

QUESTION 62

Restitution

Next we have to consider restitution (*restitutio*). And on this topic there are eight questions: (1) What is restitution an act of? (2) Is it necessary for salvation that restitution be made for everything that has been taken? (3) Must restitution be made for a thing many times over? (4) Must restitution be made for what one has not taken? (5) Must restitution be made to the one from whom the thing was taken? (6) Must it be the one who took the thing who makes restitution? (7) Must anyone else make restitution? (8) Must restitution be made immediately?

Article 1

Is restitution an act of commutative justice?

It seems that restitution is not an act of commutative justice:

Objection 1: Justice is related to the notion of a debt. But just as a gift can be made of something that is not owed, so too can restitution be made of a thing that is not owed. Therefore, restitution is not an act of any part of justice.

Objection 2: Restitution cannot be made for what has already passed away and no longer exists. But justice and injustice have to do with certain actions and passions, which do not remain but pass away. Therefore, restitution does not seem to be an act of any part of justice.

Objection 3: Restitution is a sort of compensation for something that has been taken away. But something can be taken away from a man not only in an exchange or commutation, but also in a distribution—for instance, when the one distributing gives less to someone than he ought to have. Therefore, restitution is not more an act of commutative justice than of distributive justice.

But contrary to this: Making restitution (*restitutio*) is opposed to taking something (*ablatio*). But the taking of what belongs to another is an act of injustice having to do with exchanges or commutations. Therefore, the restitution of what has been taken is an act of justice that directs exchanges or commutations.

I respond: To make restitution seems to be nothing other than to establish someone as once again in possession of, or in control of, a thing that belongs to him. And so in an instance of restitution one attends to the balance of justice by the compensation of a thing for a thing—which has to do with commutative justice.

And so restitution is an act of commutative justice that takes place when a thing that belongs to one individual is being held by another, either in accord with the former's will, as in the case of a loan or a deposit, or against his will, as in the case of robbery or theft.

Reply to objection 1: What is not owed to another does not, properly speaking, belong to him, even if it did at one time belong to him. And so when one restores to another something that he does not owe him, it seems more like a new gift than an instance of restitution—even though it does have a certain similarity to restitution, since the thing is *materially* the same. Nonetheless, it is not the same thing as regards the *formal* notion that justice looks to, viz., its being a thing *that belongs to someone*. Hence, this is not properly called restitution.

Reply to objection 2: Insofar as it implies a certain sort of return, the name 'restitution' presupposes the identity of the thing. And so in keeping with the name's first imposition, restitution seems to have a place mainly in the case of exterior things, which, while remaining the same with respect both to substance and to the right of ownership (*secundum substantiam et secundum ius domini*), can pass from one individual to another.

However, just as the name 'commutation' has been transferred from things of this sort to actions or passions having to do with deferring to or injuring a person, i.e., to profiting or harming him, so, too, the

name ‘restitution’ is extended to things which, even though they do not remain in reality, nonetheless remain in their effect—either (a) in a corporeal effect, as when someone’s body is wounded by a beating, or (b) in men’s opinion, as when a man remains disgraced by reproachful language or simply diminished in his honor.

Reply to objection 3: The compensation that the one who distributes makes to someone to whom he has given less than he was owed is made in accord with a comparison of thing to thing, so that however much less he had than he was owed, that much more is given to him. And so this already has to do with commutative justice.

Article 2

Is it necessary for salvation to make restitution for what has been taken?

It seems that it is not necessary for salvation to make restitution for what has been taken:

Objection 1: What is impossible is not necessary for salvation. But sometimes it is impossible to make restitution for what has been taken—as, for instance, when someone has taken a limb or a life. Therefore, it does not seem to be necessary for salvation that an individual make restitution for what he has taken from another.

Objection 2: It is not necessary for salvation to commit any sin, since if it were, then a man would find himself in a dilemma (*quia sic homo esset perplexus*). But it is sometimes the case that what has been taken cannot be restored without sin—as, for instance, when someone has ruined a man’s reputation (*fama*) by speaking the truth. Therefore, making restitution for what has been taken is not necessary for salvation.

Objection 3: What has been done is such that it cannot be brought about that it has not been done. But sometimes someone loses the honor of his person by the very fact that he has been subjected to someone’s censuring him unjustly. Therefore, what has been taken away cannot be restored to him. And so it is not necessary for salvation to make restitution for what has been taken away.

