in finem; non autem passive, id est quod ipsa lex ordinetur ad finem, nisi per accidens in gubernante cuius finis est extra ipsum, ad quem etiam necesse est ut lex eius ordinetur. Sed finis divinæ gubernationis est ipse Deus, nec eius lex est aliud ab ipso: unde lex æterna non ordinatur in alium finem.

articulus 2. *utrum sit in nobis aliqua lex naturalis*

AD SECUNDUM sic proceditur:¹ 1. Videtur quod non sit in nobis aliqua lex naturalis. Sufficenter enim homo gubernatur per legem æternam. Dicit enim Augustinus quod *lex æterna est qua iustum est ut omnia sint ordinatissima.*² Sed natura non abundat in superfluis, sicut nec deficit in necessariis. Ergo non est homini aliqua lex naturalis.

2. Præterea, per legem ordinatur homo in suis actibus ad finem, ut supra habitum est.³ Sed ordinatio humanorum actuum ad finem non est per naturam, sicut accidit in creaturis irrationalibus, quæ solo appetitu naturali agunt propter finem, sed agit homo propter finem per rationem et voluntatem. Ergo non est aliqua lex homini naturalis.

3. Præterea, quanto aliquis est liberior tanto minus est sub lege. Sed homo est liberior omnibus aliis animalibus propter liberum arbitrium,

⁵*Proverbs* 8, 23

¹cf below 1A2Æ. 94. IV *Sent.* 38, 1, 1

²*De libero arbitrio* 1, 6. PL 32, 1229

³1A2Æ. 90, 2

⁶The *Verbum Dei* is *expressivum* of the Father, and *expressivum et operativum* of creatures; 1A. 34, 3. The *liber vitæ*, a metaphorical expression for God's knowing those who are his; II *Timothy* 2, 19, 1A. 24, 1.

⁶*Romans* 4, 17

Then since God's mind does not conceive in time, but has an eternal concept, according to *Proverbs*,⁵ *I was set up from everlasting, from the beginning, or ever the earth was*, it follows that this law should be called eternal.

Hence: 1. While not as yet existing in themselves things nevertheless exist in God in so far as they are foreseen and preordained by him; so St Paul speaks of God summoning *things that are not yet in existence as if they already were.*⁶ Thus the eternal concept of divine law bears the character of a law that is eternal as being God's ordination for the governance of things he foreknows.

2. Promulgation is made by words spoken or written down; in both ways an Eternal Law is proclaimed by God's utterance, since the Divine Word and the Book of Life are eternal.⁶ Admittedly on the side of the creature who hearkens to or reads the promulgation cannot be from all eternity.

3. Take law as actively exerted, then it implies things as entering into a plan for an end. Take it, however, as a plan resting in the mind, then law itself is not ordered to an end, save contingently in the case of a governor who has an end outside himself to which his legislation is subordinate. The end of divine government is God himself, and his law is none other than himself; consequently the Eternal Law is not subordinate to an outside end.¹

article 2. *is there a natural law within us?*

THE SECOND POINT:¹ 1. It would seem there is no natural law within us.² The Eternal Law is sufficient for the government of mankind; as Augustine observes, *by the Eternal Law fair it is that all things be consummately ordered.*³ Now nature no more abounds in superfluities than falls in necessities. Therefore there is no natural law for mankind.

2. Moreover, it has been stated that law directs man's activity to his end.³ Now nature does not direct things in that way, as we can tell from non-rational creatures, which act for an end solely through a driving determinism, unlike man who reasons and wills how to act for an end. For him in consequence there is no law of nature.

3. The freer a thing the less it is under a law. Men are freer than the other animals, because their power of deciding for themselves sets them

¹The governing end of the universe lies beyond it in the subsistent goodness of God himself; 1A. 103, 2.

²Natural law: the fuller meaning will appear later, 1A2Æ. 94. cf Appendix 3. Notice that the concept is introduced as a theological value, and the appeal is to the Scriptures, not to political philosophy or jurisprudence.

quod præ aliis animalibus habet. Cum igitur alia animalia non subdantur legi naturali, nec homo alicui legi naturali subdetur.

SED CONTRA est quod super illud, *Cum gentes, quæ legem non habent, naturaliter ea quæ legis sunt faciunt*, dicit glossa quod *si non habent legem scriptam, habent tamen legem naturalem, quæ quilibet intelligit, et sibi conscius est quod sit bonum et quid malum.*⁴

RESPONSO: Dicendum quod, sicut supra dictum est,⁵ lex, cum sit regula et mensura, dupliciter potest esse in aliquo: uno modo sicut in regulante et mensurante; alio modo sicut in regulato et mensurato, quia in quantum participat aliquid de regula vel mensura sic regulatur vel mensuratur. Unde cum omnia quæ divinæ providentiæ subdantur a lege æterna regulentur et mensurentur, ut ex dictis patet,⁶ manifestum est quod omnia participant aliquam legem æternam, in quantum scilicet ex impressione eius habent inclinationes in proprios actus et fines.

Inter cætera autem rationalis creatura excellentiori quodam modo divinæ providentiæ subjacet, in quantum et ipsa fit providentiæ particeps, sibi ipsi et aliis providens. Unde et in ipsa participatur ratio æterna per quam habet naturalem inclinationem ad debitum actum et finem, et talis participatio legis æternæ in rationali creatura 'lex naturalis' dicitur.

Unde cum Psalmista dixisset,⁷ *Sacrificate sacrificium iustitiæ*, quasi quibusdam quærentibus quæ sunt iustitiæ opera, subjungit, *Multi dicunt, Quis ostendit nobis bona?* Cui quæstioni respondens, dicit, *Signatum est super nos lumen vultus tui, Domine*; quasi lumen rationis naturalis, quo discernimus quid sit bonum et quid malum, quod pertinet ad naturalem legem, nihil aliud sit quam impressio luminis divini in nobis.

Unde patet quod lex naturalis nihil aliud est quam participatio legis æternæ in rationali creatura.

1. Ad primum ergo dicendum quod ratio illa procederet si lex naturalis esset aliquid diversum a lege æterna. Non autem est nisi quædam participatio eius, ut dictum est in corp. art.⁸

2. Ad secundum dicendum quod omnis operatio rationis et voluntatis derivatur in nobis ab eo quod est secundum naturam, ut supra habitum est.⁹ Nam omnis ratiocinatio derivatur a principiis naturaliter notis, et omnis appetitus eorum quæ sunt ad finem derivatur a naturali appetitu ultimi

⁴Romans 2, 14. *Glossa Lombardi. PL. 191, 1345*

⁵122æ. 90, 1 ad 1

⁶art. 1

⁷Psalms 4, 6

⁸In the body of the article

⁹122æ. 10, 1

apart. Since the other animals are not subject to natural law, then neither are men.

ON THE OTHER HAND, commenting on the text of Romans, *When the Gentiles, who have not the Law, do by nature those things that are of the Law*, a gloss says, *Although they have no written law yet they have the natural law, whereby each understands and is aware for himself of what is good and what is bad.*⁴

REPLY: Law is a rule and measure, as we have said,⁵ and therefore can exist in two manners, first as in the thing which is the rule and measure, second as in the thing that is ruled and measured, and the closer the second to the first the more regular and measured it will be. Since all things are regulated and measured by Eternal Law, as we have seen,⁶ it is evident that all somehow share in it, in that their tendencies to their own proper acts and ends are from its impression.

Among them intelligent creatures are ranked under divine Providence the more nobly because they take part in Providence by their own providing for themselves and others. Thus they join in and make their own the Eternal Reason through which they have their natural aptitudes for their due activity and purpose.⁷ Now this sharing in the Eternal Law by intelligent creatures is what we call 'natural law'.

That is why the Psalmist after bidding us, *Offer the sacrifice of justice*, and, as though anticipating those who ask what are the works of justice, and adding, *There be many who say, Who will us any good?* makes reply, *The light of thy countenance, O Lord, is signed upon us*,⁷ implying that the light of natural reason by which we discern what is good and what evil, is nothing but the impression of divine light on us.

Accordingly it is clear that natural law is nothing other than the sharing in the Eternal Law by intelligent creatures.

Hence: 1. This line of reasoning would be all very well were natural law quite separate from the Eternal Law, instead of being, as we have shown,⁸ a participation in it.⁹

2. We have stated⁹ that all activity of reason and will springs from us as being what we are by nature. All reasoning draws on sources we recognize naturally, and all choosing of objectives subordinate to ends is charged with

⁴Who have not the Law, i.e. the Torah, the Pentateuch.

⁵Rational creatures move themselves with reference to the end in view, and therefore can live with God and be associates in his Providence, Ia. 18, 3 & 4; 22, 2 ad 4 & 5. This sharing in God's law is the theme of CG III, 111-46. This association is taken into a new dimension by the friendship of charity; 122æ. 109, 3. 222æ. 23, 1.

⁶Not separate: cf 122æ. 91, 1, note 4.

finis; et sic etiam oportet quod prima directio actuum nostrorum ad finem fiat per legem naturalem.

3. Ad tertium dicendum quod etiam animalia irrationalia participant rationem æternam suo modo, sicut et rationalis creatura. Sed quia rationalis creatura participat eam intellectualiter et rationaliter, ideo participatio legis æternæ in creatura rationali proprie lex vocatur: nam lex est aliquid rationis, ut supra dictum est.¹⁰ In creatura autem irrationali non participatur rationaliter: unde non potest dici lex nisi per similitudinem.

articulus 3. utrum sit aliqua lex humana

AD TERTIUM sic proceditur:¹ 1. Videtur quod non sit aliqua lex humana. Lex enim naturalis est participatio legis æternæ, ut dictum est.² Sed per legem æternam omnia sunt ordinatissima, ut Augustinus dicit.³ Ergo lex naturalis sufficit ad omnia humana ordinanda. Non est ergo necessarium quod sit aliqua lex humana.

2. Præterea, lex habet rationem mensuræ, ut dictum est.⁴ Sed ratio humana non est mensura rerum, sed potius e converso, ut in *Meta.*⁵ dicitur. Ergo ex ratione humana nulla lex procedere potest.

3. Præterea, mensura debet esse certissima, ut dicitur in *Meta.*⁶ Sed dictamen humanæ rationis de rebus gerendis est incertum, secundum illud *Sap.*⁷ *Cogitationes mortalium timidæ, et incertæ providentiæ nostræ.* Ergo ex ratione humana nulla lex procedere potest.

SED CONTRA est quod Augustinus ponit duas leges, unam æternam, et aliam temporalem, quam dicit esse humanam.⁸

RESPONSO: Dicendum quod, sicut supra dictum est,⁹ lex est quoddam dictamen practicæ rationis. Similis autem processus esse invenitur rationis practicæ et speculativæ: utraque enim ex quibusdam principiis ad quasdam

¹⁰ 1A2Æ. 90, 1

¹ cf 1A2Æ. 95, 1

² art. 2

³ *De lib. arbit.* 1, 6. PL 32, 1229

⁴ 1A2Æ. 90, 1

⁵ *Metaphysics* IX, 9. 1053a31

⁶ *Ibid*

⁷ *Wisdom* 9, 14

⁸ *De lib. arbit.* 1, 6 & 15. PL 32, 1229 & 1238

⁹ 1A2Æ. 90, 1 ad 2

¹⁰ The objection has stressed the accepted distinction between acting through nature, *operare per naturam*, and acting through will, *operare per voluntatem*: the first im-

natural appetite for our ultimate end.⁶ Accordingly the original directing of our activity to an end should be through natural law.

3. Even non-rational creatures share in the Eternal Reason in their own way. The way, however, for rational creatures is intelligent and reasonable; that is why their sharing is called law properly speaking, since law, as we have seen,¹⁰ belongs to mind. Non-rational creatures do not hold law as perceiving its meaning, and therefore we do not refer to them as keeping the law except by a figure of speech.

article 3. is there a human law?

THE THIRD POINT:¹ 1. It would seem that there is no human law. Natural law, it has been stated,² is a sharing in the Eternal Law, through which, as Augustine remarks, *all things are consummately ordered.*³ Therefore natural law suffices for the ordering of all human affairs, and any human law is needless.

2. Besides, it has been stated that law is a measure.⁴ The human reason, however, is not the measure of things; rather the converse is true, as noted in the *Metaphysics.*⁵ Therefore it can issue no law.

3. Again, as also noted in the *Metaphysics,*⁶ a measuring rule should be quite dependable. In matters of conduct the dictates of reason are unreliable; according to *Wisdom,*⁷ *The thoughts of mortal men are fearful, and our counsels uncertain.* Hence no law can proceed from human reason.

