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# ***LAW, LIBERTY & VIRTUE***

*A Thomistic Defense for the Pedagogical Character of Law*

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*To St. John Cupertino, “The Reluctant Saint”*

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The topic of this work was conceived some years ago during dinner at a friend's house. A little debate ensued over whether it was the function of law to "legislate morality." The way the argument against legislating morality typically runs is that, because a virtuous act is voluntary, and because law is coercive, law cannot legislate morality without also violating personal freedom—law exists, rather, to protect our rights against the violent encroachment of individuals and the state. There are other more practical considerations, too, such as the enforceability of some laws (especially in regard to consensual sins like prostitution or drug use), and, of course, the fear of giving the modern state too much power over individuals.

Yet, as important as these considerations are, none of them convinced me that, in principle, law ought not legislate morality. Actually, for me the question was far more basic—*does* law legislate morality or not? The answer seemed all too obvious—of course it does. At the time, however, what was most troubling was the insistence that law should prohibit certain acts and prescribe others, not for the sake of teaching people the basic rudiments of justice (a virtue), but simply to protect people's rights. There seemed to me—among those with whom I engaged this issue—an aversion to the formative character of law. It was this question (and others) that eventually led me to a deeper study of the thought of Thomas Aquinas, from whom I have found the most defensible argument for the pedagogical character of law. It is just such a defense that I will present here, but not without first offering my gratitude to those who have contributed (in one way or another) to the completion of this project.

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# *Psalm 19*

## *To the Choirmaster: A Psalm of David*

1 *The heavens relate the glory of God;  
and the firmament tell his handiwork.*  
2 *Day to day it pours forth speech,  
and night to night it discloses knowledge.*  
3 *There is no speech, nor are there words; their voice is not heard;  
4 yet their lines goes out through all the earth,  
and their words to the end of the world.*

*In them he has set a tent for the sun,  
5 which comes forth like a bridegroom leaving his chamber,  
and like a strong man runs its course with joy.*  
6 *Its rising is from the end of the heavens,  
and its circuit to the end of them;  
and there is nothing hid from its heat.*

7 *The law of the Lord is perfect, reviving the soul;  
the testimony of the Lord is sure, making wise the simple;*  
8 *the precepts of the Lord are right, rejoicing the heart;  
the commandment of the Lord is pure, enlightening the eyes;*  
9 *the fear [promises?] of the Lord is [are?] clean, enduring forever;  
the ordinances of the Lord are true, and righteous altogether.*  
10 *More to be desired are they than gold, even much fine gold;  
sweeter also than honey and drippings of the honeycomb.*

11 *Moreover by them is thy servant illumined;  
in keeping them there is great reward.*  
12 *But who can discern his errors? Clear thou me from hidden faults.*  
13 *Keep back thy servant also from presumptuous sins;  
let them not have dominion over me!*  
*Then I shall be blameless, and innocent of great transgression.*  
14 *Let the words of my mouth and the meditation of my heart  
be acceptable in thy sight, O Lord, my rock and my redeemer.<sup>1</sup>*

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<sup>1</sup> This translation of Psalm 19 is that of Dr. Bill Bales of Mount Saint Mary's Seminary, Emmitsburg, Maryland.

## INTRODUCTION

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*God's precepts are heavy to the fearful, light to the loving.*

*-St. Thomas Aquinas*

Thomas Aquinas seems almost prosaic when he states, “There are two effects of government, the preservation of things in their goodness, and the moving of things to good.”<sup>2</sup> For him, law has an indubitable relationship to human flourishing. In his “Conferences on the Two Precepts of Charity and the Ten Commandments,” a collection of evening sermons preached in Naples during the Lent of 1273, Aquinas begins with these words: “In order to save his soul a man needs a threefold knowledge: he needs to know what to believe, what to desire, and what to do. The first he learns in the creed, the second in the Lord’s Prayer, the third in the law.”<sup>3</sup> In this text we glimpse the most basic effect of law for Aquinas. As he states plainly in the *Summa theologiae*: “Therefore, it is manifest what the proper effect of law is, to lead [*inducere*] its subjects to their proper virtue.”<sup>4</sup>

Aquinas maintains that law makes a vital contribution to our moral development. Law functions as a moral pedagogy that instructs us in the way of virtue.<sup>5</sup> It would seem,

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<sup>2</sup> *Summa theologiae* (henceforth cited as ST) I 103.4, trans. the Fathers of the English Dominican Province, (Benziger Brothers edition, 1947): “*Unde duo sunt effectus gubernationis, scilicet conservatio rerum in bono, et motio earum ad bonum.*” All texts cited in this work from Aquinas—English and Latin—are taken from the CD Rom, *Folio Views 4.1: The Collected Works of St. Thomas Aquinas*. Where clarity requires it, I have made modifications to the English translations.

<sup>3</sup> Thomas Aquinas, ‘*The Commandments of God: Conferences on the Two Precepts of Charity and the Ten Commandments*, trans. Laurence Shapcote (London: Burns Oates & Washbourn LTD, 1937), 1: “*Tria sunt homini necessaria ad salutem: scilicet scientia credendorum, scientia desiderandorum, et scientia operandorum. Primum docetur in symbolo, ubi traditur scientia de articulis fidei; secundum in oratione dominica; tertium autem in lege.*”

<sup>4</sup> ST I-II 92.1: “*Unde manifestum est quod hoc sit proprium legis, inducere subiectos ad propriam ipsorum virtutem.*”

<sup>5</sup> Aquinas distinguishes between eternal law, natural law, human law, and divine law (ST I-II 91). I will explain later how Aquinas uses the term *law* analogously. I will also show how Aquinas’ distinctions of law clarify how we are to understand the pedagogical character of law.

then, that law's pedagogical function is what provides the rationale for Aquinas' understanding of law as a "rule and measure of acts, whereby man is induced [*inducitur*] to act or is restrained from acting . . ."<sup>6</sup>

Aquinas rarely employs the term *pedagogue* in reference to law, however, except when quoting St. Paul's reference to the Old Law in Galatians 3:23-26.<sup>7</sup> Paul testifies that, "Before faith came, we were confined under the law, kept under restraint until faith should be revealed. So that the law was our custodian (*παιδαγωγός*) until Christ came . . . But now that faith has come, we are no longer under a custodian (*παιδαγωγόν*)."<sup>8</sup> Paul refers here to the Old Law as a moral tutor or disciplinarian, to which Israel had been subject since the covenant at Sinai. The passage is noteworthy for its use of the term *pedagogue* in reference to law.

Paul's depiction of the Old Law as a pedagogue—a disciplinarian—raises an important question: If law is pedagogical, how does it lead us to virtue, especially given the coercive dimension of law? We might interpret the verb *inducere*—to lead—as indicating an external pressure applied to those subject to the law. Law leads us to virtue by the sheer gravity of moral obligation. Law "induces" us to virtue by exerting a psychological pressure upon the conscience, thus making us feel guilty. Or we might say that law is the power of rulers to impose their wills on us; we submit only because we fear their punishments.

It is easy to think this way about the Pauline understanding of law that Aquinas evokes. If we consider Paul's words again, his emphasis on "being confined," or "being kept under restraint," or "being under a pedagogue" leads to the conclusion—or so it seems—that the Old Law (and perhaps all law) would be pedagogical only in the sense of

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<sup>6</sup> ST I-II 90.1: "*Lex quaedam regula est et mensura actuum, secundum quam inducitur aliquis ad agendum, vel ab agendo retrahitur . . .*"

<sup>7</sup> For representative examples, see *Summa Contra Gentiles* (henceforth SCG), Bk. IV, Ch. 55, n. 11; ST I-II.98.2.1; ST I-II.104.3; ST I-II 106.3; ST I-II 107.1; *Super Decretalem*, n. 1; *Super ad Romanos*, cap. 10, lect. 2.

<sup>8</sup> 3:23-26. All Scriptural citations are taken from the *Revised Standard Version*.

“obliging” us to do good—a notion that may strike us as oxymoronic. The imposition of obligation and the fear of punishment seem only to abrogate the voluntary character of virtuous acts. Furthermore, in his treatise on law from the *Summa theologiae*, Aquinas does not provide a comprehensive account that might justify an alternative understanding of *how* law achieves its proper effect. At best, he says things like: law *habituates* us in virtue; or law *accustoms* us to virtue; or law is *medicinal* inasmuch as, through the fear of punishment, it directs us to the good. Such remarks provide little explanation for *how* law achieves these effects, except “under” the apprenticeship of an imposed sense of duty or simple coercion.

What will become evident as we proceed, however, is that a Thomistic understanding of law does not reduce the pedagogical efficacy of law to the psychological burden of obligation or the fear-inducing effects of punishment. In fact, neither is mentioned in Aquinas’ formal definition of law, for he does not identify law principally with the will but with the intellect: “And from these four preceding articles, the definition of law may be gathered; which is nothing else than an ordinance of reason for the common good, made by him who has care of the community, and promulgated.”<sup>9</sup> For Aquinas, the pedagogical character of law is delimited by the good of reason, even while the exercise of authority involves a coercive dimension. This suggests that what mediates the relationship between law and virtue is the free-decision of those governed, which for Aquinas always proceeds, as we shall see, from the love for some good the subject apprehends through reason.<sup>10</sup>

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<sup>9</sup> ST I-II 90.4: “*Et sic ex quatuor praedictis potest colligi definitio legis, quae nihil est aliud quam quaedam rationis ordinatio ad bonum commune, ab eo qui curam communitatis habet, promulgata.*”

<sup>10</sup> As Servais Pinckaers observes, “In the time of Thomas the term ‘law’ did not have the harsh connotation of our modern usage, expressing as it does the juridical nature of an external will restricting freedom by force. Nor did it carry the pejorative nuance that a Protestant reading of St. Paul has given to it . . . . Aquinas wrote before the age of nominalism with its legalistic and voluntaristic morality, before Protestantism with its distrust of all law in the name of faith. He lived within the more serene ambience of the patristic and ancient philosophical tradition, which saw in law the expression of the dynamic wisdom of the lawmaker, eliciting as far as possible the collaboration of mind and the spontaneous, willing assent of those subject to him. He conformed to the usage of Scripture, which ordinarily sees God’s law a source of

## *Law or Virtue?*

Yet, in an age of legal positivism,<sup>11</sup> why ought we examine the pedagogical character of law? In the words of one observer, “This pedagogical interpretation of the relation of law and virtue is one most Thomistic commentators have overlooked entirely.”<sup>12</sup> This is an unfortunate oversight that may help explain why we presently understand law mostly in relation to contracts, rights, entitlements, and the exercise of power. The other legal paradigm we encounter is the pervasiveness of deontology in ethics. Here, law is understood as simply imposing moral obligation and duty. As being far more relevant to the present study, it is necessary to mention that the latter paradigm has been countered by the resurgence of interest in virtue-ethics.

In her essay, “Modern Moral Philosophy,” Elizabeth Anscombe set into motion a renewed interest in the virtue-ethics of Aristotle and Aquinas.<sup>13</sup> With timely insight, her essay helps the reader survey the landscape of modern ethical theories and begins to delineate the characteristic features that distinguish a virtue-centered ethics from a law-centered ethics.<sup>14</sup> It is this distinction which is of special concern to the present study, for she attributes the latter to the Judeo-Christian tradition of ethics, which is, as she explains, inspired by the belief in a divine law-giver. Are we to conclude, then, that Christian ethics is fundamentally deontological? Well, no, as virtue ethicists have reminded us.

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light and a way of love. With him, we are not in a context dominated by the confrontation of freedom and law; law is seen as supporting freedom in its aspirations to truth, goodness, love, and beatitude” (“Aquinas and Agency: Beyond Autonomy and Heteronomy?” in *The Pinckaers Reader: Renewing Thomistic Moral Theology*, ed. John Berkman and Craig Steven Titus [Washington D.C.: The Catholic University of America Press, 2005], 176-77).

<sup>11</sup> See Jules Coleman, “On the Relationship Between Law and Morality,” in *Ratio Juris* 2 (1989), 66-78.

<sup>12</sup> Thomas Hibbs, “The Pedagogy of Law and Virtue in the ‘Summa Theologiae,’” doctoral dissertation, University of Notre Dame, 1987. As evidenced by the topic of his own doctoral studies, Hibbs is one of few exception to this. See also John A.D. Cuddeback, “Law as an Extrinsic Principle of Action in Aquinas,” doctoral dissertation, The Catholic University of America, 1997, chapter 5.

<sup>13</sup> Anscombe’s essay appears in *Virtue Ethics*, ed. by Roger Crisp and Michael Slote (Oxford: Oxford University Press, 1997), 26-44.

<sup>14</sup> For a survey of various schools of virtue-ethics, see Lee H. Yearley, “Recent Work on Virtue,” *Religious Studies Review* 16 (1990), 1-10; Jan Steutel and David Carr, “Virtue Ethics and the Virtue Approach to Moral Education” in *Virtue Ethics and Moral Education*, ed. David Carr and Jan Steutel, ed. (New York: Routledge, 1999), 3-17.

As a special note of interest, the renewal effort that virtue ethicists have instigated has achieved much in revitalizing a more robust account of Aquinas' ethics and moral theology. These scholars have helped identify the deficiencies of a law-centered ethics as presented in the old manuals of moral theology, under the tutelage of neo-scholasticism.<sup>15</sup> They have also worked to restore virtue to the center of moral theology and Christian ethics. In regard to this last achievement, they have put their emphasis upon the indispensability of virtue for the Christian life; and their efforts have achieved much in disentangling Christian ethics from the hazards of other ethical systems.<sup>16</sup>

What has been given scarce attention, however, is an account of the relationship law has to the formation of virtue in Aquinas' ethics. As Romanus Cessario admits, "Virtue theory does not highlight the role of the Commandments and ecclesiastical precepts."<sup>17</sup> In response to contemporary categories of ethics, virtue-ethicists typically present law and virtue as either rival sources of moral motivation or alternative principles for grounding a system of ethics.<sup>18</sup> Fr. Servais Pinckaers poses a question that epitomizes this conceptual dichotomy between law and virtue:

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<sup>15</sup> Romanus Cessario explains, for instance, "The schoolmen of the Middle Ages, inspired by patristic texts and aided by classical philosophy, developed different models to explain the dynamics of the moral virtues. The voluntarist emphases associated with the *via moderna* and the harvest of late medieval theology cut short the development of this paradigm. Because it stresses a narrow view of will power as the principal cause of moral action, a voluntarist perspective favors norms and precepts as the preferred subject matter for ethical discourse. Thus, from the Renaissance until the middle of this century, moral legalism predominated in both Roman Catholic and reformed circles. Few people are accustomed to think about their moral lives in terms of cultivated virtue" (*The Moral Virtues and Theological Ethics* [Notre Dame, IN: University of Notre Dame Press, 1991], 3).

<sup>16</sup> See for example Romanus Cessario, O.P., *Christian Faith & The Theological Life* (Washington D.C.: The Catholic University Press of America, 1996; *Introduction to Moral Theology* (Washington, D.C.: The Catholic University of America Press, 2001); *The Moral Virtues and Theological Ethics*; *The Virtues, Or The Examined Life*, (New York: Continuum International Publishing Group, 2002; Thomas Hibbs, *Virtue's Splendor: Wisdom, Prudence, and the Human Good* (New York: Fordham University Press, 2001; Alasdair MacIntyre, *After Virtue* (Notre Dame, IN: The University of Notre Dame Press, 1981); Servais Pinkaers, O.P. *The Sources of Christian Ethics*, trans. Sr. Mary Thomas Noble, O.P. (Washington D.C.: The Catholic University Press of America, 1995); Stephen J. Pope, *The Evolution of Altruism and the Ordering of Love* (Washington D.C., Georgetown University Press, 1994); Jean Porter, *The Recovery of Virtue: The Relevance of Aquinas for Christian Ethics* (Louisville, Westminster: John Knox Press, 1990); Michael Sherwin, O.P. *By Knowledge & By Love: Charity and Knowledge in the Moral Theology of St. Thomas Aquinas* (Washington D.C.: The Catholic University Press of America, 2005).

<sup>17</sup> Cessario, *The Moral Virtues*, 155.

<sup>18</sup> On this, Hibbs says, "Given the apparent incommensurability of the two theories, it is perhaps understandable that none of Thomas' commentators, excepting perhaps MacIntyre, even attempts to show how Aquinas could have combined law and virtue" ("The Pedagogy of Law and Virtue," 5).

*Is it love or is it obedience to obligations* [that constitutes the foundation supporting morality]? In the traditional textbooks, the general foundation lay in obligations and the predominant virtue became, in actual fact, legal obedience. The section on charity was revealing in this connection, since, practically speaking, it was limited to an explanation of man's obligations to, and sins against, God and neighbor. The study of charity itself, viewed as an upward thrust of the heart toward God, pertained to spirituality rather than to moral theology. Here we are faced with the question, Is it possible to love out of a sense of duty? If morality is the domain of obligation, then it can have little connection with the question of love.<sup>19</sup>

What seems largely absent in current approaches to Aquinas' moral theology, therefore, is his appreciation for the formative influence law has on the development of moral character—the pedagogical relationship of law to virtue.<sup>20</sup> Yet how do we focus upon the pedagogical character of law without slipping back into an ethics of obligation?<sup>21</sup>

The solution lies first in reading Aquinas' "Treatise on Law" in the context of his entire moral treatise. The "Treatise on Law," itself, which is found in the *Prima Secundae* (qq. 90-108) is unique in the whole of Aquinas' writings. Nowhere else does he present such a treatise.<sup>22</sup> As Ralph McInerney notes, "Any student of Thomas will realize how

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<sup>19</sup> "An Encyclical for the Future: *Veritatis Splendor*," trans. Sr. Mary Noble, O.P., in *Veritatis Splendor and the Renewal of Moral Theology*, ed. J.A. DiNoia, O.P. and Romanus Cessario, O.P. (Chicago: Midwest Theological Forum, 1999), 23. In another article, he says, "Personally, I should prefer to shift the center of gravity of ethics in the direction of the virtues [and away from 'norms or laws of obligation'], seen as qualities of the human person and spiritual inclinations to the source of freedom, which would allow for the reintroduction in ethics of the treatment of happiness . . . . Morality of norms, morality of virtues: they are not mutually exclusive and both are legitimate. But all the same the emphasis and perspective are different" (Servais Pinckaers, O.P. "Christ, Moral Absolutes, and the Good: Recent Moral Theology" *The Thomist* 55 [1991], 122). See also Kevin Staley, "Thomas Aquinas and Contemporary Ethics of Virtue," *The Modern Schoolman* LXVI (1989), 285-300. Staley compares Aquinas' understanding of the relationship between law and virtue to a variety of scholars working in virtue ethics.

<sup>20</sup> By pointing out this lacuna, I am not suggesting that these scholars are misconstruing Aquinas' thought. The focus these scholars have given to virtue serves as a necessary corrective to the manuals of moral theology. Nevertheless, it seems necessary as well to rescue Aquinas' legal theory from the deficiencies of the manuals. Some scholars do speak about the complementarity of law and virtue in Aquinas, particularly natural law, but seldom do they present law as moral pedagogy. For an overview of the "complementarity" of Aquinas' notions of law and virtue, see Maria Carl, "Law, Virtue, and Happiness in Aquinas's Moral Theory" *The Thomist* 61 (1997), 425-48; see also Giuseppe Abbà, *Lex et Virtus: Studi Sull'evoluzione della Dottrina Morale di San Tommaso d'Aquino* (Roma: LAS, 1983).

<sup>21</sup> For a pithy critique that shows the pitfalls of an ethics of obligation, see Servais Pinckaers, *Morality, The Catholic View* (South Bend, IN: St. Augustine Press, 2003), 65-81.

<sup>22</sup> For an historical approach to Aquinas' treatise on law and how it is situated within the history of political reflection, see Thomas Gilby, *The Political Thought of Thomas Aquinas* (Chicago, The University of Chicago Press, 1958).



unusual this is.”<sup>23</sup> What stands out most is how this treatise unites his treatise on the virtues and vices to his treatise on grace. McInerney remarks in another work that,

[T]he ‘Treatise on Law’ is often read as if it were an autonomous and self-sufficient discussion of law in all its senses. Considered in abstraction from its literary setting, the discussion of law may be read in such a way that its dependence on what has gone before is overlooked or misunderstood. Seeing it in conjunction with the preceding, one is struck by the backward references, the link-ups, the continuity of the discussion with its prologue.”<sup>24</sup>

On its own the treatise’s placement suggests that law is innate to the moral perfection of human acts. He opens the treatise by informing the reader that he will now consider “the external principle of acts [*principiis exterioribus actuum*].”<sup>25</sup> Having just concluded a long discussion on the interior principles of human acts—the virtues and vices—Aquinas explains that the extrinsic principle moving the person to good is God, “Who instructs us by law and assists us by grace.”<sup>26</sup> Thus, Aquinas does not conceive law and virtue as two ways of constructing an ethics; nor are they presented as different emphases within ethics. Rather, they are presented as contributing causes of good human actions. Virtue is the internal cause; law is the external cause.<sup>27</sup>

In short, the “Treatise on Law” is situated within Aquinas’ philosophy and theology of human action. Given the position law occupies in the *Summa theologiae*, then, I propose that what is needed at present is a deeper understanding of how law leads us to virtue. In fact, once we grasp the pedagogical character of law, we will see that law serves to actualize us in virtue by helping us conform our acts to the good of reason.<sup>28</sup> Law

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<sup>23</sup> “The Principles of Natural Law,” in *Readings in Moral theology: Natural Law and Theology*, no. 7, ed. by Charles E. Curran and Richard A. McCormick, S.J. (New York: Paulist Press, 1991): 140. His full remark is: “[I]t is oddly true that there is only one place in the vast body of his writings where he engages in an extended and formal discussion of law and its various kinds. Any student of Thomas will realize how unusual this is.”

<sup>24</sup> *Aquinas on Human Action: A Theory of Practice* (Washington D.C.: The Catholic University of America, 1992), 109.

<sup>25</sup> ST I-II 90, *prologus*.

<sup>26</sup> ST I-II 90, *prologus*: “*qui et nos instruit per legem, et iuvat per gratiam.*”

<sup>27</sup> For an excellent study of law as an extrinsic principle of acts, see Cuddeback, “Law as an Extrinsic Principle of Action in Aquinas.”

<sup>28</sup> This is distinguishable from the understanding of law advanced by the practice of casuistry, wherein law was limited to being a mere tool for evaluating the character of acts and delimiting the exercise of freedom. For an excellent discussion of casuistry see Cessario, O.P., *Introduction to Moral Theology*, appendix;

achieves this effect precisely because of the innate psychology of human agency. That is, the pedagogical character of law presupposes and depends entirely upon the psychological structure of human nature that gives rise to free-decision (*liberum arbitrium*).<sup>29</sup> To situate the matter within the framework Pinckaers presents: obedience to law is fundamental to achieving the freedom for excellence that virtue engenders—but only if we conceive law and freedom as Aquinas does. If we subscribe to the conception of law and freedom characteristic of modernity, we have no suitable alternative but to conceive the inclusion of law within ethics as initiating an irresolvable stalemate between the freedom of indifference (autonomy) and an ethics of obligation (constraint).

Some scholars have begun this work of reclaiming a Thomistic understanding of law as moral pedagogy. One such scholar, as mentioned above, is Thomas Hibbs who observes the following:

But *praeceptum* means not only “command,” but also “maxim” or “lesson.” The laws, then, are auxiliaries, which aim to inculcate in man the virtues necessary for the attainment of the end. The word *virtus*, on the other hand, means “strength” or “power.” If law educates, virtue enables. The prologue to the *secund pars* buttresses this reading. In it, Thomas refers to law as an extrinsic, and virtue an intrinsic, principle whereby man is led to the ultimate end.”<sup>30</sup>

Hibbs wrote a doctoral dissertation on the pedagogical character of Law entitled, “The Pedagogy of Law and Virtue in the ‘Summa Theologiae.’”<sup>31</sup> In it he provides a cogent presentation of the relationship between law and virtue. Because of the importance of Hibbs’s research to my project, I wish briefly to highlight a number of his insights. This will allow me to further contextualize my own point of departure.

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Pinckaers, “An Encyclical for the future: *Veritatis Splendor*,” 15; *The Sources of Christian Ethics*, chaps. 10-11; Michael Sherwin, *By Knowledge and By Love*, 1-4.

<sup>29</sup> As I will show, this is true of the “binding” nature of law as well. Law is only able “to bind us” morally to a determinate course of action because we are capable of knowing the good. A dog, for instance, cannot be morally bound to his master’s commands precisely because he is not capable of grasping the intelligibility of good and evil. Trained animals are not *obliged* to obey a set of rules precisely because they are not rational (ST I-II 93.5).

<sup>30</sup> “The Hierarchy of Moral Discourses in Aquinas,” *American Catholic Philosophical Quarterly* LXIV (1990), 210-11.

<sup>31</sup> University of Notre Dame, 1987. Hibbs published revised portions of his dissertation in the article cited in the previous footnote and in “A Rhetoric of Motives: Thomas on Obligation as Rational Persuasion,” *The Thomist* 54 (1990), 293-309.

Hibbs sets forth the premise that law and virtue are inextricably united. Two illuminating observations that he discusses in his fourth and fifth chapters are of unique relevance to the present study. First, instead of presenting a deontological interpretation of law, Hibbs argues that Aquinas understands law as rational persuasion:

Thomas highlights the intelligibility of law, which he associates with the rational apprehension of goods or ends. It is not merely that laws do in fact correspond to what is good and reasonable, but that this correspondence, or rather identity, is precisely what makes law normative and obligatory. Thomas stresses not only the rational character of law, but also the essential role of exhortation or persuasion: law is an inducement [inducere] to action.<sup>32</sup>

In other words, the pedagogical character of law makes sense only within an overarching conception of goods (ends) to which man is inclined by nature and is able to apprehend through reason. Accordingly, “The laws are intended to succor those practices and virtues which are at once means to the achievement of the end and embodiment of it.”<sup>33</sup>

Hibbs notes, however, that Aquinas’ presentation of the last end acknowledges the composite nature of the human good and thus various species of laws correspond to virtues that pertain to the total panoply of relevant goods, including eternal beatitude. This leads to the second point of interest I have in Hibbs’s work.

There exists in the Christian life a correspondence between a hierarchy of laws and a hierarchy of virtues. By the aid of law, we move through stages of moral progress in attaining the various ends of human life. The *Prima secundae* expounds this hierarchy of moral discourse, setting it down in all its complexity. Since the human good is composite and hierarchically arranged according to the order of final causality, it becomes evident that different laws are given for the sake of different ends. As Hibbs explains:

One of the most instructive ways of reading the *Secunda Pars* is in terms of a hierarchy of moral discourses. The role of the hierarchy is didactic; it provides a progressive education in the practices and virtues necessary for the attainment of the end . . . the common good acts as a structural principle, while the virtues and laws operate at the level of pedagogical strategies.<sup>34</sup>

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<sup>32</sup> “The Pedagogy of Law and Virtue in the ‘Summa Theologiae,’” 76.

<sup>33</sup> “The Pedagogy of Law and Virtue in the ‘Summa Theologiae,’” 188.

<sup>34</sup> “The Pedagogy of Law and Virtue in the ‘Summa Theologiae,’” 156-57.

Some virtues are necessary to civic life and the goods constitutive of the same; likewise, certain virtues are requisite to eternal beatitude. Hence, different laws are given for the inculcation of those virtues conducive to attaining the end at which the particular law aims. This is how Aquinas distinguishes natural law from human law, and these laws from divine law.<sup>35</sup> On Hibbs's reading of Aquinas, therefore, the laws and the virtues are hierarchically arranged, inasmuch as by them man progresses from the present state of things to eternal happiness.

The insight that Hibbs tenders regarding the relationship of law to virtue in Aquinas commends itself to deep reflection. He does an admirable job helping the reader appreciate the pedagogical structure of the *Secunda Pars*. He enables the reader to more effectively critique modern interpretations of law and the subsequent regress into deontology or legal positivism. He shows quite definitively that law is an education in virtue without necessarily implying an authoritarian model of governance or a dialectical confrontation between wills. Specifically, the notion of law as "rational persuasion" is an illuminating observation about the role law plays in leading us to the good.

Much work remains to be done on the pedagogical character of law, however. I thus consider this project a further development of Hibbs's work. Hibbs's notion of rational persuasion provides a wonderful starting point for such a reflection. This, it seems, is a notion that is concomitant with education itself. Education is persuasion, but not in the sense one might think. We can, of course, understand persuasion to originate from a given set of incentive structures related to reward and punishment. Indeed, law embodies these elements, for we are often persuaded to do the good and avoid evil by the promise of reward and the threat of punishment, especially the latter. Yet this hardly exhausts the

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<sup>35</sup> "The hierarchy of the laws and the virtues is constructed both ontologically and pedagogically. The laws are distinguished by the degree to which they participate in the eternal law. Similarly, the virtues are ranked in light of their approximation toward the virtues of the blessed, the virtues of the cleansed soul—those virtues that God is said to possess, if only metaphorically. The levels in each hierarchy can also be distinguished pedagogically, since each level marks a stage in man's moral education" (170-71).

rationally persuasive character of law. As an education in virtue, law must lead the person to practice virtue, something that encompasses not only practical moral wisdom, but also the right ordering of affections, as well as the formation of firm habits.

The second insight in need of further development is the idea that Aquinas' treatise on law is a "hierarchy of moral discourse" about the life of virtue. Again, the very notion of "discourse" invokes pedagogy, a dialogue between a teacher and a pupil.<sup>36</sup> Aquinas' thought helps us see exactly *how* God leads us to perfection in a manner eminently suited to our nature as rational beings. God's law, in the best sense, is a dialogue with man, a conversation and engagement with man's faculties, wherein God condescends to our creaturely condition to elevate us to supernatural life. All that God achieves through His law presupposes the kind of beings we are.

### *The Method of this Work*

To investigate the pedagogical character of law in Aquinas, we must grasp the process by which law leads us to virtue. This is the primary question I seek to answer by this study. As I indicated already, Aquinas does not present a comprehensive account of how law does this. Consequently, in order to present an account of law's pedagogical character I am compelled to delineate this matter by investigating many particular (and sometimes isolated) aspects of Aquinas' thought. The subtitle of this work—A Thomistic Defense for the Pedagogical Character of Law—indicates the nature of the work that lay ahead. I am not presenting Aquinas' "treatise" on the pedagogical character of law, for there is none. Rather, by drawing from the resources of Aquinas' thought, I will demonstrate the manner in which law is formative of moral character. I am thus

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<sup>36</sup> Gilles Mongeau, S.J. offers a description of *pedagogy* that concurs with what Hibbs describes of law: "To speak of pedagogy is to evoke a discourse that seeks to have an effect on those it address; it is also to evoke techniques of ordering and presenting materials that are intended to make the material not only intelligible, but also easier to appropriate" ("The Spiritual Pedagogy of the *Summa theologiae*," *Nova et Vetera* 2, English Edition, [2004], 94).

presenting what a Thomistic treatise on the pedagogical character of law might look like. This makes the study a constructive and somewhat creative project.

Methodologically, because the treatise on law appears in the *Summa theologiae* and given the late appearance of this work, I draw most of my references from it as opposed to other earlier works of Aquinas. However, there are a few noteworthy exceptions to this. In the first chapter, especially, I lean heavily upon some passages in *De Veritate* in order to provide a basic framework for proceeding through my analysis. I also draw upon his commentaries on Aristotle, particularly in regard to practical reasoning and conscience.

Moreover, because this topic is so little discussed among Thomists, I was hard-pressed to find secondary resources on the pedagogical character of law, as such. Consequently, that I might not burden the reader with scholarly debates that may detract from the principle focus of this work, I seldom if ever *critically* engage the work of other scholars. Rather, I use secondary sources where recent scholarship is useful in clarifying difficult concepts in Aquinas. Nevertheless, my default preference is to present the reader with a large canvassing of Aquinas' own words, in order to show in these the basis for my argument. Moreover, there are points on which Aquinas' thought is either murky or undeveloped. On such matters I take the liberty to attempt a clarification or tease out what I see as the relevant implications of what Aquinas does state clearly.

### *The Thesis and Division of this Work*

The thesis of this work is the following: Moral development is a movement from potency to act. Yet human beings (in general) are unable to achieve moral perfection or the good of virtue without the disciplinary aid of just laws. In a manner parallel to the teaching of science—though certainly not identical—just laws lead those governed to virtue by moving them to the good in the order of formal and not efficient causality. A

Pedagogical theory of law has two distinct aspects to it. The first is *cognitive*, in that law helps form our practical reasoning, so that we can judge aright in particular cases. The second aspect is *appetitive*, in that law helps conform the appetitive powers to right reason. Yet only when we grasp the integral unity of the intellect and will's concurring operations in human action—which Aquinas vehemently affirms—can we then see how law truly “teaches” and thereby *forms* our actions on both an intellectual and affective level. In so doing, law accustoms or habituates us to virtue. Above all, God is the *exemplar* of all moral pedagogues. It is through his law(s) especially, that he leads us to eternal beatitude, namely, by accustoming us to the virtues requisite for the Kingdom of God.<sup>37</sup>

This work is divided into two parts. In the first four chapters, we will examine the philosophical underpinnings for a pedagogical theory of law. In the remaining four, we will explore the various elements of which divine moral pedagogy is comprised. These include eternal, natural, and divine law. I intend part one to serve as a philosophical framework for grasping the nature and efficacy of divine moral pedagogy throughout salvation history, which I explore in part two.

In chapter one, I begin with Aquinas' philosophy of education in order to apply it to the question of moral instruction. This involves a look at practical reasoning and how we learn practical moral truth. In chapter two, I explore the pedagogical character of law in relation to the intellect. Here, I show how law forms the conscience and thus informs our practical reasoning. In chapter three, I explore the pedagogical character of law in relation to the appetites, both rational and sensitive. This chapter addresses the formation of virtuous habits in the soul and the role law plays in the process of

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<sup>37</sup> In presenting this thesis, I assume that only *just* laws lead to virtue. Thus, my use of the unqualified term *law* throughout this work always presupposes that the law mentioned is just. Moreover, because law does have a pedagogical character, as I will demonstrate, I will also show by implication that unjust laws—which Aquinas argues do not have the character of law—will lead subjects to vice. This raises many questions about the limits of civil law in leading us to virtue. Nevertheless, this also reveals the imperative for every human society to pass just laws.

habituation. In chapter four, I consider the pedagogical function of punishment. The focal point of this chapter is the fear of punishment and the formative influence legitimate forms of fear have upon our free-decisions.

In chapter five the focus shifts to divine moral pedagogy. Here, I explain how eternal law is the ontological foundation of moral instruction, insofar as it grounds the intelligibility of all goodness—it makes the good intelligible to reason. Any moral instruction presupposes this intelligibility. Chapter six examines the role natural law occupies in divine moral pedagogy as the internal principle of divine moral pedagogy. In chapter seven, I present an overview of salvation history as the history of divine moral pedagogy. The goal here is to examine divine law before and after the covenant God made with Israel at Sinai in order to show how divine law leads us to virtue. Finally, in chapter eight, I explore the pedagogical character of the New Law as the consummation of divine moral pedagogy. The basic structure of this work addresses the two points I wish to build upon from Thomas Hibbs’s research. Part one develops the idea that law is rational persuasion. Part two examines the hierarchy of moral discourse as this pertains to divine moral pedagogy.



**PART ONE**

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*Law as Rational Persuasion*

## CHAPTER ONE

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### *The Cognitive Foundations of Moral Instruction*

This chapter will investigate the pedagogical character of law in its *cognitive* aspect. This inquiry, however, requires a look at some antecedent issues; chapter one is preparatory in this regard. This preparation involves probing Aquinas' philosophy of education and how this relates to practical reason.<sup>1</sup> Aquinas addresses education in only a few places, the most expansive treatments being found in *De Veritate*, question 11<sup>2</sup> and the *Prima Pars* of the *Summa theologiae*, question 117, article 1.<sup>3</sup> In both loci, Aquinas addresses whether one man can teach another and the role that teachers play in the acquisition of knowledge.

My intention in this chapter, therefore, is to show that Aquinas' philosophy of education provides a framework for comprehending how law leads us to the knowledge of good and evil. This analysis will proceed in three steps. I will first offer an overview of Aquinas' philosophy of education. Second, with the assistance of Aquinas' philosophy of education, I will explicate the process of moral discovery. I will conclude with a discussion of how moral discovery informs our judgments at the moment of decision. These three steps will set the stage for what follows in chapter two.

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<sup>1</sup> Aquinas' thought on teaching pertains almost exclusively to speculative reason. Hence, I will need to investigate how his understanding of speculative instruction might illuminate the process of moral instruction.

<sup>2</sup> Trans. Robert W. Mulligan, S.J. (Chicago: Henry Regnery Company, 1952).

<sup>3</sup> See John W. Donahue, *St. Thomas Aquinas & Education* (New York: Random House, 1968); Anthony D. Gulley, *The Educational Philosophy of Saint Thomas Aquinas* (New York: Pageant Press, Inc., 1964). See also SCG Bk.II, Ch. 75.

## A. Aquinas' Philosophy of Education

It is fitting to begin by defining the term *paedagogos*. The word is derived from the Greek word *paedos*, which means “boy” and the word *goge*, which means, “a guiding.”<sup>4</sup> This definition designates one who guides a child to moral maturity. Aquinas does not utilize the term in reference to one who teaches the sciences, but rather to indicate one who instructs a child or childlike person in the life of virtue or the spiritual life.<sup>5</sup> Analogously, Aquinas also applies variations of the term to designate the role of conscience,<sup>6</sup> as well as the *method* of instruction a tutor employs. The former use suggests that conscience is a kind of moral tutor through which a person can distinguish good and evil. The latter use is how St. Paul employs the term in reference to the Old Law. What a pedagogue does, therefore, is instruct another in virtue. John Donahue points out that Aquinas uses a very specific term when referring to learning virtue by instruction—*educatio*.<sup>7</sup> Aquinas defines *educatio* as “the promotion of the child to the state of specifically human excellence, that is to say, to the state of virtue.”<sup>8</sup> Aquinas uses the term *educatio* most often in reference to raising children to their full stature as human beings.<sup>9</sup> Since the education of a child in virtue includes both intellectual and moral virtue, the term *educatio* has a broad pedagogical meaning.

Aquinas also employs the term *disciplina* in reference to teaching or instruction. He uses this term when referring to the function of human law.<sup>10</sup> As with *educatio*, he applies

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<sup>4</sup> Thomas Aquinas, *Super ad Galatas*, Ch. 3, lect. 8, trans. F. R. Larcher, O.P. (Albany, New York: Magi Books, Inc., 1966): “For as long as the heir cannot obtain the benefits of his inheritance, either because he is too young or because of some other shortcoming, he is sustained, and guarded by a tutor called a pedagogue, from *paedos* (boy) and *goge* (a guiding): *Quamdiu enim haeres non potest consequi beneficium haereditatis, vel propter defectum aetatis seu alicuius debitae perfectionis, conservatur, et custoditur ab aliquo instructore, qui quidem instructor paedagogus dicitur, a paedos, quod est puer, et goge, quod est ductio.*”

<sup>5</sup> See ST II-II 142.2; ST III 67.7; *In II Libros Sententiarum*, dist. 11, a.1, ag. 8; *Sententia Libri Ethicorum* III, lect. 22, n. 13.

<sup>6</sup> See *De Veritate*, q. 17, a. 1 ad 8.

<sup>7</sup> *St. Thomas Aquinas & Education* (New York: Random House, 1968), 59.

<sup>8</sup> *In libros Sententiarum* IV, dist. 26, q. 1, a: “. . . promotionem usque ad perfectum statum hominis, inquantum homo est, qui est virtutis status.” Cf. Donahue, *Aquinas and Education*, 59.

<sup>9</sup> See *In libros Sententiarum* IV, dist. 31, q. 1, a. 2; ST I-II 94.2; ST II-II 102.3.

<sup>10</sup> ST I-II 95.1.

the term to both speculative and practical instruction.<sup>11</sup> Finally, Aquinas uses forms of the verb *assuescere* (to accustom) in reference to moral instruction, by which some discipline accustoms us to virtue.<sup>12</sup> Unfortunately, however, in spite of the scattered references to pedagogy, discipline, and education, Aquinas' corpus is bereft of a question or even one article on moral instruction, even if we can construe the entire *Secundae Pars* as a moral pedagogy.<sup>13</sup> The least we can say is that the term *paedagogos* refers to the one who educates, disciplines, or accustoms another in the life of virtue. A derivative of this term refers to the method employed for achieving this aim. This latter use is how we must understand Aquinas' (and St. Paul's) interpretation of law as moral instruction.

### 1. How We Learn

Aquinas distinguishes two modes of learning, discovery (*inventio*) and instruction (*disciplina*). Our principal concern lies with the second. Aquinas explains in *De Veritate* that two principles operate in this mode of learning—one internal, the other external. Aquinas describes the internal principle as *seeds of knowledge* that pre-exist in us, which he identifies as certain “conceptions of the intellect.”<sup>14</sup> Shortly following this statement, Aquinas refers to these “conceptions” as universal principles. These principles are the first principles of speculative reason and we know them by the light of the agent intellect through the species abstracted from sensible things.<sup>15</sup> We apprehend universal principles through our encounter with sensible particulars.<sup>16</sup> Thus, two elements compose his explanation of the internal principle of learning. The first are the universal principles he identifies as complex axioms or simple notions like being and one, which the intellect

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<sup>11</sup> ST I-II 4.1; I-II 95.1.

<sup>12</sup> ST I 95.1.

<sup>13</sup> See Thomas Hibbs, “The Pedagogy of Law and Virtue in the ‘Summa Theologiae,’” doctoral dissertation, University of Notre Dame, 1987.

<sup>14</sup> *De Veritate*, q. 11, a. 1: “*conceptiones intellectus*.”

<sup>15</sup> *De Veritate*, q. 11, a. 1: “For certain seeds of knowledge pre-exist in us, namely, the first concepts of understanding, which by the light of the agent intellect are immediately known through the species abstracted from sensible things . . . : *Quod praeexistunt in nobis quaedam scientiarum semina, scilicet primae conceptiones intellectus, quae statim lumine intellectus agentis cognoscuntur per species a sensibilibus abstractas* . . .”

<sup>16</sup> See Hibbs, “The Pedagogy of Law and Virtue in the ‘Summa Theologiae,’” 24-34.

grasps at once. The second is a natural light God places in the soul, which Aquinas calls the agent intellect. This light is a natural power of the soul by which we understand first principles. Aquinas offers his explanation of how this internal principle is the foundation of all speculative learning: “Therefore, man gains knowledge of things he does not know through two things: intellectual light and primary conceptions known through themselves (*per se notas*), which are compared to the intellectual light of the agent intellect as tools to the craftsman.”<sup>17</sup> Likewise, in the *Summa theologiae* he states, “For in every man there is a certain principle of knowledge, namely, the light of the agent intellect, by which certain universal principles of all sciences are understood naturally.”<sup>18</sup>

Subsequent to his initial remarks in *De Veritate* question 11, article 1, Aquinas further clarifies his understanding of the internal principle of learning. He explains the two ways in which a natural thing can pre-exist in potency. The first way he describes as an “active and completed potency (*potentia activa completa*).”<sup>19</sup> As such, a thing can actualize itself through some principle (power) intrinsic to it. The other he describes as a “passive potency (*potentia passiva*),” which is reduced to act by the assistance of a proximate external principle. Aquinas continues by describing how the internal principle of knowledge, “pre-exists in the learner potentially, not, however, in the purely passive, but in the active, sense.”<sup>20</sup> This suggests that we can actualize this internal principle ourselves.