Objection 4: One who prevents another from obtaining some good seems to take that good away from him, since, as the Philosopher says in *Physics* 2, “What is very close seems, as it were, to lack nothing at all.” But when someone prevents another from obtaining what was going to be offered to him or something of this sort, it does not seem that he is obligated to make restitution for what was going to be offered, since in some cases he would not be able to do this. Therefore, it is not necessary for salvation to make restitution for what has been taken.

But contrary to this: Augustine says, “The sin is not forgiven unless one makes restitution for what was taken.”

I respond: As has been explained (a. 1), making restitution is an act of commutative justice, which consists in a certain sort of equality or balance. And so to make restitution implies giving back the thing that has been taken unjustly, since equality or balance is restored by the thing’s being handed back. By contrast, if a thing has been taken justly, then there will be an inequality or imbalance if the thing is restored, since justice consists in equality or balance.

Therefore, since preserving justice is necessary for salvation, it follows that it is necessary for salvation to make restitution for what has been taken unjustly.

Reply to objection 1: In cases in which something equivalent cannot be restored, it is sufficient to repay what is possible—in the same way that this is clear, according to the Philosopher in *Ethics* 8, regarding the honor that is due to God and to one’s parents. And so when one cannot make restitution with something equal for what has been taken away, then compensation of a sort that is possible should be made. For instance, if one takes a body part away from someone, then he should compensate him with

money or with some honor, in accord with the decision of an upright man who takes into consideration the situation of each person.

Reply to objection 2: There are three ways in which someone's reputation (*fama*) can be ruined:

(a) *justly and by speaking the truth*—as, for instance, when an individual makes known someone's crime while preserving due order. And in such a case he is not obligated to make restitution for the other's reputation.

(b) *unjustly and by speaking falsehood*. And in such a case one is obligated to make restitution for the reputation to the extent that he can by confessing that what he said was false.

(c) *by speaking the truth but in an unjust way*—as, for instance, when an individual makes known someone's crime in a way contrary to due order. And in such a case he is obligated to restore the other's reputation to the extent that he can—but without lying—by claiming that he misspoke or that he defamed him unjustly (*utpote quod dicat se male dixisse vel quod iniuste eum diffamaverit*).

Alternatively, if it is impossible to restore the reputation, then he should compensate him in other ways, as has been explained for other cases (cf. *ad 1*).

Reply to objection 3: It is impossible for the action of inflicting contumely to be done in such a way that it has not been done. However, it can be done in such a way that its effect, viz., diminishing a person's dignity in the eyes of men, is repaired by a show of respect.

Reply to objection 4: There are different ways in which someone can prevent another from having what was going to be offered to him:

(a) *justly*—for instance, if, while intending to honor God or to serve the Church, someone procures what was to be given to a more elevated person. And in such a case he is in no way obligated to make restitution or to provide any sort of compensation.

(b) *unjustly*—for instance, if someone intends to do harm to the one whom he is hindering, out of hatred or vengeance or something of this sort. In such a case, if he prevents something from being offered to a person worthy of it, advising that it not be given before it has been determined that it will be given to him, then he is obligated to make some sort of compensation, in accord with the decision of a wise man who takes into account the situation of the persons and of the affair. However, he is not obligated to make *equal* compensation, since the man in question had not yet obtained the good and since he could have been prevented from doing so in any number of ways.

However, if it had already been determined that what was on offer was to be given to a certain individual, and if someone for an unjust reason procures the revocation of this determination, then this is the same as his taking away from the individual something that is already possessed. And so he has an obligation to make restitution of something equivalent (*tenetur ad restitutionem aequalis*), though in accord with his ability.

Article 3

Is it sufficient to restore the exact amount that was unjustly taken?

It seems that it is not sufficient to restore the exact amount (*simplum*) that was unjustly taken:

Objection 1: Exodus 22:1 says, "If a man steals an ox or a sheep and kills or sells it, he shall restore five oxen for one ox, and four sheep for one sheep." But everyone is obligated to fulfill the commands of divine law. Therefore, one who steals is obligated to repay four or five times as much.

