

## AUTHORS CITED BY AQUINAS

Albert the Great, St. (A.D. 1200? –1280)  
Ambrose, St. (A.D. 340? –397)  
Aristotle, “the Philosopher” (384–327 B.C.)  
Augustine, St. (A.D. 354–430)  
Basil, St. (A.D. 329? –379)  
Boethius (A.D. 480? –524?)  
Caesar, Julius (100–44 B.C.)  
Cato, Denis (fourth century A.D.)  
Cicero, Marcus Tullius (106–43 B.C.)  
Damascene, St. John (A.D. 700? –754?)  
Gratian (first half of twelfth century A.D.)  
Gregory IX, Pope (A.D. 1170? –1241)  
Hilary, St. (A.D. 315? –368?)  
Isidore, St. (A.D. 560?–636)  
Justinian, “the Jurist” (A.D. 483–565)  
Lombard, Peter (A.D. 1100? –1160)  
Paul, St., “the Apostle” (first century A.D.)  
Plato (428? –348/347 B.C.)

R. J. Regan, trans.

## ST I-II

### QUESTION 90

#### On the Essence of Law

##### FIRST ARTICLE

##### Does Law Belong to Reason?

*We thus proceed to the first inquiry.* It seems that law does not belong to reason, for the following reasons:

*Objection 1.* The Apostle in Rom. 7:23 says: “I perceive another law in my bodily members,” etc. But nothing belonging to reason belongs to bodily members, since reason does not use bodily organs. Therefore, law does not belong to reason.

*Obj. 2.* Only power, habits, and acts belong to reason. But law is not the very power of reason. Likewise, law is not a habit of reason, since habits of reason are intellectual virtues, about which I have spoken before.<sup>1</sup> Nor is law an act of reason, since law would cease when the lawmaker ceased to reason (e.g., when he is sleeping). Therefore, law does not belong to reason.

*Obj. 3.* Law induces those subject to the law to act rightly. But inducing to act rightly belongs in the strict sense to the will, as is evident from what I have said before.<sup>2</sup> Therefore, law belongs to the will rather than to reason, as the Jurist also says: “The pleasure of the ruler has the force of law.”<sup>3</sup>

*On the contrary,* it belongs to law to command and forbid. But to command belongs to reason, as I have maintained before.<sup>4</sup> Therefore, law belongs to reason.

*I answer that* law is a rule and measure of acts that induces persons to act or refrain from acting. For *law* [Lat.: *lex*] is derived from *binding* [Lat.: *ligare*] because law obliges persons to act. And the rule and measure of human acts is reason, which is the primary source of human acts, as is evident from what I have said before.<sup>5</sup> For it belongs to reason to order us to our end, which is the primary source regarding our prospective action, as the Philosopher says.<sup>6</sup> And the source in any kind of thing is the measure and rule of that kind of thing (e.g., units in numbers and first movements in movements). And so we conclude that law belongs to reason.

*Reply Obj. 1.* We say that law, since it is a rule or measure, belongs to something in two ways. It belongs in one way as to what measures and

<sup>1</sup>I-II, Q. 57.  
Q. 17, A. 1.

<sup>2</sup>I-II, Q. 9, A. 1.  
<sup>5</sup>I-II, Q. 1, A. 1, ad 3.

<sup>3</sup>Digest I, title 4, law 1.

<sup>6</sup>Physics II, 9 (200a22–24).

<sup>4</sup>I-II,

rules. And law in this way belongs only to reason, since measuring and ruling belong to reason. Law belongs to something in a second way as to what is ruled and measured. And then law applies to everything that a law induces to something, so that we can call every inclination resulting from a law, law by participation, as it were, not essentially. And we in this way call the very inclination of bodily members to concupiscence the law of the bodily members.

*Reply Obj. 2.* Regarding external acts, we can consider the activity and the product of the activity (e.g., building and the building constructed). Just so, regarding acts of reason, we can consider the very acts of reason (i.e., acts of understanding and reasoning) and the things produced by such acts. And regarding theoretical reason, definitions are indeed the first product. Propositions are the second product. And syllogisms and arguments the third product. And practical reason also uses a kind of syllogism regarding prospective actions, as I have maintained before,<sup>7</sup> and as the Philosopher teaches in the *Ethics*.<sup>8</sup> Therefore, there are things in practical reason that are related to actions as propositions in theoretical reason are related to conclusions. And such universal propositions of practical reason related to actions have the nature<sup>9</sup> of law. And reason indeed sometimes actually contemplates and sometimes only habitually retains these propositions.

*Reply Obj. 3.* Reason has from the will the power to induce activity, as I have said before,<sup>10</sup> since reason commands means because one wills ends. But an act of reason needs to rule the will regarding the means commanded in order that the willing have the nature of law. And we in this way understand that the will of a ruler has the force of law. Otherwise, the willing of the ruler would be injustice rather than law.

## SECOND ARTICLE

### Is Law Always Ordained for the Common Good?

*We thus proceed to the second inquiry.* It seems that law is not ordained for the common good as its end, for the following reasons:

*Objection 1.* It belongs to law to command and forbid. But precepts are ordained for particular goods. Therefore, the end of law is not always the common good.

<sup>7</sup>I-II: Q. 13, A. 3; Q. 76, A. 1; Q. 77, A. 2, *ad* 4. <sup>8</sup>*Ethics* VII, 3 (1147a24-31).  
<sup>9</sup>"Ratio" in this and like contexts (e.g., ST I-II, Q. 94, AA. 2 and 4) signifies the character or essential element of some class of thing, the objective content of the idea of the class. I use the word "nature" here and elsewhere to convey this sense where appropriate. <sup>10</sup>I-II, Q. 17, A. 1.

*Obj. 2.* Law directs the actions of human beings. But human acts regard particulars. Therefore, law is likewise ordained for particular goods.

