

Summa Theologica Ia IIae q94. THE NATURAL LAW

1. What is the natural law?
2. What are the precepts of the natural law?
3. Are all acts of virtue prescribed by the natural law?
4. Is the natural law the same in all?
5. Is it changeable?
6. Can it be abolished from the heart of man?

[From the *Summa Theologica* of Saint Thomas Aquinas as translated by the Fathers of the English Dominican Province, and from the works of Blessed John Duns Scotus as selected and arranged by Jerome of Montefortino and as translated by Peter L.P. Simpson. Texts are taken from the *Opus Oxoniense*, the *Reportata Parisiensia*, and the *Quodlibeta* of the Wadding edition of Scotus' works.]

Article 1. Whether the natural law is a habit?

Aquinas

Objection 1. It would seem that the natural law is a habit. Because, as the Philosopher says (*Ethic.* ii, 5), “there are three things in the soul: power, habit, and passion.” But the natural law is not one of the soul’s powers: nor is it one of the passions; as we may see by going through them one by one. Therefore the natural law is a habit.

Objection 2. Further, Basil [Damascene, *De Fide Orth.* iv, 22 says that the conscience or “synderesis” is the “law of our mind”; which can only apply to the natural law. But the “synderesis” is a habit, as was shown in the I, 79, 12. Therefore the natural law is a habit.

Objection 3. Further, the natural law abides in man always, as will be shown further on (6). But man’s reason, which the law regards, does not always think about the natural law. Therefore the natural law is not an act, but a habit.

On the contrary, Augustine says (*De Bono Conjug.* xxi) that “a habit is that whereby something is done when necessary.” But

Scotus [*Loc. infra cit.*]

Objection 1. It seems that natural law is a habit, for, from what was said above (q.91 a.2), the natural law embraces the first practical principles and the conclusions evidently deduced therefrom (as that the honorable is to be pursued and the dishonorable to be fled from, and so much so that it is necessary to live temperately and to beware of intemperance—which are evident and necessary inferences from the principles). But there is a habit of principles instilled in us about things to be done which is called synderesis and which is never extinguished; therefore the natural law needs to be established in some habit.

Objection 2. In *Ethics* 2.5 it is said there are three things in our soul, namely power, habit, and passion; but the natural law is not any of the powers of the soul, nor any passion of it, as is clear; on the contrary, since of itself it regards the right and the honorable, it intends to exclude from the soul every passion; therefore it must be some habit.

Objection 3. All vice and all malice are

such is not the natural law: since it is in infants and in the damned who cannot act by it. Therefore the natural law is not a habit.

I answer that, A thing may be called a habit in two ways. First, properly and essentially: and thus the natural law is not a habit. For it has been stated above (90, 1, ad 2) that the natural law is something appointed by reason, just as a proposition is a work of reason. Now that which a man does is not the same as that whereby he does it: for he makes a becoming speech by the habit of grammar. Since then a habit is that by which we act, a law cannot be a habit properly and essentially.

Secondly, the term habit may be applied to that which we hold by a habit: thus faith may mean that which we hold by faith. And accordingly, since the precepts of the natural law are sometimes considered by reason actually, while sometimes they are in the reason only habitually, in this way the natural law may be called a habit. Thus, in speculative matters, the indemonstrable principles are not the habit itself whereby we hold those principles, but are the principles the habit of which we possess.

Reply to Objection 1. The Philosopher proposes there to discover the genus of virtue; and since it is evident that virtue is a principle of action, he mentions only those things which are principles of human acts, viz. powers, habits and passions. But there are other things in the soul besides these three: there are acts; thus “to will” is in the one that wills; again, things known are in the knower; moreover its own natural properties are in the soul, such as immortality and the like.

Reply to Objection 2. “Synderesis” is said to be the law of our mind, because it is a

against nature, as was said above in q.71 a.2 [collected from *Oxon.* 2 d.6 q.2 n.8ff.; d.7 n.26; d.23 n.6; d.37 q.2 n.22]; but they cannot be contrary to rational nature unless they are equally dissonant from the natural law; since, therefore, nature is first act, natural law cannot be set up as coincident with it in act but in habit.

On the contrary, [*Oxon.* 1 d.3 q.7 n.10; 2 d.39, q.2 n.5] “We use a habit when we wish,” *Ethics* 2.5; but natural law, when we do not want it to, murmurs against the evil things we have done, that is, it disapproves and rebukes what is done against its precept; therefore it is rather to be established as in act than in habit.

I answer that, on the supposition that the idea of law pertains to the will, so much so that it belongs to the will alone, reason having preceded, to pass laws and to bind subjects to their observance, then, with this supposed, I say it is manifest that a natural law, having the power of a law that restricts and binds, necessarily implies an act of the divine will, by which also nature is founded. But rules about doable things passed by the divine will are preceded by a judgment of the divine intellect, which intellect since, by its simple intuition of all possibilities, has given to them their first intelligible and possible being, so it has passed judgment on their agreement and disagreement with each other, whether in theoretical or practical matters, because all principles, whether practical or theoretical, are taken from the ultimate end; and, further, by such judgment of the divine intellect the eternal law stands and is constituted, as we said in q.19 a.4 [see above on q.90 a.1]. But since [*Oxon.* 1 d.3 q.4 n.24; d.43] rational nature is a certain participation in the uncreated light, it too in its own way equally discerns in the terms it apprehends the immutable agreement and

habit containing the precepts of the natural law, which are the first principles of human actions.

Reply to Objection 3. This argument proves that the natural law is held habitually; and this is granted.

