De Usuris

Giles of Lessinus

(1278)

Prologue:

Every man who is not degenerate by nature loves the truth, and desires to know it above all things. Which if anyone desires with a true heart, and seeks it in the simplicity of his heart, it will manifest itself; and God who promises this is true, and gives it to those who love him, as it is written in Sap. 6: He anticipates those who desire themselves, that he may show himself to them first: Eccl. 1: My son, desire wisdom, approach her, and the Lord will give her to you. I call upon her therefore, that she may not allow me to err to the danger of my soul, and into the snare of others; but may she deign to enlighten my darkened eyes with her own light, without which no one is able to reach the light of truth at all. Amen.

Since, however, in doubts whose truth, when acknowledged, is salutary, and whose ignorance poses a danger to human salvation, it is very useful to investigate the truth, and in our times we have heard many controversies among doctors, not only in natural questions, but also in morals, in which there is a danger of different opinions and opinions, and especially in that part of justice which is called commutative by philosophers, and in that part of it which restrains the vice of usury; therefore, to declare the truth about this matter and to elucidate the doubts, as far as God has granted and our labor, with the effort of our poor investigation, can reach, is our purpose in this work. First, therefore, we must inquire what is signified by the name of usury in general, and in how many ways it is understood by doctors. Second, about its proper matter, and its different ways and species. Third, about human acts, about whom and through whom it occurs. Fourth, whether it is always evil per se, and whence evil is in it. Fifth, about the transfer of usury, namely, whether ownership is transferred in them. Sixth, whether the reason for doubt or danger is capable of excusing the vice of usury in those contracts in which, according to some, there is usury. Seventh, when personal and real conditions are capable of excusing usury. Next, we must inquire about the vice of usury. And first, how and when it occurs, not only in loans, but also in general, in contracts of sale and purchase. Second, whether the vice of usury occurs in the purchase of annuities for life. Third, about rich people who sell forests for a term, more expensive than they are worth at the time of sale. Fourth, about those who entrust their money and other goods to other merchants, so that they may profit from them for a third or half of the profit. Fifth, about the goods of orphans which are entrusted to guardians, or parents, or communities of villages for profit, without prejudice to their lot. Sixth, about peasants, and the exchange of peasants, whether there is the vice of usury in it. Seventh, about merchants who promise to pay at the fair for their remaining partners, because they had received ready money from them of a different kind, which was only valid at the fair. After this, we will inquire about the restitutions of usury. And first, why should they be made. Second, to whom or by whom. Third, by whom. Fourth, how, namely, whether publicly or privately. Fifth, whether the same things in number, or only equivalent ones. Sixth, whether the fruits and proceeds of them are to be restitution. Seventh, whether they should be enforced, and how.

Chapter 1:

But since human science proceeds from signs to things, and from sensible things to intelligible things, as experience teaches and philosophical authority confirms; and a slight error in the principles, or ignorance of them, generates the greatest error in the pursuit to the end; therefore, wishing to know the truth about usury, we must first understand what is signified by the authors under the name of usury. For since names are signs of things, and we cannot carry the things themselves with us in the discussion of the truth of them; therefore, using the names themselves for things, we must know what the names themselves signify. According to grammarians, the name of usury is derived from use: and it signifies in its first sense a thing which is acquired by the use of some thing, just as shaving is derived from the act of shaving, and shearing from the act of shearing. But since the grammarian is principally concerned with signs, not because of the things which are signified, but because of the mode of signification which they denote in themselves, for example, that sometimes by the mode of substance, sometimes by the mode of accident of substance, sometimes by the mode of act, sometimes by the mode of accident, a sign is attributed to an act; Therefore, the words themselves are referred by physical authors more to designating certain things in a specific way, these or those in some kind of things: for which reason, since the physicist or the logician frequently does not establish words signifying according to the number of things, because art does not equal nature, it happens that the physicist or logician designates several things with one word; and thus an equivocation of words occurs. Sometimes, however, the very word which, by the property of its word, signifies something generally and universally, the physicist himself determines to designate some special thing: and this is sometimes by some simile, sometimes by the contrary: for example, the name of apostle is generally said from the act of sending; and yet the theologian determines this name to the special sent ones of Christ, and still more singularly to the person of Paul, when it is said without objection. We call a physicist or philosopher, however, one who philosophizes about things, whether naturally, mathematically, or theologically. And we call a logician, one who considers about words and signs in any way. And in this way the name usury is taken by natural or moral philosophers and by divine authors to designate a determinate thing resulting from the use of things, according to a certain singular reason for the use of the thing. But since by natural law every thing that comes into the use of man, by nature the use diminishes rather than produces an increase, and this is most apparent in the matter of air: therefore usury according to its proper reason is called a thing which is acquired from the use of air; for which reason philosophers say that usury is called, as if acquired by the use of air: hence also that Psalm. 14: He did not give his money to usury. But theologians, considering the reasons for the just and unjust, and explaining these terms more subtly, broadly extend the meaning of this name to the increases that come from the use of all things by a similar use and reason, and not only of money. And therefore the doctors call usury every excess of any thing that use produces, similar to that from which usury is first called: as is found in Ezek. 22: You have taken usury and excess, and you have slandered your neighbors greedily, and you have forgotten me, says the Lord God. And so it takes usury there, and the excess of any thing that has the nature of usury. Therefore, the name usury first signifies the increase that money produces from its use.

But secondarily it also signifies the excess that any thing produces from its use together with the use of money. And therefore, because such excess sometimes arises from use against the law, and sometimes from use legally; therefore the name usury is understood in the Holy Scriptures in many ways. For sometimes it is understood in evil, as when it is done from use against the law; sometimes in good, as when it is done legally from use. In good it is also found to be accepted in three ways. In one way when it is according to the law of divine charity, as in Matt. 25: You ought to have put my money in the bankers' hands, so that at my coming I might have received what was mine with usury. In another way when it is according to the law of brotherly charity, as in Prov. 28: He who gathers wealth at usury and at a liberal interest gathers it among the poor: and in Prov. 19: Let him lend to the Lord, who has mercy on the poor. In a third way when it is according to the law of justice and equity, as in Ps. 71: He will redeem their souls from usury and iniquity, and they drew near even to the gates of death. In the first way the term usury designates the superabundance of rewards in the future life, with respect to the merits of the present life. In the second way it designates the superabundance of merits in the present life with respect to the grace given. In the third way it designates the superabundance of punishments justly due with respect to the present sin: and in these three ways it is called spiritual usury rather than corporal. In another way, usury is called the excess of corporeal and temporal things, etc., according to which the word usury signifies a certain vice of the kind of avarice, which is produced by greed, which is the root of all evils. And according to this way of understanding the word usury, usury is commonly condemned by the doctors. From these things, then, it is clear what is signified by the word usury, and in how many ways the word usury is understood by the sacred doctors.

Chapter 2:

Now, turning our investigation to that meaning of usury, by which we signify the superabundance or increase of corporeal or temporal things, let us say first what its proper matter is, and what species, and what modes. But according to the authors we find its proper matter determined by three conditions: because everything that comes into the use of man, determinable by number, weight, and measure, is properly and per se the matter of usury. And this is thus declared. For it has already been declared that the name of usury, as used by the doctors of sacred doctrine in condemnation, signifies superabundance or increase resulting from the use of some thing. Therefore, since superabundance is the extreme with respect to something just and just said in morals, it is necessary that what is just and just in morals be determined in the things from which superabundance arises, which is called usury. For if the very things from the use of which the damnable superabundance is said to arise, they would not be determined in the sense of just and equitable, nor could superabundance itself be determined in the sense of unjust and unjust. But things that come into the use of man can only be determined in the sense of justice and equity according to the three aforesaid: namely, according to number, by which equal and unequal are determined generally in all things that are distinguished by a discrete number: and according to measure by which equal and unequal are commonly determined in continuous things, according as they come into the use of man, such as wheat, wine, oil, and the like: thirdly, according to weight, by which equal and unequal are determined specially in other things, which cannot be equalized and divided so readily neither by number nor by measure, as are especially metals and brass. Nor can things that come into the use of men be determined in terms of equity in other ways, neither in more nor in fewer ways: because every such thing is either distinct and discrete from one another, or not.

If it is discrete, since the first reason for the distinction of all discrete things is number, then necessarily according to equity, which is demonstrated by numbers, the things themselves, insofar as they are discrete, must be determined by equity. For example, if we wish to determine equity between a house and a bed, which are distinct and discrete things, we must place the estimate of both in some number: and if there are five houses and one bed, then there will be equity if five beds are added to five houses: for five with five are equal; and so it is in all things distinct and divided from one another. But if things are indistinct, they cannot be distinguished and determined to equality except in two ways: namely, either by some determinate measure, as when a thing has a quantity divisible and manageable by itself, such as fields, cloth, and the fruits of the earth: or by equal weight, as when a thing is not easily divisible and its whole goodness is considered in proportion to its weight, as are brass, iron, tin, gold, and silver. And therefore because excess, which the authors call usury, signifies the extreme with respect to equity in things that come to the use of man, it is necessary that the matter of usury be known and determined by these three aforesaid, because the extremes communicate in matter with the means. And from this it is clear that not only money or coins are called the matter of usury, but also all things that can be determined by number, weight and measure, and come to the use of man: for which reason the Scripture says in Deut. 23:

You shall not lend your brother money, nor corn, nor any other thing, at interest. Now there are two species of corporeal usury according to the laws in common: one which is commonly called usury of lot, which is when some increase is sought only from a borrowed lot; another which is called usury of usury, which is properly called improbum foenus, which also renders a man infamous. Of which third question. 7: infamous in the end of weight, distinction question. 7: three. And this is called the usury of usury, because even the usury itself which is incidental to the lot, gives rise to other usury according to the proportion to the birth of the lot. There are also two kinds of usury, some of which are condemned by law, namely usury which was called centesima, which was equal to the lot only per year. But another was called emiola, from emi, which is medium or bad, and olon, which is a whole year, because it gave rise to only half the lot per year. Of these there is 47 dist. cap.: quoniam multa. From these therefore it is clear in what matter usury occurs, and what and how many are its species or modes according to the authors.

Chapter 3:

But since we see particular superabundances from many things which have neither the name nor the vice of usury, such as those which are multiplied from seeds, and also which some gain by human labors and just contracts, it is now necessary to declare the acts by which and in which the superabundance of things acquires for itself the name and vice of usury. But that superabundance has the name of usury principally from and through the act of commutative justice, which is said to give or receive a thing on loan, is first proved by the doctors of Holy Scripture. For we read in Exod. 22, thus: If you lend money to a poor man of my people who dwells with you, you shall not press him as an exactor: and it follows: Neither shall you oppress him with usury. Likewise Deut. 23: But you shall lend to your brother that which he needs without usury. It is thus declared by reason. For since we are speaking of usury, according as it says the increase elicited from the use of any thing; It should be noted that each thing possessed by man can have a twofold use, as stated in 1 Polit. One is the proper use of the thing itself, by which the thing itself is referred to the necessity of human life; for example, the putting on of shoes. Another is the use not proper to the thing, although it is inherent in itself; but by which another thing is acquired commutatively through the thing itself. For example, the exchange of shoes by sale or exchange; as when money or another thing is acquired through it. Since, therefore, the use said in the first way is determined by an end suitable to the end, because all things that can be possessed were made and created for the benefit and life of man; it follows that every increase in things, generated from the use of such things, has the character of good and not of evil in itself: for which reason usury, which is an increase having the character of evil, does not arise from such use per se. It therefore follows that from the use of a thing there is a use said in the second way, which is from the exchange of a thing for another. But this mode still occurs in two ways: because it is either for an end suitable, or apart from an end suitable. If in the first way, then the exchange can still be made in a way that is due and suitable to the end. And this is in two ways. The first and first way is, by way of liberality alone, as in gratuitous giving: and this way of itself does not produce any increase, because the possession of a thing and its use are liberally transferred to another. Another and due way is by way of equity and justice; as when some thing and its use are exchanged and transferred by just equalization of another thing or use, whether it be for money, or for another thing, or for physical labor. And it should be noted that sometimes a thing is transferred justly together with its use, as in sale and purchase and exchange; but sometimes only the use of the thing, and not the possession of the thing, as in things accommodated and leased. Therefore in those things which are transferred justly liberally, if they are transferred for an end that is suitable to them, nothing reprehensible is naturally found. But we call a suitable end useful and necessary for human life.

From these it is concluded that all excess, innate from the use of things in the aforementioned ways, in relation to a suitable end, lacks the nature of usury. But if it is outside the suitable end or due manner, then it is usury. Therefore, it is necessary that the nature of usury be found first and per se in some act of the aforementioned, insofar as it lacks the due manner, or the suitable end, or both. However, it is clear that the proper use of a thing is per se in relation

to a suitable end. Therefore, since in relation to a suitable end every use acquires the nature of good simply, it will follow that in abstraction from a suitable end it acquires the nature of evil generally, not this or that specifically. Therefore, the special nature of usury, as it is condemned as a vice, will not be from the relation of the use of a thing to the end: for someone can seek usury, just as he can steal, in order to have the necessities of human life. But he is not excused from the vice of usury or theft. Therefore, from an undue manner concerning some use of things, the nature of usury occurs. Furthermore, through the excess that occurs from a loan by reason of a loan, usury corrupts both due modes at the same time; because that, namely the excess which occurs from a gratuitous contribution, has no vice, because it does not corrupt liberality: for if it corrupted liberality, it would no longer be a gratuitous contribution. Similarly, that excess which occurs from a just exchange or sale does not have the vice of inequality: for otherwise there would be no just sale or exchange; but that excess alone which proceeds from a loan by reason of a loan corrupts liberality and justice: liberality indeed, because a loan must be made gratuitous by nature of a loan: for this is signified in Luke 6: Lend, expecting nothing in return. Likewise, this is signified by reason of the name, because a loan is given when mine or yours is given to me or to you. Likewise, it corrupts justice, because it is designated in the return of what was given in a loan. And therefore where more is given, inequality is born. From these things it is clear that in the act of loan alone, concerning the exchange of things, there is first and per se the idea of usury, according as it is properly understood by the doctors, as an excess from the use of things condemnable. But a similarity to this vice is found in other contracts as well, through a certain assimilation of superabundances to this vice, as will be said below.