*Obj. 3.* Isidore says in his *Etymologies*: "If law is based on reason, everything founded on reason will be law."<sup>11</sup> But both things ordained for the common good and things ordained for private good are based on reason. Therefore, law is ordained both for the common good and for the private good of individuals.

*On the contrary,* Isidore says in his *Etymologies* that laws are "enacted for no private convenience but for the common benefit of citizens."<sup>12</sup>

*I answer that,* as I have said,<sup>13</sup> law belongs to the source of human acts, since law is their rule and measure. And as reason is the source of human acts, so also is there in reason itself something that is the source of all other kinds of acts. And so law needs chiefly and especially to belong to this source.

And the first source in practical matters, with which practical reason is concerned, is the ultimate end. But the ultimate end of human life is happiness or blessedness, as I have maintained before.<sup>14</sup> And so law especially needs to regard the ordination to blessedness.

Moreover, law in the strict sense needs to concern ordination to happiness in general, since every part is related to a whole as something imperfect to something perfect. And so also the Philosopher, regarding the cited definition of laws,<sup>15</sup> speaks of both happiness and political community. For he says in the *Ethics* that "we call those laws just that constitute and preserve happiness and its particulars by citizens' sharing in a political community."<sup>16</sup> For the political community is the perfect community, as he says in the *Politics*.<sup>17</sup>

And regarding any kind of thing, the one most such is the source of the others, and we call the others such by their relation to that one. For example, fire, which is hottest, causes heat in composite material substances, which we call hot insofar as they share in fire. And so, since we speak of law in the first place because of its ordination to the common good, every other precept regarding particular acts has the nature of law only because of its ordination to the common good. And so every law is ordained for the common good.

*Reply Obj. 1.* Precepts signify the application of laws to things regulated by the laws. And the ordination to the common good, which belongs

<sup>11</sup>*Etymologies* II, 10 (PL 82:130); V, 3 (PL 82:199). <sup>12</sup>*Ibid.* V, 21 (Pl 82:203).  
<sup>13</sup>A. 1. <sup>14</sup>I-II: Q. 2, A. 7; Q. 3, A. 1; Q. 69, A. 1. <sup>15</sup>In the section *On the contrary*. <sup>16</sup>*Ethics* V, 1 (1129b17-19). <sup>17</sup>*Politics* I, 1 (1252a5-7).

to law, can be applied to particular ends. And so there can be precepts even regarding particular matters.

*Reply Obj. 2.* Actions indeed concern particular matters, but such particulars can be related to the common good by sharing in the final cause, insofar as we call the common good the final cause, not by sharing in a genus or species.

*Reply Obj. 3.* As theoretical reason firmly establishes nothing except by tracing things back to first indemonstrable principles, so practical reason firmly establishes nothing except by ordering things to our ultimate end, that is, our common good. And what reason so establishes has the nature of law.

### THIRD ARTICLE

#### Is Any Person's Reason Competent to Make Law?

*We thus proceed to the third inquiry.* It seems that any person's reason is competent to make law, for the following reasons:

*Objection 1.* The Apostle says in Rom. 2:14 that "when the Gentiles, who do not have the law, by nature do the things the law prescribes, they make law for themselves." But we say the same about everybody. Therefore, anyone can make law for oneself.

*Obj. 2.* As the Philosopher says in the *Ethics*,<sup>18</sup> "lawmakers aim to induce human beings to virtue." But any human being can lead others to virtue. Therefore, the reason of any human being is competent to make law.

*Obj. 3.* As the ruler of a political community governs that community, so the head of a household governs his household. But the ruler of a political community can make laws regarding the political community. Therefore, any head of a household can make laws regarding his household.

*On the contrary,* Isidore says in his *Etymologies*,<sup>19</sup> and the *Decretum*<sup>20</sup> maintains: "Laws are ordinances of the people whereby elders and commoners together prescribe things." Therefore, not every person's reason is competent to make law.

*I answer that* law in the strict sense primarily and chiefly regards ordaining things for the common good. But ordaining things for the common good belongs either to the whole people<sup>21</sup> or to persons acting in the

<sup>18</sup>*Ethics* II, 1 (1103b3-4). <sup>19</sup>*Etymologies* V, 10 (PL 82:200). <sup>20</sup>Gratian, *Decretum* I, dist. 2, c. 1.

<sup>21</sup>The Latin word "*multitudo*" literally signifies ordinary people, the many as opposed to the few (usually the rulers). But Thomas Aquinas here uses the word in the same sense as the Latin word "*populus*," the people as a political unit. The modifying adjective "*whole*" makes this usage clear. Cf. ST I-II, Q. 97, A. 3, ad 3, where he uses "*multitudo*" and "*populus*" interchangeably.

name of the whole people. And so lawmaking belongs either to the whole people or to a public personage who has the care of the whole people. For also in all other matters, ordaining things for ends belongs to those to whom the ends belong.

*Reply Obj. 1.* As I have said before,<sup>22</sup> law belongs both to those who rule, and by participation to those who are ruled. And it is in the latter way that everyone makes law for oneself, as one participates in the ordinations of the ruler. And so also the Apostle adds in v. 15: "And they manifest the law's operation written in their hearts."

*Reply Obj. 2.* Private persons cannot effectively induce others to virtue. For private persons can only offer advice and have no coercive power if their advice should not be accepted. And law should have coercive power in order to induce others effectively to virtue, as the Philosopher says in the *Ethics*.<sup>23</sup> But the people or a public personage has such coercive power and the right to inflict punishment, as I shall explain later.<sup>24</sup> And so it belongs only to the people or a public personage to make law.

*Reply Obj. 3.* As human beings are parts of a household, so households are parts of a political community, as the *Politics* says.<sup>25</sup> And so, as the good of a human being is not the ultimate end of that individual but is ordained for the common good, so also the good of a household is ordained for the good of a political community, which is a perfect community. And so those who govern households can indeed make precepts and rules, but such precepts and rules do not have the nature of law in the strict sense.