To the argument advanced in the contrary sense we reply that sometimes a man is unable to make use of that which is in him habitually, on account of some impediment: thus, on account of sleep, a man is unable to use the habit of science. In like manner, through the deficiency of his age, a child cannot use the habit of understanding of principles, or the natural law, which is in him habitually.

disagreement of the same—the act of the divine intellect, which judges that that is how they are and should be judged by everyone, giving them their perpetuity and immutability. The intellect of God, indeed, is the measure of the whole of nature [*Quodlib.* q.18 n.3ff.] so that nature cannot be in any other way than as it has received from the measure that gives it its first intelligible and possible existence; so the terms, being posited with such existence, are in either agreement or disagreement. In the way, therefore, that the judgment of the divine intellect, preceding the choice of the will, constitutes the eternal law as immutable and first measure of doable things (by which law judgment and discernment are made about the agreement and disagreement of all things, and judgment is made about what is required

for the thing done to be said to be in agreement or disagreement with its own first measure); in that way the law, to the extent that it is understood to be derivative and to be instinct in the rational creature, can exactly indicate whether what happens is in agreement or disagreement with its nature, which is a participation in the uncreated light. But in such an indicating or showing there does not appear to be any force of binding; for it is a certain necessary and immutable illumination in whose light is, indeed, beheld some idea of the honorable and dishonorable through a comparison with itself as it inclines always to that which is better and is more consonant with its perfection, yet it cannot, in the process, see itself to be obliged to follow such an instinct. Rules were, therefore, necessarily added by which this same nature might be bound to following the dictates of its own nature. Therefore the natural law, or rather the law of nature, insofar as it is a certain judgment, in which the force of obligating does not shine forth, is not a habit but an act of reason judging that the agreement and disagreement of the terms with each other and with itself are as they are. But the natural law which has completely and perfectly the nature of a binding law includes, in addition, an act of will commanding that we should perform whatever is judged and dictated by right reason; and that is the bearing of the divine mandates about love of God and neighbor [*Oxon. Prolog.* q.2 n.7] even though not all of them are principles, or conclusions evidently derived from the principles: nevertheless the divine positive law handed down in Sacred Scripture seems to be a certain explication of the natural law which, according to the Apostle in *Romans 2*, “is written in our hearts.” And it is manifest that these obligatory explications and rules belong to an act of the divine will.

Reply to Objection 1. I answer that the natural law properly taken does in fact consist of the practical principles and of the conclusions evidently inferred therefrom; but none of these has the force of binding law unless an act of will be added to them commanding

that things be done as natural reason dictates; natural law is thus not to be placed in a habit but in an act of will, or in an act of reason, as it indicates precisely what is to be done and avoided (cf. Ia q.79 a.12). But although synderesis is a habit of principles, it is not natural law nor a law of rational nature. But it passes judgment by the instinct of each of them and by the light of the intellect, should it be the case that it has done evil deeds against the inclination of its own nature and against the divine command, which binds it to act according to the light that is instinct in it and that has been further declared to it by revealed teaching.

Reply to Objection 2. We say that since, over and above there being habit and passion in the soul, there is also act in it as proceeding from power, there is no necessity, because natural law is not a power or a passion, to place it in a habit; for it is an act of intellect judging the agreement and disagreement with rational nature of doable things. But as it binds and restricts to keeping what right reason dictates, it includes an act or a command of the will.

Reply to Objection 3. It is evident from what was said in q.72 a.2 why all vice is contrary to nature, because, of course, [*Oxon.* 2 d.7 n.26] it is against the affection for justice, whereby we are inclined to virtue and honorability (although it is in agreement with the affection for the advantageous, whereby we are quick and prompt to take delight in the sensitive appetite and in its concupiscible and irascible forces). A vice is then against nature because nature leans and inclines more to an act that is perfect than to one that is imperfect: but an act that is perfect in its circumstances and is an act of virtue is more perfect than an act that is lacking in its due circumstances. Therefore natural law, which commands the performance of acts in agreement with the right dictate of nature, is not a habit but an act prescribing that we carry out what rational nature dictates and indicates is to be done, as expounded in the solution.

Article 2. Whether the natural law contains several precepts, or only one?

Aquinas

Objection 1. It would seem that the natural law contains, not several precepts, but one only. For law is a kind of precept, as stated above (92, 2). If therefore there were many precepts of the natural law, it would follow that there are also many natural laws.

Objection 2. Further, the natural law is consequent to human nature. But human nature, as a whole, is one; though, as to its parts, it is manifold. Therefore, either there

Scotus [*Oxon.* 3 d.37; 4 d.17; *Report. ib.*]

I answer that the whole matter around which the natural law turns is rightly reduced to three heads. For [*Oxon.* 3 d.37 nn5-8; 4 d.17 n.3] first and most strictly there pertain to this law the first practical principles known, from the apprehension of the terms themselves, to everyone. For because by the instinct of nature all things desire the good and, next, by the reason of the good and agreeable that is apparent to the intellect, there is a perception and

is but one precept of the law of nature, on account of the unity of nature as a whole; or there are many, by reason of the number of parts of human nature. The result would be that even things relating to the inclination of the concupiscible faculty belong to the natural law.

Objection 3. Further, law is something pertaining to reason, as stated above (90, 1). Now reason is but one in man. Therefore there is only one precept of the natural law.

On the contrary, The precepts of the natural law in man stand in relation to practical matters, as the first principles to matters of demonstration. But there are several first indemonstrable principles. Therefore there are also several precepts of the natural law.

I answer that, As stated above (91, 3), the precepts of the natural law are to the practical reason, what the first principles of demonstrations are to the speculative reason; because both are self-evident principles. Now a thing is said to be self-evident in two ways: first, in itself; secondly, in relation to us. Any proposition is said to be self-evident in itself, if its predicate is contained in the notion of the subject: although, to one who knows not the definition of the subject, it happens that such a proposition is not self-evident. For instance, this proposition, "Man is a rational being," is, in its very nature, self-evident, since who says "man," says "a rational being": and yet to one who knows not what a man is, this proposition is not self-evident. Hence it is that, as Boethius says (*De Hebdom.*), certain axioms or propositions are universally self-evident to all; and such are those propositions whose terms are known to all, as, "Every whole is greater than its part," and, "Things equal to one and the same are equal to one another."