Objection 2: As Romans 15:4 says, "Whatever has been written has been written for our instruction." But in Luke 19:8 Zaccheus says to our Lord, "If I have defrauded anyone, I will repay him fourfold." Therefore, a man ought to restore many times over whatever he has taken unjustly.

Objection 3: Whatever a man is not obligated to give away is such that it cannot be justly taken

away from him. But a judge justly takes away from a thief more than he has stolen—for making amends (*pro emenda*). Therefore, the man is obligated to pay this. And so it is not sufficient to repay the exact amount.

But contrary to this: Restitution restores a balance where the taking made for an imbalance (*restitutio reducit ad aequalitatem quod inaequaliter ablatum est*). But someone restores the balance by returning exactly the amount he took. Therefore, he is obligated to restore only as much as he took.

I respond: When someone takes something unjustly from another, there are two relevant factors:

The first of them is an *inequality or imbalance on the part of the thing*, and this can sometimes occur without any injustice, as is clear in the case of loans.

The other is the *sin of injustice (culpa iniustitiae)*, which can occur even when there is a balance among the things—for instance, when someone intends to inflict violence on another but does not prevail over him.

Thus, as regards the first factor, the remedy is applied by means of restitution, insofar as the balance is restored by it, and for this it is sufficient that one restore as much as he has from the other.

However, as regards the sin, the remedy is applied through a penalty (*per poenam*), the imposition of which belongs to a judge. And so before he is convicted through a judgment, he is not obligated to restore more than he took, but after he is convicted, he is obligated to pay the penalty.

Reply to objection 1: This makes clear the reply to the first objection, since the law in question determines the penalty that is to be imposed by the judgment. And even though, as was established above (*ST* 1-2, q. 104, a. 3), no one after Christ's coming is obligated to observe the judicial precepts [of the Old Law], the same thing, or something similar, can nonetheless be established in human law, and the line of reasoning will be the same.

Reply to objection 2: Zaccheus said this in the sense that he wanted to go beyond his obligation (*quasi supererogare volens*). Hence, he had likewise prefaced the quoted remark with, "Behold, the half of my goods I give to the poor."

Reply to objection 3: When he convicts him, the judge can justly take something more for making amends (*loco emendae*)—but before he was convicted, he did not owe this.

Article 4

Does anyone have to make restitution for what he has not taken?

It seems that there are some who have to make restitution for what they have not taken:

Objection 1: One who inflicts a loss on another is obligated to remove that loss. But in some cases one causes a loss for another beyond what he has taken. For instance, when he digs up seeds, he causes a loss in the whole future harvest to the one who planted the seeds. And so it seems that he is obligated to make restitution for the whole harvest. Therefore, there are some who are obligated to make restitution for what they have not taken.

Objection 2: One who keeps a creditor's money beyond the antecedently fixed term seems to inflict a loss in the total profit that the latter could have made from the money. Yet he does not take that total profit. Therefore, it seems that there are some who are obligated to make restitution for what they did not take.

Objection 3: Human justice flows from divine justice. But one is obligated to give back to God more than he received from Him—this according to Matthew 25:26 ("You knew that I reap where I do not sow, and that I gather where I did not scatter"). Therefore, it is likewise just to make restitution to a man for something that one did not get.

But contrary to this: Compensation pertains to justice insofar as it makes for equality or balance.

But if someone were to make restitution for what he did not get, then this would not be equal or balanced. Therefore, it is not just for this sort of restitution to be made.

I respond: If anyone inflicts a loss on someone, it seems that he takes away from him that in which he caused him a loss. For according to the Philosopher in *Ethics* 5, the word ‘loss’ (*damnum*) is used because someone has less than he ought to have.

But there are two ways in which someone can incur a loss:

In the first way, someone has taken from another what the other *actually* possesses. For this sort of loss one must always make restitution by compensating the other individual with something that is equal. For instance, if someone inflicts a loss on another by destroying his house, then he is obligated to him for as much as the house is worth.

In the second way, someone inflicts a loss on another *by preventing him from acquiring what he was on the way to having* (*impediendo ne adipiscatur quod erat in via habendi*). This sort of loss does not have to be compensated for with something equal. For to have a thing *virtually* is less than to have it *in actuality*. But someone who is on the way to acquiring something has that thing only *virtually* or *in potentiality*. And so if restitution were rendered to him in such a way that he had that thing in actuality, then what was being restored to him would not be exactly what had been taken away, but would instead be that thing many times over. But as has been explained (a. 3), this is not necessary for restitution. Nonetheless, he is indeed obligated to make some sort of compensation, according to the situation with the persons and the things involved.