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<sup>17</sup> *De Veritate*, q. 11, a. 3: “*Sic igitur homo ignotorum cognitionem per duo accipit; scilicet per lumen intellectuale, et per primas conceptiones per se notas, quae comparantur ad istud lumen, quod est intellectus agentis, sicut instrumenta ad artificem.*”

<sup>18</sup> ST I 117.1: “*Inest enim unicuique homini quoddam principium scientiae, scilicet lumen intellectus agentis, per quod cognoscuntur statim a principio naturaliter quaedam universalia principia omnium scientiarum.*” In his mature works, Aquinas employs only the term *universal principles* as opposed to *conceptions of the intellect*. The danger in the latter term is the erroneous idea that the intellect conceives first principles through an operation of reason, as opposed to the idea that God inscribes first principles in the intellect, and thus they are presupposed in every act of reasoning.

<sup>19</sup> *De Veritate*, q. 11, a. 1.

<sup>20</sup> *De Veritate*, q. 11, a. 1: “*Praeexistit in addiscente in potentia non pure passiva, sed activa.*” See Vernon Bourke, “Right Reason in Contemporary Ethics,” *The Thomist* 38 (1974), 106.

## 2. The Process of Discovery

Aquinas' explanation of the internal principle of learning provides the key to how the first mode of learning—the process of discovery [*inventio*—is possible. In discovery, the sensible objects—the intelligible species of which the intellect apprehends—serve as proximate external principles of learning. When we discover something new, we move discursively from what we know—universal principles or common notions and the intelligible species of sensible things—to what we do not know, namely, conclusions contained seminally within the selfsame principles or common notions. By this movement of reason, the person traverses the distance from potency to act and thus learns something new. Once discovered, the person then judges the matter of his inquiry by the same principles. This judgment embodies complete knowledge if the person can trace the conclusion back to principles. Aquinas describes the process of discovery as follows: “Now, in discovery, the procedure of anyone who arrives at the knowledge of something unknown is to apply common, self-evident principles to certain determinate matters, from these to proceed to particular conclusions, and from these to others [conclusions].”<sup>21</sup>

For clarity's sake, I wish to describe more fully this exercise of applying principles to determinate matters and of reducing conclusions into principles; otherwise, the process of discovery remains somewhat opaque. What exactly does Aquinas understand this movement from potency to act to entail? We gather a clue in *De Veritate* where he says, “If we are taught what man is, we must know something about him beforehand, namely, the meaning of animal, or substance, or at least of being itself, which last concept cannot escape us.”<sup>22</sup> That is, we acquire particular knowledge by apprehending the object of

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<sup>21</sup> *De Veritate*, q. 11, a. 1: “Processus autem rationis pervenientis ad cognitionem ignoti inveniendū est ut principia communia per se nota applicet ad determinatas materias, et inde procedat in aliquas particulares conclusiones, et ex his in alias.”

<sup>22</sup> *De Veritate*, q. 11, a. 1 ad 3: “Utpote si docemur quid est homo, oportet quod de eo praesciamus aliquid: scilicet rationem animalis, vel substantiae, aut saltem ipsius entis, quae nobis ignota esse non potest.”

inquiry in its relation to our knowledge (or understanding) of more universal notions within which the object falls categorically. This process of discovery involves increasingly clear degrees of knowing along the way:

It must be considered that our intellect proceeds from potency to act; thus every power that proceeds from potency to act first reaches an incomplete act, which is the middle between potency and act, before reaching the perfect act. The perfect act to which the intellect reaches is complete knowledge by which a thing is known distinctly and determinately; whereas the incomplete act is imperfect knowledge, by which a thing is known indistinctly, under a certain confusion.<sup>23</sup>

In the same article, Aquinas employs the analogy of sense knowledge to illustrate the point. He explains that we judge of the more common before we judge of the particular. When we see a thing at a distance, for example, we judge it to be a body before judging it to be an animal. We judge it to be an animal before judging it to be a man. At first sight, the particular knowledge is indistinct and confused. We see something but know not what it is. We thus attain greater knowledge of the object as we apprehend its particular characteristics in relation to its proximate genus.<sup>24</sup> He concludes the article by saying that knowledge of the more common always precedes knowledge of the less common. The following text summarizes the matter well:

For to understand is simply to apprehend intelligible truth: and to reason is to advance from one thing understood to another, so as to know intelligible truth . . . . But man arrives at the knowledge of intelligible truth by advancing from one thing to another; and therefore he is called rational. Reasoning, therefore, is compared to understanding as movement is to rest, or acquisition to possession; of which one belongs to the perfect, the other the imperfect. And since movement always proceeds from something immovable and ends in something at rest; hence it is that human reasoning by way of inquiry and discovery, advances from certain things simply understood—namely, first principles; and again by way of judgment returns by analysis to first principles, in the light of which it examines what it has found.<sup>25</sup>

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<sup>23</sup> ST I 85.3: “*Oportet considerare quod intellectus noster de potentia in actum procedit. Omne autem quod procedit de potentia in actum, prius pervenit ad actum incompletum, qui est medius inter potentiam et actum, quam ad actum perfectum. Actus autem perfectus ad quem pervenit intellectus, est scientia completa, per quam distincte et determinate res cognoscuntur. Actus autem incompletus est scientia imperfecta, per quam sciuntur res indistincte sub quadam confusione.*”

<sup>24</sup> ST I 85.3: “He who knows a thing indistinctly is in a state of potency as regards its principle of distinction; as he who knows genus is in a state of potency as regards difference: *Quia qui scit aliquid indistincte, adhuc est in potentia ut sciat distinctionis principium; sicut qui scit genus, est in potentia ut sciat differentiam.*”

<sup>25</sup> ST I 79.8: “*Intelligere enim est simpliciter veritatem intelligibilem apprehendere. Ratiocinari autem est procedere de uno intellecto ad aliud, ad veritatem intelligibilem cognoscendam. . . . Homines autem ad intelligibilem veritatem cognoscendam perveniunt, procedendo de uno ad aliud, ut ibidem dicitur, et ideo rationales dicuntur. Patet ergo quod ratiocinari comparatur*

### 3. The Role of Teachers

This inquiry into the nature of discovery enables us to comprehend the nature of *disciplina* itself, and thus of pedagogy. Aquinas tells us that, “A similar thing takes place in acquiring knowledge [by instruction]. For the teacher leads the pupil to knowledge of things he does not know in the same way that one directs himself through the process of discovering something he did not know.”<sup>26</sup> Teaching is the same as any art; it presupposes nature. In medicine, for example, “the doctor in healing is the minister of nature, which is the principal agent, by strengthening nature and prescribing medicines, which nature uses as instruments for healing.”<sup>27</sup> In the art of teaching, a teacher merely provides an instrument through which a student is aided in his natural process of learning.

For Aquinas, teachers thus play the role of external principles of instruction. Since the particular knowledge of conclusions exists in potency through the understanding of principles, an external agent assists another in reducing the intellect from principles to the knowledge of particular conclusions. Teaching, however, presupposes that students have some prior understanding or knowledge.<sup>28</sup> As Ralph McInerny observes,

For St. Thomas, the human mind is a capacity that cannot fail to grasp certain truths, the starting points or principles of thinking. St. Thomas calls this use of our mind *invention* as opposed to *discipline*, learning, or being taught. These are not pure alternatives, of course; the latter presupposes the former. That is, someone can teach us something new only if we already know something.<sup>29</sup>

In short, a teacher leads their students from what the student knows—general principles

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*ad intelligere sicut moveri ad quiescere, vel acquirere ad habere, quorum unum est perfecti, aliud autem imperfecti. Et quia motus semper ab immobili procedit, et ad aliquid quietum terminatur; inde est quod ratiocinatio humana, secundum viam inquisitionis vel inventionis, procedit a quibusdam simpliciter intellectis, quae sunt prima principia; et rursus, in via iudicii, resolvendo redit ad prima principia, ad quae inventa examinat.* See also ST I 83.4.

<sup>26</sup> *De Veritate*, q. 11, a. 1: “*Et similiter etiam contingit in scientiae acquisitione, quod eodem modo docens alium ad scientiam ignotorum deducit sicuti aliquis inveniando deducit seipsum in cognitionem ignoti.*”

<sup>27</sup> *De Veritate*, q. 11, a. 1: “. . . sicut medicus in sanatione est minister naturae, quae principaliter operatur, confortando naturam, et apponendo medicinas, quibus velut instrumentis natura utitur ad sanationem.” See Jacques Maritain, *Education at the Crossroads* (New Haven, Yale University, 1943), 30-31.

<sup>28</sup> *De Veritate*, q. 11, a. 1 ad 3.

<sup>29</sup> Ralph McInerny, “Are there Moral Truths That Everyone Knows?” in *Common Truths: New Perspectives on Natural Law* (Wilmington, DE: ISI Books, 2000), 5.



or common notions—to what they do not know, particular conclusions.<sup>30</sup> Aquinas sums up the process of “learning by instruction” as follows: “When, therefore, the mind is led from these universal notions to actual knowledge of particulars, which it knew previously in general and potentially, then one is said to acquire knowledge.”<sup>31</sup> In the words of Thomas Hibbs, “The teacher forms the unformed dispositions of the student and makes explicit the inchoate apprehension of first principles.”<sup>32</sup>

Aquinas stipulates further how teachers instruct. In the *Prima Pars*, Aquinas delineates two methods by which teachers lead their students to knowledge. “First, by proposing to him certain helps or instruments, which his intellect can use for the acquisition of science.”<sup>33</sup> This includes examples illustrating the truth being considered. The second is by proposing “the order of principles to conclusions [*ordinem principiorum ad conclusiones*],” this latter way being necessary for those unable to draw conclusions easily from more general principles. The act of teaching thus encompasses the utilization of some technique, whereby the teacher enables students to judge in light of principles. In *De Veritate* we find an instructive summary of the role a teacher plays in the acquisition of knowledge:

In the pupil, the intelligible forms of which knowledge received through teaching is constituted are caused *immediately* by the agent intellect and *mediately* by the one who teaches. For the teacher sets before the pupil signs of intelligible things, and from these the agent intellect derives the intelligible likenesses and causes them to exist in the possible intellect. Hence the words of the teacher heard or seen in writing have the same efficacy in causing knowledge as things, which are outside the soul. For from both, the agent intellect receives intelligible likenesses, although the words of the teacher are more proximately disposed to cause knowledge than things outside the soul, in so far as they are signs of intelligible intentions.<sup>34</sup>

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<sup>30</sup> See Thomas Hibbs, *Virtues Splendor: Wisdom, Prudence, and the Human Good* (New York: Fordham University Press, 2001), 37.

<sup>31</sup> *De Veritate*, q. 11, a. 1: “*Quando ergo ex istis universalibus cognitionibus mens educitur ut actu cognoscat particularia, quae prius in universali et quasi in potentia cognoscebantur, tunc aliquis dicitur scientiam acquirere.*”

<sup>32</sup> “MacIntyre’s Postmodern Thomism: Reflections on *Three Rival Versions of Moral Inquiry*,” *The Thomist* 57 (1993), 280.

<sup>33</sup> ST I 117.1: “*Primo quidem, proponendo ei aliqua auxilia vel instrumenta, quibus intellectus eius utatur ad scientiam acquirendam.*”

<sup>34</sup> ST I 117.1: “*In discipulo describuntur formae intelligibiles, ex quibus scientia per doctrinam accepta constituitur, immediate quidem per intellectum agentem, sed mediate per eum qui docet. Proponit enim doctor rerum intelligibilium signa ex*

Teachers do not teach their students by giving them knowledge of first principles but by presenting certain sensible signs that actualize what is contained in the principles implicitly and potentially.<sup>35</sup> Put otherwise, “The teacher . . . furnishes the pupil’s intellect with a stimulus to knowledge of the things which he teaches, as an essential mover, leading the intellect from potentiality to actuality.”<sup>36</sup>

Another way to clarify the agency of a teacher is to say that the act of a teacher (his knowledge) is communicated to the student the way the act of any agent passes into the patient and is completed there.<sup>37</sup> Stephen Brock presents a fertile discussion of the agent-patient relationship in his book *Action and Conduct: Thomas Aquinas and the Theory of Action*.

He relates his insights to education in the following way:

It is never the case that, in acting, the agent itself undergoes the very kind of change that specifies its agency, even if it does undergo some other kind of change. A teacher is called a teacher by being the agent of a process of learning or acquiring knowledge; but in the act of teaching, the teacher cannot be acquiring the very knowledge that he is teaching, even if it also happens to be acquiring other knowledge . . . the action of the teacher is in the learner.<sup>38</sup>

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*quibus intellectus agens accipit intentiones intelligibiles, et describit eas in intellectu possibili. Unde ipsa verba doctoris audita, vel visa in scripto, hoc modo se habent ad causandum scientiam in intellectu sicut res quae sunt extra animam, quia ex utrisque intellectus agens intentiones intelligibiles accipit; quamvis verba doctoris propinquius se habeant ad causandum scientiam quam sensibilia extra animam existentia inquantum sunt signa intelligibilium intentionum.”* The English translation from which this is taken actually translates the term *intentionum* as *form* [emphasis mine].

<sup>35</sup> See *De Veritate*, q. 11, a. 3: “But he does in a sense cause knowledge in another man as regards the new knowledge which is caused by self-evident principles. He does this, not as one who gives knowledge of first principles, but as one who shows certain sensible signs to the external senses, and thus brings into actuality that which was contained in the principles implicitly and in a certain sense in potentiality: *Sed ex parte illa qua scientia ignotorum per principia per se nota causatur, alteri homini causa sciendi quodammodo existit, non sicut notitiam principiorum tradens, sed sicut id quod implicite, et quodammodo in potentia, in principiis continebatur educendo in actum per quaedam signa sensibilia exteriori sensui ostensa, sicut supra dictum est.*”

<sup>36</sup> *De Veritate*, q. 11, a. 1 ad 12: “*Doctor ergo excitat intellectum ad sciendum illa quae docet, sicut motor essentialis educens de potentia in actum.*”

<sup>37</sup> Thomas Aquinas, *In libros Physicorum* III, lect. V, p. 316: “It is not unfitting that the act of one thing be in another, because [for example] the teaching is the act of the teacher, but nevertheless tending from him toward another continuously and without interruption; whence the same act is ‘of this one,’ that is, of the agent, as that from which; and it is nonetheless in the patient, as received in it: *Dicit ergo primo quod non est inconueniens actum unius esse in altero, quia doctio est actus docentis, ab eo tamen in alterum tendens continue et sine aliqua interruptione: unde idem actus est huius, idest agentis, ut a quo; et tamen est in patiente ut receptus in eo. Esset autem inconueniens si actus unius eo modo quo est actus eius, esset in alio.*” Cf. Stephen Brock, *Action and Conduct: Thomas Aquinas and the Theory of Action* (Edinburgh: T&T Clark, 1998), 79-80.

<sup>38</sup> *Action and Conduct*, 61. See also, J. A. McWilliams, “Action Does Not Change the Agent” In *Philosophical Studies in Honor of the Very Reverend Ignatius Smith*, ed. John K. Ryan, 208-21 (Westminster, Md.: Newman Press, 1952).

In this manner the teacher leads the pupil from potency to act, thus helping to bring about the act of knowledge in the student.

Let us consider an illustration. If a teacher is to actualize a student's inchoate knowledge of man, he will proceed by describing those specific characteristics that distinguish man from, say, other primates. He might explain that man's rationality allows him to perform creative activities such as art or playing music. Presupposed in such an explanation, however, is the student's prior knowledge of what distinguishes primates from other mammals. For example, the student must know that primates have hands. Likewise, the student must know the general difference between mammals and reptiles, animals and plants, and so forth. The teacher may have to instruct the student in these matters. These instructions are what enable the student to apprehend what a man is. By these instructions, however, the teacher only provides the student with more determinate principles through which the student can judge for himself what this or that thing is. The teacher does not actualize fully the student's particular judgments, for then knowledge would follow necessarily from all instruction, which it does not. A teacher merely attempts to bring students to the point where they can make their own judgments about particular objects of inquiry.

Before I conclude this portion of our inquiry, I wish to note four points concerning the limits of human instruction, all of which illuminate the limitations of human law as moral pedagogy. First, human teachers can fail in teaching. Aquinas explains in *De Veritate* that teachers can lead others into mere opinions by proposing conclusions not derived from genuine principles. He argues that whatever is contrary to these principles must be rejected entirely and that one may withhold assent to any conclusion that does not follow necessarily from principles or is contrary to the same. In order to have certain knowledge, we must be able to reduce any conclusion to more universal principles. "The whole certainty of scientific knowledge arises from the certainty of principles. For

conclusions are known with certainty when they are reduced to the principles.”<sup>39</sup> For example, the teacher may tell his students that Orangutans are rational animals because they use simple objects as tools. Yet such a conclusion is false because this activity is not necessarily a rational one, though it does distinguish primates from other mammals. To use simple objects as tools is not a characteristic that distinguishes man from other primates.

The second follows from the first: to teach another, one must be in *act* relative to what is taught. “The teacher or master must have the knowledge he causes in another explicitly and perfectly, as it is to be received in the one who is learning through instruction.”<sup>40</sup> Hence, we cannot teach others what we ourselves do not know.

Third, the internal principle of learning is always primary, while the external principles maintain an auxiliary function: “The exterior principle, art [in this case teaching] acts, not as principal agent, but as helping the principal agent, which is the interior principle, by strengthening it, and by furnishing it with instruments and assistance, of which the interior principle makes use in producing the effect.”<sup>41</sup> To be effective, teaching depends upon nature, namely, first principles and the light of reason God gives to us.

Finally, Aquinas comments on a passage from the Gospels, in which Christ tells his apostles not to be called teachers (Matt. 23:8). He explains that, insofar as learning and teaching are operations dependent upon the interior principle, God is the actual teacher of all. “Now the light of reason by which such principles are evident to us is implanted in us by God as a kind of reflected likeness in us of the uncreated truth. So, since all human teaching can be effective only in virtue of that light, it is obvious that God alone teaches

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<sup>39</sup> *De Veritate*, q. 11, a. 1: “*Certitudo scientiae tota oritur ex certitudine principiorum: tunc enim conclusiones per certitudinem sciuntur, quando resolvuntur in principia.*”

<sup>40</sup> *De Veritate*, q. 11, a. 2: “*Unde oportet quod ille qui docet vel magister est, habeat scientiam quam in altero causat, explicita et perfecte, sicut in addiscente acquiritur per doctrinam.*”

<sup>41</sup> ST I 117.1: “*Exterius, scilicet ars, non operatur sicut principale agens, sed sicut coadiuvans agens principale, quod est principium interius, confortando ipsum, et ministrando ei instrumenta et auxilia, quibus utatur ad effectum producendum.*”

interiorly and principally.”<sup>42</sup> Another passage reinforces the point: “That something is known with certainty is due to the light of reason divinely implanted within us, by which God speaks within us.”<sup>43</sup> We acquire all knowledge, therefore, ultimately through divine pedagogy. As we shall see later, this is important for understanding natural law.

### Summary

I have focused this presentation of Aquinas’ philosophy of education on four points pertinent to what follows in the remainder of this work. First, Aquinas identifies both an internal and external principle of instruction, affirming the priority of the internal principle. Second, “learning by instruction” engenders a movement from the understanding of principles to the knowledge of conclusions contained within those principles. Some external pedagogy facilitates this movement. To the third point, Aquinas recognizes the indispensable role of teachers in aiding the human person to attain particular knowledge. Aquinas argues that *disciplina* is a constitutive element of actualizing the internal principle. “For the mind needs a mover to actualize it through teaching.”<sup>44</sup> Discovery is a vital mode of learning and superior to “learning by instruction” yet it is not sufficient for most. Fourth, in virtue of the internal principle of learning, Aquinas holds God, above all, to be our teacher. Together, these four elements provide a framework for understanding the cognitive foundation of moral instruction and thus the ancillary function of law in the development of moral character.

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<sup>42</sup> *De Veritate*, q. 11, a. 1: “*Huiusmodi autem rationis lumen, quo principia huiusmodi nobis sunt nota, est nobis a Deo inditum, quasi quaedam similitudo increatae veritatis in nobis resultans. Unde, cum omnis doctrina humana efficaciam habere non possit nisi ex virtute illius luminis; constat quod solus Deus est qui interius et principaliter docet, sicut natura interius et principaliter sanat.*”

<sup>43</sup> *De Veritate*, q. 11, a. 1 ad 13: “*Et ideo hoc quod aliquid per certitudinem sciatur, est ex lumine rationis divinitus interius indito, quo in nobis loquitur Deus.*”

<sup>44</sup> *De Veritate*, q. 11, a. 1 ad 12: “*Indiget enim motore, qui reducat eum in actum per doctrinam.*”

## B. Moral Discovery

As we have seen, we understand *disciplina* better by first grasping the natural process of *inventio*. It thus follows that we might grasp the pedagogical character of law more clearly if we first comprehend the process of moral discovery. Yet this next inquiry must account for the similarities and differences between speculative and practical reason as well as the complexities of the latter. My intention is to demonstrate how moral discovery leads to the knowledge of good and evil.<sup>45</sup> To this end, I need to address three questions. First, is there an internal principle of moral instruction? Second, what is the structure and form of practical reasoning? This will provide a basis for grasping how we move from principles to conclusions in the practical domain. And finally, what is the process of moral discovery itself?

### 1. The Internal Principle of Moral Instruction

The first matter to determine is whether Aquinas ever mentions an internal principle of instruction pertaining to practical reason. In the speculative domain, we saw that Aquinas identifies the internal principle of instruction with the first principles of speculative reason. Inasmuch as the object of *practical* reason is human action,<sup>46</sup> the internal principle of moral instruction would pertain to general principles of virtuous action; and this understanding of principles would be the seedbed of moral discovery. Aquinas speaks of these principles as follows:

The end of the moral virtues is the human good. Now the good of the human

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<sup>45</sup> For clarity sake, I do not wish the reader to confuse the science of morals with the virtue of prudence, though they are intimately related. To know what is good and evil is not the same as acting prudently. However, one cannot act prudently if he is ignorant of good and evil. To act voluntarily is to act through reason. Prudence is the virtue of right practical reason. As a moral virtue, prudence disposes a person to acting well in accord with right reason. Aquinas says, “Prudence is right reason applied to action (ST II-II 47.2).” The knowledge of practical moral truth is thus included in the definition of prudence but it does not exhaust the definition. Prudence presupposes a good will in addition to the knowledge of practical moral truth (ST II-II 47.5). It follows, therefore, that if law is pedagogy, it must actualize the principles of practical reason for the sake of acting prudently. Law does achieve this aim, as I will show in chapters two and three.

<sup>46</sup> ST I 79.11.

soul is to be in accord with reason. . . . wherefore the ends of moral virtue must of necessity pre-exist in the reason. Now, just as, in the speculative reason, there are certain things naturally known, about which is ‘understanding,’ and certain things of which we obtain knowledge through them, viz. conclusions, about which is ‘science,’ so in the practical reason, certain things pre-exist, as naturally known principles, and such are the ends of the moral virtues, since the end is in practical matters what principles are in speculative matters, as stated above; while certain things are in the practical reason by way of conclusions, and such are the means which we gather from the ends themselves.<sup>47</sup>

Elsewhere, Aquinas makes a related remark:

Virtue is natural to man inchoatively. . . . in so far as in man’s reason are to be found instilled by nature certain naturally known principles of both knowledge and action, which are the seeds of intellectual and moral virtues, and in so far as there is in the will a natural appetite for good in accordance with reason.<sup>48</sup>

In sum, Aquinas explains that, “acquired virtues preexist in us by certain seeds or principles, according to nature.”<sup>49</sup> These “seeds of virtue” provide an innate potency for acting in accord with right reason. They include the understanding of first principles and, as we shall see, natural inclinations to those ends perfective of human nature. Both the understanding of these principles and the natural inclinations constitute the seeds of moral perfection. The present concern, then, is to identify the first principles of practical reason. Just as we actualize the first principles of speculative reason in the determinate knowledge of some object, so too do we actualize the first principles of practical reason in the determinate knowledge of good and evil, which provides the cognitive element for virtuous actions.

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<sup>47</sup> ST II-II 47.6: “*Finis virtutum moralium est bonum humanum bonum autem humanae animae est secundum rationem ess. . . . Unde necesse est quod fines Moralium virtutum praeexistant in ratione. Sicut autem in ratione speculativa sunt quaedam ut naturaliter nota, quorum est intellectus; et quaedam quae per illa innotescunt, scilicet conclusiones, quarum est scientia, ita in ratione practica praeexistunt quaedam ut principia naturaliter nota, et huiusmodi sunt fines virtutum Moralium, quia finis se habet in operabilibus sicut principium in speculativis, ut supra habitum est; et quaedam sunt in ratione practica ut conclusiones, et huiusmodi sunt ea quae sunt ad finem, in quae pervenimus ex ipsis finibus.*”

<sup>48</sup> ST I-II 63.1: “*Virtus est homini naturalis secundum quandam inchoationem. . . . inquantum in ratione homini insunt naturaliter quaedam principia naturaliter cognita tam scibilium quam agendorum, quae sunt quaedam seminalia intellectualium virtutum et Moralium; et inquantum in voluntate inest quidam naturalis appetitus boni quod est secundum rationem.*”

<sup>49</sup> ST I-II 63.2 ad 3: “*Virtutum acquisitarum praeexistunt in nobis quaedam semina sive principia, secundum naturam.*”

### *a. How to Understand the First Principles of Practical Reason*

What is a first principle? A principle is a cause of something, an origin. Thus, first principles of reason are the cause or seminal origin of all we learn (and do). “This knowledge [of first principles] must be in man naturally, since it is a kind of seed plot containing in germ all the knowledge which follows, since there pre-exists in all natures certain natural seeds of the activities and effects that follow.”<sup>50</sup> For example, that something cannot both be and not be simultaneously, in the same respect, is the very first principle of speculative reason.<sup>51</sup> When we apprehend a thing, even something we fail to recognize, we are never in doubt *that* the thing is in some way, only *what* the thing is. In short, first principles are the principles through which we reason. Without these principles, we would not be rational. However, with them we are still not knowledgeable.

Aquinas explains that every first principle is known through itself (*per se nota*), though he distinguishes between a principle known through itself, according to itself (*secundum se*), and a principle known, through itself, by us (*quod nos*).<sup>52</sup> The second meaning of *per se nota* pertains to the wise, inasmuch as certain matters are self-evident to them given the pre-condition of their antecedent and cumulative knowledge. This second meaning does not characterize the first principles of reason. For Aquinas, everyone understands the first principles *secundum se*, inasmuch as we understand them in reasoning itself. For example, I cannot teach another that a whole is greater than its part; one already understands this through their experience of wholes and parts. I might teach another the meaning of the terms *whole* and *part*, but once these terms are grasped through the requisite experience of wholes and parts, we grasp the principle immediately. First

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<sup>50</sup> *De Veritate*, q. 16, a. 1: “Hanc cognitionem oportet homini naturaliter inesse, cum haec quidem cognitio sit quasi seminarium quoddam totius cognitionis sequentis; et in omnibus naturis sequentium operationum et effectuum quaedam naturalia semina praexistant.”

<sup>51</sup> ST I-II 94.2

<sup>52</sup> ST I-II.94.2. My explanation of this distinction suffices for the present purpose, but the distinction is a bit more complicated than I have conveyed. For a fuller treatment of *per se nota* propositions, see Ralph McInerney, *Praeambula Fidei: Thomism and the Good of the Philosophers* (Washington, D.C.: The Catholic University of America Press), 6-10.



principles cannot be reasoned out; they cannot be demonstrated. We simply understand them as we acquire the necessary vocabulary and requisite experience of living.<sup>53</sup> This is what Aquinas means when he describes the first principles of reason as *per se nota*.

In question 94, article 2 of the *Prima secundae*, where Aquinas discusses natural law, he mentions the *first* principle of practical reason. He states, “The first principle in practical reason is one founded on the notion of good, which is, good is what all desire. Hence, this is the first precept of law; that good is to be done and pursued and evil is to be avoided.”<sup>54</sup> Note in this text that the first principle of practical reason is founded upon the notion of *good*. We can observe two things in light of this observation. One, the first principle of practical reason is the first precept of natural law, and it is known *per se*. “There is in the soul a natural habit of first principles of action, which are the universal principles of natural law.”<sup>55</sup> So long as we understand the terms *good* and *evil*, it is self-evident that we ought to do and pursue good and avoid evil, even if we are mistaken about what *is* good or evil.

Two, the relationship between the notion of *good* and the first principle of practical reason is vital for understanding the nature of practical reasoning. On the one hand, the notion *good* names the formality through which reason apprehends every *end*.<sup>56</sup> “The principle of the movement of the will is to be found in the intellect, which apprehends

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<sup>53</sup> I am indebted deeply to Thomas Hibbs for pointing out how Aquinas emphasizes the importance of sense experience (empirical data) for understanding first principles (cf. *In Libros Posteriora Analytica* II, lect. 30). We understand first principles through our encounter with particulars. In this way Aquinas evades the charge of having a deductivist or intuitionist theory of knowledge, which is found in Descartes and Kant. Aquinas is not a foundationalist in his moral epistemology. See “Against a Cartesian Reading of Intellectus in Aquinas,” in *The Modern Schoolman* LXVI (November 1988), 55-69; “Principles and Prudence: The Aristotelianism of Thomas’s Account of Moral Knowledge,” *New Scholasticism* LXI (1987), 271-83.

<sup>54</sup> ST I-II 94.2: “*Primum principium in ratione practica est quod fundatur supra rationem boni, quae est, bonum est quod omnia appetunt. Hoc est ergo primum praeceptum legis, quod bonum est faciendum et prosequendum, et malum vitandum.*”

<sup>55</sup> *De Veritate*, q. 16, a. 1: “*Ita etiam in ea est quidam habitus naturalis primorum principiorum operabilium, quae sunt universalis principia iuris naturalis.*”

<sup>56</sup> By the term *formality*, I am referring to Aquinas’ explanation of the intellect as the formal cause of our actions. We will discuss the formal causality of the intellect as we proceed.

something under the universal notion of good.”<sup>57</sup> On the other hand, the first precept of law names the formality through which we reason about what we intend to do, pursue, or avoid.<sup>58</sup> This is why the first principle of practical reason is a precept about “doing” and “pursuing” good and “avoiding” evil. We decide on some course of action because we apprehend the action to be a ‘good to be done for the sake of some end’ or an ‘evil to be avoided.’ The first precept, therefore, is the principle through which we reason about intentional action. As Aquinas says, “But man acts from judgment because by his apprehensive power he judges that something should be avoided or sought.”<sup>59</sup> Hence, when Aquinas relates the first precept of natural law to the notion of *good*, he is simply naming the formality through which all practical reasoning occurs—the good.<sup>60</sup> We might illustrate the point as follows:

THE END	THE MEANS	THE CONCLUSION
Satiating my hunger is <i>good</i> and to be sought	Eating this ice cream is <i>good</i> for satiating my hunger	This ice cream is to be eaten
Diabetes is <i>evil</i> and to be avoided	Eating this ice-cream is <i>evil</i> (because it will raise my insulin levels. <sup>61</sup> )	Eating this ice cream is to be avoided

Figure 1

### b. Other Self-Evident Principles?

The explanation above raises an interesting question, however. Do any other universal (*per se nota*) principles exist besides the one mentioned above? In a recent work, Eberhard Schockenhoff culled a list of principles Aquinas mentions throughout his

<sup>57</sup> ST I-II 13.5 ad 1: “*Sic igitur principium motus voluntatis consideratur ex parte intellectus, qui apprehendit aliquid ut bonum in universali.*” See also ST I-II 9.1; ST I-II 14.2; ST II-II 47.6.

<sup>58</sup> See Ralph McInerny, “The Principles of Natural Law,” *The American Journal of Jurisprudence* 25 (1980), 14.

<sup>59</sup> ST I 83.1: “*Sed homo agit iudicio, quia per vim cognoscitivam indicat aliquid esse fugiendum vel prosequendum.*”

<sup>60</sup> See Ralph McInerny, “Naturalism and Thomistic Ethics,” *The Thomist* 40 (1976), 222-42. McInerny addresses a number of scholarly objections to Aquinas’ use of the term *good* in his ethics.

<sup>61</sup> Say I am diabetic.

works.<sup>62</sup> In addition to the first principle of practical reason, Schockenhoff lists the following: “one may not do harm unjustly to another person”; “one may not act unjustly”; “keep the middle course”; “preserve righteousness”; and the golden rule, which enjoins us to “love our neighbor as our self” or to “do to others as we would have them do to us.” This is not an exhaustive list of these principles, but it is sufficiently representative. What we need to determine is the status of these other principles. Are they also *per se nota* principles of practical reason or are they *secondary* principles we derive from the *first* principle through a process of reasoning?

To answer this question, let us consider Aquinas’ discussion of *synderesis*, which is the habit by which we understand the first principles of practical reason. “The first speculative principles bestowed on us by nature do not belong to a special power, but to a special habit, which is called *the understanding of principles*. . . . Wherefore the first practical principles, bestowed on us by nature do not belong to a special power, but to a special natural habit, which we call *synderesis*.”<sup>63</sup> Notice how Aquinas speaks about first principles in the plural. It would seem, therefore, that the list Schockenhoff culled are good prospects for other *per se nota* principles of practical reason. They are sufficiently general and self-evident if we understand the terms and have a sufficient degree of life experience. Yet, if these principles are first principles, then another question arises: What is the relationship between the very first principle of practical reason and these others?

Since Aquinas does not clarify the nature of this relationship, my purpose is to suggest a way to understand it. In short, we cannot derive these other *per se nota* principles of practical reason from the very first principle, for otherwise these principles, by definition, would not be known *per se*. We can thus conclude that these principles differ

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<sup>62</sup> *Natural Law & Human Dignity: Universal Ethics in an Historical World*, trans. Brian McNeil (Washington D.C.: The Catholic University Press of America, 2003), 151. The list of sources from which Schockenhoff draws his list is as follows: *In V Ethicorum*, lect. 12 (nr. 1018); *In III De Anima*, lect. 14 (nr. 826). Cf. also *In III Sent.* d. 37, a. 2, q1a. 3, sol. 2, ad 2; a. 4, ad 2; *In IV Sent.* d. 33, q. 1, a. 1, ad 7 (=Suppl. Q. 65, a. 1, ad 7).

<sup>63</sup> ST I 79.12: “*Prima autem principia speculabilium nobis naturaliter indita, non pertinent ad aliquam specialem potentiam; sed ad quendam specialem habitum, qui dicitur intellectus principiorum. . . . Unde et principia operabilium nobis naturaliter indita, non pertinent ad specialem potentiam; sed ad specialem habitum naturalem, quem dicimus synderesim.*”

from the very first principle in that they are less universal in scope and yet we know them by the habit of *synderesis*.<sup>64</sup> They are a more specified formality through which we make particular judgments about what is good and evil and, therefore, they determine the common species of good and evil into which all our moral actions fall categorically.<sup>65</sup> Indeed, these are the principles through which we ascertain the moral species of any particular object of choice. For example, the golden rule, which pertains to how we ought to treat our neighbor, is a universal principle of action specifying the meaning of good and evil vis-à-vis the good of our neighbor—that we ought to love them as we love ourselves. As universal principles, however, first principles do not tell us specifically what is just, harmful, and loving in the here and now, rather, we discover the moral species of an action (practical moral truth) through these principles.

This analysis of first principles will become more relevant as I address the process of moral discovery. As we shall see, we discover practical moral truth by applying universal principles of practical reason to certain determinate matters, namely, some action we have done, are doing presently, or are thinking about doing in the future. When we reduce the conclusion into some first principle, we actualize our general knowledge of first principles in the particular knowledge of the moral species of some action. That is, we know the moral species of an action completely and distinctly.

## 2. *Practical Reasoning and Moral Discovery*

Now that I have identified the seedbed of moral discovery, the question arises, How do we move from principles to conclusions in practical reasoning? To proffer an answer, I will first need to clarify the nature of practical reasoning, for its discursive structure is rather different than that of speculative reasoning. To reiterate a previous point, we reason practically about what we do or avoid. This renders the object of practical reason

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<sup>64</sup> *De Veritate*, q. 17, a 2.

<sup>65</sup> I use the term *categorically* here in the Aristotelian and not the Kantian sense.

something contingent and particular. This is distinguishable from speculative reason, the goal of which is the knowledge of necessary things and universals.<sup>66</sup> Thus, the object of speculative reason is knowledge (*scientia*) for its own sake, while the object of practical reason is a human action done for the sake of something else.<sup>67</sup> This is the difference between the two kinds of reasoning.

For Aquinas a human action comprises four cognitive operations. The first is apprehension (*apprehensio*) by which we apprehend some end as a good to be sought.<sup>68</sup> The second operation is counsel (*consilium*), by which we deliberate about which means might conduce to the intended end.<sup>69</sup> The third operation is judgment (*iudicium*), by which we determine that *this* or *that* is to be done for attaining the intended end. Judgment terminates deliberation.<sup>70</sup> The fourth operation is command through which we execute the action.<sup>71</sup> Here is how Aquinas explains the cognitive operations of practical reasoning:

Now there are three acts of reason in respect of anything done by man: the first of these is counsel; the second, judgment; the third, command. The first two correspond to those acts of the speculative intellect, which are inquiry and judgment, for counsel is a kind of inquiry: but the third is proper to the practical intellect, in so far as this is of operation; for reason does not have to command in things that man cannot do. Now it is evident that in things done by man, the chief act is that of command, to which all the rest are ordered.<sup>72</sup>

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<sup>66</sup> ST I-II 91.3 ad 3; ST I 79.11.

<sup>67</sup> ST I 83.3.

<sup>68</sup> ST I-II 12.1; ST I-II 28.1.

<sup>69</sup> ST I-II 14.2.

<sup>70</sup> ST I-II 14.1.

<sup>71</sup> ST I-II 17.3.

<sup>72</sup> ST I-II 57.6: “*Circa agibilia autem humana tres actus rationis inveniuntur, quorum primus est consiliari, secundus indicare, tertius est praecipere. Primi autem duo respondent actibus intellectus speculativi qui sunt inquirere et indicare, nam consilium inquisitio quaedam est. Sed tertius actus proprius est practici intellectus, inquantum est operativus, non enim ratio habet praecipere ea quae per hominem fieri non possunt. Manifestum est autem quod in his quae per hominem fiunt, principalis actus est praecipere, ad quem alii ordinantur.*” See also ST II-II 47.9: “Prudence is ‘right reason applied to action’. . . . Hence, it is fitting that that which is the chief act of rational conduct in regard to action is the chief act of prudence. Now there are three such acts. The first is ‘to take counsel,’ which belongs to discovery [*inventionem*], for counsel is an act of inquiry, as stated above. The second act is ‘to judge of what one has discovered,’ and this is an act of the speculative reason. But the practical reason, which is ordered to action, goes further, and its third act is ‘to command,’ which act consists in applying to action the things counseled and judged. And since this act approaches nearer to the end of the practical reason, it follows that it is the chief act of the practical reason, and consequently of prudence: *Prudentia est recta ratio agibilium*. . . . *Unde oportet quod ille sit praecipuus actus prudentiae qui est praecipuus actus rationis agibilium. Cuius quidem sunt tres actus. Quorum primus est consiliari, quod pertinet ad inventionem, nam consiliari est quaerere, ut supra habitum est. Secundus actus est indicare de inventis, et hic sistit speculativa ratio. Sed practica ratio, quae ordinatur ad opus, procedit*

In this text Aquinas omits the first cognitive operation, apprehension. The reason for this is that, properly speaking, practical reason extends only to objects of choice (a means to an end), to which Aquinas applies the three operations mentioned above. We do not choose in regard to ends, except insofar as a proximate end serves as a means to some other end.<sup>73</sup> Thus, according to Aquinas every human action presupposes three operations that correspond to speculative reason and one operation that is proper to practical reason alone. The following figure illustrates the four cognitive stages of human action.<sup>74</sup>

END	MEANS		
Apprehension	Counsel	Judgment	Command
<i>Speculative/practical</i>	<i>Speculative/Practical</i>	<i>Speculative/Practical</i>	<i>Practical</i>

Figure 2

As we can see, practical reasoning is an essential contributor to human actions. Yet how exactly do we arrive at a practical judgment? To understand this we need to look at Aquinas' understanding of the practical syllogism.

A syllogism gives formal expression to the reasoning involved in making rational judgments.<sup>75</sup> It consists of a major premise, a minor premise, followed by a conclusion. With speculative reason, we arrive at the conclusion by applying a universal principle to some determinate matter. The principle occupies the major premise; some specific detail about the object of inquiry occupies the middle term, while the conclusion follows

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*ulterius et est tertius actus eius praecipere, qui quidem actus consistit in applicatione consiliorum et indicatorum ad operandum. Et quia iste actus est propinquior fini rationis practicae, inde est quod iste est principalis actus rationis practicae, et per consequens prudentiae."*

<sup>73</sup> ST I-II 13.13.

<sup>74</sup> This figure is based upon the work of Daniel Westberg, *Right Practical Reason: Aristotle, Action, and Prudence in Aquinas* (Oxford, Clarendon Press, 1994), chapters 8-12. Westberg has clarified how to comprehend the operational stages involved in human action. Later, I will insert the affective operations that correspond to the cognitive ones.

<sup>75</sup> By suggesting that a syllogism gives formal expression to the process of reasoning, I am not saying that we actually formulate syllogisms in our mind every time we reason. As Anthony Kenny explains, "Aquinas believed that any judgment which can be made can be expressed by a sentence. . . . It does not follow from this, nor does Aquinas maintain, that every judgment which is made *is* put into words, either publically or in the privacy of the imagination" (*Aquinas on Mind* [New York: Routledge, 1993], 49).

logically from the two premises. A practical syllogism is similar.<sup>76</sup> In general, Aquinas says that the major premise is a proposition that serves as a principle of action from which we derive a practical judgment through a middle term.<sup>77</sup> Aquinas introduces a difficult distinction, however, that renders his understanding of practical reasoning complicated. He identifies two kinds of practical judgments. The first is a judgment about ‘what is to be done here and now’ in order to attain some end, which he calls the “judgment of free-decision.” The second is a judgment about the moral species of any action (past, present or future), which he calls the “judgment of conscience”:

The judgments of conscience and of free decision differ to some extent and correspond to some extent. For they correspond in this, that both refer to this particular act. However, the judgment of conscience applies to it in so far as conscience examines it. On this point the judgment of both conscience and free decision differ from the judgment of *synderesis*. They differ from each other, since the judgment of conscience consists simply in knowledge, whereas the judgment of free decision consists in the application of knowledge to affection. This is the judgment of choice.<sup>78</sup>

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<sup>76</sup> Aquinas draws upon Aristotle in his description of the practical syllogism. In commenting on Aristotle’s understanding of the practical syllogism, Elizabeth Anscombe makes an important observation I wish the reader to keep in mind as I discuss the nature of practical reasoning and the construction of a practical syllogism: “. . . ‘practical syllogisms’ in Greek simply means practical reasonings, and these include reasonings running from an objective through many steps to the performance of a particular action here and now. E.g. an Aristotelian doctor wants to reduce swelling; this he says will be done by producing a certain condition of the blood; this can be produced by applying a certain kind of remedy; such and such is medicine is that kind of remedy; here is some of the medicine—give it. It has an absurd appearance when practical reasonings, and particularly when the particular units called practical syllogisms by modern commentators, are set in full. In several places Aristotle discusses them only to point out what a man may be ignorant of, when he acts faultily though well-equipped with the relevant general knowledge. It is not clear from his text whether he thinks a premise must be before the mind (‘contemplated’) in order to be ‘used’, nor is it of much interest to settle whether he thinks so or not. Generally speaking, it would be very rare for a person to go through all the steps of a piece of practical reasoning as set out in conformity with Aristotle’s models, saying e.g. ‘I am human,’ and ‘Lying on a bed is a good way of resting’. This does occur sometimes. . . . But if Aristotle’s account were supposed to describe actual mental processes, it would in general be quite absurd. The interest of the account is that it describes an order which is there whenever actions are done with intentions. . . . Aristotle’s ‘practical reasoning’ or my order of questions ‘Why?’ can be looked at as a device which reveals the order that there is in this chaos [of trying to describe what one is doing].” (*Intention*, 2nd ed. [New York: Cornell University Press, 1957], 79-80). This text is important for how it disavows the mistaken idea that every decision we make in life involves the construction of a practical syllogism—a kind of mental exercise. Rather, the syllogism makes explicit for us what is cognitively implicit in our intentional actions, namely, the order that exists between ends and means. While we might actually have to reason out a practical decision, often we simply act in accord with what we already know. This is to be kept in mind as we proceed to discuss the practical syllogism.