Chapter 4:

From what has been said, it can now be seen why the reason for the vice in usury is of this kind. For in every act of man evil occurs, either by nature or by law. Nature, when an act done contrary to nature is not referred to an end that is appropriate to nature: for the reason for good from an appropriate end is in all things; but by law, evil occurs when the contrary is done to a written or infused law. And in both of the aforementioned ways evil is found in usury: for if the proper use of things to an appropriate end is determined by their nature, even the exchange of them which is invented for the sake of their proper use must be referred to the same end by their nature. Therefore, if it is done contrary to an appropriate end and is not referred to the end for which it is done, it will be of its own nature having the character of evil. But wherever an exchange of things is done for the sake of their increase and multiplication, it is already done contrary to an appropriate end; because where increase and multiplication are intended, there cannot be an appropriate end. We can easily see this in a greedy and usurious man, who always desires something to increase and multiply his wealth, and yet is never satisfied: for the richer he is, the more he thirsts for money; and if we believe the writings of the philosopher, he lacks both what he has and what he does not have; and therefore no suitable end can be found in accumulating wealth through usury. And in usury it is extended to infinity: because the more it is acquired, the more it is extended, and the more it has the nature of infinity, as the philosopher also determines in 1 Polit., chap. 5. For whatever is for some end is finite. Therefore, since usury denotes the superabundance and increase produced by the use of a thing, by the intention and reason of the name itself, it will necessarily mean that which is beyond the end of natural exchange, which is only for the necessity of human life, which is of itself finite in its needs. And the philosopher puts this reason not only in usury properly so called, which they call thokon, that is, the creation of coinage; but also in every commutative, in which only profit and the multiplication of things are intended for the sake of the necessities of life. Of which the Philosopher speaks in 1 Polit., chap. 5, in the end, where he says thus: since there are indeed two kinds of profit, which he calls chrismatic, this one indeed kalipic, that is, the increase of money for the sake of the money itself; this one economic, that is, that which serves for the government of the house and the city, or for the common good; and this one indeed national, that is, that which is acquired in order to economically preserve, praised because it is finite and is ordered to a due end according to nature; but the transferative one justly censured. He calls the other commutative one translative, by which a thing is transferred from one to another, not for the proper use of things and the necessities of life, but only for the sake of profit, so that riches may always be multiplied. And because for the sake of this transfer the coin was made, as the Philosopher says ibid., therefore this kind of vice appears more in the transfer of coins, for their multiplication. And therefore it follows that a transfer of this kind, which is for the purpose of accumulating money, by the transfer of money is not according to nature: and this is what follows: but it is reciprocal: because, namely, the transfer is made of money for money, and not for another thing necessary to human life: and therefore such an exchange, which is called oboletic, that is, where an obolus, that is, a small and definite weight, is given for another of the same kind for the increase, is most reasonably hated.

And this is hated, because by it comes the possession of the coin and its use for something else for which it was not made by nature, because it was made for the sake of transfer, that is, so that through it the transfer of other things might be made insofar as they are necessary for life, and not insofar as they are for the gathering and affection of avarice. And immediately the philosopher descends to this kind of gain, insofar as it is made specifically by usury properly so called, which they call thokon in Greek, that is, birth in Latin, because the coin begets itself in usury, that is, because it multiplies and increases because of its transfer. In a loan, however, the coin is transferred for its own sake only, and not because of the necessary end of life, by reason of the loan. Hence the philosopher ibid. says: thokos but the coin is also made by the coin. Therefore and most contrary to nature and reason is this acquisition of money, namely that which is by thokos, that is, in the loan of money for the increase of money. And therefore he says especially with respect to that acquisition which is made in other contracts, solely because of greed, which is evil and against nature, even worse is that which is made through the exercise of bodily filth; but this is especially against nature, because it obliges the defendant to restitution of what was received, which the first two ways do not do. Thus, therefore, it is clear how evil is inherent in usury by nature, and because of the matter, according to the Philosopher. In another way we can show that evil occurs in usury specifically because of the nature of the proper act from which it occurs, which is to lend. For since lending is a proper act, from the corruption of which the vice of usury is generated, as was declared in the preceding chapter, and since this kind of act is an act of liberality and grace, as we will show, necessarily whatever happens to the act that takes away liberality, diverts the act itself from its nature, and consequently corrupts the virtue of universal justice. Wherefore it has the nature of an injury; and thus the nature of a fault. But that lending one's thing to another is a proper act of liberality and grace, is clear first from the genus of the act, which is giving itself, because it designates the liberality of the giver. But that which takes away liberality, either the violence of an external agent, or the necessity of an internal nature, or the debt of equity implies: for whatever is transferred from one to another by violence is not given, but taken away. But that which is similarly transferred by the necessity of nature, as in the successions of heirs, is not given, but left behind. Likewise, that which is transferred by the debt of equity, as in just sales and exchanges of things, and the remuneration of labor, is more returned than given. Therefore, in that transfer in which the act of giving properly ought to be attended to, liberality ought in no way to be corrupted. But this kind of act, namely, of giving, is truly attended to in the act of lending, as the authorities of both laws prove. Therefore, if any circumstance is added to this kind of act which corrupts the liberality of giving, such an act will be evil and vicious and a sin. Such a circumstance is added whenever the lending is done for some gain, whether in hope or in reality; because that which is done for gain is not done for pure liberality. From which it follows that there is always evil and sin there, not only from the nature of its end and matter, but also from the nature of the proper act, about which it has to be done. A third reason is also assigned by others, namely from the unjust possession of usury: for whatever is acquired in order to be possessed, and is not worthy of being justly possessed, is ill-acquired and ill-possessed, and generates sin in the acquirer and in the possessor. But this is the case in usury, as will be explained. Why is usury a sin: for whatever is made one's own from

something that is not one's, without just title and by fraud of something that is not one's, is unjustly acquired and unjustly possessed. But in usury a thing is made one's own from something that is not one's, without just title and by fraud of something that is not one's, as will be immediately clear. Why is it unjustly acquired and unjustly possessed. But the demonstration of this is: because the transfer of a thing from owner to owner cannot be done by just title, except in three ways: namely, either by the right of nature, namely, when the thing is devolved from fathers or parents to sons and heirs by death; which way is not in the transfer of usury. Or by the right of grace and liberality, namely, when the owner of the thing gives gratuitously to another what was his. In this way, however, usury seems to be somewhat excusable, because the owner is said to voluntarily give the increase of usury to the usurer. But this is not sufficient to excuse it; because we call a usurer one who does not lend gratuitously, but in the hope of some increase, which he then receives, or hopes to receive.

And although the borrower may willingly give him some increase, or may wish to give it; nevertheless, on the part of the borrower or one hoping for such an increase, the reason for grace and liberality is removed, as regards him from whom the act of this kind is made: and therefore what he receives does not become his by right of liberality, as regards the part of the borrower himself: and therefore the right of grace is not preserved as regards him. Or it can become his of what is not his, by right of equity: that is, when, according to the equity of the law, compensation is made for some thing, as in the sales and purchases of things; or for labor, as when wages for labor are paid to laborers. It is clear, however, that even in this way usury cannot be found in the sense of just possession and acquisition. First, because this kind of contract has no reason for sale and purchase, nor for exchange, as appears from the form of the words, and from the transfer of money, or of the thing loaned; which of its nature is given or determined by number, weight, and measure. And it does not depend on the will of the transferor: for if more is demanded than is given, the commensurability is unjust: for nothing in a thing given is equal to the increase that is received beyond that, not gratuitously, nor by law of nature. Secondly, injustice also appears in the acquisition of usury, because by fraud it is made of what is not one's own. Therefore in usury there is a vice or evil by way of fictitious equity. Which is clear as follows. For the usurer, transferring a thing or money, in order to receive something more by transfer than he gave, always pretends some equity in the acceptance of the surplus: which cannot be anything but the time in which he does such a favor, and expects the reception of the lot. And this is clear; because according to the prolongation or shortening of time, the surplus of usury is increased or diminished. Therefore the usurer intends to repay from time that which he receives more than he gave. Now time is common, nor is it the proper possession of any one, but is given equally by God. Wherefore this kind of usurer, intending to equalize and compensate for the thing received, commits fraud both on his neighbor whose time it is, whom he sells to himself, and on God whose thing he has given freely, under a price. It is clear, however, that compensation is not made by any labor in the contract or acquisition of usury; because the usurer gains as much while sleeping as while awake, and on solemn days as on common holidays. Wherefore it follows from all these that an excess of usury is not acquired or possessed by any right or just title. Wherefore it is both evil by its nature and reprehensible, because it is made by human will. From the foregoing it is also clear why certain usury is conceded in Sacred Scripture and also

in human laws as lawful; because whenever usury can be taken as one's own thing by some just title, it will be an unscrupulous acceptance. And this is when things are forcibly withheld, and are in truth the property of others, and are acquired or withheld by usury. But that usury is a reprehensible evil, and why, has already been said. But how much and what kind it is, will have to be declared. For according to theology, usury is condemned as a mortal and grave sin. Hence Ezekiel. 18: Whoever does all these things that are detestable, shall die by death: and usury is enumerated in the above. Therefore the vice of usury is to be detested, and worthy of eternal death. Furthermore, Ambrose in Book. On the good of death, and it is found 17, question. 4: If anyone accepts usury, and commits robbery, he shall not live. But it must be noted that usury differs from theft and robbery: because theft and robbery have no appearance of equity, because they are committed by hidden and open violence: nor do they pretend to any utility in the republic, but rather the subversion of the peace of the republic: usury, however, pretends to some appearance of equity: because it seems fair and just that some benefit should be returned for a benefit shown, although in truth, nothing is due to such a benefit from justice, but only from grace, which is benevolence and thanksgiving. Similarly, in usury some utility seems to be sought for the republic, because through it many inheritances are retained and a great many losses are avoided; for which reason also human laws permit it and do not punish it, just as they punish and prohibit theft and robbery. From these things, therefore, it is clear that usury is a reprehensible evil according to the law of nature, and a mortal sin according to the divine law; and that it is a certain species or mode of the genus of robbery and theft.

Chapter 5:

Since it has been said that usury is included in the genus of theft and robbery as a special mode, and cannot be considered as such except because of the detention of some thing belonging to another against the owner's will, it is not without reason that experts ask whether usury is a true thing belonging to another, and not a true possession of the recipient. And from this it is commonly asked by doctors whether ownership is transferred in usury. And because there is a twofold determination of this question among doctors: because some of those who proceed more theologically simply affirm that ownership is not transferred in usury; but others who pay attention to written laws and human laws say that ownership is simply transferred. But so that the truth may appear according to our intention, we subjoin this chapter. But what can move theologians to assert that ownership is not transferred are certain authorities, and the reasons that follow from them. For blessed Augustine says to Macedonius, and it is found in 14 questions. chapter 5: What shall I say about usury, which even the laws and judges themselves command to be paid? Is he who takes or robs something from a rich man more cruel than he who murders a poor man with usury? In these and similar things, therefore, they are certainly ill-possessed. Behold how blessed Augustine says, that just as theft and robbery are ill-possessed, so also usury: and he adds ibid.: and I would that they were restored. But only what is to be restored is to be restored which is another's and not one's own; therefore usury is not in the possession of the possessor: for what is another's and what is one's own are contrary, and do not fall into the same thing at the same time. Likewise Augustine in Lib. de Verb. Dom., Tract. 30: do not wish to give alms from usury and usury. But it is clear that anyone can give alms from his own. Therefore it seems that usury is not in the property and power of the possessor. Furthermore. No thing is to be restored to anyone except to him who is its true owner. Therefore since one thing cannot have two owners at the same time, different and equal from each other, and all usury is to be restored according to the divine law to the one from whom it was received as to the true owner, it follows that the one who restores it does not have true ownership of it; and thus it was not transferred to the usurer. On the contrary, it moves certain jurists and experts, namely that according to every law, another's thing whose ownership is not transferred must always be restored to its true owner in the same amount, by whomever it is possessed. But in usury, even according to divine law, this is not judged. For if someone has received a horse or money or any other thing on usury from another, he is not bound to restore the same thing in the amount according to the laws, but it is sufficient only if he restores the value of the thing.

Furthermore. If the usurer sells or gives a horse received on usury to another, it is clear from the laws that ownership is transferred, and that the recovery of the same horse is not due to the person who had given the horse to the usurer for usury. But if ownership had not been transferred to the usurer, the usurer could not give or sell to another by transferring ownership that he did not have. Wherefore it seems that ownership is transferred in usury. And by another natural reason it seems the same: because the borrower asks for a loan with one and the same will, and promises profit or increase on his own. Since, then, the will by which one asks for a loan is completely free and not compelled, the will by which one promises an

increase will be likewise free. But the promise must be repaid with the same will by which it is promised. Wherefore, such an increase will be freely repaid by the one who is the true owner of the thing. But if the true owner of the thing transfers ownership to any possessor, he truly transfers ownership. Wherefore, it seems that ownership is truly transferred in usury even by natural law. And so by divine law, which does not compel the restitution of the same thing numerically, and by human laws which do not compel the restitution of usury, and do not punish those who receive usury as if they were receiving other people's things, and by the law of nature, those who are of this opinion attempt to show that ownership is transferred in usury. Why, then, should they be restitution, if they are not other people's things? And if they are other people's things, how can they be sold or given as one's own?

From these, therefore, arises a doubt, not without reason. To clarify this, it is necessary to know in advance that the divine law judges something else as alien, and the human law differently. For the divine law says that whatever is possessed against the law of God, who alone is truly the master, is alien. And therefore all things that are possessed by another, if they are possessed against the will of God, are possessed unjustly, and are possessed against the will of the master as if they were alien things: and this is expressly said by blessed Augustine to Macedonius: and it is found in 14 questions. chap. 5: What shall I say? Do we not convince all who seem to themselves to rejoice in what they have acquired, and do not know how to use it, that they possess something else? For that is certainly not alien which is possessed by right. But that which is possessed by right is possessed by right; and that which is possessed by right is possessed by right. Therefore, everything that is possessed by wrong is possessed by wrong; but he who uses it wrongly possesses wrongly. Thus it is clear that the usurer is not the true owner of usury, just as neither is the robber of plunder, because both possess ill: and therefore he possesses another's, and not his own: but the true lord possesses as his own that which he possesses as lord. From which it is clear that according to the law of God, ownership is not transferred in usury: and therefore divine law commands that restitution be made for usury as well as for plunder. And I call divine law that which is contained in the canon of Sacred Scripture and in the decrees of the holy fathers and councils. But human law judges as alien only that which is taken or withheld according to human laws, contrary to the will of the man who is the lord of things. Therefore, when in theft or plunder the taking or withholding of things appears to be against the will of that man who is supposed to be lord by all men, human law justly punishes it, and compels it to be restored as truly alien. But that which is taken or withheld in usury does not seem to be against the will of the giver, because it is neither given through ignorance nor taken by violence. Why does human law not judge usury as belonging to another? But there is still a doubt from what has been said. If divine law judges usury as belonging to another, why does it not compel the restitution of the same thing numerically? To which we reply that, as far as it is from divine law, the usurer must be compelled to make the same restitution numerically, if the thing itself remains in the power of the usurer, unless it is released by the assent of the claimant; otherwise he is bound to restore the value for it. But if the thing does not remain in the power of the usurer, but has been consumed, or transferred into the possession of another, who is the possessor of true faith; then the usurer must be compelled to make the restitution of an equivalent. But a doubt still arises as to how the usurer can transfer another's thing to the

possession of another. I answer that he cannot do so in accordance with what is judged to be his own; but in accordance with what is his own. But because by divine law it is judged to be another's, it must also be judged by the same law that it cannot justly be transferred to another without the consent of the true owner. How then can anyone retain things given or bought from a moneylender, which he knows were things of usury? Or why should he not be compelled to make restitution, as one who retains robbery or theft of any kind given or bought without the consent of the true owner? To which it must be said that divine law principally considers what is just for any person, or what is just insofar as it is thereby ordered to the end, which is eternal life. But human law considers this insofar as men are ordered among themselves to civil well-being, which is to live in honesty and common peace.