ON THE OTHER HAND there is Augustine postulating two kinds of law, one eternal, the other temporal, which last he calls human.⁸

REPLY: As we have seen,⁹ law is a kind of dictate of the practical reason. Now the processes of the theoretic and practical reasons are parallel; both, we have held, start from certain principles and come to certain

plies an unconscious determinism, the second awareness and, when subordinate goods are engaged, choice (1A2Æ. 10, 1 ad 1). Here as elsewhere St Thomas is careful not to dissociate morality and legality from their physical and instinctive sources. Our knowledge starts from assents we have not reasoned out, our love from wants we have not chosen. cf Vol. 18 of this series, Appendices 1-4. His regard for the biological basis of law, that is the preconscious and premoral forces of social cohesion, will reappear, notably in relating law to the natural appetite for self-preservation (1A2Æ. 94, 2), in finding place for Ulpian's definition of natural law in terms of what we share in common with animals (2A2Æ. 57, 3), and in treating the political or 'civilized' in its Greek and Aristotelean sense as an expansion of the 'natural', rather than in its Latin and juristic sense of an order imposed on it (1A2Æ. 95, 1 & 2. *In Ethic.* V, lect. 12. 1134br8).

conclusiones procedit, ut superius habitum est.¹⁰ Secundum hoc ergo dicendum est quod sicut in ratione speculativa ex principiis indemonstrabilibus naturaliter cognitis producuntur conclusiones diversarum scientiarum, quarum cognitio non est nobis naturaliter indita sed per industriam rationis inventa, ita etiam ex præceptis legis naturalis, quasi ex quibusdam principiis communibus et indemonstrabilibus, necesse est quod ratio humana procedat ad aliqua magis particulariter disponenda.

Et istæ particulares dispositiones adinventæ secundum rationem humanam, dicuntur 'leges humanæ', observatis aliis conditionibus quæ pertinent ad rationem legis, ut supra dictum est.¹¹ Unde Tullius dicit in sua *Rhet.*, quod *initium juris est a natura profectum; deinde quædam in consuetudinem ex utilitatis ratione venerunt; postea res a natura profectas, et consuetudine probatas legum metus et religio sanxit.*¹²

1. Ad primum ergo dicendum quod ratio humana non potest participare ad plenum dictamen rationis divinæ, sed suo modo et imperfecte. Et ideo, sicut ex parte rationis speculativæ per naturalem participationem divinæ sapientiæ inest nobis cognitio quorundam communium principiorum, non autem cujuslibet veritatis propria cognitio, sicut in divina sapientia continetur, ita etiam ex parte rationis practicæ naturaliter homo participat legem æternam secundum quædam communia principia, non autem secundum particulares directiones singulorum, quæ tamen in æterna lege continentur. Et ideo necesse est ulterius quod ratio humana procedat ad particulares quasdam legum sanctiones.

2. Ad secundum dicendum quod ratio humana secundum se non est regula rerum, sed principia ei naturaliter indita sunt regulæ quædam generales et mensuræ omnium eorum quæ sunt per hominem agenda, quorum ratio naturalis est regula et mensura, licet non sit mensura eorum quæ sunt a natura.

3. Ad tertium dicendum quod ratio practica est circa operabilia, quæ sunt singularia et contingentia, non autem circa necessaria sicut ratio speculativa. Et ideo leges humanæ non possunt illam infallibilitatem habere quam habent conclusiones demonstrativæ scientiarum. Nec oportet quod omnis mensura sit omnino infallibilis et certa, sed secundum quod est possibile in genere suo.

¹⁰122æ. 90. I ad 2

¹¹122æ. 90. I-4

¹²*De inventione oratoria* II, 53

^aThe analogy is not to be pressed: the order of thought, *speculabile*, is more immutable than the order of human action, *agibile*, which is the field of law. Appendix 3 (12).

conclusions.¹⁰ Accordingly we say this, that just as from indemonstrable principles that are instinctively recognized the theoretic reason draws the conclusions of the various sciences not imparted by nature but discovered by reasoned effort, so also from natural law precepts as from common and indemonstrable principles the human reason comes down to making more specific arrangements.^b

Now these particular arrangements human reason arrives at are called 'human laws', provided they fulfil the essential conditions of law already indicated.¹¹ Hence Cicero says that *justice took its start from nature, and then certain things became custom by reason of their usefulness; thereafter the things put forward by nature and approved by custom were sanctioned by fear and reverence for the law.*¹²

Hence: 1. The human reason cannot fully grasp the meaning of God's command, but partially holds it after its own fashion. The consequence is that just as the theoretic reason by its nature partakes of divine wisdom, and therefore we have from within an awareness of certain general principles, though not that proper knowledge of every single truth which divine wisdom comprehends, so on the part of the practical reason we enter into the Eternal Law according to some general principles without knowing all individual directives, though these are comprehended in the Eternal Law.^c Hence the need for human reason to proceed further and sanction particular enactments of law.

2. The human reason is not of itself the measure for things.^d Yet principles instilled in it by nature provide general rules and measures for what men should do. It is of these human deeds, not of the nature of things, that human law is the measure.

3. The practical reason is concerned with things to be done, which are individual and contingent, not with the necessary things that are the concern of the theoretic reason. That is why human laws cannot have the inerrancy that marks conclusions of demonstrative science. That a measurement should be unerring and exact at every point is not demanded, but only that it should fit to the extent that the matter allows.^e

^bMore specific arrangements: these include 'constructions' on natural law noted below, 122æ. 95, 2. Reasoned effort, *industria rationis*.

^cGod's knowledge of individuals; Ia. 14, 11.

^dMind as the measure of things; Ia. 14, 8; 16, 1.

^e*Ethics* V, 10, 1129b29. 'For when a thing is indefinite its rule also is indefinite, like the leaden rule used in making Lesbian mouldings; the rule adapts itself to the shape of the stone and is not rigid, and so too the decree is adapted to the facts.' cf below, 122æ. 96, 1 ad 3.

articulus 4. *utrum fuerit necessarium esse aliquam legem divinam*

AD QUARTUM sic proceditur: 1. Videtur quod non fuerit necessarium esse aliquam legem divinam, quia, ut dictum est,² lex naturalis est quædam participatio legis æternæ in nobis. Sed lex æterna est lex divina, ut dictum est.³ Ergo non oportet quod præter legem naturalem, et leges humanas ab ea derivatas, sit aliqua lex divina.

2. Præterea, *Ecclô.* dicitur quod *Deus dimisit hominem in manu consilii sui.*⁴ Consilium autem est actu rationis, ut supra habitum est.⁵ Ergo homo dimissus est gubernationi suæ rationis. Sed dictamen rationis humanæ est lex humana, ut dictum est.⁶ Ergo non oportet quod homo aliqua lege divina gubernetur.

3. Præterea, natura humana est sufficientior irrationalibus creaturis. Sed irracionales creaturæ non habent aliquam legem divinam præter inclinationem naturalem eis inditam. Ergo multo minus creatura rationalis debet habere aliquam legem divinam præter naturalem legem.

SED CONTRA est quod David expetit legem a Deo sibi poni, dicens *Psalms. 7. Legem pone mihi, Domine, viam justificationum tuarum.*

RESPONSO: Dicendum quod præter legem naturalem et legem humanam, necessarium fuit ad directionem humanæ vitæ habere legem divinam. Et hoc propter quatuor rationes.

Primo quidem, quia per legem dirigitur homo ad actus proprios in ordine ad ultimum finem. Et si quidem homo ordinaretur tantum ad finem qui non excederet proportionem naturalis facultatis hominis, non oporteret quod homo haberet aliquid directivum ex parte rationis supra legem naturalem et legem humanitatis positam, quæ ab ea derivatur. Sed quia homo ordinatur ad finem beatitudinis æternæ, quæ excedit proportionem naturalis facultatis humanæ, ut supra habitum est,⁸ ideo necessarium fuit ut supra legem naturalem et humanam dirigeretur etiam ad suum finem lege divinitus data.

¹cf Ia. 1, 1. 2azæ. 22, 1 ad 1. 3a. 60, 5 ad 3. CG I, 4 & 5. III Sent. 38, 1. In Gal. 3, lect. 7. In *Psalms.* 18

²art. 2

³art. 1

⁴*Ecclésiasticus* 15, 14

⁵1azæ. 14, 1

⁶art. 3

⁷*Psalms* 118, 33

⁸1azæ. 5, 5

⁹The past tense indicates that the question is about an historical fact, namely the divine law promulgated with Revelation. This law is properly supernatural, and

article 4. *was a divine law necessary?*

THE FOURTH POINT: 1. There seems no need for a divine law,² for, as remarked,³ natural law is our sharing in the Eternal Law. This, however, is the divine law, as also remarked.³ A divine law besides natural law and the human laws deriving from it would therefore seem to be needless.

2. Besides, *Ecclésiasticus* tells us that *God left man in the hand of his own counsel.*⁴ Taking counsel, as we have seen,⁵ is an act of reason. Therefore man was left free to be governed by his own reason. Now it has been held that the dictate of reason is human law.⁶ Consequently there is no need for man to be governed by a divine law as well.

3. Also, by nature men are more self-contained than non-rational creatures.⁶ Now these have no divine law over and above the natural tendencies imparted to them. Much less, then, should rational creatures be given a divine law over and above their natural law.

ON THE OTHER HAND David besought God to appoint a law for him, *Set before me for a law the way of thy justification.*⁷

REPLY: The guidance of human conduct required a divine law besides natural law and human law. And for four reasons.

First, because law directs men to the actions matching what they are made for. Were they destined only to an end not beyond their natural abilities they would need no directive of reason over and above natural law and human law built on it. Yet they are set towards an eternal happiness out of proportion to their natural resources, as we have shown,⁸ and therefore must needs be directed by a divinely given law above natural and human law.

therefore above natural law when 'natural' refers to all that is involved in man's specific constitution; it does not follow, however, that it is thereby a kind of positive law. (Positive here means posited by will, not the opposite of negative.) For positive law is contrasted with natural law when 'natural' is taken to mean all that wells up from within a subject. For the two senses of 'natural', cf Appendix 3; also Vol. I of this series, Appendix 8.

In fact the divine law is based on laws that are natural in their content, thus the elementary rational deficiencies, and furthermore its main laws are natural rather than positive in their style. Such are the moral precepts of the Old Law (1azæ. 99, 2; 100, 1) which support its ceremonial and judicial precepts (1azæ. 102-5). And the heart of the New Law of charity—than which nothing is more intrinsic in its motion (2azæ. 23, 2; 26, 3 & 7)—is a spirit, not a code (1azæ. 106, 1 & 2; 107, 4), though the Christian dispensation also contains much positive law in the way of sacramental, liturgical, and disciplinary enactments.

1a. 18, 3 describes the ascending scale of life as a more and more self-containedness.

Secundo, quia propter incertitudinem humani iudicii, præcipue de rebus contingentibus et particularibus, contingit de actibus humanis diversorum esse diversa iudicia, ex quibus etiam diversæ et contrariæ leges procedunt. Ut ergo homo absque omni dubitatione scire possit quid ei sit agendum et quid vitandum, necessarium fuit ut in actibus propriis dirigeretur per legem divinitus datam, de qua constat quod non potest errare.

Tertio, quia de his potest homo legem facere de quibus potest iudicare. Iudicium autem hominis esse non potest de interioribus actibus qui latent, sed solum de exterioribus motibus qui apparent; et tamen ad perfectionem virtutis requiritur quod in utrisque actibus homo rectus existat. Et ideo lex humana non potuit cohibere et ordinare sufficienter interiores actus, sed necessarium fuit quod ad hoc superveniret lex divina.

Quarto, quia, sicut Augustinus dicit,⁹ lex humana non potest omnia quæ male fiunt punire vel prohibere; quia, dum auferre vellet omnia mala, sequeretur quod etiam multa bona tollerentur, et impediretur utilitas boni communis, quod est necessarium ad conversationem humanam. Ut ergo nullum malum improbitum et impunitum remaneat, necessarium fuit supervenire legem divinam, per quam omnia peccata prohiberentur.

Et istæ quatuor causæ tanguntur in *Psaln.* ubi dicitur,¹⁰ *Lex Domini immaculata*, id est nullum peccati turpitudinem permittens, *convertens animas*, quia non solum exteriores actus sed etiam interiores dirigit, *testimonium Domini fidele*, propter certitudinem veritatis et rectitudinis, *sapientiam præstans parvulis*, in quantum ordinat hominem ad supernaturalem finem et divinum.

1. Ad primum ergo dicendum quod per naturalem legem participatur lex æterna secundum proportionem capacitatis humanæ naturæ. Sed oportet ut altiori modo dirigatur homo in ultimum finem supernaturalem. Et ideo superadditur lex divinitus data, per quam lex æterna participatur altiori modo.

2. Ad secundum dicendum quod consilium est inquisitio quædam, unde oportet quod procedat ex aliquibus principiis. Nec sufficit quod procedat ex principiis naturaliter inditis, quæ sunt præcepta legis naturæ, propter prædicta in corp. art.¹¹ sed oportet quod superaddantur quædam alia principia, scilicet præcepta legis divinæ.

3. Ad tertium dicendum quod creaturæ irrationales non ordinantur ad

⁹*De lib. arbit.* 1, 5. PL 32, 1228

¹⁰*Psalms* 18, 8

¹¹In the body of the article

^eThis second passage argues the need of a special divine reinforcement if we are to observe purely rational commands for the good life; cf. ra. 1, I. CG 1, 4. For the need of grace in order to know truth and do good, cf. 122æ. 109, 1-4.

Second, because of the untrustworthiness of human judgment, notably on contingent and particular issues, different people come to differing decisions about human conduct, with the result that diverse and conflicting laws are passed. That men may know without any doubt what should or should not be done there was required a divinely given law carrying the assurance that it cannot be mistaken.^e

Third, men can make laws on matters on which they are competent to judge. They cannot pronounce on inward motions which are hidden, but only on outward and observable behaviour.^d Nevertheless full virtue means that a man is right in both. Since human law is not enough, the complement of divine law is needed to check and guide what goes on within us.