<sup>77</sup> ST I 86.1.2; ST I-II 76.1; ST I-II 77.2; ST II-II 49.2.

<sup>78</sup> *De Veritate*, q. 17, a. 1 ad 4: “*Iudicium conscientiae et liberi arbitrii quantum ad aliquid differunt, et quantum ad aliquid conveniunt. Conveniunt quidem quantum ad hoc quod utrumque est de hoc particulari actu; competit autem iudicium conscientiae in via qua est examinans; et in hoc differt iudicium utriusque a iudicio synderesis. Differt autem iudicium conscientiae et liberi arbitrii, quia iudicium conscientiae consistit in pura cognitione, iudicium autem liberi arbitrii in applicatione cognitionis ad affectionem: quod quidem iudicium est iudicium electionis.*”

Perhaps it is more accurate to suggest that Aquinas uses the term *practical syllogism* to describe two different discursive processes of practical reasoning. What I will do now is elucidate both kinds of reasoning and then offer a constructive proposal for how both kinds of reasoning inform our actions. Unfortunately, Aquinas is not that clear on the matter, which requires me to piece together his thought as best I can. Let us first consider the syllogism that terminates in a judgment of free-decision.

### *a. The Judgment of Free-Decision*

Because the object of practical reason is a human action, Aquinas says that the principle of practical reasoning is always an end we wish to attain through some action.<sup>79</sup> Aquinas also explains, however, that, “the end is the good desired and loved by each one.”<sup>80</sup> Thus, we pursue ends because of their perceived goodness or desirability.<sup>81</sup> What is more, the goodness and desirability of some object is its perfection, and a perfection that the agent apprehends as perfective of himself.

Goodness and being are the same according to the thing, and differ only in idea; which is clear from the following argument. The essence of goodness consists in this, that it is in some way desirable. Hence the Philosopher says (Ethic. i): ‘Goodness is what all desire.’ Now it is clear that a thing is desirable only in so far as it is perfect; for all desire their own perfection. But everything is perfect so far as it is actual.<sup>82</sup>

As McNerny explains, “Something is sought insofar as it is complete or perfective of the seeker. Thus, the *good* does not simply designate an object of pursuit, it suggests the *formality* under which the object is pursued: as complete, as perfective.”<sup>83</sup> In sum, if we were to express syllogistically the principle of practical reason, the major premise would

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<sup>79</sup> ST I-II 13.3.

<sup>80</sup> ST I-II 28.6: “*Finis autem est bonum desideratum et amatum unicuique.*”

<sup>81</sup> ST I-II 8.1.

<sup>82</sup> ST I 5.1: “*Bonum et ens sunt idem secundum rem, sed differunt secundum rationem tantum. Quod sic patet. Ratio enim boni in hoc consistit, quod aliquid sit appetibile, unde philosophus, in I ethic., dicit quod bonum est quod omnia appetunt. Manifestum est autem quod unumquodque est appetibile secundum quod est perfectum, nam omnia appetunt suam perfectionem. Intantum est autem perfectum unumquodque, inquantum est actu.*”

<sup>83</sup> “The Principles of Natural Law,” 141. The emphasis on the word *formality* is mine.



propose an end that we describe as some good we intend for the sake of our perfection.<sup>84</sup>

If we skip now to the conclusion, Aquinas says it pertains to the means one chooses for the sake of the intended end.<sup>85</sup> The conclusion is a judgment or decision to do some thing. “It pertains to reason to draw the conclusion of a practical syllogism; and it is called a decision or judgment, to be followed by choice. And for this reason the conclusion seems to belong to the act of choice, as to that which follows.”<sup>86</sup> Further on in the same question, Aquinas remarks that, “Choice results from the decision or judgment which is, as it were, the conclusion of a practical syllogism. Hence, that which is the conclusion of a practical syllogism is a matter of operation.”<sup>87</sup> The conclusion to a practical syllogism, therefore, is a judgment about what is to be chosen for the sake of the intended end.

As for the middle term, Aquinas explains that we can move from the intention of the end immediately to a decision about the means. Only when we are not sure what means to employ do we then take counsel with ourselves.<sup>88</sup> Counsel terminates in judgment. As

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<sup>84</sup> For the time being, I must distinguish the end as a principle of our practical reasoning from the first principles of practical reason. Later in this chapter, I will show how these two relate. Moreover, in chapter five, I will discuss in greater detail the desirability of a good from the standpoint of the agent and the relationship of rational appetite to the good as it exists in things. What I wish to avoid is a eudemonistic understanding of the good that suggests that something is good because it is desired. Aquinas affirms, as I will later show, that a thing is desired because it is good. That is, the goodness of a thing does not depend upon it being desired by someone, for as Aquinas clarifies in question five of the *Prima Pars*, the goodness of a thing is equivalent to the actuality of its proper perfection.

<sup>85</sup> See Schockenhoff, *Natural Law and Human Dignity*, 152: “One fundamental difference is connected to the specific orientation of the practical reason mentioned above: it does not investigate for the sake of knowledge alone, but comes to fulfillment when it realizes in action what it has come to know. This orientation to an end in action gives a specific direction to its conclusions too, different from that of judgments of the theoretical reason. The latter have a counter-rotating circular structure, in the sense that the theoretical reason investigates its object *ad extra*, evaluates what it has sought in the light of its own principles, and thus returns to its own self; but the practical reason does not remain within this circle. It must go beyond the mere recognition of its object to realize this object in action; only in activity do the potentialities of the will come to that rest which the speculative intellect attains when it returns to its own principles.”

<sup>86</sup> ST I-II 13.1 ad 2: “*Conclusio etiam syllogismi qui fit in operabilibus, ad rationem pertinet; et dicitur sententia vel iudicium, quam sequitur electio. Et ob hoc ipsa conclusio pertinere videtur ad electionem, tanquam ad consequens.*”

<sup>87</sup> ST I-II 13.3: “*Electio consequitur sententiam vel iudicium, quod est sicut conclusio syllogismi operativi. Unde illud cadit sub electione, quod se habet ut conclusio in syllogismo operabilium.*” Aquinas argues that choice is of means only (ST I-II.13.3). I would distinguish here between the conclusion of a practical syllogism, which is a judgment of practical reason and the end of practical reasoning, which is an action. A command terminates practical reasoning by the execution of some human action, while a judgement of reason concludes the syllogism.

<sup>88</sup> See Aquinas’ treatment of counsel in ST I-II 14.

I will show further on, when we do take counsel, it is always in regard to the middle term of the syllogism. The middle term is what insures the logical connection between the end we seek and the means we decide upon for attaining the end. The basic structure of this syllogism, therefore, is from some end to a judgment concerning the means by which the end is to be attained. We can call this means-end reasoning.<sup>89</sup>

Keeping in mind the basic structure of practical reasoning, I wish now to make two suggestions about how we might construct a means-end syllogism so as to grasp the *formality* of such reasoning. The following example, extracted from figure 1 above, will serve as my example:

<b>Major:</b>	Satiating my hunger is <i>good</i> and to be sought.
<b>Minor:</b>	Eating <i>this</i> ice cream is <i>good</i> for satiating my hunger.
<b>Conclusion:</b>	Therefore, <i>this</i> ice cream <i>is to be eaten</i> . <sup>90</sup>

*Figure 3*

First, notice how the singularity of the minor premise—eating *this* ice cream is good for satiating my hunger—is what logically unites the practical conclusion—‘*this* ice cream is to be eaten’—to the major premise. Logically, a decision to eat the ice cream would not follow were this judgment of free-decision not preceded by a middle term formulated with a singular proposition. That is, a free-decision is not determined to an end by means of a universal proposition—*eating ice cream* is good for satiating hunger—but rather by the singular proposition—eating *this* ice cream (here and now) is good for satiating my hunger.

Second, consider how the minor premise is expressed as a practical judgment about the conduciveness of the proposed means for achieving the desired end—eating this ice

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<sup>89</sup> Technically, it should be end-means reasoning, but I will stick with the conventional formulation.

<sup>90</sup> Typically, when Aquinas expresses a practical syllogism, he does not formulate the wording exactly as I have. Below, we will examine Aquinas’ exact wording for the premises and conclusions of the practical syllogism. In the mean time, I propose that the manner of expression I have employed is faithful to Aquinas’ thought. That is, he assumes what I have expressed more explicitly, though he employs a truncated way of expressing it.

cream is *good* for satiating my hunger. Again, the minor premise of a means-end syllogism serves a vital role in our deciding to do something. The conclusion is a judgment about what is to be done that follows logically because of the formality through which we express the premises—*this* ice cream is to be eaten. Why? Because it is *good* for satiating my hunger. As Aquinas says, “The reason for choosing a thing is it conduces to the end.”<sup>91</sup> I am highlighting the importance of the middle term here because it expresses our knowledge of the contingencies that come to bear on our judgments of free-decision. The most relevant contingency is whether the said means conduces to the intended end. This point will be significant when we look at the process of moral discovery.

### *b. The Formal Causality of Practical Reasoning and Voluntary Agency*

By identifying the formality and structure through which we might construct a means-end syllogism, I wish now to make a third observation. The formality of the first principle of practical reason—that good is to be done and pursued and evil is to be avoided—is what insures the motive force of practical reasoning.<sup>92</sup> As Aquinas says, “The practical intellect is a motive power, not as executing movement, but as directing toward movement; and this belongs to it according to its mode of apprehension.”<sup>93</sup> Aquinas tells us that the intellect is the formal cause of human action, inasmuch as it determines the will’s object in the order of specification.<sup>94</sup> Because of the import of this

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<sup>91</sup> ST I-II 13.5: “*Ratio eligendi aliquid est ex hoc quod ducit ad finem.*”

<sup>92</sup> I ask the reader to take special notice of this point and to keep it in mind for future chapters. The formality through which we reason practically and the motive force of a practical syllogism are key to law’s pedagogical character. See ST I-II 8.1 ad 1: “The same power regards opposites, but it is not referred to them in the same way. Accordingly, the will is referred both to good and evil: but to good by desiring it: to evil, by shunning it. Wherefore the actual desire of good is called ‘volition’, meaning thereby the act of the will; for it is in this sense that we are now speaking of the will. On the other hand, the shunning of evil is better described as ‘nolition’: wherefore, just as volition is of good, so nolition is of evil: *Eadem potentia est oppositorum, sed non eodem modo se habet ad utrumque. Voluntas igitur se habet et ad bonum et ad malum, sed ad bonum, appetendo ipsum; ad malum vero, fugiendo illud. Ipse ergo actualis appetitus boni vocatur voluntas, secundum quod nominat actum voluntatis, sic enim nunc loquimur de voluntate. Fuga autem mali magis dicitur noluntas. Unde sicut voluntas est boni, ita noluntas est mali.*”

<sup>93</sup> ST I 79.11.1: “*Intellectus practicus est motivus, non quasi exequens motum, sed quasi dirigens ad motum. Quod convenit ei secundum modum suae apprehensionis.*”

<sup>94</sup> ST I-II.9.1, ad 3; ST I-II.13.1. In the tradition of Aristotle, Aquinas’ metaphysics includes four causes—final, formal, efficient, and material. A formal cause connotes the actuality of a thing that enjoys

teaching, however, I would like to clarify what it means, exactly, to say that the intellect is the formal cause of our actions.

Aquinas presupposes a distinct conception of the psychological structure of human action. As a way to understand this, I will complete Daniel Westberg’s proposal for interpreting Aquinas’ psychology of human action. According to Westberg, Aquinas maintains that human action comprises three and, at times, four stages that unfold sequentially—intention, decision, and execution; and if necessary, deliberation occurs prior to decision when the means to some end is uncertain.<sup>95</sup> Foundational to Westberg’s insight is his observation that each stage of human action involves a synergistic operation of intellect and will, which together form a single principle throughout a human act. The cognitive and appetitive operations concur at each stage.<sup>96</sup> The figure below is based upon Westberg’s diagram of the cognitive and volitional operations of human action.<sup>97</sup>

OPERATION	INTENTION	DELIBERATION	DECISION	EXECUTION
COGNITION	<i>Apprehension</i>	<i>Counsel</i>	<i>Judgment</i>	<i>Command</i>
VOLITION	<i>Intention</i>	<i>Consent</i>	<i>Choice</i>	<i>Use</i>

Figure 4

With Westberg’s schema in mind, a specific issue needs attention, namely, how does Aquinas explain the voluntary movements of our will toward a particular good? As we shall see, voluntariness (what I will call the *voluntary structure of rational agency*) is an

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some perfection—some determinate mode of being. The formal cause is what makes the thing to be what it is and not something else. In the case of human action, knowledge is the *formal* cause of our willing inasmuch as our apprehension of some good specifies the will’s appetites. “Now it is evident that, in a sense, reason precedes the will and ordains its act: in so far as the will tends to its object, according to the order of reason, since the apprehensive power represents the object to the appetite. Accordingly, that act whereby the will tends to something proposed to it as being good, through being ordained to the end by the reason, is materially an act of the will, but formally an act of the reason: *Manifestum est autem quod ratio quodammodo voluntatem praecedit, et ordinat actum eius, inquantum scilicet voluntas in suum obiectum tendit secundum ordinem rationis, eo quod vis apprehensiva appetitivae suum obiectum repraesentat. Sic igitur ille actus quo voluntas tendit in aliquid quod proponitur ut bonum, ex eo quod per rationem est ordinatum ad finem, materialiter quidem est voluntatis, formaliter autem rationis* (ST I-II 13.1).”

<sup>95</sup> *Right Practical Reason*, 131.

<sup>96</sup> ST I 82.4 ad 3; ST I-II 6.1; ST I-II 17.1 ad 2.

<sup>97</sup> This diagram is a simplified version of the psychology of human action. For a more complete diagram, see Michael Sherwin, *By Knowledge & By Love: Charity and Knowledge in the Moral Theology of St. Thomas Aquinas* (Washington D.C.: The Catholic University of America Press, 2005), 84.

important concept for understanding how rational beings are motivated to act.<sup>98</sup> The following analysis will thereby provide an indispensable tool for later grasping how law induces us to act.

For Aquinas, our willing this or that object is voluntary because of how it proceeds interiorly from our apprehension of the said good.<sup>99</sup> “The voluntary is defined . . . not only as having a principle within the agent, but also as implying knowledge.”<sup>100</sup>

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<sup>98</sup> See his entire question on voluntary action, ST I-II 6.

<sup>99</sup> For an excellent comparison of how Aquinas’ understanding of voluntary action differs from that of Descartes and Kant, see Roger Pouivet, *After Wittgenstein, St. Thomas*, trans. Michael Sherwin, O.P. (South Bend, IN: St. Augustine’s Press, 2007). With the help of Wittgenstein, Pouivet draws our attention to a deeply consequential feature of Aquinas’ psychology of action, namely, that the will does not function as “an inner agent acting from within an ephemeral interior world” (89). Rather, volition describes what a human being does in and through the powers of a rational nature. As Pouivet explains, “The opposition between nature and freedom, so integral to the Kantian analysis of action and thus also to modern thought, would make little sense to a medieval thinker. We see this clearly in Thomas’ insistence that the act of the will follows the act of the intellect. . . . Thomas’s naturalism does not consist in affirming that our will results from physical or biological nature, but in affirming that it flows directly from our human nature, in other words, from what befits us on account of who we are: rational beings, not beast or angels. The exercise of the will is thus not something that supervenes in opposition to nature but is the act itself of our nature. Thomas saw clearly that we can understand the will only by means of a psychology and an anthropology that examine not some interior universe, but human acts” (87). I draw attention to Pouivet’s study in order to clarify and bolster my own interpretation of voluntariness in Aquinas’ action theory. Yet, the reader must note that Aquinas does speak in terms of the will’s activity and operations, making it seem as if the will were an inner agent. This makes his action-theory seem ‘modern’ and voluntaristic in certain respects, even while it is not. I will say more on this momentarily.

<sup>100</sup> ST I-II 6.1: “*Voluntarium dicitur esse . . . non solum cuius principium est intra, sed cum additione scientiae.*” Here is the entire text on ‘Whether there is anything voluntary in human acts?’: “On the contrary, Damascene says (De Fide Orth. ii) that ‘the voluntary is an act consisting in a rational operation.’ Now such are human acts. Therefore there is something voluntary in human acts. I answer that, there must needs be something voluntary in human acts. In order to make this clear, we must take note that the principle of some acts or movements is within the agent, or that which is moved; whereas the principle of some movements or acts is outside. For when a stone is moved upwards, the principle of this movement is outside the stone: whereas when it is moved downwards, the principle of this movement is in the stone. Now of those things that are moved by an intrinsic principle, some move themselves, some not. For since every agent or thing moved, acts or is moved for an end, as stated above (Q1, A2); those are perfectly moved by an intrinsic principle, whose intrinsic principle is one not only of movement but of movement for an end. Now in order for a thing to be done for an end, some knowledge of the end is necessary. Therefore, whatever so acts or is moved by an intrinsic principle, that it has some knowledge of the end, has within itself the principle of its act, so that it not only acts, but acts for an end. On the other hand, if a thing has no knowledge of the end, even though it have an intrinsic principle of action or movement, nevertheless the principle of acting or being moved for an end is not in that thing, but in something else, by which the principle of its action towards an end is not in that thing, but in something else, by which the principle of its action towards an end is imprinted on it. Wherefore such like things are not said to move themselves, but to be moved by others. But those things which have a knowledge of the end are said to move themselves because there is in them a principle by which they not only act but also act for an end. And consequently, since both are from an intrinsic principle, to wit, that they act and that they act for an end, the movements of such things are said to be voluntary: for the name ‘voluntary’ implies that their movements and acts are from their own inclination. Hence it is that, according to the definitions of Aristotle, Gregory of Nyssa, and Damascene the voluntary is defined not only as having ‘a principle within’ the agent, but also as implying ‘knowledge.’ Therefore, since man especially knows the end of his work, and moves himself, in his acts especially is the voluntary to be found: *Sed contra est quod dicit Damascenus, in II libro, quod voluntarium est actus qui est operatio rationalis. Tales autem sunt actus humani. Ergo in actibus humanis*

Elsewhere, Aquinas states, “The act of the will is nothing but an inclination consequent on the form understood.”<sup>101</sup> And again, “The movement of the will follows the act of the intellect.”<sup>102</sup> For example, our apprehension of some end as “desirable” is accompanied by the elicitation of an intention (*intentio*) for that end, which follows upon the apprehension, not temporally but structurally.<sup>103</sup> As Westberg states, “In practical reasoning, both intellect and will need to be activated at the same time. Apprehension and inclination are simultaneously necessary for action just as pitch and rhythm are both essential for music . . .”<sup>104</sup> What this means is that, with respect to the will’s elicited appetites, it is our rational apprehension of goodness that reduces our will from potency to act.<sup>105</sup> The apprehended end—in its goodness—is what motivates us to act.<sup>106</sup>

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*invenitur voluntarium. Respondeo dicendum quod oportet in actibus humanis voluntarium esse. Ad cuius evidentiam, considerandum est quod quorundam actuum seu motuum principium est in agente, seu in eo quod movetur; quorundam autem motuum vel actuum principium est extra. Cum enim lapis movetur sursum, principium huius motionis est extra lapidem, sed cum movetur deorsum, principium huius motionis est in ipso lapide. Eorum autem quae a principio intrinseco moventur, quaedam movent seipsa, quaedam autem non. Cum enim omne agens seu motum agat seu moveatur propter finem, ut supra habitum est; illa perfecte moventur a principio intrinseco, in quibus est aliquod intrinsecum principium non solum ut moveantur, sed ut moveantur in finem. Ad hoc autem quod fiat aliquid propter finem, requiritur cognitio finis aliqualis. Quodcumque igitur sic agit vel movetur a principio intrinseco, quod habet aliquam notitiam finis, habet in seipso principium sui actus non solum ut agat, sed etiam ut agat propter finem. Quod autem nullam notitiam finis habet, etsi in eo sit principium actionis vel motus; non tamen eius quod est agere vel moveri propter finem est principium in ipso, sed in alio, a quo ei imprimitur principium suae motionis in finem. Unde huiusmodi non dicuntur movere seipsa, sed ab aliis moveri. Quae vero habent notitiam finis dicuntur seipsa movere, quia in eis est principium non solum ut agant, sed etiam ut agant propter finem. Et ideo, cum utrumque sit ab intrinseco principio, scilicet quod agunt, et quod propter finem agunt, horum motus et actus dicuntur voluntarii, hoc enim importat nomen voluntarii, quod motus et actus sit a propria inclinatione. Et inde est quod voluntarium dicitur esse, secundum definitionem Aristotelis et Gregorii Nysseni et Damasceni, non solum cuius principium est intra, sed cum additione scientiae. Unde, cum homo maxime cognoscat finem sui operis et moveat seipsum, in eius actibus maxime voluntarium invenitur.”*

<sup>101</sup> ST I 87.4: “*Actus voluntatis nihil aliud est quam inclinatio quaedam consequens formam intellectam.*”; See also ST I 82.4; ST I 82.3 ad 2; ST I-II 9.1; ST I-II 26.1.

<sup>102</sup> ST I-II 10.1: “*Motus voluntatis sequitur actum intellectus.*”

<sup>103</sup> ST I-II 6.1.

<sup>104</sup> “Did Aquinas Change His Mind About the Will?” *The Thomist* 58 (1994), 53.

<sup>105</sup> For a generally helpful account of the voluntary movements of rational appetites, see Anthony Kenny, *Aquinas on Mind*, Chapter 5.

<sup>106</sup> Note what Aquinas says in ST I-II 8.1 where he asks, Whether the will is of good only?: “The will is a rational appetite. Now every appetite is only of something good. The reason of this is that the appetite is nothing else than an inclination of a person desirous of a thing towards that thing. Now every inclination is to something like and fitting to the thing inclined. Since, therefore, everything, inasmuch as it is being and substance, is a good, it must needs be that every inclination is to something good. And hence it is that the Philosopher says (Ethic. i, 1) that ‘the good is that which all desire.’ But it must be noted that, since every inclination results from a form, the natural appetite results from a form existing in the nature of things: while the sensitive appetite, as also the intellective or rational appetite, which we call the will, follows from an apprehended form. Therefore, just as the natural appetite tends to good existing in a thing; so the animal or voluntary appetite tends to a good that is apprehended. Consequently, in order that the will tend to anything, it is requisite, not that this be good in very truth, but that it be apprehended as good. Wherefore the Philosopher says (Phys. ii, 3) that ‘the end is a good, or an apparent good’: *Voluntas est appetitus quidam rationalis. Omnis autem appetitus non est nisi boni. Cuius ratio est quia appetitus nihil aliud est quam*

Hence, *if* one apprehends something as “being good,” a desire (love) will follow naturally. “Good is the cause of love, as being its object. But good is not the object of the appetite, except as apprehended. And therefore love demands some apprehension of the good that is loved . . . Accordingly, knowledge is the cause of love for the same reason that good is, which can be loved only if known.”<sup>107</sup> For Aquinas, then, we can assign the voluntary character of human action (in part) to the will’s structural integration with the intellect.<sup>108</sup> This is the interior basis of voluntary action.

The will moves the intellect as to the exercise of its act; since even the true itself which is the perfection of the intellect, is included in the universal good, as a particular good. But as to the determination of the act, which the act derives from the object, the intellect moves the will; since the good itself is apprehended under a special aspect as contained in the universal true. It is therefore evident that the same is not mover and moved in the same respect.<sup>109</sup>

By saying this, however, we must distinguish the relationship existing between the intellect and the will (insofar as they are powers) from the relationship existing between the will and the object apprehended. As the efficient cause of my actions, “the will moves the intellect as to the exercise of its act.”<sup>110</sup> That is, the will moves the intellect to its operations of apprehension, counsel, judgment, and command; or we could say that the intellect’s apprehending, counseling, judging, and commanding is moved by the efficient

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*inclinatio appetentis in aliquid. Nihil autem inclinatur nisi in aliquid simile et conveniens. Cum igitur omnis res, in quantum est ens et substantia, sit quoddam bonum, necesse est ut omnis inclinatio sit in bonum. Et inde est quod philosophus dicit, in I ethic., quod bonum est quod omnia appetunt. Sed considerandum est quod, cum omnis inclinatio consequatur aliquam formam, appetitus naturalis consequitur formam in natura existentem, appetitus autem sensitivus, vel etiam intellectivus seu rationalis, qui dicitur voluntas, sequitur formam apprehensam. Sicut igitur id in quod tendit appetitus naturalis, est bonum existens in re; ita id in quod tendit appetitus animalis vel voluntarius, est bonum apprehensum. Ad hoc igitur quod voluntas in aliquid tendat, non requiritur quod sit bonum in rei veritate, sed quod apprehendatur in ratione boni. Et propter hoc philosophus dicit, in II physic., quod finis est bonum, vel apparens bonum.”*

<sup>107</sup> ST I-II.27.2: “Bonum est causa amoris per modum obiecti. Bonum autem non est obiectum appetitus, nisi prout est apprehensum. Et ideo amor requirit aliquam apprehensionem boni quod amatur. . . . Sic igitur cognitio est causa amoris, ea ratione qua et bonum, quod non potest amari nisi cognitum.”

<sup>108</sup> I say “in part” because Aquinas understands God to be the first cause of the operations of both intellect and will. Both powers operate in the first place only because God first moves them to their operation. See ST I-II 6.1 ad 3 and ST I-II 9.6.

<sup>109</sup> ST I-II 9.1 ad 3: “Voluntas movet intellectum quantum ad exercitium actus, quia et ipsum verum, quod est perfectio intellectus, continetur sub universali bono ut quoddam bonum particulare. Sed quantum ad determinationem actus, quae ex parte obiecti, intellectus movet voluntatem, quia et ipsum bonum apprehenditur secundum quandam specialem rationem comprehensam sub universali ratione veri. Et sic patet quod non est idem movens et motum secundum idem.”

<sup>110</sup> ST I-II 9.1 ad 3.

causality of the will. The will is the efficient cause of its own operation as well.<sup>111</sup> However, the intellect is the formal cause of my willing the good about which I am apprehending, counseling, judging, or commanding. Together these two causes form a single principle of our actions.<sup>112</sup>

In light of what has just been explained about the voluntary structure of rational agency, we can see that the apprehension of the good in things is what specifies the *form* of our rational appetites, what I would call the *particularity* of our rational appetites; for an elicited appetite of the will is directed to a *particular* good, which the intellect apprehends. I will *this* good as I apprehend it. The intellect thus gives form (actuality) to rational appetite.

The object moves, by determining the act, after the manner of a formal principle, whereby in natural things actions are specified, as heating by heat. Now the first formal principle is universal ‘being’ and ‘truth,’ which is the object of the intellect. And therefore by this kind of motion the intellect moves the will, as presenting its object to it.<sup>113</sup>

Put otherwise, what sets the will to willing some *particular* good—what reduces the will from potency to act in the order of specification—is the formal causality of my having apprehended some good. The object of the intellect is thereby said to move the will in its willing some particular good; and this movement is voluntary. Thus, the formal causality of the intellect is what supplies the motive force of our actions; it is the interior principle

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<sup>111</sup> ST I-II 9.3, aa 1-3.

<sup>112</sup> See *De Malo*, question 6. For further reading on the psychology of human action, see Lawrence Dewan, “St. Thomas and the Real Distinction between Intellect and Will,” *Angelicum* 57 (1980), 557-93. Michael Sherwin provides the most recent and thoroughgoing presentation of Aquinas’ understanding of the interpenetrating lines of causality involved in human action. His treatment concerns not only human action on a natural level, but the relationship between faith and charity in theological actions as well. *By Knowledge & By Love: Charity and Knowledge in the Moral Theology of St. Thomas Aquinas* (Washington D.C.: The Catholic University of America Press, 2005). Additionally, both Sherwin and Westberg (“Did Aquinas Change His Mind About the Will”) provide convincing arguments supporting a general consistency—though ongoing development—of Aquinas’ teaching on the concurring operations of intellect and will in human action. In regard to an earlier controversy stirred up by Odon Lottin and following him, Bernard Lonergan—wherein it was argued that Aquinas developed his later theory of human action in a voluntarist direction—both Sherwin and Westberg refute convincingly this reading of Aquinas, stating that what we have in *De Malo* 6 is Aquinas’ clearest presentation of what he more or less always held, namely, that the intellect and will form a single principle in human action.

<sup>113</sup> ST I-II 9.1: “*Obiectum movet, determinando actum, ad modum principii formalis, a quo in rebus naturalibus actio specificatur, sicut calefactio a calore. Primum autem principium formale est ens et verum universale, quod est obiectum intellectus. Et ideo isto modo motionis intellectus movet voluntatem, sicut praesentans ei obiectum suum.*”



that causes our actions to be voluntary in the first place. In fact, our acts are voluntary to the extent to which they proceed from the knowledge of truth—ignorance can diminish the voluntariness of our actions.<sup>114</sup>

Aquinas’ statement, however—that the intellect “presents” the will with its object—must be taken metaphorically. The intellect does not literally “present” objects to the will, as if the intellect were an interior photographer that says to the will, “what do you think of this take?” Nor does the will literally “see” what the intellect presents. Rather, through the power of intellect, *it is I* who apprehend, counsel, judge, and command in regard to the goods I intend. Likewise, through my power of will, *it is I* who intend, consent, choose, and execute an act in regard to the goods I apprehend. Thus, properly stated, I am the one who acts for some end through my powers of intellect and will, without denying of course, that God is the first cause of any action.<sup>115</sup>

Because the subject is the one who acts, however, many factors—including our natural disposition, habits, memory, passions, imagination—help determine whether and how we perceive a particular good at any given moment.<sup>116</sup> Passions, especially, may predispose us in such manner that we misapprehend the true character of some end or object of choice. “Now that a thing appear to be good and fitting, happens from two causes: namely, from the condition, either of the thing proposed, or from the one to

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<sup>114</sup> ST I-II 76.4.

<sup>115</sup> See ST I-II 109.2 ad 1: “Man is master of his acts and of his willing or not willing, because of his deliberate reason, which can be bent to one side or another. And although he is master of his deliberating or not deliberating, yet this can only be by a previous deliberation; and since it cannot go on to infinity, we must come at length to this, that man’s free-decision is moved by an extrinsic principle, which is above the human mind, to wit by God, as the Philosopher proves in the chapter ‘On Good Fortune’ (Ethic. Eudem. vii). Hence the mind of man still unweakened is not so much master of its act that it does not need to be moved by God; and much more the free-will of man weakened by sin, whereby it is hindered from good by the corruption of the nature: *homo est dominus suorum actuum, et volendi et non volendi, propter deliberationem rationis, quae potest flecti ad unam partem vel ad aliam. Sed quod deliberet vel non deliberet, si huius etiam sit dominus, oportet quod hoc sit per deliberationem praecedentem. Et cum hoc non procedat in infinitum, oportet quod finaliter deveniatur ad hoc quod liberum arbitrium hominis moveatur ab aliquo exteriori principio quod est supra mentem humanam, scilicet a Deo; ut etiam philosophus probat in cap. De bona fortuna. Unde mens hominis etiam sani non ita habet dominium sui actus quin indigeat moveri a Deo. Et multo magis liberum arbitrium hominis infirmi post peccatum, quod impeditur a bono per corruptionem naturae.*”

<sup>116</sup> See for example ST I-II 9.2 and ST I-II 13.6.

whom it is proposed.”<sup>117</sup> For Aquinas, how we perceive a good depends, in part, upon our present disposition, which includes the habits (good and bad) we have acquired in life. As Sherwin explains the matter,

Reason can consider the same object in a number of different ways. Consequently, according to different considerations the object can appear either good or bad. Since, however, the will moves the powers of the soul, including the intellect, to exercise their acts, the will can move the intellect to consider one aspect of the object instead of another. In addition, the will can shape how reason perceives that aspect of the object.<sup>118</sup>

The point to grasp from this discussion is that practical reasoning is the motive force of our actions precisely insofar as the reasoning expresses what the intellect specifies for the will in the order of formal causality, namely, the end desired as ‘a *good* to be sought’ (at least an apparent good), and the means chosen as ‘the *good* to be done for the sake of the desired end’ (at least an apparent good means). We can say the same in regard to a perceived evil. In sum, the motive force in practical reasoning—as this is expressed in a practical syllogism—is the *formality* through which we reason about what we do. “Just as the imagination of a form without estimation of fitness or harmfulness, does not move the sensitive appetite; so neither does the apprehension of the true without the aspect of goodness and desirability. Hence it is not the speculative intellect that moves, but the practical intellect.”<sup>119</sup>

To bring this discussion full circle, I indicated at the beginning of this section that the first principle of practical reason—that good is to be done and pursued and evil is to be

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<sup>117</sup> ST I-II 9.2: “*Quod autem aliquid videatur bonum et conveniens, ex duobus contingit, scilicet ex conditione eius quod proponitur, et eius cui proponitur.*”

<sup>118</sup> Another way to put the matter is to say, “I can *will* to consider a good in different ways.” What I would stress, however, as distinct from what Sherwin mentions here, is Aquinas’ appreciation for how passions, habits, memory, and imagination shape our consideration of some object. Indeed, the will moves the intellect to its operation, but always as an *informed* efficient cause. Hence, whenever I will to consider an object in this way or that way, my act of willing is informed by my dispositions. This is why moral virtues are so important, because as forms they incline us in the right ways. We cannot underestimate, therefore, the degree to which our sensate affectivity, habitual inclinations, and imagination may predispose us. This is precisely the problem of concupiscence for instance—the *fomes* of sin, which Aquinas says can move the will (ST I-II 9.2). What I have just explained, then, is how I interpret Aquinas’ meaning when he states: ‘Now that a thing appear to be good and fitting, happens from two causes: namely, from the condition, either of the thing proposed, or from the one to whom it is proposed’ (ST I-II 9.2).

<sup>119</sup> ST I-II 9.1 ad 2: “*Sicut imaginatio formae sine aestimatione convenientis vel nocivi, non movet appetitum sensitivum; ita nec apprehensio veri sine ratione boni et appetibilis. Unde intellectus speculativus non movet, sed intellectus practicus.*”

avoided—grounds the motive force of practical reasoning. What I have proposed, therefore, is a way to understand what it means to say that the intellect is the formal cause of our actions. The good apprehended supplies the motive for our actions. Yet because the first principle of practical reason is that principle through which we apprehend any good and reason about our actions, we can say that the first principle of natural law is a formal cause of every human action.<sup>120</sup> Practical reasoning moves us to act precisely because of the formality of the very first precept of natural law—as a law of our nature we always seek and do what we apprehend to be good and we always avoid what we perceive to be evil. This “rule and measure” is built right into the intellect as the first principle of all practical reasoning—the formal cause and motive force within every one of our voluntary actions. Nevertheless, good and evil must be specified; that is, we have to be actualized in practical moral truth so that our actions are informed by the knowledge of what is, in truth, good and evil to do here and now. Without first principles, however, this would be impossible.

To close, we can draw out one final implication about practical reasoning, which Aquinas does not state explicitly, but which is implicit in his thought. If we observe what Aquinas says about the cognitive operations of human action and the structure of the means-end syllogism, we can see that the latter dovetails perfectly with the former. The major premise falls within apprehension. The minor premise falls within counsel and is the fruit of deliberation, while the conclusion falls within judgment. Judgment terminates the syllogism, while command terminates the practical reasoning involved in an action. The following figure illustrates the point:

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<sup>120</sup> If I am not mistaken, Fulvio Di Blasi is making a similar point in a recent article about the nature of practical reasoning according to Aristotle and Aquinas. See “Practical Syllogism, *Proairesis*, and the Virtues: Toward a Reconciliation of Virtue Ethics and Natural Law Ethics,” *Nova et Vetera* 2, English Edition (2004), 21-42.

APPREHENSION	COUNSEL	JUDGEMENT	COMMAND
End	Possible Means	Chosen Means	
Major premise	Minor premise	Conclusion	The doing of the action
Satiating my hunger is <i>good</i> and to be sought.	Eating <i>this</i> ice cream is <i>good</i> for satiating my hunger.	Therefore, <i>this</i> ice cream <i>is to be eaten</i> .	<i>Eat</i> this ice cream!

Figure 5

The significance of this is in how the means-end syllogism mirrors the exact sequencing of practical reasoning itself. The means-end syllogism reflects what we do, cognitively, when we act. What we shall see next is the importance of finding the *right* middle term in a practical syllogism. We find the middle term through a process of counsel, which Aquinas also calls discovery (*inventio*).

### c. The Judgment of Conscience and the Discovery of Moral Truth

Now that I have discussed the first principles of practical reason and the basic structure and formality of practical reasoning, I wish to turn to the discovery of moral truth itself. I needed to expound the reasoning embodied in the means-end syllogism, for the practical syllogism not only expresses the means by which we judge what to do here and now for some end; it also expresses how we discover what we ought to do, simply speaking. This pertains to the second syllogism I mentioned above that terminates in a judgment of conscience about the moral species of an act.

To proceed, we must return to the distinction I noted earlier between the end as a principle of practical reasoning and the first principles of practical reason.<sup>121</sup> As principles of action, the first principles of practical reason provide a rule and measure for evaluating our actions. However, as indicated already, they do not suggest what, in particular, *is* good or evil, just or unjust, loving or not. These principles are so general that, by them alone, we possess only an inchoate knowledge of good and evil, the seeds of practical

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<sup>121</sup> See footnote 84 above.

moral truth. What we understand is to seek the good, through a loving and just means, that does no harm to others, nor offends God, and so forth. The understanding of principles is nothing more than a potency we must actualize in the particular knowledge of practical moral truth.<sup>122</sup> Since practical reasoning concerns particular actions, knowledge of practical moral truth presupposes a judgment about what *is* good or evil in particular. Is *this* act good or evil, and not only in a certain respect, but simply speaking? For example, robbing a bank might be a *good* way to acquire wealth—a means conducing well to the good of acquiring wealth—but as an action, stealing does not perfect the agent, simply speaking.

To begin, let us recount what Aquinas says about discovery in the speculative domain, namely, that we discover the truth by applying universal principles to some determinate matter. Our knowledge of the conclusion is complete and distinct once we reduce the conclusion into universal principles.<sup>123</sup> Through principles we judge of some particular matter we have discovered. For practical reason, Aquinas describes the process in precisely these terms. As we shall see, through the process of moral discovery we move ourselves from what we know—principles—to the knowledge of those particular moral conclusions contained within those principles, and then we judge what we have discovered in the light of the same principles.

Aquinas explains that we discover moral truth—first and foremost—through the habit of first principles.<sup>124</sup> When discussing *synderesis* he states, “Man’s act of reasoning,

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<sup>122</sup> By the term *practical moral truth*, I refer to a judgment about the moral species of some particular act.

<sup>123</sup> Ralph McInerny remarks that, “Discourse arrives at new truths on the basis of truths already known, such that the conjunction of the premises yields the combination of terms that is the conclusion. Propositions which function as premisses can be questioned in turn, prompting the quest for premisses from which they can be concluded. If such analysis of conclusions into premisses cannot be carried on indefinitely without removing any stable basis for the propositions with which the quest began, there must be some ultimate propositions which are known to be true through themselves, *per se*. In these ultimate principles, the predicate does not need an intermediate term to link it with its subject: the connection is immediate. Natural law principles are the counterpart in the practical order of these ultimate self-evident, immediately known principles on which discourse depends” (“The Golden Rule and Natural Law,” *The Modern Schoolman* LXIX [March/May], 422).

<sup>124</sup> ST I 79.12 ad 3.

since it is a kind of movement, proceeds from the understanding of certain things—namely, those which are naturally known without any investigation on the part of reason, as from an immoveable principle—and terminates also at understanding, inasmuch as by means of those principles naturally known, we judge of those things which we have discovered by reasoning.”<sup>125</sup> He goes on to say that, “*Synderesis* is said to incite to good, and to murmur at evil, inasmuch as through first principles we proceed to discover, and to judge of what we have discovered.”<sup>126</sup> By applying the first principles of practical reason to some object of choice, we actualize ourselves in the knowledge of good and evil—this particular object of choice is good; that one is evil.

This process of moral discovery, however, is also how Aquinas describes the act of conscience. Conscience, Aquinas tells us, is not a power but an intellectual act whereby we judge whether a considered action is good or evil.<sup>127</sup> The word conscience implies “the order of knowledge to something: for conscience it is said is with other knowledge. Thus the application of knowledge to another is by another act.”<sup>128</sup> The other knowledge to which Aquinas refers is our understanding of other principles of actions. These principles are applied to some object of choice.<sup>129</sup> In *De Veritate*, he states that the operative habits of reason are “applied to an act.” He continues, “These are the habit of *synderesis* and the habit of wisdom, which perfect the higher reason, and the habit of

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<sup>125</sup> ST I 79.12: “*Ratiocinatio hominis, cum sit quidam motus, ab intellectu progreditur aliquorum, scilicet naturaliter notorum absque investigatione rationis, sicut a quodam principio immobili, et ad intellectum etiam terminatur, inquantum indicamus per principia per se naturaliter nota, de his quae ratiocinando invenimus.*”

<sup>126</sup> ST I 79.12: “*Synderesis dicitur instigare ad bonum, et murmurare de malo, inquantum per prima principia procedimus ad inveniendum, et iudicamus inventa.*”

<sup>127</sup> ST I 79.13.

<sup>128</sup> ST I 79.13: “*ordinem scientiae ad aliquid, nam conscientia dicitur cum alio scientia. Applicatio autem scientiae ad aliquid fit per aliquem actum.*”

<sup>129</sup> For Aquinas, the object of choice—what one decides to do for the sake of some end—is the object of the human act and that wherein the moral species of an act principally resides. It is by an act of conscience that we judge whether some object of choice is good or evil. Martin Rhonheimer has been zealous to explain how the object of choice is the *moral* object of a human act. The goodness or evil of a human action resides in what we choose (interiorly) to do, that is, whether what we choose to do is in accord with right reason. See “The Perspective of the Acting Person and the Nature of Practical Reason: The ‘Object of the Human Act’ in Thomistic Anthropology of Action,” *Nova et Vetera* 2, English Edition (2004), 461-516.

scientific knowledge, which perfects lower reason.”<sup>130</sup> Just prior to this comment, he describes this process as one of taking counsel with ourselves, for in employing our conscience we are deliberating as to whether a proposed object of choice is good or evil. “For the way by which through knowledge we investigate what should be done, as it were taking counsel with ourselves, is similar to discovery, through which we proceed from principles to conclusions.”<sup>131</sup> In both *De Veritate* and the *Summa theologiae*, Aquinas explains that we judge not only about present actions but also those we have done already or are thinking of doing.<sup>132</sup>

As we can see from these observations, judgments of conscience stand to first principles of practical reason as particular conclusions contained within those principles. The act of conscience constitutes a movement from potency to act that parallels the actualization of speculative knowledge.<sup>133</sup> Recall that speculative discovery depends upon an external principle, namely, sensible objects. In moral discovery the particular action under consideration occupies the same role as sensible objects play in speculative reasoning.