But divine law uses human law as an instrument, wherever by civil works man can be ordered or disordered from the end of eternal life: just as also all nature is an instrument of divine power, and not because of need, but because of the excellence of divine power, which operates some by itself, and some by nature. Therefore, because things acquired by usury corrupt just ownership only in the person acquiring and holding it, but do not properly corrupt the civil good of man, that is, peace, because they are not simply received against the will of the giver; therefore it is sufficient for a judge who judges according to the law of God that the usurer only satisfy as to God, namely, that he restore as much as he receives against the law of God. But because the thing received is not made unjust on the part of the giver in human law, nor even in the law of God, except for reason alone on the part of the usurer; therefore the judge is not compelled by any law to restore the same thing, nor is it necessary for the reason stated. Therefore, because of what has been said, we believe that ownership is not transferred in usury according to divine law, but we judge only as transferred by human law.

Chapter 6:

But because certain words of law are found in which the reason for doubt and the dangers of events seem to completely excuse the vice of usury in certain exchanges and contracts; therefore it is necessary to consider when and in which contracts and how they are valid to excuse; and when and in which they are not valid. It must therefore be known first of all that it is a general rule among all doctors, and it must be firm, that no condition or circumstance can excuse any vicious act or habit, except insofar as it can remove the reason for viciousness from it. For when the Hebrews are excused from stealing the spoils of the Egyptians, this is only because by the command of a superior master things that were not theirs became theirs. Therefore, if they are able to excuse doubt or danger, this will not be unless they have the power to remove the reason for truly called usury. And because in loans the vice of usury is attached from the fact that they are made in the hope of gain, which is against the nature of the loan; therefore because doubt and danger by their nature do not remove this viciousness from the loan when it is made in the hope of gain, neither doubt nor danger can excuse the vice of usury. And this is proven by that decretal, to a sailor. For if someone has entrusted money to a sailor for loan because of the hope of some profit, although he has also accepted the risk of the lot upon himself, he is nevertheless judged a usurer, even if he has lost it all. And similarly if someone has lent some money to someone, for example one hundred pounds for ten years, so that if within this time he dies, one of them is freed from the debt, and from the loan who took it; but if they both survive, after ten years the one who took the loan will give two hundred and fifty pounds to the one who had given the loan, he is not excused because of doubt and risk from usury. But wherever they can remove the reason for the vice of usury, there they can excuse it: and this is in certain contracts. And to know specifically how and in what cases this can happen, we must consider those contracts or exchanges of things in which something is taken more than is given, which if this exchange is made for the sake of time, already commits a form of vicious usury, because this kind of excess cannot be reduced to the equality of justice either from lawful labor, or from the use of one's own thing, or by the compensation of another substance. But if this excess is not taken or intended for the sake of time, at least the reason for doubt or danger can supplement the equity of justice. For example, if someone buys something for a price less than it is worth at the time of purchase, or for an equal price, yet he will receive the thing at a time when he hopes it will be worth more: or even if someone sells something for a price greater than it is worth at the time of sale, hoping, however, that it will be worth only that much at the time of payment; if it is likely to be doubted whether it can be worth more or less for the time for which the thing is sold or bought, in such cases the reason for doubt can excuse it, and make justice equitable, although more is taken than given; Because the reason for this doubt posits that the estimation of value in things is based on the very nature of things, which can be more or less valuable at a given time. Hence, more is expected there not only because of time, but because of the very nature of the thing, which is sometimes more valuable at one time than at another, and sometimes less.

And in this way the reason for doubt and even local danger can excuse some contracts that would otherwise be judged usurious. And this is proven by that chapter, to the sailor. The explanation of the above will also be clearer by examples. Let us suppose, therefore, that someone after Augustus has a lot of grain or wine for sale, and at that time a measure of grain is worth only three solidi, and a modicum of wine ten, and sells the grain for four solidi, and the wine for twelve, and is yet to receive the money on the feast of St. John, because he did not want to give it for a lower price even if he received it immediately, because he estimated that his thing would probably be worth only that much at the aforesaid time of payment; I say that he does not commit usury, although he receives more in hope than he gives at the time of sale, because he does not receive it because of the time, but because of the nature of the thing, which can probably and verisimilitude be doubted to be worth only that much at the time for which he sold, even if it was not worth so much at the time for which he sold. And this reason can be applied to some other contracts, even when a thing is bought for less than it is worth at the time of purchase, but is to be received at another time, at which it is likely to be doubted whether it will be worth more or less than it was bought. But as was said about the reason for doubt in a loan and in other contracts, so must be said about the reason for risk: because the reason for risk does not remove the reason for usury in a loan, even in the case of a lot, as is proven in the chapter on the seafarer. And the reason for this is clear from the above. But in other contracts in which the received seems to be in excess of the given; it can excuse, namely, when the reason for risk itself can compensate for such excess. For things of the same species which are possessed outside of danger are valued more than the same things which are in danger: and therefore compensation is turned to the nature of the thing, which is valued more or less because of the danger.

Chapter 7:

But since we see certain conditions which according to the law seem to excuse usurious contracts simply, as is seen first by that Deuteronomy 23: You shall not lend to your brother at usury; and it follows, but to a stranger. Wherefore it seems that usury which is received from a stranger, and especially from one of unequal worship, does not have the nature of a fault: and thus it seems that the condition of the person by whom he is in unequal worship, excuses usury. Similarly according to blessed Ambrose 14, question 4: Execute usury from him whom you justly desire to harm: to whom arms are rightly brought, usury is rightly taken away. From which it is clear that the condition which makes an enemy worthy of death excuses the vice of usury. A third condition is also taken and found in the law by reason of dowry, or paternal promise: as when someone receives with his wife as dowry some inheritance or land or annual rents, for some certain sum of money in pledge, he can receive such fruits without diminution of the dowry, as long as the reason for the pledge remains. And this is found in Extra. de usuris, chap. salubriter. The fourth condition can be taken from the nature of the thing: namely, when the thing which is received in pledge, belongs to the one who receives in pledge de jure, but is de facto forcibly withheld by another, then he can receive the fruits of the pledge beyond the lot, because he receives it as his own, and not as another's. And this is found in the first Decr. de usuris, chap. pluris. The fifth condition can also excuse, which is called interest, or compensation for damage, and not hope of profit, as if if someone lends money gratis, up to some specified term, in which he needs his money for some necessity, and the loan has not been returned at the aforesaid term, the borrower can recover beyond the lot whatever damage he incurs, because of the default of payment. And in this way the surety can recover the interest from the debtor, which he pays to the creditor, because of the default of the debtor. And this is confirmed in Extra. de Fidejuss. in Duab. decretalibus. Sixthly, usury is also excused when something is offered gratuitously beyond the lot; because according to Gregory in the Register, and is found in 1, question 5: An offering does not incur any stain of guilt on anyone that does not proceed from the request of the one who is around. But the reason why such conditions excuse usury and when, is sufficiently clear and evident, if one considers what was said in the preceding chapter, namely, because no circumstance can change a person's character from good to evil, or vice versa, unless it removes from its nature the reason for goodness or malice. Now usury as a vice can occur first and per se in loans, and secondarily in other contracts. Now usury in loans is a vice. First, because it corrupts liberality, which is to give a loan gratuitously: and this reason for vice is removed by the last condition, namely when something is given or received gratuitously beyond the lot. Usury also corrupts the due end in loans, because it is accepted with the hope of gain, and without just recompense; and this malice is also removed by the first, second, and fifth conditions. For the first is that by which it is shown that God alone is the Lord of all things, and that all things are given to promote the worship of God: and therefore by the virtue of faith the evil of usury is removed in that case: because then it is not done with the hope of gain. Similarly in the second it is done with the zeal of justice and charity, which, as far as it can, tries to destroy the enemies of the faith, namely tyrants and heretics, even by the same right, when it cannot otherwise require their property than by

usury. But in the fifth the reason for justice is clear, because it is not taken with the hope of gain, but for compensation for damage: and therefore that superabundance is justly acquired. It also sometimes happens that usury is taken in other contracts, in which something is asked for more than is given without cause. And this can also be excused in all the ways aforesaid, and in two others as well. And this can happen when that which is received beyond the lot becomes its own by the right of nature; as the fruit of pledges for the dowry of a wife, or for the provision of children. Or it can become its own by the right of equity, as the thing itself which is pledged, when according to equity it belonged to the one who receives the fruit. These words suffice concerning the conditions excusing usury: how many there are, and when they are capable of excusing usury, and when they are not.

Chapter 8:

But since the ancient enemy, having sown the weeds of greed and avarice in human nature, has produced the vice of usury, not only in loans, which is clearly condemned in the light of divine truth in Holy Scripture and eradicated, but also in other contracts, in which, under the appearance of human equity and justice, as it were, interest is hidden, therefore in this part, seeking to uncover this evil, we will speak about those contracts in which it lies hidden. First, however, we say what was said at the beginning, that usury is whatever happens besides the lot, without just title, whether in loans or in other contracts. But what only happens because of time in contracts, as in loans, happens to the lot without just title; because he makes it his own by fraud, namely by selling time, which is God's and given in common to all. And he cannot have the title of natural succession, or of gratuitous gift, or of just gain through the merit of lawful and proper labor, or by the compensation of his own thing. And hence it is that every contract in which something more is received than is given, whether in hope or in reality, and this only for the sake of time, is called a usurious contract: and this is what is said in those decretals Extra. on usury: in the city. And he consulted. But it is to be noted what is properly called lot here, and what is an accident of lot: for lot is understood in Holy Scripture in two ways. In one way as a given sign, by which confused things are distinguished from one another, according to that Prov. 18 chap. lot compresses contradictions: and again Prov. 16: lots are cast into the lap, but are tempered by the lord: and that Acts 1: the lot fell upon Matthias. In another way lot is understood for an office, or a thing justly possessed, or due in the division of some persons or possessions: as the lots of the children of Israel are called, just portions distinct to each tribe or person assigned. And in this way it is also understood here for a thing justly possessed or due to some person. But this is said to happen to the lot, which does not pertain to the property of the lot. From which it is clear that the proper use of a thing and the fruits of the same thing do not happen to the lot: because he who has property in another thing or possession, has both the use and fruit of it by right: and therefore he who buys a field or a horse in order to receive more in fruits by reason of the fruits, and by reason of the use of the horse which he buys, receives nothing more than happens to the lot, because it is all about the lot, namely the fruits and the use. It is also to be noted secondly that the fruits and the uses of things can increase and decrease in value according to the diversity of times. And this can happen to the things themselves in three ways, without time being the cause per se. In one way, when there is no reason for such an increase in the use of the thing. In another way, because of the scarcity and abundance of the things themselves: for things which are diminished by their use are naturally consumed according to time, and are fewer: because they are further removed from their origin: just as wheat is naturally more abundant in autumn than in spring. In another way this happens from the nature of the things themselves, which receive an increase in value according to time, as is evident in land, forests and animals. In a third way from the nature of the thing related to the condition of the place. It is therefore to be held generally that in all contracts in which more is received from the seller or buyer than he gave, and there was no reason for such an increase in the use of the thing or in the nature of the thing itself, nor was it produced by time by any condition existing in the things themselves, as is evident in the three aforementioned ways, but the increase

happens from the extension of time granted by the seller or buyer, so that by this he may receive more; then such a surplus received over and above what was given is called usury, and it has the defect of usury, because it is generated without just reason in such contracts and loans: and this is called among jurists, and also commonly, selling or buying on credit.

But if more is received than is given simply because the seller or buyer's valuation is greater at one time than at another, because of any of the three aforementioned causes, or even because of the delay of the thing at one time than at another, then it can be done without the fault of usury, because such excess is compensated by the greater value of the thing in itself for the time for which such excess is received, and is not received for the delay of time. However, it should be noted that in these contracts, although they can be excused from the fault of usury according to the reason stated, they are not excused at all from the fault of greed: for which reason it is called in the canon a disgraceful gain, as is found in 14th question, chapter 4: if any cleric, and chapter 4: whatever the harvest times. And it is called a disgraceful gain, because by reason of time it happens like usury, although differently. Or it is called filthy lucre by reason of the end, because such contracts are not made, as in most cases, for the necessity or utility of human life, but rather for the increase of wealth, which is done by greed, which has no end, because the greedy person is not satisfied with money: and therefore they have the nature of a vice. However, if such contracts are ordered to the use of human life, they are excused from all turpitude, as is stated in the cited chapters, 14, question 4. And by this it is also shown that there is no usury in such a case, because usury is not excused even to the extent that it is ordered to the necessity of life. From these it can also be seen that usury can occur not only from the dilation of time, but from the nature of the thing related to the condition of time. And similarly from the nature of the thing related to the condition of place: namely, when some things are given on loan, whether money, to be returned equal in kind and number, weight and measure. And yet because the borrower hopes that the same thing will be worth more numerically at a specified time or place when it must be returned, and for this reason he himself borrowed it to be returned at such a time or such a place, that it may be returned to him at a specified time or in a specified place, I say that there is clearly a fault of usury there: because more is hoped for from the loan, or for the sake of the loan, than is given. And for the same reason the fault of usury can occur in other contracts in which more is received than is given for a similar reason, as for example, if someone sells or buys grain or wine at one time in order to receive more at another time than he gave merely by reason of time or place, although the things are also worth only that much at that time, then the fault of usury becomes due to the usurious intention. Which, however, could well be done if only the nature of the thing were taken into account, and not the reason of time or place, which in no way are anything to do with the thing: and therefore they do not make things worthless or charitable in themselves. Hence it is clear that in the same contract, according to species, the fault of usury from corrupt intention and the fault of avarice without the fault of usury from the ugliness of gain. And sometimes it can also be done without any fault, when it is done for the necessity of life. From what has been said, the doubt raised by some is also resolved: whether the fault of usury can be generated by anticipation of time, as by delay or prolongation: for example: someone owes another one hundred solidi to be paid after years, or annually in two or three terms, and the creditor wants to remit to the debtor a

third or fourth or fifth part, if he pays him at the beginning of the year, or before the set terms, when he asks. But it is clear that in this case more is taken than is given by reason of time. For example, the debtor justly owed one hundred solidi, and by reason of anticipation of time he pays only eighty. Therefore he receives twenty beyond what he gives, namely beyond eighty: because those twenty belonged to the creditor, and they became the debtor's by reason of anticipation of time. Therefore, by reason of the rule given about the cause of the fault in usury, which is when more is taken than is given by reason of time, it seems that this kind of case is usurious. But here the excuse of usury can fall in two ways.