Fourth, Augustine remarks that human law cannot forbid or punish all wrongdoing,⁹ for were it to try to do away with all evils it would also take away much that was good, and so hinder what the common good requires in civilized intercourse. Hence the need of a divine law which misses nothing and leaves no evil unforbidden or unpunished.^e

These four reasons are touched on in the *Psaln*¹⁰ which declares, *The law of the Lord is unspotted*, that is allowing no filth of sin, *converting hearts*, that is, directing us within and without, *the testimony of the Lord is sure*, that is, reliably truthful and right, *giving wisdom to little ones*, that is, lifting humanity to a divine and supernatural end.

Hence: 1. Although through natural law the Eternal Law is shared in according to the capacity of human nature, nevertheless in order to be directed to their ultimate supernatural end men have to be lifted up, and through the divine grant of an additional law which heightens their sharing in the Eternal Law.^f

2. Taking counsel is a sort of investigation, and therefore should progress from some principles. Those imparted to us by nature are not enough, for the reasons given above,¹¹ and therefore over and above the precepts of natural law some other principles are needed, namely precepts of divine law.

3. The comparison breaks down, because non-rational creatures are

^dThe restriction of human law to outward behaviour will be discussed later, 122æ. 96, 2 & 3. Appendix 8.

^eThis fourth argument, like the third, opens the way for the distinction between crime and sin; the first a punishable offence against the public order, the second against the ultimate common good; 122æ. 21, 3 & 4. For the Last Judgment as the summing up of justice, cf. CG IV, 96. *Supplementum* 88, 1.

^fSee note a above. The law of grace is not a code of positive law, though it is given to us by a free decree of God's saving will, and in this sense is additional to the law of man's specific nature, which also as a contingently existing derivation of the Eternal Law is an effect of divine freedom (122æ. 91, 1 & 2).

altioiorem finem quam sit finis qui est proportionatus naturali virtuti ipsarum. Et ideo non est similis ratio.

articulus 5. utrum lex divina sit una tantum

AD QUINTUM sic proceditur:¹ I. Videtur quod lex divina sit una tantum. Unius enim regis in uno regno est una lex. Sed totum humanum genus comparatur ad Deum sicut ad unum regem, secundum illud *Psalms*.² *Rex omnis terræ Deus*. Ergo est una tantum lex divina.

2. Præterea, lex omnis ordinatur ad finem quem legislator intendit in eis quibus legem fert. Sed unum et idem est quod Deus intendit in omnibus hominibus, secundum illud 1 ad *Tim.*, *Vult omnes homines salvos fieri, et ad agnitionem veritatis venire*.³ Ergo una tantum est lex divina.

3. Præterea, lex divina propinquior esse videtur legi æternæ, quæ est una, quam lex naturalis, quanto altior est revelatio gratiæ quam cognitio naturæ. Sed lex naturalis est una omnium hominum. Ergo multo magis lex divina.

SED CONTRA est quod Apostolus dicit, ad *Heb.*,⁴ *Translato sacerdotio, necesse est ut legis translatio fiat*. Sed sacerdotium est duplex, ut ibidem dicitur, scilicet sacerdotium leviticum et sacerdotium Christi. Ergo etiam duplex est lex divina, scilicet Lex Veteris et Lex Novæ.

RESPONSO: Dicendum quod, sicut in *Primo* dictum est,⁵ distinctio est causa numeri. Dupliciter autem inveniuntur aliqua distingui: uno modo, sicut ea quæ sunt omnino specie diversa, ut equus et bos; alio modo, sicut perfectum et imperfectum in eadem specie, sicut puer et vir. Et hoc modo lex divina distinguitur in legem veterem et legem novam. Unde Apostolus, ad *Gal.*,⁶ comparat statum veteris legis statui pueri existentis sub pædagogico; statum autem novæ legis comparat statui viri perfecti, qui jam non est sub pædagogo.

Attenditur autem perfectio et imperfectio utriusque* legis secundum tria quæ ad legem pertinent, ut supra dictum est.⁷

Primo enim ad legem pertinet ut ordinetur ad bonum commune sicut ad finem, ut supra dictum est.⁸ Quod quidem potest esse duplex, scilicet

*Piana: omits *utriusque*

¹cf 1a2æ. 107, 1. In *Gal.* 1, lect. 2

²*Psalms* 46, 8

³1 *Timothy* 2, 4

⁴*Hebrews* 7, 12

⁵1a. 30, 3

⁶*Galatians* 3, 24

not destined to an end higher than that one matching their natural constitution.

article 5. is there but one divine law?

THE FIFTH POINT:¹ I. It would seem that there is but one divine law.² Where there is one king in one kingdom there is but a single body of law. Now the whole of mankind is subject to God as to one king, *For God is the king of all the earth*.³ Therefore there is but one divine law.

2. Moreover, all law is directed to the purpose the legislator has in making matters of law. Now God has one and the same purpose for all men, according to the text, *Who will have all men to be saved and to come to the knowledge of the truth*.⁴ Therefore there is a single body of divine law.

3. Then also, divine law seems closer than natural law to the Eternal Law, and so much the more because the revelation of grace is higher than the knowledge of nature. Now natural law is the same for all men. So, then, and with all the more reason is divine law.

ON THE OTHER HAND St Paul says,⁵ *For the priesthood being changed, there is made of necessity a change also of the law*. The priesthood is twofold, as the same chapter brings out, namely the Levitical priesthood and the priesthood of Christ. Correspondingly the divine law is twofold, namely the Old Law and the New Law.

REPLY: We saw in the *Prima Pars*⁶ that distinction is the cause of number. Now things may be distinct in two manners. First, as being quite different in kind, for instance a horse and an ox. Second, as being fully developed or undeveloped things of the same kind, for instance a grown-up and a child. It is in this second manner that the divine law is divided into the Old Law^b and the New Law. Accordingly St Paul in *Galatians*⁶ compares the Old Law to the condition of a schoolboy under a tutor and the New Law to the condition of an adult who is no longer subject to one.

Their differences of development appear according to three elements in law already observed.⁷

First, we have stated⁸ that the purpose of law is to be ordained to the common good, and this can be twofold. The one is material and earthly

¹1a2æ. 90, 1, 2, 3; 91, 1 ad 3; 3

²1a2æ. 90, 2

³1a2æ. 107 discusses the continuity between the Old Law (Vol. 29) and the New

Law (Vol. 30).

^bThe whole body of Mosaic legislation, not merely the Decalogue, comprising moral, liturgical, and political precepts; 1a2æ. 99, 2, 3, 4 & 5.

bonum sensibile et terrenum. Et ad tale bonum ordinabat directe lex vetus: unde statim, *Exod.*⁹ in principio legis invitatur populus ad regnum terrenum Chananeorum. Et iterum bonum intelligibile et cœleste; et ad hoc ordinat lex nova: unde statim Christus ad regnum cœlorum in sua prædicationis principio invitavit, dicens, *Pœnitentiam agite, appropinquabit enim regnum cœlorum.*¹⁰ Et ideo Augustinus dicit quod temporalium rerum promissiones in Testamento veteri continentur, et ideo 'vetus' appellatur; sed æternæ vitæ promissio ad novum pertinet Testamentum.¹¹

Secundo, ad legem pertinet dirigere humanos actus secundum ordinem iustitiæ, in quo etiam superabundat lex nova legi veteri, interiores actus animi ordinando, secundum illud *Matt.*¹² *Nisi abundaverit iustitia vestra plus quam Scribarum et Phariseorum, non intrabitis in regnum cœlorum;* et ideo dicitur quod lex vetus cohibet manum, lex nova animum.¹³

Tertio, ad legem pertinet inducere homines ad observantias mandatorum, et hoc quidem lex vetus faciebat timore poenarum; lex autem nova facit hoc per amorem, qui in cordibus nostris infunditur per gratiam Christi, quæ in lege nova confertur, sed in lege veteri figurabatur. Et ideo dicit Augustinus quod *brevis differentia est legis et Evangelii, timor et amor.*¹⁴

1. Ad primum ergo dicendum quod, sicut paterfamilias in domo alia mandata proponit pueris et alia adultis, ita etiam unus rex Deus in uno suo regno aliam legem dedit hominibus adhuc imperfectis existentibus, et aliam perfectiorem jam manu ductis per priorem legem ad majorem capacitatem divinorum.

2. Ad secundum dicendum quod salus hominum non poterat esse nisi per Christum, secundum illud *Act.*¹⁵ *Non est aliud nomen datum hominibus in quo oporteat nos salvos fieri.* Et ideo lex perfecte omnes ad salutem inducens dari non potuit nisi post Christi adventum; antea vero dari oportuit populo ex quo Christus erat nasciturus legem præparatoriam ad Christi susceptionem, in qua quædam rudimenta salutaris iustitiæ continentur.

3. Ad tertium dicendum quod lex naturalis dirigit hominem secundum quædam præcepta communia, in quibus conveniunt tam perfecti quam imperfecti; et ideo est una omnium. Sed lex divina dirigit hominem etiam in particularibus quibusdam, ad quæ non similiter se habent perfecti et imperfecti; et ideo oportuit legem divinam esse duplicem, sicut jam dictum est in corp.

⁹*Exodus* 3, 8-17

¹⁰*Matthæus* 4, 17

¹¹*Contra Faustum* IV, 2. PL. 42, 217

¹²*Matthæus* 5, 20

¹³Peter Lombard, *Sentences* III, 40, 1. Quaracchi II, 734

benefit; this was directly envisaged by the Old Law, which from the start invited the chosen people to the promised land of Chanaan.⁹ The other is spiritual and heavenly good; to this we are directed by the New Law. At the opening of his ministry our Lord invited us to the kingdom of heaven; *Repent, for the kingdom of heaven is at hand.*¹⁰ Accordingly Augustine says that the Old Testament contains the promise of temporal things, which is why it is called 'old', whereas the New Testament offers the promise of eternal life.¹¹

Second, it is the rôle of law to guide human acts according to the plan of justice, and here also the New Law is much fuller than the old Law by governing also the inner acts of heart and soul; *Unless your righteousness shall exceed that of the Scribes and Pharisees you shall in no case enter the kingdom of heaven.*¹² Hence the saying that the Old Law restrains the hand, but the New Law the spirit.¹³

Third, it is the office of law to lead men into keeping its commandments. This the Old Law did through fear of penalty, but the New Law through love shed in our hearts by the grace of Christ. This is imparted by the New Law, but only prefigured in the Old. So Augustine remarks, *fear and love—the difference in brief between the Law and the Gospel.*¹⁴

Hence: 1. As the head of the family proposes different commands for children and for adults in the household, so also God, sole king in his single kingdom, gives one law to people who are still backward, and another and ampler law to those who have been led by the first to a fuller receptiveness of divine things.

2. Man's ultimate well-being cannot be achieved save through Christ, according to *Acts.*¹⁵ *There is no other name under heaven given among men whereby we must be saved.* That is why the law bringing all to salvation could not have been given until after Christ's coming. Before then it was fitting that the people from whom Christ was to be born should have been given a law which prepared them to welcome him, a law containing the rudiments of saving justice.

3. Natural law guides man with certain general precepts which all should commonly observe, whether they be advanced in virtue or not. It is the same for all, whereas the divine law is a guide in certain determinate matters, which are not equally on the map for people at different stages of development. This accounts, as we have argued in the article, for the doubling of the divine law.

¹⁴*Contra Adimantum Manichei discipulum* 17. PL. 42, 159

¹⁵*Acts* 4, 12

⁹A play on *ti-mor* and *a-mor*.

articulus 6. utrum sit aliqua lex fomitis

AD SEXTUM sic proceditur: 1. Videtur quod non sit aliqua lex fomitis. Dicit enim Isidorus quod *lex in ratione consistit*.¹ Fomes autem non consistit in ratione, sed magis a ratione deviat. Ergo fomes non habet rationem legis.

2. Præterea, omnis lex obligatoria est, ita quod qui eam non servat transgressores dicuntur. Sed fomes non constituit aliquem transgressorem ex hoc quod ipsum non sequitur; sed magis transgressor redditur si quis ipsum sequatur. Ergo fomes non habet rationem legis.

3. Præterea, lex ordinatur ad bonum commune, ut supra habitum est.³ Sed fomes non inclinatur ad bonum commune, sed magis ad bonum privatum. Ergo fomes non habet rationem legis.

SED CONTRA est quod Apostolus dicit, *Video aliam legem in membris meis repugnantem legi mentis mee*.⁴

RESPONSIO: Dicendum quod, sicut supra dictum est,⁵ lex essentialiter invenitur in regulante et mensurante, participative autem in eo quod mensuratur et regulatur; ita quod omnis inclinatio vel ordinatio quæ invenitur in his quæ subjecta sunt legi participative dicitur 'lex', ut ex supra dictis patet.⁶

Potest autem in his quæ subduntur legi aliqua inclinatio inveniri dupliciter a legislatore. Uno modo in quantum directe suos inclinatur subditos ad aliquid, et interdum diversos* ad diversos actus: secundum quem modum potest dici quod alia est lex militum, et alia est lex mercatorum. Alio modo indirecte, in quantum scilicet per hoc quod legislator destituit aliquem sibi subditum aliqua dignitate sequitur quod transeat in alium ordinem, et quasi in aliam legem: puta si miles ex militia destituatur transibit in legem rusticorum vel mercatorum.