conviction that the good of acts is to be desired and loved and the evil and disagreeableness of them is to be fled from and rejected. Since again there is situate in everyone a notion of God, the first principle and the infinite good, the intellect, apprehending that fact right then and there, judges that God is to be loved the most of all and before all things. Again, rational nature is inclined to the good and the perfect, and such is every honorable act, especially as it agrees with the natural inclination, which is towards that which is agreeable to it according to its affection for justice; therefore it sees and approves the fact that everything honorable is to be loved and pursued, that therefore the dishonorable and base is to be rejected, and thus that no one is to be inflicted with injury. For right reason sees that that will be displeasing to neighbors, so that it should displease the one who inflicts it. Wherefore, if in these known principles, which are love of God above all things and love of others as we desire ourselves to be loved, stands the universal law, then certainly the progression of law in the Scriptures seems to be nothing other than a certain explication, impressed in our hearts, of the law of nature. But not just any such explication is a first practical principle, or a conclusion deduced from it. Therefore the first rank of those things about which the natural law turns is held by those practical principles that are, from their terms, known to everyone. Succeeding next on these are the conclusions that are evidently and necessarily inferred from the first principles, and hence they hold the second rank. For just as [*Quodlib.* 18 n.14] the principles in theoretical matters are first truths, and the conclusions deduced from them are not first truths but the truth in them is derived from the principles, so too in practical matters the first good is derived to the first practical principles from the

But some propositions are self-evident only to the wise, who understand the meaning of the terms of such propositions: thus to one who understands that an angel is not a body, it is self-evident that an angel is not circumscriptively in a place: but this is not evident to the unlearned, for they cannot grasp it.

Now a certain order is to be found in those things that are apprehended universally. For that which, before aught else, falls under apprehension, is “being,” the notion of which is included in all things whatsoever a man apprehends. Wherefore the first indemonstrable principle is that “the same thing cannot be affirmed and denied at the same time,” which is based on the notion of “being” and “not-being”: and on this principle all others are based, as is stated in *Metaph.* iv, text. 9. Now as “being” is the first thing that falls under the apprehension simply, so “good” is the first thing that falls under the apprehension of the practical reason, which is directed to action: since every agent acts for an end under the aspect of good. Consequently the first principle of practical reason is one founded on the notion of good, viz. that “good is that which all things seek after.” Hence this is the first precept of law, that “good is to be done and pursued, and evil is to be avoided.” All other precepts of the natural law are based upon this: so that whatever the practical reason naturally apprehends as man’s good (or evil) belongs to the precepts of the natural law as something to be done or avoided.

Since, however, good has the nature of an end, and evil, the nature of a contrary, hence it is that all those things to which man has a natural inclination, are naturally apprehended by reason as being good, and consequently as objects of pursuit, and their contraries as evil, and objects of avoidance. Wherefore according to the order of natural inclinations, is the order of the precepts of the natural law. Because in man there is first of all an inclination to good in accordance with the nature which he has in common with all substances: inasmuch as every substance seeks the preservation of its own being, according to its nature: and by reason of this inclination, whatever is a means of preserving human life, and of warding off its obstacles, belongs to the natural law.

ultimate end, and from these the conclusions that thence necessarily follow receive their goodness; and in this way is established the second rank or order of natural precepts or of those things about which natural law turns. Finally follow third [*Oxon. Prolog.* q.2] those which are neither principles of doable things known by their terms, nor conclusions evidently and necessarily inferred therefrom, but are practical truths consonant with the principles and conclusions of the law of nature, so much so that they are at once known to everyone to be of the sort that agrees with such a law, albeit they do not necessarily follow from it. Of such a sort is marriage, [*Oxon.* 4 d.26 q.1 n.7] or the fact that it is most consonant with natural law for male and female to be bound by a mutual perpetual bond for the receiving of offspring, even though this cannot be concluded by a necessary deduction.. Again, the fact that theft is not to be committed, that another’s wife is not to be played with, that lies should be not used, and other things of the sort which compose the second table of the divine law – all these are indeed consonant with natural law but proof shows that they belong to the third rank, about which there will be a more explicit discussion below (q.100 aa.1, 8).

Secondly, there is in man an inclination to things that pertain to him more specially, according to that nature which he has in common with other animals: and in virtue of this inclination, those things are said to belong to the natural law, “which nature has taught to all animals” [*Pandect. Just.* I, tit. i], such as sexual intercourse, education of offspring and so forth. Thirdly, there is in man an inclination to good, according to the nature of his reason, which nature is proper to him: thus man has a natural inclination to know the truth about God, and to live in society: and in this respect, whatever pertains to this inclination belongs to the natural law; for instance, to shun ignorance, to avoid offending those among whom one has to live, and other such things regarding the above inclination.

Reply to Objection 1. All these precepts of the law of nature have the character of one natural law, inasmuch as they flow from one first precept.

Reply to Objection 2. All the inclinations of any parts whatsoever of human nature, e.g. of the concupiscible and irascible parts, in so far as they are ruled by reason, belong to the natural law, and are reduced to one first precept, as stated above: so that the precepts of the natural law are many in themselves, but are based on one common foundation.

Reply to Objection 3. Although reason is one in itself, yet it directs all things regarding man; so that whatever can be ruled by reason, is contained under the law of reason.

Article 3. Whether all acts of virtue are prescribed by the natural law?

Aquinas

Objection 1. It would seem that not all acts of virtue are prescribed by the natural law. Because, as stated above (90, 2) it is essential to a law that it be ordained to the common good. But some acts of virtue are ordained to the private good of the individual, as is evident especially in regards to acts of temperance. Therefore not all acts of virtue are the subject of natural law.

Objection 2. Further, every sin is opposed to some virtuous act. If therefore all acts of virtue are prescribed by the natural law, it seems to follow that all sins are against nature: whereas this applies to certain special sins.

Objection 3. Further, those things which

Scotus [*Oxon.* 2 d.7; *Report. ib.* q.1; and references in the previous article]

I answer that, [*Oxon.* 2 d.7 n.1; *Report. ib.* q.1 n.1] it must be confessed that vice is present in man against his rational nature. For Damascene says (Bk.2 ch.30): “For neither is vice anything other than the departure of good, in the way that gloom is the going away of light. And therefore, while we remain in the state that agrees with nature, we are in virtue, but when we turn away from the natural state, that is, away from virtue, we fall into that which is repugnant to nature and we are in vice.” But how this teaching of Damascene is to be understood was stated above (q.72 a.2). For one must not think that vice is opposed and is contrary to rational and intellectual nature considered in itself; on the contrary, since it is established that the vices proceed

are according to nature are common to all. But acts of virtue are not common to all: since a thing is virtuous in one, and vicious in another. Therefore not all acts of virtue are prescribed by the natural law.

