

SECOND PART OF THE SECOND PART, QUESTION 98

Of Perjury (In Four Articles)

We must now consider perjury: under which head there are four points of inquiry:

- (1) Whether falsehood is necessary for perjury?
- (2) Whether perjury is always a sin?
- (3) Whether it is always a mortal sin?
- (4) Whether it is a sin to enjoin an oath on a perjurer?

Whether it is necessary for perjury that the statement confirmed on oath be false?

IIa IIae q. 98 a. 1

Objection 1. It would seem that it is not necessary for perjury that the statement confirmed on oath be false. As stated above (q. 89, a. 3), an oath should be accompanied by judgment and justice no less than by truth. Since therefore perjury is incurred through lack of truth, it is incurred likewise through lack of judgment, as when one swears indiscreetly, and through lack of justice, as when one swears to something unjust.

Objection 2. Further, that which confirms is more weighty than the thing confirmed thereby: thus in a syllogism the premises are more weighty than the conclusion. Now in an oath a man's statement is confirmed by calling on the name of God. Therefore perjury seems to consist in swearing by false gods rather than in a lack of truth in the human statement which is confirmed on oath.

Objection 3. Further, Augustine says (De Verb. Apost. Jacobi; Serm. clxxx): "Men swear falsely both in deceiving others and when they are deceived themselves"; and he gives three examples. The first is: "Supposing a man to swear, thinking that what he swears to is true, whereas it is false"; the second is: "Take the instance of another who knows the statement to be false, and swears to it as though it were true"; and the third is: "Take another, who thinks his statement false, and swears to its being true, while perhaps it is true," of whom he says afterwards that he is a perjurer. Therefore one may be a perjurer while swearing to the truth. Therefore falsehood is not necessary for perjury.

On the contrary, Perjury is defined "a falsehood confirmed by oath"*.

I answer that, As stated above (q. 92, a. 2), moral acts take their species from their end. Now the end of an oath is the confirmation of a human assertion. To this confirmation falsehood is opposed: since an assertion is confirmed by being firmly shown to be true; and this cannot happen to that which is false. Hence falsehood directly annuls the end of an oath: and for this reason, that perversity in swearing, which is called perjury, takes its species chiefly

from falsehood. Consequently falsehood is essential to perjury.

Reply to Objection 1. As Jerome says on Jer. 4:2, "whichever of these three be lacking, there is perjury," but in different order. For first and chiefly perjury consists in a lack of truth, for the reason stated in the Article. Secondly, there is perjury when justice is lacking, for in whatever way a man swears to that which is unlawful, for this very reason he is guilty of falsehood, since he is under an obligation to do the contrary. Thirdly, there is perjury when judgment is lacking, since by the very fact that a man swears indiscreetly, he incurs the danger of lapsing into falsehood.

Reply to Objection 2. In syllogisms the premises are of greater weight, since they are in the position of active principle, as stated in Phys. ii, 3: whereas in moral matters the end is of greater importance than the active principle. Hence though it is a perverse oath when a man swears to the truth by false gods, yet perjury takes its name from that kind of perversity in an oath, that deprives the oath of its end, by swearing what is false.

Reply to Objection 3. Moral acts proceed from the will, whose object is the apprehended good. Wherefore if the false be apprehended as true, it will be materially false, but formally true, as related to the will. If something false be apprehended as false, it will be false both materially and formally. If that which is true be apprehended as false, it will be materially true, and formally false. Hence in each of these cases the conditions required for perjury are to be found in some way, on account of some measure of falsehood. Since, however, that which is formal in anything is of greater importance than that which is material, he that swears to a falsehood thinking it true is not so much of a perjurer as he that swears to the truth thinking it false. For Augustine says (De Verb. Apost. Jacobi; Serm. clxxx): "It depends how the assertion proceeds from the mind, for the tongue is not guilty except the mind be guilty."

* Hugh of St. Victor, Sum. Sent. iv, 5

Objection 1. It would seem that not all perjury is sinful. Whoever does not fulfil what he has confirmed on oath is seemingly a perjurer. Yet sometimes a man swears he will do something unlawful (adultery, for instance, or murder): and if he does it, he commits a sin. If therefore he would commit a sin even if he did it not, it would follow that he is perplexed.

Objection 2. Further, no man sins by doing what is best. Yet sometimes by committing a perjury one does what is best: as when a man swears not to enter religion, or not to do some kind of virtuous deed. Therefore not all perjury is sinful.

Objection 3. Further, he that swears to do another's will would seem to be guilty of perjury unless he do it. Yet it may happen sometimes that he sins not, if he do not the man's will: for instance, if the latter order him to do something too hard and unbearable. Therefore seemingly not all perjury is sinful.

Objection 4. Further, a promissory oath extends to future, just as a declaratory oath extends to past and present things. Now the obligation of an oath may be removed by some future occurrence: thus a state may swear to fulfil some obligation, and afterwards other citizens come on the scene who did not take the oath; or a canon may swear to keep the statutes of a certain church, and afterwards new statutes are made. Therefore seemingly he that breaks an oath does not sin.