Sic igitur sub Deo legislatore diversæ creaturæ diversas habent naturales inclinationes, ita ut quod uni est quodammodo lex, alteri sit contra legem;

*Piana: omits *diversos*

¹cf. 1A2Æ. 93, 3. In Rom. 7, lect. 4.

²Etymologies V, 3. PL 82, 199

³1A2Æ. 90, 2

⁴1A2Æ. 90, 1 ad 1; 91, 2

⁵The law of lust. The article does not speak of *concupiscentia*, which for St Thomas has a sense less shady than for his predecessors: cf. 1A. 81, 1, 2 & 3. 1A2Æ. 30, 1, 2 & 3; 59, 1 & 2. *De veritate* xxxv. 1, 2 & 4. The Augustinian concept of a law of concupiscentia reigning in man's physical and fallen nature, indeed constituting original sin (cf. 1A2Æ. 82, 3, Vol. 26), can be related to the Pauline 'another law in my members', which is equivalent to the *lex fomitis*. *Fomes*, kindling, tinder, touchwood, signifies the readiness of our sensual nature to catch alight or flare up with

⁴Romans 7, 23

⁶art. 2

article 6. is there a law of lust?

THE SIXTH POINT: 1. It seems there is no law of lust.¹ For, as Isidore says, *law consists in reason*.² Lust, however, far from keeping with reason, strays away from it, and consequently does not bear the character of law.

2. Besides, all law is obligatory, and the consequence is that those who do not keep it are spoken of as transgressors. Yet a person becomes a transgressor by following concupiscentia, rather than by not following it. Therefore it does not possess the quality of law.

3. In addition, the purpose of law is the common good, as noted above.³ Lust, however, tends towards private satisfaction, not the common good. Hence it does not share the nature of law.

ON THE OTHER HAND there is the Apostle saying, *I see another law in my members fighting against the law in my mind*.⁴

REPLY: We have already observed⁵ that the essence of law lies in the ruler and measurer, and that thence it is imparted to the things which are ruled and measured, and we have concluded that every ordered tendency in such subjects may be called law in a derivative sense.⁶

Now we find that these tendencies in subjects are ruled by the lawmaker in two ways, directly and indirectly. Directly when he sways them in accordance with their proper purpose and as needs be appoints different men to their appropriate duties: in this way we can say that there is one kind of law for the military and another for men of commerce. Indirectly, when a subject is dismissed from his rank by the ruler he falls into another station of life and, as it were, under another law; for instance as when a soldier is discharged and comes under the law affecting manual workers or tradesmen.^b

Let us apply the analogy. Under God their lawgiver all created things have various natural tendencies, in such wise that what is a sort of law for

inordinate passion. The term comes from Peter Lombard (*Sentences* II, 30, 8. Quaracchi I, 564. cf. Damascene, *De fide orthodoxa* IV, 22. PG 94, 1200), and was used by Trent about the effects of original sin.

The law of animal desire includes the jungle law, the predatory pattern of consuming and being eventually consumed. The reply to the third objection sees this as part of the balance of nature.

^bPerhaps a reference to the conditions of knightly service and land work under late feudalism, perhaps also a hint of lofty looking down on 'trade': cf. 2A2Æ. 77, 4 & 78, 1 on money transactions.

'Directly' and 'indirectly': here the first means taking a subject according to what it is and is meant to be; the second according to what has befallen it. The main line of argument is clearer than the details.

ut si dicam quod furibundum esse est quodammodo lex canis, est autem contra legem ovis vel alterius mansueti animalis. Est ergo hominis lex, quam sortitur ex ordinatione divina, secundum propriam conditionem ut secundum rationem operetur. Quæ quidem lex fuit tam valida in primo statu ut nihil vel præter rationem vel contra rationem posset subreperere homini. Sed dum homo a Deo recessit, incurrit in hoc quod feratur secundum impetum sensualitatis. Et unicuique etiam particulariter hoc contingit quanto magis a ratione recesserit: ut sic quodammodo bestiis assimilatur quæ sensualitatis impetu feruntur, secundum illud *Psalm.*⁷ *Homo cum in honore esset, non intellexit; comparatus est jumentis insipientibus, et similis factus est illis.*

Sic igitur ipsa sensualitatis inclinatio, quæ 'fomes' dicitur, in aliis quidem animalibus simpliciter habet rationem legis, illo tamen modo quo in talibus lex dici potest secundum directam inclinationem legis. In hominibus autem secundum hoc non habet rationem legis, sed magis est deviatio a lege rationis. Sed in quantum per divinam justitiam homo destituitur originali iustitia et vigore rationis, ipse impetus sensualitatis, qui eum ducit, habet rationem legis in quantum est poenalis, et ex lege divina consequens hominem destitutum* propria dignitate.

1. Ad primum ergo dicendum quod ratio illa procedit de fomite secundum se considerato, prout inclinatur ad malum: sic enim non habet rationem legis, ut dictum est in corp. art.,⁸ sed secundum quod sequitur ex divinæ legis iustitia: tanquam si diceretur lex esse quod aliquis nobilis propter suam culpam ad servilia opera induci permitteretur.

2. Ad secundum dicendum quod objectio illa procedit de eo quod est lex quasi regula et mensura; sic enim deviantes a lege transgressores constituntur. Sic autem fomes non est lex, sed per quamdam participationem, ut supra dictum est.⁹

3. Ad tertium dicendum quod ratio illa procedit de fomite quantum ad inclinationem propriam, non autem quantum ad suam originem. Et tamen si consideretur inclinatio sensualitatis prout est in aliis animalibus, sic ordinatur ad bonum commune, id est ad conservationem naturæ in specie vel individuo; et hoc est etiam in homine prout sensualitas subditur rationi: sed fomes dicitur secundum quod exit rationis ordinem.

*Leonine: *destituente*, depriving him of his rightful rank

⁷*Psalm* 48, 21

⁸In the body of the article

⁹*Ibid*

^eOriginal justice: not a state of pure nature or natural innocence, but the gracious and supernatural rightness of which human nature is deprived by original sin; 1a2æ. 81-5, Vol. 26 of this series. Also 1a. 100, 1.

^dAt the beginning of the discussion.

one is against the law for another, as when I say that hunting a quarry is for hounds according to law, but for sheep and suchlike animals contrary to law. Now by divine ordinance there is a law apportioned to man in accordance with his rightful condition, namely that he should act according to reason. So valid was this law in his original state^e that nothing non-reasonable nor unreasonable could then take him unawares. But when he turned from God he fell into a condition where he could be carried away by sensuality. This befalls each particular individual to the extent that he falls from reason; in effect he becomes like the beasts who are borne along by their sense-appetites, according to the *Psalm*,⁷ *Man when he was in honour did not understand; he hath been compared to senseless beasts, and made like to them.*

So therefore the urge of sensuality (called 'fomes') in non-rational animals quite simply has the nature of a law ruling them directly, though in their case law has to be taken in the derivative sense already alluded to.^d In men, however, the impulse of sensuality does not have the character of law in this sense; it is rather a deviation from law. All the same, taking them as deprived of original justice and the vigour of reason, their being borne along by sensuality possesses a quality of law, namely of being a penal consequence, according to divine justice, of the loss of their original proper dignity.

Hence: 1. This argument fastens on lust considered as an incentive to evil. Looked at like that the character of law is absent, but not if it is looked at as a result of the justice of divine law; this was the tenor of our discussion,⁸ which could have used the analogy of a nobleman through his own fault and according to law being reduced to doing hard labour.

2. This argument takes law as a rule and directive, and anyone deviating from it as thereby judged to be a transgressor. Concupiscence, however, is not law in this sense, but only in the extended sense indicated in the discussion.⁹

3. This argument isolates lust as an individual drive without looking at its history and background. Yet even so, taken as a purely animal tendency, it serves the common good, namely^e the conservation of nature in the species and in the individual. So it exists also in man when his sensuality is subordinate to reason: 'fomes', however, means a sensuality that escapes the bounds of reason.

^eOr alternatively: 'The argument works from *fomes* as an inordinate tendency towards one's own pleasure, not from what lies behind it. Still, take the sensual drive as found in other animals, it serves the common good, namely etc.' Close translation makes little sense, and the original bears both these constructions. The point is the distinction between lust as a healthy emotion and as a sinful desire (cf 1a2æ. 24: 30, 2); the implication is that there are 'non-legal' drives underlying law. ^fIn human beings.

Quæstio 94. de lege naturali

Deinde considerandum est de lege naturali; et circa hoc quæruntur sex:

1. quid sit lex naturalis;
2. quæ sint præcepta legis naturalis;
3. utrum omnes actus virtutum sint de lege naturæ;
4. utrum lex naturalis sit una apud omnes;
5. utrum sit mutabilis;
6. utrum possit a mente hominis deleri.

articulus 1. utrum lex naturalis sit habitus

AD PRIMUM sic proceditur:¹ 1. Videtur quod lex naturalis sit habitus, quia, ut Philosophus dicit in *Ethic.*,² tria sunt in anima, potentia, habitus, et passio. Sed naturalis lex non est aliqua potentiarum animæ nec aliqua passionum, ut patet enumerando per singula. Ergo lex naturalis est habitus.

2. Præterea, Basilus dicit quod conscientia, sive synderesis, est *lex intellectus nostri*;³ quod non potest intelligi nisi de lege naturali. Sed synderesis est habitus quidam, ut in *Primo* habitum est.⁴ Ergo lex naturalis est habitus.

3. Præterea, lex naturalis semper in homine manet, ut infra patebit.⁵ Sed non semper ratio hominis, ad quam lex pertinet, cogitat de naturali lege. Ergo lex naturalis non est actus, sed habitus.

SED CONTRA est quod Augustinus dicit in lib. *de bono conjugali*⁶ quod *habitus est quo aliquid agitur cum opus est*. Sed naturalis lex non est hujus-

¹cf 122æ. 51, 1; 55, 1; 63, 1

²*Ethics* II, 5. 1105b20. St Thomas, *lect.* 5

³The law of our understanding appears in St John Damascene, *De fide orthodoxa* IV, 22. PG 94, 1200. For its basis in St Basil see *In Hexaëtm.* 7. PG 29, 158

⁴1a. 79, 12

⁵*De bono conjugal.* 21. PL 40, 390

⁶Natural law, see Appendix 3. The term is translated without the definite article to avoid suggesting that it constitutes a body of law, the so-called unwritten and higher code. Natural law is our participation in the Eternal Law (122æ. 91, 2), from which it is distinguished, says Billuart, not *ratione legis* but *ratione entis*, that is less by what it commands than by its manner of existence as an effect of the Eternal Law. The existence and content of neither law is to be ascertained by juridical science as a particular and positive discipline; both are inferences of philosophical and theological science. Nor are the commands of natural law like premises from which positive laws are drawn like conclusions (cf below, 122æ. 95, 2). They mingle with positive legislation, and in civilizations formed by a natural law tradition some may be treated like postulates to which political and legal judgment will appeal.

Question 94. natural law

Next let us go on to discuss natural law,^a and here there are six points of inquiry:

1. what natural law is;
2. what its commands are;
3. whether all acts of virtue are of natural law;
4. whether it is the same for all men;
5. whether it can be changed;
6. whether it can be wiped off the human mind.

article 1. is natural law a habit?

THE FIRST POINT:¹ 1. It seems that natural law is a habit,^b for Aristotle sees these three in the soul, namely *power of activity, habit of activity, and capacity for being acted on.*² Yet natural law is neither one of the powers of activity nor one of its passions, as appears when all are enumerated. We are left to conclude that it is a habit.

2. Besides, when he says that conscience or synderesis^c is the law of our understanding, Basil must be taken to refer to natural law.³ Now synderesis is a kind of habit, as we have stated.⁴ Consequently natural law is also a habit.

3. Again, it will emerge later⁵ that natural law stays always in a man. However man's reason, to which law belongs, is not always thinking about natural law. It is, therefore, not an act, but a habit.

ON THE OTHER HAND there is Augustine, *habit is that whereby a man acts when there is a deed to be done.*⁶ Natural law is not of this sort, for it is

^aThis, like 122æ. 93, 4, is a cross-bench article which replies to the *Sed Contra*, and is guardedly critical of the position held by a colleague and friend, Peter of Tarentaise, afterwards Pope Innocent V.

^bHabit: here a settled and steady psychological disposition (*hexis*), the first species of quality among the Aristotelean categories, ordered to doing (*praxis*), hence called a *habitus operativus*: when good it is called a virtue, when bad a vice; 122æ. 49-54, Vol. 22 of this series.

^cConscience or synderesis: there is some confusion here in the sources used by the *Summa*. The Latin 'synderesis' (or 'synteresis') was coined from the Greek *sumeidesis*, consciousness, later conscience. For the *Summa* their meanings are quite distinct. Synderesis is the habit of knowing the first principles of moral conduct, and corresponds in the practical reason to the understanding, *intellectus, nous*, of the first principles of thought in the theoretical reason; whereas conscience is an act of moral judgment about the prosecution of a particular course of conduct: cf 1a. 79, 12 & 13. *De veritate* XVII, 2 ad 3, allows the metaphorical usage, the verbal echo of 'synderesis' to indicate the glimmer or spark, *scintilla*, of conscience.

modi: est enim in parvulis et damnatis, qui per eam agere non possunt. Ergo lex naturalis non est habitus.