On the contrary, Damascene says (*De Fide Orth.* iii, 4) that “virtues are natural.” Therefore virtuous acts also are a subject of the natural law.

I answer that, We may speak of virtuous acts in two ways: first, under the aspect of virtuous; secondly, as such and such acts considered in their proper species. If then we speak of acts of virtue, considered as virtuous, thus all virtuous acts belong to the natural law. For it has been stated (2) that to the natural law belongs everything to which a man is inclined according to his nature. Now each thing is inclined naturally to an operation that is suitable to it according to its form: thus fire is inclined to give heat. Wherefore, since the rational soul is the proper form of man, there is in every man a natural inclination to act according to reason: and this is to act according to virtue. Consequently, considered thus, all acts of virtue are prescribed by the natural law: since each one’s reason naturally dictates to him to act virtuously. But if we speak of virtuous acts, considered in themselves, i.e. in their proper species, thus not all virtuous acts are prescribed by the natural law: for many things are done virtuously, to which nature does not incline at first; but which, through the inquiry of reason, have been found by men to be conducive to well-living.

Reply to Objection 1. Temperance is about the natural concupiscences of food, drink and sexual matters, which are indeed ordained to the natural common good, just as other matters of law are ordained to the moral common good.

from the powers of the concupiscible and irascible part, and since nature is most of all delighted in what is agreeable to it, the vices are proved to fall more in line with nature, and to incline heavily towards nature’s own advantage, than to be contrary to it. Therefore the contrariety that is in them is this, [*Oxon. ib.* n.26] that vice is contrary to that act whose nature it is to be elicited in agreement with the inclination of rational nature. From which it follows that vice is contrary to nature only with a virtual contrariety, namely because it is opposed to its effect, which effect would be more according to nature; since, therefore, the natural inclination of rational nature is to act in line with the dictate of right reason, then, certainly, whoever sins is acting contrary to the natural inclination of rational nature. – Since, therefore, nature is more inclined to positing a perfect act than to positing an imperfect one, because it becomes better by the former and worse by the latter, any act of virtue whatever is more in agreement with it than is a vicious act. If, therefore, everything is said to belong to the law of nature that a man can do in line with his natural inclination, which inclination is towards what will perfect him more, namely put him in line with the dictates of right reason, then without doubt the acts of all the virtues can be said to concern the law of nature. – But if the law of nature is understood to consist most properly of the first practical principles, and of the conclusions evidently deduced from them, and also, lastly, of those things which are consonant with such principles and conclusions, then, because of the fact that this agreement with the principles of nature and with their conclusions cannot be discerned by all nature’s forces, but only after diligent investigation or from a declaration, made by other laws either divine or human, of natural right, these things to be sure cannot

Reply to Objection 2. By human nature we may mean either that which is proper to man--and in this sense all sins, as being against reason, are also against nature, as Damascene states (*De Fide Orth.* ii, 30): or we may mean that nature which is common to man and other animals; and in this sense, certain special sins are said to be against nature; thus contrary to sexual intercourse, which is natural to all animals, is unisexual lust, which has received the special name of the unnatural crime.

belong to the law of nature. They are of course acts of virtue and virtuous, since they are posited in line with the prescription of law; but that they are to be performed is not evident to everyone according to the instinct of nature proper.

Reply to Objection 3. This argument considers acts in themselves. For it is owing to the various conditions of men, that certain acts are virtuous for some, as being proportionate and becoming to them, while they are vicious for others, as being out of proportion to them.

Article 4. Whether the natural law is the same in all men?

Aquinas

Objection 1. It would seem that the natural law is not the same in all. For it is stated in the *Decretals* (Dist. i) that “the natural law is that which is contained in the Law and the Gospel.” But this is not common to all men; because, as it is written (*Romans* 10:16), “all do not obey the gospel.” Therefore the natural law is not the same in all men.

Objection 2. Further, “Things which are according to the law are said to be just,” as stated in *Ethic.* v. But it is stated in the same book that nothing is so universally just as not to be subject to change in regard to some men. Therefore even the natural law is not the same in all men.

Objection 3. Further, as stated above (2,3), to the natural law belongs everything to which a man is inclined according to his nature. Now different men are naturally inclined to different things; some to the

Scotus [*Loc. infra cit.*]

Objection 1. It seems that the law of nature is not one for all. For [*Oxon.* 4 d.17 n.3] according to Gratian (dist. 1 cap. *Humanum*), whatever is contained in the Sacred Scripture of Old and New Testaments pertains to the law of nature: but manifestly not everyone agrees on this, for there are many who do not believe nor embrace the doctrine revealed by God; therefore the law of nature is not one for all.

Objection 2. What is according to nature should be just, otherwise it would seem that wrongness would reflect back on the Author of nature; but what is right and appears so to one nation is reputed unjust by others, as is known to anyone who reads secular histories (as about committing or not committing theft, and about having one or several wives, and about many other things that concern human customs); therefore the law of nature cannot be said

desire of pleasures, others to the desire of honors, and other men to other things. Therefore there is not one natural law for all.

On the contrary, Isidore says (*Etym.* v, 4): “The natural law is common to all nations.”

I answer that, As stated above (2,3), to the natural law belongs those things to which a man is inclined naturally: and among these it is proper to man to be inclined to act according to reason. Now the process of reason is from the common to the proper, as stated in *Phys.* i. The speculative reason, however, is differently situated in this matter, from the practical reason. For, since the speculative reason is busied chiefly with the necessary things, which cannot be otherwise than they are, its proper conclusions, like the universal principles, contain the truth without fail. The practical reason, on the other hand, is busied with contingent matters, about which human actions are concerned: and consequently, although there is necessity in the general principles, the more we descend to matters of detail, the more frequently we encounter defects. Accordingly then in speculative matters truth is the same in all men, both as to principles and as to conclusions: although the truth is not known to all as regards the conclusions, but only as regards the principles which are called common notions. But in matters of action, truth or practical rectitude is not the same for all, as to matters of detail, but only as to the general principles: and where there is the same rectitude in matters of detail, it is not equally known to all.

