

## QUESTION 98

### Irreligion: Perjury

Next we have to consider perjury (*periurium*). And on this topic there are four questions: (1) Is falsehood required for perjury? (2) Is perjury always a sin? (3) Is perjury always a mortal sin? (4) Does one sin if he enjoins an oath on a perjurer?

#### Article 1

##### Is the falsity of what is confirmed under oath required for perjury?

It seems that the falsity of what is confirmed under oath is not required for perjury:

**Objection 1:** As was explained above (q. 89, a. 3), just as *truth* should accompany an oath, so too should *judgment* and *justice*. Therefore, just as someone commits perjury through a defect in truth, so, too, someone commits perjury through a defect in judgment, as when he swears an oath indiscreetly, or through a defect in justice, as when he swears an oath to do something illicit.

**Objection 2:** That through which something is confirmed seems to be more important than what is confirmed through it, just as, in a syllogism, the principles are more important than the conclusion. But in the case of an oath, a man's words are confirmed by his taking God's name. Therefore, the perjury seems to be greater if someone swears by false gods than if a man's statement confirmed under oath is lacking in truth.

**Objection 3:** As Augustine says in his sermon *De Verbis Apostoli Jacobi*, "Men swear falsely either when they deceive or when they are deceived." And he gives three examples. The first is this: "Suppose a man swears, thinking [wrongly] that what he swears to is true." The second is this: "Take another man, who knows that [his statement] his false and swears to it." The third is this: "Take a third man, who thinks that [his statement] is false and swears that it is true—and it turns out that it *is* true." And he later adds that this third man is a perjurer. Therefore, it is possible for someone who swears to what is true to be a perjurer. Therefore, falsity is not required for perjury.

**But contrary to this:** Perjury is defined as "a lie confirmed by an oath (*mendacium iuramento firmitum*)."

**I respond:** As was explained above (q. 92, a. 2 and *ST* 1-2, q. 18, a. 6), moral acts take their species from their end or purpose (*finis*). Now the purpose of an oath is the confirmation of a human statement. Falsity is opposed to this confirmation, since a statement is confirmed by being shown firmly to be true, and this cannot happen in the case of something that is false. Hence, falsity directly annuls (*evacuat*) the purpose of swearing an oath. And for this reason the perversion of an oath, which is called perjury, is mainly specified by falsity. And so falsity is part of the nature of perjury.

**Reply to objection 1:** As Jerome says in commenting on Jeremiah 4:2, "If any of these three things is lacking, then there is perjury"—not, however, in the same order. Instead, as has already been explained, there is perjury first and foremost (*primo et principaliter*) when *truth* is lacking. On the other hand, there is perjury in a secondary way (*secundario*) when *justice* is lacking, since one who swears an oath to do something illicit incurs falsity by that very fact, since he is obligated to do the contrary. And, thirdly, there is perjury when *judgment* is lacking, since when one swears an oath indiscreetly, he thereby puts himself in danger of falling into falsity.

**Reply to objection 2:** As is explained in *Physics* 2, the principles in a syllogism are more important in the sense that they have the character of an *active principle*. But in the case of moral acts the *end* is more important than the active principle. And so even though an oath is perverse when one swears by false gods to what is true, nonetheless, perjury takes its name from the sort of perversity that undermines the purpose of an oath by swearing to what is false.

**Reply to objection 3:** Moral acts proceed from the will, the object of which is an *apprehended* good. And so if something false is apprehended as true, it will be related to the will as something that is

*materially* false but *formally* true. On the other hand, if what is false is accepted as false, then it will be false both *materially* and *formally*. And if what is true is apprehended as false, then it will be *materially* true but *formally* false.

And so in each of the three cases in question, the nature of perjury is preserved in some way because of some mode of falsity. But since in each of them what is *formal* is more important than what is *material*, the one who swears to what is false while thinking it to be true is not a perjurer in the same way as one who swears to what is true while thinking it to be false. For in the same place Augustine says, “It all depends on how the statement proceeds from the mind, since only a guilty mind makes for a guilty tongue.”