RESPONSIO: Dicendum quod aliquid potest dici esse habitus dupliciter: uno modo proprie et essentialiter; et sic lex naturalis non est habitus. Dictum est enim supra, quod lex naturalis est aliquid per rationem constitutum, sicut etiam propositio est quoddam opus rationis. Non est autem idem quod quis agit et quo quis agit; aliquis enim per habitum grammaticæ agit orationem congruam. Cum igitur habitus sit quod quis agit, non potest esse quod lex aliqua sit habitus proprie et essentialiter.

Alio modo potest dici habitus id quod habitu tenetur, sicut dicitur Fides id quod fide tenetur. Et hoc modo, quia præcepta legis naturalis quandoque considerantur in actu a ratione, quandoque autem sunt in ea habitualiter tantum, secundum hunc modum potest dici quod lex naturalis sit habitus: sicut etiam principia indemonstrabilia in speculativis non sunt ipsi habitus* principiorum, sed sunt principia, quorum est habitus.

1. Ad primum ergo dicendum quod Philosophus intendit ibi investigare genus virtutis; et cum manifestum sit quod virtus sit quoddam principium actus, illa tantum ponit quæ sunt principia humanorum actuum, scilicet potentias, habitus, et passiones. Præter hæc autem tria sunt quædam alia in anima, sicut quidam actus, ut velle est in volente, et etiam cognita sunt in cognoscente, et proprietates naturales animæ insunt ei, ut immortalitas et alia hujusmodi.

2. Ad secundum dicendum quod synderesis dicitur lex intellectus nostri in quantum est habitus continens præcepta legis naturalis, quæ sunt prima principia operum humanorum.

3. Ad tertium dicendum quod ratio illa concludit quod lex naturalis habitualiter tenetur; et hoc concedimus.

Ad id vero quod in contrarium objicitur, dicendum quod eo quod habitualiter inest, quandoque aliquis uti non potest propter aliquod impedimentum: sicut homo non potest uti habitu scientiæ propter somnum, et similiter puer non potest uti habitu intellectus principiorum, vel etiam lege naturali, quæ ei habitualiter inest, propter defectum ætatis.

articulus 2. utrum lex naturalis continet plura præcepta vel unum tantum

AD SECUNDUM sic proceditur: 1. Videtur quod lex naturalis non contineat plura præcepta, sed unum tantum. Lex enim continetur in genere præcepti,

*Piana, Leonine: ipse habitus, the very habit itself

¹1a2æ. 90, 1 ad 2

²cf IV Sent. 33, 1, 1

³cf 1a2æ. 91, 6; 93, 3 ad 1; 93, 6.

present in babies, and also in the damned, who cannot act through it.^d Therefore natural law is not a habit.

REPLY: You may call something a 'habit' in two senses, to refer, first, to what is properly in the category of habit; second, to what may be called a habit in a derivative sense. Properly and essentially natural law is not a habit. We have said⁷ that it is something constituted by the reason, after the fashion that a proposition is a piece of work done by the reason. Now that which you do and that whereby you do it are not identical, as when you compose a correct speech by using the habit of good grammar. Since a habit is a quality whereby you act, it follows that a law cannot be a habit in the proper and essential sense of the term.

Yet in a derivative sense we speak of habit to refer to what is steadily held, thus the Faith means what is held by faith. In this manner, because the commandments of natural law sometimes are actually adverted to by the reason and sometimes are just settled convictions there, we may speak of natural law as a habit. So also the first indemonstrable principles of thought are not themselves the mental habits of holding them, but are the objective principles which engage them.

Hence: 1. Aristotle is there exploring the category to which virtue belongs, and since virtue is among the principles of human activity he limits himself to these, namely powers of activity, habits of activity, and capacities for being acted on. Besides these three there are other psychological realities, for instance certain acts, such as actual willing in the person who wills, and objects also, such as things known in the person who knows, and inner qualities as well, such as immortality and the like.

2. Synderesis is called the law of our understanding inasmuch as it is the habit of keeping the precepts of natural law, which are the first principles of human activity.

3. This argument is to the effect that natural law is held by habit, and this we grant.

As to the argument advanced to the contrary, observe that a settled active disposition which is part of one's constitution may not operate because of some hindrance, for instance a scientist does not think scientifically when he is asleep, or a child, because of his lack of years, does not use insight into first principles, or employ the natural law, though by settled dispositions both are within him.

article 2. does natural law contain many precepts or only one?

THE SECOND POINT:¹ 1. Apparently natural law does not contain several precepts, but only one. For it has been noted that a law is classified as a

ut supra habitum est.² Si igitur essent multa præcepta legis naturalis sequeretur quod etiam essent multæ leges naturales.

2. Præterea, lex naturalis consequitur hominis naturam. Sed humana natura est una secundum totum, licet sit multiplex secundum partes. Aut ergo est unum præceptum tantum legis naturæ propter unitatem totius, aut sunt multa secundum multitudinem partium naturæ humanæ; et sic oportebit quod etiam ea quæ sunt de inclinatione concupiscibilis pertineant ad legem naturalem.

3. Præterea, lex est aliquid ad rationem pertinens, ut supra dictum est.³ Sed ratio in homine est una tantum. Ergo solum unum præceptum est legis naturalis.

SED CONTRA est quia sic se habent præcepta legis naturalis in homine quantum ad operabilia sicut se habent prima principia in demonstrativis. Sed prima principia indemonstrabilia sunt plura. Ergo etiam præcepta legis naturæ sunt plura.

RESPONSIO: Dicendum quod, sicut supra dictum est,⁴ præcepta legis naturæ hoc modo se habent ad rationem practicam sicut principia prima demonstrationum se habent ad rationem speculativam: utraque enim sunt quædam principia per se nota.

Dicitur autem aliquid per se notum dupliciter: uno modo secundum se, alio modo quoad nos. Secundum se quidem quælibet propositio dicitur per se nota cujus prædicatum est de ratione subjecti: contingit tamen quod ignorant definitionem subjecti talis propositio non erit per se nota, sicut ista propositio, 'Homo est rationale', est per se nota secundum sui naturam, quia qui dicit 'hominem' dicit 'rationale'; et tamen ignoranti quid sit homo, hæc propositio non est per se nota. Et inde est quod, sicut dicit Boëtius,⁵ *quædam sunt dignitates vel propositiones per se notæ communiter omnibus; et huiusmodi sunt illæ propositiones quarum termini sunt omnibus noti, ut 'Omne totum est majus sua parte' et 'Quæ uni et eidem sunt æqualia sibi invicem sunt æqualia'.*

Quædam vero propositiones sunt per se notæ solis sapientibus, qui terminos propositionum intelligunt quid significant; sicut intelligenti quod angelus non est corpus per se notum est quod non est circumscriptive in loco; quod non est manifestum rudibus, qui hoc non capiunt.

²Iazæ. 92, 2

³Iazæ. 90, 1

⁴Iazæ. 91, 3

⁵De hebdomadibus. PL. 64, 1311

⁶This is the key-discussion on natural law. The parallel drawn between the 'laws' of thought and of action is only an analogy; the first are ruled by necessity, the second

precept.² Were there several precepts of natural law it would follow that there were several natural laws.

2. Again, natural law is a corollary to human nature, which is one because man is a single whole and manifold because he has many parts. Either there is one precept of the law of nature on account of the first or there are many precepts on account of the second. If the last alternative be true then what relates to the urges of sense desire come into natural law.

3. In addition, it has been said that law is from reason.³ For all humanity this is one and the same. Therefore there is but one single precept of natural law.

ON THE OTHER HAND the precepts of natural law are to human conduct what the first principles of thought are to demonstration. There are several first principles of thought, and so, also, several precepts of natural law.

REPLY: We have drawn a parallel between the precepts of natural law for the practical reason and the axioms of science for the theoretical reason:⁴ both are kinds of self-evident beginnings.

Now a truth is self-evident at two stages, one, in itself, two, in our minds.⁵ A proposition is self-evident in itself when the Predicate is of the essence of the Subject. At the same time the proposition may not be self-evident to a man who does not know the definition of the Subject. For instance, 'Man is a rational animal', is a self-evident proposition of its nature, since to say 'man' is to say 'rational'. Yet to somebody who does not grasp what man really is, the proposition is not self-evident. That is why Boëtius says,⁵ *there are some axioms or self-evident propositions generally known to all; such are the terms of which everybody recognizes, such as 'The whole is greater than the part', or, 'Things equal to a third thing are equal to one another'.*

Sometimes, however, propositions are self-evident only to the well-informed, who know what the terms of the proposition mean. Thus to one who appreciates that an angel is not a bodily substance it is self-evident that an angel is not circumscribed in place.⁶ This, however, is not manifest to those who are uninstructed and do not grasp what is meant.

operate in the field of contingency. Neither here nor later will a quasi-geometrical articulation of natural-law precepts be proposed. cf Iazæ. 94, 4.

^bImmediately evident in itself and to us: the distinction first appears in the inquiry whether God exists, Ia. 2, 1 & 2. CG I, 11. Iazæ. 51, 1 applies it to the psychology of virtue. cf *Posterior Analytics* I, 2 & 3. 71b34 & 72b18. St Thomas, lect. 4, 5, & 7. In *Physic.* I, lect. 1. In *Meta.* IV, lect. 6. The evidence of the Eternal Law, cf above, Iazæ. 93, 2.

^cIa. 52, 1-3, the relation of pure spirits to place.

In his autem quæ in apprehensione hominum cadunt quidam ordo invenitur. Nam illud quod primo cadit sub apprehensione est ens, cuius intellectus includitur in omnibus quæcumque quis apprehendit. Et ideo primum principium indemonstrabile est quod non est simul affirmare et negare, quod fundatur supra rationem entis et non entis; et super hoc principio omnia alia fundantur, ut dicit Philosophus in IV *Meta.*⁶

Sicut autem ens est primum quod cadit in apprehensione simpliciter, ita bonum est primum quod cadit in apprehensione practicæ rationis, quæ ordinatur ad opus. Omne enim agens agit propter finem, qui habet rationem boni. Et ideo primum principium in ratione practica est quod fundatur supra rationem boni; quæ est, bonum est quod omnia appetunt. Hoc est ergo primum præceptum legis, quod 'bonum est faciendum et prosequendum, et malum vitandum'; et super hoc fundantur omnia alia præcepta legis naturæ, ut scilicet omnia illa facienda vel vitanda pertineant ad præcepta legis naturæ quæ ratio practica naturaliter apprehendit esse bona humana.

Quia vero bonum habet rationem finis, malum autem rationem contrarii, inde est quod omnia illa ad quæ homo habet naturalem inclinationem ratio naturaliter apprehendit ut bona, et per consequens ut opere prosequenda, et contraria eorum ut mala et vitanda.

Secundum igitur ordinem inclinationum naturalium est ordo præceptorum legis naturæ. Inest enim primo inclinatio homini ad bonum secundum naturam in qua communicat cum omnibus substantiis, prout scilicet quælibet substantia appetit conservationem sui esse secundum suam naturam; et secundum hanc inclinationem pertinent ad legem naturalem ea per quæ vita hominis conservatur, et contrarium impeditur.

Secundo inest homini inclinatio ad aliqua magis specialia secundum naturam in qua communicat cum cæteris animalibus; et secundum hoc

⁶*Metaphysics* IV, 3, 1005b29. St Thomas, *lect.* 4 & 6

^a*Ens*, or a thing having reality.

^eThe principle of contradiction: 'simultaneously' includes 'at the same time' and 'under the same respect'. Indemonstrable because used in every demonstration. *Metaphysics* IV, 3, 1005a20-b35. St Thomas, *lect.* 6. cf *In Anal. Post.*, *lect.* 20. It is the beginning of knowledge, yet conclusions are not there latent. Similarly when the analogy is applied from theory to practice, it is not contended that later and more specific precepts can be extracted from the first precept of natural law which corresponds to the first principle of thought. Both are axioms, on which secondary conclusions and commands are based, not from which they can be elucidated.

^fWhat all seek after: cf *Ethics* I, I, 1094a3. For the metaphysics of being and the good, see Ia. 4, 1-4. Good, which all desire, is validated as true good, *bonum verum*, by cognition, not appetition.

Now we discover that the things which enter into our apprehension are ranged in a certain order. That which first appears is *the real*,^d and some insight into this is included in whatsoever is apprehended. This first indemonstrable principle, 'There is no affirming and denying the same simultaneously', is based on the very nature of the real and the non-real: on this principle, as Aristotle notes,^e all other propositions are based.^f

To apply the analogy: as to be *real* first enters into human apprehending as such, so to be *good* first enters the practical reason's apprehending when it is bent on doing something. For every agent acts on account of an end, and to be an end carries the meaning of to be good. Consequently the first principle for the practical reason is based on the meaning of good, namely that it is what all things seek after.¹ And so this is the first command of law, 'that good is to be sought and done, evil to be avoided'; all other commands of natural law are based on this. Accordingly, then, natural-law commands extend to all doing or avoiding of things recognized by the practical reason of itself as being human goods.^g

Now since being good has the meaning of being an end, while being an evil has the contrary meaning, it follows that reason of its nature apprehends the things towards which man has a natural tendency as good objectives, and therefore to be actively pursued, whereas it apprehends their contraries as bad, and therefore to be shunned.