### FOURTH ARTICLE

#### Is Promulgation an Essential Component of Law?

*We thus proceed to the fourth inquiry.* It seems that promulgation is not an essential component of law, for the following reasons:

*Objection 1.* The natural law most has the nature of law. But the natural law does not need to be promulgated. Therefore, promulgation is not an essential component of law.

*Obj. 2.* Obligation to do or not to do things belongs in the strict sense to law. But both those to whom laws have been promulgated and those to whom laws have not, are obliged to obey laws. Therefore, promulgation is not an essential component of law.

*Obj. 3.* The obligation to obey laws also extends to the future, since "laws impose obligation regarding future affairs," as the *Code* says.<sup>26</sup> But

<sup>22</sup>A. 1, ad 1. <sup>23</sup>*Ethics* X, 9 (1180a20). <sup>24</sup>I-II, Q. 92, A. 2, ad 3; II-II, Q. 64, A. 3. <sup>25</sup>Aristotle, *Politics* I, 1 (1252a5-7). <sup>26</sup>Justinian, *Code* I, title 44, law 7.

laws are promulgated to those present at their promulgation. Therefore, promulgation is not an essential component of law.

*On the contrary*, the *Decretum* says that "laws are established when they are promulgated."<sup>27</sup>

*I answer that* laws are imposed on others as rules and measures, as I have said.<sup>28</sup> But rules and measures are imposed by being applied to those ruled and measured. And so laws, in order to oblige persons, as is proper to law, need to be applied to those who are to be ruled by the laws. But the promulgation leading them to knowledge achieves such application. And so promulgation is necessary for laws to be in force.

And so we can compose the definition of law from the four characteristics I have mentioned: law is an ordination of reason for the common good by one who has the care of the community, and promulgated.

*Reply Obj. 1.* The natural law is promulgated by God when he implants it in the minds of human beings so that they know it by nature.

*Reply Obj. 2.* Those to whom a law is not promulgated are obliged to observe it insofar as others make it known to them, or it can become known to them after it has been promulgated.

*Reply Obj. 3.* The present promulgation of a law reaches into the future through the durability of written words, which in a way are always promulgating it. And so Isidore says in his *Etymologies* that "we derive law [Lat.: *lex*] from reading [Lat.: *legere*], since law is written."<sup>29</sup>

<sup>27</sup>Gratian, *Decretum* I, dist. 4, c. 3.  
82:130; V, 3 (PL 82:199).

<sup>28</sup>A. 1.

<sup>29</sup>*Etymologies* II, 10 (PL

## QUESTION 91 On Different Kinds of Law

### FIRST ARTICLE Is There an Eternal Law?

*We thus proceed to the first inquiry.* It seems that there is no eternal law, for the following reasons:

*Objection 1.* Every law is imposed on particular persons. But there was no one from eternity on whom law could be imposed, since only God was from eternity. Therefore, no law is eternal.

*Obj. 2.* Promulgation is an essential component of law. But there could be no promulgation from eternity, since there was no one from eternity to whom a law would be promulgated. Therefore, no law can be eternal.

*Obj. 3.* Law signifies the direction to an end. But nothing ordained to an end is eternal, since only the ultimate end is eternal. Therefore, no law is eternal.

*On the contrary*, Augustine says in his work *On Free Choice*: "No one with intelligence can perceive the law called supreme reason not to be immutable and eternal."<sup>1</sup>

*I answer that*, as I have said before,<sup>2</sup> law is simply a dictate of practical reason by a ruler who governs a perfect community. But supposing that God's providence rules the world, as I maintained in the First Part,<sup>3</sup> his reason evidently governs the entire community of the universe. And so the plan of governance of the world existing in God as the ruler of the universe has the nature of law. And since God's reason conceives eternally, as Prov. 8:23 says, not temporally, we need to say that such law is eternal.

*Reply Obj. 1.* Things that do not exist in themselves exist with God insofar as he foreknows and foreordains them, as Rom. 4:17 says: "And he calls nonexistent things into existence." Therefore, the eternal conception of God's law has the nature of an eternal law insofar as he ordains that law for governance of the world he foreknows.

*Reply Obj. 2.* Word and inscription promulgate law. And God promulgates his eternal law in both ways, since the Word of God and the inscription of the predestined in the Book of Life<sup>4</sup> are eternal. But as

<sup>1</sup>*On Free Choice* I, 6, n. 15 (PL 32:1229).  
<sup>3</sup>I, Q. 22, AA. 1, 2.

<sup>2</sup>I-II, Q. 90; A. 1, ad 2; AA. 3-4.

<sup>4</sup>Cf. I, Q. 24, A. 1.

regards the creatures who hear or read God's law, the promulgation cannot be eternal.

*Reply Obj. 3.* Law signifies actively ordaining things for an end, namely, that law ordain things for an end. And law does not signify being ordained for an end, that is, that law itself be ordained for another end, except incidentally in the case of human rulers, whose end is extrinsic to themselves. And then the rulers' laws also need to be ordained for that extrinsic end. But the end of God's governance is God himself,<sup>5</sup> and his law is indistinguishable from himself. And so the eternal law is not ordained for another end.

## SECOND ARTICLE

### Is There a Natural Law in Us?

*We thus proceed to the second inquiry.* It seems that there is no natural law in us, for the following reasons:

*Objection 1.* The eternal law sufficiently governs human beings. For Augustine says in his work *On Free Choice* that "the eternal law is that whereby it is right that all things be most orderly."<sup>6</sup> But nature does not abound in superfluities, nor is it wanting in necessities. Therefore, there is no natural law for human beings.

*Obj. 2.* Law ordains human beings to their end regarding their actions, as I have maintained before.<sup>7</sup> But nature does not ordain human actions to their end, as happens in the case of irrational creatures, which act for their ends only by natural appetites. Rather, human beings act for their end by the use of their reason and will. Therefore, there is no natural law for human beings.