On the contrary, Augustine says (De Verb. Apost. Jacobi; Serm. cxxx), in speaking of perjury: "See how you should detest this horrible beast and exterminate it from all human business."

I answer that, As stated above (q. 89, a. 1), to swear is to call God as witness. Now it is an irreverence to God

to call Him to witness to a falsehood, because by so doing one implies either that God ignores the truth or that He is willing to bear witness to a falsehood. Therefore perjury is manifestly a sin opposed to religion, to which it belongs to show reverence to God.

Reply to Objection 1. He that swears to do what is unlawful is thereby guilty of perjury through lack of justice: though, if he fails to keep his oath, he is not guilty of perjury in this respect, since that which he swore to do was not a fit matter of an oath.

Reply to Objection 2. A person who swears not to enter religion, or not to give an alms, or the like, is guilty of perjury through lack of judgment. Hence when he does that which is best it is not an act of perjury, but contrary thereto: for the contrary of that which he is doing could not be a matter of an oath.

Reply to Objection 3. When one man swears or promises to do another's will, there is to be understood this requisite condition—that the thing commanded be lawful and virtuous, and not unbearable or immoderate.

Reply to Objection 4. An oath is a personal act, and so when a man becomes a citizen of a state, he is not bound, as by oath, to fulfil whatever the state has sworn to do. Yet he is bound by a kind of fidelity, the nature of which obligation is that he should take his share of the state's burdens if he takes a share of its goods.

The canon who swears to keep the statutes that have force in some particular "college" is not bound by his oath to keep any that may be made in the future, unless he intends to bind himself to keep all, past and future. Nevertheless he is bound to keep them by virtue of the statutes themselves, since they are possessed of coercive force, as stated above (Ia IIae, q. 96, a. 4).

Objection 1. It would seem that not all perjury is a mortal sin. It is laid down (Extra, De Jurejur, cap. Verum): "Referring to the question whether an oath is binding on those who have taken one in order to safeguard their life and possessions, we have no other mind than that which our predecessors the Roman Pontiffs are known to have had, and who absolved such persons from the obligations of their oath. Henceforth, that discretion may be observed, and in order to avoid occasions of perjury, let them not be told expressly not to keep their oath: but if they should not keep it, they are not for this reason to be punished as for a mortal sin." Therefore not all perjury is a mortal sin.

obj. 2. Further, as Chrysostom* says, "it is a greater

thing to swear by God than by the Gospels." Now it is not always a mortal sin to swear by God to something false; for instance, if we were to employ such an oath in fun or by a slip of the tongue in the course of an ordinary conversation. Therefore neither is it always a mortal sin to break an oath that has been taken solemnly on the Gospels.

Objection 3. Further, according to the Law a man incurs infamy through committing perjury (VI, qu. i, cap. Infames). Now it would seem that infamy is not incurred through any kind of perjury, as it is prescribed in the case of a declaratory oath violated by perjury[†]. Therefore, seemingly, not all perjury is a mortal sin.

On the contrary, Every sin that is contrary to a divine

* Hom. xliv in the Opus Imperfectum on St. Matthew, falsely ascribed to St. John Chrysostom † Cap. Cum dilectus, de Ord. Cognit.

precept is a mortal sin. Now perjury is contrary to a divine precept, for it is written (Lev. 19:12): “Thou shalt not swear falsely by My name.” Therefore it is a mortal sin.

I answer that, According to the teaching of the Philosopher (Poster. i, 2), “that which causes a thing to be such is yet more so.” Now we know that an action which is, by reason of its very nature, a venial sin, or even a good action, is a mortal sin if it be done out of contempt of God. Wherefore any action that of its nature, implies contempt of God is a mortal sin. Now perjury, of its very nature implies contempt of God, since, as stated above (a. 2), the reason why it is sinful is because it is an act of irreverence towards God. Therefore it is manifest that perjury, of its very nature, is a mortal sin.

Reply to Objection 1. As stated above (q. 89, a. 7, ad 3), coercion does not deprive a promissory oath of its binding force, as regards that which can be done lawfully. Wherefore he who fails to fulfil an oath which he took under coercion is guilty of perjury and sins mortally. Nevertheless the Sovereign Pontiff can, by his authority, absolve a man from an obligation even of an oath, especially if the latter should have been coerced into taking the oath through such fear as may overcome a high-principled man.

When, however, it is said that these persons are not to be punished as for a mortal sin, this does not mean that they are not guilty of mortal sin, but that a lesser punish-

ment is to be inflicted on them.

Reply to Objection 2. He that swears falsely in fun is nonetheless irreverent to God, indeed, in a way, he is more so, and consequently is not excused from mortal sin. He that swears falsely by a slip of tongue, if he adverts to the fact that he is swearing, and that he is swearing to something false, is not excused from mortal sin, as neither is he excused from contempt of God. If, however, he does not advert to this, he would seem to have no intention of swearing, and consequently is excused from the sin of perjury.