Reply to objection 1 and objection 2: This makes clear the replies to the first and second objections. For the one who scattered the seed in the field has a harvest only *virtually* and not yet *in actuality*; similarly, the one who has the money has a profit only *virtually* and not yet *in actuality*. And in each case the outcome can be prevented in any number of ways.

Reply to objection 3: God requires nothing of a man except the good that He Himself has planted in us. And so this passage is interpreted either (a) as being from the distorted perspective of the indolent servant, who supposed that he had not received anything from another, or (b) as meaning that God requires from us the *fruits* of His gifts, which are both from Him and from us, even though *the gifts themselves* come from God without us.

Article 5

Must restitution always be made to the one from whom something has been gotten?

It seems that it is not always necessary for restitution to be made to the one from whom something has been gotten (*ei a quo acceptum est aliquid*):

Objection 1: We ought to harm no one. But in some cases it might be to a man’s harm if what had been gotten from him were to be returned, or it might even be to the harm of others—as, for instance, if someone were to return a deposited sword to someone who was furious with anger. Therefore, it is not always the case that restitution must be made to the one from whom something has been gotten.

Objection 2: One who has given something away illicitly does not deserve to recover it. But in some cases someone illicitly gives away what someone else illicitly gets, as is apparent with those who give and those who receive in cases involving simony. Therefore, it is not always the case that one must make restitution to the one from whom he got the thing.

Objection 3: No one is obligated to do what is impossible. But in some cases it is impossible to make restitution to the one from whom the thing has been gotten, either because he is dead or because he is far away or because he is unknown. Therefore, it is not always the case that restitution has to be made to the one from whom the thing has been gotten.

Objection 4: A man ought to give greater compensation to someone from whom he has received a greater benefit. But a man receives a greater benefit from persons—his parents, for instance—other than those from whom he gets a loan or a deposit. Therefore, in some cases it is necessary to come to the aid of some other person rather than to make restitution to someone from whom something has been gotten.

Objection 5: It is useless to restore something that, through the restitution, comes into the possession of the one making the restitution. But if a prelate has unjustly taken something that belongs to the Church and then makes restitution for it, it comes into his possession, since he himself is the keeper of the things that belong to the Church. Therefore, he does not need to make restitution to the Church, from which he took it. And so it is not always the case that restitution should be made to the one from whom the thing was taken.

But contrary to this: Romans 13:7 says, “Render to all men what is due them: render tribute to the one to whom tribute is due; render taxes to the one to whom taxes are due.”

I respond: As has been explained (a. 2), restitution brings about a return to the equality or balance of commutative justice, which consists in things being balanced or made equal. But this sort of balancing can occur only if one who has less than what is his own is supplied with what he lacks. And in order for this supplying to take place, it is necessary that restitution be made to the one from whom something has been gotten.

Reply to objection 1: When it is apparent that the thing to be restored is seriously harmful to the one to whom restitution has to be made or to someone else, the thing ought not to be restored to him at that time, since restitution is ordered toward the advantage of the one to whom restitution is made. For all the things that one possesses fall under the concept *advantageous (sub ratione utilis cadunt)*. Still, one who retains a thing that belongs to another must not appropriate it for himself; instead, he ought either (a) to hold on to it so that he can restore it at a fitting time or (b) to transfer it somewhere else to be held on to more safely.

Reply to objection 2: There are two ways in which one gives something illicitly:

In one way, the *giving itself* is illicit and contrary to the law, as is clear with someone who has given something away in a case of simony. Such an individual deserves to lose what he has given away, and so restitution should not be made to him for such things. And since the one who got the thing likewise received it in a way contrary to the law, he should not retain it for himself, but should convert it to pious forms of use.

In the second way, someone gives illicitly in the sense that he gives something *for the sake of an illicit thing*, even though the giving is not itself illicit—as when someone gives something to a prostitute for the sake of fornicating. Hence, in the case both that (a) the woman can keep for herself what has been given to her, and that (b) if she has extracted something extra from him through fraud or deception, then she is obligated to make restitution to him.