In one way, when the creditor freely and liberally grants such a surplus to the debtor, and the debtor does not accept it for the sake of time. In another way, when the debtor compensates for such a surplus by the loss of his own property: as when he cannot have money without alienation and loss of some property of his own, from which to pay the creditor what he demands before the term of payment: otherwise, it is a case of usury. But a special difficulty seems to be in those contracts in which things are bought or sold, which receive an increase in value or cheapness from the process of time; such as crops, the fruits of animals, the fruits of trees, the spoils of forests: for because such things are sold and bought frequently before the time of their usefulness or use, and are bought for less than they will be worth at the time of their reception and use, the question is not unjustly raised, whether receiving more for them or expecting for the time of their reception constitutes a usurious contract. Which indeed the determiners distinguish: because either the buyer, having already had the ownership of such a thing at the time of purchase, accepts the risk upon himself, or the risk remains with the seller. If in the first way, they want the contract to be permissible because of the risk: just as a lessor of his own thing and receiving something beyond that is excused on this account, because the risk of the thing remains with the lessor, as is stated distinctly. 88: buyer. But if in the second way, then they condemn the contract. But if the truth of the thing is considered, this kind of distinction has no place here: for if the lessor receives something beyond the thing leased, this has the nature of equity, because it is compensated for by the use of the thing leased which is the property of the lessor, and pertains to his lot, that is to say to the thing leased, the property of which simply remains with the lessor; and therefore the risk of it also remains with the lessor. But when someone sells a thing, not only the use of it, but its ownership; it is clear that the risk of the thing is transferred by law to the buyer. When therefore, when a person sells a thing of this kind thus, he retains the risk with himself, ownership is no longer transferred in this way, and therefore there is no exchange of just sale. But it is clear that the buyer has already transferred the ownership of the money he gave: wherefore it has more the nature of a loan: and if more is hoped for because of a future time determined than is given, it follows that there is a vice of usury. And therefore, without prejudice, it seems to me that a different distinction should be made in the aforesaid contracts: and especially because we see that the danger of the thing is not easily imminent in the sale of spoils or woods, as in others. For things of this kind can be bought, either as necessary for the use of the life of the buyers, or for the sake of profit only. If in the first way, there is no vice, although they will probably be worth more at the time of their reception: provided, however, that a just valuation has been made at the time of the contract, which is according to the law of nature, and also human custom, in that a thing of human life can only

be justly valued insofar as its use is necessary: and this either simply, or for some definite time. And because simply, with wise men, a perfect thing is valued more than an imperfect one, and for a definite time a thing is valued insofar as it can be sold among men; and therefore, although such things are sold less imperfectly than they would be worth when perfect, it does not seem to me that anyone should receive more than the lot, because the lot is sold to the buyer, with an increase in its value and utility. But if such contracts are made in the second way, that is, for the sake of profit, they can still be judged to be merely a base gain on account of greed, which arises from the condition of time, as was said above about the others. And again, a vice can occur in them: and this when such a gain is sought only from time, and the risk is removed, or there can probably be no doubt about the risk, whether the things can be worth more or less by reason of time. So far, these things have been said universally concerning the nature of contracts, in which it seems that the vice of usury can occur in some way.

Chapter 9:

But since in the previous chapter the equity and justice of contracts were discussed simply according to our purpose, now after this it seems right to discuss contracts made for a time and not simply. And concerning this the investigation is twofold useful. First, whether it is permissible to buy some goods, such as income or possessions for life, which is an indefinite time. Second, whether it is permissible to buy some of the aforementioned for a definite time, for example, for ten years or for twenty: which two things are frequently done among the men of our time. Regarding the first, the sayings of some, and their reasons, should be noted, who condemn this kind of contract as usurious. First, however, we confess that we have nowhere read or heard an authority, either in the canon or in extravagant epistles, or in the body of law, that supports this opinion. But we have seen in the writings of certain masters what we will subjoin: and concerning this we will try to confirm the sayings by reason, as far as we can. Geoffrey, who is a great authority in canon law, making a summary on the titles of the decretals, says thus in the title on usury, chap. he who to the sailor: there he expressly says that giving a certain amount of money or a sum of money to some Church in exchange for some possessions to be held for the life of the giver and after the death of the holder to be returned to the Church itself, is a usurious contract. And he gives the reason for this, saying that the giver has the hope of living beyond the time in which he has received from the proceeds the whole lot that he had given and beyond. But hope alone makes usurious. This is the reason of the said Master and his opinion. This is also the opinion of another theologian, asserting this, adding reasons: first, showing that this kind of contract cannot be excused by reason of doubt or danger, because there is no other kind of contract in which someone gives a hundred pounds to receive ten annually as long as he lives, and hopes that he will live to eleven years and beyond: or that in the eleventh year he will receive one hundred and ten pounds together; with the added condition also that if he dies before, he will receive nothing of the whole sum. Now it is clear that in this second contract there is a defect of usury; nor is it removed by reason of doubt or danger, as is proven by that chapter. to the sailor. Wherefore likewise in the first contract there will be the vice of usury: nor is it removed by reason of doubt, since there is always there the hope of receiving more. By this reason the same doctor wishes that both the seller and the buyer sin with the vice of usury; because according to this reason, just as the buyer receives in hope more than he had given, so also the seller, because he hopes, or at least wishes, a speedy end to the things bought. And if it happens that he dies in the first year, or in the second, it is clear that he received more than he gave. But this vice in the seller, indeed, no one whom I have heard in word, or seen in writing, extends to usury. The same doctor theologian also seems to confirm the opinion of this kind as a sentence from the sayings of the philosopher, who in two places, namely, 10 Ethic. and in 1 Polit., he speaks of the nature of coins, showing that the invention of coins was made for the sake of transfer, that is, so that through them other things which are necessary for the life of man may be transferred: and therefore when coins are transferred to another so that he may increase and multiply himself, there is thokos, that is, the vice of usury, as appears from the sayings of the philosopher. Therefore, since in the purchase of income for life the transfer of money is made for the purpose of multiplying itself, it seems always and naturally to be the vice of usury.

Furthermore, this sentence seems to be given from the divine law, Leviticus 24, where it is said: When you sell anything to your fellow citizen, or buy from him, you shall not defraud your neighbor; but according to the number of the years of the jubilee you shall buy from him, which he shall sell to you according to the taking of the fruits. But explaining this, the Gloss ibid. speaks thus, when you sell, etc. Here, according to the letter, it is morally instructive, that in contracts between neighbors we should have compassion, lest anyone be too troublesome in dealing with the needs of the poor, lest he should strive to acquire the possessions of others, but lend to the needy, and gradually receive what is lent from the fruits of the fields. From this authority and the Gloss it seems that when someone buys the possessions of his neighbor, having received a share from the proceeds of the fruits, it is not lawful for the buyer to receive anything beyond that. But everyone who buys possessions or income for life hopes to receive something beyond the share given, and receives it if he lives beyond that according to his hopes. Therefore the contract is unlawful, even according to the divine law. The same is seen from what has been said about the cause of usury: because in such contracts something is always hoped for or received beyond what is given, for the sole reason of time; but this reason makes the contract usurious. But not daring to assert that the opinion of these and so many men is false, since the contrary opinion is held by the dissimulation of so many and many ancients and moderns, it seems fitting also to discuss the truth about this question by reason, as much as God has given to our smallness. But it should be known first of all that we have seen the opinion of a certain famous doctor in law, who condemned this kind of contract not as usurious, but as vicious because of the circumstance of sin attached, namely in the seller; because the seller wished for the death of the buyer. But even if this is evil, it is not by the nature of the contract, but happens from without; and therefore the contract should not be condemned for this reason: whence, according to the aforesaid doctor, if such contracts were made for the life of the sellers, they would not be evil. Inquiring, therefore, what injustice can be contained in such contracts, and whether they can be made lawfully, and how, the arguments of the contradictors are resolved. We say first, that whoever is the owner of a thing is also the owner of the use of the same thing. We also say secondly, that the true owner of a thing can transfer it to another free of charge, or even for a price and in exchange for another thing. We also say thirdly, that the owner can transfer the use and fruit of his own thing. We also say fourthly, that the true owner of a thing, just as he can give or sell the ownership of a thing, or the use, or the fruit of any possession simply as to all time, so he can give or sell as to a determined or particular time. All these are proved by the true reason for ownership. It is also to be observed that in a loan, only the substance of the thing and its value should be considered according to the reason of the substance, and not according to the reason of the use of the thing or the fruit; because it should be done gratuitously according to the reason of the loan; and therefore the borrower should expect nothing more than the value of the thing from the use of the thing borrowed, because the loan is transferred by reason of the substance, and not by reason of the use. But there is another in things adapted to use. For the substance of a thing does not admit of more and less in itself: but in a contract of sale and purchase, not only the substance of the thing is considered, but also its fruit and use. But from the fruit and use of things themselves it happens that the value of them naturally increases and decreases among men: wherefore from the nature of this kind

of contract one can hope beyond what is given, or even fear lest he receive less than he has given: and therefore merchants can hope for profit from trade, which they cannot when lending. It should also be noted that, as the Philosopher says, and treats of it in his Politics in 1, all exchange of things between men takes place because of the necessity of human life: and therefore it is required that a commensuration of them should be made in having more and less in value, according as they have more and less of utility and necessity for human life.

But this kind of utility varies in many ways, more or less: in one way from time; in another way from place; in another way from the condition of the things themselves; in another way from the nature of the things themselves. Therefore, in a sale the substance of a thing is transferred with its use either simply or for a time. And when simply, it is clear that the buyer will receive more without fault, because the utility of the thing and its fruits are transferred for all time with the substance of the thing. But when in a sale only the substance of the thing is transferred with its utility for some time, and not simply, it is not just according to the nature of the thing, that a thing whose substance is possessed for a time should be valued as much as one which is always possessed; because there does not follow from it so much utility to the owner of human life: even if more is received or is hoped to be received than was given, no injustice follows: and especially when the buyer has the intention of buying for the necessity and utility of life, and not for profit or increase of money; which also in other purchases is a sin, according to the Philosopher. But sellers, as in most cases, always look to some utility, either of their house, or of the Church, or of the city; and they do not do this for the sake of profit, which is why they are more excused. We also say fifthly, that by the right by which someone receives something more than he gave in possessions purchased simply, by the right he receives something more than he gave in possessions purchased, or income for life: because everything is a matter of fate, whatever he receives more; because he buys the substance of the thing with its use and fruit, just as he who buys for all time. But it is still doubtful according to this opinion, whether the seller can retain the substance he received, when he has bought nothing or little and survived after the purchase. The determination of which is, why by reason of doubt and danger, which was of the nature of this kind of contract, it becomes his. And this reason sometimes excuses in contracts from their nature: which it does not do in loans, because there it happens from something other than from the reason of the loan. For when by the nature of the contract there is a risk or doubt equally on the part of the seller and the buyer, then the thing bought or sold would also justly be valued less than if the risk or doubt did not arise by the nature of the contract: and therefore the contract is just by its nature, since there is equally doubt on both sides whether they will receive or will receive less or more. For if a man buys a horse and pays a hundred pounds for it; it is clear that if the horse dies within the same hour after payment, the sellers nevertheless justly retain the hundred pounds, although the buyer has obtained no benefit, because he has justly transferred his thing to the buyer. Similarly, he who sells possessions for an indefinite period, the determination of which depends on nature, and not on man, and the time is determined apart from the man's intention, insofar as he has legally transferred his thing, and the transfer already returns to him by the nature of the contract. Furthermore, it must be considered that in such sales and purchases for life, the free will of the seller and the buyer is found equally by the nature of the contract: and especially when the rich sell and the poor buy: which is more

frequently by the nature of the contract, because each does such things for his own benefit: for neither is the rich compelled to sell, nor the poor to buy, nor is the poor bound to give anything gratuitously to the rich or to borrow, nor is the rich bound to give anything of his own to such a poor man. Wherefore every transfer made by the free will of the owners is made justly. From these things it follows that whatever the buyer or seller receives more than they gave, they receive justly, and as their own, by the free will of the owners; but in loans this justice cannot be found, when more is received in profit from the loan: for the borrower receives of his own free will, as does the lender; But the borrower does not promise or give more of his own free will, but is as if compelled by the perversity of the lender, who does not want to do what he is bound to do without hope of gain: and therefore that more cannot be made his by the same right as the loan, which is returned to him, nor by any just title. From the foregoing it is inferred that both because of the just valuation of things at the time of the contract, because the thing is valued justly only insofar as it is related to the owner's benefit, and is worth justly only as much as it can be sold without fraud; and also because of the risk equally attached to the contract itself by its nature on the part of both owners, and also because of the free will of the owners transferring the things with their proceeds, this kind of contract is by its nature free from the vice of usury. But we have spoken of its nature; because by accident the vice of dishonest gain can occur in the contract itself, and sometimes also the vice of usury.

But the vice of filthy lucre without the reason of usury occurs in it when someone rich enough for his life, both according to the nature of the thing and the person, and according to the state of the person, buys such income in order to become richer, and to acquire more wealth without just and pious necessity: and therefore it is called filthy lucre then, because it is exercised not for the due end of human life, but for the sake of avarice, which has no end. But the vice of usury can occur from this kind of contract when a man weakened by poverty sells such income unwillingly, or his possessions out of compelling necessity: and this because of the lack of loan, which he does not find among the rich. And then usury also occurs when the rich, considering this need of their neighbors, give a less just estimate for the possessions of the poor to acquire for themselves, whose needs, if they can without loss, they are bound out of brotherly charity to relieve by loan: and in this case the law of Moses says in Leviticus. 25, as appears from the text, and the Gloss cited, which says: one must sympathize with the needs of one's neighbors, and let no one bargain with the needs of the poor, but lend to the needy, and gradually receive the fruits of the fields on loan. From these things it is clear that in such a case the sale is due to the default of the loan, and the purchase is made as it were in place of a loan; and also that the valuation to the buyer is less just because of the necessity of the seller: and therefore that which the buyer receives more than he has given, does not have a just title of possession. Hence in this consideration the vice of usury can occur not only in purchases for life, but also in purchases simply, as regards all time. It is therefore to be universally observed that whenever someone buys any possession, whether for a time or simply for the sake of profit, which is only expected from the very reason of time, and not from the nature of the thing possessed; there is a vice in such a contract; and this kind of profit is called disgraceful in law. If, however, such possession is purchased for the sake of gain, and it is just out of brotherly charity to lend to a poor neighbor, lest he fall into extreme

poverty, as the ancient law commanded, then such profit from purchase has the defect of usury by the equivalence of loan; because there more is taken than is given without a just title to possessing the thing. If, however, someone buys another's thing not for the sake of gain, but because of the necessity or utility of his life, even if he receives more over time than he gave at the time of the contract; since he receives this by the nature of the contract per se, and accidentally by reason of time, I believe there would be no defect. But how we can satisfy the words and arguments of the adversaries, let us now explain, saying first that Godfrey's statement is not confirmed by any authority of the canon: secondly, that his example is said to have truth when the Church, impelled by some necessity, is forced to pledge its possessions, which it cannot and does not wish to simply alienate: for then it is not a sale properly, but a pledge; because he who cannot sell a thing or possession simply, cannot sell it by right for a time. For it is clear that although some churches possess many things, they cannot alienate the right of possession without the authority and consent of a superior prelate, either simply or temporarily. And therefore such sales of churches are mortgages, because according to this way such a contract is usurious, because it is not permissible to receive the fruits of mortgages beyond the lot, because they are not of the nature of a lot.