## Article 2

### Is every instance of perjury a sin?

It seems that not every instance of perjury is a sin:

**Objection 1:** If someone does not fulfill what he has firmly promised with an oath, then he seems to be a perjurer. But sometimes an individual swears by an oath that he will do something which is illicit, e.g., adultery or homicide, and which is such that if he does it, then he will sin. Therefore, if he would likewise sin through the sin of perjury by not doing that bad thing, then it would follow that he is in a dilemma (*sequeretur quod esset perplexus*).

**Objection 2:** No one sins by doing what is better. But sometimes an individual does what is better by committing perjury, as when he swears that he will not enter religious life or that he will not do any virtuous works. Therefore, not every instance of perjury is a sin.

**Objection 3:** If someone swears to do the will of another, then if he does not do it, he seems to commit perjury. But it sometimes happens that he does not sin if he does not fulfill the other’s will, e.g., when what the other commands him to do is excessively difficult and unbearable. Therefore, it seems that not every instance of perjury is a sin.

**Objection 4:** A *promissory* oath extends itself into the future, just as a *declarative* oath has to do with the past and the present. But it can happen that the obligation that attaches to an oath is removed by something that emerges in the future—as when a city swears an oath that it will preserve something and afterwards new citizens come along who have not sworn that oath, or as when a canon swears an oath that he will keep the statutes of a particular church and afterwards new statutes are made. Therefore, it seems that one who violates such an oath does not sin.

**But contrary to this:** In his sermon *De Verbis Apostoli Jacobi* Augustine says, “Speaking of perjury, you see that this monster is to be detested and abolished from human affairs.”

**I respond:** As was explained above (q. 89, a. 1), to swear an oath is to invoke God as a witness. But it involves irreverence toward God for someone to invoke Him as a witness to what is false (*eum testem invocet falsitatis*), since he is thereby giving the impression that God does not know the truth or that He wants to give witness to what is false. And so perjury is clearly a sin contrary to [the virtue of] religion, to which it belongs to show reverence to God.

**Reply to objection 1:** One who swears by an oath that he will do something illicit commits perjury because of a lack of *justice*. But if he does not fulfill what he swore to do by that oath, then he does not thereby commit perjury, since what he swore to do was not such that it could fall under an oath.

**Reply to objection 2:** If someone swears by an oath that he will not enter religious life or that he will not give alms or something else of this sort, he commits perjury because of a lack of *judgment*. And so when he does what is better, it is not perjury but something contrary to perjury, since the contrary of what he does could not have fallen under an oath.

**Reply to objection 3:** When someone swears by an oath, or promises, that he will do the will of another, an appropriate condition has to be understood, viz., as long as what he is commanded to do is licit and upright and bearable, i.e., moderate.

**Reply to objection 4:** Since swearing an oath is a personal action, one who becomes a new citizen of some city is not obligated *as if by an oath* (*non obligatur quasi iuramento*) to preserve those things that the city has previously sworn that it will preserve. However, he is bound *by a sort of fidelity* (*tenetur ex quadam fidelitate*), so that just as he has come to share in the goods of the city, this fidelity obligates him to share in its burdens.

By contrast, the canon who swears by an oath to keep the statutes set forth by a particular ecclesiastical unit (*collegium*) is not obligated by his oath to keep future statutes—unless he had intended to bind himself to all statutes, past and future. However, he is obligated to keep those statutes by the very force of the statutes, which, as is clear from what was said above (*ST* 1-2, q. 96, a. 4), have a coercive power.

### Article 3

#### Is every instance of perjury a mortal sin?

It seems that not every instance of perjury is a mortal sin:

**Objection 1:** *Extra, De Iureiurando*, says, “As for the question that is posed, viz., whether those who have sworn an oath unwillingly in order to safeguard their life and possessions are absolved of the bond of the oath, we do not think differently from what our predecessors, the Roman Pontiffs, are known to have thought when they absolved such persons from the obligations of their oath. Still, in order that this might be done discreetly, and in order that the substance of swearing might be grasped, they should not be told explicitly not to keep their oaths. However, if they do not keep them, they are not for that reason to be punished as for a mortal crime (*tamquam pro mortali crimine puniendi*).” Therefore, not every instance of perjury is a mortal sin.