Reply to objection 3: If the man to whom restitution should be made is altogether unknown, then one should make restitution to the extent that he can, viz., by giving alms for the unknown man’s salvation, whether he be living or dead. However, this should be preceded by a diligent inquiry into the identity of the one (*de persona eius*) to whom the restitution should be made.

On the other hand, if the one to whom restitution should be made is dead, then the restitution should be made to his heir, who is counted as the same person with him.

Now if the one to whom restitution should be made is far away, then what is owed to him should be sent to him—especially if the thing is of great value and if it can be conveniently sent. Otherwise, it should be deposited in a safe place in order to be preserved for him, and this should be made known to the owner.

Reply to objection 4: Out of what belongs to him, one should make more satisfaction to his parents or to those from whom he has received greater benefits. However, he should not compensate a benefactor out of what belongs to someone else, which is what would happen if he gave to the one of

them what he owed to the other—except perhaps in a case of extreme necessity, in which someone can, and even *should*, take what belongs to others in order to come to the aid of his father.

Reply to objection 5: There are three ways in which a prelate can pilfer a thing that belongs to the Church:

In one way, he might appropriate for himself a thing belonging to the Church that has been allotted not to himself but to another. For instance, a bishop might appropriate for himself a thing that belongs to the chapter [of a religious order]. In such a case it is obvious that he should make restitution by putting the thing into the hands of those to whom it belongs under the law.

In the second way, he might transfer to another—say, to a relative or a friend—the ownership of a thing which belongs to the Church and which has been allotted to his own care. In such a case he should make restitution to the Church and keep the thing under his own care, so that it might fall to his successor.

In the third way, a prelate might pilfer a thing that belongs to the Church in his intention alone (*solo animo*), viz., when he begins to harbor the intention of possessing it as his own and not in the name of the Church. In such a case he should make restitution by abandoning this intention.

Article 6

Is it always the case that the one who has gotten the thing is obligated to make restitution?

It seems that it is not always the case that the one who has gotten the thing is obligated to make restitution:

Objection 1: What is restored through restitution is the equality or balance of justice, which consists in something's being taken away from the one who has more and given to the one who has less. But it sometimes happens that the one who has taken the thing no longer has it; instead, it has fallen into the hands of another. Therefore, it is not the one who got it who is obligated to make restitution, but rather the other one who now has the thing.

Objection 2: No one is obligated to expose his own crime. But as is clear with theft, in some cases one exposes his own crime by making restitution. Therefore, it is not always the case that the one who has taken a thing is obligated to make restitution.

Objection 3: Restitution of the same thing need not be made many times over. But sometimes many individuals together pilfer a given thing and one of them has restored it in full. Therefore, it is not always the case that one whoever has gotten the thing is obligated to make restitution.

But contrary to this: One who sins is obligated to make satisfaction. But restitution pertains to satisfaction. Therefore, whoever has taken a thing is obligated to make restitution.

I respond: Two things have to be considered concerning someone who gets a thing that belongs to another, viz., *the very thing gotten* and *the very act of getting it*.

Now by reason of the *thing itself* one is obligated to make restitution for it as long as one has it in his possession, since what he possesses beyond that which is his own must be taken away from him and given to the one who lacks it, in accord with the form of commutative justice.

On the other hand, there are three ways in which the *very act of getting* what belongs to another can occur:

Sometimes the act of getting is *injurious*, i.e., contrary to the will of the one who owns the thing, as is clear in the case of theft and robbery. And in such a case one is obligated to make restitution not only *by reason of the thing*, but also *by reason of the injurious action*, even if the thing is no longer in his possession. For just as someone who strikes another is obligated to compensate for the injury to the

victim (*passus*), even though there is nothing that remains in his possession, so, too, one who steals or robs is obligated to compensate for the loss inflicted, even if he no longer possesses any of it, and, further, he must be punished for the injury inflicted.

In the second way, someone gets a thing belonging to another *to his own advantage without injury*, i.e., with the consent of the one to whom the thing belongs—as is clear in the case of loans. In such a case the one who gets the thing is obligated to make restitution for what he gets not only by reason of the thing, but also by reason of his getting it, even if he should lose that thing. For he is obligated to compensate the individual who did him a favor—which will not happen if that individual thereby incurs a loss.