*Obj. 3.* The freer one is, the less one is subject to law. But human beings are freer than all other animals because human beings, unlike other animals, have free choice. Therefore, since other animals are not subject to a natural law, neither are human beings.

*On the contrary,* a gloss on Rom. 2:14, "When the Gentiles, who do not have the law, do by nature things prescribed by the law," etc., says: "Although they do not have the written law, they have a natural law, whereby each of them understands and is conscious of good and evil."<sup>8</sup>

*I answer that,* as I have said before,<sup>9</sup> law, since it is a rule or measure, can belong to things in two ways: in one way to those who rule and measure; in a second way to those ruled and measured, since things are ruled or measured

<sup>5</sup> Cf. I, Q. 22, A. 1; Q. 103, A. 2.

<sup>6</sup> *On Free Choice* I, 6, n. 15 (PL 32:1229).

<sup>7</sup> I-II, Q. 90, A. 2.

<sup>8</sup> *Glossa ordinaria*, on Rom. 2:14 (PL 114:476); Peter Lombard, *Glossa*, on Rom. 2:14 (PL 191:1345).

<sup>9</sup> I-II, Q. 90, A. 1, ad 1.

insofar as they partake of the rule or measure. But the eternal law rules and measures everything subject to God's providence, as is evident from what I have said before.<sup>10</sup> And so everything evidently shares in some way in the eternal law, namely, insofar as all things have inclinations to their own acts and ends from its imprint on them. But the rational creature is subject to God's providence in a more excellent way than other things, since such a creature also shares in God's providence in providing for itself and others. And so it shares in the eternal plan whereby it has its natural inclination to its requisite activity and end. And we call such participation in the eternal law by rational creatures the natural law. And so Ps. 4:6, after saying, "Offer just sacrifices," asks: "Who shows us just things?" and replies: "The light of your countenance, O Lord, has been inscribed on us." The Psalmist thus signifies that the light of natural reason whereby we discern good and evil is simply the imprint of God's light in us. And so it is clear that the natural law is simply rational creatures' participation in the eternal law.

*Reply Obj. 1.* The argument of this objection would be valid if the natural law were to be something different from the eternal law. But the natural law shares in the eternal law, as I have said.<sup>11</sup>

*Reply Obj. 2.* Every activity of reason and the will in us is derived from what exists by nature, as I have maintained before,<sup>12</sup> since every process of reasoning is derived from first principles known by nature, and every desire of means is derived from the natural desire of our ultimate end. And so also the natural law needs first to direct our acts to their end.

*Reply Obj. 3.* Even irrational animals, like rational creatures, share in the eternal law in their own way. But because rational creatures share in the eternal law by using their intellect and reason, we call their participation in the eternal law law in the strict sense, since law belongs to reason, as I have said before.<sup>13</sup> And irrational creatures do not share in the eternal law by the use of reason. And so we can call the latter participation law only by analogy.

## THIRD ARTICLE

### Are There Human Laws?

*We thus proceed to the third inquiry.* It seems that there are no human laws, for the following reasons:

*Objection 1.* The natural law shares in the eternal law, as I have said.<sup>14</sup> But the eternal law "renders all things most orderly," as Augustine says in his work *On Free Choice*.<sup>15</sup> Therefore, the natural law suffices for ordering all human affairs. Therefore, there is no need for human laws.

<sup>10</sup> A. 1.

<sup>11</sup> In the body of the article.

<sup>12</sup> I-II, Q. 10, A. 1.

<sup>13</sup> I-II,

Q. 90, A. 1.

<sup>14</sup> A. 2.

<sup>15</sup> *On Free Choice* I, 6, n. 15 (PL 32:1229).

*Obj. 2.* Law has the nature of a measure, as I have said.<sup>16</sup> But human reason is not the measure of things. Rather, the converse is true, as the *Metaphysics* says.<sup>17</sup> Therefore, human reason can produce no law.

*Obj. 3.* A measure should be most certain, as the *Metaphysics* says.<sup>18</sup> But dictates of human reason about things to be done are uncertain, as Wis. 9:14 says: "The thoughts of mortal human beings are fraught with fear, and our foresight uncertain." Therefore, human reason cannot produce laws.

*On the contrary,* Augustine in his work *On Free Choice* posits two kinds of law, one kind eternal, and the other temporal, which he calls human.<sup>19</sup>

*I answer that* law is a dictate of practical reason, as I have said before.<sup>20</sup> But there are similar processes of practical and theoretical reason, since both proceed from principles to conclusions, as I have maintained before.<sup>21</sup> Therefore, we should say that we advance in theoretical reason from indemonstrable first principles, naturally known, to the conclusions of different sciences, conclusions not implanted in us by nature but discovered by exercising reason. Just so, human reason needs to advance from the precepts of the natural law, as general and indemonstrable first principles, to matters that are to be more particularly regulated. And we call such regulations devised by human reason human laws, provided that the other conditions belonging to the nature of law are observed, as I have said before.<sup>22</sup> And so also Cicero says in his *Rhetoric*: "Human law originally sprang from nature. Then things became customs because of their rational benefit. Then fear and reverence for law validated things that both sprang from nature and were approved by custom."<sup>23</sup>

*Reply Obj. 1.* Human reason cannot partake of the complete dictates of God's reason but partakes of them in its own way and incompletely. And so regarding theoretical reason, we by our natural participation in God's wisdom know general principles but do not specifically know every truth, as God's wisdom does. Just so regarding practical reason, human beings by nature partake of the eternal law as to general principles but not as to particular specifications of particular matters, although such specifications belong to the eternal law. And so human reason needs to proceed further to determine the particular prescriptions of human law.