But to the reason given by the said Master concerning the hope of living only by receiving more than he has given, it must be said that this kind of hope or reception of more does not constitute a vice of usury, except when that which is hoped for or received is more incidental to the lot, and is not the nature of the lot: for otherwise every one who buys fields or animals in order to receive more in the proceeds in the course of time, or in the things themselves sold at another time, would be a usurer. But in just sales, when some owner transfers the ownership of his thing with its use and fruit simply or for a time, it is clear that all the proceeds of the thing sold are of the nature of the lot, and not an accident of the lot: wherefore such a hope or a larger acceptance does not constitute a usurious contract: and I say this with all due respect to the great Master. But to that which is adduced by another theologian, it seems to us that the answer is that there is a twofold doubt: namely, excusing and not excusing doubt: for doubt excuses when it removes inequality and makes a just assessment of the given and received as to the nature and use of the things exchanged; For example, when someone buys ten annually for a hundred, which he immediately pays, for his own life or for the life of another. And considering the utility of each with respect to the possessor, it is likely that there is doubt as to which is greater or lesser, because of the indeterminacy of time: and therefore an equivalent estimate is made because of the doubt. From these things it is clear that the reason for doubt makes the valuation just: and therefore whatever is given or received beyond that, whether by the buyer or the seller, is received as if from one's own lot. But the doubt which can only occur with respect to profit or loss from a determined time, cannot be estimated, because no just estimate arises from its doubt: because something more is hoped for by virtue of a determined time only, which is not capable of making a just compensation: and therefore it is clear how, when put outside, they are not of the same reason: for in him who hopes to receive a hundred and ten together in the eleventh year, by virtue of a determined time only, compensation for inequality is made, and thus he makes a usurious contract; But in another who does not expect to receive more except in an indefinite time, and from a thing bought justly according to its nature, then, as has been

shown, nothing is taken beyond the lot, but the whole is hoped for as his own, and from his lot it is not made his own because of the reason for time, but because of the nature of the contract. That which is also secondly adduced in confirmation of this opinion about the words of the philosopher, must be dissolved in this way. First, that the intention of the philosopher, as is apparent from his words, is that the coin was invented for the purpose of transferring other things, the use of which is necessary for human life: and therefore whenever someone uses the transfer of a coin in order to multiply them by other coins of the same kind, it is an abuse of the coin and a dishonest contract, and is called thokos, that is, parent of the thing. Hence it is clear to me that this kind of contract, of which there is talk, is not thokos. First, because even if the rents are bought for life with money, nevertheless by the nature of the contract it is not held that they are bought for the purpose of adding money to money, but that things necessary for human life purchased with the money itself are purchased. And this end contradicts the end for which thokos is made. Thokos is also purged from the vice by another reason, because as in most cases in this contract, not money paid, but the things themselves are bought, which are either referred to the use of man by their fruits, such as land and other possessions, or by themselves, such as wheat, wine, oil, and the like. Now thokos is, as the Philosopher says, a coin of coins. The third reason why thokos is not in this kind of contract is also taken from this, because according to the Philosopher, it is thokos when money is acquired by money in the likeness of those who generate similar things. Now it is clear that when similar things are generated from similar things for multiplication, that the generating things are preserved, and are not corrupted in their generations. But he who gives a hundred pounds, that he may have ten annually as long as he lives, it is clear that there is no reason for generation there, because the hundred pounds do not remain, either in the power or dominion of the giver with its generation, but are entirely transferred by him: nor do they remain in the right of return as is done in thokos: wherefore this kind of contract should rather be called the transmutation of thing for thing, than the generation of some thing from thing. From these it is clear that the reason for thokos is of no use in this kind of contract. But to that which was proposed against this kind of contract concerning the divine law, it must be said first, that that law understood according to the letter is said to be divine, but nevertheless it is temporal, as are many other laws which were given to that people only according to the literal sense in a figure; and therefore just as the observance of the jubilee does not remain among the Christian people, so also do the laws which were given for the sake of the jubilee, one of which was the law adduced, as appears from the text.

And again, if we consider what is moral in this law, which the Gloss quoted explains, we find that it does nothing against the nature of these contracts; but only against the perverse intentions of rich buyers, who, as the Gloss says, are troublesome, trading on the necessities of the poor, and are eager to acquire the possessions of others, when they are bound out of brotherly charity to accommodate them to those in need, and to receive gradually the accommodated goods from the fruits of the fields. And thus it is evident that this happens in contracts of this kind, and it is not of the nature of the contract, in which they frequently do not sell without need, but buy. And neither the law nor the Gloss of itself infects this kind of contract with the vice of usury by nature, but only by accident. As for what is said about the nature of time, the truth is clear if the above is recalled to memory: because time can be

referred to some exchanges of things, as conferring something of just value, or taking it away. And in this way, if for the sake of time more or less is sold, this kind of contract will not be usurious: for the measure of wheat in summer is valued more and justly than in autumn, all other things being equal, that is, as much as is due to the nature of time; and therefore if someone receives more of the grain sold for the time of summer than he gave in the autumn when he buys the grain, he is not judged usurious, provided, however, that he wishes to sell the grain for that time only, and not for any other. In this way it is also clear that ten pounds are valued more and justly at all times annually than at any particular time: or more and justly for the same reason at the time of a young horse than at an old one; and this from the nature of time. And yet usury is not judged if someone buys ten pounds at all times, that which he receives or hopes to receive more than he has given, although from time it happens to him more and with certainty. Therefore, similarly, he who receives more of what he buys for any particular time should not be judged usurious. And this is one reason, because by the nature of time a thing has become its own with its own proceeds: and therefore it is entirely of its own lot. Time can also be considered in contracts as conferring or detracting nothing from the value of a thing by the nature of time, but is only considered as an extrinsic measure of duration. When, therefore, by reason of the time thus received, something more is received or expected than is given, the fault of usury or injustice is already evident: because that more which is received beyond what is given is neither compensated by the nature of the thing, nor is it given or received gratuitously: and therefore it cannot be made one's own by any just title, but is always someone else's. So much has been said by us about the purchase and sale of income and possessions for life. We ask all who may happen to see this work to comply, if through ignorance we have spoken wrongly, and to correct them, because without prejudice both here and elsewhere we always intend to affirm what we write and say. After this, however, we must investigate the second part of this chapter, namely, about contracts in which certain incomes or possessions are purchased for a fixed time. For example, someone has certain income, such as from a parish or a prebend, or from a patrimony, or from another source, and he wants to sell such income for six years or for ten, or for some fixed period, so that he may have ready money at the same time. And the question is whether these can be lawfully bought for a lower price than they are worth in so many years received. And it seems that so: because, as has already been said in the preceding, a present and collected thing is valued at more value than a future and divided thing. And again, by selling such income, as much or frequently greater benefit is derived from such a sale as from the holding of the things. Furthermore, the Church indulges clerics who have been marked with the cross, that they may sell the fruits of their benefices for three years: but this would not be the case if there were a defect in such contracts. But against this is clearly what has been said about usury: that in such a contract more is received, or at least is certainly expected from the buyer than is given: neither danger nor doubt now occurs in this contract by its nature: wherefore he is simply seen as a usurer on the part of the buyer. We feel, however, without prejudice, that in contracts of this kind there is no fault on the part of the seller, as far as the nature of the contract itself is concerned.

But as far as the nature of time is concerned, it may seem to some that on the part of the buyer it is a usurious contract, because he is to receive more, not only in hope, but also in

reality, than he has given, and this only by reason of time. But when what is less in a given respect with respect to the received, is compensated to him with respect to the excess received from time alone, then we judge the contract to be usurious, because this kind of excess is transferred without just title. But it seems to me that a contract can also be made just on the part of the buyer, and that it is just as far as the nature of the contract is concerned. But it can be made unjust by accident in two ways. In one way, when he corrupts the charity due to his brother: namely, when the buyer sees his brother in need for the salvation of his body or for the salvation of his soul, for which necessity he must sell his income or possessions, then the buyer, if he is rich, is able to help his neighbor without harm, I mean without prejudice, which he is bound to lend him, and to accept the aforesaid income or possessions in place of pledges, until he has received what he had accommodated. And this is proved by that law, Leviticus 24, and its Gloss. In another way, an unjust contract can be made on the part of the buyer because of the corruption of the end of the debt, which is for the benefit of human life. Hence, when it is made for the sole purpose of gain and the increase of wealth, then it is a base gain: but in the first way it is reduced to the vice of usury. But by its nature a contract has three things in it which show that it is just. One is the very liberality of the seller, by which he can give his thing for free, or exchange it for something of less value than his own thing: and according to this no vice occurs in the buyer, because what is received is entirely of the free will of the owner. Another is the very equity of the exchange of things: because when a thing is sold for as much as is justly valued, either by the seller and the buyer, or by those who are of positive law, then there is justice in the exchange. But it is clear that the seller cannot have more for the time for which he sold, and also things that will come over time are not of such value as those collected at once, nor do they bring so much benefit to the possessors: for which reason they must be of less value according to justice. The third is the reason for the lot itself: because what is taken more than is given is of the nature of the lot, because the buyer buys all that was to come at a fixed time, and therefore does not receive more than his own lot, just as neither does he who buys income for all time. These are the reasons for the justice of this kind of contract: by which the contrary reason is also dissolved, which seemed to show a usurious contract: because even if more is taken than is given, this is due to the nature of the thing exchanged, and that more is not an accident of the lot, but is of the lot of the buyers themselves: just as more is taken than is given in those possessions that are bought hereditary as regards all time: and this is said only of those that are sold and bought for a time.

Chapter 10:

Because we have already said that in contracts the vice of usury occurs when things are sold more expensive because of the mere delay of time than they are estimated at the time of sale, and we see this reason in almost all sales of bundles of wood, which are generally sold by the hundredth and thousandth year; therefore it is not without reason that we should investigate about contracts of this kind, whether justice can be found in such contracts, or whether they are simply usurious. And it seems that they are simply usurious: because they are sold more expensive because of the mere delay of time, or for the time in which they are sold; for example, in summer or spring they are of less utility, and therefore of less value: wherefore if then part of them is given for ready money for a lower price, which seems to be frequently done, than if there were no ready money, then only because of the delay of time the remaining part is sold more expensive. But this makes a usurious contract. Therefore and so on. Likewise this doubt is doubled, because it is found in principal owners who sell forests and groves by the measures of land. And it is also found in merchants who buy woods from the owners themselves by measure, and from them make bundles, which they then sell by number. Both therefore, because of the credit which they make up to a time, sell wood more dearly than it is worth at the time of sale. If therefore the things which are sold, whether then or at harvest time by merchants, are at the time of sale of a lower value according to the equity of justice than they are sold for, and beyond the just valuation something is unjustly taken for credit for a future time, it seems without any excuse to be a usurious contract: which can be proved by Extra. eod., chap. consulit: where a usurious contract is expressly called when someone takes away his goods at a much higher price, if the delay for payment of a long time is extended, than if the price were paid in the continent; and that those which have been thus received are to be compelled to be restitution. But against this is the general custom, which is seen and tolerated by the Church. Furthermore, according to justice, each thing should be of greater value and appreciation both at the time and for the time of its use than at another time in which its use is not so convenient and necessary. But those who sell woods and bundles and the like, sell to be paid at a time when their use is more convenient than at the time of their sale. Wherefore they can be valued and sold more dearly than they are worth at the time of sale. And by this reason I believe without prejudice that contracts of this kind can be excused from the fault of usury: and when there is probably a doubt whether things of this kind will be worth more or less at the time of payment. And this is proven Extra. eod., chap. in the city. Therefore, it is not because of the delay of payment in a long time that such things are sold more dearly, but because of the just valuation of things, which in the future time when payment is determined, will probably be worth more than they are sold more dearly at the time of sale; and thus more is not taken than is given on account of time alone, as arguments to the contrary pretended; but the equity of justice between the given and the received is preserved for the time for which the sale is made. Hence it should be noted that the belief of the price to be paid at a future time after some contract can occur in contracts without fault, for three reasons. In one way through the grace and liberality of the seller: namely, when the thing is sold according to a fair valuation for the time of the sale and exchange of the thing itself, and the seller himself expects payment liberally over a long

period, because of the grace he has towards the buyer. And in this way the belief is free from all fault, and does not make the contract defective. In another way, the belief can occur in a contract without fault according to the merit and justice of the contract itself, and not through the grace of the seller; For example, if a thing is sold at a time when it does not have as much utility and necessity for human life as it will have at some future time according to the nature of time, and the seller intends to sell his thing for that time when it has a greater necessity or utility, and in which it will be worth more than it is worth at the time it is sold, it is just from the nature of the contract that the seller should at least wait for that time for which he makes a greater estimate of the value: and therefore such a belief still generates no defect in the contract, nor in the contracting parties.