It is therefore evident that, as regards the general principles whether of speculative or of practical reason, truth or rectitude is the same for all, and is equally known by all. As to the proper conclusions of the

to be one among all men.

Objection 3. What man is inclined towards according to his nature is matter for natural law; but the inclinations of men are diverse and even contrary; therefore it cannot be the case that there should be one natural law for all.

On the Contrary, in d.1 canon 7 it is written: “natural right is common to all nations, in that it holds everywhere by the instinct of nature and not by construction (as the union of man and women, the succession and education of children, etc.)” Therefore the law of nature is one for all.

I answer that, [*Oxon.* 4 d.17 n.3; 3 d.37 n.5] in line with what was said in the preceding articles, a true practice of natural right is one whose truth is known from the terms, and of such sort is the principle whose truth is at once evident to those who apprehend the terms, as that the good is to be loved and the evil fled from, and in addition the conclusions evidently deduced from the principles, as that if the good is to be loved then God is to be loved with all one’s strength since he is infinitely good. – Further, [*Oxon.* 3 d.37 n.8] some things are said to regard and to belong to the law of nature in that they are most consonant with that law, albeit they are not necessary consequences of the practical principles that every intellect which conceives their terms knows from those terms. Speaking, therefore, of the law of nature as it embraces the first principles of things to be done and the conclusions thence necessarily deduced, that law must be altogether one and invariable and found always among everyone. For since our reason is a certain participation in uncreated light, whatever there is in the class of things theoretical or in the line of things practical (for all principles both

speculative reason, the truth is the same for all, but is not equally known to all: thus it is true for all that the three angles of a triangle are together equal to two right angles, although it is not known to all. But as to the proper conclusions of the practical reason, neither is the truth or rectitude the same for all, nor, where it is the same, is it equally known by all. Thus it is right and true for all to act according to reason: and from this principle it follows as a proper conclusion, that goods entrusted to another should be restored to their owner. Now this is true for the majority of cases: but it may happen in a particular case that it would be injurious, and therefore unreasonable, to restore goods held in trust; for instance, if they are claimed for the purpose of fighting against one's country. And this principle will be found to fail the more, according as we descend further into detail, e.g. if one were to say that goods held in trust should be restored with such and such a guarantee, or in such and such a way; because the greater the number of conditions added, the greater the number of ways in which the principle may fail, so that it be not right to restore or not to restore.

Consequently we must say that the natural law, as to general principles, is the same for all, both as to rectitude and as to knowledge. But as to certain matters of detail, which are conclusions, as it were, of those general principles, it is the same for all in the majority of cases, both as to rectitude and as to knowledge; and yet in some few cases it may fail, both as to rectitude, by reason of certain obstacles (just as natures subject to generation and corruption fail in some few cases on account of some obstacle), and as to knowledge, since in some the reason is perverted by passion, or evil habit, or an evil disposition of nature; thus formerly, theft, although it is expressly contrary to

theoretical and practical are taken from the ultimate end and from the first truth) that that light has judged to be so and to hold by the formal reason of the terms (to which it has given the first intelligible and practical being), an intellect participating in that light must thus necessarily judge and approve; therefore the connections of the first principles about things doable and the necessity of the conclusions derived from them are, for every intellect conceiving the terms, one and the same among all who have been made partakers in reason, and that is why uncreated light has, for the measuring of themselves, been derived to them. – But as regards those things that are said to regard the law of nature insofar as they are consonant with the first principles of things to be done and with the conclusions contained in them, the account is different. For diverse [*Oxon.* 4 d.33 q.1] persuasions, and the customs derived therefrom, can exist among diverse nations: and these are even changeable according to diversity of times and other extrinsic causes which induce nations to follow or not to follow the more honest counsels. For although it be consonant with natural law taken in its most proper sense for man and woman to be bound by an indissoluble bond for taking up offspring and for duly educating them, nevertheless that is not so known in the same way to all nations that they cannot be persuaded of the contrary. Hence some approve of a multitude of wives as being something more consonant to the institutions of nature, the aim of which is a sufficient multiplication of the human race; but others think that it pertains to the public advantage to put away a sterile wife and to replace her with a fertile one. Similarly as regards the division of property and also about many other things that are only consonant with the law of nature known to all. About these things, therefore, it must be said that the law of

the natural law, was not considered wrong among the Germans, as Julius Caesar relates (*De Bello Gall.* vi).

Reply to Objection 1. The meaning of the sentence quoted is not that whatever is contained in the Law and the Gospel belongs to the natural law, since they contain many things that are above nature; but that whatever belongs to the natural law is fully contained in them. Wherefore Gratian, after saying that “the natural law is what is contained in the Law and the Gospel,” adds at once, by way of example, “by which everyone is commanded to do to others as he would be done by.”

Reply to Objection 2. The saying of the Philosopher is to be understood of things that are naturally just, not as general principles, but as conclusions drawn from them, having rectitude in the majority of cases, but failing in a few.

Reply to Objection 3. As, in man, reason rules and commands the other powers, so all the natural inclinations belonging to the other powers must needs be directed according to reason. Wherefore it is universally right for all men, that all their inclinations should be directed according to reason.

the ceremonies and rites of sacraments of our Law; although it be that both these and those are so consonant with the law of nature as not to be repugnant to it.

Reply to Objection 2. [*Oxon.* 4 d.26 n.7] As regards what is just and is known from the terms to be in agreement with reason, or to be evidently demonstrated therefrom, one must concede that this *per se* pertains to the natural law and that no one who has the use of reason can be persuaded otherwise. But if the discussion is about those things to which the name of natural right is extended—because they are not repugnant to what is strictly of the law of nature or because they can be deduced therefrom by many reasonings—about these things, I say, it is not necessary that all have one and the same judgment, for, according to the diverse dispositions of nations, now one and now another opinion can come to be held about them. Hence among the Spartans it was considered a matter of

nature is different in diverse nations, because different and thereby contrary persuasions can exist among them.