Let us continue. The order in which commands of the law of nature^h are ranged corresponds to that of our natural tendencies. Here there are three stages. There is in man, first, a tendency towards the good of the nature he has in common with all substances; each has an appetite to preserve its own natural being.¹ Natural law here plays a corresponding part, and is engaged at this stage to maintain and defend the elementary requirements of human life.

Secondly, there is in man a bent towards things which accord with his nature considered more specifically, that is in terms of what he has in common with other animals; correspondingly those matters are said to be

^dRecognized by the practical reason of itself: *naturaliter apprehendit*, apprehends of its nature, not just because it is told. The argument is putting forward natural law as part of the spring of moral activity, not as an inventory of acts to be done or avoided.

^eThe text here reads '*lex naturæ*', not the more usual '*lex naturalis*'; the terms are used synonymously, nevertheless the former, 'the law of nature', more strongly suggests, though the point is not to be laboured, the non-moral and biological drives, here noticed, which underlie man's moral activity according to 'natural law' in the proper sense of the term: Iazæ. 90, I ad I.

^fIa. 104, I & 2, *conservatio in esse*. 'Appetite' is an analogical term, and the desire for self-preservation is not necessarily conscious in its subject; cf. Ia. 78, I ad 3.

dicuntur ea esse de lege naturali quæ natura omnia animalia docuit, ut est commixtio maris et femine, et educatio liberorum, et similia.⁷

Tertio modo inest homini inclinatio ad bonum secundum naturam rationis quæ est sibi propria: sicut homo habet naturalem inclinationem ad hoc quod veritatem cognoscat de Deo, et ad hoc quod in societate vivat; et secundum hoc ad legem naturalem pertinent ea quæ ad huiusmodi inclinationem spectant, utpote quod homo ignorantiam vitet, quod alios non offendat cum quibus debet conversari, et cætera huiusmodi quæ ad hoc spectant.

1. Ad primum ergo dicendum quod omnia ista præcepta legis naturæ in quantum referuntur ad unum primum præceptum habent rationem unius legis naturalis.

2. Ad secundum dicendum quod omnes huiusmodi inclinationes quarumcumque partium naturæ humanæ, puta concupiscibilis et irascibilis, secundum quod regulantur ratione, pertinent ad legem naturalem, et reducuntur ad unum primum præceptum, ut dictum est,⁸ et secundum hoc sunt multa præcepta legis naturæ in seipsis, quæ tamen communicant in una radice.

3. Ad tertium dicendum quod ratio, etsi in se una sit, tamen est ordinativa omnium quæ ad homines spectant; et secundum hoc sub lege rationis continentur omnia et quæ ratione regulari possunt.

articulus 3. utrum omnes actus virtutum sint de lege naturæ

AD TERTIUM sic proceditur:¹ 1. Videtur quod non omnes actus virtutum sint de lege naturæ, quia, ut supra dictum est,² de ratione legis est ut ordinetur ad bonum commune. Sed quidam virtutum actus ordinantur ad bonum privatum alicuius, ut patet præcipue in actibus temperantiæ. Non ergo omnes actus virtutum legi subduntur naturali.

2. Præterea, omnia peccata alicuius virtuosus actibus opponuntur. Si igitur omnes actus virtutum sint de lege naturæ, videtur ex consequenti quod omnia peccata sint contra naturam; quod tamen specialiter de quibusdam peccatis dicitur.

⁷Digest 1, 1, 1. Berlin 1, 29a

⁸In the body of the article

¹cf IV Sent. 13, 1, 3

²1a2æ. 90, 2

³Ulpian's authority is not acknowledged here, though his sentiment is adopted, a sentiment more embarrassing to a lawyer than to an Aristotelean theologian. The text was not felicitous to a Stoic and legal tradition, and some have regarded it as an interpolation. St Thomas, however, returns later to this notion of natural law at an animal level; 2a2æ. 57, 3, before examining Ulpian's classical definition of

of natural law which nature teaches all animals,¹ for instance the coupling of male and female, the bringing up of the young, and so forth.⁷

Thirdly, there is in man an appetite for the good of his nature as rational,⁸ and this is proper to him, for instance, that he should know truths about God and about living in society. Correspondingly whatever this involves is a matter of natural law, for instance that a man should shun ignorance, not offend others with whom he ought to live in civility, and other such related requirements.

Hence: 1. As converging on one common primary precept these various precepts of natural law all take on the nature of one natural law.

2. All drives of human nature, to whatever part they belong, for example our emotional responsiveness to pain-pleasure objects and emergencies, all come under natural law so far as they can be charged with intelligence, and all come back, as we have submitted,⁸ to one primary precept. Accordingly the precepts of natural law, though manifold when considered in themselves alone, all have one single root.

3. While single in itself,¹ the reason has to direct all the many matters affecting human life; consequently all that can be controlled fall under the law of reason.

article 3. is every act of virtue of natural law?

THE THIRD POINT:¹ 1. It would seem that every act of virtue does not belong to natural law, for, as already observed,² it is of the nature of law that its commands are for the common good. Some acts of virtue are for private good—acts of temperance spring to mind as cases in point.³ Therefore not every act of virtue falls under natural law.

2. Again, any sin is the opposite of some virtuous act. Were all virtuous acts of natural law apparently all sins would then be against nature. Only some sins, however, are termed unnatural.

justice; 2a2æ. 58, 1. Here he is making his own the thought that natural law rules instinctive as well as thoughtful adaptations to environment.

⁴'Natural' has two main and cognate senses; Appendix 3. First to refer to the source of a thing's motion from within towards its proper end or good; in this way natural law is a natural principle, and remains natural even when taken up into the life of grace. The second refers to a thing's status in the hierarchy of being: here man is regarded at the three levels outlined in the article, namely as a substance, and especially a material substance, as an animal, and as rational—'rational' here means intelligent, and need not be confined to 'intelligent through reasoning'. Natural law enters at all three levels, but specifically and properly at the third, where natural law is rational law, and *kata phusin* is *kata logon*.

¹1a. 76, 4 & 8; 79, 8: the singleness of reason in the human composite.

²The direct effect of temperance is to produce a well-balanced personality in the emotions regarding pleasure: cf 1a2æ. 56, 4. 2a2æ. 141, 2 & 3.

3. Præterea, in his quæ sunt secundum naturam omnes conveniunt. Sed in actibus virtutum non omnes conveniunt: aliquid enim est virtuosum uni quod est alteri vitiosum. Ergo non omnes actus virtutum sunt de lege naturæ.

SED CONTRA est quod Damascenus dicit quod *virtutes sunt naturales*.³ Ergo et actus virtuosus subjacent legi naturæ.

RESPONSO: Dicendum quod de actibus virtuosus dupliciter loqui possumus: uno modo in quantum sunt virtuosus; alio modo in quantum sunt tales actus in propriis speciebus considerati.

Si igitur loquamur de actibus virtutum in quantum sunt virtuosus, sic omnes actus virtuosus pertinent ad legem naturæ. Dictum est quod ad legem naturæ pertinet omne illud ad quod homo inclinatur secundum suam naturam.⁴ Inclinatur autem unumquodque naturaliter ad operationem sibi convenientem secundum suam formam, sicut ignis ad calefaciendum. Unde cum anima rationalis sit propria forma hominis, naturalis inclinatio inest cuilibet homini ad hoc quod agat secundum rationem; et hoc est agere secundum virtutem. Unde secundum hoc omnes actus virtutum sunt de lege naturali: dicitur enim hoc naturaliter unicuique propria ratio ut virtuose agat.

Sed si loquamur de actibus virtuosus secundum seipsos, prout scilicet in propriis speciebus considerantur, sic non omnes actus virtuosus sunt de lege naturæ. Multa enim secundum virtutem fiunt ad quæ natura non primo inclinatur; sed per rationis inquisitionem ea homines adinvenerunt quasi utilia ad bene vivendum.

1. Ad primum ergo dicendum quod temperantia est circa concupiscentias naturales cibi et potus, et venerorum, quæ quidem ordinantur ad bonum commune naturæ, sicut et alia legalia ordinantur ad bonum commune morale.

2. Ad secundum dicendum quod natura hominis potest dici vel illa quæ est propria hominis, et secundum hoc omnia peccata in quantum sunt contra rationem sunt etiam contra naturam, ut patet per Damascenum;⁵ vel illa quæ est communis homini et aliis animalibus, et secundum hoc quædam specialia peccata dicuntur esse contra naturam, sicut contra commixtionem maris et femine, quæ est naturalis omnibus animalibus, est concubitus masculorum, quod specialiter dicitur vitium contra naturam.

3. Ad tertium dicendum quod ratio illa procedit de actibus secundum

³De fide orthodoxa II, 14. PG 94, 1045
⁴art. 2

⁵De fide orthodoxa II, 4 & IV, 20. PG 94, 976 & 1196

3. Besides, about what is according to nature all agree. Yet not all men agree about what the acts of the virtues are; virtuous for one is vicious for another. Therefore not all acts of virtue are of natural law.

ON THE OTHER HAND there is Damascene saying that *the virtues are natural*.³ Therefore their acts come under natural law.

REPLY: There are two ways of referring to acts of virtue, the first, in so far as they are virtuous, the other, in so far as they are acts of a certain specific kind.^b

If we are speaking of them as virtuous, then all of them are matters for natural law. We have said that everything to which man is set by his very nature belongs to natural law.⁴ All things have a natural tendency towards activity befitting their natures, like fire to heating. Since the rational soul is man's proper form, he has a natural tendency to act according to reason, that is to say according to virtue. Consequently in this sense all acts of virtue are of natural law, for each man's own reason naturally dictates that he should act virtuously.

But if we are speaking of them as acts of specific virtues in themselves, that is as different kinds of activity, then not all of them are of natural law. For many of them are not immediately prompted by nature, but have to be investigated and are reasoned out before they are held to be helpful to the good life.^c

Hence: 1. Temperance is engaged with the natural desires for food, drink, and sex, all of which subserve the common good of nature, as do all matters of law ordered to the common moral good.

2. When speaking of man's nature we may refer either to that which is proper to him or to that which he has in common with other animals. From the first point of view, all sins in so far as they are against reason are also against nature,^d as Damascene states.⁵ From the second, some special sins are against nature, as, for instance, those that run counter to the intercourse of male and female natural to animals, and so are peculiarly qualified as unnatural vices.

3. When acts are looked at, as by this argument, as specific kinds of acts

^bHuman acts are not merely right or wrong, but right or wrong for a specific reason; 122æ. 18, 2, 5, 7, Vol. 18 of this series. For sinfulness in particular, see 122æ. 72, 1 & 3.

^c222æ. 57, 2 & 3; on the adjustments reason makes to the simplicities of natural law.

^d122æ. 71, 2; all sin is against nature.

seipſos conſideratos. Sic enim propter diverſas hominum conditiones contingit quod aliqui actus ſunt aliquibus virtuoſis tanquam eis proportionati et convenientes, qui tamen ſunt aliis vitioſi tanquam eis non proportionati.

articulus 4. utrum lex naturalis ſit una apud omnes

AD QUARTUM ſic proceditur.¹ I. Videtur quod lex naturæ non ſit una apud omnes. Dicitur enim in *Decretis*, quod *ius naturale eſt quod in Lege et in Evangelio continetur*.² Sed hoc non eſt commune omnibus, quia, ut dicitur *Rom.*, non omnes obedunt *Evangelio*.³ Ergo lex naturalis non eſt una apud omnes.

2. Præterea, quæ ſunt ſecundum legem, juſta eſſe dicuntur, ut dicitur in *Ethic*.⁴ Sed in eodem libro dicitur quod nihil eſt ita juſtum apud omnes quin apud aliquos diverſificetur.⁵ Ergo etiam lex naturalis non eſt apud omnes eadem.

3. Præterea, ad legem naturæ pertinet id ad quod homo ſecundum naturam ſuam inclinatur, ut ſupra dictum eſt.⁶ Sed diverſi homines naturaliter ad diverſa inclinantur: alii quidem ad concupiſcentiam voluptatum, alii ad deſideria honorum, alii ad alia. Ergo non eſt una lex naturalis apud omnes.

SED CONTRA eſt quod Iſidorus dicit,⁷ *Jus naturale eſt commune omni nationi*.

RESPONſIO: Dicendum quod, ſicut ſupra dictum eſt,⁸ ad legem naturæ pertinent ea ad quæ homo naturaliter inclinatur; inter quæ homini proprium eſt ut inclinatur agendum ſecundum rationem. Ad rationem autem pertinet ex communibus ad propria procedere, ut patet ex I *Phyſic*.⁹ Aliter tamen circa hoc ſe habet ratio ſpeculativa et aliter practica: quia enim ratio ſpeculativa præcipue negotiatur circa neceſſaria, quæ impoſſibile eſt aliter ſe habere, abſque aliquo defectu invenitur veritas in concluſionibus propriis ſicut et in principiis communibus. Sed ratio practica negotiatur circa contingentia, in quibus ſunt operationes humanæ; et ideo, ſi in communibus ſit aliqua neceſſitas, quanto magis ad propria deſcenditur tanto magis invenitur defectus.