**Objection 2:** As Chrysostom says, “It is a greater thing to swear by God than to swear by the Gospel.” But one does not always commit a mortal sin in swearing by God to something false—for instance, if in ordinary conversation someone uses such an oath in jest or by a slip of the tongue (*ex ioco vel ex lapsu linguae*). Therefore, it is likewise not the case that if someone breaks an oath that he solemnly swears by the Gospel, it will always be a mortal sin.

**Objection 3:** As is established in *Decretals* 4, q. 1, chap. *Infames*, according to the laws, one incurs infamy because of perjury. But it does not seem to be the case that one incurs infamy for just any kind of perjury, since this is said of a *declaratory* oath that is violated by perjury. Therefore, it seems that not every instance of perjury is a mortal sin.

**But contrary to this:** A sin that is contrary to a divine commandment is a mortal sin. But perjury is contrary to a divine commandment, since Leviticus 19:21 says, “You shall not commit perjury in my name.” Therefore, perjury is a mortal sin.

**I respond:** According to the Philosopher’s teaching, “That because of which a thing is such-and-such is itself more such-and-such.” Now we see that if certain things are in the own right (*de se*) venial sins or even good by their own genus, they are mortal sins if done with contempt for God. Hence, *a fortiori*, anything that by its nature involves contempt for God is a mortal sin. But perjury by its nature implies contempt for God, since, as has been explained (a. 2), perjury has the character of a sin because it involves irreverence toward God. Hence, it is clear that perjury is by its genus a mortal sin.

**Reply to objection 1:** As was explained above (q. 89, a. 7), coercion does not remove from a promissory oath the force of obligation with respect to what can be done licitly. And so if someone does

not fulfill what he swore to do under coercion, he nonetheless commits perjury and sins mortally. However, he can be absolved from the obligation attaching to the oath by the authority of the Supreme Pontiff, especially if he was coerced by the sort of fear that “could fall upon a steadfast man.”

Now when it says that such individuals “are not to be punished as for a mortal crime,” it does not say this because they have not sinned mortally, but because a lesser punishment is inflicted on them.

**Reply to objection 2:** One who commits perjury in jest does not avoid being irreverent toward God, but in a certain respect magnifies the irreverence. And so he is not excused from mortal sin.

Now if one who swears to something false by a slip of the tongue notices that he is swearing an oath and that what he is swearing to is false, he is not excused from mortal sin, just as he is not excused from having contempt for God. On the other hand, if he does not notice, then he does not seem to have the intention of swearing an oath and so is excused from the crime of perjury.

Now there is a more serious sin if someone solemnly swears by the Gospel than if he swears by God in ordinary conversation, both because of the scandal and also because of his greater deliberation. If it is posited that these are equal in the two cases, then it is more serious for someone to commit perjury in swearing by God than to commit perjury in swearing by the Gospel.

**Reply to objection 3:** It is not because there is a mortal sin that someone is made infamous by the oath itself. Hence, it does not follow that if someone who swears to what is false by a declaratory oath is not pronounced infamous because of the oath itself—for one becomes infamous only through a definitive sentence pronounced against him in a case of accusation—then he does not commit a mortal sin.

On the other hand, the reason why someone who breaks a solemnly sworn promissory oath is more reputed to be infamous is that, after he has sworn the oath, it still remains within his power to give truth to his oath—something that does not happen in the case of a declaratory oath.

#### Article 4

##### Does one sin by enjoining an oath on someone who commits perjury?

It seems that one sins by enjoining an oath on someone who commits perjury:

**Objection 1:** Either he knows that the individual in question is swearing to what is true or he knows that the individual is swearing to what is false. If he knows that the individual is swearing to what is true, then he is enjoining the oath on him for no good reason (*pro nihilo*), whereas if he knows that the individual is swearing to what is false, then, taking his enjoining in its own right (*quantum est de se*), he is inducing the individual to sin. Therefore, it seems that there is no way in which anyone should enjoin an oath on anyone else.