Reply to Objection 1. [*Oxon.* 4 d.17 n.3] I concede that not everything contained in Sacred Scripture belongs to the right of nature, because not all are practical principles known from the terms or practical conclusions demonstrated from them; nor are they all truths evidently consonant with such principles and conclusions. Gratian is therefore to be expounded as having extended the term ‘natural right’ to include the positive right handed down by the Author of nature, as this is distinguished from the other positive rights established by those who were not the founders of nature. Since, therefore, many of the things contained in Sacred Scripture are not known from their terms, nor demonstrable from such known terms, it must be conceded that, to the extent the name of natural law is applied to them, things of this sort are not the same for all; and such are the ceremonies of the Jews in the time of their Law, and of the Christians for the time of our Law. For it is not something evidently known from the terms, nor demonstrated from them, nor perspicuous as consonant with them, that God is to be worshipped, at any time whatever, in the sacrifices of animals of the Old Law; nor that he is to be worshipped in

praise that one could steal cleverly and carry things out in secret, considering, as they did, that the audacity and sagacity of those who were able to steal would be useful for their republic. But in fact the opposite is most congruent with the naturally known principles, such as is that which Gratian brings forward in the place cited: “Everything that you wish that men do to you, do that also yourselves to them” (*Matt. 7*). The same is to be said about having one or several wives. For although [*Oxon. 4 d.26 n.7*] this does not necessarily follow from things known by the light of nature, it is nevertheless a truth evidently consonant with the practical principles and the conclusions thence deduced, that a man and one woman be perpetually bound for the goal of procreating offspring and duly educating them.

Reply to Objection 3. [*Oxon. 3 d.33 n.7*] What a man is praised for in his actions is not to be fixed in that which is common to him with the brute animals; but he has his sensitive appetite in common with the brutes, which, from the diversity of complexions and the strength of the passions, is inclined in diverse ways, that is, to the objects of the concupiscible and irascible parts; and since the intellective appetite is united with it, that is why it is variously inclined or is apt to be inclined and deflected towards diverse vices. But these inclinations of the sensitive appetite do not regard the proper form of man, whereby he differs in his essence from brutes. It belongs to reason therefore to operate according to the natural law known to reason and known to whoever wishes to use reason itself and its inclination; and since this reason is one in all men through participation in the one uncreated light, there will be one and the same law of nature among them all; and that is what was to be declared.

Article 5. Whether the natural law can be changed?

Aquinas

Objection 1. It would seem that the natural law can be changed. Because on *Sirach* 17:9, “He gave them instructions, and the law of life,” the gloss says: “He wished the law of the letter to be written, in order to correct the law of nature.” But that which is corrected is changed. Therefore the natural law can be changed.

Objection 2. Further, the slaying of the innocent, adultery, and theft are against the natural law. But we find these things changed by God: as when God commanded Abraham to slay his innocent son (*Genesis* 22:2); and when he ordered the Jews to borrow and purloin the vessels of the

Scotus [*Oxon. 3 d.37*]

Objection 1. It seems that natural law can undergo change. For [*Oxon. 3 d.37 n.1*] the killing of an innocent man is against natural law, as is also fornication and theft. But these are found to have been changed by God commanding Abraham to kill his son Isaac (*Gen. 22*), ordering the Hebrews when about to leave Egypt to carry off all the Egyptians’ valuables (*Exod. 11, 12*), and finally bidding Hosea to make himself children from fornication (*Hosea* 1). Therefore the law of nature has sometimes been changed and hence can be changed.

Objection 2. According to Isidore (*Etymol.* 4 ch.4) “Common possession of all things

Egyptians (*Exodus* 12:35); and when He commanded Osee to take to himself “a wife of fornications” (*Hosea* 1:2). Therefore the natural law can be changed.

Objection 3. Further, Isidore says (*Etym.* 5:4) that “the possession of all things in common, and universal freedom, are matters of natural law.” But these things are seen to be changed by human laws. Therefore it seems that the natural law is subject to change.

On the contrary, It is said in the *Decretals* (Dist. v): “The natural law dates from the creation of the rational creature. It does not vary according to time, but remains unchangeable.”

I answer that, A change in the natural law may be understood in two ways. First, by way of addition. In this sense nothing hinders the natural law from being changed: since many things for the benefit of human life have been added over and above the natural law, both by the Divine law and by human laws.

Secondly, a change in the natural law may be understood by way of subtraction, so that what previously was according to the natural law, ceases to be so. In this sense, the natural law is altogether unchangeable in its first principles: but in its secondary principles, which, as we have said (4), are certain detailed proximate conclusions drawn from the first principles, the natural law is not changed so that what it prescribes be not right in most cases. But it may be changed in some particular cases of rare occurrence, through some special causes hindering the observance of such precepts, as stated above (4).

Reply to Objection 1. The written law is said to be given for the correction of the

and joint liberty is of natural right:” but these are found already to have suffered change through human laws, being replaced by the division of things and the diversity of dominion and the loss of freedom by many; therefore the natural law can be changed through human laws.

On the contrary, (d.5 immediately at the beginning): “Natural right begins from the origins of the rational creature and it does not vary by time but remains immutable.”

I answer that, the law of nature can be understood to change in two ways. For it may be subject to variation either through addition of precepts to the law of nature or it may be said to change through a reduction of the same. And in the first way indeed, without any inappropriateness, the law of nature is understood to have changed. For, since [*Oxon. Prolog.* q.2 n.7] it is the law of nature that God, as the ultimate end and the first of all principles, is to be loved above all things; and again, right reason dictates to everyone that his neighbor is to be loved as himself, for this is a conclusion evidently inferred from that principle: “Whatever you wish that men do to you, you do that also to them, and what you do not wish to be done to yourself, neither do that to another” (*Matt.* 7); “And on this two precepts hang the whole law and the prophets” (*Matt.* 12) – from all this, as from principles of practice, other rules of practice follow that are handed down in the Scriptures, being things honorable and consonant to reason, so much so that they shine out in everyone as an explication of the law of nature, which “is written in our hearts” (*Rom.* 2). For this reason many things are added in divine positive law to the law of nature for its fuller explication and for the usefulness of those to whom it has been given. To these also, beyond the divine positive right which is contained in

natural law, either because it supplies what was wanting to the natural law; or because the natural law was perverted in the hearts of some men, as to certain matters, so that they esteemed those things good which are naturally evil; which perversion stood in need of correction.