*Reply Obj. 2.* Human reason as such is not the rule of things, but the first principles implanted by nature in human reason are the general rules or

<sup>16</sup>I-II, Q. 90, A. 1. <sup>17</sup>Aristotle, *Metaphysics* X, 1 (1053a31-b3). <sup>18</sup>Ibid.  
<sup>19</sup>*On Free Choice* I, 6 and 15 (PL 32:1229, 1238). <sup>20</sup>I-II, Q. 90, A. 1, ad 2.  
<sup>21</sup>Ibid. <sup>22</sup>I-II, Q. 9, AA. 2, 3, 4. <sup>23</sup>*Rhetoric* II, 53.

measures of everything related to human conduct. And natural reason is the rule and measure of such things, although not of things from nature.

*Reply Obj. 3.* Practical reason regards practical matters, which are particular and contingent, and does not regard necessary things, as theoretical reason does. And so human laws cannot have the absolute certainty of demonstrated scientific conclusions. Nor need every measure be unerring and certain in every respect. Rather, every measure needs to be such only to the extent possible in its kind of thing.

#### FOURTH ARTICLE

##### Did Human Beings Need a Divine Law?

*We thus proceed to the fourth inquiry.* It seems that human beings did not need any divine law, for the following reasons:

*Objection 1.* The natural law is our participation in the eternal law, as I have said.<sup>24</sup> But eternal law is divine law, as I have said.<sup>25</sup> Therefore, we do not need another divine law besides the natural law and the human laws derived from natural law.

*Obj. 2.* Sir. 15:14 says that "God left human beings in the hands of their own deliberation." But deliberation is an act of reason, as I have maintained before.<sup>26</sup> Therefore, God left human beings to the governance of their own reason. But the dictates of human reason are human laws, as I have said.<sup>27</sup> Therefore, human beings do not need to be governed by another divine law.

*Obj. 3.* Human nature is more self-sufficient than irrational creatures. But irrational creatures have no divine law besides the inclinations that nature implants in them. Therefore, much less should rational creatures have a divine law besides the natural law.

*On the contrary,* David petitioned God to lay out the law before him, saying in Ps. 119:33: "Teach me the law, O Lord, in the way of your statutes."

*I answer that* in addition to the natural law and human laws, divine law was necessary to give direction to human life. And there are four reasons for this.

First, indeed, law directs our acts in relation to our ultimate end. And human beings, if they were indeed ordained only for an end that did not surpass the proportion of their natural ability, would not, regarding reason, need to have any direction superior to the natural law and human laws derived from the natural law. But because human beings are ordained for the end of eternal blessedness, which surpasses their proportional natural

<sup>24</sup>A. 2. <sup>25</sup>A. 1. <sup>26</sup>I-II, Q. 14, A. 1. <sup>27</sup>A. 3.

human capacity, as I have maintained before,<sup>28</sup> God needed to lay down a law superior to the natural law and human laws to direct human beings to their end.

Second, because of the uncertainty of human judgment, especially regarding contingent and particular matters, different persons may judge differently about various human actions, and so even different and contrary laws result. Therefore, in order that human beings can know beyond any doubt what they should do or should not do, a divinely revealed law, regarding which error is impossible, was needed to direct human beings in their actions.

Third, human beings can make laws regarding things they are able to judge. But human beings can judge only sensibly perceptible external acts, not hidden internal movements. And yet human beings need to live righteously regarding both kinds of acts in order to attain complete virtue. And so human laws could not prohibit or adequately ordain internal acts, and divine law needed to supplement human laws.

Fourth, human laws cannot punish or prohibit all evil deeds, as Augustine says in his work *On Free Choice*.<sup>29</sup> This is because in seeking to eliminate all evils, one would thereby also take away many goods and not benefit the common good necessary for human companionship. Therefore, in order that no evil remain unforbidden or unpunished, there needed to be a divine law forbidding all sins.

And Ps. 19:7 touches on these four reasons when it says: "The law of the Lord is pure," that is, permitting no sinful wickedness; "converting souls," since it directs both external and internal acts; "the Lord's faithful witness" because of its certain truth and rectitude; "offering wisdom to the little ones," since it ordains human beings for a supernatural and divine end.

*Reply Obj. 1.* The natural law partakes of the eternal law in proportion to the capacity of human nature. But human beings need to be directed in a higher way to their ultimate supernatural end. And so God gives an additional law that partakes of the eternal law in a higher way.

*Reply Obj. 2.* Deliberation is an inquiry, and so deliberation needs to advance from some principles. And it does not suffice that it advance from first principles implanted by nature, that is, precepts of the natural law, for the aforementioned reasons.<sup>30</sup> Rather, other principles, namely, precepts of divine law, need to be supplied.

<sup>28</sup>I-II, Q. 5, A. 5.  
of the article.

<sup>29</sup>*On Free Choice* I, 5 (PL 32:1228).

<sup>30</sup>In the body

*Reply Obj. 3.* Irrational creatures are not ordained for higher ends than those proportioned to their natural powers. And so the argument of the objection is inapplicable.

#### FIFTH ARTICLE Is There Only One Divine Law?

*We thus proceed to the fifth inquiry.* It seems that there is only one divine law, for the following reasons:

*Objection 1.* There is one set of laws of one king in one kingdom. But the whole human race is related to God as one king, as Ps. 47:7 says: "God is king of all the earth." Therefore, there is only one divine law.

*Obj. 2.* Every law is ordained for the end the lawmaker intends regarding those subject to the law. But God intends one and the same thing regarding all human beings, as 1 Tim. 2:4 says: "He wills all human beings to be saved and to come to the knowledge of the truth." Therefore, there is only one divine law.

*Obj. 3.* The divine law seems to approximate the eternal law, which is one, more than the natural law does, as the revelation of grace is higher than the knowledge of nature. But there is one natural law for all human beings. Therefore, much more is there one divine law for them.