When discussing prudence in the *Secunda secundae*, Aquinas offers a clear example of the act of conscience. He explains that in judging correctly what is to be done or avoided here and now, the prudent man must have a two-fold knowledge—one that is universal, the other particular.

To prudence belongs not only the consideration of the reason, but also the application to work, which is the end of practical reason. But no man can

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<sup>130</sup> *De Veritate*, q. 17, a. 1: “*Scilicet habitus synderesis et habitus sapientiae, quo perficitur superior ratio, et habitus scientiae, quo perficitur ratio inferior.*”

<sup>131</sup> *De Veritate*, q. 17, a. 1: “*Illa enim via qua per scientiam inspicimus quid agendum sit, quasi consiliantes, est similis inventioni, per quam ex principiis investigamus conclusiones.*”

<sup>132</sup> *De Veritate*, q. 17, a. 1; ST I.79.13.

<sup>133</sup> Romanus Cessario distinguishes three steps in the acquisition of practical moral truth. He provides a helpful summary for grasping the movement from moral principles to moral conclusions. He describes, “First, a pre-scientific grasp of moral principles which constitutes the level of universal moral reflection; second, the scientific elaboration of reasoned opinion about moral matters which defines the legitimate concern of ethics; and third, the judgment we make when we apply moral principles to concrete situations. This judgment, which is sometimes called the judgment of conscience, produces a special kind of moral knowledge, namely knowledge about what is to be done here and now” (*Introduction to Moral Theology* [Washington, D.C., The Catholic University of America Press, 2001], 137).

conveniently apply one thing to another, unless he knows both the thing to be applied and the thing to which it has to be applied. Now actions are in singular matters: and so it is necessary for the prudent man to know both universal principles of reason, and the singulars about which actions are concerned.<sup>134</sup>

In addition to first principles, however, the practical reasoning of a prudent man presupposes other universal principles of action, which are secondary or even tertiary principles (e.g. the Decalogue). These more determinate principles are not known *per se*; we learn them either by previous discovery or some kind of instruction.<sup>135</sup>

Furthermore, when Aquinas describes the process of discovery by which the prudent man determines what is to be done, Aquinas appeals to a practical syllogism. Aquinas describes the syllogism as follows:

The reasoning of prudence terminates, as in a conclusion, in the particular matter of action, to which, as stated above, it applies the knowledge of some universal principle. Now a singular conclusion is argued from a universal and a singular proposition. Wherefore the reasoning of prudence must proceed from a twofold understanding. The one is cognizant of universals, and this belongs to the understanding, which is an intellectual virtue, whereby we know naturally not only speculative principles, but also practical universal principles, such as ‘One should do evil to no man,’ as shown above. The other understanding . . . is cognizant of an extreme, i.e. of some primary singular and contingent practical matter, viz. the minor premise, which must needs be singular in the syllogism of prudence.<sup>136</sup>

In the *Prima secundae*, Aquinas provides another example of a prudent syllogism that terminates in a judgment of conscience. He states,

Now we must observe that reason directs human acts in accordance with a two-fold knowledge, universal and particular: because in conferring about what is to be done, it employs a syllogism, the conclusion of which is a judgment, or choice, or operation. . . . thus a man is restrained from an act of parricide by the knowledge that it is wrong to kill one’s father, and that this man is my father. Hence ignorance about either of these two propositions,

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<sup>134</sup> ST II-II 47.3: “*Ad prudentiam pertinet non solum consideratio rationis, sed etiam applicatio ad opus, quae est finis practicae rationis. Nullus autem potest convenienter aliquid alteri applicare nisi utrumque cognoscat, scilicet et id quod applicandum est et id cui applicandum Est. Operationes autem sunt in singularibus. Et ideo necesse est quod prudens et cognoscat universalia principia rationis, et cognoscat singularia, circa quae sunt operationes.*”

<sup>135</sup> ST II-II 48.15.

<sup>136</sup> ST II-II 49.2: “*Ratio prudentiae terminatur, sicut ad conclusionem quandam, ad particulare operabile, ad quod applicat universalem cognitionem, ut ex dictis patet. Conclusio autem singularis syllogizatur ex universali et singulari propositione. Unde oportet quod ratio prudentiae ex duplici intellectu procedat. Quorum unus est qui est cognoscitivus universalium. Quod pertinet ad intellectum qui ponitur virtus intellectualis, quia naturaliter nobis cognita sunt non solum universalia principia speculativa, sed etiam practica, sicut nulli esse malefaciendum, ut ex dictis patet. Alius autem intellectus est qui . . . est cognoscitivus extremi, idest alicuius primi singularis et contingentis operabilis, propositionis scilicet minoris, quam oportet esse singularem in syllogismo prudentiae.*”



viz. of the universal principle that is a rule of reason, or of the particular circumstance could cause an act of parricide.<sup>137</sup>

In the following figure, we can construct the syllogism as follows:

**Major/Universal:** Parricide is evil and to be avoided.

**Minor/Particular:** This man is my father.

**Conclusion/Particular:** Therefore, this parricide is evil (and to be avoided).

Figure 6

To disclose fully the nature of moral discovery, however, we need to comprehend more completely the construction of the parricide syllogism.<sup>138</sup>

To begin, notice how the major premise is a universal proposition expressing some prior wisdom, in this case, a secondary principle of action. The knowledge of secondary principles is a more complete and distinct knowledge of good and evil than our understanding of first principles, but not as distinct as a particular conclusion about this act here and now.<sup>139</sup> A secondary principle thus occupies a middle position between our understanding of the most universal principles and knowledge of the particular conclusion. “The reason of this is clear,” Aquinas tells us in reference to speculative reason, “because he who knows a thing indistinctly is in a state of potency as regards its principle of distinction; as he who knows genus is in a state of potency as regards difference. Thus, it is evident that indistinct knowledge is midway between potency and act.”<sup>140</sup> The same can be said for practical reason.

For Aquinas, after enough life experience with judging particular acts, we can synthesize our knowledge of moral truth into secondary principles of action that we can

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<sup>137</sup> ST I-II 76.1: “*Considerandum est autem quod ratio secundum duplicem scientiam est humanorum actuum directiva, scilicet secundum scientiam universalem, et particularem. Conferens enim de agendis, utitur quodam syllogismo, cuius conclusio est indicium seu electio vel operatio. . . . sicut homo prohibetur ab actu parricidii per hoc quod scit patrem non esse occidendum, et per hoc quod scit hunc esse patrem. Utriusque ergo ignorantia potest causare parricidii actum, scilicet et universalis principii, quod est quaedam regula rationis; et singularis circumstantiae.*”

<sup>138</sup> This is the typical structure of Aquinas’ practical syllogisms. For good examples, see *De Veritate*, q. 17, a. 2; *In Libros Ethicorum* VII, Lect. 3, par 1345; ST II-II 49.2 ad 1.

<sup>139</sup> See R.A. Armstrong, *Primary and Secondary Precepts in Thomistic Natural Law Teaching* (Martinus Nijhoff The Hague, 1966).

<sup>140</sup> ST I 85.3: “*Quia qui scit aliquid indistincte, adhuc est in potentia ut sciat distinctionis principium; sicut qui scit genus, est in potentia ut sciat differentiam. Et sic patet quod cognitio indistincta media est inter potentiam et actum.*”

then apply to like cases in the future. Aquinas says that we know secondary principles through experience with particular cases. “It is obvious that singulars have the nature of principles because the universal is drawn from singulars. From the fact that this herb cured this man, we gather that this kind of herb has power to cure.”<sup>141</sup> This acquired wisdom supplies principles fit to occupy the major premise of a prudent syllogism. It is a constitutive element of discovering moral truth and exercising the virtue of prudence.

In the minor premise of the parricide example, the deliberator takes stock of the circumstances of the proposed act. The acknowledgment that “this is my father” expresses the agent’s recognition that the proposed act is a particular instance falling within the principle that “parricide is evil and to be avoided.” Just as in speculative reason, wherein we identify some specifying characteristic of a species in relation to its proximate genus, so too do we acknowledge in the minor premise that this proposed act is a particular instance of this universal principle of action. Hence, knowledge of the universal is insufficient. We must also know the particular. We must determine what it is we are proposing to do (or have done), so that we can judge it accurately. This is why the circumstances are so relevant to a judgment of conscience. “Now we must take note that in contingent particular cases, in order that anything be known for certain, it is necessary to take several conditions or circumstances into consideration . . .”<sup>142</sup> If I am unable to discern what the object of my action is, the universal principle will be of little use in the moment of decision.

To the conclusion of the parricide example, we see that it is a negative proposition—*this* parricide is evil (and to be avoided). As I mentioned already, Aquinas makes a perplexing distinction between a judgment of conscience and a judgment of free-decision. “The judgments of conscience and of free decision differ to some extent and

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<sup>141</sup> *In Libros Ethicorum*, Bk, 6, lect. 9, par. 1249.

<sup>142</sup> ST I-II 14.3: “*Est autem considerandum quod in particularibus contingentibus, ad hoc quod aliquid certum cognoscatur, plures conditiones seu circumstantias considerare oportet . . .*”

correspond to some extent. For they correspond in this, that both refer to this particular act. However, the judgment of conscience applies to it in so far as conscience examines it.”<sup>143</sup> The reasoning process involving an act of conscience is how we discover whether some particular act is good or evil, simply speaking. It is not exactly the same process by which we decide to do this or that. The difference between the two is evidenced by the fact that we can apply our conscience to actions we are not presently performing. We can also act in opposition to our conscience, whereas a judgment of free-decision is conjoined to the operation of choice.

From this analysis, we can describe the syllogism terminating in a judgment of conscience as a “rule-case” syllogism. It begins with a general precept (which reason formulates) and applies the rule to some particular case and thus arrives at a *speculative* conclusion about the moral character of the action.<sup>144</sup> Aquinas affirms this in *De Veritate*. When addressing the reasoning of one who ignores his conscience he states, “One debates something which presents itself to be done here and now and judges, *still speculating as it were in the realm of principles, that it is evil, for instance, to fornicate with this*

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<sup>143</sup> *De Veritate* q. 17, a. 1 ad 4: “*Iudicium conscientiae et liberi arbitrii quantum ad aliquod differunt, et quantum ad aliquod conveniunt. Conveniunt quidem quantum ad hoc quod utrumque est de hoc particulari actu; competit autem iudicium conscientiae in via qua est examinans . . .*”

<sup>144</sup> At this point, I wish to stress emphatically that this process of applying principles to particular acts and reducing conclusions to principles is decidedly not a process of logical deduction. We do not deduce a practical conclusion from a moral principle. Rather, our intellects apprehend that the said act (as this act is grasped in all its contingencies by the intellect) is located within the neighborhood of some principle we know already by some prior learning. I have borrowed this expression “within the neighborhood” from Fred Fredosso, University of Notre Dame. It is a useful expression in how it describes the nature of the discursive reasoning that is occurring here. The movement of the intellect from potency to act is a movement by which the intellect recognizes a particular act as being of a certain species contained within a proximate genus. For example, if I know that stealing is evil and to be avoided (genus), and I know what stealing is, and I find myself at the grocery store plundering the candy bin to take a handful of malted milk balls without paying for them, through my intellect, I am able to recognize that this act is a form of stealing (i.e. species of) and, therefore, ought to be avoided. The accuracy of this judgment, however, depends on two important pieces of moral wisdom, namely, what stealing is and that stealing is evil and to be avoided. It may be that I have learned such things from another, such as my parents, or by having had my own things stolen. Either way, if I am able to trace the conclusion all the way back to first principles, I am said to know completely and distinctly the moral character of this act of taking malted milk balls. I am indebted to Lawrence Dewan (and Thomas Hibbs) for clarifying that the discursive nature of practical reasoning is not deductive. “Jean Porter on Natural Law: Thomistic Notes,” *The Thomist* 66 (2002), 278. Throughout this work, wherever I explain that a conclusion is *derived* from a principle, I am not speaking of a process of *deduction*, but rather the process of discursive practical reasoning I have explained here.

woman.”<sup>145</sup> This proposition—it is evil to fornicate with this woman—occupies the conclusion of the syllogism terminating in a judgment of conscience. Notice that the judgment of conscience is not “this fornication is to be avoided,” as is the judgment of free-decision, but rather, “this fornication is evil.” Aquinas states, “For conscience is said to testify, to bind, or incite, and also to accuse, torment or reprehend. And all these follow the application of knowledge (*cognitionis*) or science (*scientiae*) to what we do.”<sup>146</sup> The conclusion that terminates moral discovery is thus a judgment about the moral species of the action, not a judgment of free-decision.

### Summary

We can see that the practical reasoning entailed in moral discovery, the act of conscience, and the exercise of prudence are the same.<sup>147</sup> Moral discovery occurs through an act of conscience and is the distinguishing mark of the prudent man. We express this reasoning process through a practical syllogism. It entails the application of moral principles to a particular act, in order to determine whether some act is good or evil. Because it pertains to action, moral discovery is practical by extension. Hence, what we acquire through moral discovery is not a moral theology or a theory of ethics, but rather a tacit knowledge of what is good or evil.<sup>148</sup> Through moral discovery, we actualize in

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<sup>145</sup> *De Veritate*, q. 17, a. 1 ad 4: “*Aliquis examinat aliquid quod imminet faciendum, et indicat, quasi adhuc speculando per principia, hoc esse malum, utpote fornicari cum hac muliere.*”

<sup>146</sup> *De Veritate* q. 17, a. 1 ad 4: “*Conscientia testificari, ligare vel instigare, et etiam accusare vel remordere sive reprehendere. Et haec omnia consequuntur applicationem alicuius nostrae cognitionis vel scientiae ad ea quae agimus.*”

<sup>147</sup> See Servais Pinckaers, O.P. “Conscience in the Christian Tradition,” in *The Pinckaers Reader: Renewing Thomistic Moral Theology*, ed. John Berkman and Craig Steven Titus (Washington D.C.: The Catholic University of America Press, 2005), 329-32.

<sup>148</sup> Pope John Paul II affirms this understanding of conscience in *Veritatis splendor*: “The judgment of conscience is a *practical judgment*, a judgment which makes known what man must do or not do, or which assesses an act already performed by him. It is a judgment which applies to a concrete situation the rational conviction that one must love and do good and avoid evil. This first principle of practical reason is part of natural law: indeed it constitutes the very foundation of the natural law, inasmuch as it expresses that primordial insight about good and evil, that reflection of God’s creative wisdom which, like an imperishable spark (*scintilla animae*), shines in the heart of every man. But whereas the natural law discloses the objective and universal demands of the moral good, conscience is the application of the law to a particular case; this application of the law thus becomes an inner dictate for the individual, a summons to do what is good in this particular situation. Conscience thus formulates *moral obligation* in the light of

ourselves the particular knowledge of practical moral truth.<sup>149</sup> Though this knowledge is acquired, it is not exclusive to the highly educated. Anyone who can reason is capable of employing conscience to discover what is good or evil. The prudent man, however, goes further in that he embodies his judgment of conscience in a free-decision for the good. We can conclude two things from this. First, prudence is a virtue acquired, in part, through the continual use of conscience.<sup>150</sup> Second, the prudent man is one who, through experience, has accumulated knowledge of secondary and tertiary principles of action. By

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natural law: it is the obligation to do what the individual, through the workings of his conscience, *knows* to be a good he is called to do *here and now*" (no. 59).

<sup>149</sup> For me to speak of practical moral truth seems to suggest a certitude inappropriate to practical reasoning. After all, does Aquinas not say that practical judgments are contingent and that the principles of natural law can fail in particular cases? (ST I-II 94.4). Thus, how can we ascribe certitude and immutability to the moral species of each and every human act? I would argue that, for Aquinas, each and every human act—insofar as it is a human act comprised of an end, an object, and specific circumstances—has a determinate moral species that is knowable to practical reason—it is either good or evil *simply*. What makes moral discovery difficult, however, is ascertaining which principles govern a particular case, that is, which principles one ought to employ in making a judgment about some object of choice. To use practical reason well, requires prudence, which requires that an individual take into consideration all the relevant data necessary to making such a judgment. This pertains especially to one's grasp of relevant circumstances that determine the object of an act (ST I-II 7). The reason that a principle of action can "fail" in certain cases is not because the principle itself is inept and only nominally useful, but rather because the circumstances of our actions are mutable and thus an agent can fail to apply the right principle. If there is an exception to a rule, we are not to conclude from this that there are no intrinsically evil acts or that circumstances provide a justification for breaking the rule. Rather, an exception to a rule means only that a principle does not apply in this case because the act is governed by another principle (ST I-II 100.8 ad 1-3). Circumstances do not justify otherwise evil acts; they change the object of choice and thus situate the case under a different principle of action. Ana Marta González offers a wonderful explanation of this. In the text I will cite momentarily, she is addressing the example Aquinas borrows from Aristotle about returning an item borrowed in trust to a man that might use it to commit injustice. Aquinas argues that the principle, "all borrowed items are to be returned" fails in the said case. Here is González's commentary: "[T]his lack of reliability should not be attributed so much to the precept considered in itself as to the precept seen through its application in action. This variation has taken place in its turn only because, in the action which that precept was designed to regulate, a 'circumstance' has been introduced that notably modifies the object of the action itself, to the extent that this action can no longer be regarded *in the first instance* or exclusively as yet another case of the same precept, at least as long as the 'perturbing' circumstances are present. While circumstances of this kind remain, the action has to be governed by a different precept which practical reason must determine. The fact that secondary precepts of natural law are open to erroneous application demonstrates that this law cannot be reduced to a code of regulations, as this would be of less practical use. If natural law is to govern action effectively, it must provide us with certain knowledge as to what precept should be used in any particular case. If not, then how can we determine which precept to use? We must return here to the classic answer that prudence . . . was for Aristotle the practical criterion governing action: only prudence equips us to discern in each case which precept (or habit) it is appropriate to use" (*Depositum Gladus Non Debet Restitui Furioso*: Precepts, *Synderesis*, and Virtues in Saint Thomas Aquinas, *The Thomist* 63 [1999], 222).

<sup>150</sup> For an excellent discussion of the relationship between prudence and conscience, see Servais Pinckaers, "Conscience and the Virtue of Prudence," in *The Pinckaers Reader: Renewing Thomistic Moral Theology*, ed. John Berkman and Craig Steven Titus (Washington D.C.: The Catholic University of America Press, 2005), 342-55.

so doing, he is able to discover the practical moral truth even in very difficult situations and then act accordingly.

### *C. Right Practical Reasoning*

One might conclude from this analysis of moral discovery that the reasoning involved is not, in the end, *practical* reasoning. After all, the major premise of the syllogism terminating in a judgment of conscience is not necessarily a proposition about the proximate end the agent seeks, but rather a rule of action by which one might make an ethical judgment about some act (past, present or future). Moreover, the conclusion is speculative and does not terminate in a decision to act—we can apply conscience to a past action. Nevertheless, such an assessment is contrary to what Aquinas says. Whenever he cites an example of “practical” reasoning, he always describes the act of conscience. The parricide example is the perfect paradigm of this. Elsewhere he says, “And as for the practical reason, it is either universal or particular. By the universal practical reason we judge that such and such ought to be done [major], e.g. that children ought to honor their parents. By the particular practical reason we judge that this particular subject is such and such [minor], e.g. that I am a son and I ought here and now to honor my parents [conclusion].”<sup>151</sup> Again, he states in his commentary on the *Nicomachean Ethics*, “that if we wish to consider why the incontinent man can act contrary to his knowledge by the natural process of practical science, we must take into consideration the two judgments in this process. One is universal, for example, ‘Every dishonorable act must be avoided’ [major]; the other, singular, is concerned with objects which properly are known by sense, for instance, ‘This act is dishonorable

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<sup>151</sup> *De Anima* Bk 3, lect. 16, par. 845. “*Ratio autem practica, quaedam est universalis, et quaedam particularis. Universalis quidem, sicut quae dicit, quod oportet talem tale agere, sicut filium honorare parentes. Ratio autem particularis dicit quod hoc quidem est tale, et ego talis, puta quod ego filius, et hunc honorem debeo nunc exhibere parenti* [Brackets mine]”

[conclusion].”<sup>152</sup> And there are other such examples.<sup>153</sup>

### *1. Two Practical Syllogisms?*

So what is going on here? Aquinas clearly identifies two forms of practical reasoning, both of which are ordered to action. One terminates in a judgment of free-decision; the other terminates in a judgment of conscience. What is more, Aquinas never offers a clear explanation for how the two forms of reasoning relate to one another in human action. It is my intention, therefore, to propose a way to resolve this perplexity in Aquinas’ thought. As I will show, morally good actions require both kinds of reasoning. Aquinas distinguishes two kinds of judgments to indicate that prudent action involves two forms of practical reasoning.<sup>154</sup> Both judgments are reasoned through first principles, but in different manners. To resolve the matter I will address two issues. First, what is the difference between the major premises of a means-end syllogism and a rule-case syllogism? Second, where does the prudent man obtain the minor premise when reasoning to a judgment of free-decision?

#### *Major Premises and First Principles*

As we established, the major premise of a means-end syllogism is a proposition about some end I apprehend as a good to be attained by means of some free-decision. I will call this the proximate end of my action or the immediate purpose for my action. In the example provided previously, I expressed this major premise as a proposition stating that, “satiating my hunger is good and to be attained.” As the end I am seeking, the good of “satiating my hunger” is a principle of action into which (through the middle term) I

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<sup>152</sup> Bk. 7, lect. 3, n. 18: “*velit considerare causam, quare incontinentes praeter scientiam agant secundum naturalem processum practicae scientiae, oportet scire quod in eius processu est duplex opinio. Una quidem universalis, puta omne inbonestum est fugiendum. Alia autem est singularis circa ea quae proprie per sensum cognoscuntur, puta: hic actus est inbonestus.*”

<sup>153</sup> See ST I-II 77.2 and ST II-II 49.1 ad 1.

<sup>154</sup> On this subject, Ralph McInerney has a very insightful essay. “Prudence and Conscience,” *The Thomist* 38 (1974) 291-305.

can reduce the conclusion—this ice cream is to be eaten, for eating this ice cream will satiate my hunger. However, as a principle of action, the major premise—“satiating my hunger is good and to be sought”—is itself reducible to the first principle of practical reason—good is to be done and pursued and evil is to be avoided. It is *good* to satiate hunger. In this respect, then, the major premise of a means-end syllogism expresses what I apprehend to be a proximate end that is good for me to pursue—good is to be *pursued*. I apprehend this end—as a good to be sought—through the first principle of practical reason. I would never intend this end if I did not apprehend it as being constitutive of my good, simply speaking.<sup>155</sup> As such, it is not improper to suggest that means-end reasoning is also rule-case reasoning, that is, since the major premise is reducible to the first precept of natural law.<sup>156</sup>

Let us now compare this to the major premise occupying the rule-case syllogism. As I just affirmed, the major premise of a means-end syllogism is a proposition about a proximate end I intend to attain through some determinate means. In the rule-case syllogism, it would appear that such is not the case. Aquinas tells us that the major premise is a general precept, a universal judgment about a particular genus of acts—for instance parricide, stealing, or murder. As principles of action, these precepts do not necessarily express an end that I *actually* intend through my action.<sup>157</sup>

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<sup>155</sup> One of the places we go astray is in being mistaken about which ends are truly worthy of pursuit. We are capable of placing our last end in goods that do not perfect us, simply speaking. For example, our thief may choose to steal because he places his end in riches. Though, if we push back the line of intentionality, it may be that he seeks riches in order to buy drugs, and so on and forth. Whatever it might be that he places his end in, he seeks happiness in some good incapable of perfecting him. Nevertheless, it is this disordered appetite that disposes him to the judgment that “this stealing is to be done.”

<sup>156</sup> For clarity sake, I will continue to describe the reasoning that terminates in free-decision as means-end reasoning.

<sup>157</sup> Robert Sokolowski published an illuminating essay wherein he makes the same distinction between proximate ends and the human good as such, though the terms he employs differ. He distinguishes between purposes and ends. Purposes exist because rational agents thoughtfully pursue certain goals through their actions. Ends exist in all beings as that state of perfection to which each thing is ordered by its nature. Sokolowski makes the following remark about the problem that arises in morality as a result of this distinction: “It is not the case that ends are presented to us all by themselves, separate from purposes. It is not the case that we get a clear, vivid idea of the end of things, and then only subsequently attach our purposes to them. Moral issues would be much simpler if this were so; indeed, if it were so, there would be no moral problems. Our moral measures would be easily accessible. The human problem arises precisely



Recall the example I gave above about the various methods of acquiring wealth. Robbing a bank is a good way to acquire wealth, but not a good action, simply speaking. Obviously, the thief that robs the bank chooses to do so from a judgment that “robbing the bank is to be done.” The thief that robs a bank may or may not have considered whether he *ought* to have robbed the bank as a means to fulfill his purpose. If he *had* done so, he obviously did not conform his free-decision to his conscience. To the contrary, he would have acted against his conscience, which is something we clearly do. In order to understand, therefore, the difference between the major premises of the two syllogisms, we must see that the major premise of the rule-case syllogism provides a principle for determining whether some object of choice (the means to the proximate end) is worthy to be chosen in regard to the human good, as such. The act of conscience is the act by which I determine whether what I am proposing to do (or have done) is something I *ought* to do (or have done) vis-à-vis my last end, not simply the proximate purpose I intend.

To say this, however, is to suggest that the universal rule occupying a rule-case syllogism—e.g. Thou shalt not steal—is related to the ends of human flourishing. As such, they, too, are reducible to the first principle(s) of practical reason; and yet, as determinations of first principles, these are the principles through which we can make particular judgments about the moral species of an object of choice—good is to be *done*. They are the principles through which we discover what we ought to choose (or have chosen) in pursuing our proximate goals, such that in so choosing, we not only attain the proximate good we are seeking, but the human good, simply speaking. As an object of

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because we have to *distinguish* ends and purposes in our activity, and it is often difficult to do so. Ends and purposes come to light in contrast to one another. For example, the end of medicine is the resoration and preservation of health, but a man might have many different purposes in practicing medicine . . . at first, medicine comes to us soaked through with such purposes [making money, etc.] . . . and it takes moral intelligence to make the distinction between what belongs to medicine as such and what purposes we have in practicing it” (“What is Natural Law? Human Purposes and Natural Ends,” *The Thomist* 68 [2004], 512). I have presented the distinction between ends and purposes by distinguishing the major premises of each kind of practical syllogism.

choice, robbing a bank is good (desirable) in a certain respect—vis-à-vis acquiring wealth—but it is not good simply.

To see more completely what I am stating about the precepts that occupy the major premise of a rule-case syllogism, let us look at a text wherein Aquinas explains that the first principles of practical reason regard the ends of moral virtue. It is a text we have seen before:

The end of the moral virtues is human good. Now the good of the human soul is to be in accord with reason. . . . wherefore the ends of moral virtue must of necessity pre-exist in the reason. Now just as in speculative reason there are certain things naturally known, about which is understanding, and certain things of which we obtain knowledge through them, viz. conclusions, about which is science, so in the practical reason, certain things pre-exist, as naturally known principles, and such are the ends of the moral virtues, since the end is in practical matters what principles are in speculative matters . . . while certain things are in the practical reason by way of conclusions, and such are the means which we gather from the ends themselves. About these is prudence, which applies universal principles to the particular conclusions of practical matters.<sup>158</sup>

In short, the first principles of practical reason concern the ends we are to seek or avoid for the sake of our perfection. These ends serve as a rule and measure of practical reasoning, as principles for action. For example, the harm principle presents the good of my neighbor as an object of justice or love. Hence, precisely because they concern those ends that perfect the agent, the first principles of practical reason provide the formality through which we deliberate about the moral species of our objects of choice. What we apprehend through these principles is whether this or that object of choice conduces to the ends of human perfection, not just whether an object of choice conduces to the end we proximately intend.

Through these principles we can determine that certain means cannot attain the human good. For example, I can discern that, simply speaking, it is evil to kill an

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<sup>158</sup> ST II-II 47.6: “*Finis virtutum Moralium est bonum humanum bonum autem humanae animae est secundum rationem esse. . . . Unde necesse est quod fines Moralium virtutum praeexistant in ratione. Sicut autem in ratione speculativa sunt quaedam ut naturaliter nota, quorum est intellectus; et quaedam quae per illa innotescunt, scilicet conclusiones, quarum est scientia, ita in ratione practica praeexistunt quaedam ut principia naturaliter nota, et huiusmodi sunt fines virtutum Moralium, quia finis se habet in operabilibus sicut principium in speculativis . . . et quaedam sunt in ratione practica ut conclusiones, et huiusmodi sunt ea quae sunt ad finem, in quae pervenimus ex ipsis finibus. Et horum est prudentia, applicans universalis principia ad particulares conclusiones operabilium.*”

innocent person even if the end I seek is noble and can be attained by doing so.<sup>159</sup> Through counsel, I may determine that this act of killing conduces well to my purpose, but right practical reason could never terminate in such a decision to kill the person. The same is true of any secondary precept of action we employ in the process of moral discovery. For example, the principle that “stealing is evil and to be avoided” corresponds to an end for which one ought to exercise vigilant solicitude, namely, our neighbor’s property, and even more, the human good for which our neighbor has a right to his property in the first place. The precept against stealing expresses the formality through which we deliberate about what to do in instances when taking another’s property presents itself as an object of choice—a means to our proximate goal. The prudent man judges that stealing is illicit because it violates the good of his neighbor and thus the order of justice. The imprudent man, however, may judge that stealing is to be done simply because it is an expeditious way to attain the intended end, an end that is not in itself evil.

To sum up, the major premise of a rule-case syllogism denotes an end constitutive of the perfection of all human beings. As such, a syllogism terminating in a judgment of conscience *is* a means-end syllogism and thus fully conformable to the structure and form of practical reasoning. It differs only in that it does not terminate in a judgment of free-decision, but in a judgment about the moral species of an object of choice. For the sake of clarity, however, I will continue to refer to the syllogism employed in an act of conscience as a rule-case syllogism. What remains for us to see is how the rule-case syllogism informs our actions. The judgment of free-decision that is conformed to the

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<sup>159</sup> Let us say I am a young woman proposing to abort my child so that I can go on to pursue a career. As an independent practical reasoner (to borrow a phrase from Alasdair MacIntyre), I can judge that such an act is evil and to be avoided. Nevertheless, this judgment depends entirely upon some prior knowledge, namely, that what I am aborting is an innocent human being (minor premise), and that killing an innocent human being is evil and to be avoided (major premise). If I am lacking knowledge of either of these two things, I may very well decide that this abortion is good and to be done. In his book *Dependant Rational Animals: Why Human Beings Need the Virtues* (Chicago: Open Court, 1999), MacIntyre does a wonderful job a showing how involved the process of development is by which human beings become independent practical reasoners.

judgment of conscience results from what Aquinas calls ‘right’ practical reasoning. Right practical reasoning presupposes moral discovery (good counsel), and terminates in a judgment of free-decision that not only attains the agent’s proximate purpose, but the human good as well.

## 2. Finding the Right Middle Term in the Process of Deliberation

The complexity of right practical reasoning is made intelligible when considering Aquinas’ account of deliberation itself. Cognitively, deliberation refers to the counsel one takes in determining what is to be chosen here and now. Counsel is the second cognitive operation in human action.<sup>160</sup> Aquinas says that counsel is a kind of discovery. What one discovers is the means conducing to the intended end. Yet Aquinas is keen to observe that,

In this consideration it is necessary to adopt some one rule or end, or something of the kind, in regard to which should be measured what is rather to be done. For it is manifest that man imitates, i. e. desires, that which is more in goodness and that which is better: but we judge ‘better’ by some measure; and therefore it is necessary to adopt some measure in deliberating what is rather to be done. And this is the middle [term] from which practical reason concludes what has to be chosen.<sup>161</sup>

Notice the link between counsel and the middle term of a practical syllogism, which I have already pointed out. In discussing above the means-end syllogism, we saw that the minor premise falls within the deliberation stage of human action. Aquinas refers to prudence as taking “good” counsel with oneself.<sup>162</sup> The purpose of good counsel (moral discovery) is to obtain the right minor premise of the means-end syllogism.

Prudence consists in a right estimate about matters of action. Now a right

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<sup>160</sup> For Aquinas, deliberation is not always performed. At times, we know exactly what we intend to do. In these actions, we bypass deliberation; thus, consent and choice merge into a single operation. See ST I-II 15.3 ad 3.

<sup>161</sup> *De Anima*, Bk 3, lect. 16, par. 841. “*Tali consideratione necesse est accipere aliquam unam regulam, vel finem, vel aliquid huiusmodi, ad quod mensuretur quid sit magis agendum. Manifestum est enim quod homo, imitatur, idest desiderat, id quod est magis in bonitate, et id quod est melius: melius autem semper diiudicamus aliqua mensura: et ideo oportet accipere aliquam mensuram in deliberando quid magis sit agendum. Et hoc est medium ex quo ratio practica syllogizat quid sit eligendum* [emphasis mine].” I wish to thank Dr. Andrei Gotia (International Theological Institute) for providing this more literal translation of this passage.

<sup>162</sup> ST II-II 47.2.

estimate or opinion is acquired in two ways, both in practical and in speculative matters, first by discovering it oneself, secondly by learning it from others. Now just as docility consists in a man being well disposed to acquire a right opinion from another man, so shrewdness is an apt disposition to acquire a right estimate by oneself, yet so that shrewdness be taken for [*eustochia*], of which it is a part. For [*eustochia*] is a happy conjecture about any matter, while shrewdness is ‘an easy and rapid conjecture in discovering the middle term’ (Poster. i, 34).<sup>163</sup>

Shrewdness is a part of prudence, which is that aptitude by which we attain the right middle premise of a practical syllogism. “Shrewdness is concerned with the discovery of the middle term not only in demonstrative, but also in practical syllogisms . . .”<sup>164</sup>

What the prudent man discovers, therefore, is not only what conduces to the proximate goal he intends, but also what conduces to the human good, as such. That is to say, “Wisdom considers the absolutely highest cause: so that the consideration of the highest cause in any particular genus belongs to wisdom in that genus. Now in the genus of human acts the highest cause is the common end of all human life, and it is this end that prudence intends.”<sup>165</sup> If the discovery of practical moral truth is the achievement of prudence, it follows that moral discovery requires us to evaluate our proposed objects of choice with a view to ultimate ends. Such is the purpose of *synderesis* in the human intellect. God gives the habit of first principles that our practical reasoning might be grounded in some standard by which we discover whether or not an action is good, simply speaking. This is an activity that is possible to us through moral discovery.

The prudent man invokes an act of conscience to establish whether some proposed act conduces to the human good. If he determines that the means is illicit, he eliminates it as a possibility. This or that action is to be avoided. He then turns to other possibilities

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<sup>163</sup> ST II-II 49.4: “*Prudentis est rectam aestimationem habere de operandis. Recta autem aestimatio sive opinio acquiritur in operativis, sicut in speculativis, dupliciter, uno quidem modo, per se inveniundo; alio modo, ab alio addiscendo. Sicut autem docilitas ad hoc pertinet ut homo bene se habeat in acquirendo rectam opinionem ab alio; ita solertia ad hoc pertinet ut homo bene se habeat in acquirendo rectam existimationem per seipsum. Ita tamen ut solertia accipiat pro eustochia, cuius est pars. Nam eustochia est bene coniecturativa de quibuscumque, solertia autem est facilis et prompta coniecturatio circa inventionem medii.*”

<sup>164</sup> ST II-II 49.4 ad 1: “*Solertia non solum se habet circa inventionem medii in demonstrativis, sed etiam in operativis . . .*”

<sup>165</sup> ST II-II 47.2: “*Sapientia considerat causam altissimam simpliciter. Unde consideratio causae altissimae in quolibet genere pertinet ad sapientiam in illo genere. In genere autem humanorum actuum causa altissima est finis communis toti vitae humanae. Et hunc finem intendit prudential.*”

to judge them as well. Now it may be the case that, by a habit of practical moral wisdom, he already knows that some objects of choice are illicit. The prudent man would never consider stealing, for example, as a means for acquiring wealth, though he may need to determine whether this or that action is a form of stealing.

To thus see where conscience informs our free-decisions, let us consider, again, the eating example employed above. Recall that the major premise was this: “Satiating my hunger is a good to be sought.” Note, however, that another end is relevant here—the good of health—which we can describe as a human good. The proposition about the good of satiating hunger is the major premise of the syllogism terminating in my judgment of free-decision. What I am deliberating about is how to achieve this end. What should I eat?

Yet to determine my choice to the human good, I must allow another principle to govern my action, namely, a principle that orders my action to an end perfective of me, simply speaking. Thus, another principle comes to bear on my action—the universal principle that health is a good to be sought. Health is an end to which all human beings are naturally inclined. Health is a constitutive element of human perfection and self-preservation. Nevertheless, it is a principle that I must already know at the moment of decision; and it may be a principle I was taught by another or discovered on my own through the prior experience of being ill and finding myself strongly inclined to remedy the situation.<sup>166</sup>

I then consider the various means at my disposal. Rummaging through the freezer, I happen across a large tub of Ben and Jerry’s Ice Cream. In prudence, I would determine that, while eating the ice cream would satiate my hunger, it would not attain the good of health (say I have diabetes). Thus, if I act in prudence, I eliminate the ice cream as a possibility. Turning then to a bean burrito I find in the fridge—with a little less zeal of

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<sup>166</sup> This last point about “being inclined” brings us to the subject of the natural inclinations, which I will take up in chapter 6.

course—I judge that eating *it* attains the good of health *and* satisfies my hunger. I thus consent to eating the burrito as being conducive to satiating my hunger *and* attaining the good of health. What has taken place here is a moral discovery—that this eating of ice cream is evil vis-à-vis the good of my health, but that this eating of a burrito is good.<sup>167</sup> Over time, if I repeatedly decide to satiate my hunger with *healthy* food, I eventually increase in virtue. That is, I order my acts of eating to the human good and thus increase in the habit of temperance by which I conform my concupiscible appetite to the rule of right reason. Thus, we see how both forms of reasoning inform our actions.

The imprudent (and intemperate) man, however, does not employ or listen to his conscience and thus arrives at a positive judgment of free-decision to eat the ice cream—this ice cream is to be eaten. This may happen for reasons of passion, vice, or a simple failure to consider the matter carefully.<sup>168</sup> Aquinas tells us that, “conscience can be laid aside.”<sup>169</sup> This helps explain the choice of the incontinent man, whom Aquinas says reasons with four premises.<sup>170</sup> He may know what is good or evil here and now, but commit sin nonetheless because his judgment of conscience is silenced by his passions.

Let us consider a text from *De Veritate* we have seen already:

Thus, it sometimes happens that the judgment of free decision goes astray, but not the judgment of conscience. For example, one debates something which presents itself to be done here and now and judges, still speculating as it were in the realm of principles, that it is evil, for instance, to fornicate with this woman. However, when he comes to apply this to the act, many circumstances relevant to the act present themselves from all sides, for instance, the pleasure of the fornication, by the desire of which reason is constrained, so that its dictates may not issue into choice. Thus, one errs in choice and not in conscience. Rather, he acts against conscience and is said to do this with an evil conscience, in so far as the deed does not agree with the judgment based on knowledge. Thus, it is clear

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<sup>167</sup> Note that eating ice cream could never be an intrinsically evil action! Praise God. There are very justifiable reasons to eat sugary ice cream, but maybe not for a diabetic. Moreover, to eat healthy does not exclude the pleasure of eating. It is good to enjoy our food; it is contrary to reason, however, to place our end in that enjoyment. Furthermore, a judgment such as this depends on a good deal of prior knowledge: the nutritional differences between burritos and ice cream, self-knowledge of my own constitution, and so forth. All of this information comes to bear on the minor premise and is accumulated through experience and prior instruction.

<sup>168</sup> ST I-II 77.2; *De Veritate*, q. 17, a. 1 ad 4.

<sup>169</sup> ST I 79.13: “*Conscientia deponi potest.*”

<sup>170</sup> ST II-I 77.2.

that it is not necessary for conscience to be the same as free decision.<sup>171</sup>

An important implication presents itself in this text. Because it is speculative, the judgment of conscience acquires motive force only if we have recourse to it in our free-decisions. The judgment of conscience is practical by extension, but does not have motive force, except insofar as we allow it to exercise a determinitive influence on our free-decision. Right practical reasoning, therefore, always results from a decision to use and obey our conscience.

What insures the conformity of our actions to right reason is finding the *right* middle term. A free-decision will be conformed to right reason if the agent obtains the minor premise from a (well-formed) judgment of conscience—this assumes there is no failure in the construction of the rule-case syllogism.<sup>172</sup> The following diagram shows how the prudent man obtains the *right* minor premise of the means-end syllogism through an act of conscience. The judgment of conscience—“eating this ice cream is *evil* vis-à-vis health”—supplies the middle term of the means-end syllogism, linking the judgment of free-decision to the agent’s proximate purpose, though certainly other contingencies would come to bear on a free-decision besides the moral species of the proposed object.

Practical Reasoning (Negative Judgment of Conscience)			
	<i>Apprehensio</i>	<i>Concilium</i>	<i>Iudicium</i>
		<b>RULE-CASE</b>	
		RULE (Major) : Health is a <i>good</i> to be sought.	
		CASE (Minor) : Ice cream has lots of sugar.	
	Satiating my hunger is <i>good</i> .	<b>JUDGMENT OF CONSCIENCE</b> Eating this ice cream is <i>evil</i> vis-a-vis health.	<b>JUDGMENT OF CHOICE</b> ~Eating this ice cream <i>is to be avoided</i> ~
<b>MEANS- END</b>	END (Major)	MEANS (Minor)	CONCLUSION

<sup>171</sup> q. 17, a. 1 ad 4: “Et ideo contingit quandoque quod iudicium liberi arbitrii pervertitur, non autem iudicium conscientiae; sicut cum aliquis examinat aliquid quod imminet faciendum, et indicat, quasi adhuc speculando per principia, hoc esse malum, utpote fornicari cum hac muliere; sed quando incipit applicare ad agendum, occurrunt undique multae circumstantiae circa ipsum actum, ut puta fornicationis delectatio, ex cuius concupiscentia ligatur ratio, ne eius dictamen in electionem prorumpat. Et sic aliquis errat in eligendo, et non in conscientia; sed contra conscientiam facit: et dicitur hoc mala conscientia facere, in quantum factum iudicio scientiae non concordat. Et sic patet quod non oportet conscientiam esse idem quod liberum arbitrium.”

<sup>172</sup> Aquinas acknowledges the possibility that we can fail to apply our conscience effectively. See *De Veritate*, q. 17, a. 2. It is also true that our conscience can be ill formed to begin with. Yet, because our conscience indeed binds us to action, we must act in conformity with our conscience, even if it is in error due to an error in our reasoning (ST I-II 19.5).



Practical Reasoning (Positive Judgment of Conscience)			
<i>Apprehensio</i>	<i>Concilium</i>		<i>Iudicium</i>
	RULE-CASE		
	RULE (Major)	Health is a <i>good</i> to be sought.	
	CASE (Minor)	Burritos are . . . and so forth	
Satiating my hunger is <i>good</i> .	JUDGMENT OF CONSCIENCE Eating this burrito is <i>good</i> vis-a-vis health <i>and</i> satiating hunger		JUDGMENT OF CHOICE ~Eating this burrito is to be done~
MEANS- END	END (Major)	MEANS (Minor)	CONCLUSION

Figure 7

What I am illustrating here is how moral discovery functions as a formal cause of our free-decisions. To understand this will help us grasp the natural process of discovery that the pedagogical character of law presupposes, for as Aquinas tells us, *disciplina* presupposes *inventio*.

To show definitively that Aquinas understands right practical reasoning as I explained it, let us examine an instructive text from the *Summa theologiae* concerning the process of counsel. In it, he explains that right counsel proceeds from two different principles.