Reply to Objection 2. All men alike, both guilty and innocent, die the death of nature: which death of nature is inflicted by the power of God on account of original sin, according to 1 *Samuel* 2:6: “The Lord killeth and maketh alive.” Consequently, by the command of God, death can be inflicted on any man, guilty or innocent, without any injustice whatever. In like manner adultery is intercourse with another’s wife; who is allotted to him by the law emanating from God. Consequently intercourse with any woman, by the command of God, is neither adultery nor fornication. The same applies to theft, which is the taking of another’s property. For whatever is taken by the command of God, to Whom all things belong, is not taken against the will of its owner, whereas it is in this that theft consists. Nor is it only in human things, that whatever is commanded by God is right; but also in natural things, whatever is done by God, is, in some way, natural, as stated in the I, 105, 6, ad 1.

Reply to Objection 3. A thing is said to belong to the natural law in two ways. First, because nature inclines thereto: e.g. that one should not do harm to another. Secondly, because nature did not bring in the contrary: thus we might say that for man to be naked is of the natural law, because nature did not give him clothes, but art invented them. In this sense, “the possession of all things in common and universal freedom” are said to be of the natural law, because, to wit, the distinction

Sacred Scripture, [*Oxon.* 4 d.17 n.4] the Church has set up many things, both for the clarifying of that right, and for a more honorable observance in morals, and for a greater reverence in receiving and dispensing the sacraments. And so the law of nature has in fact undergone change from the many things added to it; but by this change it has become far more perfect than it was before, as is clear.

But as regards change through the subtraction of precepts from it, one must say [*Oxon.* 3 d.37 n.5] that, to the extent the law of nature embraces practical principles known from their terms and the conclusions evidently following therefrom, then, taken in that way, it cannot change with this kind of variation. For suchlike principles and conclusions are of an eternal and invariable truth, as are the principles of the first table, which thereby cannot be dispensed from and are altogether immutable. – But the account is different for those things to which, because they are consonant with the first principles and with the conclusions of them (although they are not necessarily deduced therefrom), the law of nature is extended; for these have no such invariable and immutable interconnection that any change should be repugnant to them; nay rather, because most precepts of the second table are of this sort, that is why the Legislator can dispense from them; and that there has been dispensation in certain cases will be explained below (q.100 a.8).

Further [*Oxon.* 4 d.15 q.2 n.3ff.; 3 d.37 n.8] there can be derogation from the natural law also by positive human right, in that, with respect to something right reason used once to declare should be done, there can, when notice is taken of a variation in circumstances, be a different disposition made about that declaration of right reason.

of possessions and slavery were not brought in by nature, but devised by human reason for the benefit of human life. Accordingly the law of nature was not changed in this respect, except by addition.

And so the light of nature, in its primeval institution, used to declare that all things should be common among men, and that no one should make anything his own property to the exclusion of others; nevertheless, when nature fell from its

innocence, there was introduced through human law, for the preservation of the peace, a division of things and of possessions. *Declaration of the first point:* for the use of things ought, according to right reason, so to belong to men that it is in harmony with their peaceful conversation with each other and with the necessary sustenance of each. But in the state of innocence the common use of things without distinction of dominion was more congruently conducive to each of these results. For then no one had taken what was necessary for another, nor had it become requisite to wrest it from him by violence, but anyone at all could have immediately taken, for his necessary use, whatever necessary thing he had first come across. In this way there would also have been more sufficiency for the sustenance of life than if any thing had been excluded from someone's use because of the appropriation made of it by another.

But [*Oxon.* 4 d.15 q.2 n.5] when nature had, through sin, turned to the worse, and when concupiscence had become strong, the natural precept about having all things in common was revoked for reasons of usefulness, and a division of things was introduced and a diversity of dominions. For, in such a state, a community of all things would be contrary to peaceful conversation, since the evil and greedy would occupy things beyond what was necessary for them, and doing so by bringing violence against others who might want to use, for their necessities, all the same things along with them. Also this would lead to the loss of necessary sustenance because the stronger and more audacious would deprive the weak and powerless of that which was necessary for life. Since, therefore, this division of things was introduced among men by no divine law (from d.8 ch.1, where Augustine *Tract. 6 in Ioan.* is adduced), nor by natural right (for it does not appear by what reason nature should determine opposite things, and nature, as soon as it was instituted, determined that all things should be common to all); therefore the division of things and distinct dominions were made by positive human right; [*Oxon. ib.* n.3] and that is what Augustine means (*loc. cit.*) when he says: "By what right do you defend the villas of the Church? By divine or human right? Whence is it that anyone possesses what he possesses? Surely by human will? For by divine right the earth is the Lord's and the fullness thereof. Therefore it is by human right that it is said: this house is mine, this villa is mine, this servant is mine." By a positive law of some sort, then, was the first division of dominions made, whether that was a paternal law with respect to sons, or a public one, or a political one of the community or the prince, to whose rule others willingly subjected themselves, so that in him the just authority of ruling might reside.

Reply to Objection 1. The reply to this will be that since death is the consequence of original sin, in which punishment are involved equally the guilty and the innocent, it can, without any injustice, be inflicted on any man whatever by the command of God. Likewise, adultery is sleeping with another's wife, who, indeed, is joined to that other and has been made his spouse by the law of God; wherefore, to whichever woman one

goes by divine command, it is not adultery nor fornication. And the same account holds of theft, which is the taking of another's possession without the owner's consent, for whatever anyone takes by the command of God, who is the Lord of all things, he does not take without the owner's consent, which is what it is to steal (cf. q.100 a.8). *We approve of this solution*, with the addition [*Oxon.* 3 d.37 nn.5, 8] that many of the precepts of the second table, because they are not principles known from the terms nor conclusions necessarily inferred from them but are only consonant with natural law properly taken, admit of being dispensed by the legislator if he revokes the precept or declares that in these or those circumstances they are not compelling or binding. And in fact, in the precepts which are written in the second table, there is not the necessary goodness that is directed towards the goodness of the ultimate end; nor in the things prohibited is there a malice necessarily turning away from the ultimate end; because, even if such a good did not fall under the precept, the ultimate end could still be loved and attained, and because, even if that evil were not prohibited, the acquisition of the ultimate end could coexist with it. Wherefore, since these precepts of the second table are not of the law of nature strictly speaking, no wonder they can be dispensed and changed according to the variation of circumstances. – There is this to be briefly added, [*Oxon.* 3 d.37 n.15] that there does not seem to have been a dispensation for the children of Israel when they were despoiling the Egyptians, because they did not take what was simply another's but all those things were included in the wages due them for the many labors spent on the insane building of the pyramids, by which the Hebrews, receiving nothing of their wages in the process, were improperly vexed.