Sic igitur in ſpeculativa eſt eadem veritas apud omnes tam in principiis

¹cf 222æ. 57. 2 ad I. III *Sent.* 37. 4 ad 2; IV. 33. 1, 2 ad I. In *Ethic*. V. *lect.* 12. *De malo* II, 4 ad 13

²*Decretum* I, I. Prelude. Leipzig I, I

³*Ethic* V, I. 1129b12. St Thomas, *lect.* 2

⁴art. 2 & 3

⁵art. 2 & 3

⁶*Phyſics* I, I. 181a16. St Thomas, *lect.* I

⁷*Romans* 10, 16

⁸ibid 7. 1134b32. *Lect.* 12

⁹*Etymologies* V, 4. PL 82, 199

then remark, that, owing to the variety of individual conditions, ſome are virtuoſous to ſome men becauſe they are right and proper, but vicious to others becauſe they are not.⁶

article 4. is natural law the ſame for all?

THE FOURTH POINT: 1. Apparently natural law is not the ſame for everybody. It is ſtated in the *Decretum* that *the natural law is that contained in the Law and the Gospel*.^{2a} Taken ſo it is not common to everybody; it is ſaid in *Romans*, *All do not obey the Gospel*.³ Therefore natural law is not the ſame for everybody.

2. According to the *Ethics*, *All lawful acts are ſaid to be juſt acts*.⁴ Yet in the ſame work it is remarked that nothing is ſo juſt for all as not to vary for ſome.⁵ Natural law, then, is not identical for all.

3. Or put the matter like this, it has been ſaid that objectives ſought becauſe of man's very conſtitution belong to natural law.⁶ Theſe are different in different men, for by their conſtitution ſome are moved by deſire for pleaſure, others by ambition for honour, and others by other incentives. Therefore there is not one natural law for all.

ON THE OTHER HAND Iſidore ſays, *Natural right is common to all nations*.^{7b}

REPLY: As we have ſhown,⁸ the objects to which men have a natural tendency are the concern of natural law, and among ſuch tendencies it is proper to man to act according to reaſon. Now a characteristic of reaſon is to proceed from common principles to particular concluſions: this is remarked in the *Phyſics*.⁹ However the theoretic reaſon and the practical reaſon ſet about this ſomewhat differently. The buſineſs of the theoretic reaſon is with natural truths that cannot be otherwiſe, and ſo without miſtake it finds truth in the particular concluſions it draws as in the premiſes it ſtarts from. Whereas the buſineſs of the practical reaſon is with contingent matters which are the domain of human acts, and although there is ſome neceſſity in general principles the more we get down to particular caſes the more we can be miſtaken.

So then in queſtions of theory, truth is the ſame for everybody, both as

⁶Thus what is right for people who are married is not right for people who are not. So alſo with the difference between clerics and layfolk, and between different religions, races, and nationalities. Fundamental virtuoſousneſs is the ſame for all, but its ſpecific manifeſtations vary.

^{2a}Gratian's opening, 'Mankind is ruled by two laws, nature and cuſtom. Natural law is that contained in the Scriptures and the Gospel.'

³Common to all nations: the thought echoes *Gaius, Digest* I, I, I. Berlin I, 29a.

quam in conclusionibus, licet veritas non apud omnes cognoscatur in conclusionibus, sed solum in principiis, quæ dicuntur 'communes conceptiones'.¹⁰ In operativis autem non est eadem veritas vel rectitudo practica apud omnes quantum ad propria, sed solum quantum ad communia, et apud quos est eadem rectitudo in propriis non est æqualiter omnibus nota. Sic igitur patet quod quantum ad communia principia rationis, sive speculativæ sive practicæ, est eadem veritas seu rectitudo apud omnes, et æqualiter nota. Quantum vero ad proprias conclusiones rationis speculativæ, est eadem veritas apud omnes, non tamen æqualiter omnibus nota: apud omnes enim verum est quod triangulus habet tres angulos æquales duobus rectis, quamvis hoc non sit omnibus notum. Sed quantum ad proprias conclusiones rationis practicæ, nec est eadem veritas seu rectitudo apud omnes; nec etiam apud quos est eadem est æqualiter nota.

Apud omnes enim hoc rectum est et verum ut secundum rationem agatur. Ex hoc autem principio sequitur quasi conclusio propria, quod deposita sint reddenda, et hoc quidem ut in pluribus verum est; sed potest in aliquo casu contingere quod sit damnosum et per consequens irrationabile, si deposita reddantur, puta si aliquis petat ad impugnandam patriam. Et hoc tanto magis invenitur deficere, quanto magis ad particularia descenditur: puta si dicatur quod deposita sunt reddenda cum tali cautione vel tali modo. Quanto enim plures conditiones particulares apponuntur tanto pluribus modis poterit deficere, ut non sit rectum vel in reddendo vel non reddendo.

Sic igitur dicendum est quod lex naturæ, quantum ad prima principia communia, est eadem apud omnes et secundum rectitudinem et secundum notitiam. Sed quantum ad quædam propria, quæ sunt quasi conclusiones principiorum communium, est eadem apud omnes ut in pluribus et secundum

¹⁰Boëthius, *De hebdomadibus*. PL. 64, 1311

^eGoodwill: *rectitudo*, practical rightness; Iazæ. 4. 4 ad 2; 5 & 7; 19, 3 ad 2. Present in all moral virtues; Iazæ. 58, 2. The argument goes on to treat 'truthfulness' (of mind) and 'rightness' (of will) as distinct notes.

^fThe stock example of the exceptional case from Socrates. For the prudence or *gnome* and the flexible justice of equity which are required, see 2azæ. 51, 4; 120, 1-2.

^gBeginning from synderesis (Iazæ. 94. 1 ad 2), the natural law develops somewhat unevenly according to period and region. This development cannot be fitted into neat compartments, but St Thomas from art. 2 until art. 6 is working with four types of precept, namely 1. precepts that are like moral principles; 2. those that are like moral conclusions; 3. those made by reason as safeguarding additions; 4. those made by practical wisdom in pursuing a particular course of action. The first three can be stated as general rules of activity, the fourth is mainly the 'situation ethics' of the here and now. There is no abrupt division between the first and the second type, and this last comprises an ordered variety of precepts. The distinction

to principles and to conclusions, though admittedly all do not recognize truth in the conclusions, but only in those principles which are called 'common conceptions'.¹⁰ In questions of action, however, practical truth and goodwill^e are not the same for everybody with respect to particular decisions, but only with respect to common principles; and even those who are equally in the right on some particular course of action are not equally aware of how right they are.

So then it is evident that with respect to general principles of both theory and practice what is true or right is the same for all and is equally recognized. With respect to specific conclusions of theory the truth is the same for all, though all do not equally recognize it, for instance some are not aware that the angles of a triangle together equal two right angles. With respect to particular conclusions come to by the practical reason there is no general unanimity about what is true or right, and even when there is agreement there is not the same degree of recognition.

All hold that it is true and right that we should act intelligently. From this starting point it is possible to advance the specific conclusion, that goods held in trust are to be restored to their owners. This is true in the majority of cases, yet a case can crop up when to return the deposit would be injurious, and consequently unreasonable, as for instance were it to be required in order to attack one's country.^d The more you descend into the detail the more it appears how the general rule admits of exceptions, so that you have to hedge it with cautions and qualifications. The greater the number of conditions accumulated the greater the number of ways in which the principle is seen to fall short, so that all by itself it cannot tell you whether it be right to return a deposit or not.^e

To sum up: as for its first common principles, here natural law is the same for all in requiring a right attitude towards it as well as recognition.^f As for particular specific points, which are like conclusions drawn from common principles, here also natural law is the same for most people in

between primary and secondary precepts of natural law according to their closeness to the first principles of morality seems to derive from an early Dominican master, Roland of Cremona (d. 1259). On the first and second Tables of the Law, see Iazæ. 100, 8. The third type of precept is treated under human law (see especially Iazæ. 95, 2). The fourth type of precept belongs to prudence, and is elicited by the judgment of conscience, not law; the example in the discussion, about returning a deposit, comes under this heading, but is introduced to show that laws, as the *Summa* is considering them, should not be reduced to hard and fast regulations. For example, drunkenness takes on a different aspect in the Middle Ages when men depended on fruit, honey, and wine for their sugar-intake. cf also *In Ethic.* V, lect. 12.

^h*Secundum rectitudinem, secundum notitiam*, cf note c above.

dum rectitudinem et secundum notitiam. Sed ut in paucioribus potest deficere et quantum ad rectitudinem, propter aliqua particularia impedimenta—sicut etiam naturæ generabiles et corruptibiles deficiunt ut in paucioribus propter impedimenta—et etiam quantum ad notitiam, et hoc propter hoc quod aliqui habent depravatam rationem ex passione, seu ex mala consuetudine, seu ex mala habitudine naturæ; sicut apud Germanos olim latrocinium non reputabatur iniquum, cum tamen sit expresse contra legem naturæ, ut refert Julius Cæsar in lib. *de bello Gallico*.¹¹

1. Ad primum ergo dicendum quod verbum illud non est sic intelligendum quasi omnia quæ in Lege et in Evangelio continentur sint de lege naturæ, cum multa tradantur ibi supra naturam; sed ea quæ sunt de lege naturæ plenarie ibi traduntur. Unde cum dixisset Gratianus quod *ius naturale est quod in Lege et in Evangelio continetur*, statim explicando subiunxit, *Quo quisque iubetur alii facere quod sibi vult fieri, et prohibetur alii facere quod sibi nolit fieri*.¹²

2. Ad secundum dicendum quod verbum Philosophi est intelligendum de his quæ sunt naturaliter justa, non sicut principia communia, sed sicut quædam conclusiones ex his derivatæ;¹³ quæ ut in pluribus habent rectitudinem, et ut in paucioribus deficiunt.

3. Ad tertium dicendum quod, sicut ratio in homine dominatur et imperat aliis potentiis, ita oportet quod omnes inclinationes naturales ad alias potentias pertinentes ordinentur secundum rationem. Unde hoc est apud omnes communiter receptum, ut secundum rationem dirigantur omnes hominum inclinationes.

articulus 5. utrum lex naturæ mutari possit

AD QUINTUM sic proceditur:¹ 1. Videtur quod lex naturæ mutari possit; quia super illud *Eccli.*, *Addidit illis disciplinam et legem vitæ, dicit Glossa ordin.*, *Legem litteræ, quantum ad correctionem legis naturalis, scribi voluit*.² Sed illud quod corrigitur mutatur. Ergo lex naturalis potest mutari.

¹¹*De bello Gallico* VI, 23

¹²*Decretum* I, I. Preface. Leipzig I, I

¹³*Ethics* V, II. 1129b12

¹cf 122æ. 97, I ad I. 222æ. 57, 2 ad I. In *Ethic.* v, lect. 12. *De malo* II, 4 ad 13. III *Sent.* 37, 3; 4 ad 2; IV, 33, 1, 2 ad I

²Gloss on *Ecclesiasticus* 17, 9; from Rhabanus Maurus. PL 109, 876

³Most cases . . . fewer cases, *ut in pluribus* . . . *ut in paucioribus*: no statistical ratio is fixed, and the reflection is prompted by *a priori* reasons, supported by observation from living in Christian surroundings. An anthropologist will require a wider induction.

¹¹Natural law' here refers to the specifically human level, not to blind natural operation. See above, art. 2, note k. Appendix 3.

¹²No abstract generalization, whether a principle or a conclusion, can entirely render

their feeling for and awareness of what is right. Nevertheless in fewer cases either the desire or the information may be wanting.⁶ The desire to do right may be blocked by particular factors—so also with physical things that come to be and die away there are occasional anomalies and failures due to some obstruction—and the knowledge also of what is right may be distorted by passion or bad custom or even by racial proclivity; for instance, as Julius Cæsar narrates,¹¹ the Germans did not consider robbery wicked, though it is expressly against natural law.

Hence: 1. The text should not be taken to mean that everything in the Old and New Laws is of natural law,¹² since many things there imparted are above our nature. It means that natural-law precepts are there fully covered. So when Gratian says that *natural right is what is contained in the Old and New Laws* he explains himself at once, and adds. *By which everyone is commanded to do to others what he would have done to himself, and forbidden to do to others what he would not have done to himself*.¹³

2. Aristotle's statement¹³ should be understood to refer to things which are naturally just, not merely according to general principles, but also according to certain conclusions drawn from them. In most cases these are rightful, yet in a few cases they fail to meet the situation.¹

3. Since mind in man dominates and rules his other powers, so their natural urges should be subordinated to mind.¹ Hence it is generally held that it is right for all human tendencies to be directed according to intelligence.

article 5. can natural law be changed?

THE FIFTH POINT:¹ 1. It seems that natural law can be changed.³ For on the text of *Ecclesiasticus*, *He gave instructions and the law of life*, the Gloss comments, *He willed the document of the Law to be written in order to correct natural law*.² Now what is corrected is changed. Therefore natural law can be changed.

what is concrete and particular. This is true both of statements of the theoretical reason and of prescriptions of the practical reason.

122æ. 54, 4 & 5; the sway of reason and will over man's other powers. Also 1a. 81, 3.

³Duns Scotus (d. 1308), himself no nominalist, considered that God could dispense from the second table of the Decalogue (those relating to justice between men), with the exception of the prohibition against lying. Later nominalism was more sweeping, William of Ockham (d. 1349), Peter D'Ailly (d. 1420) and John Gerson (d. 1429) considered that God could dispense from all natural-law precepts.

Dispensation in the wide sense is an authoritative ruling that a particular matter does not fall under the law. Properly speaking, however, it means a relaxation of the law. God's power of dispensation, cf 122æ. 100, 8; human dispensation, cf 122æ. 97, 4.