And this is proven extra eod., chap. naviganti. In a third way, credit can occur accidentally, namely from the malice or poverty or impotence of the buyer. And in this way selling his thing more dearly than it is worth at the time of sale, or even than it will probably be worth in the future, which is the only way it is determined, can be excused from the defect, by the intention of the seller, although the contract itself is defective in itself. For if the seller intends to sell his thing more dearly, not because of time alone, but only because of the loss which he sees threatening him from the delay in recovering payment, or because of the annoyance which he probably fears will come to him in the repetition of his debt, because of the malice or impotence of the debtor, then he is excused from the defect, and equity of assessment is made in contracts of this kind, by compensation for the loss, or when these things are probably feared to happen in credit: and then the rectitude of this kind of intention appears, when the seller would rather not sell to such people than sell on credit; and when he would rather give to others for a lower price in payment than sell on credit to such others for a higher price. But in one way credit makes a contract usurious: namely, when because of the credit itself a thing is sold more dearly than it is simply worth or would probably be worth at the time of payment; or even if it is worth so much as it probably would be worth, yet the seller himself would not sell his other things unless he received more because of the credit itself. And from this it is clear when the aforesaid contracts by measures of forests, and by bundles of wood, can be lawfully made, and when and how they are usurious. But there seems to be a doubt about the second part of this chapter: namely, whether contracts are lawful when some things are bought for a lower price in payment; for example, wheat in the ground in winter and woods that will still grow for three years or more, before the suitable time for cutting, than they will be worth just at the time of their collection and reception; For example, corn in the ground in winter is given for a lower price than it will be worth at the right time of August when it is gathered: and so of forests and groves. And it seems a usurious contract on the part of the buyer; because for the delay of time he will receive more than he gave, as is clear from the examples given. And this reason makes usurious contracts, as has often been predicted. Furthermore, contracts of this kind cannot be excused on the grounds of doubt or danger, because it is not doubted that such things will be worth more at the time of their reception than the price that was given for them at the time of purchase. But against this is that the just valuation of each thing depends on the utility or necessity of the thing itself. But it is clear that the utility or necessity of any imperfect thing is not so great as

that of the same perfect thing: wherefore it is not rightly to be valued at so great a price when it is still imperfect, and far from its perfection, as when it is already perfect. But such things are bought at the time of their imperfection, and therefore they should be valued at a lower value than they will be at the time of their perfection. Furthermore, that which by the nature of time increases to a thing, justly belongs to the one to whom the thing itself belongs: as if someone buys fruitful lands or trees, or fruitful animals, whatever comes to pass by the nature of time, and not only by the exercise of labor, justly belongs to the one to whom such lands belong, etc. Therefore, since by the nature of time crops sown in the land come to a greater value, and so do forests; it follows that whatever comes beyond the price given, justly belongs to the one who buys it, and it falls into his own lot: therefore he receives nothing beyond the lot, although the buyer receives more than he gave. And we believe this without prejudice to a better opinion. But we say this with regard to the nature of the contract; although nevertheless by accident, by intention it could be a disgraceful gain for the buyer, namely when the buyer only intends that the increase of profit and wealth, coming from the nature of time, without the exercise of labor and without doubt of danger, probably be possible to happen. And there can also be another way in which a contract can be usurious: namely, when someone is forced to sell such things before the appropriate time out of necessity, because of which the buyer is bound by brotherly charity to lend the seller money, if he needs and wishes; but if the nature of the contract itself is considered, more is not received from the buyer for the delay of time, but for the nature and utility of the thing made or derived from the nature of time.

Chapter 11:

Now there is a question about things that are entrusted to the good faith of others for profit. And this question is twofold: because either the question is about the commissioning of coins, or about the commissioning of other things that come into the use of man by themselves, such as fields, animals and gardens. As for the first question, it seems to some that the vice of usury falls upon them. First, because there seems to be no difference in the nature of the thing between entrusting the money of another in good faith and borrowing the same. But he who lends money for the sake of some profit, even if he takes the risk of his own fortune upon himself, commits the vice of usury, as is stated in Extra. ibid., chap. naviganti. Wherefore similarly he who entrusts his money to the good faith of another in the hope of profit, commits usury. This also seems to be the second; because what is thus hoped for or received from profit beyond the lot, he receives which he cannot possess by any just title; because it is neither given gratuitously, nor is it returned by one's own labor, nor is it compensated by another thing: therefore it seems to be possessed or hoped for simply unjustly. Furthermore, even if in the commissioning of other things that bear fruit of themselves, an excuse may be valid; However, since money of itself does not produce any utility beyond itself, it seems that at least in the commission of money for the sake of profit, there is always thokos, which is the vice of usury according to the Philosopher, that is, the production of six coins from a coin, which is against its nature. To this it seems to me that the answer is that either the commission is made of money, in such a way that the ownership of the whole or part of the entrusted thing is transferred into the power of the person to whom it is entrusted; or the commission is made in such a way that the ownership does not pass, but the entire entrusted thing remains in the possession of the entruster. In the first way, it is a vice of usury, in that he hopes for profit from a thing that is not his own, because it had already been transferred by commission into the ownership of another; and in this it is likened to a loan, as the first reason approves. But in the second way, profit can be hoped for without the vice of usury, because then money or other things are entrusted like servants and servants who trade with the master's property for the benefit of their master; and therefore the entruster can hope for profit, as from his own property and thus it does not happen by lot, nor is it possessed without a just title; because as he receives a part of his own thing, yet not the creation of the coin from the coinage immediately, but the creation of the things themselves, which were acquired by just exchange with his coins. But because it was said above in whole or in part, it was said that if someone entrusts a hundred to someone, so that he lends half to him and retains the other half for his own possession, yet so that the one to whom it is entrusted must trade for profit from those hundred; I say that this profit already has the vice of usury, because it is hoped not only from the entrusted thing, but also from the thing borrowed and entrusted equally. For just as in logic, a statement is judged false because of the subject of falsehood, although it directly signifies truth; as if it were said, A flying man is an animal; so in morals an action is judged to be vicious when it is mixed with vice, as in the present case. From what has been said the truth of the second question is now clear, namely when fruitful things are entrusted for profit. It should be noted, however, that in these matters entrusted for profit, permutative justice is more or less clear: because when a field or lands are entrusted to be

cultivated for profit, justice is sufficiently apparent, because there is no transfer of ownership, and nothing more is received from the fruit of the thing itself. But in animals, as when sheep or oxen or pigs are entrusted to be nurtured for profit, justice is not so clear: because sometimes usurious fraud is usually mixed into such commissions, as when the risk of the principal being entrusted is excluded by the entruster. For example, someone gives a hundred sheep to nurture for profit, but in such a way that the hundred sheep always remain safe for him, whatever happens. In this case, usurious fraud can occur; and this is when the entruster himself taxes a portion of the profit beyond a just estimate, because of which the labor and solicitude of the nurturer are not compensated according to a just estimate. Another fraud is also commonly committed in such cases, when a rich man lends a hundred pounds to a poor man, so that he may buy sheep or oxen to feed with them for the profit of the one who gave the loan, and for the profit of his students: I say that there the fraud is mixed with usury, because the root of this kind of profit already arises from the loan: and therefore this kind of commission is accused of the vice of usury. Then, therefore, such commissions can be lawfully made, when the loan or the likeness of a loan is not mixed in such cases, but the ownership is retained with the risk that can commonly occur: or when the ownership of the thing entrusted is also communicated to the one who undertakes it for the profit of feeding, and a similar risk is communicated to both. And when the profit is assessed according to a just estimate, by which the labor and solicitude of the students are justly compensated. And let these words on the subject suffice for the present.

Chapter 12:

Because certain laws, once established in custom, are considered just laws, which ought rather to be called corruptions than approved customs, and we see this in this matter of usury, which varies according to regions and cities as regards the protection of orphans and children: and therefore we do not think it unworthy to investigate whether orphans can be excused from the vice of usury when they have reached full age, in which they are actually masters of their own property, and are freed according to the laws from their guardians, and then receive their own inheritances and goods in which they had succeeded, increased by the act of usury and the exercise of guardians, or at least intact and not diminished, preserved by such exercise. Sometimes such guardians also make a profit from the goods of orphans, and such also give something above their lot for the maintenance of the little ones, or even for an increased lot: some villages, cities, or towns are also accustomed to receive the goods of orphans, even excluding the relatives of the orphans from their guardianship; and for the goods of orphans they are accustomed to give a certain surplus to the guardians of the children annually, always preserving the lot of the orphans. But in such cases orphans seem to be excused from the vice of usury in two ways. First, because it is not their action, for they have not given their goods or money to usury: therefore whatever comes to them in this way beyond their lot, they receive not from a loan, nor from a gift given by them in the hope of profit, but as if given gratuitously, and thus they can retain it by just title: hence Gregory, and is found in 1, question 2: so no offering brings a stain of guilt upon the receiver, which does not proceed from the petition of the receiver, etc. Second, because since he is a child, he differs in no way from a slave, according to the apostle Galatians 4; and therefore the just use or abuse of the child's things resides in the guardians, wherefore it seems that the fault of usury should not be imputed to children: but where there is no fault in the possession, restitution is not due to be made by him. But against this is that what is acquired unjustly by a slave, as belonging to another, cannot justly become the property of his master because of his ignorance, without always being bound to restitution, whenever he knows the truth. Therefore orphans, when they know the truth, cannot retain for themselves the surpluses of their things acquired by usury. To determine this, a distinction must be made. First, concerning the cause and origin of this kind of surplus: because either it is acquired by the fruits of the things themselves which are the orphans', such as fields, animals and the like; or it is acquired by the mere transfer of things, and for the sake of the transfer itself; and because money was instituted solely for the purpose of transfer, as the Philosopher says, therefore this kind of cause appears chiefly in the use of money, the use of which is in the transfer of the fruits of things. And if in the first way some surpluses are acquired by orphans, they have no vice of usury in themselves: both because in this there is no profit hoped for or received from a loan; and also because nothing is accidental to fate, because the fruit born from such things naturally accompanies the things themselves, and is of the nature of fate, and not an accident of fate. But in the second way, a distinction must still be made: because this kind of surplus, which arises from the transfer of things or money, is either given or arises to the wards as a profit arising from the detention of their things, and in this way it is not permissible for them to retain it, because the detention of things does not give rise to the idea of any profit insofar

as they are detained, except insofar as they have utility and bring fruit. But if this kind of surplus is not given as a profit, but as a favor or as a gift, then it is permissible for them to retain it: and in this way the first two reasons proceed. And by that reason the custom excuses the vice of usurers in many cities: and the sign of this, that it is given gratuitously, is taken from the fact that, against the will of the wards, they determine for themselves the surplus which they give them, and that they never demand or demand anything from the wards. From these things it is clear that if the guardians of wards knowingly give the wards' money to usury by themselves or through others, that such an excess of property is alien, and is unjustly possessed even by the wards, whenever they know it: and if the wards do not want to restore it, the guardians are to be compelled to do so.

Chapter 13:

Now among the exchanges of men there is a certain kind of exchange in things, which is called barter; which has neither the character of a loan, because in such an exchange no profit is expected from the delay of time, nor is the same lot returned to the barterer in kind or in number or in weight. For he gives Parisians, and receives sterling, or money of another kind. Similarly, it has not the character of exchange, which is called sale and purchase, properly speaking; because this kind is done in valuable things, the prices of which are determined and measured by coinage: but this kind is only in the exchange of coins of different kinds: for which reason it follows that the art of bartering, which is a species of exchange, is simply called barter. But barter is said generally when something is taken in place of another given, and thus it includes all exchange. It is also said barter when a thing determined for the benefit of men is exchanged for another thing that similarly has another benefit by its nature. And thus it is treated of exchanges in civil and canon law: and as if someone wishes to exchange a parish for a prebend, or a prebend for a prebend, and the like. In a third way, exchange can be said more specifically to the matter of coins, the exchange of coins themselves. And in this way we say that exchange is the exchange of coins, which is commonly practiced for the sake of profit. But the question in this chapter is about this profit, whether it is acquired justly or unjustly. And it seems to be unjust in three ways by nature. First, because it proceeds from the improper use of the thing, because, according to the Philosopher, a coin does not beget a coin, but the exchangeer uses the coin for the sake of profit. Second, because the exchange act seems to be for the benefit of the recipient from the exchangeer, if he is just, or that it should be done gratuitously. Third, because according to the Gospel, the Lord cast such out of the temple. Therefore, it must be said that the exchange art is of itself just. Hence, it must be said to the first that the exchange art uses the coin for a suitable use. And the reason is, that the excess which is received by the moneylenders in such an exchange of money is not received on account of money which is in itself unsellable, but on account of danger or interest, so that it may be subsidized with the salaries of pensions, houses, servants, and labors and expenses in the necessary and lawful art, lest they put their effort and sweat in vain in a lawful thing for the benefit of others. To the second, it must be said that the art of the moneylender is just in two ways. First, because it signifies an act of justice and liberality through the greater benefit of the gift given to the recipient by the moneylender than that received by him. And secondly, because the moneylender act should not be done gratuitously by its nature, like the act of a loan: therefore that which seems to be received in excess passes into the possession of the recipient by the simple will of the giver. To the third point which is persuaded by the Gospel, it must be said that the Lord cast such people out of the temple on account of the place, which was appointed only for spiritual things: and therefore they carried on their trades contrary to the reverence due to the place, and the ugliness of their greed was apparent in such people. Or it should be said that such people should be thrown out of the temple, because it is not permitted for the ministers of the temple, that is, ecclesiastical men, to engage in such mercantile activities.

Chapter 14:

There is therefore a question again about merchants. First, whether it is lawful for someone to entrust his money to another who is going to the market for profit without the fault of usury. And a distinction must be made about this: because either it is simply a commission, which is made of the good faith of another, and thus the fault of usury would not occur, as we showed above in chapter 11: or it is a commission secundum quid, but simply a transfer, as in a loan: but I say commission secundum quid, insofar as the commissioner does not retain the risk of the thing entrusted to him. And in this way, because of the nature of the transfer, which should have been done gratuitously without hope of profit, the fault of usury occurs: and in this case the decretal speaks to the sailor. For this reason, if we ask further about those who lend some determined money to other merchants, on such an agreement that they pay similar and equal in number and weight to the creditors of those from whom they receive in certain fairs determined according to place and time: for example, Baldwin borrows from Walter one hundred pounds sterling in France in the month of August, so that Baldwin pays one hundred pounds sterling for Walter in the following January, in which Walter was held to his creditors: or if not to the creditors, to the lender himself at such a place and time; about this we must distinguish: because either the borrower at the time of transfer estimates that the said currency will be more valuable in the place or at the time to which it is to be paid; for example, sterling is worth more in England than in France: and then there is nothing to blame there. Or he probably fears a decrease in the value of sterling before a determined time. And then it must be said that the borrower commits usury, because he hopes for profit from the loan. Or the borrower does not intend any profit in lending, either from time or from place, but only because of the favor and grace of his neighbor, and then he incurs no blame from this. There is also another thing that can be doubted about this kind of matter. For it has been said that the hope of profit in lending makes usury a vice. Therefore it seems that if someone having some special money, which he fears will decrease in its value in the future according to the statutes of positive law, and for this reason lends such money to be returned to him at the same price as it was at the time of the loan, with respect to the common valuation of the land money; it seems that since such a loan is made with the hope of profit, that there is a vice of usury in it. For example, someone having sterling worth four Tournesols, fears that in the future, by the authority of positive law, they will be worth only a third Tournesol, for which reason he lends sterling, and after their value has decreased, he does not want to receive as many sterlings in number and weight as he had lent, but according to the price in Tours, whose value they were at the time of the loan. To this it must be said that it is one thing to avoid loss, and another to hope for gain: for whoever hopes for gain from a loan sins with the vice of usury, according to the authority of the Gospel of Luke 6: "Give loans, expecting nothing in return." But not so he who avoids loss from a loan. For the first cannot be done without injury to God, who forbade this to be done; nor without injury to his neighbor, to whom that from which profit is hoped should have been done gratuitously, which is against grace; but the second can be done justly, because by this no injury is done to God, because it is not forbidden by any law: nor even to his neighbor, because he receives nothing less for the time of the loan than he is bound to repay, because at the time he borrows, it was

worth as much as he is bound to repay. Nor would it be vitiated for this reason if the time were determined by the lender, in which it is probable that the money borrowed would be worth less than it was worth at the time of the loan; because vitiation does not occur from the mere extension of time, but rather either from the will of the positive law, or from the nature of money. Nor is the borrower harmed in this: because he does not borrow it in order to keep it until the time when it would probably be less valuable; but that it might use it for that time for which it might preserve its value, which it had when it borrowed it. A similar question is also asked about the one who lends grain or wine or oil, in certain measures, and this at a time when they are less valuable, so that it may be returned to him in equal measures and weights and species at another time when it is likely that the aforesaid things will be more valuable. And it seems from what we have already said that it is lawful to lend in this way; because there nothing more is taken than is given, because such things are really returned by number, weight and measure. Moreover, in this the lender seems only to avoid loss and not to hope for profit: because if such things were sold at a time when they are worth less, the owner of them would be harmed by this. Hence he can also lawfully sell them for that time in which they are likely to be worth more, and it is not usury, as is stated in Extra. chap. naviganti. Wherefore it seems likewise that he can lawfully lend those things to be returned to him at a time in which they are likely to be worth more. To which we say that in this case conscience either excuses or accuses, because a loan should be made gratuitously and without hope of profit, whenever the hope of profit is intended in and from a loan, then it is not without the vice of usury; but thus it is not in buying and selling. But the hope of profit can be excluded from the intention of the lender in the aforementioned way, in two ways. In one way, when the lender is ready to accept the borrowed thing at any time, even before that determined time when the things should probably be more expensive: in this way the hope of profit, and if it is intended accidentally, not by itself, because it does not remove the reason for gratuitousness from the loan. In another way, when the lender has also determined the time when they would probably be more valuable, for the sole purpose of avoiding loss: for then he avoids loss when, taking care of his own needs, he intends to preserve his things that are more necessary for the use of life, which if he did not have them at that time, he would have to buy them elsewhere, and thus he would suffer loss from the favor of the loan made to his neighbor: and thus intending in lending is excused from all vice of usury.