Reply to Objection 2. I reply [*Oxon.* 3 d.37 n.8] that although from the principle of positive right *one should live peacefully in the republic* it does not necessarily so follow that there ought to be for everyone distinct possessions – not even on the supposition of the weakness of the present state (for peace in living together could stand although everything was common) – nevertheless the distinction of possessions and dominions is, for weak persons, very much consonant with peaceful conversation. The weak, to be sure, are more solicitous about their own goods than about things that are common, and would rather apply the goods of the republic to themselves than to the community and to the guardians of the community, whence arise lawsuits and disturbances; therefore, in order, after the fall, to introduce peace and to preserve it, a division of things was introduced by the dictate of right reason and was confirmed by just law, as was expounded in the solution. – As for what was touched on about the slavery that was brought in among men, [*Oxon.* 4 d.36 q.1 n.2] certainly we are all free by nature; the fact, therefore, that a lord could sell a slave like cattle and not be doing anything against that precept seems to be against natural right. Nevertheless it could justly be introduced in two ways: in a first way, if someone of his own will bound himself to such servitude; for although by thus treating himself, taking away his own liberty, he acts foolishly, nevertheless, after that surrender has been made, he ought to serve because this is just. In a second way, if someone, being justly lord of the republic, sees others to be so vicious that their own liberty is harmful both to themselves and to the republic, he can justly inflict on them the penalty of servitude, just as he can also, in certain cases, inflict on them capital punishment.

Article 6. Whether the law of nature can be abolished from the heart of man?

Aquinas

Objection 1. It would seem that the natural law can be abolished from the heart of man. Because on *Romans* 2:14, “When the Gentiles who have not the law,” etc. a gloss says that “the law of righteousness, which sin had blotted out, is graven on the heart of man when he is restored by grace.” But the law of righteousness is the law of nature. Therefore the law of nature can be blotted out.

Objection 2. Further, the law of grace is more efficacious than the law of nature. But the law of grace is blotted out by sin. Much more therefore can the law of nature be blotted out.

Objection 3. Further, that which is established by law is made just. But many things are enacted by men, which are contrary to the law of nature. Therefore the law of nature can be abolished from the heart of man.

On the contrary, Augustine says (*Confess.* ii): “Thy law is written in the hearts of men, which iniquity itself effaces not.” But the law which is written in men’s hearts is the natural law. Therefore the natural law cannot be blotted out.

I answer that, As stated above (4,5), there belong to the natural law, first, certain most general precepts, that are known to all; and secondly, certain secondary and more detailed precepts, which are, as it were, conclusions following closely from first principles. As to those general principles, the natural law, in the abstract, can nowise be blotted out from men’s hearts. But it is blotted out in the case of a particular action, in so far as reason is hindered from

Scotus [*Loc. infra cit.*]

I answer [*Oxon.* 3 d.37 nn.5, 8] treating as given what was said in the preceding articles, namely that the law of nature can be taken in a most strict sense, which is the sense in which it includes the first practical principles and the conclusions necessarily deduced from them; and in a sense in which those things are said to be of the law of nature which are very consonant with that law, albeit they do not follow necessarily from the practical principles (which are known through their terms and are necessarily known by every intellect that apprehends them), and in this sense all the precepts of the second table are of the law of nature, because their rightness is very much consonant with the practical principles known of themselves. – Accordingly, if the discussion is about the law of nature taken in its first sense, then it is written in our hearts so that it is altogether indelible. For [*Oxon.* 3 d.27] it cannot happen that, with the judgment of the divine intellect in place judging the terms to agree formally of themselves, a created intellect should, when apprehending the like complexes of terms, not judge them in exactly the same way. *An example:* God judges that *the highest goodness is to be highest loved*; but because a created mind is a participation in uncreated light, when it apprehends that complex of terms, it necessarily offers its assent to it; and the same goes for all practical principles of that sort and with the conclusions thence deduced by necessary inference. And indeed, [*Oxon.* 3 d.36 n.13] no wayfarer is incorrigible; therefore none can altogether err about the first practical principles. For if someone is in error about the principles of things to be done, he has nothing else left in him by which he could

applying the general principle to a particular point of practice, on account of concupiscence or some other passion, as stated above (77, 2). But as to the other, i.e. the secondary precepts, the natural law can be blotted out from the human heart, either by evil persuasions, just as in speculative matters errors occur in respect of necessary conclusions; or by vicious customs and corrupt habits, as among some men, theft, and even unnatural vices, as the Apostle states (Romans 1), were not esteemed sinful.

Reply to Objection 1. Sin blots out the law of nature in particular cases, not universally, except perchance in regard to the secondary precepts of the natural law, in the way stated above.

Reply to Objection 2. Although grace is more efficacious than nature, yet nature is more essential to man, and therefore more enduring.

Reply to Objection 3. This argument is true of the secondary precepts of the natural law, against which some legislators have framed certain enactments which are unjust.

be recalled to the good. For however persuasion is presented to him he will just deny the assumptions, because nothing can be assumed that is more known than the first principle of things to be done. – But, speaking of the law of nature in its secondary understanding, then that it can be destroyed from our hearts is not only evident from what was said in the preceding article, but is also established from this, [*Oxon.* 4 d.33 q.1] that depraved customs and morals can be acquired and introduced instead, whereby a contrary law is made, and in place of the rectitude of natural law, which is consonant with the rectitude of the first principles and of the conclusions thence deduced, another law and custom is approved – as is evident in the case of polygamy among the nations who do not know God and about other such things.