2. Præterea, contra legem naturalem est occisio innocentis, et etiam adulterium et furtum. Sed ista inveniuntur esse mutata a Deo, puta cum Deus præcepit Abraham quod occideret filium innocentem, ut habetur *Gen.*; et cum præcepit Judæis ut mutuata Ægyptiorum vasa subriperent, ut habetur *Exod.*; et cum præcepit Osee ut uxorem fornicariam acciperet, ut habetur *Osee*.³ Ergo lex naturalis potest mutari.

3. Præterea, Isidorus dicit⁴ quod *communis omnium possessio et inia libertas est de jure naturali*. Sed hæc videmus esse mutata per leges humanas. Ergo videtur quod lex naturalis sit mutabilis.

SED CONTRA est quod dicitur in *Decretis*,⁵ *Naturale jus ab exordio rationalis creaturæ cepit; nec variatur tempore, sed immutabile permanet*.

RESPONSIO: Dicendum quod lex naturalis potest intelligi mutari dupliciter. Uno modo, per hoc quod aliquid ei addatur; et sic nihil prohibet legem naturalem mutari: multa enim supra legem naturalem superaddita sunt ad humanam vitam utilia, tam per legem divinam quam etiam per leges humanas.

Alio modo potest intelligi mutatio legis naturalis per modum subtractionis, ut scilicet aliquid desinat esse de lege naturali quod prius fuit secundum legem naturalem; et sic quantum ad prima principia legis naturæ, lex naturæ est omnino immutabilis. Quantum autem ad secunda principia, quæ diximus esse quasi quasdam proprias conclusiones propter primis principis, sic lex naturalis non immutatur quin ut in pluribus sit rectum semper quod lex naturalis habet; potest tamen mutari et in aliquo particulari et in paucioribus, propter aliquas speciales causas impedientes observantiam talium præceptorum, ut supra dictum est.⁶

1. Ad primum ergo dicendum quod lex scripta dicitur esse data ad correctionem legis naturalis, vel quia per legem scriptam suppletum est quod legi naturæ deerat, vel quia lex naturæ in aliquorum cordibus quantum ad aliqua corrupta erat, intantum ut existimarent esse bona quæ naturaliter sunt mala; et talis corruptio correctione indigebat.

2. Ad secundum dicendum quod naturali morte moriuntur omnes communit, tam nocentes quam innocentes; quæ quidem naturalis mors divina potestate in ducitur propter peccatum originale, secundum illud *1 Reg.*, *Dominus mortificat et vivificat*.⁷ Et ideo absque aliqua injustitia secundum mandatum Dei potest infligi mors cuicumque homini vel nocenti vel innocenti. Similiter etiam adulterium est concubitus cum uxore aliena, quæ quidem est ei deputata secundum legem Dei divinitus traditam:

³*Genesis* 22, 2. *Exodus* 12, 35. *Hosea* 1, 2

⁴*Etymologies* v, 4. P.L. 82, 199

2. Moreover, the killing of the innocent is against natural law, and so is adultery and theft. Yet you find God changing these rules, as when he commanded Abraham to put his son to death, the people of Israel to spoil the Egyptians, and Hosea to take a wife of harlotry.³ Natural law, then, can be altered.

3. Furthermore, Isidore says that *common ownership of property and the same liberty for all are of natural law*.⁴ Human law seems to change all this, and therefore natural law can be changed.

ON THE OTHER HAND it is said in the *Decretum*, *Natural law dates from the rise of rational creation, and does not vary according to period, but remains unchangeable*.⁵

REPLY: A change can be understood to mean either addition or subtraction. As for the first, there is nothing against natural law being changed, for many things over and above natural law have been added, by divine law as well as by human laws, which are beneficial to social life.

As for change by subtraction, meaning that something that once was of natural law later ceases to be so, here there is room for a distinction. The first principles of natural law are altogether unalterable. But its secondary precepts, which we have described as being like particular conclusions close to first principles, though not alterable in the majority of cases where they are right as they stand, can nevertheless be changed on some particular and rare occasions, as we have mentioned in the preceding article,⁶ because of some special cause preventing their unqualified observance.

Hence: 1. The written Law is said to have been for the correction of natural law because it supplied what was wanting there, or because parts of natural law were decayed in the hearts of those who reckoned that some things were good which by nature are evil. This called for correction.

2. All men without exception, guilty and innocent alike, have to suffer the sentence of natural death from divine power because of original sin, according to the words, *The Lord kills and brings to life*.^{7b} Consequently without injustice God's command can inflict death on anybody whether he be guilty or innocent. Adultery is intercourse with a woman to whom you are not married in accordance with divinely given law; nevertheless to go into any woman by divine command is neither adultery nor fornication.^c

⁵Gratian, *Decretum* 1, 5. ProL. Leipzig 1, 7

⁶art. 4

⁷1 Samuel 2, 6

^bFrom Hannah's song of praise.

^cThe purport is clear, though the text seems garbled, and can mean either that the marriage-vows or their breach are by divine command. cf. *zazæ*. 104, 4 ad 2.

unde ad quamcumque mulierem aliquis accedat ex mandato divino non est adulterium nec fornicatio. Et eadem ratio est de furto, quod est acceptio rei alienæ: quidquid enim accipit aliquis ex mandato Dei, qui est dominus universorum, non accipit absque voluntate domini; quod est furari. Nec solum in rebus humanis quidquid a Deo mandatur hoc ipso est debitum, sed etiam in rebus naturalibus quidquid a Deo fit, est naturale quodammodo, ut in *Primo* dictum est.⁸

3. Ad tertium dicendum quod aliquid dicitur esse de jure naturali dupliciter: uno modo, quia ad hoc natura inclinatur, sicut non esse injuriam alteri faciendam; alio modo, quia natura non inducit contrarium, sicut possemus dicere quod hominem esse nudum est de jure naturali, quia natura non dedit ei vestitum, sed ars adinvenit. Et hoc modo communis omnium possessio et una libertas dicitur esse de jure naturali, quia scilicet distinctio possessionum et servitus non sunt inductæ a natura, sed per hominum rationem ad utilitatem humanæ vitæ; et sic etiam in hoc lex naturæ non est mutata nisi per additionem.

articulus 6. utrum lex naturalis possit a corde hominis aboleri

AD SEXTUM sic proceditur: 1. Videtur quod lex naturæ possit a corde hominis aboleri, quia *Rom.* super illud, *Cum gentes, quæ legem non habent, etc.*,² dicit *Glossa ordin.* quod in *interiori homine per gratiam innovato lex justitiæ inscribitur, quam deleverat culpa.*³ Sed lex justitiæ est lex naturæ. Ergo lex naturæ potest deleri.

2. Præterea, lex gratiæ est efficacior quam lex naturæ. Sed lex gratiæ deletur per culpam. Ergo multo magis lex naturæ potest deleri.

3. Præterea, illud quod lege statutur inducitur quasi justum. Sed multa sunt ab hominibus statuta contra legem naturæ. Ergo lex naturæ potest a cordibus hominum aboleri.

SED CONTRA est quod Augustinus dicit in *Confess.*,⁴ *Lex tua scripta est in cordibus hominum, quam nec ulla quidem delet iniquitas.* Sed lex scripta in cordibus hominum est lex naturalis. Ergo lex naturalis deleri non potest.

⁸1a. 105, 6 ad 1

¹cf 122æ. 94, 6; 99, 2 ad 2

²*Glossa ordinaria* VI, 7. Peter Lombard. PL 191, 1345

³*Confessions* II, 4. PL 32, 678

⁴The argument, special pleading to any lawyer, differs from that on taking what does not belong to you because of grave necessity; 222æ. 66, 7.

⁵The action of the first universal cause on secondary causes is natural, not violent, because it is not a particular cause as it were intruding a form against the proper inclination of the subject. But cf 1a. 105, 5.

⁶Three views may be noted: that the mastery of man over man, coercion by law, and private property are institutions tolerated and even accepted as penal consequences

The same applies to theft, the taking of what belongs to another, for what is taken by God's command, who is the owner of the universe, it not against the owner's will, and this is of the essence of theft.^a Nor is it only in human affairs that whatever God commands is just, but also in the world of nature, for as stated in the *Prima Pars*,⁸ whatever God does there in effect is natural.^e

3. You speak of something being according to natural right in two ways. The first is because nature is set that way; thus the command that no harm should be done to another. The second is because nature does not bid the contrary; thus we might say that it is of natural law for man to be naked, for nature does not give him clothes; these he has to make by art. In this way common ownership and universal liberty are said to be of natural law, because private property and slavery exist by human contrivance for the convenience of social life, and not by natural law. This does not change the law of nature except by addition.^f

article 6. can natural law be abolished from the human heart?

THE SIXTH POINT: 1. It would seem that natural law can be abolished from the human heart, for a text in *Romans* speaks of the Gentiles who have not the law.² The Gloss comments, *The law of justice blotted out by fault is engraved on man's heart when he is restored by grace.*³ The law of justice is natural law, and this, therefore, can be abolished.

2. Again, the law of grace is more powerful than the law of nature. Yet it can be wiped away by sin, and this therefore, and with all the more reason, can happen to natural law.

3. Besides, what is established by law is set forth as being just. Now many human statutes have been enacted against natural law. Therefore natural law can be destroyed in men's hearts.

ON THE OTHER HAND Augustine says, *Thy law is written in men's hearts, and no wickedness can efface it.*⁴ This is natural law, and it cannot be effaced.

of original sin though in some sense against natural law; that the principles of natural law are indifferent one way or the other; that slavery in particular is offensive to natural law. The first is that of classical Augustinianism; the second is indicated here in the text; the third and at present prevalent view was shared by St Thomas to the extent that he thoroughly disapproved of one man owning and treating another as a utility: cf 1a. 96, 4. Lordship, *dominatio, kurion*, however, he does not regard as consequences of sin: cf 222æ. 10, 10; 104, 5. For private property see 222æ. 66, 1 & 2. He is saying here that political equality is not dictated by natural law. cf *CG III*, 81. The coercive force of human law will be discussed in the following Questions.

RESPONSO: Dicendum quod, sicut supra dictum est,⁵ ad legem naturalem pertinent, primo quidem præcepta communissima, quæ sunt omnibus nota; secundario autem quædam secundaria præcepta magis propria, quæ sunt quasi conclusiones propinquæ principis.

Quantum ergo ad illa principia communia, lex naturalis nullo modo potest a cordibus hominum deleri in universali; deletur tamen in particulari operabili, secundum quod ratio impeditur applicare commune principium ad particulare operabile, propter concupiscentiam vel aliquam aliam passionem, ut supra dictum est.⁶

Quantum vero ad alia præcepta secundaria, potest lex naturalis deleri de cordibus hominum, vel propter malas persuasiones—eo modo quo etiam in speculativis erroribus contingunt circa conclusiones necessarias—vel etiam propter pravas consuetudines et habitus corruptos, sicut apud quosdam non reputabantur latrocinia peccata, vel etiam vitia contra naturam, ut etiam Apostolus dicit, *Rom.*⁷

1. Ad primum ergo dicendum quod culpa delet legem naturæ in particulari, non autem in universali; nisi forte quantum ad secundaria præcepta legis naturæ, eo modo quo dictum est in corp.⁸
2. Ad secundum dicendum quod gratia, etsi sit efficacior quam natura, tamen natura essentialior est homini, et ideo magis permanens.
3. Ad tertium dicendum quod ratio illa procedit de secundis præceptis legis naturæ, contra quæ aliqui legislatores statuta aliqua fecerunt quæ sunt iniqua.

⁵art. 4 & 5

⁷*Romans* 1, 24

⁸In the body of the article

⁶Human nature remains essentially sound despite the corruption of sin; its bent to virtue is blocked rather than vitiated at source; cf 1a2æ. 85, 1 & 2.

⁶1a2æ. 77, 2

REPLY: As we noticed when speaking of what belongs to natural law,⁵ to begin with there are certain most general precepts known to all; and next, certain secondary and more specific precepts which are like conclusions lying close to the premises. As for these first common principles in their universal meaning, natural law cannot be cancelled in the human heart, nevertheless it can be missing from a particular course of action when the reason is stopped from applying the general principle there, because of lust or some other passion, as we have pointed out.^{6a}

As for its other and secondary precepts, natural law can be effaced, either by wrong persuasions—thus also errors occur in theoretical matters concerning demonstrable conclusions—or by perverse customs and corrupt habits; for instance robbery was not reputed to be wrong among some people, nor even, as the Apostle mentions,⁷ some unnatural sins.^b

Hence: 1. Sin cancels natural law on some specific point, not as to its general principles, unless perhaps with regard to secondary precepts in the manner we have touched on.⁸

2. Though, grace is more powerful than nature, nevertheless nature is more essential to man, and therefore more permanent.

3. This argument is true of secondary precepts of natural law, against which human legislators have sometimes passed wrongful enactments.^c

^bThe argument is not referring to the distinction between knowing what is right and doing what is right, or between moral ignorance and practical error (1a2æ. 6, 8), but is allowing for right conclusions not being drawn or wrong conclusions being drawn in the proper field of natural law.

^cWhen enforcing what is against natural law, not necessarily when not enforcing what is according to natural law. Whether complete homosexual practices or polygamy should be penalized by human legislation is for the judgment of statesmanship or political prudence; cf below, 1a2æ. 96, 2 & 3.