*On the contrary,* the Apostle says in Heb. 7:12: "Since the priesthood has been transferred, the law needed to be changed." But the priesthood is twofold, namely, the priesthood of Leviticus and the priesthood of Christ, as Heb. 7:11 says. Therefore, there are two divine laws, namely, the Old Law and the New Law.

*I answer that* division causes number, as I said in the First Part.<sup>31</sup> And we distinguish things in two ways: in one way as things are altogether specifically different (e.g., horses and oxen); in a second way as the complete and the incomplete in the same species (e.g., adults and children). And it is in the latter way that we distinguish divine law into the Old and the New Law. And so the Apostle in Gal. 3:24-25 compares the condition of the Old Law to that of a child subject to a tutor, and the condition of the New Law to an adult no longer subject to a tutor.

And we note the perfection and imperfection of the two Laws by three things belonging to the divine law, as I have said before.<sup>32</sup> For in the first place, it belongs to any law to be directed to the common good as its end, as I have said before.<sup>33</sup> And this common good can be of two kinds. It may be a sensibly perceptible and earthly good, and the Old Law was

<sup>31</sup>I, Q. 30, A. 3.

<sup>32</sup>I-II: Q. 90, A. 2; Q. 90, A. 3, *ad 2*; Q. 91, A. 4.

<sup>33</sup>I-II,

Q. 90, A. 2.

directly ordained for such a good. And so the people were invited at the very institution of the Old Law to occupy the earthly kingdom of the Canaanites.<sup>34</sup> Or the common good may be an intelligible and heavenly good, and the New Law ordains human beings for such a good. And so Christ at the very outset of his preaching invited human beings to the kingdom of heaven, saying: "Repent, for the kingdom of heaven is at hand."<sup>35</sup> And so Augustine says in his work *Against Faustus* that "the Old Testament contains promises of temporal things and so is called old, but the promise of eternal life belongs to the New Testament."<sup>36</sup>

Second, it belongs to the divine law to direct human acts regarding the order of righteousness. And the New Law surpasses the Old Law in this respect by ordaining internal spiritual acts, as Mt. 5:20 says: "Unless your righteousness exceeds that of the Scribes and Pharisees, you will not enter the kingdom of heaven." And so there is the saying that "the Old Law stays our hand, the New Law stays our spirit."<sup>37</sup>

Third, it belongs to the divine law to induce human beings to observe the commandments. And the Old Law indeed accomplished this by fear of punishments, while the New Law accomplishes this by love, which the grace of Christ, foreshadowed in the Old Law and conferred in the New Law, pours into our hearts. And so Augustine says in his work *Against Adimantus, Disciple of Mani* that "there is a little difference between the Law and the Gospel, namely, the difference between fear and love."<sup>38</sup>

*Reply Obj. 1.* As the head of a household issues different commands to children and adults, so also the one king, God, in his one kingdom gave one law to human beings still imperfect and another more perfect law to those already led by the former law to a greater capacity for divine things.

*Reply Obj. 2.* Only Christ could save human beings, as Acts 4:12 says: "There is no other name given to human beings wherein we should be saved." And so a law completely leading all human beings to salvation could be given only after the coming of Christ. But a law containing rudiments of salvific righteousness needed to be given beforehand to the people from whom Christ was to be born, in order to prepare them to receive him.

*Reply Obj. 3.* The natural law directs human beings by certain general precepts in relation to which both the perfect and the imperfect are the same, and so the natural law is one and the same for everyone. But divine

<sup>34</sup>Ex. 3:8-17. <sup>35</sup>Mt. 4:17. <sup>36</sup>*Against Faustus* IV, 2 (PL 42:217-18).  
<sup>37</sup>Cf. Peter Lombard, *Sentences* III, dist. 40, c. 1. <sup>38</sup>*Against Adimantus, Disciple of Mani* 17 (PL 42:159). The "little difference" alludes to the fact that the Latin word for fear (*timor*) has one more letter than the Latin word for love (*amor*).

law also directs human beings regarding particular matters, for which the perfect and the imperfect are not similarly disposed. And so there needed to be two divine laws, as I have already said.<sup>39</sup>

#### SIXTH ARTICLE Is There a Law of Concupiscence?

*We thus proceed to the sixth inquiry.* It seems that there is no law of concupiscence, for the following reasons:

*Objection 1.* Isidore says in his *Etymologies* that "law is based on reason."<sup>40</sup> But concupiscence is not based on reason. Rather, concupiscence deviates from reason. Therefore, concupiscence does not have the nature of law.

*Obj. 2.* Every law obliges, so that we call those who do not observe it transgressors. But concupiscence does not render persons transgressors because they do not follow its inclinations. Rather, concupiscence renders persons transgressors if they do. Therefore, concupiscence does not have the nature of law.

*Obj. 3.* Law is ordained for the common good, as I have maintained before.<sup>41</sup> But concupiscence does not incline us to the common good. Rather, concupiscence inclines us to private good. Therefore, concupiscence does not have the nature of law.

*On the contrary,* the Apostle says in Rom. 7:23: "I perceive another law in my bodily members repugnant to the law of my mind."

*I answer that* law belongs essentially to those who rule and measure, and by participation to the ruled and measured, as I have said before.<sup>42</sup> And so we call every inducement or ordination in things subject to law, law by participation, as is evident from what I have said before.<sup>43</sup> But in things subject to law, there can be inducements from the lawmaker in two ways. There are inducements in one way insofar as lawmakers directly induce their subjects to things, and sometimes different subjects to different actions. And we can accordingly speak of one law for soldiers and another law for merchants. There are inducements in a second way insofar as lawmakers indirectly induce their subjects to things, namely, insofar as lawmakers by depriving subjects of some office transfer them to another position in society and to another law, as it were. For example, if a soldier should be discharged from the army, he will be transferred to the law governing farmers or merchants.