For a *twofold* principle is available in the inquiry of counsel. One is proper to it, and belongs to the very genus of things pertaining to operation: *this is the end that is not the matter of counsel*, but is taken for granted as its principle, as stated above. *The other principle is taken from another genus*, so to speak; thus in demonstrative sciences one science postulates certain things from another, without inquiring into them. Now these principles which are taken for granted in the inquiry of counsel are any facts received through the senses—for instance, that this is bread or iron [circumstances: minor premise]: and also any general statements known either through speculative or through practical science; for instance, that *adultery is forbidden by God*, or that *man cannot live without suitable nourishment* [universal principles: major premise].<sup>173</sup>

The first principle Aquinas mentions is the end (proximate purpose) that occupies the major premise of a means-end syllogism. The second principle is the precept that occupies the major premise of a rule-case syllogism. What he is saying, therefore, is that good counsel (an informed act of conscience) insures that we can attain our last end by

<sup>173</sup> ST I-II 14.6: “Accipitur enim in inquisitione consilii duplex principium. Unum proprium, ex ipso genere operabilem, et hoc est finis, de quo non est consilium, sed supponitur in consilio ut principium, ut dictum est. Aliud quasi ex alio genere assumptum sicut et in scientiis demonstrativis una scientia supponit aliqua ab alia, de quibus non inquit. Huiusmodi autem principia quae in inquisitione consilii supponuntur, sunt quaecumque sunt per sensum accepta, utpote quod hoc sit panis vel ferrum; et quaecumque sunt per aliquam scientiam speculativam vel practicam in universali cognita, sicut quod moechari est a Deo prohibitum, et quod homo non potest vivere nisi nutriatur nutrimento convenienti. Et de istis non inquit consiliator [emphasis and brackets mine].”

means of our more proximate goals. As a way of describing how this works, I have argued that the judgment of conscience is where the prudent man obtains the right minor premise of his means-end syllogism. As we turn to investigate the pedagogical character of law, what I have explained about right practical reasoning will be imperative to keep in mind; for in regard to practical reasoning, law functions pedagogically to inform our judgment of conscience.

### *Conclusion*

We have examined the process of moral discovery in detail because the pedagogical character of law eludes us otherwise. To see how law functions as pedagogy, it is useful to acquire a precise understanding of the cognitive foundation of moral instruction. This foundation is the process of moral discovery, which entails a movement from potency to act. This movement begins in the understanding of principles and returns to these same principles by way of judgment. We are actualized fully in the particular knowledge of good and evil only when we can trace a practical moral conclusion into a first principle of practical reason. As we saw, the practical syllogism terminating in a judgment of conscience expresses this process of discovery. As we traverse the distance between potency and act, we discover along the way certain secondary principles of action as well, which serve as midway points between the understanding of first principles and the particular knowledge of good and evil. Finally, the judgment of conscience terminating this process of discovery is indispensable for the right ordering of our actions at the moment of decision. Actions are in accord with right reason only if we direct them to the human good.

## CHAPTER TWO

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### *The Pedagogical Character of Law & the Intellect*

Aquinas' philosophy of education supplies a useful point of departure for delving into the pedagogical character of law. Like its speculative counterpart, moral instruction requires an external principle that moves us from first principles to conclusions. For law to be moral pedagogy, therefore, it must be an external principle of instruction that leads us from potency to act. Aquinas proposes this at the beginning of his treatise on law when he explains, "But the exterior principle moving to good is God, who both instructs us by means of his law, and assists us by his grace."<sup>1</sup>

As we saw, the external principle in speculative matters presupposes and serves an auxiliary function in actualizing the first principles of speculative reason. For practical reason, we actualize first principles in the particular knowledge of good and evil through an act of conscience. To propound law as moral instruction, I need to show how law helps us conform our judgments of free-decision to right reason. As we shall see, law actualizes our understanding of first principles by leading us to a more complete and distinct knowledge of practical moral truth. This it does by supplying more determinate principles of action, which we (can) employ in our personal moments of practical reasoning. Law is an external principle of moral instruction communicated to those governed as a rule of prudence.

I will present the above proposal in two steps. The first is to address some general considerations of law as moral instruction. This will involve a look at the insufficiency of

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<sup>1</sup> ST I-II 90, *prologus*: "*Principium autem exterius movens ad bonum est Deus, qui et nos instruit per legem, et iuvat per gratiam.*" It is not my intention in this work to address the "legal" character of law, but only its pedagogical character.

discovery alone for proper moral development and then an analysis of how to understand law as a rule of prudence. The second part of this chapter will draw out the implications of the first part by explicating how the wisdom of a ruler engages the practical reasoning of his subjects, so as to form their conscience and lead them to the common good.<sup>2</sup>

Before proceeding, however, I must mention that Aquinas employs the notion of *law* analogously.<sup>3</sup> He applies the term to things participating in the reality of some one thing that is *law* in the fullest sense.<sup>4</sup> Eternal law is the prime analogate. Unfortunately, the nature of eternal law as law (or as pedagogical) is difficult to comprehend. As Aquinas explains:

In names predicated of many in an analogical sense, all are predicated because they have reference to some one thing; and this one thing must be placed in the definition of them all. And since that expressed by the name is the definition, as the Philosopher says (Metaph. iv), such a name must be applied primarily to that which is put in the definition of such other things, and secondarily to these others according as they approach more or less to that first. . . . Hence as regards what the name signifies, these names are applied primarily to God rather than to creatures, because these perfections flow from God to creatures; but as regards the imposition of the names, they are primarily applied by us to creatures which we know first. Hence they have a mode of signification which belongs to creatures.<sup>5</sup>

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<sup>2</sup> In most cases throughout this work, I use the word *subject* in the classical sense, as in one who is subject to the authority of another.

<sup>3</sup> Edward Damich presents an alternative account of Aquinas' use of the term *law*. See "The Essence of Law According to Thomas Aquinas," *The American Journal of Jurisprudence* 30 (1985), 79-96. He argues that Aquinas employs the term *law* equivocally. This understanding is problematic for two reasons. First, it severs the ontological link that human law has to natural and thus eternal law. To ascribe analogy to the term *law* is to affirm that all other forms of law participate in the prime analogate, which for Aquinas is eternal law. Participation in eternal law (*via* natural law) is what provides civil law with an objective moral ground. This will be discussed more thoroughly in chapters five through seven. Second, participation in eternal law insures the pedagogical efficacy of moral precepts for forming virtues in the soul, virtues that truly perfect the human person. By using the term *law* analogously, Aquinas affirms that all authentic moral precepts are a participation in divine wisdom.

<sup>4</sup> ST I-II 93.3.

<sup>5</sup> ST I 13.6: "*In omnibus nominibus quae de pluribus analogice dicuntur, necesse est quod omnia dicantur per respectum ad unum, et ideo illud unum oportet quod ponatur in definitione omnium. Et quia ratio quam significat nomen, est definitio, ut dicitur in IV metaphys., necesse est quod illud nomen per prius dicatur de eo quod ponitur in definitione aliorum, et per posterius de aliis, secundum ordinem quo appropinquant ad illud primum vel magis vel minus. . . . Unde, secundum hoc, dicendum est quod, quantum ad rem significatam per nomen, per prius dicuntur de Deo quam de creaturis, quia a Deo huiusmodi perfectiones in creaturas manant. Sed quantum ad impositionem nominis, per prius a nobis imponuntur creaturis, quas prius cognoscimus. Unde et modum significandi habent qui competit creaturis.*" See Ralph McInerny, *Aquinas on Human Action: A Theory of Practice* (Washington D.C.: The Catholic University of America Press, 1992), 111.

Aquinas suggests that, due to its familiarity, we understand the meaning of law from our experience of human law, even though it has the least character of law in its ontology. Yet human law has the character of law only to the degree to which it participates in eternal law.<sup>6</sup> As Russell Hittinger explains, “The human ordinance ‘has’ legality [only] insofar as it stands in relationship to eternal law, which contains the property/perfection of law most excellently.”<sup>7</sup> Because it is the most familiar species of law, I will focus the present discussion on the pedagogical character of human law.<sup>8</sup> Yet experience reveals how often it falls short of law’s exemplar, especially in regard to how it leads us to the human good. Thus, the reader must bear in mind that human law will fail to lead us to virtue if and where it is not grounded in eternal law. Focusing upon human law, however, has the advantage of providing palpable examples to illustrate the pedagogical character of law.

### *A. Law as a Formal Cause of Right Practical Reasoning*

Moral instruction is necessary for proper moral development; the reason is that moral discovery is insufficient to bringing us to maturity and perfection. Three reasons account for this fact. The first regards our dependency on others as rational animals.<sup>9</sup> For Aquinas—as for Aristotle—self-sufficiency procures a mode of excellence.<sup>10</sup> Those who discover truth independently of others achieve a greater perfection than those in need of others. Few if any, however, attain self-sufficiency in learning except by an extraordinary

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<sup>6</sup> My account here is sufficient for my purposes, but for a much more elaborate and nuanced account of how Aquinas uses the term *law* analogously, see Fulvio DiBlasi, “Law as ‘Act of Reason’ and ‘Command,’” *Nova et Vetera* 4 English Edition (2006), 515-528. See especially pages 515-19.

<sup>7</sup> *The First Grace: Rediscovering the Natural Law in a Post-Christian World* (Wilmington, DE: ISI Books, 2003), 60.

<sup>8</sup> For an excellent presentation on the relationship between human law and virtue, see Lawrence Dewan, O.P., “St. Thomas, John Finnis, and the Political Good,” *The Thomist* 64 (2000), 337-74.

<sup>9</sup> For a penetrating analysis of human dependency, see Alasdair MacIntyre, *Dependent Rational Animals: Why Human Beings Need the Virtues* (Chicago: Open Court, 1999), especially chapter 8.

<sup>10</sup> ST II-II 188.8.

grace of God.<sup>11</sup> Man is a social being by nature.<sup>12</sup> As such, our proper development depends upon the teaching of others. At one point or another, every person is a student at the feet of those with greater wisdom. No less is this true in regard to practical moral wisdom. We learn principles of action primarily from those wiser and more experienced in life than ourselves.<sup>13</sup> This is also true of how we learn the moral virtues, as is particularly evident in what Aquinas says about the virtue of prudence: “The philosopher says . . . that ‘intellectual virtue is both originated and fostered by teaching. . . . Prudence is in us, not by nature, but by teaching and experience.’”<sup>14</sup> Prior to the age of reason, a child does not have prudence, except perhaps as an infused virtue.<sup>15</sup> As we mature, we become prudent only through experience and practice.<sup>16</sup> Yet even time and experience are insufficient unless we assimilate the wisdom of others, especially our elders:

Prudence is concerned with particular matters of action, and since such matters are of infinite variety, no man can consider them all sufficiently; nor can this be done quickly, for it requires length of time. Hence, in matters of prudence man

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<sup>11</sup> *De Regno*, Bk. I, Ch. 1, par. 6, trans. Gerald B. Phelan and Rev. I. Th. Eschmann (Toronto: Pontifical Institute of Mediaeval Studies, 1946).

<sup>12</sup> *Ethic.* I, lect. 1 pp 4-5; *Sententia libri Politicorum*, trans. Ernest L. Fortin and Peter D. O'Neill, *Medieval Political Philosophy: A Sourcebook*, ed. Ralph Lerner (New York: Free Press of Glencoe, 1963); III, Lect. 5, p. 387; SCG III, Ch. 128.

<sup>13</sup> See SCG III, Ch. 122: “We must observe that, in the human species, the offspring needs not only nourishment for its body, as with other animals, but also instruction for its soul. For other animals have their natural forethought which enables them to provide for themselves: whereas man lives by reason, which can attain to forethought only after long experience: so that children need to be instructed by their parents who are experienced. Moreover, children are not capable of this instruction as soon as they are born, but only after a long time, and especially when they reach the age of discretion. Besides, this instruction requires a long time. And even then, on account of the assaults of the passions whereby the judgment of prudence is perverted, they need not only instruction but also correction: *Rursus considerandum est quod in specie humana proles non indiget solum nutritione quantum ad corpus, ut in aliis animalibus; sed etiam instructione quantum ad animam. Nam alia animalia naturaliter habent suas prudentias, quibus sibi providere possunt: homo autem ratione vivit, quam per longi temporis experimentum ad prudentiam pervenire oportet; unde necesse est ut filii a parentibus, quasi iam expertis, instruantur. Nec huius instructionis sunt capaces mox geniti, sed post longum tempus, et praecipue cum ad annos discretionis perveniunt. Ad banc etiam instructionem longum tempus requiritur. Et tunc etiam, propter impetus passionum, quibus corrumpitur aestimatio prudentiae, indigent non solum instructione, sed etiam repressione.*”

<sup>14</sup> ST II-II 47.15: “*Sed contra est quod philosophus . . . quod virtus intellectualis plurimum ex doctrina habet et generationem et augmentum. . . . prudentia non inest nobis a natura, sed ex doctrina et experimento.*” For an excellent presentation of Aquinas’ teaching on the virtue of prudence (acquired and infused) and the connection of the virtues, see Angela McKay, “Prudence and Acquired Moral Virtue,” *The Thomist* 69 (2005), 535-55.

<sup>15</sup> ST I-II 94.1 ad 3: “In like manner, through the deficiency of his age, a child cannot use the habit of understanding of principles, or the natural law, which is in him habitually: *Et similiter puer non potest uti habitu intellectus principiorum, vel etiam lege naturali, quae ei habitualiter inest.*”

<sup>16</sup> ST II-II 47.14 ad 3: “Acquired prudence is caused by the exercise of acts, wherefore ‘its acquisition demands experience and time’ . . . hence it cannot be in the young, neither in habit nor in act: *Prudentia acquisita causatur ex exercitio actuum, unde indiget ad sui generationem experimento et tempore. . . . Unde non potest esse in iuvenibus nec secundum habitum nec secundum actum.*”

stands in very great need of being taught by others, especially by the old who have acquired a sane understanding of the ends [principles] of practical matters. Wherefore the Philosopher says 'It is right to pay no less attention to the undemonstrated assertions and opinions of such persons as are experienced, older than we are, and prudent, than to their demonstrations, for their experience gives them insight into principles.'<sup>17</sup>

Man is naturally in need of being taught how he is to act so as to attain his perfection.

To man's natural indigence I would add a second reason for the insufficiency of moral discovery—original sin. Due to the disordered inclinations of the appetitive powers, Aquinas explains that moral instruction is crucial for attaining the good of any moral virtue, not just prudence:

Man has a natural aptitude for virtue; but the perfection of virtue must be acquired by means of some kind of training [*disciplina*]. . . . Now it is difficult to see how man could suffice for himself in the matter of this training, since the perfection of virtue consists chiefly in withdrawing man from undue pleasure, to which above all man is inclined, and especially the young, who are more capable of being trained. Consequently, a man needs this training from another, whereby to arrive at the perfection of virtue.<sup>18</sup>

Finally, because man is a social being, human action has deep social consequences. In this regard, moral instruction not only forms our conscience for private matters, it also directs our actions to the common good of the communities to which we belong. Thus, most especially within a social context, we need moral instruction for acquiring the wisdom and virtue that secure the common good. In the following passage, Alisdair MacIntyre draws upon Aquinas to explain the social context for proper moral development:

On a Thomistic view . . . individuals who have not or not yet developed an adequate conception of the good, perhaps because through social mischance they have had no

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<sup>17</sup> ST II-II 49.3: "*Prudentia consistit circa particularia operabilia. In quibus cum sint quasi infinitae diversitates, non possunt ab uno homine sufficienter omnia considerari, nec per modicum tempus, sed per temporis diuturnitatem. Unde in his quae ad prudentiam pertinent maxime indiget homo ab alio erudiri, et praecipue ex senibus, qui sanum intellectum adepti sunt circa fines operabilium. Unde philosophus dicit, in VI ethic., oportet attendere expertorum et seniorum et prudentium indemonstrabilibus enuntiationibus et opinionibus non minus quam demonstrationibus, propter experientiam enim vident principia.*"

<sup>18</sup> ST I-II 95.1: "*Homini naturaliter inest quaedam aptitudo ad virtutem; sed ipsa virtutis perfectio necesse est quod homini adveniat per aliquam disciplinam. . . . Ad hanc autem disciplinam non de facili invenitur homo sibi sufficiens. Quia perfectio virtutis praecipue consistit in retrahendo hominem ab indebitis delectationibus, ad quas praecipue homines sunt proni, et maxime iuvenes, circa quos efficacior est disciplina. Et ideo oportet quod huiusmodi disciplinam, per quam ad virtutem perveniat, homines ab alio sortiantur.*"

opportunity to do so, and who, perhaps because of miseducation, have not or not yet recognized themselves as engaged in a cooperative attempt to discover the human good, can be expected to find themselves confronted by the competing claims of a variety of passions and appetites, claims that, lacking an adequate conception of the good, they do not and cannot as yet know how to order. If they then try to decide between those competing claims, without joining in action and inquiry with others, in a way that would require them to attend practically to the injunctions of the natural law—that is, if they try to decide between those competing claims from the standpoint of an isolated nonsocial individual for whom there can be no such thing as the common good—then they will find themselves with no resource for decision, beyond their own individual choices. On a Thomistic view it is to be expected that under certain social conditions in which adequate moral education is unavailable, the place of individual choice in the moral life will be misunderstood in precisely the way it has been misunderstood in the dominant cultures of advanced modernity.<sup>19</sup>

For all these reasons, we can conclude that, if left to rely exclusively upon discovery, we would fail to develop morally. To grow in moral character, moral discipline is indispensable. Since the human person is inclined to sin, if left to ourselves, we remain not only morally immature, but more importantly, we affront the well being of others by our actions. Moral instruction is imperative to our life in society.

### *1. The Kinds of Moral Instruction*

Due to the differences between practical and speculative reason, we do not learn virtue from others as we learn subjects like physics or mathematics. One cannot lead another to virtue simply by expounding the moral life in a speculative manner. Moral instruction requires a method that leads us to act in accord with right reason. The difficulty, then, is this: How does a person help another to act according to right reason? Aquinas names two methods: admonition and law.<sup>20</sup> Moral instruction is first

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<sup>19</sup> “Theories of Natural Law in Advanced Modernity,” in *Common Truths: New Perspectives on Natural Law*, ed. Edward B. McLean (Wilmington, DE: ISI Books, 2000), 111-12. In most cases, we learn social mores through social interaction. We apprehend the proper ‘rules’ of social engagement from those around us. From the same work, see also: “The life that expresses our shared human nature is a life of practical inquiry and practical reasoning, and we cannot but presuppose the precepts of the natural law in asking and answering those fundamental questions through our everyday activities and practices. Generally and characteristically, the social relationships through which we are able to learn how to identify our individual and common goods correctly and adequately are those relationships governed and defined by the precepts of the natural law. I have to learn about my good and about the common good from family and friends, but also from others within my own community, from the members of other communities, and from strangers; from those much older than I and from those much younger” (109).

<sup>20</sup> ST I-II 95.1.



administered through admonition, which is the correction a parent or parent-like authority gives to a child or child-like person.<sup>21</sup> Especially as children, we are prone to intemperance and so require another to discipline us. “Now a child does not attend to the order of reason; and in like manner concupiscence does not listen to reason . . . For a child, if left to his own will, becomes more self-willed.”<sup>22</sup> Admonition prepares us for life in society by inculcating the virtues conducive to social living.<sup>23</sup> The family is the first school of virtue and social life. Beyond the home, however, the moral instruction of law is an imperative for the realization of the common good. In what follows, I will sketch the basic contours of how law functions as moral instruction for the common good.

Aquinas describes two kinds of individuals to be instructed morally, those for whom admonition is sufficient in attaining virtue, and those who require the discipline of law.<sup>24</sup> He explains that admonition is sufficient for those with a generally *good* will due to their natural disposition, custom, a gift of grace, or some other such cause. For these he says, “Correction is useful in order that out of the sorrow of correction may spring the wish to be regenerated.”<sup>25</sup> Others he describes as disposed to vice and not amenable to words, such that they respond *only* to the coercive discipline of law.

By this distinction, Aquinas is not presuming that those disposed to act virtuously are without any need of law’s moral guidance in attaining virtue. Rather, he avers that only the vicious require the kind of *discipline* proper to law alone—coercion. We can thus

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<sup>21</sup> ST I-II 95.1. Admonition extends beyond parental authority to any type of fraternal correction (ST II-II 33.3). Admonition also includes the occasional need for punishment, according to the same reasons given for law (ST II-II 142.2), namely, that some children do not respond to verbal correction alone and thus need the additional incentive of some hardship achieved through punishment. Admonition is a form of correction directed at children mostly and to immature adults. If an adult is flawed deeply by vicious habits that disturb the common good, particularly the good of justice, the discipline proper to law becomes necessary. Thus, admonition is not ordered necessarily to the common good, as law is, but is primarily for the sake of the child’s private good—their particular moral perfection.

<sup>22</sup> ST II-II 142.2: “*Puer autem non attendit ad ordinem rationis. Et similiter concupiscentia non audit rationem . . . Puer enim, si suae voluntati dimittatur, crescit in propria voluntate.*”

<sup>23</sup> See Ben Spiecker, “Habituation and Training in Early Moral Upbringing,” in *Virtue Ethics and Moral Education*, ed. David Carr and Jan Steutel (New York: Routledge, 1999), chapter 15. Spiecker approaches the subject from an Aristotelian perspective, and does an admirable job of bringing Aristotle into conversation with contemporary theories of moral education.

<sup>24</sup> ST I-II 95.1.

<sup>25</sup> ST I-II 109.8 ad 2: “*Correptio utilis est ut ex dolore correptionis voluntas regenerationis oriatur.*”

differentiate between law as a “rule and measure of acts”<sup>26</sup> and the coercive power proper to rightful authority. On the one hand, the ordinances of legal precepts are necessary to virtue even for those disposed already to virtue. Law directs our actions to the common good and determines, in general, what is to be done or avoided for the sake of this good.<sup>27</sup> This is something even private individuals disposed to virtue cannot determine for themselves, especially since the principal care of the common good belongs to rulers and not subjects.<sup>28</sup> As private individuals, this knowledge (in many cases) is beyond the competency of private moral judgment. For example, imagine everyone determining privately which side of the road to drive on—such a scenario would spell disaster. On the other hand, law has coercive power that rulers might direct their vicious subjects to the common good through the fear of punishment. Hence, “The notion of law contains two things; first, that it is a rule of human acts; secondly, that it has coercive power.”<sup>29</sup> Those disposed to virtue obey law because the good prescribed is reasonable; they obey “from the dictate of reason alone.”<sup>30</sup> Only the most viciously inclined obey from fear of punishment. Again, MacIntyre is insightful:

We make laws providing penalties for performing certain types of action and for failing to perform others only if and when we believe that there are good reasons, prior to and independent of our lawmaking, for judging it to be good or right that such types of action should be done or left undone. We also believe that those good reasons by themselves provide sufficient grounds for people in general to perform or to refrain from performing the relevant type of action. When by enacting laws we attach penalties to failure or to refrain from performing, we provide additional grounds for those insufficiently motivated by such good reasons because of some deficiency of character. But our assumption is that anyone whose moral character was sufficiently educated would not need the motivation afforded by those additional sanctions for obeying the law.<sup>31</sup>

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<sup>26</sup> ST I-II 90.1.

<sup>27</sup> ST I-II 90.2.

<sup>28</sup> ST I 96.4; ST I-II 96.3; *De Regno* I, Ch. 1, pp. 8-10.

<sup>29</sup> ST I-II 96.5: “*Lex de sui ratione duo habet, primo quidem, quod est regula humanorum actuum; secundo, quod habet vim coactivam.*”

<sup>30</sup> ST I-II 92.1 ad 2: “*ex solo dictamine rationis.*”

<sup>31</sup> MacIntyre, “Theories of Natural Law in the Culture of Advanced Modernity,” 99.

In two ways, therefore, rulers lead us (*inducere*) to virtue by their laws:<sup>32</sup> through an ordinance of reason, and when necessary, with the additional threat of punishment. What this suggests is that law operates first and foremost as an ordinance of reason. Punishment is something reserved for those disposed to vice. Yet, as we shall see in chapter four, punishment itself presupposes reason for its proper effect.

## 2. Law as a Rule of Prudence

My primary goal here is to present a general understanding of what Aquinas means when he says that law is a “*rule and measure of acts*, whereby man is induced to act or is restrained from acting.”<sup>33</sup> What I will demonstrate is that a good ruler promulgates law to make us prudent in the exercise of our freedom vis-à-vis the good of the community. If we focus on the rational presuppositions of ruling, it puts the discipline of law into a different light.

Especially for the young, it is difficult to grasp the relationship between the first principles of practical reason and those particular judgments that direct our actions to the common good. Aquinas would say that we need to be taught the “order of principles to conclusions, by reason of . . . not having sufficient collating power to be able to draw the conclusion from the principles.”<sup>34</sup> In short, without law we will, in many cases, lack the necessary wisdom for determining what conduces to the common good and what does not.

To see that law is a valuable source of practical moral wisdom, consider Aquinas’ definition of law as “an ordinance of reason for the common good, made by him who

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<sup>32</sup> ST I 96.4.

<sup>33</sup> ST I-II 90.1: “*regula est et mensura actuum, secundum quam inducitur aliquis ad agendum, vel ab agendo retrahitur.*”

<sup>34</sup> ST I 117.1: “*ordinem principiorum ad conclusiones . . . per seipsum non haberet tantam virtutem collativam, ut ex principiis posset conclusiones deducere.*” Aquinas says this in reference to speculative reason, but the remark is relevant to practical reason as well.

has care of the community, and promulgated.”<sup>35</sup> Earlier in the same question, Aquinas explains that the “rule and measure of human acts is reason, which is the first principle of human acts . . . since it belongs to reason to direct to the end, which is the first principle in all matters of action.”<sup>36</sup> What law communicates, therefore, is a rule of prudence for the common good of the community that exists in the mind of the ruler. Legislative prudence is the virtue of governance and the habit by which a ruler directs our actions, according to reason, to the common good.<sup>37</sup>

More specifically, law assists us in tracing practical conclusions back to first principles. “Just as nothing stands firm with regard to the speculative reason except that which is traced back to the first indemonstrable principles, so nothing stands firm with regard to the practical reason, unless it be directed to the last end which is the common good: and whatever stands to reason in this sense has the nature of law.”<sup>38</sup> Initially, therefore, I submit the following conclusion: As a rule of prudence, law leads us to virtue by moving us from the understanding of first principles, which we possess already, to the knowledge of particular judgments of conscience that direct our actions to the common good. As with the use of our conscience, however, law teaches us only inasmuch as we decide to make it a rule and measure of our acts. Aquinas calls the habit of doing this political prudence.<sup>39</sup>

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<sup>35</sup> ST I-II 94.4: “*Et sic ex quatuor praedictis potest colligi definitio legis, quae nihil est aliud quam quaedam rationis ordinatio ad bonum commune, ab eo qui curam communitatis habet, promulgata.*”

<sup>36</sup> ST I-II 90.1: “*regula est et mensura actuum, secundum quam inducitur aliquis ad agendum, vel ab agendo retrahitur, dicitur enim lex a ligando, quia obligat ad agendum. Regula autem et mensura humanorum actuum est ratio, quae est primum principium actuum humanorum, ut ex praedictis patet, rationis enim est ordinare ad finem, qui est primum principium in agendis.*”

<sup>37</sup> ST II-II 47.10: “*Moreover it is contrary to right reason, which judges the common good to be better than the good of the individual. Accordingly, since it belongs to prudence rightly to counsel, judge, and command concerning the means of obtaining a due end, it is evident that prudence regards not only the private good of the individual, but also the common good of the multitude: Repugnat etiam rationi rectae, quae hoc iudicat, quod bonum commune sit melius quam bonum unius . . . Quia igitur ad prudentiam pertinet recte consilium, indicare et praecipere de his per quae pervenitur ad debitum finem, manifestum est quod prudentia non solum se habet ad bonum privatum unius hominis, sed etiam ad bonum commune multitudinis.*”

<sup>38</sup> ST I-II 90.2 ad 3: “*Sicut nihil constat firmiter secundum rationem speculativam nisi per resolutionem ad prima principia indemonstrabilia, ita firmiter nihil constat per rationem practicam nisi per ordinationem ad ultimum finem, qui est bonum commune. Quod autem hoc modo ratione constat, legis rationem habet.*”

<sup>39</sup> ST II-II 50.2.

To explain more fully the significance of saying that law is a rule of prudence, I wish to consider another passage from Stephen Brock's work, *Action and Conduct*. In the following citation, Brock illuminates the nature of the relationship between an agent and a patient. This agent-patient relationship clarifies the action of rulers upon their subjects:

There is nothing mysterious at all . . . about the power of binding agent and patient together. Looking for an agent is looking for what had power to produce a movement in something, and this simply means looking for the original depository of the wealth or the substance whose parceling out is the movement. 'To act is nothing other than to communicate that through which the agent is in act, insofar as it is possible [de pot. q. 2, a. 1]'. . . . Here it should be remarked that Aquinas does not conceive of physical action literally as a 'giving' or 'handing over' of the feature taken on by the thing acted upon. What is 'given' is a form, not a thing, and the 'giving' of form does not consist in handing it over, but in forming something according to it. 'A natural agent is not something handing over its own form to another subject, but reducing the subject which undergoes [the action] from potency to act [SCG III, 69 p 2458].' The action does not consist in the agent's letting go of something and leaving it in the patient, but in its bringing the patient into conformity with itself.<sup>40</sup>

Accordingly, I posit that a ruler's ordinance is completed in his subjects to the extent to which the reasoning of his subjects is brought into conformity with the rule of prudence existing within the ruler's mind. This happens partly by the ruler communicating the rule of prudence to his subjects by promulgating the law. The subject supplies the other part by appropriating this rule of prudence into his practical reasoning. Yet does Aquinas speak of the relationship between rulers and subjects in these terms? Aquinas employs the analogy of a craftsman to describe how the rule of prudence exists in the mind of a ruler and is then communicated to those ruled. He states that,

Just as there pre-exists in the mind of the craftsman an expression of the things to be made externally by his craft, which expression is called the rule of his craft, so too there pre-exists in the mind an expression of the particular just work which the reason determines, and which is a kind of rule of prudence. If this rule be expressed in writing it is called a 'law,' which according to Isidore (Etym. v, 1) is 'a written decree'.<sup>41</sup>

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<sup>40</sup> Brock, *Action and Conduct: Thomas Aquinas and the Theory of Action* (Edinburgh: T&T Clark, 1998), 108-9.

<sup>41</sup> ST II-II 57.1 ad 2: "*Sicut eorum quae per artem exterius fiunt quaedam ratio in mente artificis praeexistit, quae dicitur regula artis; ita etiam illius operis iusti quod ratio determinat quaedam ratio praeexistit in mente, quasi quaedam prudentiae regula. Et hoc si in scriptum redigatur, vocatur lex, est enim lex, secundum Isidorum, constitutio scripta.*"

What Brock describes above illuminates the significance of this passage and another where Aquinas argues: “It is manifest that prudence is in the ruler ‘after the manner of a mastercraft’ . . . but in subjects, ‘after the manner of a handicraft.’”<sup>42</sup> A handicraft is *formed* insofar as it is brought into conformity—*qua* patient—with the form existing already in the mind of the craftsman.

Consequently, law conveys the rule of prudence existing within the ruler’s mind; and to this rule the subject conforms his reason by making the law a rule and measure of his practical reasoning. Aquinas remarks that “the impression of an inward active principle is to natural things, what the promulgation of law is to men: because law by being promulgated, imprints on man a directive principle of human actions.”<sup>43</sup> Even more is this the case in respect of God’s law, of which Aquinas says that God “can impose laws on rational beings subject to him, insofar as by his command or pronouncement . . . he imprints on their minds a rule which is a principle of action.”<sup>44</sup>

As moral pedagogy, law helps us to act according to right reason by bringing our practical reasoning into conformity with a rule of prudence existing in the mind of the ruler. Yet a more important conclusion follows from this: If the intellect is the formal cause of our actions, and law communicates the form of prudence existing in the mind of the ruler, it follows that law *induces* us to act—first and foremost—in the order of formal causality. Law does not achieve its proper effect by forcing the will, but by *actualizing* the intellect. This is part of what Aquinas means when he says that, “law is a rule and measure of acts, whereby man is induced to act or is restrained from acting.”<sup>45</sup> Inducement and restraint occur principally through formal, and not efficient, causality.

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<sup>42</sup> ST II-II 47.12: “Unde manifestum est quod prudentia quidem in principe est ad modum artis architectonicae . . . in subditis autem ad modum artis manu operantis.”

<sup>43</sup> ST I-II 93.5 ad 1: “*impressio activi principii intrinseci, quantum ad res naturales, sicut se habet promulgatio legis quantum ad homines, quia per legis promulgationem imprimitur hominibus quoddam directivum principium humanorum actuum.*”

<sup>44</sup> ST I-II 93.5: “*Rebus autem rationalibus sibi subiectis potest imponere legem, inquantum suo praecepto, vel denuntiatione quacumque, imprimit menti earum quandam regulam quae est principium agendi.*”

<sup>45</sup> ST I-II 90.1.

Law induces and restrains by providing us with reasons (principles) for acting. In this manner, then, it is fitting to describe law as “rational persuasion” as Thomas Hibbs does.

If we draw out the implications of the agent-patient relationship of rulers and subjects, we can see that law presupposes man’s voluntary agency. Because law is an external principle of moral instruction that actualizes the first principles of practical reason, law achieves its pedagogical effect precisely in virtue of first principles and not in spite of them. Law is only intelligible to us through first principles. As Aquinas says, “Since law is nothing else than a reason and rule of action, it is fitting that to those alone a law be given, who know the reason of their action. Now this applies to rational creatures. Therefore, it was fitting that a law should be given to the rational creature alone.”<sup>46</sup> Previous to this comment, he states that, “something must be given to man whereby he is directed in his personal actions. And this is what we call law.”<sup>47</sup> In another telling remark Aquinas says that, “men who are servants or subjects in any sense are moved by the commands of others in such a way *that they move themselves by their free decision*.”<sup>48</sup> In a text addressing the issue of obedience, however, Aquinas makes the point unmistakably clear:

God left man in the hand of his own counsel, not as though it were lawful to him to do whatever he will, but because, unlike irrational creatures, he is not compelled by natural necessity to do what he ought to do, but is left the free choice proceeding from his own counsel. And just as he has to proceed on his own counsel in doing other things, so too has he in the point of obeying his superiors. For Gregory says (Moral. xxxv), ‘When we humbly give way to another’s voice, we overcome ourselves in our own hearts.’<sup>49</sup>

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<sup>46</sup> SCG III, Ch. 114: “*Cum lex nihil aliud sit quam quaedam ratio et regula operandi, illis solum convenit dari legem qui sui operis rationem cognoscunt. Hoc autem convenit solum rationali creaturae. Soli igitur rationali creaturae fuit conveniens dari legem.*”

<sup>47</sup> SCG III, Ch. 114: “*dandum est aliquid hominibus quo in suis personalibus actibus dirigantur. Et hoc dicimus legem.*”

<sup>48</sup> ST II-II 50.2: “*homines servi, vel quicumque subditi, ita aguntur ab aliis per praeceptum quod tamen agunt seipsos per liberum arbitrium.*” What is noteworthy in this passage is not that Aquinas compares a subject to a servant, but that he argues that servants move themselves by their own free-decision; and so it is with those subject to law as well.

<sup>49</sup> ST II-II 104.1 ad 1: “*Deus reliquit hominem in manu consilii sui, non quia liceat ei facere omne quod velit, sed quia ad id quod faciendum est non cogitur necessitate naturae, sicut creaturae irrationales, sed libera electione ex proprio consilio procedente. Et sicut ad alia facienda debet procedere proprio consilio, ita etiam ad hoc quod obediat suis superioribus, dicit enim Gregorius, ult. Moral., quod dum alienae voci humiliter subdimur, nosmetipsos in corde superamus.*”

It is the agent-patient relationship of rulers to subjects described above that helps us understand how law moves us without forcing us. Schockenhoff puts the matter well when he says, “As Aristotle and Thomas understand it, the practical reason intends not only to consider, evaluate, and argue, but also to ‘guide’ [*diriger*], lead [*inducere*], ‘lay down’ [*ordinare*], direct or command’ [*praecipere vel imperare*], in order to evoke in the human potential for action a movement in conformity with reason.”<sup>50</sup> To see this process in more detail, however, I need to show how law engages the intellect at each cognitive stage of our actions, such that by instructing us, it actualizes us in the knowledge of practical moral truth.

### *B. Law and the Cognitive Operations of Human Action*

As we have seen, Aquinas defines law as “nothing other than an ordinance of reason for the common good, made by him who has care of the community, and promulgated.”<sup>51</sup> If we examine this definition, it is evident that Aquinas incorporates the structure of right practical reasoning (prudence) into the definition of law itself. Just rulers promulgate law for an end perfective of those governed, namely, the common good of the community. Secondly, law is an ordinance of (practical) reason. As such, it prescribes the means contrary or conducive to the end. Finally, rulers promulgate law in the imperative mood through a command that this act be done or avoided.<sup>52</sup> Recall that three principal operations of intellect comprise the process of practical reasoning—counsel, judgment, and command. These three operations constitute the last three of four cognitive operations in any human action. Apprehension of the end is the first. The other three follow in due order. What should garner our attention is how Aquinas’

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<sup>50</sup> *Natural Law & Human Dignity: Universal Ethics in an Historical World*, trans. Brian McNeil (Washington D.C.: The Catholic University Press of America, 2003), 156.

<sup>51</sup> I-II 90.4: “*quae nihil est aliud quam quaedam rationis ordinatio ad bonum commune, ab eo qui curam communitatis habet, promulgata.*”

<sup>52</sup> ST I-II 92.2.



definition of law reflects the right practical reasoning presupposed in the act of governance. In what follows, I will explain this reasoning process. I will then consider how the practical reasoning of the ruler engages that of those governed. In this analysis, I will show more explicitly how law leads us from potency to act by informing our judgments of free-decision through the formation of conscience.

### *1. The Practical Reasoning of Lawgivers*

In chapter one we saw how the first three cognitive stages in human action parallel the structure of a practical syllogism. In this section, I will construct, in a general way, the syllogism proper to the act of governance. It begins with a proposition about an end that occupies the major premise; it proceeds through counsel, which provides the minor premise; and it terminates in a judgment (a precept) about what is to be done or avoided for the sake of the common good. The practical reasoning of a ruler then comes to rest in a command that moves those governed to the common good in the recognition that the prescribed means are binding, that is, conducive and requisite to the end. By being promulgated, the judgment of the ruler serves as a pedagogy instructing us in the means requisite to the common good, as determined by his prudence. We will look at each cognitive stage involved in the act of governance and seek to grasp how law embodies the prudence of lawgivers. As we consider these stages, we will also look at the construction of the syllogism.

#### *a. Apprehension*

Recall how the first cognitive operation of human action is the apprehension (*apprehensio*) of some end as being good and perfective of the agent. In the act of governance, the foremost end the ruler apprehends is the common good of those he governs. “Now the intention of every lawgiver is directed first and chiefly to the common good; secondly, to the order of justice and virtue, whereby the common good is

preserved and attained.”<sup>53</sup> The common good is the final cause of a community, the end to which every member (including the ruler) is ordered *qua* member of that community.<sup>54</sup> Generally speaking, we can describe the common good as the end for which a community originates and is sustained.<sup>55</sup> Yet what do rulers apprehend the end of a community to be?

Throughout his corpus, Aquinas distinguishes between the extrinsic and intrinsic common good.<sup>56</sup> The *extrinsic* common good is always an end that transcends the community.<sup>57</sup> The intrinsic common good is the internal ordering of the community’s members by which the extrinsic common good is realized by the community as a whole. To illustrate, Aquinas employs the analogy of an army.<sup>58</sup> The extrinsic good of the army is victory in battle because this is what an army ultimately seeks. The intrinsic common good is the internal ordering of the soldiers that secures the victory.

Aquinas says that the extrinsic common good of the political community is an end comprised of a manifold of goods such as the goods of justice and peace.<sup>59</sup> Elsewhere, he calls this end the common happiness, which consists internally as a common life of virtue.<sup>60</sup> More specifically, the *intrinsic* common good pertains to the order of (legal) justice among the members of the community, whereby the community secures peace and happiness.<sup>61</sup> The distinction and relationship of the intrinsic and extrinsic ends of a political community, however, are tricky to comprehend in the concrete. Rulers do not determine the extrinsic good of the political community. This is set down already by the

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<sup>53</sup> ST I-II 100.8: “*Intentio autem legislatoris cuiuslibet ordinatur primo quidem et principaliter ad bonum commune; secundo autem, ad ordinem iustitiae et virtutis, secundum quem bonum commune conservatur, et ad ipsum pervenitur.*”

<sup>54</sup> ST I-II 91.4 ad 3. For an excellent exposition on the common good, see Charles De Koninck, “On the Primacy of the Common good Against the Personalists,” *The Aquinas Review* 4 (1997), 170-349 and “In Defense of St. Thomas: A Reply to Father Eschmann’s Attack on the Primacy of the Common Good,” which appears in the same issue of *The Aquinas Review*, 171-349.

<sup>55</sup> *Politic.* I, 1 par. 11.

<sup>56</sup> See for example, ST I-II 111.5 ad 1 and *On Metaphysics* XII, lect. 12, pp. 2627 and 2629.

<sup>57</sup> ST I-II 1 ad 3.

<sup>58</sup> SCG III, Ch. 64.

<sup>59</sup> ST I-II 96.1; *De Regno* I, Ch. 2 p. 17.

<sup>60</sup> SCG III, Ch. 151.

<sup>61</sup> SCG III, Ch. 151.

very nature of man in his political life. Yet it is up to rulers to determine how the community will attain the extrinsic good. It is their responsibility to direct the members' actions, at least in a general way, to this end, according to the mean of justice proper to that community. This will vary depending upon the form of the regime. When (proper to its form) a community attains the just state of affairs, the common happiness, the unity of peace, and so on, it attains the extrinsic common good to some degree. Yet a community only attains this state of affairs once the ruler determines and secures, through law, the right ordering of relations among the community's members.

Thus, to return to our principal focus, what a legitimate lawgiver apprehends and intends in the act of governance is the extrinsic common good by means of a more proximate end, namely, the intrinsic order he establishes by the law he promulgates.<sup>62</sup> Moreover, in his practical reasoning, the object of a ruler's apprehension occupies the major premise of a means-end syllogism. We can express this premise as a universal proposition about the common good—the common good is to be pursued. The common good is that end, subsequently, for which rulers must reason in regard to suitable means. Recall that a human ruler (anyhow) can govern imprudently if what he apprehends the common good to be is only the apparent good of the community. He may identify the common good with his own private good and thus become a tyrant.<sup>63</sup> In the case of a good human ruler, however, he will intend the right end, though he will also be required to take good counsel to determine the most prudent means to this end.

### *b. Counsel*

As we saw previously, the minor premise of a means-end syllogism is always a particular proposition about the overall conduciveness of the proposed means for attaining the intended end. For a ruler, a proposition concerning what conduces to the

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<sup>62</sup> ST I-II 90.2. This is the case regardless of whether the end they perceive is putatively good or actually so.

<sup>63</sup> *De Regno*, 1, Ch. 1 par. 10.

common good (or not) occupies the minor premise. We can formulate this proposition as a judgment about what is good or evil vis-à-vis the common good. Yet how does a ruler know what is objectively good and evil with respect to the common good? As with any prudent act, this requires good counsel (discovery) terminating in a judgment of conscience. This judgment then serves as the minor premise for the syllogism terminating in a precept of law (as we shall see below).

Prudent reasoning depends upon universal principles of action. The first principles from which lawgivers reason are the very same as those from which any private individual reasons rightly about practical matters, namely, the first principles of practical reason, which, as we saw previously, specify certain ends constitutive of the *human* good.