Chapter 15:

Now, however, approaching what we have proposed to declare in the third place in this work, let us proceed by inquiring about the restitutions of usury. But that the laws oblige us to restitution of usury is sufficiently clear from the nature of them. For since above in the first part of this work, chapter 4, it was declared that the excess of usury is possessed by no just title, therefore it cannot be justly retained and is possessed unjustly. But as blessed Augustine says, 74, q. 4, that which is unjustly possessed and is alien to one, must be the property of another. Therefore, since every excess of usury is as it were a thing alien to the usurer himself who unjustly possesses it, it follows that it is the property of another who is deprived of it. But this is just according to all laws, that every thing deprived contrary to justice be restored: for restitution always regards deprivation. Wherefore, according to all natural justice, usury must be restored. But perhaps it will be said that such things are not deprived by anyone contrary to all justice: especially because the deprivation seems to have been done voluntarily. And also because human laws do not punish, which nevertheless ought to punish injuries: therefore it does not seem to be against human justice. To which it should be noted that the will of man sometimes regards the thing willed for its own sake, sometimes for the sake of something else. But when for its own sake, then if that willed thing is simply just and good, then the will is good, and the work proceeding from them is good and just; but if it is unjust and evil, then likewise the will is evil. But if he regards the willed thing not for its own sake, but for the sake of something else: for example, someone wants to throw a cargo into the sea, so as to escape danger: that again for the sake of which something is said to be willed, either has the character of just, or unjust, or indifferently. And in this first way the will is still judged to be comparatively just and good, but still it can be simply unjust, as if someone wants to steal in order to give to the poor. But in the second way the will can be judged to be absolutely just and free, when that willed thing is by its nature just and good; but it is comparatively unjust and not free, when that willed thing has an evil end. Hence, that which someone wishes to give in excess of his own is not in itself evil or unjust: and therefore in this respect the will is absolute and free; but when he wishes to give this for the sake of a loan, which he cannot have otherwise, then such a will, compared to the end, which is in itself unjust, contracts the nature of injustice, and falls from the nature of freedom. And because this kind of injustice is incurred by suffering rather than by doing, therefore the punishment lies in the giver himself and not in guilt. But laws sometimes consider this justice, insofar as it is the preservation of external peace between men: and therefore such laws do not punish, except insofar as they destroy this peace. Sometimes also, as they are more enlightened by the light of faith and divine right, they also consider true and internal justice: and thus canonical laws also prohibit and punish usury. For thus it is written in Isa. 32: The work of justice is peace: and therefore such peace as they seek who make laws, such justice they claim for themselves. We say, therefore, that by divine law the restitution of usury must be made principally, because in Sacred Scripture, as far as the Old Law is concerned, those who lend money at usury are condemned: and therefore usury is accepted against the divine law. But the New Law forbids hoping for anything from a loan: wherefore accepting it will be all the more contrary to the evangelical law. But that which is against the

divine law, according to no other law can be true or just; because the divine law is the first and universal origin of all just laws, just as God is the origin of all beings. Nevertheless, it is also against the law of nature, because in this the end that is suitable according to the nature of the act of human life is corrupted. For to this act, which is to lend, the end that is suitable is naturally shown, namely, common society and fraternal charity in providing for the needs of one's neighbors: and therefore it must be done naturally gratuitously. Wherefore, whenever this act is done for the hope of some advantage or gain, then the end that naturally belongs to it is taken away from it, and it is done against nature, wherefore it is repugnant to the law of nature: therefore it is not only unjust against the divine law, but also against natural law.

Chapter 16:

But since usury is to be restituted, it is now necessary to investigate to whom restitutions are to be made. And it seems that restitution is to be made only to God and to the ministers of God. Because according to what was said in the first part of chapter 5, ownership is not transferred in usury by divine right, but only by human right: but according to reason, restitution of that which is unjustly withheld is to be made in law. Therefore it seems that restitution is to be made only to God and the Church. But against this is that the land and its fullness belong to the lord, by whomever it is possessed justly or unjustly: therefore no thing can be deprived in truth. From which also is gathered the general rule, that any thing is to be restitution only to him who is unjustly deprived of the thing itself or of its equivalent. For just as restitution is to be made only to that thing which was unjustly possessed, so also to no one; or to some it is to be restitution except to him or to those who were unjustly deprived of it. And from this it is concluded first, that restitution is to be made only to those who were justly the masters of those things which are to be restitution, before the unjust deprivation. From which it is further concluded that, when those who had been robbed have died, restitution must now be made to their children and successors, who rightfully succeed to the property of the robbed deceased. But if perhaps the deceased has bequeathed all his goods to the poor or to the Churches or to other persons, then, as by virtue of the will, a right is acquired in the present and ready goods of the deceased himself, the poor or to others to whom they were bequeathed, and so they have an acquired right in those things which are rightfully due to him by any right whatsoever: and therefore in this case, the executors of the aforesaid deceased, or to those places or persons to whom he bequeathed all his goods, should make the restitution which should have been made to him while he was alive. But if perhaps the successors are unknown, and it is not known to whom restitution is likely to be made, or perhaps they are known to be in distant places and regions, and without hope of return, and without the ability to send or approach them, then in the first case the advice and authority of the Church must be sought: because by reason of divine law the restitution which was due to a man who was a member and son of the Church belongs to the Church itself: but each person's own Church is called his own bishop. In the second, it is also to be done by the advice of the Church: however, this is added, that the Church must promise to make restitution to him, if it should be necessary at some future time through the unexpected return of those to whom it was due by law. From the foregoing, therefore, it is concluded that if usury of such goods has been accepted by a slave or maid, or by a son or daughter, or by a kidnapper or thief, or by another usurer, or by a Christian or Jew, of which it is clear to the one who wishes to make restitution that they were not the true owners of those things; that restitution of such things is not to be made to those from whom they were accepted, but to their true owners themselves and their successors, if they can be had. However, such restitution should be made with caution, lest it be scandalous to the aforementioned persons. However, if it is believed with probability that the aforementioned, namely, a son on the conscience of his father, and a slave on the will of his master, and a monk also on his abbot, and a kidnapper and usurer of goods justly possessed, then restitution can also be made to the injured persons themselves: and the same must be said of a wife while her husband is alive.

Chapter 17:

Now by whom restitutions of usury should be made, our consideration is necessary. That indeed every owner who withholds a thing unjustly deprived of by another, whether justly or unjustly, is bound to restore the thing itself or an equivalent, is manifest from both divine and natural law. First, because sin is not forgiven by divine law unless what was taken away is restored, if it can be restored. Therefore, restitution of the offering should be made by the one to whom such a sin is imputed. But sin is not imputed except to the one who has taken away or withheld another's thing, which is not his by some just title. Therefore, restitution must be made by him. Likewise, from the precept of natural law we have that whatever you wish that men should do to you, you should do the same to them. But with a just will, the one who has been robbed of his own thing wishes that the robber restore to him. Wherefore likewise the robber must justly restore to the one robbed. But who can be called a robber of another's thing, or a detainer in the matter of usury, so that he is bound to make restitution, is not so clear in some cases. For this reason, the first question is asked about the wife of a usurer, whether she is bound to make restitution for her deceased usurer husband. The second is asked about the restitution of what is given to her for her life in her husband's house. The third is asked about whether she can do this lawfully when her husband is unaware and still alive. And the fourth is asked about sons and daughters. The same question is asked about the servants and hirelings of usurers. In the same way, the fifth is asked about laborers, workers, and merchants who give their labors, their works, and their goods to usurers for profit, whether they are bound to make restitution of what they have received from them. The sixth is asked about those who receive offerings, alms, or gifts from them, whether they are bound to make restitution. The seventh is also asked about supporters who encourage and defend them in the practice of usury, just as some cities and some princes encourage and defend those who are called Caursini, who otherwise would not dare to practice this act of usury. To this last point, it should first be known that just as companions of thieves, and those who are said to run with thieves, are condemned by the judgment of theft in Holy Scripture; Thus all the aforesaid, insofar as they act in any way towards the vice of usury, either as movers, or as authors, or as sharers in profit, or as supporters and defenders of such, are to be condemned for the vice of usury. And just as God is not satisfied for an injury inflicted on him except by penance, so neither is his neighbor for a thing unjustly robbed except by just restitution. But to each according to the degree of his offense is the restitution of what was taken due. For example, another person sins in this only as a mover, wherefore he is also bound to move the plaintiff to make restitution: but if he is not sufficient to induce him to do so, he must invoke the aid of his superior: but if he is not sufficient, or perhaps neglects to do so, I think without prejudice that in this case he who was the mover is bound to make restitution of what was taken by his motion. And if the plaintiff is either as principal or as assistant, both are bound to make restitution of all the things taken in solidum: yet so that if one restores, the other is absolved as to the injury to his neighbor. But if he has only shared in the profit, either knowingly or unknowingly. If knowingly, then again it can be done justly, or for bodily necessity, when otherwise no convenient remedy can be found, as happens to poor beggars. And thus sometimes sons and daughters in the house of usurers' parents can be excused by

this, who otherwise cannot find the necessary sustenance for themselves: and similarly a wife can be excused by the same necessity. Or this is done for spiritual benefit, as the lord ate with the publicans for their conversion. And this is done again justly, or because of the compensation already made, or at least to be made in the hope of being made: and in the first way artisans and laborers and servants can sometimes justly receive from the goods of usurers, which they acquire from usurers: because as much as they receive from usurers, they return to them as compensation for work or labor or craft, so that the usurers are not thereby rendered powerless to make restitution. Nevertheless, if such artisans believe that usurers have nothing of value and can profit from others with the same ease, they sin by knowingly sharing their work with usurers for profit, which they know is someone else's, and especially because of scandal.

But in the second way, sons and daughters and the wife can also participate in the hope of restitution at some future time, when they hope that they will probably have the ability, although they do not have it at the time when they participate. But whoever has been a participant knowingly outside of any of the three aforementioned causes, or even ignorantly, and who has sometimes had such knowledge, such persons are bound to restitution for that part in which they are participants of another's property. Thus, therefore, by this general document, the questions can be answered. To the first and second about the wife, it must be said that the wife of the usurer is bound to restitution for her deceased husband, insofar as the ill-gotten goods were devolved to her, or insofar as she, while her husband was alive, used such goods. But if nothing of such goods is devolved to her, or if perhaps from the goods she had brought into the marriage, the profit was sufficient for her needs, and for all that she spent during her husband's life; then she is not bound to make any restitution, unless she has used the husband's property in the hope of restitution, or unless she has retained something belonging to another after the husband's death: but nothing is to be restitution except that belonging to another. To the third question it must be said that since the wife is not the mistress of things, but only of the husband, she is nevertheless joined to the husband for help and for the use of things: therefore, just as she cannot alienate the husband's things against his will, so she cannot restore the husband's things against his will. But just as she is given to the husband as a help for procreation, so for the preservation and honest and useful multiplication of things, and above all for the promotion of the husband's salvation: whence the apostle 1 Cor. 7: The unbelieving husband will be saved by a believing wife. Therefore, just as a usurious man can make moderate alms from his own things, without the husband knowing and not forbidding him, because in this way she is acting for the husband's cause, which he is bound to do for the promotion of his own salvation, and also for the preservation and multiplication of his goods: so I think without prejudice that she can make restitutions from other people's things, without the husband knowing and not forbidding him, because in this way she is acting for the husband's cause. But if she does it with the husband knowing but disguising it, she can act all the more securely, because there is now an argument that the husband approves, from which he does not disapprove. But if the husband forbids it, or punishes it before or afterwards, the woman does so, or wishes to do so, it is no longer lawful for her: because as things are under the power of the husband, so is the wife: wherefore, being thus subject, she must obey her husband in all things, according to the apostle. And if

not in doing evil, yet she must obey in omitting good, because it is not necessary for her own salvation: wherefore if the wife does not do what seems good to her, it is not imputed to her as a sin, but to him who forbids her. The answer to the things adduced in the fourth and fifth is clear from what has been said before about the participants. But to what is asked in the sixth about those who receive alms and offerings and gifts, it must be said that such as receive from them either know them to be usurers, or do not know them either then when they receive them, or afterwards: and if they do not know them, they do not sin by receiving them, nor are they bound to make restitution. But if they know them then or afterwards; either by necessity they are compelled to receive them, or not: if by necessity, they do not sin, nor are they bound to make restitution. If there is no necessity, there are still either notorious or not notorious usurers: if notorious, then everyone who receives from them sins because of scandal, and because they are excommunicated by law: and therefore restitution must always be made, but not always to them. But if they are not notorious, either they are believed to have something of their own good besides usury, or nothing: if nothing, then restitution must be made by those who received something; but if something, then gifts and the like can also be received from them without sin, and they are not obligated to restitution. To the last question, it must be said that only he is bound to restitution who receives or withholds another's property unjustly: hence also if a usurer who lends with the sole hope of profit, has received nothing more, although he has exceeded, even if he is guilty of the vice of usury, he is still not obligated to make any restitution. Hence only he is bound to restitution who withholds or receives something from another unjustly. Hence the supporters and defenders of usurers, insofar as they are of this kind only, are not obligated to restitution of anyone, except insofar as they share in the profit; namely, because for this reason they are supporters, that they may receive some portion from usurers: yet in this they sin against God, even however much they may intend the benefit of the region or the city, because they encourage sinners in their sins. Nor is it the same with those by whose authority something is done, and with those who encourage, defend, and receive the actors: because the former are the cause of the evil act per se; but the latter are not the cause of the act itself, but of accidents to the act itself for its preservation and greater fruit.