It is, however, a more grievous sin to swear solemnly by the Gospels, than to swear by God in ordinary conversation, both on account of scandal and on account of the greater deliberation. But if we consider them equally in comparison with one another, it is more grievous to commit perjury in swearing by God than in swearing by the Gospels.

Reply to Objection 3. Not every sin makes a man infamous in the eye of the law. Wherefore, if a man who has sworn falsely in a declaratory oath be not infamous in the eye of the law, but only when he has been so declared by sentence in a court of law, it does not follow that he has not sinned mortally. The reason why the law attaches infamy rather to one who breaks a promissory oath taken solemnly is that he still has it in his power after he has sworn to substantiate his oath, which is not the case in a declaratory oath.

Whether he sins who demands an oath of a perjurer?

Ila IIae q. 98 a. 4

Objection 1. It would seem that he who demands an oath of a perjurer commits a sin. Either he knows that he swears truly, or he knows that he swears falsely. If he knows him to swear truly, it is useless for him to demand an oath: and if he believes him to swear falsely, for his own part he leads him into sin. Therefore nowise seemingly should one enjoin an oath on another person.

Objection 2. Further, to receive an oath from a person is less than to impose an oath on him. Now it would seem unlawful to receive an oath from a person, especially if he swear falsely, because he would then seem to consent in his sin. Much less therefore would it seem lawful to impose an oath on one who swears falsely.

Objection 3. Further, it is written (Lev. 5:1): “If anyone sin, and hear the voice of one swearing falsely*, and is a witness either because he himself hath seen, or is privy to it: if he do not utter it, he shall bear his iniquity.” Hence it would seem that when a man knows another to be swearing falsely, he is bound to denounce him. Therefore it is not lawful to demand an oath of such a man.

Objection 4. On the other hand, Just as it is a sin to

swear falsely so is it to swear by false gods. Yet it is lawful to take advantage of an oath of one who has sworn by false gods, as Augustine says (ad Public. Ep. xlvii). Therefore it is lawful to demand an oath from one who swears falsely.

I answer that, As regards a person who demands an oath from another, a distinction would seem to be necessary. For either he demands the oath on his own account and of his own accord, or he demands it on account of the exigencies of a duty imposed on him. If a man demands an oath on his own account as a private individual, we must make a distinction, as does Augustine (de Perjuriis. serm. clxxx): “For if he knows not that the man will swear falsely, and says to him accordingly: ‘Swear to me’ in order that he may be credited, there is no sin: yet it is a human temptation” (because, to wit, it proceeds from his weakness in doubting whether the man will speak the truth). “This is the evil whereof Our Lord says (Mat. 5:37): That which is over and above these, is of evil. But if he knows the man to have done so,” i.e. the contrary of what he swears to, “and yet forces him to swear, he is

* ‘Falsely’ is not in the Vulgate’

a murderer: for the other destroys himself by his perjury, but it is he who urged the hand of the slayer.”

If, on the other hand, a man demands an oath as a public person, in accordance with the requirements of the law, on the requisition of a third person: he does not seem to be at fault, if he demands an oath of a person, whether he knows that he will swear falsely or truly, because seemingly it is not he that exacts the oath but the person at whose instance he demands it.

Reply to Objection 1. This argument avails in the case of one who demands an oath on his own account. Yet he does not always know that the other will swear truly or falsely, for at times he has doubts about the fact, and believes he will swear truly. In such a case he exacts an oath in order that he may be more certain.

Reply to Objection 2. As Augustine says (ad Public. serm. xlvii), “though we are forbidden to swear, I do not remember ever to have read in the Holy Scriptures that we must not accept oaths from others.” Hence he that accepts an oath does not sin, except perchance when of his own accord he forces another to swear, knowing that he will swear falsely.

Reply to Objection 3. As Augustine says (QQ. Super

Lev. qu. i), Moses in the passage quoted did not state to whom one man had to denounce another’s perjury: wherefore it must be understood that the matter had to be denounced “to those who would do the perjurer good rather than harm.” Again, neither did he state in what order the denunciation was to be made: wherefore seemingly the Gospel order should be followed, if the sin of perjury should be hidden, especially when it does not tend to another person’s injury: because if it did, the Gospel order would not apply to the case, as stated above (q. 33, a. 7; q. 68, a. 1).

Reply to Objection 4. It is lawful to make use of an evil for the sake of good, as God does, but it is not lawful to lead anyone to do evil. Consequently it is lawful to accept the oath of one who is ready to swear by false gods, but it is not lawful to induce him to swear by false gods. Yet it seems to be different in the case of one who swears falsely by the true God, because an oath of this kind lacks the good of faith, which a man makes use of in the oath of one who swears truly by false gods, as Augustine says (ad Public. Ep. xlvii). Hence when a man swears falsely by the true God his oath seems to lack any good that one may use lawfully.