<sup>39</sup>In the body of the article. <sup>40</sup>*Etymologies* V, 3 (PL 82:199).  
<sup>41</sup>I-II, Q. 90, A. 2. <sup>42</sup>A. 2; I-II, Q. 90, A. 1, ad 1. <sup>43</sup>*Ibid.*

Therefore, God, the lawmaker, subjects different creatures to different inducements, so that what is in one way law for one kind of creature, is in another way contrary to law for another kind of creature. This is as if I should say that ferocity is in one way the law for dogs but in another way contrary to the law for sheep or other meek animals.

Therefore, it is the law for human beings, which is allotted by God's ordination according to their condition, that they act according to reason. And this law was indeed so effective in our first condition that nothing outside reason or contrary to reason could come upon Adam surreptitiously. But when Adam withdrew from God, he fell subject to the impulses of his sense appetites. And this also happens in particular to each human being the more the individual has withdrawn from reason, so that the individual in a way resembles beasts, who are borne along by the impulses of their sense appetites. Just so, Ps. 49:20 says: "Human beings, although they were in a condition of honor, did not understand; they have been paired with mindless beasts and became like them."

Therefore, in other animals, the very inclinations of sense appetites, which we call concupiscence, indeed directly have the nature of law in an absolute sense, although in the way we can speak of law in such things. And in human beings, such inclinations of sense appetites do not have the nature of law. Rather, they are deviations from the law of reason. But since divine justice stripped human beings of original justice and the full force of reason, the very impulses of sense appetites that impel human beings have the nature of law, since such impulses are a punishment and the result of divine law depriving human beings of their dignity.

*Reply Obj. 1.* The argument of this objection is valid regarding concupiscence considered as such, as it inclines us to evil. For concupiscence does not have the nature of law in this way, as I have said,<sup>44</sup> but has the nature of law insofar as it results from the justice of divine law. This is as if we were to say that the law allows nobles to be put to servile work because of their misdeeds.

*Reply Obj. 2.* The argument of this objection is valid regarding law as a rule or measure. For those deviating from the law are thus constituted transgressors of the law. But concupiscence is not a law in this sense. Rather, concupiscence is a law by a participation, as I have said before.<sup>45</sup>

<sup>44</sup>In the body of the article.

<sup>45</sup>Ibid.

*Reply Obj. 3.* The argument of this objection is valid about concupiscence as to its own inclinations but not as to its origin. And yet if we were to consider the inclinations of sense appetites as they exist in other animals, then the inclinations are ordained for the common good, that is, the preservation of nature specifically and individually. And this is also true regarding human beings insofar as their sense appetites are subject to reason. But we are talking about concupiscence insofar as it departs from the ordination of reason.

## QUESTION 92

### On the Effects of Law

#### FIRST ARTICLE

#### Is the Effect of Law to Make Human Beings Good?

*We thus proceed to the first inquiry.* It seems that it does not belong to law to make human beings good, for the following reasons:

*Objection 1.* Virtue makes human beings good, since "virtue makes those possessing it good," as the *Ethics* says.<sup>1</sup> But human beings have virtue only from God, since he "produces virtue in us apart from our efforts,"<sup>2</sup> as I have said before regarding the definition of virtue.<sup>3</sup> Therefore, it does not belong to law to make human beings good.

*Obj. 2.* Law benefits human beings only if they obey law. But goodness causes human beings to obey law. Therefore, human beings first need goodness in order to obey law. Therefore, law does not make them good.

*Obj. 3.* Law is ordained for the common good, as I have said.<sup>4</sup> But some ill disposed regarding their own good are well disposed regarding what belongs to the common good. Therefore, it does not belong to law to make human beings good.

*Obj. 4.* Some laws are tyrannical, as the Philosopher says in the *Politics*.<sup>5</sup> But a tyrant strives for his own good, not the good of his subjects. Therefore, it does not belong to law to make human beings good.

*On the contrary,* the Philosopher says in the *Ethics* that it is "the will of every lawmaker to make his citizens good."<sup>6</sup>

*I answer that,* as I have said before,<sup>7</sup> law is simply a ruler's dictate of reason that governs his subjects. And the virtue of every subject is to be duly subject to the ruler. Just so, we perceive that the the virtue of the irascible and concupiscible powers consists of being duly obedient to reason. And accordingly, "the virtue of every subject consists of being duly subject to the ruler," as the Philosopher says in the *Politics*.<sup>8</sup> And every law is ordained to be obeyed by those subject to it. And so it evidently belongs to law to induce subjects to their requisite virtue. Therefore, since virtue makes those possessing it good, the proper effect of law is

consequently to make its subjects good, either absolutely or in some respect. For if the aim of the lawmaker strives for real good, that is, the common good regulated by divine justice, law consequently makes human beings absolutely good. But if the aim of lawmakers is set upon what is not absolutely good but what is useful or desirable for themselves or contrary to divine justice, then law makes human beings relatively, not absolutely, good, namely, in relation to such a regime. So also does good belong to things in themselves evil. For example, we speak of a good robber, since he acts suitably to accomplish his end.

*Reply Obj. 1.* There are two kinds of virtue, namely, acquired virtues and infused virtues, as is evident from what I have said before.<sup>9</sup> And habitual action contributes something to both but in different ways. For habitual action causes acquired virtue, and disposes persons to receive infused virtue, and preserves and augments infused virtues already possessed. And because laws are laid down to direct human actions, law makes human beings good as much as their actions conduce to virtue. And so also the Philosopher says in the *Politics* that "lawmakers make subjects good by habituating them to good deeds."<sup>10</sup>

*Reply Obj. 2.* People do not always obey law out of the perfect goodness of virtue. Rather, they sometimes indeed obey law out of fear of punishment and sometimes only out of dictates of reason, which cause virtue, as I have maintained before.<sup>11</sup>

*Reply Obj. 3.* We weigh the goodness of any part in relation to the whole to which it belongs. And so also Augustine says in his *Confessions* that "every part is base that is in discord with the whole to which it belongs."<sup>12</sup> Therefore, since every human being is part of a political community, no human being can be good unless rightly related to the common good. Nor can a whole be rightly constituted except by parts rightly related to it. And so the common good of a political community can be rightly disposed only if its citizens, at least those to whom its ruling belongs, are virtuous. But it suffices as regards the good of the community that other citizens be virtuous enough to obey the commands of the law. And so the Philosopher says in the *Politics* that "the virtue of a ruler and that of a good man are the same, but the virtue of any ordinary citizen and that of a good man are not."<sup>13</sup>

*Reply Obj. 4.* A tyrannical law, since it is not in accord with reason, is not a law, absolutely speaking. Rather, it is a perversion of law. And yet such a law strives to make citizens good inasmuch as it partakes of the

<sup>1</sup> Aristotle, *Ethics* II, 6 (1106a15-16).