In the third way, someone gets a thing belonging to someone else *without injury but not for his own advantage*, as is clear in the case of deposits. So the one who gets the thing in this way is not obligated by reason of the act of getting it—to the contrary, in taking the thing he is doing the other a favor—but he is obligated by reason of the thing. Because of this, if the thing is taken away from him without any fault on his part, then he is not obligated to make restitution. But it would be different if he were to lose the deposited thing through a serious fault on his own part.

Reply to objection 1: Restitution is primarily ordered not toward someone's ceasing to have more than he should have, but rather toward supplementing someone who has less than he should have. Hence, in the case of things that one can get from another without any loss to him, restitution has no place—for instance, when one receives a light from someone else's candle.

And so even if the one who took the thing does not now have what he received, but it has instead been transferred to someone else, nonetheless, since the other individual is deprived of his own thing, it is the case both that (a) the one who took the thing is obligated to make restitution, by reason of his injurious action, and that (b) the one who possesses the thing is obligated to make restitution, by reason of the thing itself.

Reply to objection 2: Even if a man is not obligated to reveal his own crime to *men*, he is nonetheless obligated to reveal his own crime to *God* in Confession. And so he can make restitution for something that belongs to someone else through the priest to whom he confesses.

Reply to objection 3: Since restitution is principally ordered toward removing the loss of the one from whom something was unjustly taken, it follows that after sufficient restitution has been made to him by one individual, the others are not obligated to make further restitution to him. Rather, they are obligated to give a refund to the one who made restitution, even though he can excuse them from doing so.

Article 7

Is anyone who did not get the thing obligated to make restitution?

It seems that those who did not get the thing are not obligated to make restitution:

Objection 1: Restitution is a sort of punishment for the one who gets the thing. But no one ought to be punished unless he has sinned. Therefore, no one ought to make restitution unless he got the thing.

Objection 2: Justice does not obligate anyone to augment another's property. But if not only the one who took the thing but also those who in any way cooperated with him in taking the thing were obligated to make restitution, then the property of the one from whom the thing was taken would thereby be augmented, both because (a) restitution would be made to him many times over, and also because (b) sometimes individuals cooperate in order to take something from someone and yet it is not in fact taken from him. Therefore, the others are not obligated to make restitution.

Objection 3: No one is obligated to expose himself to danger in order to save something that

belongs to another. But in some cases, by exposing a thief and resisting him, someone exposes himself to the danger of death. Therefore, no one is obligated to make restitution by reason of the fact that he does not expose a thief or does not resist him.

But contrary to this: Romans 1:32 says, “Not only are they who do such things worthy of death, but they also that consent to those who do them.” Therefore, by parity of reasoning, those who consent should likewise make restitution.

I respond: As was explained above (a. 6), one is obligated to make restitution not only by reason of the thing belonging to another that he has taken, but also by reason of the injurious act of taking it. And so anyone who is a cause of an unjust act of taking is obligated to make restitution.

Now there are two ways one can be a cause of an unjust act of taking, viz., *directly* and *indirectly*.

One is a cause *directly* when he induces someone else to take something. And there are three ways in which to do this:

(a) by moving someone to *the very act of taking*. This is done by commanding or advising or expressly consenting to or praising someone who is, as it were, enthusiastic (*aliquem strenuum*) about taking what belongs to another.

(b) *on the side of the one doing the taking*, specifically, by harboring him or giving him assistance in some way or other.

(c) *on the side of the thing taken*, specifically, by being a participant in the theft or robbery as a fellow malefactor.

It happens *indirectly* when someone does not in fact prevent the act when he can and should prevent it—either because (a) he withholds a command or piece of advice that would prevent the theft or robbery, or because (b) he withholds some form of assistance by which the act could be resisted, or because (c) he hides the malefactor after the fact.

All of these are included in the following verse:

“Command, counsel, consent, flattery, harboring (*Iussio, consilium, consensus, palpo, recursus*):

Participating, silent, not preventing, not revealing (*Participans, mutus, non obstans, non manifestans*).”