But in order that the volition of what is commanded may have the nature of law, it needs to be in accord with some rule of reason. And in this sense is to be understood the saying that the will of the sovereign has the force of law; otherwise the sovereign's will would savor of iniquity rather than law.<sup>64</sup>

In addition to first principles, however, a ruler can also obtain these universal principles from a higher law, such as the Ten Commandments, or from a community's legal tradition and custom.

The common good the ruler seeks is thus a human good. In general, the means prohibited or prescribed by law can never alienate the subjects from the common good; rather, laws must realize the common good as a human good.<sup>65</sup> Otherwise, a human being would not be ordered to such an end by nature, as is the case with the common good.<sup>66</sup> To suggest that the common good is a human good is to suggest that the human good measures the common good. This is precisely how Aquinas sees the matter:

The law belongs to that which is a principle of human acts, because it is their rule and measure. Now as reason is a principle of human acts, so in reason itself there is something which is the principle in respect of all the rest: wherefore to this

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<sup>64</sup> ST I-II 90.1 ad 3: "*Sed voluntas de his quae imperantur, ad hoc quod legis rationem habeat, oportet quod sit aliqua ratione regulata. Et hoc modo intelligitur quod voluntas principis habet vigorem legis, alioquin voluntas principis magis esset iniquitas quam lex.*"

<sup>65</sup> ST I 29.1; ST I-II.95.3; SCG III, Ch. 112.

<sup>66</sup> ST II-II 26.3

principle chiefly and mainly law must needs be referred. Now the first principle in practical matters, which are the objects of the practical reason is the last end: and the last end of human life is bliss or happiness . . . consequently, the law must needs regard principally the relationship to happiness. Moreover, since every part is ordained to the whole, as imperfect to perfect; and since one man is a part of the perfect community, the law must needs regard properly the relationship to universal happiness.<sup>67</sup>

What this means is that a ruler may not legislate any means contrary to the human good.

It may be the case that some law prescribes actions indifferent to the human good or tolerates certain evils; nevertheless, a law can never prescribe actions opposed to the human good.<sup>68</sup>

Therefore, to obtain a right minor premise in the act of governance, the lawgiver must appeal to conscience and determine whether some proposed law accords with natural law. Once again, however, this presupposes that the ruler has the requisite experience of particulars and contingencies (the prudence) by which a proper judgment can be made. The following diagram illustrates the reasoning:

The Practical Reasoning of Lawmakers			
	<i>Apprehensio</i>	<i>Concilium</i>	<i>Iudicium</i>
MEANS- END		RULE-CASE	
		RULE (Major)	Harm no one unjustly.
		CASE (Minor)	Abortion does unjust harm <sup>69</sup>
	The common <i>good</i> is to be sought.	JUDGMENT OF CONSCIENCE Abortion is evil vis-à-vis the human <i>good</i> .	
			PRECEPT OF LAW ~Abortion is to be avoided~
	END (Major)	MEANS (Minor)	CONCLUSION

Figure 8

<sup>67</sup> ST I-II 90.2: “*Lex pertinet ad id quod est principium humanorum actuum, ex eo quod est regula et mensura. Sicut autem ratio est principium humanorum actuum, ita etiam in ipsa ratione est aliquid quod est principium respectu omnium aliorum. Unde ad hoc oportet quod principaliter et maxime pertineat lex. Primum autem principium in operativis, quorum est ratio practica, est finis ultimus. Est autem ultimus finis humanae vitae felicitas vel beatitudo, ut supra habitum est. Unde oportet quod lex maxime respiciat ordinem qui est in beatitudinem. Rursus, cum omnis pars ordinetur ad totum sicut imperfectum ad perfectum; unus autem homo est pars communitatis perfectae, necesse est quod lex proprie respiciat ordinem ad felicitatem communem.*”

<sup>68</sup> This is what Aquinas means when he says, for example, that positive human law can never oppose natural law (ST I-II 95.2), even though it is true that rulers do not derive every law immediately from natural law. Many laws are simply determinations rulers promulgate for the common good (i.e. conventions), as we shall see below. Laws are just so long as they attain the common good and, simultaneously, do not offend the human good.

<sup>69</sup> This middle term presupposes all the contingencies by which the ruler knows what abortion is, that and why abortion is evil and to be avoided, and so forth.

One last issue requires attention in regard to the counsel of rulers. Aquinas distinguishes two ways in which a ruler derives a precept from first principles. The first is by way of derivation. According to this mode, the ruler judges that this or that kind of action is intrinsically ordered to the human good (or not), as determined by the first principles of practical reason.<sup>70</sup> The common good necessitates that this or that kind of act be done or avoided always. For example, the prohibition against murder is a precept forbidding an action that necessarily affronts the common good because it is always contrary to the human good. Because of their universal character, Aquinas describes such precepts as pertaining to the law of nations (*lex gentium*), inasmuch as they are binding on every political community.<sup>71</sup>

The second way a ruler establishes a precept is by way of determination. Determinations are called “positive” law inasmuch as the ruler specifies what is to be done or avoided in regard to some good that might be attained by various means. For example, the common good requires that we drive on the same side of the road. If we all determined for ourselves which side that would be, we would do immeasurable harm to one another and thereby thwart the common good. It is thus up to the ruler to judge which side this will be. Rulers cannot derive through first principles that specifying the right or left side of the road is necessary to the common good, though it is of enormous consequence that we all drive on the same side. Because of their particularity, Aquinas describes these precepts as pertaining to civil law, inasmuch as they are tailor-made for this or that political community.<sup>72</sup>

Thus, whatever *is* legislated, whether by derivation or determination, it must conduce to the common good and in no way offend the human good. A ruler can make such

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<sup>70</sup> ST I-II 95.2.

<sup>71</sup> ST I-II 95.4.

<sup>72</sup> ST I-II 95.4.

judgments through an act of conscience. This judgment serves as the minor premise in the means-end syllogism terminating, as we will see momentarily, in a precept of law.

### *c. Judgment*

The act of governance begins with an intention for the common good. The reasoning proceeds from a major premise about the common good through a particular proposition about some means occupying the middle term. The conclusion of a ruler's act of governance is embodied in a decision that this is to be done or avoided. A ruler formulates these judgments as general propositions concerning particular types of actions—laws or ordinances such as “murder is to be avoided.”<sup>73</sup> Yet when comparing lawgivers to private persons, an important observation is in order. We must formulate the judgment of free-decision that rulers make as general propositions. “Murder is evil (and to be avoided)” as opposed to “*this* murder is evil (and to be avoided).” As Aquinas says, “The decrees of prudent men are made for the purpose of directing individual actions; whereas law is a general precept.”<sup>74</sup> However, this “general” formulation of a lawgiver's judgment would seem to pose a difficulty.

As we have seen, a practical syllogism always follows a certain form and structure. If the ruler formulates his judgment of decision *qua* ruler as a general proposition, would this not violate the basic form of a practical syllogism? I would propose it does not, the reason being that the general proposition about this or that kind of deed stands to the common good as a particular conclusion (*this* means) stands to the universal principle of governance (the *common* good). That is to say, a lawgiver reasons practically as a ruler of many and not merely one. Thus a ruler formulates a precept of law as a general judgment, inasmuch as it is to provide a rule and measure his subjects can then apply as a secondary principle of action in multiple cases. Aquinas describes it thus:

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<sup>73</sup> ST I-II 90.1 ad 2.

<sup>74</sup> ST I-II 96.1 ad 2: “*Ad singulares enim actus dirigendos dantur singularia praecepta prudentium, sed lex est praeceptum commune.*”

A principle of direction should be applicable to many; wherefore the philosopher says that all things belonging to one genus are measured by one, which is the principle in that genus. For if there were as many rules or measures as there are things measured or ruled, they would cease to be of use, since their use consists in being applicable to many things. Hence law would be of no use, if it did not extend further than one single act. Because the decrees of prudent men are made for the purpose of directing individual actions; whereas law is a general precept.<sup>75</sup>

Hence, the reasoning involved in the act of governance does not violate the basic form of practical reasoning. The major premise is a proposition concerning a universal (common) end; the minor premise pertains to the moral species of a particular means to the end; the conclusion embodies a particular judgment that such means are to be done or avoided.

Before moving to command, it is worth remarking that good is the formality through which a ruler reasons. We can express the major premise as a proposition about a good to be pursued. The very term *common good* makes this evident. We can formulate the minor premise through the first principle of practical reason—this is good, this is evil vis-à-vis the end. The conclusion follows logically from both the structure and form through which the ruler expresses the syllogism—this is to be done; this is to be avoided.

#### *d. Command*

The previous three stages discussed above parallel the structure of the practical syllogism. The conclusion of this syllogism is a judgment expressed as a general proposition. However, as with any human action, the practical reasoning presupposed in the act of governance does not rest in the judgment of free-decision. Judgment only terminates the syllogism. Rather, the practical reasoning terminates in a command that such and such be done or avoided—do this; avoid that! This is the fourth cognitive operation of the act of governance. “A command denotes an application of a law to

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<sup>75</sup> ST I-II 96.1 ad 2: “*Illud quod est directivum, oportet esse plurimum directivum, unde in X metaphys., philosophus dicit quod omnia quae sunt unius generis, mensurantur aliquo uno, quod est primum in genere illo. Si enim essent tot regulae vel mensurae quot sunt mensurata vel regulata, cessaret utilitas regulae vel mensurae, quae est ut ex uno multa possint cognosci. Et ita nulla esset utilitas legis, si non se extenderet nisi ad unum singularem actum. Ad singulares enim actus dirigendos dantur singularia praecepta prudentium, sed lex est praeceptum commune.*”



matters regulated by the law.”<sup>76</sup> The ruler issues this command when he promulgates the law. “In order that a law obtain the binding force which is proper to law, it must be applied to the men who have to be ruled by it. Such application is made by being notified to them through promulgation. Wherefore, promulgation is necessary for law to obtain its power.”<sup>77</sup>

The command to do this or avoid that is what sets into motion the movement of those governed to the common good, just as the command of an individual in regard to himself is what sets into motion the execution of the action chosen for the sake of the intended end. When discussing commanded acts, Aquinas explains that, “To command is to move, not anyhow, but by intimating and declaring to another; and this is an act of reason.”<sup>78</sup> In another article of the same question, Aquinas states, “To command is nothing else than to direct someone to do something by a certain motion of intimation.”<sup>79</sup> One could object that moving belongs exclusively to the will and not to reason. This objection Aquinas rebuts as follows: “Simply to move belongs to the will, but command denotes motion together with a kind of ordering, whereby it [command] is an act of the reason.”<sup>80</sup> Command is an act of reason because it puts a certain order (rationality) into the actions commanded. As we discussed above, this order results in the intrinsic ordering by which the community attains the extrinsic common good.

Yet, according to Aquinas, a precept *binds* us to a concrete course of action. “It is about something that must be done.”<sup>81</sup> Though a ruler’s command serves a vital pedagogical function, it is one that requires a further inquiry, for why must something be

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<sup>76</sup> ST I-II 90.2 ad 1: “*Praeceptum importat applicationem legis ad ea quae ex lege regulantur.*”

<sup>77</sup> ST I-II 90.4: “*Unde ad hoc quod lex virtutem obligandi obtineat, quod est proprium legis, oportet quod applicetur hominibus qui secundum eam regulari debent. Talis autem applicatio fit per hoc quod in notitiam eorum deducitur ex ipsa promulgatione. Unde promulgatio necessaria est ad hoc quod lex habeat suam virtutem.*”

<sup>78</sup> ST I-II.17.1 ad 1: “*Imperare non est movere quocumque modo, sed cum quadam intimatione denuntiativa ad alterum. Quod est rationis.*” See also ST I-II 17.2 ad 3.

<sup>79</sup> ST I-II 17.2: “*Imperare nihil aliud est quam ordinare aliquem ad aliquid agendum, cum quadam intimativa motione.*”

<sup>80</sup> ST II-II 47.8 ad 3: “*Movere absolute pertinet ad voluntatem. Sed praecipere importat motionem cum quadam ordinatione. Et ideo est actus rationis.*”

<sup>81</sup> ST I-II 99.1: “*Est de aliquo quod fieri debet.*”

done?”<sup>82</sup> Is it because we will be punished? No, for Aquinas continues, “and that a thing must be done, arises from the necessity of some end. Hence, it is evident that a precept implies, in its very idea, relation to an end, insofar as a thing is commanded as being necessary or expedient to an end.”<sup>83</sup> In the *Summa Contra Gentiles*, Aquinas points this out in regard to divine law. The passage is worth quoting at length:

Wherever a certain order is requisite to an end, that order must needs lead to that end, and infringement of that order debars from it: since those things that are on account of the end, take their necessity from the end; so that, to wit, they are necessary, if the end has to follow; and, given them, if there be no obstacle, the end will follow. Now, God appointed to man’s actions a certain order in relation to the end of the good, as we have already proved. Consequently, given that this order is rightly followed, those who comply with it attain the end of good, which consists in being rewarded: while those who forsake that order through sin, are debarred from the end of good, which is to be punished.<sup>84</sup>

In *De Veritate*, Aquinas posits a twofold necessity an outside agent may impose.<sup>85</sup> The first is the necessity of coercion, whereby a thing is moved entirely by an external cause. Coercion, he argues, has no place in the movement of the will itself, but pertains to physical things only. For example, a pitcher causes a necessary movement of a ball by throwing it. Given my present concern, however, a more pertinent example would be that of a child punished for some wrong. In instances such as this, Aquinas explains that the act of the will itself cannot be coerced, even while acts commanded by the will can be.<sup>86</sup> In other words, the child being punished will suffer coercion insofar as he is made to endure something he does not desire to suffer, such as going to bed without supper.

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<sup>82</sup> Though he has a different set of concerns than what I address in the following discussion on command, Fulvio DiBlasi proffers some rather poignant reflections concerning the importance of command for a proper understanding of law as a dictate of reason. In particular, he helps us grasp better the inducing nature of a command. “Law as ‘Act of Reason,’” 523-28.

<sup>83</sup> For a good discussion of the relationship between ends and means and the binding nature of law, see John A.D. Cuddeback, “Law as an Extrinsic Principle of Action in Aquinas” (The Catholic University of America, 1997), doctoral dissertation, 58-59.

<sup>84</sup> SCG III, Ch. 140: “*Ubi cumque est aliquis debitus ordo ad finem, oportet quod ordo ille ad finem ducat, recessus autem ab ordine finem excludat: ea enim quae sunt ex fine, necessitatem sortiuntur ex fine; ut scilicet ea necesse sit esse, si finis debeat sequi; et eis absque impedimento existentibus, finis consequatur. Deus autem imposuit actibus hominum ordinem aliquem in respectu ad finem boni, ut ex praedictis patet. Oportet igitur quod, si ordo ille recte positus est, quod incedentes per illum ordinem finem boni consequantur, quod est praemiari: recedentes autem ab illo ordine per peccatum, a fine boni excludi, quod est puniri.*”

<sup>85</sup> *De Veritate*, q. 17, a. 3.

<sup>86</sup> ST I-II 6.4.

This, however, is evidence that the proper act of the will itself cannot be coerced. No one can force another to will (desire) something contrary to his or her rational appetite, even though one can suffer violence, nonetheless. In brief, the proper act of the will is never moved by the necessity of coercion.<sup>87</sup>

The other kind of necessity mentioned in *De Veritate* is that of inducement, whereby we cannot attain an end without recourse to some means the end itself determines. Thus, for example, it is necessary to throw a ball to home plate in order to get the runner out and prevent him from scoring. To attain an end, certain actions are necessary to do or avoid. This he calls conditional (or hypothetical) necessity. The relation of means to end determines the necessity of the said action.<sup>88</sup> Elsewhere, Aquinas calls this the necessity of the end.<sup>89</sup> Further into the body of the same article of *De Veritate*, Aquinas makes a rather striking remark. He states, “As necessity of coercion is imposed on physical things by means of some action, so, too, it is by means of some action that conditional necessity is imposed on the will. But the action by which the will is moved is the command of the one ruling or governing.”<sup>90</sup> Above, we saw how the command of a ruler sets in motion the order of those governed to the common good. The implication of this text, therefore, is crucial. A command does not convey a suggestion. It is not a recommendation; nor does it convey that this is one possibility among others. Obviously, a command conveys an ultimatum, namely, that such and such *must* be done or avoided . . . or else! What a command intimates, however, is the necessity of an end. Lawgivers induce us to act by making the conditional necessity of the precept’s matter known to us.

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<sup>87</sup> This topic will be discussed in much great depth in chapter four.

<sup>88</sup> See Ralph McInerny, “Truth in Ethics: Historicity and Natural Law,” *Proceedings of the American Catholic Philosophical Association* XLIII, ed. George F. McLean, (Washington D.C.: The Office of the National Secretary of the Association The Catholic University of America), 74-5.

<sup>89</sup> ST I 82.1.

<sup>90</sup> *De Veritate*, q. 17, a. 3: “Sicut autem necessitas coactionis imponitur rebus corporalibus per aliquam actionem, ita etiam ista necessitas conditionata imponitur voluntati per aliquam actionem. Actio autem qua voluntas movetur, est imperium regentis et gubernantis.”

Another way to understand the inducing nature of a command is to suggest that a command intimates by the imperative mood the conditional necessity of some means. What the imperative mood intimates to reason is that, in general, I cannot attain the common good by such acts (as in the case of prohibited acts), or without such acts (as in the case of prescribed acts). Knowledge of this necessity can play an integral part in our deciding to obey a precept. We can grasp this fact in the nature of the imperative mood. For example, if a precept of law were conveyed in the indicative mood (this is what you should do), as opposed to the imperative mood (do this; avoid that!), it would have the character of counsel or advice, something along the lines of a strong suggestion.<sup>91</sup> The message intimated would be something like this: “You should drive 25 mph.” Or, “If I were you, I would drive 25 mph.” If we expressed laws in this way, it would not convey the compelling reason, in itself, for adhering to the proposition. Unless this necessity is intimated, we will not be moved to obey it—unless it happens to concur with our own private goals. The imperative mood itself conveys this necessity.

Aquinas is quick to point out that this kind of necessity is not repugnant to the will either, since it proceeds as an inclination of the will. That is, the will is inclined naturally to a necessary means (as being good), to the extent to which the intellect apprehends this means as being conducive to the end.<sup>92</sup> The desire for the end and the means is really one act of volition.<sup>93</sup> We apprehend the means as good precisely insofar as we apprehend it as

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<sup>91</sup> ST I-II 17.1. Aquinas argues in this article that intimation in the indicative mood does not move a person to do something; it only declares *that* something ought to be done. The imperative mood is what actually sends someone ‘on their way’ so to speak. Stephen Brock states, “Now the impelling mode of intimating reason’s conception is signified in speech by the imperative mood of the verb. An order toward action may also be intimated by reason in an absolute, i.e. purely intimative or informative manner; this is signified by the indicative. The indicative expression ‘you ought to do this,’ considered apart from any special context, signifies only an act of reason responding to the question, ‘what ought I to do?’ Even if its result is that the hearer perform the action indicated, it does not signify reason as working to produce this result. It signifies reason as working in the manner of a counselor or advisor, not in the manner of a governor. The imperative utterance ‘do this’ is what signifies reason as working to govern and somehow initiate action. Its very form corresponds to the work of subjecting the hearer to the order toward the action intimated and of causing him to perform it” “The Legal Character of Natural Law According to St. Thomas Aquinas” doctoral dissertation, University of Toronto (1988), 112.

<sup>92</sup> ST I 82.1.

<sup>93</sup> ST I-II 8.2.

being necessary to the end.<sup>94</sup> Of course, if a person decides not to orient himself to the common good, as is true of the vicious, a particular precept of law will have no motive force. Nevertheless, conditional necessity, as such, is not repugnant to the will because it imposes no violence on the will. An agent will naturally desire some means if, by such means, he can attain the end he intends. No less is this true of the means necessary to the common good.

For Aquinas, “to be ordered” in no way implies being pushed around.<sup>95</sup> To the contrary, it suggests having one’s voluntary actions informed by the intelligibility of the good that law prescribes. The obligation that impresses itself upon us, therefore, and what binds us to a (just) precept is the good intimated by the command. This account of command, therefore, provides us with another way we can understand law as “rational persuasion.” Law induces us to act not only by informing us of what we are to do or avoid, but more importantly, by conveying that this or that is necessary to the common good. Admittedly, it may be difficult to accept such an interpretation because we can easily associate the imperative mood with the threat of punishment. I do not deny that this is often the reason people obey law. Yet this does not explain the motive force of a command itself.

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<sup>94</sup> ST I-II 12.4.

<sup>95</sup> Thomas Hibbs shows us how different Aquinas’ account of obligation is from that of Suarez. See “A Rhetoric of Motives: Thomas on Obligation as Rational Persuasion,” *The Thomist* 54 (1990), 293-309. Hibbs attributes Suarezian voluntarism to Suarez’s distinction between “the knowledge of the precepts and the source of obligation.” For Suarez, a command arising from the will of the legislator is what “introduces the authoritative force of sanction” when a law is transgressed (296). Hibbs continues, “Suarez holds that the judgment of reason regarding what is good or fitting does not in itself impose obligation (297).” Hibbs’ sums up Suarez’s account of command when he states, “the notion of a command is coupled with his supposition that an obligation has some sort of efficacious force attached to it. Suarez regularly refers to human action as the effect of a push or a force (298).” In other words, the obligatory nature of law that a legislator conveys through a command falls within the order of efficient causality. Hibbs argues that Suarez anticipates Kant in this regard; Kant entirely severs the notion of right from the teleological notion of good. This kind of deontology conceptually disassociates the obligatory nature of precepts from the finalities that perfect human nature, locating obligation ultimately in the will of the legislator. Elsewhere in the same article, Hibbs argues that, “Suarez explicates the moving force of moral obligation in terms of efficient causality, while Thomas places it under the category of final causality (304).” This is an accurate description of Aquinas if we consider obligation in terms of the teleological nature of law. If we consider obligation in terms of the psychology of human action, however, we can see that Aquinas attributes the motive force of obligation (within those subject to the law) to the formal causality of cognition. For a command to move us requires that we first *apprehend* cognitively—through the imperative mood—the ‘necessary of the end.’ This is what it means to say that a command *intimates*, or that a law is promulgated.

An important objection can be raised at this point, namely, a convention is never necessary to the common good in any absolute way. This is true. Those positive determinations of more universal precepts could be otherwise. Does this not ground the imperative of such precepts in the personal preferences of the lawgiver as opposed to the necessity of the end? After all, Aquinas does say that “certain things are sometimes a matter of precept [alone], and pertain to no other virtue, such things for instance as are not evil except because they are forbidden.”<sup>96</sup> In response to this, I would first point out that all precepts must be expedient to the common good.<sup>97</sup> Whatever positive law prescribes must conduce to the common good in some way. Failure to meet this fundamental criterion would eviscerate such a precept as being binding in itself.<sup>98</sup> Aquinas would also say there are times when the common good itself requires us to tolerate unjust laws.<sup>99</sup> Nevertheless, the authority to make positive determinations belongs properly to rightful authority, and thus, once some matter *is* determined in this or that way, it becomes eminently necessary to the common good.

Consider, again, the example of which side of the road to drive on. This is entirely a convention. It does not matter, whatsoever, on which side of the road we drive, that is, until the lawgiver makes this determination. Then it makes all the difference in the world. The common good depends on our obeying this precept. Once promulgated, such determinations assume the status of being conditionally necessary to the end. In other words, inasmuch as such precepts are expedient to the common good, as determined by rightful authority, they are conditionally necessary to the common good. It is evil to violate such precepts without a compelling reason. Recall that all positive law must be rooted in a more fundamental necessity. Stated otherwise, all positive determinations of

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<sup>96</sup> ST II-II 104.2 ad 1: “*Similiter etiam quaedam quandoque sub praecepto cadunt quae ad nullam aliam virtutem pertinent, ut patet in his quae non sunt mala nisi quia prohibita.*”

<sup>97</sup> ST I-II 90.2.

<sup>98</sup> I presume that in a democracy or representative form of government those governed have a share in ruling and thus participate in the establishment of the laws that bind them.

<sup>99</sup> ST I-II 96.4.

law are made *only* because a lawgiver judges that, for the common good, *something* must be done about this or that matter. Only the “what” of a determination of law needs to be decided. Inversely, this suggests that a lawgiver has no business making determinations about things the common good does not require.

In sum, the imperative mood of a command does not initiate an unavoidable dialectic between law and freedom, as if the necessity of a precept is rooted in the will of the lawgiver, who simply imposes his arbitrary wishes on his subjects. A precept is obligatory on the basis of what the common good requires as this is determined by legitimate authority. Thus, any opposition existing between law and freedom originates in vice, inasmuch as one prefers his or her private good to the common good. This applies to ruler and ruled alike. A tyrant opposes himself, *qua* ruler, to the common good of his subjects. Conditional necessity, however, is rooted in the nature of the end, and what is required to attain it. In saying this, I do not deny Aquinas’ argument that law expresses the will of the ruler. Nevertheless, this willing is not arbitrary, but ordered to some good end apprehended as necessary to the perfection of those governed. In a text we have considered already, he states:

Reason has its power of moving from the will . . . for it is due to the fact that one wills the end, that the reason issues its commands as regards things ordained to the end. But in order that volition of what is commanded may have the nature of law, it needs to be in accord with some rule of reason. And in this sense is to be understood the saying that the will of the sovereign has the force of law; otherwise the sovereign’s will would savor of iniquity rather than law.<sup>100</sup>

Though an unjust law does have the nature of violence,<sup>101</sup> a just law does not impose itself coercively on us. Most essentially, it orders within us a good to be done for the sake of the common good. As such, by making the difference between good and evil

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<sup>100</sup> ST I-II 90.1 ad 3: “Ratio habet vim movendi a voluntate . . . ex hoc enim quod aliquis vult finem, ratio imperat de his quae sunt ad finem. Sed voluntas de his quae imperantur, ad hoc quod legis rationem habeat, oportet quod sit aliqua ratione regulata. Et hoc modo intelligitur quod voluntas principis habet vigorem legis, alioquin voluntas principis magis esset iniquitas quam lex.”

<sup>101</sup> ST I-II 96.4.

intelligible to us, it induces us to act at the most fundamental level of our nature as rational beings.

By way of closure, let me clarify a few issues. First, what I am proposing in no way denies the coercive power of rightful authority. Indeed, rulers have the authority to punish, and inasmuch as a person is punished he is forced to endure some hardship in opposition to his will. However, let me clarify again what Aquinas does not say. Law cannot force us to act. It *induces* us to act by leading us to the good and away from evil.<sup>102</sup> Those who choose not to obey are coerced to endure some penalty. The greatest of these penalties is self-induced, however—alienation from the common good. Such persons are not being coerced to act for the common good. To the contrary, they are being forced to suffer a penalty of justice for having failed to act for the common good.<sup>103</sup>

Additionally, we can always consider a precept in whatever way we prefer. In fact, our present disposition might have much to do with how we perceive the matter of some precept. We are capable of considering a precept as unnecessary or inconvenient to our plans, in which case we may decide not to observe it. The will is determined to no particular object of choice. Yet unless a precept is presented as a command, it is impossible to apprehend the conditional necessity of the legislated means.

By analyzing the practical reasoning involved in the act of governance, we can see how law is an intimation of practical moral wisdom to those governed. As was mentioned previously when discussing the agent-patient relationship of rulers and subjects, law moves us in the order of formal causality.

## 2. *The Practical Reasoning of Subjects*

Aquinas does not envision law as an affront to liberty. Law presupposes the rational nature of those governed. Law moves those governed to the common good by providing

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<sup>102</sup> *De Veritate*, q. 17, a. 3

<sup>103</sup> I will discuss punishment at length in chapter four.



reasons for acting. In particular, law informs the free-decision of those governed. Yet how exactly does this work on the part of those governed? Aquinas argues that law is an extrinsic principle of human action.<sup>104</sup> As we shall see, for law to move us, we must internalize and appropriate the law within the operations involved in our practical reasoning. By this internalization process, we direct our particular actions to the common good and thereby attain it as a good proper (though not exclusive) to ourselves. Aquinas does not hesitate to say, “He that seeks the good of many, seeks in consequence his own good . . . because the individual good is impossible without the common good of the family, state, or kingdom.”<sup>105</sup> Furthermore, quite often we attain the common good while pursuing our own private purposes. In what follows, I will set forth how law moves us to the common good in a manner befitting our nature. We will do this by examining law’s engagement with the cognitive operations of human agency. Much of what appears in the remainder of this chapter is my own attempt to tease out the implications of Aquinas’ philosophy of education as well as his thought on the nature of practical reasoning, as these illuminate the process of moral instruction which law enacts.

#### *a. Apprehension of the End*

Since the apprehension of an end is not one of the principal operations of practical reasoning, I wish only to draw out a few implications of the role law plays in our apprehending the common good as an end. As we saw above, good rulers intend the common good in the act of governing. The act of governing proceeds cognitively from an apprehension of the end, through a reasoning process terminating in various commands about what is to be done or avoided for the sake of this end. By promulgating laws, rulers intimate the object of their intention to those governed. This is the first

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<sup>104</sup> See John A.D. Cuddeback, “Law as an Extrinsic Principle of Action in Aquinas,” doctoral dissertation, The Catholic University of America, 1997.

<sup>105</sup> ST II-II 47.10 ad 2: “*Ille qui quaerit bonum commune multitudinis ex consequenti etiam quaerit bonum suum, propter duo. Primo quidem, quia bonum proprium non potest esse sine bono communi vel familiae vel civitatis aut regni.*”

principle not only of legislative prudence, but also of political prudence. Law reveals to those governed the intrinsic ordering of the community's members, whereby the community attains the extrinsic common good. In the least, law establishes a final cause for which we are to execute our particular actions with a view to the good of the entire community. Law does not determine, in any direct manner, the entire intrinsic ordering of relations within a community. Nevertheless, it does specify a more determinate and concretely apprehensible end to which we are to direct our actions.

By making this order known, rulers enable us to apprehend the intrinsic common good of the community, at least in its general contours. For example, laws governing commutative justice specify the limits of legal contracts between two parties. The apprehension of this order determines, the proper and fitting end that, say, trading partners are to achieve as members of the same commonwealth. The rule of law is thus the instrument through which rulers enable us to apprehend how we are to relate to others in our common pursuit of happiness.

Another way to explicate this is to suggest that law makes the common good intelligible to reason. Aquinas says that a virtuous act is one that is well proportioned to the end. This is no less true with respect to social life: "Since then every man is a part of the state, it is impossible that a man be good, unless he be well proportioned to the common good."<sup>106</sup> Yet, without law how could we make our acts proportionate to the common good in any determinate way, when law itself establishes the general contours of this good? By apprehending this intrinsic order, law enables us to intend this good as a concrete end of our actions.

### *b. Counsel and Judgment about Means*

Aquinas says we are to refer our actions to the common good. He even mentions a

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<sup>106</sup> ST I-II 91.4 ad 3: "*Cum igitur quilibet homo sit pars civitatis, impossibile est quod aliquis homo sit bonus, nisi sit bene proportionatus bono communi.*"

virtue associated with doing this, which he calls legal justice.<sup>107</sup> What needs explication is how we do this. How do we “refer” our actions to the common good? It would be false to suggest that we do this by simply orienting ourselves toward the common good in some sentimental or transcendental manner. Rather, to refer our actions to the common good, we must involve the process of practical reasoning, such that our actions have a real relation to the common good, wherein we truly attain this end by our actions. In chapter one, we spoke of how we employ principles of action in an act of conscience. In discussing principles that comprise ends perfective of human nature, we saw that a person can obtain the major premise of a rule-case syllogism from the first principles of practical reason or from a process of discovery in which we acquire the knowledge of secondary principles of action. About these, Aquinas says we also obtain them by means of instruction either from higher reason, which is God’s law, or from lower reason, such as civil law.<sup>108</sup> To direct our actions effectively to the common good, we must learn (from those having primary care of the community) the principles that enable us to order our actions to the common good. These principles of action are the laws that govern us.

Most significantly, the precepts of law serve to supply the major premise of a rule-case syllogism, thereby providing a rule of prudence by which we determine whether some particular act, about which we are presently deliberating, is conducive to the common good or not. As was the case when we discussed moral discovery, the common good need not be the proximate end to which we direct our actions. We simply must direct them to the common good as to a last end. We do this by evaluating our actions against the rule of law promulgated for the communities to which we belong. If our actions are in conformity with these principles, as determined by an act of conscience, they will generally constitute a legitimate means (simply speaking) for attaining the end we intend more proximately in the first place. In sum, we can employ the laws that

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<sup>107</sup> ST II-II 58.5.

<sup>108</sup> *De Veritate*, qq. 16-17.

govern us as secondary principles of action that help us determine the moral species of our particular actions vis-à-vis the good of the community. These precepts specify the first principles of practical reason according to the requirements of the common good.

As an example, suppose I intend to go to the store to buy milk. As a means of getting there, I choose to drive by a certain route, but realize that my time is limited due to a scheduled appointment. As I proceed, I happen upon a sign indicating a significant reduction in speed along a certain stretch of road. The prescribed speed is such that by obeying the speed limit I will be late. Let us further suppose that the appointment is not of critical importance; nor is my being late a problem beyond my personal affinity for punctuality. So, what am I to do here and now, slow down and be late, or remain at my current speed and be on time? And, more importantly, how ought I determine this? As a law, the speed limit operates as a secondary principle of my present action that enables me to direct my driving to the common good—if I so decide—even though the purpose I have in mind is to get milk.

If I am to make the right decision, I will at least implicitly appeal to conscience. The judgment of conscience, if rightly reasoned out, will propose that speeding here and now is an evil choice vis-à-vis the common good. Of course, I can ignore my conscience or simply pay no heed to the speed limit. Nevertheless, the speed limit provides me with a more determinate principle of action that helps me direct my driving to the common good. I may experience this as a simple murmuring of my conscience, stirring me to slow down. Again, I am bound to no necessity in listening to this “voice.” I can proceed on my way at the present speed. Yet, as a more determinate principle of action, the speed limit confronts me with a decision and thereby instructs me in what is to be done here and now.

If I decide to drive the designated speed, it is only because the law has instructed me to do so. It is at this moment of decision that the pedagogical character of a speed limit is

most evident. Without this law (insofar as I now know it), I may not know what speed the common good requires in the present circumstances, as determined by those principally responsible for governing the community. Even though a speed limit is a convention the ruler determines, it remains true that, apart from the law that determines this speed here and now, I am likely to be ignorant of the particular conclusion—what the reasonable speed is here and now. This is so primarily because I may be ignorant of some circumstance that does, in fact, determine the reasonable speed here and now (at least in the majority of cases). For example, I may have no idea that children live along this road and that the speed at which I am presently traveling is putting them in danger. As a subject of a commonwealth, it is not possible for me to be cognizant of all the particular circumstances within which my actions occur. The ruler has the responsibility to insure the safety of these children against heedless drivers such as myself. Thus, a speed reduction is imposed on the said stretch of road. Through the law, I am made aware of what the common good requires here and now.

Hence, something as mundane as a speed limit leads me from the knowledge of first principles—do harm to no one—to the actuality of some practical moral truth. Moreover, by conforming my reason to the law, I bring my action of driving into conformity with a rule of right reason (a rule of prudence) and thus increase in other virtues such as justice, temperance, fortitude, charity, and of course patience! This is true of any *just* law. As moral pedagogy, law actualizes us by imparting practical moral wisdom, which can then be employed in our personal moments of practical reasoning. Note that laws do not choose for us or supplant our free-decisions. Rather, they present a more complete and distinct knowledge of practical moral principles, which I have referred to as practical moral wisdom.

I would add three observations to what I have said already. First, many precepts of law apply only in most cases. There can be exceptions to a rule, especially when a law

descends further into the details of practical life.<sup>109</sup> In the driving example, a speed limit is a rather determined precept that cannot apply in every case. There are times when disregarding the speed limit is requisite to the human good. However, in these instances, it is always because the actual requirements of the common good supersede the generally formulated precept to which I am bound in most cases. Taking the same action of driving, say I am speeding to rush my child to the hospital due to a life threatening injury. The human good in this case would require that I act to save my child's life, knowing that there is a minimal chance I may cause injury to another by driving over the speed limit.<sup>110</sup> In such cases, Aquinas argues that we, in fact, fulfill the intention of the lawgiver by acting beside the letter of the law.<sup>111</sup> This, however, should be the exceptional case. The particular circumstance is what determines such exceptions. A ruler cannot foresee all situations; nor can he legislate for every particular situation without rendering the law cumbersome and useless.<sup>112</sup>

This leads to the second observation. Some precepts of law admit being absolutely necessary to the common good and thus admit no exception. Certain actions are always evil, for by such actions the common good is always and under every circumstance undermined. These actions are specified already by some detail rendering them disproportionate to the common good. A precept against murder, for example, can never admit exceptions because the common good always requires the utmost regard for the inviolability of innocent human life. Aquinas would argue that we derive such a principle of action immediately from natural law and thus it pertains to the human good

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<sup>109</sup> ST I-II 96.6.

<sup>110</sup> We can make a right judgment in such cases by appealing to the hierarchy of goods, another principle that governs the case, or a higher law. That is, I ought to have greater care for the life of my own child than the life of my neighbor (ST II-II 26). Or If I were commanded by God to fulfill some duty that required me to break a civil law, I would need to do so. For example, a priest would have to refuse to testify as a witness if it meant violating the seal of confession.

<sup>111</sup> ST I-II 96.6

<sup>112</sup> ST I-II 96.1 ad 2.

unqualifiedly, whereas a speed limit could never be such a precept.<sup>113</sup> Precepts such as those prohibiting murder provide a kind of certainty of rectitude in any particular case. The relationship between the speed one drives and the common good, however, is in no way an intrinsic one. Conventions function as a rule and measure of actions in most cases, but not all. In those times of uncertainty, we must draw upon other principles of action to inform us.

As principles of action, promulgated law can *inform* our judgments of free-decision through the formation of our conscience. Hence, the pedagogical character of law is most evident in regard to the manner in which law informs our counsel and judgments. It is at these stages that law leads us from potency to act, both in regard to the acquisition of practical moral truth and as to how an action participates in virtue. Furthermore, this process of instruction presupposes the first principles of practical reason. We are unable to appropriate external principles of action except through the first principles of practical reasoning.

### *Conclusion*

To summarize our investigation of the pedagogical character of law in its cognitive dimension, we can see that law plays a vital role in the acquisition of practical moral truth. We see this in how law informs our judgments of conscience so that the intellect is better conformed to right reason. Law serves an indispensable function in guiding our actions to the good for which the law is promulgated, a good by definition that is perfective of our nature. It does this by providing a rule of prudence we assimilate and appropriate in our personal moments of practical reasoning. A rule of prudence comprises an end, a means, and the relation between these two. The order of law contains all three of these elements. Law establishes an intrinsic order of persons within a community, which serves as a final cause to which each of us can direct our actions, as to

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<sup>113</sup> A more thorough analysis of intrinsically evil acts will be offered later in this work.

an end, so that we might attain the extrinsic common good. This end is the first principle of our actions *qua* members of a community.

Next, individual precepts serve as more determinate principles of action, which we employ in our practical reasoning as the major premise of rule-case syllogisms. Individual precepts ground our practical reasoning in right practical reasoning, such that we can, by an act of conscience, prudently direct our particular acts to the common good, regardless of our personal and more proximate goals. Finally, the imperative mood of a precept intimates the conditional necessity of the means to the end (or its opposite), so that in reasoning practically, the necessity of the said means induces us to act for the common good. The imperative mood puts motive force into a precept of law. If we take the pedagogical character of law seriously, therefore, it is evident that, as a formal cause, law moves us to virtuous action by making the difference between good and evil more distinctly known, such that we can freely choose the good.



### CHAPTER THREE

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## *The Pedagogical Character of Law & the Appetitive Powers*

For law to lead us to virtue, it needs to do more than merely inform our conscience. We do not achieve moral virtue through knowledge alone, but also by attaining good affective dispositions.<sup>1</sup> This includes both the will and the sensitive appetites.<sup>2</sup> We must learn how to love in accord with reason so as to be inclined affectively to the good by habits of moral virtue. Consequently, it is necessary to expound the affective aspect of law's pedagogy. My aim in this chapter is to show how law facilitates the formation of virtue in our appetitive powers. I will explicate this first by looking at Aquinas' understanding of liberty. This will help us grasp how law actualizes, rather than compromises our freedom. One of the conditions for acting virtuously is that we exercise our freedom in knowledge and love for the human good. As we shall see, the wisdom of law enhances our freedom by helping us do this. Second, I will consider the relationship law has to the formation of habits in our appetitive powers. This portion will focus upon the process of habituation and how law accustoms us to virtue. Finally, I will consider the virtue of obedience, which because it is motivated by love and not the fear of punishment, represents a terminus in the process of moral development.

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<sup>1</sup> Nicholas Ingham, O.P., "The Rectitude of Inclination," *The Thomist* 60 (1996), 417-37.

<sup>2</sup> See Vernon Bourke, "Right Reason in Contemporary Ethics," *The Thomist* 38 (1974), 106-7.

## A. Law and Liberty

Aquinas tells us that the will “is directed to opposites. Therefore it is not moved, of necessity, to either of the opposites.”<sup>3</sup> Indeed, we are free in our choices; but it is not because the will is undetermined in every respect or because it is the first cause of volition.<sup>4</sup> As we have had occasion to see already, the will is determined to the universal good, and in addition to this, God is the first cause of the will’s operation.<sup>5</sup> Moreover, the formal causality of the intellect moves the will in the order of specification. What Aquinas means by the term *liberty*, therefore, is much more complex than we might think.<sup>6</sup> Because no particular good can bring the will to rest, the will remains undetermined in relation to particular goods.<sup>7</sup> Nonetheless, *that* we choose this or that good is due to the structural unity existing between the will and the intellect.<sup>8</sup> More specifically, our choices proceed psychologically in conjunction with the formal causality of our practical judgments.<sup>9</sup> As Aquinas states:

Man is [a being capable] of free-decision [*liberi arbitrii*]: otherwise counsels, exhortations, commands, prohibitions, rewards, and punishments would be in vain. In order to make this evident, we must observe that some things act without judgment, as a stone moves downwards, and in like manner all things that lack knowledge. And some act from judgment, but not a free judgment, as brute animals. For the sheep seeing the wolf, judges it a thing to be shunned,

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<sup>3</sup> ST I-II 10.2: “*se habet ad opposita. Non ergo ex necessitate movetur ad alterum oppositorum.*”

<sup>4</sup> ST I 83.1 ad 3; ST I-II 9.6.

<sup>5</sup> See Peter Kwasniewski, “The Inseparability of Freedom, Goodness, and Final End in St. Thomas,” *The Aquinas Review* 5 (1998), 50-69.

<sup>6</sup> See Eleonore Stump, “Aquinas’s Account of Freedom: Intellect and Will,” in *Thomas Aquinas: Contemporary Philosophical Perspectives*, ed. Brian Davies (Oxford: Oxford University Press, 2002), Chapter 11.

<sup>7</sup> ST I-II 10.2.

<sup>8</sup> Pope Leo XIII confirms what is being said here in his encyclical letter, *Libertas Praestantissimum* (1888), no. 5: “Liberty, then, as We have said, belongs only to those who have the gift of reason or intelligence. Considered as to its nature, it is the faculty of choosing means fitted for the end proposed, for he is master of his actions who can choose one thing out of many. Now, since everything chosen as a means is viewed as good or useful, and since good, as such, is the proper object of our desire, it follows that freedom of choice is a property of the will, or, rather, is identical with the will in so far as it has in its action the faculty of choice. But the will cannot proceed to act until it is enlightened by the knowledge possessed by the intellect. In other words, the good wished by the will is necessarily good in so far as it is known by the intellect, and this the more, because in all voluntary acts, choice is subsequent to a judgment upon the truth of the good presented, declaring to which good preference should be given. No sensible man can doubt that judgment is an act of reason, not of will. The end, or object, both of the rational will and of its liberty is that good only which is in conformity with reason.”