<sup>2</sup> Cf. Peter Lombard, *Sentences* II,

dist. 27, c. 5.

<sup>3</sup> I-II, Q. 55, A. 4.

<sup>4</sup> I-II, Q. 90, A. 2.

<sup>5</sup> *Politics* III,

6 (1282b12).

<sup>6</sup> *Ethics* II, 1 (1103b3-4).

<sup>7</sup> I-II, Q. 90, A. 1, ad 2; AA.

3, 4.

<sup>8</sup> *Politics* I, 5 (1260a20-24).

<sup>9</sup> I-II, Q. 63, A. 2.

<sup>10</sup> Actually, *Ethics* II, 1 (1103b3-4).

<sup>11</sup> I-II, Q. 63,

A. 1.

<sup>12</sup> *Confessions* III, 8 (PL 32:689).

<sup>13</sup> *Politics* III, 2 (1277a20-23).

nature of law. For it only partakes of the nature of law insofar as it is a ruler's dictate for his subjects and strives to make them duly obedient, that is, to make them good in relation to such a regime, not absolutely good.

## SECOND ARTICLE

### Do We Suitably Designate Legal Acts?

*We thus proceed to the second inquiry.* It seems that we do not suitably designate legal acts to consist of "commanding, forbidding, permitting, and punishing,"<sup>14</sup> for the following reasons:

*Objection 1.* "Every law is a general precept," as the Jurist says.<sup>15</sup> But giving a command is the same as laying down a precept. Therefore, the other three things are superfluous.

*Obj. 2.* The effect of law is to induce subjects to good, as I have said before.<sup>16</sup> But counsel concerns a higher good than precept concerns. Therefore, counsel belongs more to law than precept does.

*Obj. 3.* As punishment spurs human beings to good deeds, so also do rewards. Therefore, as we reckon punishment an effect of law, so also should we reckon reward.

*Obj. 4.* A lawmaker aims to make human beings good, as I have said before.<sup>17</sup> But those who obey law only out of fear of punishment are not good, since "although some do good out of servile fear, which is fear of punishment, they do not do it rightly," as Augustine says.<sup>18</sup> Therefore, it does not seem to belong to law to punish.

*On the contrary,* Isidore says in his *Etymologies*: "Every law either permits something (e.g., that a brave man may ask for a reward) or prohibits something (e.g., that no one is permitted to seek marriage with a consecrated virgin) or punishes something (e.g., that murderers be beheaded)."<sup>19</sup>

*I answer that* as assertions are dictates of reason by way of declaring things, so also laws are dictates of reason by way of commanding things. But it belongs to reason to lead us from some things to other things. And so, as reason in the case of demonstrative sciences leads us to assent to conclusions from certain first principles, so also reason leads us to assent to legal precepts from knowledge of some things.

And legal precepts concern human actions, which law directs, as I have said before.<sup>20</sup> And there are three kinds of human acts. For as I have said before,<sup>21</sup> some human acts are good by their nature, that is, virtuous. And

<sup>14</sup>Justinian, *Digest* I, title 3, law 7.      <sup>15</sup>Ibid. I, title 3, law 1.      <sup>16</sup>A. 1.

<sup>17</sup>Ibid.      <sup>18</sup>*Against the Two Letters of Pelagius* II, 9, n. 21 (PL 44:586).

<sup>19</sup>*Etymologies* V, 19 (PL 82:202).      <sup>20</sup>I-II: Q. 90, AA. 1, 2; Q. 91, A. 4.      <sup>21</sup>I-II,

Q. 18, A. 8.

laws are supposed to prescribe or command such acts, since "laws command every kind of virtuous act," as the *Ethics* says.<sup>22</sup> And some human acts are evil by their nature, that is, vicious. And laws are supposed to forbid such acts. And some human acts are morally indifferent by reason of their kind. And laws are supposed to permit such acts. And we can call all slightly good or slightly evil human acts morally indifferent.

But fear of punishment is what law makes use of to induce obedience, and we in this respect posit punishment as an effect of law.

*Reply Obj. 1.* As desisting from evil partakes of the nature of good, so also prohibitions partake of the nature of precept. And so, understanding "precept" broadly, we call every law a precept.

*Reply Obj. 2.* Counseling is not a peculiar function of law. Rather, counseling falls also within the competence of private persons, who are without competence to establish law. And so also the Apostle, in proposing to give a counsel, says in 1 Cor. 7:12: "I, not the Lord, make this statement." And so we do not posit counseling among the effects of law.

*Reply Obj. 3.* Anyone is competent to bestow rewards, but only administrators of law, under the authority of which punishments are inflicted, are competent to punish. And so we posit only punishments, not rewards, as legal acts.

*Reply Obj. 4.* By beginning to become habituated to avoid evil deeds and to do good deeds out of fear of punishment, persons are sometimes brought to behave in such a way with pleasure and of their own will. And so law even by inflicting punishments induces human beings to be good.

<sup>22</sup>Aristotle, *Ethics* V, 1 (1129b19-23).