Now notice that five of these things obligate one in all cases to make restitution. First, *command*, because the one who gives the order is the principal mover, and so he himself is especially obligated to make restitution. Second, *consent*, in someone without whose consent the robbery cannot be perpetrated. Third, *harboring*, when someone receives thieves and offers them protection. Fourth, *participation*, when someone participates in the crime of theft and in its spoils. Fifth, one who does *not prevent* a crime when he ought to prevent it is obligated to make restitution; for instance, rulers who are obligated to safeguard justice in their lands, are obligated to make restitution if, because of their failures, robbers increase in number. For the land taxes (*redditus*) that they collect are, as it were, stipends instituted for the purpose of preserving justice in their land.

However, in the other cases enumerated above one is not always obligated to make restitution. For it is not always the case that advice or flattery or something else of this sort is an efficacious cause of robbery. Hence, an advisor or a ‘stroker’, i.e., a flatterer, is obligated to make restitution only when it can be estimated with high probability that the unjust taking followed from causes of this sort.

Reply to objection 1: It is not just the one who executes the sin who sins, but also anyone who is in any way a cause of the sin, whether by advising or by commanding or in any other way whatsoever.

Reply to objection 2: The one who is principally obligated to make restitution is the one who is the principal in the deed—in the first place the one who orders the deed, in the second place the one who executes the deed, and, after that, the others in order.

However, after one of them has made restitution to the individual who has suffered the loss, the others are not obligated to make restitution to the same individual. However, those who are the principals in the deed and to whom the thing taken accrued are obligated to make restitution to the others who have made restitution.

Moreover, when someone gives the command for an unjust taking that ends up not occurring, restitution does not have to be made, since restitution is mainly ordered toward restoring a thing that belongs to someone who has suffered a loss unjustly.

Reply to objection 3: It is not always the case that one who does not expose a thief is obligated to make restitution, or one who does not resist him, or one who does not cajole him. Restitution is required only when such actions are incumbent upon someone *ex officio*, as with the rulers of a land. Not much danger threatens them because of these actions, since they acquire public power in order to be guardians of justice.

Article 8

Is one obligated to make restitution immediately?

It seems that no one is obligated to make restitution immediately, but that instead one can licitly defer restitution:

Objection 1: An affirmative precept does not impose an obligation for every time. But the necessity for restitution depends on an affirmative precept. Therefore, a man is not obligated to make restitution immediately.

Objection 2: No one is obligated to do the impossible. But sometimes an individual is unable to make restitution immediately. Therefore, no one is obligated to make restitution immediately.

Objection 3: Restitution is a certain act of virtue, viz., an act of the virtue of justice. But time is one of the circumstances that are required for acts of virtue. Therefore, since the other circumstances are not determinate in the acts of virtue, but are instead determinable by the reasoning of prudence, it seems that neither in the case of restitution is there is a determinate time in the sense that one is obligated to make restitution immediately.

But contrary to this: The line of reasoning seems to be the same in the case of all things that require restitution. But one who hires workers for a wage (*ille qui conducit opera mercenarii*) cannot defer restitution—this according to Leviticus 19:13 (“The wages of your paid worker shall not remain with you until the morning”). Therefore, neither can delays be made in making retribution in other cases; instead, one should make restitution immediately.

I respond: Just as taking a thing that belongs to another is a sin against justice, so, too, is holding the thing back. For one’s holding back a thing belonging to another against the owner’s will prevents him from using what belongs to him and so inflicts an injury on him. But it is clear that one is not permitted to remain in sin for any length of time; instead, each individual is obligated to abandon his sin immediately—this according to Ecclesiasticus 21:2 (“Flee from sin as from the face of a serpent”). And so everyone is obligated either to make restitution immediately or to seek a delay from the one who can grant the use of the thing.

Reply to objection 1: Even though the precept about making restitution is affirmative in form, it nonetheless includes within itself a negative precept by which we are forbidden to hold back a thing that belongs to another.

Reply to objection 2: When someone does not have the power to make restitution immediately, this very lack of power absolves him from making restitution at that instant, just as he is totally absolved from making restitution if he altogether lacks the power to do so. Still, he ought to seek forgiveness or a

delay from the one to whom he owes retribution, and he should do this either on his own or through the mediation of someone else.

Reply to objection 3: If the omission of any circumstance is contrary to virtue, then that circumstance has be taken as fixed, and it is necessary to observe that circumstance. And since one commits a sin of unjust retention by delaying restitution, it is necessary for the time to be fixed in such a way that restitution is made immediately.