**Objection 2:** It is a lesser matter to receive someone’s oath than to enjoin an oath on someone. But it does not seem to be licit to receive an oath from anyone, mainly because if he is committing perjury, then one seems to be consenting to the sin. Therefore, *a fortiori*, it is not licit to demand an oath from one who is committing perjury.

**Objection 3:** Leviticus 5:1 says, “If a soul sins by listening to the voice of one who is swearing to what is false, and he himself is a witness either because he himself saw what happened or because he is aware of it, then if he does not indicate this, he will bear the other’s wickedness.” From this it seems that someone who knows that another is swearing to what is false is obligated to accuse him. Therefore, it is not licit to demand an oath from him.

**But contrary to this:** Just as one who swears to what is false sins, so, too, does one who swears by false gods. But as Augustine points out in *Ad Pubicolam*, it is licit to make use of the oath of one who swears by false gods. Therefore, it is licit to demand an oath from one who is swearing to what is false.

**I respond:** As regards someone who demands an oath from another, it seems that we must make a

distinction. For either he demands the oath for his own sake and by his own will, or he demands the oath for the sake of someone else because of an obligation attaching to an office that he has been entrusted with.

If he demands the oath for his own sake as a private person, then as Augustine points out in his sermon *De Periurio*, it seems that we have to make a distinction: “For if he does not know that the individual will swear to something false and he says, ‘Swear an oath to me’, in order that he might trust him, then this is not a sin, though it is a human temptation”—viz., because it proceeds from a certain weakness by which one man doubts that another man will tell the truth—“and this is the evil that our Lord speaks of in Matthew 5:37 (‘Whatever else you say is from the evil one’). On the other hand, if he knows what the individual has done,”— viz., the contrary of what he is swearing to—“and compels him to swear the oath, then he is a killer. For the individual will ruin himself by his perjury, but [the one who demands the oath] has forced the hand of the slayer.”

Now if someone demands the swearing of an oath as a public person, insofar as the order of justice requires it and at someone else’s request, then he does not seem to be at fault if he demands the oath, regardless of whether he knows that the individual is swearing to what is false or to what is true. For it does not seem to be he himself who is demanding the oath; instead, it is the one at whose insistence he is demanding it.

**Reply to objection 1:** This objection goes through when someone is demanding the oath for his own sake. And yet it is not always the case that (a) he knows that the individual is swearing to what is true or that (b) he knows that the individual is swearing to what is false. Instead, sometimes he is in doubt about what happened and believes that the individual will swear to what is true, and in such a case he demands the oath for greater certitude.

**Reply to objection 2:** As Augustine says in *Ad Publicolam*, “Even though it is said, ‘Do not swear’, I do not remember having read in the Holy Scriptures that we may not receive the swearing of an oath from anyone.” Hence, one who receives the swearing of an oath does not sin—except, perhaps, when, by his own will, he coerces an oath from someone whom he knows is going to swear to what is false.

**Reply to objection 3:** As Augustine points out, in the cited passage Moses does not say explicitly to whom the other’s perjury should be indicated. And so it is understood that it should be indicated “to those who can do the perjurer good rather than harm him.” Similarly, Moses likewise does not say explicitly in what order the individual should make this manifest. And so it seems that the ordering laid out in the Gospels (*ordo evangelicus*) is to be observed if the perjurer’s sin is a hidden sin—and especially when it does not lead to harm for anyone else. For as was explained above (q. 33, a. 7), [when harm to others is involved], the ordering laid out in the Gospels does not apply.

**Reply to the argument for the contrary:** It is permissible to make use of what is bad for the sake what is good, just as God likewise does, but it is not permissible to induce anyone to do what is bad. Hence, even though it is permissible to receive the oath of someone who is prepared to swear by false gods, it is nonetheless not permissible to induce him to swear by false gods.

However, a different line of reasoning seems to hold in the case of someone who swears by the true God to what is false. For what is missing in the case of such an oath is a good of faith, which, as Augustine explains in *Ad Publicolam*, someone takes advantage of in the case of an oath by someone who swears by false gods to what is true. Hence, in the case of an oath by someone who swears by the true God to what is false, there does not seem to be any good that he is permitted to take advantage of.