Chapter 18:

But since there must be a measure in every matter, now the manner in which the restitution of usury is to be made remains to be inquired into. And first, whether publicly or privately. Then, whether before or after the payment of debts or legacies. Third, whether restitution is to be made to one person before another. And whether it can be made equally according to the proportion of those taken, or unequally because of the conditions and needs of the persons. Regarding the first, it should be known that one thing is necessary when speaking of the necessity of satisfaction, and another when speaking of its perfection. But for the necessity of satisfaction, two things suffice: one as to God, namely the humility of true penitence against contempt of God; and another as to neighbor, namely the full restitution of what was unjustly taken against the injury of neighbor. But of the perfection of satisfaction, the last signs are required: namely, both the testimonies of the aforementioned, in which there is the merit of perfect humility as to God, and the restitution of personal reputation against scandal from innate sin as to the Church. And in this respect, it is not only a matter of perfection, but also of necessity, for a notorious usurer to promise and confirm, at least publicly and in the hands of the Church, the restitutions to be made; because otherwise he would be deprived of the sacrament of salvation and Christian burial by law. And for this reason the apostle also says, 1 Timothy 5: Rebuke the sinner before all. But as to the second point which was proposed concerning order, it should be known that the custom is almost universally among us that debts which are clear are first paid, and afterwards restitutions are made, and lastly legacies are paid. And the reason for this custom may be: because legacies are given in a certain sense, and not simply given. For the reason for a legacy implies two things: namely, that a thing is not given simply, except by the death of the legatee, whence it can always be revoked while the legatee is still alive; and that they are bequeathed for some benefit of the legatee after death. And from these it may be clear that legacies, insofar as they are of this kind, do not oblige according to the necessity of justice, but according to the devotion and benefit of the legatee. Wherefore, since the things necessary for salvation precede those of devotion and supererogation, debts are justly paid before legacies. But with greater justice are things taken away to be restored than debts to be paid, since in this justice is fulfilled, removing the injury done to God and neighbor: but in the payment of debts no injury is removed, but only justice is paid: wherefore according to this it seems that things taken away should be restored before debts are paid.

But the opposite happens as in most cases: which, however, can have two reasons. In one way, namely, when the debts are clear and manifest, but the restitutions are not so, but must be sought; and the clear always precedes the obscure in human law. In another way, when the thing that is owed is determined, namely a hundred or ten, but is not to be restitution in this way. But the determined by law precedes the indeterminate, insofar as it is of this kind. And from this it is concluded that when the restitutions are to be made clear and open and determined by the open confession of the restitutioner, all the debts must by law precede: which, however, is rarely observed, because what is of law is observed by few. And according to what has been said, it is clear when restitution can be made to one person before

another: namely, when the restitution of one is clear and definite, and of the other not so, all other things being equal. But again, if one is rich and the other poor, and more in need of those things for which restitution is to be made, and it is equally clear in both, restitution can still be justly made to the poor before the rich, because he has been more injured in the taking of his belongings, and because he has more need. However, if both are of equal condition, namely in poverty or wealth, and are equally clear about both: if an injury was done to one before the other, still the first to be restitution must be made in accordance with the order of natural law to the one to whom the injury was done first. Likewise, if restitution is to be made in parts, each must be restitution proportionately according to the amount of what was taken: so that if only a third part of what was taken, or half, or any other part, all other things being equal, restitution of a third part of all that is to be restitution must be made to all. The reason for this is that a good will to restore everything is shown to all, if the ability were present: and thus each becomes more prone to forgive the injury done to him, when he sees the will to amend ready.

Chapter 19:

But from what has been said a question arises about the matter and quantity of what must be restitution. Whether, namely, if someone has taken a sheep or an ox, or any other thing beyond his lot, he is bound to restore the same thing, or is it sufficient to restore the price of the thing received. From which it can be seen that he is bound to restore the same thing, and not only alone, but doubled, because of that precept of the law of Moses, Exod. 22; where it is said that a thief is bound to restore the same thing double, and a sheep fourfold, and an ox fivefold. To which it must be said that one must judge differently about theft and robbery, and differently about usury: because in usury the ownership is transferred in some way by the law of the court, although not by the law of the Pole; but in no way in others. Hence a horse stolen, no matter into whose hands it passes, must always be restored, even by the law of the court. Secondly, however, not so, if the horse is taken by usury. Wherefore one must judge differently about usury: and it must be said that it is sufficient if the restitution of the price is made. The reason for this is twofold. One has already been said: because what is taken beyond the lot is not taken away by any violence inflicted on the owner, as in theft and robbery: and therefore it is not properly said to be taken away, but rather taken against natural and divine justice by the will of the giver: but what has been taken away, the same must be restored in number, even if it is improved. Another cause and reason also comes from the nature of exchange, in which what is taken beyond the lot is taken, which is the nature of a loan. For just as in loans it is not necessary that the same be returned in number, but only an equal in price; so neither is it necessary to restore the same for an excess received by reason of a loan, but an equivalent in price suffices. But what is written in the law about double, quadruple, and quintuple has no place in usury, but only in theft or robbery, because this kind of usury does not destroy the good of the republic by its very nature, as theft and robbery do; but only corrupts personal good, or the good of the brother; and this not by inflicting evil, but only by not making what is due be done well. And we have written about these elsewhere in more detail in the seventh commandment of the Decalogue: and therefore these things will suffice for the present.

Chapter 20:

But since, as the Lord says, a bad tree cannot bear good fruit, and whatever grows from a bad root seems to draw its nature from the root, it has been seen by many that not only must things taken away or unjustly received be restored, but also that all proceeds and all profits derived from them must be restored, because what comes to someone from another, the other person takes responsibility for by law. These seem to be expressed in Extra. de Rest. Spol. cap. gravis: where it seems that things must be returned with the fruits received, and what the robbed would have received if they had possessed them: and this is also expressly stated in the law Extra. de rei venditione, cap. majus: where it is said that such a person is bound to all profits received and to be received. But against the above seems to be the reason for usury. First, because there is simply no reason for violent or furtive plunder, of which the above laws speak. Second, because in usury the very excess of wealth is first and foremost in money, which does not have fruit as far as its nature is concerned, because it has become the cause only of the transfer of other things. Thirdly, also in general, in making restitution, only the damage that has been inflicted must be restored: but only the damage has been inflicted, as in most cases, to the extent that the thief gains from the stolen and plundered thing, because the thief has multiplied the stolen thing by his own labor and skill, which the true owner would not have done. But what seems to me to be said about these? I say without prejudice, that one should judge differently about restitutions of usury, and differently about restitutions of theft and robbery. For that must be restored which by no right becomes one's, either divine or human. And therefore it is an injury not only with God to retain the things thus taken away, and the fruits and uses of things; but it is also unjust with man, both by the law of the common court and by the law of personal conscience. But it is not so with usury, because although they are against divine law, and against the natural law of a spiritual nature, which regards only the debt of grace and charity; yet it is not directly against human law, which regards the utility and justice of the republic in general; and therefore in this respect the ownership is transferred to them, nor do they have the character of those who have been taken away. It is clear, however, that the rights alleged speak of things taken by violence, in which no root of just possession is found. However, this must be generally observed, that in every restitution to be made, all fruits and all gains, from the fact that they come from the thing to be restitution insofar as such fruits and gains are unjustly possessed, and from the fact that they come from a thing wrongly held according to divine justice, have the character of another, according to the reason of blessed Augustine. Therefore, according to God, they cannot be retained, except by divine authority. Again, it must be observed secondly, that only that which is to be restored to the man in whom the injury was done to him concerning his thing.

But there are certain things which by their nature have fruit and utility in possession; either because they multiply and increase by the nature of time, or because they are cultivated by the skill of human ingenuity and labor, such as lands and fields: and such things must be restored to man with their proceeds: because in this a man to whom an injury has been done in his thing taken away is damaged not only as to the substance of the thing, but also as to the

use of the thing and the fruit arising from the use: and thus the rights alleged can and must be understood. Thirdly, it must also be noted that restitution must always be made to him who has suffered the injury and loss. Therefore, if someone has suffered an injury and not loss, real restitution is not to be made to him de jure, but only according to the kind of injury, an amendment must be made by similar satisfaction. Hence he who beats his neighbor in no way damaging him is not bound to any real restitution: because every real restitution to be made to someone must be commensurate with the quantity of the damage inflicted. Hence it is that the law of Moses generally condemned every thief of any thing that has use and utility to a double restitution: one, namely, for the substance of the thing, and another for the use of the thing taken. From which it is concluded that in every restitution to be made to a man, the loss of both the thing and the use that comes from the thing by the nature of the thing must be considered. Therefore, if any profit comes to the usurer beyond the thing and the natural use of the thing from his own operation and skill, in which no other person is harmed, I say without prejudice that he is not bound to restore such profit to the man. For example, a usurer had one hundred marks of silver from the interest from which he made an image which he sold for one hundred and ten marks: I believe without prejudice that he is not bound to restore those ten marks in excess to the one from whom he had the aforesaid one hundred marks: nevertheless he cannot retain them according to God, because he acquired them against God from another's property. And therefore the authority of the Church alone is to be sought to restore or distribute such things. But from these arises a question. If anyone sells any stolen thing immediately after the theft, or converts it to his own use, consuming it in its entirety, and does not immediately restore it, but wishes to restore it after a while, whether he is bound to all the fruits of the use which the true owner would have received during that delay. For example, someone stole a foal or a calf, which the true owner was to keep until the years of perfect value, but the thief immediately sold it, and freed himself from the future. The question is whether the thief is bound to restore only the value of the foal, or also the value of the perfect horse. This seems to be according to the rights alleged. Furthermore, he is bound to restore the profits according to the law, therefore much more the damages inflicted. In line with this, the question is also asked about money taken away, or even unjustly possessed: why it may happen that the person from whom it was taken away or unjustly received, increased it by trading it, or perhaps because of its defect, sold his possession, and thereby suffered a great loss. Whether the detainer and receiver of such money without just title is liable for all the profits which the true owner would have made from it, or for all the losses which the true owner incurs from it, for full restitution. To these two we say without prejudice, that in making restitution of any thing, two things are to be considered principally: namely, the value of the thing which was principally taken or received unjustly, and the damage which was inflicted on the wronged person. For the first reason I say that the same thing which had been taken must be restored, or an equivalent and similar thing in species and value.

But as to the second, it should be noted that sometimes damage is said to have been inflicted properly and per se, and sometimes only accidentally and not per se: and if in the first way, then the defendant is bound to make restitution for the damage, whatever it may be; in the second way, he is not bound to the person who suffered the damage. And to understand the

above, let us take the following case as an example. If someone suffered damage for money taken from him in that he wanted to buy from it the necessaries of life, or to pay for purchases or debts, for the despoiling of which he incurs damage, because because of its defect he had to sell his possessions that were useful to him, or borrow money at interest, or would have incurred some other inconvenience, I say that this kind of damage occurs per se from theft or robbery, and therefore it must be restored to the person who suffered it. In addition to these, accidental damage can occur there: namely, when from the stolen money he did not acquire the profit he intended, and he suffered no other loss: I say without prejudice, that such profit is not to be restored to the person who is said to have suffered such damage. But if there are things that have been taken away, which by their nature can increase and grow in value according to the nature of time, then the plunderer is bound to restore the value of the things themselves, which they would have been worth according to the nature of both the thing and the time, at the time when he wishes to restore them. And this is clear from the answer to the aforesaid questions. And this must always be observed in usury, as regards things that are received for usury.

Chapter 21:

But since we have said above how and by whom and from whom and how restitutions of usury are to be made, in this last chapter we wish to declare how they are to be enforced by the laws and by the canon. And first it must be supposed that the fault insofar as it is against the charity of God is not removed or expiated by coercion, but only voluntary penance, and is capable of being amended: but the fault which is directly committed against the charity of one's neighbor, must also be enforced by laws both divine and human. Therefore, since the vice of usury is directly against the charity of God, who prohibits and condemns it in his law, and also against the charity of one's neighbor; let us see by what penalties it is to be enforced. To understand which it must be known that in general public penalties are to be inflicted only for public vices; and therefore public usurers are to be enforced by the penalty of law: and sometimes, because of the accompanying contumacy, the penalty of the judge is also to be added. They are indeed restrained by a threefold penalty of law: namely, that they are forbidden to be received into holy communion, and that their offerings are likewise not received into the altar, and that they are not received into the burial of Christians; and these three are held Extra. chap.: why in almost all. And in addition, a penalty is added to those who have done the contrary, namely, suspension, unless by the judgment of their bishop they have first satisfied, and in addition also by accident such a note of infamy follows. Hence also public usurers, when they recover money from another for usury which they had given, can be repelled by exception, until they themselves have first satisfied the usury, Extra. same chap.: because in vain of the law. But especially on these penalties clerics can be suspended by law from their offices, if they were usurers, Extra. same chap. most clerics. But the contumacious who are not corrected even because of the aforementioned penalties, the judge must and can restrain by a sentence of suspension and deposition: but laymen he can restrain by a sentence of excommunication, as is stated Extra. same chap. aforesaid. Likewise, if ecclesiastical justice is not sufficient, secular justice should be invoked for help: Extra. deinde. Cum vero ab homine, distinct. 17: nec licuit. But in the penitential forum, where the correction of sin is at issue, especially insofar as it is against the law of God, usurers are to be compelled to make restitution in such a way that the benefit of absolution is denied them, unless they make restitution in full as much as they can, or ask for a delay from those to whom they are bound to make restitution.

Or if they are poor and powerless to make restitution, let them promise God and their confessor that if they ever come to the fruit of prosperity, they will make restitution according to their ability. Or they will certainly demand forgiveness from those to whom they are bound to make restitution: otherwise they should not be absolved in the forum of penance. And all this is proven by the authority of blessed Augustine, who says that sin is not forgiven unless what was taken away is restored. Just as therefore the confessor shows that he is absolved by God whom he absolves by word, so he should not absolve by word unless he sees signs of restitution to be made in the confessor: which signs are determined in those things which we have said before according to the different states of the restitutioner. These are said concerning the vice of usury as regards usury itself in general, and usurious contracts, and the

restitution of usury, as far as God has deigned to grant to my littleness. But if anything has been said badly, or less well, I ask forgiveness, I bear correction: for I know that I am a weak man, less able to understand just judgment, and surrounded and enveloped in the darkness of laws and ignorance. Therefore, I always implore the very light of life, which shines in darkness, that by illuminating my heart, it may cleanse the darkness of sins and errors in me, and may deign to lead me to the perfection of eternal life. Who lives and reigns with the Father of lights, eternally connected and consubstantial with the Holy Spirit in love, one God forever and ever.

Amen.