<sup>9</sup> For a useful discussion of free-decision, see Anthony Kenny, *Aquinas on Mind* (New York: Routledge, 1993), chapter 6.

from a natural and not a free judgment, because it judges, not from reason, but from natural instinct. And the same thing is to be said of any judgment of brute animals. But man acts from judgment, because by his apprehensive power he judges that something should be avoided or sought. But because this judgment, in the case of some particular act, is not from natural instinct, but from some act of comparison in the reason, therefore he acts from free judgment [*libero iudicio*] and retains the power of being inclined to various things.<sup>10</sup>

In this text, notice how *liberi arbitrii* is related to *libero iudicio*, which is an intellectual operation. “No object moves the will necessarily, for no matter what the object be, it is in man’s power not to think of it, and consequently not to will it actually.”<sup>11</sup> It is because we can make free rational judgments that we choose at all, or as Aquinas puts it, that we retain “the power to be inclined to various things.” Hence, Aquinas affirms that “it is due to the judgment of reason that the will is moved to something according to reason . . .”<sup>12</sup>

Another text unequivocally reinforces the point:

The root of liberty is the will as the subject thereof; but it is the reason as its cause. For the will can tend freely towards various objects precisely because the reason can have various perceptions of the good. Hence, philosophers define free-decision as being a free judgment arising from reason, implying that reason is the cause of liberty.<sup>13</sup>

From these texts, it is evident that the formal cause (motive force) of our choices is the practical judgments we make at the moment of decision.

Furthermore, if the term *voluntary* describes the nature of our choices—as proceeding from our judgments—and if the term *liberty* describes the indeterminacy of choice that exists because of the will’s innate ordering to the universal good, it follows that *right* judgments of practical reason actualize our choices in the true human good (here and

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<sup>10</sup> ST I 83.1: “Homo est liberi arbitrii, alioquin frustra essent consilia, exhortationes, praecepta, prohibitiones, praemia et poenae. Ad cuius evidentiam, considerandum est quod quaedam agunt absque iudicio, sicut lapis movetur deorsum; et similiter omnia cognitione carentia. Quaedam autem agunt iudicio, sed non libero; sicut animalia bruta. Indicat enim ovīs videns lupum, eum esse fugiendum, naturali iudicio, et non libero, quia non ex collatione, sed ex naturali instinctu hoc indicat. Et simile est de quolibet iudicio brutorum animalium. Sed homo agit iudicio, quia per vim cognoscitivam indicat aliquid esse fugiendum vel prosequendum. Sed quia iudicium istud non est ex naturali instinctu in particulari operabili, sed ex collatione quadam rationis; ideo agit libero iudicio, potens in diversa ferri.”

<sup>11</sup> ST I-II 10.2: “Voluntas a nullo obiecto ex necessitate movetur, potest enim aliquis de quocumque obiecto non cogitare, et per consequens neque actu velle illud.”

<sup>12</sup> ST I-II 75.2: “sicut enim ex iudicio rationis voluntas movetur ad aliquid secundum rationem . . .”

<sup>13</sup> ST I-II 17.1 ad 2: “Radix libertatis est voluntas sicut subiectum, sed sicut causa, est ratio. Ex hoc enim voluntas libere potest ad diversa ferri, quia ratio potest habere diversas conceptiones boni. Et ideo philosophi definiunt liberum arbitrium quod est liberum de ratione iudicium, quasi ratio sit causa libertatis.”

now). As rational beings, we are actualized in the human good only when we choose those goods perfective of us and conducing to our true happiness. We are not the authors of what is good and evil. Subsequently, the good use of free-decision depends deeply upon our knowledge of good and evil, something we learn but do not devise. This, then, is where law becomes so significant to our freedom; it serves to actualize our free-decisions in the goods perfective of our nature.<sup>14</sup>

### *The Discipline of Law and our Freedom*

Aquinas' understanding of liberty helps to clarify his account of the discipline of law on the will. We can see the congeniality between law and liberty by a twofold explanation of how law relates to the will at the decision stage of human action. First, if law is a rule of prudence intimated to the intellect, it follows that law engages the operation of choice through the mediation of the intellect and, therefore, as a *formal* (and not an efficient) cause of the will's movement in the operation of choice. As we saw before, law does not move the will through violence. The second point amplifies the first. Law engages our liberty by supplying principles of action, which consequently does not abrogate free-decision, even if we decide to obey the law out of fear of punishment. That is, law does not decide in our stead what we actually do 'here and now'. Through the use of conscience, law informs our judgments of free-decision, that we might choose in accord with what is true and good. Even as subjects, our acts of obedience are free because we are the one's that decide to obey the law.

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<sup>14</sup> Leo XIII continues: "He who is free can either act or not act, can do this or do that, as he pleases, because his judgment precedes his choice. And his judgment not only decides what is right or wrong of its own nature [judgment of conscience], but also what is practically good and therefore to be chosen, and what is practically evil and therefore to be avoided [judgment of free-decision]. In other words, the reason prescribes to the will what it should seek after or shun, in order to the eventual attainment of man's last end, for the sake of which all his actions ought to be performed. This ordination of reason is called law. In man's free will, therefore, or in the moral necessity of our voluntary acts being in accordance with reason, lies the very root of the necessity of law. Nothing more foolish can be uttered or conceived than the notion that, because man is free by nature, he is therefore exempt from law. Were this the case, it would follow that to become free we must be deprived of reason; whereas the truth is that we are bound to submit to law precisely because we are free by our very nature. For, law is the guide of man's actions; it turns him toward the good by its rewards, and deters him from evil by its punishment [brackets are mine]" (*Libertas*, no. 7)."

Aquinas never opposes coercion to choice. Rather, he opposes coercion to the voluntary.<sup>15</sup> The fact that our choices are delimited does not imply that our actions are coerced. An act is coerced if it proceeds entirely from an external principle. Hence, that laws restrict our choices in no way implies that they coerce us to act when we obey them. This is so precisely because every act of obedience to law is voluntary, since it proceeds from some knowledge the law intimates.

A difficulty emerges for a pedagogical theory of law, however, if we identify liberty with “autonomy” rather than the voluntary structure of rational agency. In the words of Franz Böckle, “Autonomy means man’s possibility and task, as a rational being, of determining himself and of being in harmony with a law that he has given himself. The greatest common denominator in this modern claim to autonomy is the rejection of every kind of alien determination or heteronomy.”<sup>16</sup> Determination and heteronomy would include being subject to the law of another. The difficulty is that the notion of autonomy undermines the notion of law as moral pedagogy by setting up a dialectical opposition between the will of the ruler and that of his subjects.

In the encyclical letter, *Veritatis Splendor*, Pope John Paul II references this conundrum in a brief commentary on the first precepts recorded in Sacred Scripture: “You may eat freely of every tree of the garden; but of the tree of the knowledge of good and evil you shall not eat, for in the day that you eat of it you shall die (Gen. 2:16-17).” The pope’s interpretation of this passage provides a useful and prescient explanation of the problem of identifying liberty with automonony. He states, “The power to decide what is good and what is evil does not belong to man, but to God alone.”<sup>17</sup> He goes on to say that many today promote a notion of freedom that, “enjoys a primacy over truth, to the point

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<sup>15</sup> ST I-II 6.5.

<sup>16</sup> *Fundamental Moral Theology* (New York: Pueblo Publishing Co., 1977), 31.

<sup>17</sup> No. 35.

that truth itself [is] considered a creation of freedom.”<sup>18</sup> This kind of freedom, he continues, leads to a “moral autonomy that would actually amount to an absolute sovereignty [over moral truth].”<sup>19</sup> The fault in this view lies not with the nature of law, but with the notion of freedom as autonomy. As the pope thus affirms in the same encyclical, “God, who alone is good, knows perfectly what is good for man, and by virtue of his very love proposes what is good for man in his commandments.”<sup>20</sup> It is easy, then, to see why the pope goes on to affirm that, “Human freedom finds its authentic and complete fulfillment precisely in the acceptance of law.”<sup>21</sup> If we have a properly Thomistic understanding of the voluntary structure of rational agency, we can see that law and freedom cannot be opposed, since law intimates the good to us and informs our judgments of choice that we might act according to the truth.<sup>22</sup> Again, by imparting practical moral wisdom and informing our practical judgments, law—especially divine law—actualizes our choices in the knowledge of practical moral truth.

### *B. Law and Virtue*

Now that we have considered the relationship of law to freedom, I am in a position to more fully describe the formative effects of law on the appetitive powers in the development of moral virtue. Our growth in freedom depends upon a corresponding growth in virtue, since virtue inclines our appetites to the human good. In question 100, article 9 of the *Prima Secundae*, Aquinas describes what he calls the “mode of virtue.” The question, as such, does not concern the effects of law on the formation of virtue, but it does provide a good point of departure for the present inquiry. In the complete text,

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<sup>18</sup> Ibid.

<sup>19</sup> Ibid.

<sup>20</sup> Ibid.

<sup>21</sup> Ibid.

<sup>22</sup> I will not deny, nor would Aquinas, that law limits our choices. Yet law limits our choices so that we can attain the common good, which is the good most perfective of us within any order. Our freedom is not increased by the multiplication of choices. More choices can be good, but are not necessary to human perfection, except insofar as, by them, we can direct ourselves to those ends perfective of our nature. Paradoxically, the choice for evil is not liberating to man, but enslaving. Thus, the fact that law prohibits us from evil choices does not really limit our freedom; it empowers it.

(which I have abridged for reasons of space), Aquinas is asking whether law legislates the interior dispositions with which we ought to perform a virtuous act. He describes this “mode of virtue” as follows:

Now the mode of virtue consists in three things. . . . The first is that man should act ‘knowingly’ . . . because what a man does in ignorance, he does accidentally . . . The second point is that a man should act ‘deliberately,’ i.e. ‘from choice, choosing that particular action for its own sake;’ wherein a twofold internal movement is implied, of volition and of intention. . . . The third point is that he should ‘act from a firm and immovable principle’: which firmness belongs properly to a habit, and implies that the action proceeds from a rooted habit.<sup>23</sup>

As we can see, the “mode of virtue” involves three elements: that we act a) in truth, b) from free-decision, and c) from an established *habitus* or disposition.

So far in this work, I have addressed the first two elements of the pedagogical function of law in relation to the mode of virtue, namely, the efficacy of law for imparting wisdom and actualizing our freedom. I now need to address the last element, the effect of law in the formation of habits within the appetites. I will explicate this process in two steps. The first is to explain how we develop (and increase in) virtue. The second is to describe the process of habituation that law effects.

## 1. Growing in Virtue

If we return briefly to the text from which we proceeded in chapter one—*De Veritate*, question 11, article 1—we find an important statement concerning the movement from

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<sup>23</sup> Here is the more complete passage from ST I-II 100. 9: “*Modus autem virtutis in tribus consistit. . . . Quorum primum est, si aliquis operetur sciens. . . . Quod enim aliquis facit ignorans, per accidens facit. . . . Secundum autem est ut aliquis operetur volens, vel eligens et propter hoc eligens; in quo importatur duplex motus interior, scilicet voluntatis et intentionis, de quibus supra dictum est. Et ista duo non diiudicat lex humana, sed solum lex divina. Lex enim humana non punit eum qui vult occidere et non occidit, punit autem eum lex divina, secundum illud Matth. V, qui irascitur fratri suo, reus erit iudicio. Tertium autem est ut firme et immobiliter habeat et operetur. Et ista firmitas proprie pertinet ad habitum, ut scilicet aliquis ex habitu radicato operetur. Et quantum ad hoc, modus virtutis non cadit sub praecepto neque legis divinae neque legis humanae, neque enim ab homine neque a Deo punitur tanquam praecepti transgressor, qui debitum honorem impendit parentibus, quamvis non habeat habitum pietatis.*” Aquinas distinguishes in this article between human and divine law. Human law legislates only in regard to the first aspect of the “mode of virtue.” This differs from divine law, which legislates in regard to the first and second aspects of the “mode of virtue.” The differences between human and divine law notwithstanding, human law does form our interior dispositions, pedagogically speaking, as I have explained already. What it cannot do is *command* what is impossible for man to judge, namely, that this or that virtuous act be performed with a right will or from an established habit.

potency to act in regard to virtue. Aquinas states, “Before the habits of virtue are consummated, they preexist in us in certain natural inclinations, which are the beginnings of virtue. But afterwards, through practice in their actions, they are brought to their proper consummation.”<sup>24</sup>

In the *Summa theologiae* Aquinas makes a similar observation about our innate potency for virtue. “Acquired virtues preexist in us by certain seeds or principles, according to nature.”<sup>25</sup> In another passage, he explains more fully the relationship between the inclinations and moral habits.

In the appetitive powers . . . no habit is natural as to its beginning on the part of the soul, as far as the substance of habit is concerned, but only as far as certain of its principles are concerned; as the principles of common law, for instance, are said to be ‘seeds of virtue.’ And this is because the inclination to proper objects, which seem to be the beginning of habit, does not belong to the habit but rather to the very nature of the powers.<sup>26</sup>

From this text we can see that the natural inclinations are not the seminal form of any virtue in particular. Rather, they are the innate possibility enabling us to act for the human good, such that various habits of moral virtue can take root in the soul through our actions.<sup>27</sup> The formation of virtue, therefore, involves the actualization of our natural inclinations in the habits by which we are more readily disposed to act for the human good. As we shall see, we actualize these inclinations as habits by acting in accord with right reason. We can describe this actualization of virtue as a process encompassing a movement from the potency of rational nature to the actualization of moral goodness.<sup>28</sup>

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<sup>24</sup> “*Virtutum habitus ante earum consummationem praeexistunt in nobis in quibusdam naturalibus inclinationibus, quae sunt quaedam virtutum inchoationes, sed postea per exercitium operum adducuntur in debitam consummationem.*”

<sup>25</sup> ST I-II 63.2 ad 3: “*Virtutum acquisitarum praeexistunt in nobis quaedam semina sive principia, secundum naturam.*”

<sup>26</sup> ST I-II 51.1: “*In appetitivis autem potentiis non est aliquis habitus naturalis secundum inchoationem, ex parte ipsius animae, quantum ad ipsam substantiam habitus, sed solum quantum ad principia quaedam ipsius, sicut principia iuris communis dicuntur esse seminalia virtutum. Et hoc ideo, quia inclinatio ad obiecta propria, quae videtur esse inchoatio habitus, non pertinet ad habitum, sed magis pertinet ad ipsam rationem potentialium.*”

<sup>27</sup> We will discuss the natural inclinations in chapter six when I look at natural law.

<sup>28</sup> See *In ethic.* II.4, #286: “If I should be asked how this is possible, since nothing can move itself from potency to act, we must answer that the perfection of moral virtue, which we are treating, consists in reason’s control of the appetite. Now, the first principles of reason, no less in moral than in speculative matters, have been given by nature. Therefore, just as by means of previously known principles a man makes himself actually understand by personal effort of discovery, so also by acting according to the



At the heart of this process of actualization is the voluntary structure of rational agency. Because the intellect is a formal and not an efficient cause of the will, we cannot establish either our will or our sensitive appetites in a virtue by a single act. Aquinas states,

[Now] it is clear that the active principle which is reason cannot entirely overcome the appetitive power in one act: because the appetitive power is inclined variously, and to many things . . . wherefore the appetitive appetite is not thereby entirely overcome so as to be inclined like nature to the same thing, in the majority of cases, which inclination belongs to the habit of virtue.<sup>29</sup>

In regard to the sensitive appetites, he says,

[But] the irascible and concupiscible powers do not obey the reason blindly; on the contrary, they have their own proper movements, by which, at times, they go against reason, whence the Philosopher says (Polit. i, 3) that the ‘reason rules the irascible and concupiscible powers by a political command’ such as that by which free men are ruled, who have in some respects a will of their own. And for this reason also must there be some virtues in the irascible and concupiscible powers, by which these powers are well disposed to act.<sup>30</sup>

The process of acquiring virtue thus requires repeated acts.<sup>31</sup>

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principles of practical reason a man makes himself actually virtuous: *Si quis autem quaerat quomodo est possibile, cum nihil reducet se de potentia in actum? Dicendum est, quod perfectio virtutis moralis, de qua nunc loquimur, consistit in hoc, quod appetites reguletur secundum rationem. Prima autem rationis principia sunt naturaliter nobis indita, ita in operatives sicut in speculativis. Et ideo sicut per principia praecognita facit aliquis inveniendū se scientem in actu: ita agendo secundum principia rationis practicae, facit aliquis se virtutum in actu*” cf. John A.D. Cuddeback, “Law as an Extrinsic Principle of Action in Aquinas,” doctoral dissertation, The Catholic University of America, 1997, 195.

<sup>29</sup> ST I-II 51.3. “*Manifestum est autem quod principium activum quod est ratio, non totaliter potest supervincere appetitivam potentiam in uno actu, eo quod appetitiva potentia se habet diversimode et ad multa . . . Unde ex hoc non totaliter vincitur appetitiva potentia, ut feratur in idem ut in pluribus, per modum naturae, quod pertinet ad habitum virtutis.*”

<sup>30</sup> ST I-II 56.4 ad 3: “*Sed irascibilis et concupiscibilis non ad nutum obediunt rationi, sed habent proprios motus suos, quibus interdum rationi repugnant, unde in eodem libro philosophus dicit quod ratio regit irascibilem et concupiscibilem principatu politico, quo scilicet reguntur liberi, qui habent in aliquibus propriam voluntatem. Et propter hoc etiam oportet in irascibili et concupiscibili esse aliquas virtutes, quibus bene disponantur ad actum.*” See also ST I-II 58.2.

<sup>31</sup> Consider also what he says in ST I-II 51.2: “In the agent there is sometimes only the active principle of its act: for instance in fire there is only the active principle of heating. And in such an agent a habit cannot be caused by its own act: for which reason natural things cannot become accustomed or unaccustomed, as is stated in Ethic. ii, 1. But a certain agent is to be found, in which there is both the active and the passive principle of its act, as we see in human acts. For the acts of the appetitive power proceed from that same power according as it is moved by the apprehensive power presenting the object: and further, the intellective power, according as it reasons about conclusions, has, as it were, an active principle in a self-evident proposition. Wherefore by such acts habits can be caused in their agents; not indeed with regard to the first active principle, but with regard to that principle of the act, which principle is a mover moved. For everything that is passive and moved by another, is disposed by the action of the agent; wherefore if the acts be multiplied a certain quality is formed in the power which is passive and moved, which quality is called a habit: just as the habits of moral virtue are caused in the appetitive powers, according as they are moved by the reason, and as the habits of science are caused in the intellect, according as it is moved by first propositions: *In agente quandoque est solum activum principium sui actus, sicut in igne est solum principium activum calefaciendi. Et in tali agente non potest aliquis habitus causari ex proprio actu, et inde est quod res naturales non possunt*

Furthermore, only insofar as repeated acts proceed from, and in accord with, *right* reason is a moral virtue formed. “Good use of free-decision is said to be a virtue . . . that is to say, because it is that to which virtue is directed as to its proper act. For the act of virtue is nothing else than the good use of free-decision.”<sup>32</sup> What results eventually is the habitual inclination of our appetitive powers to the good proposed by right reason. In fact, a moral virtue is the very order of right reason *in* the appetites. A habit is like a second nature in the appetitive powers, which serves as a formal principle of our movements of desire. “[I]f the matter be correctly considered, the virtue of the appetitive part is nothing other than a certain disposition or form stamped and impressed in the appetitive power by reason.”<sup>33</sup>

Aquinas even distinguishes the movement of the sensitive appetite from the selfsame movement as informed by a virtue. He argues that in the absence of a virtue, the movement of passion is from the sensitive power to reason, whereas, in a virtuous person, the movement is from reason to the sensitive power:

[It is] Granted that some passions are, in some way, referable to good only, or to evil only; even then the movement of passion, as passion, begins in the appetite, and terminates in the reason, since the appetite tends to conformity with reason. On the other hand, the movement of virtue is the reverse, for it begins in the reason and ends in the appetite, inasmuch as the latter is moved by reason. Hence the definition of moral virtue (Ethic. ii, 6) states that it is ‘a habit of choosing the mean determined by reason as a prudent man would determine it.’<sup>34</sup>

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*aliquid consuescere vel dissuescere, ut dicitur in II ethic. Invenitur autem aliquod agens in quo est principium activum et passivum sui actus, sicut patet in actibus humanis. Nam actus appetitivae virtutis procedunt a VI appetitiva secundum quod movetur a VI apprehensiva repraesentante obiectum, et ulterius vis intellectiva, secundum quod ratiocinatur de conclusionibus, habet sicut principium activum propositionem per se notam. Unde ex talibus actibus possunt in agentibus aliqui habitus causari, non quidem quantum ad primum activum principium, sed quantum ad principium actus quod movet motum. Nam omne quod patitur et movetur ab alio, disponitur per actum agentis, unde ex multiplicatis actibus generatur quaedam qualitas in potentia passiva et mota, quae nominatur habitus. Sicut habitus virtutum moralium causantur in appetitivis potentiis, secundum quod moventur a ratione, et habitus scientiarum causantur in intellectu, secundum quod movetur a primis propositionibus.”*

<sup>32</sup> ST I-II 55.1 ad 2: “Bonus usus liberi arbitrii dicitur esse virtus . . . quia scilicet est id ad quod ordinatur virtus sicut ad proprium actum. Nihil est enim aliud actus virtutis quam bonus usus liberi arbitrii.”

<sup>33</sup> *De Virtutibus in Comuni*, 9, Vives Edition, v. 14, p. 206a: “Inde, si recte consideretur, virtus appetitivae partis nihil est aliud quam quaedam dispositio, sive forma, sigiliata et impressa in vi appetitive a ratione.” Cf. Kevin Staley, “Thomas Aquinas and Contemporary Ethics of Virtue,” *The Modern Schoolman* LXVI (1989), 291. See also ST I-II 55.1 ad 4: “When we say that virtue is the ordering of love, we refer to the end to which virtue is ordered: because love in us is set in order by virtue: *Dicendum quod virtus dicitur ordo vel ordinatio amoris, sicut id ad quod est virtus, per virtutem enim ordinatur amor in nobis.*”

<sup>34</sup> ST I-II 59.1: “Dato quod aliqua passio se habeat solum ad bonum, vel solum ad malum, secundum aliquem modum; tamen motus passionis, inquantum passio est, principium habet in ipso appetitu, et terminum in ratione, in cuius

Through virtue, the appetites are so well disposed that right reason becomes the formal cause of our appetites. Aquinas sums up the formal principle of virtue as follows:

For the formal principle of the virtue of which we speak now is good as defined by reason; which good can be considered in two ways. First as existing in the very act of reason: and thus we have one principal virtue called *prudence*. Secondly, according as the reason puts its order into something else; either into operations, and then we have *justice*; or into passions, and then we need two virtues [*temperance* and *fortitude*].<sup>35</sup>

There is thus an intimate relationship between moral virtue and the formal causality of right reason.<sup>36</sup> Every moral virtue disposes us in our appetites to acting well in accord with right reason, but in different respects. The formation of virtue, therefore, requires that we act repeatedly in accord with right reason. This is the beginning of moral development. The process continues, however, with the increase of virtue within the soul.

To understand how we increase in virtue, let us first consider what Aquinas says about the increase of any habit. Aquinas distinguishes between two types of things about which we can speak of an increase or decrease in form.<sup>37</sup> First, he mentions those forms that have their species in respect of themselves. In this case no increase of form is possible. “If, therefore, a form, or anything at all, receives its specific nature in respect of itself, or in respect of something belonging to it, it is necessary that, considered in itself,

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*conformitatem appetitus tendit. Motus autem virtutis est e converso, principium habens in ratione et terminum in appetitu, secundum quod a ratione movetur. Unde in definitione virtutis moralis dicitur, in II ethic., quod est habitus electivus in medietate consistens determinata ratione, prout sapiens determinabit.”*

<sup>35</sup> ST I-II 61.2: “*Principium enim formale virtutis de qua nunc loquimur, est rationis bonum. Quod quidem dupliciter potest considerari. Uno modo, secundum quod in ipsa consideratione rationis consistit. Et sic erit una virtus principalis, quae dicitur prudentia. Alio modo, secundum quod circa aliquid ponitur rationis ordo. Et hoc vel circa operationes, et sic est iustitia, vel circa passionem, et sic necesse est esse duas virtutes* [brackets mine].”

<sup>36</sup> As Pinckaers explains, “virtue is formed in the very experience of personal action, in the repetition of good acts, and the knowledge thus gained returns towards this concrete action as towards an end; this engenders that dynamic circular motion between knowledge, practical judgment, an active experience, which is proper to ethical science. In an ethics of the virtues, the connection between knowledge and action seems to me much closer than in an ethics of obligations or imperatives. There remains, of course, the difficulty of passing from concepts and words to the reality of acts and virtue” (‘Christ, Moral Absolutes, and the Good: Recent Moral Theology’ in *The Thomist* 55 [January 1991], 140).

<sup>37</sup> ST I-II 52. 1.

it be something of a definite nature, which can be neither more nor less.”<sup>38</sup> He gives the example of quantity or shape, and to this one could add any substance that exists *per se*. An increase or decrease in this kind of form always results in a change of form. It is impossible, for example, for human nature to be more or less human. It is impossible for a triangle to be more or less triangular, or for five to be more or less than five, and so forth.

The second kind of forms are those having their species from something to which the form is related—a term, as in the case of movement. These *can* admit increase or decrease. “But those things which receive their species from something to which they are related, can be diversified, in respect of themselves, according to more or less: and nonetheless they remain in the same species, on account of the oneness of that to which they are ordered, and from which they receive their species.”<sup>39</sup> As a form that receives its species from some term, a habit falls under this latter distinction. Aquinas also explains that any form related to acts or passions—such as moral habits—can increase or decrease.

A habit increases in two ways. The first kind of increase is according to the species of the habit itself. In this sense, a habit increases as it approaches nearer to the term proper to itself. Aquinas uses the form of health as an example. As an end, the term of health is specified by the nature of the thing about which health is spoken. When the health of an animal approaches the term that specifies the health proper to its species, we say that the health of the animal has increased. Likewise, if the health of the animal recedes somewhat from that term, we still maintain there is health in the animal, but less so. Forms that receive their species from some term can increase in another way as well,

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<sup>38</sup> ST I-II 52.1: “*Si igitur aliqua forma, vel quaecumque res, secundum seipsam vel secundum aliquid sui, sortiatur rationem speciei; necesse est quod, secundum se considerata, habeat determinatam rationem, quae neque in plus excedere, neque in minus deficere possit.*”

<sup>39</sup> ST I-II 52.1: “*Illa vero quae recipiunt speciem ex aliquo ad quod ordinantur, possunt secundum seipsa diversificari in plus vel in minus, et nihilominus sunt eadem specie, propter unitatem eius ad quod ordinantur, ex quo recipiunt speciem.*”

namely, in respect of the subject that participates in the form. In this sense, a subject participates *more* or *less* in this perfection. Science is a good example here. Some individuals are more knowledgeable than others and thus participate in the habit of science more fully.

Virtues are habits of the soul by which a person participates in the perfection proper to a human being.<sup>40</sup> Aquinas explains that, since a moral virtue *is* a perfected form proportionate to its term—insofar as it attains the good of reason—a moral virtue cannot increase in terms of itself. “Virtue cannot be more or less, as science and art can, because the nature of virtue consists in a maximum.”<sup>41</sup> The habit of justice, for example, cannot be more or less just. However, according to the second way in which a habit increases, a person may participate more or less in the form that constitutes the virtue.<sup>42</sup> Hence, moral virtue increases as we participate *more* or *less* in the form of the virtue. This increase occurs by the intensity with which we exercise the virtue—the love with which the virtue is performed—and, as indicated previously, according to the frequency with which the virtue is practiced.<sup>43</sup> This is how Aquinas explains it:

If the intensity of the act corresponds in proportion to the intensity of the habit, or even surpasses it, every such act either increases the habit or disposes to an increase thereof, if we may speak of the increase of habits as we do of the increase of an animal. For not every morsel of food actually increases the animal’s size as neither does every drop of water hollow out the stone: but the multiplication of food results at last in an increase of the body. So, too, repeated acts cause a habit to grow. If, however, the act falls short of the intensity of the habit, such an act does not dispose to an increase of that habit, but rather to a lessening thereof.<sup>44</sup>

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<sup>40</sup> ST I-II 55.1-3.

<sup>41</sup> ST I-II 66.1: “*Virtus non recipit magis et minus, sicut scientia vel ars; eo quod ratio virtutis consistit in maximo.*”

<sup>42</sup> ST I-II 52.1.

<sup>43</sup> ST I-II 66.1.

<sup>44</sup> ST I-II 52.3: “*Si igitur intensio actus proportionaliter aequetur intensioni habitus, vel etiam superexcedat; quilibet actus vel auget habitum, vel disponit ad augmentum ipsius; ut loquamur de augmento habituum ad similitudinem augmenti animalis. Non enim quodlibet alimentum assumptum actu auget animal, sicut nec quaelibet gutta cavat lapidem, sed, multiplicato alimento, tandem fit augmentum. Ita etiam, multiplicatis actibus, crescit habitus. Si vero intensio actus proportionaliter deficiat ab intensione habitus, talis actus non disponit ad augmentum habitus, sed magis ad diminutionem ipsius.*”

## 2. Law, Custom, and Moral Development

I have considered the relationship between practical reason and moral virtue so as to better pinpoint precisely how law forms habits within the appetitive powers. The key to grasping this relationship is in grasping the relationship between custom, habits, and law. To begin, Aquinas discusses the relationship between custom and habit when he defines moral virtue in question 58, article 1 of the *Prima secundae*. He explains how the term *mos* has a two-fold meaning. In the first case it simply means *custom*, as in a conventional pattern or way of doing something. In the second it refers to the *inclination* to do some specific action.<sup>45</sup> The relevant portion of his response pertains to what he says concerning the relationship between these two meanings. “Now ‘moral’ virtue is so called from ‘mos’ in the sense of a natural or quasi-natural inclination to do some particular action. And the other meaning of ‘mos,’ i.e. ‘custom,’ is akin to this: because custom becomes a second nature, and produces an inclination similar to a natural one.”<sup>46</sup> Aquinas affirms that custom becomes a second nature within us as an *inclination* to perform some particular action. This is another way of saying that custom becomes a second nature to us in the form of a habit.

The significance of this relationship between custom and habit is enhanced when we apprehend the relationship between custom and practical reason. For Aquinas, custom embodies in deeds a process of practical reasoning.

Wherefore by actions also, especially if they be repeated, so as to make a custom, law can be changed and expounded; and also something can be established which obtains the power of law, in so far as by repeated external actions, the inward

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<sup>45</sup> Jean Porter explains that, “The adjective *moralia* was coined by Cicero as a modification—meaning manner, characteristic way of acting, or sometimes ‘morality’ in our [contemporary] sense—is first attested in the late classical period. As this derivation would suggest, *moralia* refers in the first instance to matters pertaining to human practices, usages, or manners. The terms *moralia*, *moralitas*, and the like, together with the congeries of ideas, assumptions, and doctrines associated with them, begin to attract the attention of scholars around the end of the eleventh and the beginning of the twelfth centuries” (“Christian Ethics and the Concept of Morality: A Historical Inquiry,” *Journal of the Society of Christian Ethics* 26 [2006], 4-5).

<sup>46</sup> ST I-II 58.1: “*Virtus moralis a more, secundum quod mos significat quandam inclinationem naturalem, vel quasi naturalem, ad aliquid agendum. Et huic significationi moris propinqua est alia significatio, qua significat consuetudinem, nam consuetudo quodammodo vertitur in naturam, et facit inclinationem similem naturali.*”

movement of the will, and concepts of reason are most effectually declared; *for when a thing is done again and again, it seems to proceed from a deliberate judgment of reason.*<sup>47</sup>

As Etienne Gilson explains, “If custom is respectable and beneficent in the eyes of St. Thomas, it is not merely as custom, it is only so far as it concretizes and condenses a sort of practical judgment of reason which, though not cast into a worded formula, teaches by the reiterated acts of many people the actual agreement of those acts with what the people take to be good.”<sup>48</sup> I would thus suggest—though Aquinas does not state it in quite these terms—that custom habituates us because it embodies practical reasoning and facilitates the continuous practice of certain forms of activity. That is, to the extent to which we conform our free acts to custom over a given period of time, custom is capable of forming habits in us. Custom habituates us by gradually bringing our appetites into conformity with the practical reasoning that custom embodies. This presupposes, however, that we make custom a rule and measure of our acts.

To take the next step in this argument, because law is a dictate of right practical reason, it is one of the principal ways a people is accustomed to a good manner of living.<sup>49</sup> Law exercises a determinative influence over the mores of a given community. Thus, to the extent to which (just) law accustoms a people to a good manner of living, it also habituates them to virtue. The vital link between the law given and the virtues formed is the custom that law establishes. Mores conform and habituate the appetitive powers, gradually and over time, to the dictate of right reason that law intimates. That is, good customs can become a second nature within us as an *inclination* to perform virtuous actions. For example, a community accustomed by law to honesty in trade will sow the virtue of commutative justice within its citizens, such that the people are habituated to

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<sup>47</sup> ST I-II 97.3: “Unde etiam et per actus, maxime multiplicatos, qui consuetudinem efficiunt, mutari potest lex, et exponi, et etiam aliquid causari quod legis virtutem obtineat, inquantum scilicet per exteriores actus multiplicatos interior voluntatis motus, et rationis conceptus, efficacissime declaratur; cum enim aliquid multoties fit, videtur ex deliberato rationis iudicio provenire [emphasis mine].”

<sup>48</sup> Gilson, Etienne, *Moral Values and Moral Life: The Ethical Theory of St. Thomas Aquinas*, trans. Leo Richard Ward (Nottingham: The Shoe String Press, Inc., 1961), 210.

<sup>49</sup> ST I-II 97.1-3. We can invert this relationship between law and custom as well. Custom can obtain the power of law and even justify a change of law. See ST I-II 97.3.

honest practices of trading. The net effect of acting in accord with law—insofar as custom instantiates the law—is that the appetites are habituated to virtue.

I would thus offer the following conclusion: Just law habituates a people to virtue inasmuch as it establishes them in a moral tradition. Put otherwise, through the moral tradition they establish, just laws present the forms of virtue in which a people participate by their freely chosen acts. Admittedly, this has frightening implications, for if laws or customs are corrupted, they can easily habituate people in a vicious manner of life. Aquinas is thus prescient in affirming the vital dependency of virtue upon *good* laws.<sup>50</sup> Indeed, proper moral development *depends* upon a good moral tradition.

I would like to punctuate the preceding discussion with another implication of the relationship between law, custom, and virtue. Since law must legislate with a view to contingent and variable circumstances, a moral tradition is inevitably wrapped up with human history and thus bound to the contingencies of time, place, and the condition of a people. What gives objectivity to a moral tradition and insures authentic human flourishing is our participation in eternal (natural) law, which constitutes the starting point of our practical reasoning. While the ends to which God ordains us are fixed, the means to those ends are somewhat variable. Though natural law enables us to identify certain means as invariably unconducive to the human good, there remains a great deal of latitude, especially when it comes to positive law—human or divine—and the conventions employed to secure the common good within a given historical and cultural context.<sup>51</sup> What this suggests is that the virtues a moral tradition forms within us will

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<sup>50</sup> *Sententia Libri Ethicorum* X, lectio 14, cf. Thomas Hibbs, *Virtue's Splendor: Wisdom, Prudence, and the Human Good* (New York: Fordham University Press, 2001), 110.

<sup>51</sup> In her recent work, Jean Porter emphasizes this contingent nature of positive precepts, especially as this is supported in the writings of Aquinas. See her books *Natural and Divine Law: Reclaiming the Tradition for Christian Ethics* (Grand Rapids, MI: Eerdmans Publishing Company, 1999) and *Nature as Reason: A Thomistic Theory of the Natural Law* (Grand Rapids, MI: Eerdmans Publishing Co., 2005). In her article, which I cited above, “Christian Ethics and the Concept of Morality: A Historical Inquiry,” she makes the following claim: “As Aquinas observes, the moral precepts, which he identifies as different points with both natural law and the proper acts of the virtues, are very general and must be specified through either human or divine law in order to be carried out. This is a remarkable claim. It almost seems to imply that there is no



conform us to the demands of the common good as determined by the present circumstances of the community. For the most part, custom does not impose some *a priori* moral form upon a people; rather, it embodies the practical reasoning of a historically conditioned community. We see this, for example, in the varying standards of modesty throughout the world. While natural law requires modesty, it is left largely to human custom to determine what is or is not modest within a given culture. Modesty has everything to do with the interior dispositions of the people living within a given culture and how they regard bodily dress.

Moreover, the moral development of entire peoples involves a learning process. Over time, it is possible that the laws establishing a moral tradition change in order to accommodate an increased awareness of what conduces to the human good or a change in the character of the people. This is especially true of human law Aquinas tells us:

Human law is a dictate of reason, whereby human acts are directed. Thus there may be two causes for the just change of human law: one on the part of reason, the other on the part of man whose acts are regulated by law. The cause on the part of reason is that it seems natural to human reason to advance gradually from the imperfect to the perfect . . . for those who first endeavored to discover something useful for the human community, not being able by themselves to take everything into consideration, set up certain institutions which were deficient in many ways; and these were changed by subsequent lawgivers who made institutions that might prove less frequently deficient in respect of the common weal. On the part of man, whose acts are regulated by law, the law can be rightly changed on account of the changed condition of man, to whom different things are expedient according to the difference of his condition.<sup>52</sup>

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need, and no place, for the independent operation of a [universal] moral law in our normative judgments, prior to or apart from the specifications provided by divine or human laws, customs, and practices. In fact, I believe Aquinas' position is more complex than that—but the very fact that he suggests such a reading is a sign of the distance between the Scholastics' conception of morality and our own" (15). The "distance" to which Porter refers results from attempts (within modernity) to construct a universal and normative ethics that somehow transcends the contingencies of history and culture. This represents, in Porter's view, a different approach to ethics than the scholastic one, even while there are, she admits, some similarities. The question she leaves unaddressed is whether Aquinas attributes to natural law any universally binding and sufficiently determinative norms, which do transcend the positive specifications of a given moral tradition. Are the precepts of the Decalogue pertaining to love of neighbor, for example—not necessarily their sequence, but their content—proper only to the Judeo-Christian heritage? I would argue that, for Aquinas, natural law is universal in some of its specifications; acts such as murder, stealing, and adultery are always contrary to the human good.

<sup>52</sup> ST I-II 97.1: "*Lex humana est quoddam dictamen rationis, quo diriguntur humani actus. Et secundum hoc duplex causa potest esse quod lex humana iuste mutetur, una quidem ex parte rationis; alia vero ex parte hominum, quorum actus lege regulantur. Ex parte quidem rationis, quia humanae rationi naturale esse videtur ut gradatim ab imperfecto ad perfectum perveniat. Unde videmus in scientiis speculativis quod qui primo philosophati sunt, quaedam imperfecta tradiderunt, quae*

This process of accommodation, however, is not without some ultimate measure, for natural law circumscribes our actual possibilities for human flourishing. As we shall see later, this need for accommodation is relevant even to divine law. In the mean time, we need to consider one virtue in particular that has a unique relationship to law—the virtue of obedience.

### C. The Virtue of Obedience

In justice, what does a subject owe his superior? For Aquinas, the answer is obedience. Aquinas explains that the proper object of the virtue of obedience is a precept. In fact, we have the duty to obey a command *because it is commanded*. Such obedience is preeminent among the duties we owe superiors. Aquinas states,

Obedience, like every virtue, requires the will to be prompt towards its proper object, but not towards that which is repugnant to it. Now the proper object of obedience is a precept and this proceeds from another's will. Wherefore obedience makes a man's will prompt in fulfilling the will of another, the maker, namely, of the precept.<sup>53</sup>

He goes on to argue that,

Obedience perishes or diminishes when it holds its own in agreeable matters, because to wit, one's own will seems to tend principally, not to the accomplishment of the precept, but to the fulfillment of one's own desire; but that it increases in disagreeable or difficult matters, because there one's own will tends to nothing beside the precept.<sup>54</sup>

In other words, one ought to obey a precept simply because it expresses the will of a superior.

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*postmodum per posteriores sunt magis perfecta. . . . Nam primi qui intenderunt invenire aliquid utile communitati hominum, non valentes omnia ex seipsis considerare, instituerunt quaedam imperfecta in multis deficientia quae posteriores mutaverunt, instituentes aliqua quae in paucioribus deficere possent a communi utilitate. Ex parte vero hominum, quorum actus lege regulantur, lex recte mutari potest propter mutationem conditionum hominum, quibus secundum diversas eorum condiciones diversa expediunt.*"

<sup>53</sup> ST II-II 104.2 ad 3: "Obedientia, sicut et quaelibet virtus, debet habere promptam voluntatem in suum proprium obiectum, non autem in id quod repugnans est ei. Proprium autem obiectum obedientiae est praeceptum, quod quidem ex alterius voluntate procedit. Unde obedientia reddit promptam hominis voluntatem ad implendam voluntatem alterius, scilicet praecipientis."

<sup>54</sup> ST II-II 104.2 ad 3: "Obedientia quae habet aliquid de suo in prosperis, est nulla vel minor, quia scilicet voluntas propria non videtur principaliter tendere ad implendum praeceptum, sed ad assequendum proprium volitum, in adversis autem vel difficilibus est maior, quia propria voluntas in nihil aliud tendit quam in praeceptum."

In these texts it seems difficult, if not impossible, to defend Aquinas against a voluntaristic interpretation of obedience or a critique of authority as being nothing but a stultifying impediment to liberty. On a superficial reading of Aquinas, the virtue of obedience also seems formalistic, in that obedience becomes virtuous only on those occasions when what is commanded is repugnant to our desires. Moreover, the virtue of obedience seems to oblige submission to another's will, for its own sake, as an end in itself. If we keep in mind a Thomistic account of rational agency, however, we can see that Aquinas supposes much more than we might gain by a superficial reading of these texts.

In another article of the same question concerning the virtue of obedience, Aquinas makes the claim that, "Obedience deserves praise because it proceeds from charity." He continues, "obedience should be practiced, not out of servile fear, but from a sense of charity, not through fear of punishment, but through love of justice."<sup>55</sup> That is, love informs true obedience; therefore, we ought to seek in our acts of obedience to fulfill a precept simply because we love the one who gives the command. Aquinas goes so far as to argue that it is meritorious to deny ourselves in obedience to God's will because in obedience charity is perfected:

Hence Gregory says (Moral. xxxv) that 'obedience is rightly preferred to sacrifices, because by sacrifices another's body is slain whereas by obedience we slay our own will.' Wherefore even any other acts of virtue are meritorious before God through being performed out of obedience to God's will. For were one to suffer even martyrdom, or to give all one's goods to the poor, unless one directed these things to the fulfillment of the divine will, which pertains directly to obedience, they could not be meritorious: as neither would they be if they were done without charity, which cannot exist apart from obedience. For it is written (1 Jn. 2:4,5): 'He who saith that he knoweth God, and keepeth not His commandments, is a liar . . . but he that keepeth His word, in him in very deed the charity of God is perfected': and this because friends have the same likes and dislikes.<sup>56</sup>

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<sup>55</sup> ST II-II 104.3: "*obedientia habet laudem ex eo quod ex caritate procedit. . . . obedientia non servili metu, sed caritatis affectu servanda est, non timore poenae, sed amore iustitiae.*"

<sup>56</sup> ST II-II 104.3: "*Unde Gregorius dicit, in ult. Moral., quod obedientia victimis iure praeponitur, quia per victimas aliena caro, per obedientiam vero voluntas propria mactatur. Unde etiam quaecumque alia virtutum opera ex hoc meritoria sunt apud deum quod sint ut obediatur voluntati divinae. Nam si quis etiam martyrium sustineret, vel omnia sua pauperibus*

Let us return for a moment, then, to the question Fr. Pinckaers raises, which I quoted in the introduction—“Is it love or is it obedience to obligations [that constitutes the foundation supporting morality]?” The answer would have to be both, at least on Thomistic grounds.<sup>57</sup>

Yet, in reflecting on the above passages from Aquinas on obedience, how are we to understand the relationship between love and obedience? To begin, we must observe that, for Aquinas, what any good ruler wills *qua* ruler is that certain things be done or avoided for the sake of the common good. True governance proceeds from knowledge and love for the proper good of the subjects. For the sake of those they govern, such rulers thus order their subjects to certain ends that these might attain some perfection proper to them by doing what the law prescribes. The implication of this fact is that a good ruler stands to his subjects as a principle of blessing for those entrusted to his care. The obedience owed to such a personage is rooted in the fact that a subject is the beneficiary of the ruler’s solicitude. Aquinas puts the matter as follows:

It belongs to persons in positions of dignity to govern subjects. Now to govern is to move certain one’s to their due end. . . . But every mover has a certain excellence and power over that which is moved. Wherefore, a person in a position of dignity is an object of twofold consideration: first in so far as he obtains excellence of position, together with a certain power over subjects: secondly, as regards the exercise of his government. In respect of his excellence there is due to him honor, which is the recognition of some kind of excellence; and in respect of the exercise of his government, there is due to him service, by obeying his commands, and by repaying him, according to one’s faculty, for the

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*erogaret, nisi haec ordinaret ad impletionem divinae voluntatis, quod recte ad obedientiam pertinet, meritoria esse non possent, sicut nec si fierent sine caritate, quae sine obedientia esse non potest. Dicitur enim I Ioan. II, quod qui dicit se nosse deum, et mandata eius non custodit, mendax est, qui autem servat verba eius, vere in hoc caritas Dei perfecta est. Et hoc ideo est quia amicitia facit idem velle et nolle.”*

<sup>57</sup> Pinckaers seems to suggest in the text I quoted that charity and obedience are mutually exclusive. To be fair to his intention, however, the kind of obedience he speaks of is one directed to obligation, as such, and not to one who has rightful authority over us. He names this species of obedience “legal obedience,” which is not a term Aquinas uses. The implication of Pinckaers’s term is that it is erroneous to base the moral life on so weak a foundation as “obligation to duty,” for then charity, indeed, has no place in morality proper. Our ultimate obligation is to the good, which obliges us by its own inner truth and gives rise to love as a movement of the soul toward that which is good. It is the purpose of law to direct us to such goods. Faithful to Aquinas, therefore, virtue-ethics can legitimately oppose itself to an ethics of obligation, but never to law and obedience as such; for as Aquinas maintains, virtue is not possible without some form of law. It is his teaching on the *virtue* of obedience that most exemplifies this point. As we shall see, the virtue of obedience is the very actualization of this love within the soul.

benefits we receive from him.<sup>58</sup>

This text illumines why we ought, in justice, to obey a precept. It is just and proper to obey those who direct us to a good end. Obedience is the primary way we fulfill our duty toward those who have care of us.

Yet there is more. As Aquinas indicates, the *virtue* of obedience is the fruit of mature love, a love that disposes us to denying our own will (our private wishes) for the sake of the common good. It represents a kind of terminus in the development of moral character, which, for most, begins in the obedience that proceeds from the fear of punishment. Hence, while obedience is what we owe in justice to those in authority over us, the virtue of obedience goes further, in that it proceeds from the love we have for such persons. This suggests that loving obedience is essential to moral perfection. Obedience without love—from the fear of punishment—represents a weak foundation for the moral life, one that is fundamentally juvenile. As Pinckaers frames the question, if the alternative is between juvenile obedience and love, the obvious preference is for love. However, for Aquinas love and obedience are intended to be coterminous—for only in practicing obedience out of love do we definitively declare where our ultimate good actually lay. In this sense, obedience is a perfection or fullness of love. The man who cannot obey or finds it difficult to obey is the one whose love for the good is weak and wavering. Obedience is love's natural expression as regards those who are superior to us in position. Because this relationship between love and obedience is so important, however, we will need to return to it in chapter four.

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<sup>58</sup> ST II-II 102.2: “*Ad eos qui sunt in dignitate constituti pertinet gubernare subditos. Gubernare autem est movere aliquos in debitum finem, . . . Omne autem movens habet excellentiam quandam et virtutem supra id quod movetur. Unde oportet quod in eo qui est in dignitate constitutus, primo consideretur excellentia status, cum quadam potestate in subditos; secundo, ipsum gubernationis officium. Ratione igitur excellentiae, debetur eis honor, qui est quaedam recognitio excellentiae alicuius. Ratione autem officii gubernationis, debetur eis cultus, qui in quodam obsequio consistit dum scilicet aliquis eorum obedit imperio, et vicem beneficiis eorum pro suo modo rependit.*”

## *Conclusion*

From the standpoint of moral pedagogy, law not only forms our practical reasoning, it also accustoms our appetitive powers to habits of virtue. This habituation occurs precisely because law moves us in the order of formal, and not efficient, causality. In other words, the habituating effect of law is possible as a result of the voluntary structure of rational agency. The formation of moral habits depends especially upon our free-decision, which insures that our law-abiding acts proceed through the mediation of practical reason. In fact, by our free acts of obedience we can assimilate into our appetitive powers the moral forms law embodies. This explains why our participation in a moral tradition is formative of our character. As a moral tradition forms us, our participation in that tradition enables us to increase our participation in the moral forms (virtues) the tradition embodies. The net effect of this process is that, through custom, law brings our affections into conformity with the order of right reason. The ultimate fruit of this process is the right ordering of love within the appetites, which finds its crowning fulfillment in the virtue of obedience.

## *Punishment as Moral Pedagogy*

The power to inflict punishment presents a formidable objection to the pedagogical character of law explicated thus far.<sup>1</sup> The legitimacy of coercive power—as it inheres in rightful authority—gives rise to important questions, not least of which is whether the fear of punishment coerces the will in the act of obedience. To probe adequately the pedagogical function of punishment in moral development, we must pause to consider Aquinas’ understanding of the passion of fear and its effect on the voluntary character of human action. Aquinas distinguishes between two kinds of obedience, one in which a person obeys from fear of punishment, the other in which obedience proceeds from the love a son has for a father, which he calls filial fear.<sup>2</sup> Consequent to this distinction, Aquinas suggests that the fear of punishment can give rise to a moral transformation wherein we move from *servile* fear to *filial* fear, a development of moral character facilitated by the pedagogical role of punishment itself.

As an initial observation, we act in filial fear when our acts of obedience proceed from a love for the ultimate good to which law directs us. The one caveat, however, is that we must love this good as a *bonum honestum*, as a final cause, namely, in its diffusiveness or communicability as a final cause and not merely as a *bonum utile*, i.e. a means to our own private good. In one text, Aquinas argues that, “The part does indeed loves the good of the whole, as becomes a part, not however so as to refer the good of

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<sup>1</sup> For an excellent study that compares Aquinas’ treatment of political coercion to that of liberalism and communitarianism, see E.A. Goerner and Walter J. Thompson, “Politics and Coercion,” *Political Theory* 24 (1996), 620-52.

<sup>2</sup> ST II-II 22.2.

the whole to itself, but rather itself to the good of the whole.”<sup>3</sup> Within the context of divine law, this *bonum honestum* is God Himself.<sup>4</sup> Hence, an authentic filial fear requires us to order our love to the common good (especially God), as to an end. This is the proper disposition for the virtue of obedience.<sup>5</sup>

In brief, punishment completes the pedagogical character of law by providing a means for disciplining the appetites when they incline us to evil. Aquinas cites Augustine and acknowledges that we do not always do what we know. “Sometimes we understand [what is right] while desire is slow, or follows not at all,” to which Aquinas adds, “insofar as the habits or passions of the appetitive faculty cause the use of reason to be impeded in some particular action.”<sup>6</sup> As members of a community, then, we need some external incentive structure to enable us to act despite how we might feel in regard to what the law prescribes or forbids.

The question, therefore, is this: How does punishment direct our affections to the common good, such that our love becomes filial in nature? Ironically, it seems that it does this at the most primary level by appealing initially to our inordinate self-love. Aquinas describes it thus:

As in speculative sciences men are persuaded to assent to the conclusions by means of syllogistic arguments, so too in every law, men are persuaded to observe its precepts by means of punishments and rewards. Now it is to be observed that, in speculative sciences, the means of persuasion are adapted to the

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<sup>3</sup> ST II-II 26.3 ad 2: “*Bonum totius diligit quidem pars secundum quod est sibi conveniens, non autem ita quod bonum totius ad se referat, sed potius ita quod seipsam refert in bonum totius.*”

<sup>4</sup> ST I-II 109.3: “Now to love God above all things is natural to man and to every nature, not only rational but irrational, and even to inanimate nature according to the manner of love which can belong to each creature. And the reason of this is that it is natural to all to seek and love things according as they are naturally fit (to be sought and loved) since ‘all things act according as they are naturally fit’ as stated in Phys. ii, 8. Now it is manifest that the good of the part is for the good of the whole; hence everything, by its natural appetite and love, loves its own proper good on account of the common good of the whole universe, which is God: *Diligere autem deum super omnia est quiddam connaturale homini; et etiam cuilibet creaturae non solum rationali, sed irrationali et etiam inanimatae, secundum modum amoris qui unicuique creaturae competere potest. Cuius ratio est quia unicuique naturale est quod appetat et amet aliquid, secundum quod aptum natum est esse, sic enim agit unumquodque, prout aptum natum est, ut dicitur in II physic. Manifestum est autem quod bonum partis est propter bonum totius. Unde etiam naturali appetitu vel amore unaquaeque res particularis amat bonum suum proprium propter bonum commune totius universi, quod est Deus.*”

<sup>5</sup> ST I-II 55.1 ad 4; ST I-II 62.2 ad 3.

<sup>6</sup> ST I-II 58.2: “*Interdum praecedit intellectus, et sequitur tardus aut nullus affectus, intantum quod quandoque passionibus vel habitibus appetitivae partis hoc agitur, ut usus rationis in particulari impediatur.*”



conditions of the pupil: wherefore the process of argument in sciences should be ordered becomingly, so that the instruction is based on principles more generally known. And thus also he who would *induce* a man to the observance of any precepts, needs to move him at first by things for which he has an affection; just as children are provoked to do something, by means of little childish gifts.<sup>7</sup>

In short, the incentive of punishment persuades the viciously inclined to do the good that law prescribes, such that it may eventually accustom them to the good of virtue. “From becoming accustomed to avoid evil and fulfill what is good, through fear of punishment, one is sometimes led on to do likewise, with delight and of one’s own accord. Accordingly, law, even by punishing, leads men on to being good.”<sup>8</sup>

In what follows, I will investigate the nature of punishment<sup>9</sup> and show that punishment presupposes the voluntary structure of rational agency in the act of obedience. More importantly, punishment plays an indispensable role in bringing us to virtue. In effect, the fear of punishment provides a vital bridge between an inordinate love of self and a self-perfecting love for the common good. Punishment has the salutary effect of humbling us and disposing us to direct our acts to the common good. To explore the pedagogical function of punishment, I will address three matters. The first is the passion of fear and its effect on the voluntary character of human action. The second is a careful explication of Aquinas’ distinction between servile and filial fear. By this distinction, I will show how servile obedience is transformed into the virtue of obedience, whereby a fearful servant becomes like a son who acts from a self-perfecting

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<sup>7</sup> ST I-II 99.6: “*Sicut in scientiis speculativis inducuntur homines ad assentiendum conclusionibus per media syllogistica, ita etiam in quibuslibet legibus homines inducuntur ad observantias praeceptorum per poenas et praemia. Videmus autem in scientiis speculativis quod media proponuntur auditori secundum eius conditionem, unde oportet ordinate in scientiis procedere, ut ex notioribus disciplina incipiat. Ita etiam oportet eum qui vult inducere hominem ad observantiam praeceptorum, ut ex illis eum movere incipiat quae sunt in eius affectu, sicut pueri provocantur ad aliquid faciendum aliquibus puerilibus munusculis* [emphasis mine].”

<sup>8</sup> ST I-II 92.2 ad 4: “*Per hoc quod aliquis incipit assuefieri ad vitandum mala et ad implendum bona propter metum poenae, perducitur quandoque ad hoc quod delectabiliter et ex propria voluntate hoc faciat. Et secundum hoc, lex etiam puniendo perducit ad hoc quod homines sint boni.*”

<sup>9</sup> For an exhaustive study of punishment in the thought of Aquinas, see George Quentin Friel, O.P., “Punishment in the Philosophy of Saint Thomas Aquinas and Among Some Primitive Peoples,” doctoral dissertation, The Catholic University of America, 1939, published in *The Catholic University of America Philosophical Studies* XLVII (Washington D.C.: The Catholic University Press of America, 1939).

love for the common good. My third objective is to expound the salutary effects of punishment on the development of moral character.

### *A. Fear and Voluntary Agency*

Aquinas explains how the passion of fear has some future evil for its object. We fear this future evil because we perceive it as difficult and irresistible.<sup>10</sup> The passion of fear arises in the heart as a movement away from a perceived threat or evil of some magnitude. Aquinas explains, however, that while the object of fear is a perceived evil, this repulsion or withdrawal of the heart is rooted in the passion of desire. Evil is the privation of good, and thus, what elicits the passion of fear is the apprehension of something as standing between the good I desire and myself. “[Evil] is shunned because it deprives one of the private good one pursues through love thereof . . . and in this sense, there is no cause of fear save the loss of the good we love.”<sup>11</sup> This fear of evil is twofold. We fear both the evil from which we shrink, and also the source of the evil itself.<sup>12</sup> This provides us with a sufficient account of the affective disposition of a vicious or unwilling subject toward his ruler. He fears both the punishment given and the one by whom the punishment is given. Note, however, that any just punishment a rightful civil authority administers is a physical evil, and never a moral one.

#### *1. Acting in Fear*

The issue to address next is whether a person acting in fear acts voluntarily. Aquinas answers in the affirmative, but he qualifies his answer with a crucial distinction. When he discusses the voluntariness of human actions, he states that actions done from fear are of a mixed character.<sup>13</sup> Acts performed in fear are voluntary, simply speaking, but

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<sup>10</sup> ST I-II 41.2.

<sup>11</sup> ST I-II 42.1: “*Fugiatur malum quia malum est, sequitur ut fugiatur quia privat bonum quod quis amando prosequitur. . . . nulla est causa timendi, nisi ne amittatur bonum amatum.*”

<sup>12</sup> ST II-I 19.1.

<sup>13</sup> ST I-II 6.6.

involuntary in a certain respect. To clarify, he distinguishes between the act in itself and that, in particular, which we do from fear. The act in itself is voluntary because it proceeds from an interior principle of knowledge, namely, the knowledge of some evil we wish to avoid, or, conversely, the good we might lose if we do not avoid the evil. The act is involuntary, however, insofar as *what* we do from fear is contrary to our will. As an example borrowed from Aristotle, Aquinas mentions a captain compelled to throw precious cargo overboard to avoid sinking. The act of throwing the cargo overboard is voluntary because the will to do so proceeds from the knowledge that failure to do so will result in the evil of death. The captain acts for the good of saving his life and those of his crew. However, inasmuch as he does not wish to lose his precious cargo, the act is involuntary, for it is contrary to his will to throw the cargo overboard. He chooses to do so, however, because he loves the good of life more than the cargo and so acts accordingly.

Aquinas makes a helpful distinction that clarifies the mixed character of acts born of fear. He argues that the proper act of the will can never be coerced, even while the acts the will commands can be.<sup>14</sup>

The involuntary [violence] is opposed to the voluntary. Now . . . not only the act that proceeds immediately from the will is called voluntary, but also the act commanded by the will. Consequently, as to the act that proceeds immediately from the will, violence cannot be done . . . wherefore violence cannot make that act involuntary. But as to the commanded act, the will can suffer violence: and consequently in this respect violence causes involuntariness.<sup>15</sup>

In a restricted sense, I am coerced if I am commanded to do something repugnant to my will. Nevertheless, according to what Aquinas states about acts performed in fear, such acts are still more voluntary than involuntary. “What is done out of fear is essentially

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<sup>14</sup> ST I-II 6.4.

<sup>15</sup> ST I-II 6.5 ad 1: “*Involuntarium voluntario opponitur. . . . autem supra quod voluntarium dicitur non solum actus qui est immediate ipsius voluntatis, sed etiam actus a voluntate imperatus. Quantum igitur ad actum qui est immediate ipsius voluntatis . . . violentia voluntati inferri non potest, unde talem actum violentia involuntarium facere non potest. Sed quantum ad actum imperatum, voluntas potest pati violentiam. Et quantum ad hunc actum, violentia involuntarium facit.*”

voluntary because its principle is within.”<sup>16</sup> Thus, we can distinguish actions done from fear of punishment from acts that are entirely coerced. A purely coerced act is involuntary, simply speaking, precisely because the principle of the act is altogether external to the agent. Aquinas explains the matter as follows:

Things done through fear and compulsion differ [in] that the will does not consent, but is moved entirely counter to that which is done through compulsion: whereas what is done through fear, becomes voluntary because the will is moved towards it, albeit not for its own sake, but on account of something else, that is, in order to avoid an evil which is feared. For the conditions of a voluntary act are satisfied, if it be done on account of something else voluntary: since the voluntary is not only what we wish for its own sake, as an end, but also what we wish for the sake of something else, as an end. It is clear, therefore, that in what is done from compulsion, the will does nothing inwardly; whereas in what is done through fear, the will does something. Accordingly, as Gregory of Nyssa says, in order to exclude things done through fear, a violent action is defined as not only one, *the principle whereof is from without*, but with the addition, *in which he that suffers violence concurs not at all*; because the will of him that is in fear does concur somewhat in that which he does through fear.<sup>17</sup>

We can grasp this distinction by seeing that an act done in fear is an act chosen because it is judged to be good in some respect. By it we attain some good (or preserve it) by avoiding some evil. An entirely coerced act, however, does not have this quality, since it is not voluntary in any respect.

## 2. Acting from the Fear of Punishment

In applying Aquinas’ account of fear and voluntariness to the question of punishment, we can see that an act of obedience done out of fear of punishment is essentially a voluntary action, since some good is willed and chosen through the avoidance of some evil. However, a punishment suffered is entirely coerced inasmuch

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<sup>16</sup> ST I-II 6.6: “Unde manifestum est quod simpliciter voluntarium est. Unde et competit ei ratio voluntarii, quia principium eius est intra.”

<sup>17</sup> ST I-II 6.6 ad 1: “Ea quae aguntur per metum et per vim, non solum differunt secundum praesens et futurum, sed etiam secundum hoc, quod in eo quod agitur per vim, voluntas non consentit, sed omnino est contra motum voluntatis, sed id quod per metum agitur, fit voluntarium, ideo quia motus voluntatis fertur in id, licet non propter seipsum, sed propter aliud, scilicet ad repellendum malum quod timetur. Sufficit enim ad rationem voluntarii quod sit propter aliud voluntarium, voluntarium enim est non solum quod propter seipsum volumus ut finem, sed etiam quod propter aliud volumus ut propter finem. Patet ergo quod in eo quod per vim agitur, voluntas interior nihil agit, sed in eo quod per metum agitur, voluntas aliquid agit. Et ideo, ut Gregorius Nyssenus dicit, ad excludendum ea quae per metum aguntur, in definitione violenti non solum dicitur quod violentum est cuius principium est extra, sed additur, nihil conferente vim passo, quia ad id quod agitur per metum, voluntas timentis aliquid confert.”

as that suffering is entirely unwilling. The necessity involved in being punished is what Aquinas would call the necessity of coercion:

On the part of the agent, a thing must be, when someone is forced by some agent, so that he is not able to do the contrary. This is called ‘necessity of coercion.’ Now this necessity of coercion is altogether repugnant to the will. For we call that violent which is against the inclination of a thing. But the very movement of the will is an inclination to something. Therefore, as a thing is called natural because it is according to the inclination of nature, so a thing is called voluntary because it is according to the inclination of the will. Therefore, just as it is impossible for a thing to be at the same time violent and natural, so it is impossible for a thing to be absolutely coerced or violent, and voluntary.<sup>18</sup>

If, for example, I unwillingly serve time for murder, my serving time is entirely coerced because I am unable to do otherwise; I am simply forced to do so. Whereas, when I act in obedience to law from *fear* of punishment, I do act in some way, namely, by willing the good I wish to secure. The desire for this good proceeds from within me by means of my own apprehension of it. In a moment, we will see how the different species of fear are oriented to different species of goods.

In light of these reflections, whenever Aquinas speaks of the coercive nature of law, or the coercive discipline of law, he is always referring either to the restricted voluntariness that inheres in an act of obedience born of fear or to punishment itself. For example, he states that, “Every law is given to a people,” some of whom, because they are prone to evil, “have to be coerced by the precepts of the law . . .”<sup>19</sup> In a text we have seen already, he states, “Men who are well disposed are led willingly to virtue by being admonished better than by coercion: but men who are evilly disposed are not led to virtue *unless they are compelled*.”<sup>20</sup> By such statements, Aquinas does not mean that

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<sup>18</sup> ST I 82.1: “*Ex agente autem hoc alicui convenit, sicut cum aliquis cogitur ab aliquo agente, ita quod non possit contrarium agere. Et haec vocatur necessitas coactionis. Haec igitur coactionis necessitas omnino repugnat voluntati. Nam hoc dicimus esse violentum, quod est contra inclinationem rei. Ipse autem motus voluntatis est inclinatio quaedam in aliquid. Et ideo sicut dicitur aliquid naturale quia est secundum inclinationem naturae, ita dicitur aliquid voluntarium quia est secundum inclinationem voluntatis. Sicut ergo impossibile est quod aliquid simul sit violentum et naturale; ita impossibile est quod aliquid simpliciter sit coactum sive violentum, et voluntarium.*”

<sup>19</sup> ST I-II 101.3: “*Omnis lex alicui populo datur. In populo autem duo genera hominum continentur, quidam proni ad malum, qui sunt per praecepta legis coercendi . . .*” See also ST I-II.100.9.

<sup>20</sup> ST I-II 95.1 ad 1: “*Homines bene dispositi melius inducuntur ad virtutem monitionibus voluntariis quam coactione, sed quidam male dispositi non ducuntur ad virtutem nisi cogantur.*”

obedience is entirely involuntary—that the fear of punishment coerces us to act, simply speaking. To the contrary, such acts are essentially voluntary, but involuntary in a certain respect only, that is, inasmuch as what is commanded is distasteful. Law cannot coerce a subject to act, simply speaking, for this is impossible. Rather, a morally undeveloped individual is induced by the fear of punishment to do (or avoid) *this* or *that* in opposition to his particular wishes. His doing (or avoiding) it, however, is voluntary. If this were not the case, attempts to accustom a subject to virtue through the fear of punishment would be entirely futile. Servile obedience can become filial obedience only because servile acts presuppose the voluntary structure of rational agency.

In summary, the question is not whether it is just for rightful authority to punish. Punishments are necessary for securing the common good against those who have no regard for it.<sup>21</sup> Justice demands it.<sup>22</sup> The question is whether law coerces a person to act, simply speaking. The answer, as we have seen, is no. The pedagogical function of punishment presupposes the voluntary structure of rational agency. Moreover, moral discipline requires punishment, especially for those ill inclined to the common good.

### *B. Two Kinds of Fear*

Now that I have differentiated between the voluntary and involuntary in regard to punishment, I must address a further distinction Aquinas makes concerning voluntary acts born of fear. “Fear is twofold, servile and filial. Now just as man is induced, by the hope of rewards, to observe precepts of law, so too is he induced thereto by the fear of punishment, which fear is servile.”<sup>23</sup> The distinction between servile and filial fear hinges

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<sup>21</sup> ST II-II 108.1.

<sup>22</sup> A just punishment suffered against one’s will is justified if the disobedience itself is voluntary and if a lawful authority executes the punishment. See ST II-II 66.8.

<sup>23</sup> ST II-II 22.2: “*Duplex est timor, scilicet servilis et filialis. Sicut autem aliquis inducitur ad observantiam praeceptorum legis per spem praemiorum, ita etiam inducitur ad legis observantiam per timorem poenarum, qui est timor servilis.*” R.W. Southern explains that the distinction between servile and filial fear was developed during the

upon the differing ways a person is subject to another. Aquinas argues for two possibilities. A person is subject to another as “the regulated is to the regulator” or as the “coerced is subject to the coercer.”<sup>24</sup> In the first instance, the will is in harmony with the law because one does what the law prescribes of one’s own accord. As we shall see, this kind of obedience is rooted in filial fear. In the second instance, the will is discordant with the law, and so one fulfills the law from fear of punishment. This kind of obedience is rooted in servile fear. What we will see is how these differing acts of obedience are informed by different species of love.

### 1. Servile Fear

In both servile and filial fear, the motivation is self-love. We can compare them, however, as imperfect self-love is compared to self-perfecting love. What motivates servile obedience is the evil one will suffer for not obeying. One acts in conformity with the law for fear of losing a good loved more than the good obtained by breaking the law. Such persons do not act from a habit of virtue.

Now some who do not have affection for virtue are prevented from committing sin, through fear of losing those things which they love more than those they obtain by sinning, else fear would be no restraint to sin. Consequently, vindication for sin should be taken by depriving a man of what he loves most. Now the things that man loves most are life, bodily safety, his own freedom, and external goods such as riches, his country, and glory.<sup>25</sup>

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scholastic period in response to several Scripture verses on fear that seemed contradictory. To illustrate, Southern presents the following as examples of what scholastics termed filial fear: ‘The fear of the Lord is the beginning of wisdom’ (Proverbs 1:7); ‘The fear of the Lord endures forever’ (Psalm xix [xviii]:10). As examples of servile fear, Southern mentions these: ‘Perfect love casts out all fear’ (1 John 4:18); ‘He that fears is not perfect in love’ (1 John 4:18). The importance of this historical note is that, while descriptive of natural human experience, the distinction between servile and filial fear resolved a theological and not a philosophical problem, which medieval theologians faced. *Scholastic Humanism and the Unification of Europe*, vol. 1 (Oxford: Blackwell, 1995), 126-131. My inclusion of this distinction in the present (philosophical) analysis is intended to illuminate the different kinds of fear that, indeed, motivate human action even on a natural level. For example, a child can obey his parents from either filial or servile fear, depending upon the love informing the act of obedience.

<sup>24</sup> ST I-II 96.5: “*sicut regulatum regulae . . . sicut coactum cogenti.*”

<sup>25</sup> ST II-II 108.3: “*Cohibentur autem aliqui a peccando, qui affectum virtutis non habent, per hoc quod timent amittere aliqua quae plus amant quam illa quae peccando adipiscuntur, alias timor non compesceret peccatum. Et ideo per subtractionem omnium quae homo maxime diligit, est vindicta de peccatis sumenda. Haec sunt autem quae homo maxime diligit, vitam, incolumitatem corporis, libertatem sui, et bona exteriora, puta divitias, patriam et gloriam.*” In concert with recent magisterial teaching, we must recognize the limits that human dignity places on the forms of punishment that civil rulers are permitted (by the moral law) to administer. This aspect of Christian

We might say that servile fear is called “servile” precisely because one has a servile attachment to some earthly good, which renders the ruler-subject relationship akin to a master-servant relationship. Yet, for Aquinas (as we have seen) a master moves a servant without negating the servant’s liberty. “Human servants or subjects in any sense are moved by the commands of others in such a way that they move themselves by their free decision.”<sup>26</sup> What moves the unwilling subject is the fear of losing some private good. Furthermore, this fear of loss has its basis in our natural inclination to the good of self-preservation.<sup>27</sup>

The motive of an unwilling subject, therefore, is the love he has for his private good, a love that happens to be inordinate. In one text Aquinas actually describes sin as a clinging to one’s private good: “In the state of corrupt nature man falls short in the appetite of his rational will, which, unless it is cured by God’s grace, follows its private good, on account of the corruption of nature.”<sup>28</sup> Nevertheless, let us not lose the pejorative sense of the term *servile* in reference to this kind of obedience. It is not that a subject is a servant to his ruler. Rather, he is a slave to his private good and thus, in order to secure the common good, he must be treated like a servant (a minor), through being induced to act by external incentive structures. What makes such persons *servile* is that they are motivated only by external incentives. They have lost their freedom—so to speak—because of their disorder and not because those in authority have violated it. On Thomistic grounds, therefore, the motive structure that the threat of punishment establishes is a ruler’s accommodation to the moral depravity of the subject who is unwilling to seek the common good before his private good. A ruler moves his subjects

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teaching has developed significantly since the time of Aquinas. Nevertheless, Aquinas’ insight into the psychology of punishment remains quite valid. See *Catechism of the Catholic Church*, nos. 2266-67.

<sup>26</sup> ST II-II 50.2: “*Sed homines servi, vel quicumque subditi, ita aguntur ab aliis per praeceptum quod tamen agunt seipsos per liberum arbitrium.*”

<sup>27</sup> See ST I-II 94.2.

<sup>28</sup> ST I-II 109.3: “*Sed in statu naturae corruptae homo ab hoc deficit secundum appetitum voluntatis rationalis, quae propter corruptionem naturae sequitur bonum privatum, nisi sanetur per gratiam Dei.*”



to the common good by appealing to the private goods a subject loves naturally, such as his property and his wealth. This accommodation in no way negates the voluntariness of servile obedience—it presupposes it.

We can observe the voluntariness characteristic of servile fear by examining the practical reasoning involved in such acts. The act of servile obedience proceeds from a judgment of practical reason, wherein the subject concludes that punishment is an evil to be avoided for the sake of some intended good. The following illustration clarifies the matter:

<b>Major Premise (end):</b>	Wealth is good and to be preserved OR Losing wealth needlessly is evil and to be avoided.
<b>Minor Premise (means):</b>	Speeding will cost me a fine (if I am caught).
<b>Conclusion:</b>	This speeding is to be avoided.

*Figure 9*

In this example, the individual would reject speeding and obey the law, assuming he truly adheres to this conclusion in the practical and not simply in the speculative domain. This is what Aquinas means when he states that, “Those who as yet are not endowed with virtuous habits are directed to the performance of virtuous acts by reason of some outward cause: for instance, the threat of punishment, or the promise of some extrinsic rewards, such as honor, riches, or the like.”<sup>29</sup> The mistake we might make in reading this text, however, is to assume that the “cause” referred to here is an *efficient* cause, namely, violence. To the contrary, the cause invoked is a formal cause, namely, a perceived good the person loves, which he voluntarily chooses to (at least) preserve by means of his obedience. What is “outward” about the cause is the good loved and the evil he wishes to avoid. The problem with servile fear, however, is that it is a self-love that is not self-perfecting. This leads us to the nature of filial fear, which differs from its servile

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<sup>29</sup> ST I-II 107.1 ad 2: “*Illi enim qui nondum habent habitum virtutis, inclinantur ad agendum virtutis opera ex aliqua causa extrinseca, puta ex comminatione poenarum, vel ex promissione aliquarum extrinsecarum remunerationum, puta honoris vel divitiarum vel alicuius huiusmodi.*”

counterpart on just this matter.

## 2. Filial Fear

In the case of filial fear, the species of love is rooted in a self-perfecting love. What motivates the subject is the fear of fault, wherein one obeys because, through some act, he fears the loss of the good to which the law is ordered. This Aquinas calls filial fear because it is akin to the love a son has for a father. It is most evident in our relationship to God.

We are speaking of fear now, in so far as it makes us turn, so to speak, to God or away from Him. For, since the object of fear is an evil, sometimes, on account of the evils he fears, man withdraws from God, and this is called human fear; while sometimes, on account of the evils he fears, he turns to God and adheres to Him. This latter evil is twofold, viz. evil of punishment, and evil of fault. Accordingly if a man turn to God and adhere to Him, through fear of punishment, it will be servile fear; but if it be on account of fear of committing a fault, it will be filial fear, for it becomes a child to fear offending its father. If, however, it be on account of both, it will be initial fear, which is between both these fears.<sup>30</sup>

What we fear in filial fear is the evil of sin or guilt that separates us from our end. This explanation reveals why Aquinas discusses this distinction under the question on the gift of fear. He presents the gift of fear within the context of the hope of attaining God as our last end.<sup>31</sup> Aquinas explains that, as the *bonum suum*, we cannot fear God in his essence, but we can fear him in his punishments, or more perfectly, in his goodness, such that we dread the very idea of being separated from him by our sins, which is the worst punishment of all.<sup>32</sup>

To examine the matter further, we must attempt to grasp the nature of the good at stake in filial fear. In the case of our relationship to God, the good in question is the divine goodness itself. For Aquinas, the fear of offending God through sin is the fear of

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<sup>30</sup> ST II-II 19.2: “Respondeo dicendum quod de timore nunc agimus secundum quod per ipsum aliquo modo ad deum convertimur vel ab eo avertimur. Cum enim obiectum timoris sit malum, quandoque homo propter mala quae timet a Deo recedit, et iste dicitur timor humanus vel mundanus. Quandoque autem homo per mala quae timet ad deum convertitur et ei inhaeret. Quod quidem malum est duplex, scilicet malum poenae, et malum culpae. Si igitur aliquis convertatur ad deum et ei inhaereat propter timorem poenae, erit timor servilis. Si autem propter timorem culpae, erit timor filialis, nam filiorum est timere offensam patris. Si autem propter utrumque, est timor initialis, qui est medius inter utrumque timorem.”

<sup>31</sup> ST II-II 19.

<sup>32</sup> ST II-II 19.1.

being separated from our last end, a God that is not only *a* good but the highest common good in the order of final causality, and for that very reason the highest perfection of the person. “Servile fear and filial fear do not regard God in the same light. For servile fear looks upon God as the cause of punishment, whereas filial fear looks upon him as the term wherefrom it shrinks to be separated by guilt.”<sup>33</sup>

A further question begs our attention, however. Can we speak about filial fear in relation to civic rulers? It seems so, at least analogously, for Aquinas argues that the love of country is like the love of a son for his father.<sup>34</sup> The difference between the natural order and the supernatural order, however, is that the common good of the earthly city is distinct from the ruler. In the Heavenly Kingdom they are one and the same, for the (extrinsic) common good is God himself. With respect to the filial love of earthly citizens, Aquinas invokes the virtue of piety, not religion. The object of piety is the good of the city itself and those who dwell in it. In filial fear, therefore, a citizen offers his obedience to the ruler for love of his *patria*, the principle care of which is entrusted to the ruler.

What is characteristic of filial fear in general, therefore, is that the common good is loved for its own sake. The love motivating such obedience is perfective precisely in proportion to the love one has for the common good, especially in its communicability as a final cause. Furthermore, Aquinas argues that this surpassing love for the common good is according to nature.<sup>35</sup> This fear is termed *filial*, therefore, because this form of obedience is based upon the love a son has for his father.

The relation of servant to master is based on the power the master exercises over the servant; whereas, on the contrary, the relation of a son to his father or of a wife to her husband is based on the son’s affection towards his father to whom he submits himself, or on the wife’s affection towards her husband to whom she

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<sup>33</sup> ST II-II 19.5 ad 2: “*Timor servilis et timor filialis non habent eandem habitudinem ad deum, nam timor servilis respicit deum sicut principium inflictivum poenarum; timor autem filialis respicit deum non sicut principium activum culpae, sed potius sicut terminum a quo refugit separari per culpam.*”

<sup>34</sup> ST II-II 101.1.

<sup>35</sup> ST I-II 109.3.

binds herself in the union of love. Hence, filial and chaste fear amount to the same, because by the love of charity God becomes our Father, according to Rm. 8:15, 'You have received the spirit of adoption of sons, whereby we cry: Abba [Father]'; and by this same charity he is called our spouse, according to 2 Cor. 11:2, 'I have espoused you to one husband, that I may present you as a chaste virgin to Christ': whereas servile fear has no connection with these, since it does not include charity in its definition.<sup>36</sup>

Analogously, we can say the same of pious obedience. He that obeys the civil law out of filial fear is doing so from a self-perfecting love for his *patria*.

To this analysis, I would add that filial love does not require one to love *what* is commanded for its own sake. What is commanded can be distasteful to a subject and yet not opposed to the filial nature of this love. For Aquinas, it is even meritorious to obey when we are not inclined to the particular matter prescribed by the precept: "The necessity of coercion makes an act involuntary and consequently deprives it of the character of praise or merit; whereas the necessity which is consequent upon obedience is a necessity not of coercion but of a free will [*liberae voluntatis*], inasmuch as a man is willing to obey, although perhaps he would not be willing to do the thing commanded considered in itself."<sup>37</sup> With filial fear one may love the end without being enamored of the means. What distinguishes servile from filial fear then is the love that underlies the fear. He that obeys from servile fear, fears the loss of his private good; whereas he that obeys from filial fear, fears the sin that forsakes the common good. Both kinds of obedience are based upon self-love, though one is perfect, while the other is not. In a lengthy passage worth quoting in its entirety, Aquinas explains the matter as follows:

Servile fear is caused by self-love, because it is fear of punishment that is detrimental to one's own good. Hence, the fear of punishment is consistent with charity, in the same way as self-love is: because it comes to the same that a man

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<sup>36</sup> ST II-II 19.2 ad 3: "*Habitudo servi ad dominum est per potestatem domini servum sibi subiicientis, sed habitudo filii ad patrem, vel uxoris ad virum, est e converso per affectum filii se subdentis patri vel uxoris se coniungentis viro unione amoris. Unde timor filialis et castus ad idem pertinent, quia per caritatis amorem Deus pater noster efficitur, secundum illud Rom. VIII, accepistis spiritum adoptionis filiorum, in quo clamamus, abba, pater; et secundum eandem caritatem dicitur etiam sponsus noster, secundum illud II ad Cor. XI, despondi vos uni viro, virginem castam exhibere Christo. Timor autem servilis ad aliud pertinet, quia caritatem in sua ratione non includit.*"

<sup>37</sup> ST II-II 186.5 ad 5: "*Necessitas coactionis facit involuntarium, et ideo excludit rationem laudis et meriti. Sed necessitas consequens obedientiam non est necessitas coactionis, sed liberae voluntatis, inquantum homo vult obedire, licet forte non vellet illud quod mandatur, secundum se consideratum, implere.*"

love his own good and that he fear to be deprived of it. Now self-love may stand in a threefold relationship to charity. In one way it is contrary to charity, when a man places his end in the love of his own good [private good]. In another way it is included in charity, when a man loves himself for the sake of God and in God [common good]. In a third way, it is indeed distinct from charity, but is not contrary thereto, as when a man loves himself from the point of view of his own good [private good], yet not so as to place his end in this his own good: even as one may have another special love for one's neighbor, besides the love of charity which is founded on God, when we love him by reason of consanguinity, or any other consideration of man [*bonum utile*], which, however, is referable to charity. Accordingly, fear of punishment is, in one way, included in charity, because separation from God [common good] is a punishment charity shuns exceedingly; so that this belongs to chaste fear. In another way, it is contrary to charity, when a man shrinks from the punishment that is opposed to his natural good, as being the principal evil in opposition to the good he loves as an end [private good]; and in this way fear of punishment is not consistent with charity. In another way fear of punishment is indeed substantially distinct from chaste fear, when, to wit, a man fears a penal evil, not because it separates him from God, but because it is hurtful to his own good [private good], and yet he does not place his end in this good, so that neither does he dread this evil as being the principal evil. Such fear of punishment is consistent with charity; but it is not called servile, except when punishment is dreaded as a principal evil, as explained above. Hence fear considered as servile, does not remain with charity, but the substance of servile fear [one's own good] can remain with charity, even as self-love can remain with charity.<sup>38</sup>

Aquinas is clear in this text that self-love and charity are not mutually exclusive. I truly love myself by willing the common good as my end. This is a self-perfecting love. Self-love becomes distorted, however, when I place my ultimate end in my private good, or I love the common good as a means to my private good. The consequence of this disordered love of self is that, because both restrict the access or use of goods we love in

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<sup>38</sup> ST II-II 19.6: "*Timor servilis ex amore sui causatur, quia est timor poenae, quae est detrimentum proprii boni. Unde hoc modo timor poenae potest stare cum caritate sicut et amor sui, eiusdem enim rationis est quod homo cupiat bonum suum et quod timeat eo privari. Amor autem sui tripliciter se potest habere ad caritatem. Uno enim modo contrariatur caritati, secundum scilicet quod aliquis in amore proprii boni finem constituit. Alio vero modo in caritate includitur, secundum quod homo se propter Deum et in Deo diligit. Tertio modo a caritate quidem distinguitur, sed caritati non contrariatur, puta cum aliquis diligit quidem seipsum secundum rationem proprii boni, ita tamen quod in hoc proprio bono non constituat finem, sicut etiam et ad proximum potest esse aliqua alia specialis dilectio praeter dilectionem caritatis, quae fundatur in Deo, dum proximus diligitur vel ratione consanguinitatis vel alicuius alterius conditionis humanae, quae tamen referibilis sit ad caritatem. Sic igitur et timor poenae includitur uno modo in caritate, nam separari a Deo est quaedam poena, quam caritas maxime refugit. Unde hoc pertinet ad timorem castum. Alio autem modo contrariatur caritati, secundum quod aliquis refugit poenam contrariam bono suo naturali sicut principale malum contrarium bono quod diligitur ut finis. Et sic timor poenae non est cum caritate. Alio modo timor poenae distinguitur quidem secundum substantiam a timore casto, quia scilicet homo timet malum poenale non ratione separationis a Deo, sed inquantum est nocivum proprii boni, nec tamen in illo bono constituitur eius finis, unde nec illud malum formidatur tanquam principale malum. Et talis timor poenae potest esse cum caritate. Sed iste timor poenae non dicitur esse servilis nisi quando poena formidatur sicut principale malum, ut ex dictis patet. Et ideo timor inquantum servilis non manet cum caritate, sed substantia timoris servilis cum caritate manere potest, sicut amor sui manere potest cum caritate [brackets above are mine].*"

a disordered way, we perceive law and punishment as ultimate evils.

### *C. The Pedagogical Function of Punishment*

When speaking about the fear of punishment, Aquinas suggests that punishment serves a vital function in moving us from a disordered self-love to a self-perfecting love.<sup>39</sup> The midpoint of this transformation is what he calls initial fear, wherein a person acts both from the fear of punishment and the fear of fault.<sup>40</sup> What we need to see is how Aquinas understands the function of punishment in effecting this transition from servile to filial fear. If, as a dictate of reason, law sets in us the order of right reason, the coercive discipline of law confronts our disordered love. At the root of a virtuous life is the proper order of our affections. Aquinas explains ordered love in this way:

When, then, it is stated that every virtue is the order of love, this can be understood either of love in the general sense, or of the love of charity. If it be understood of love, commonly so called, then each virtue is stated to be the order of love, in so far as each cardinal virtue requires ordinate emotions; and love is the root and cause of every emotion, as stated above. . . . If, however, it be understood of the love of charity, it does not mean that every other virtue is charity essentially: but that all other virtues depend on charity in some way.<sup>41</sup>

In regard to the right ordering of our affections, Aquinas sees a two-fold purpose in punishing those who transgress the law, namely, the restoration of justice and the deterrence of would be offenders.<sup>42</sup> Both of these aims have a medicinal component

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<sup>39</sup> While it is beyond the scope of this work to treat the problem of torture adequately, it is worth mentioning that legitimate punishment is not to be confused with torture. A legitimate ruler has the right from God to punish those who transgress the law. Tyrants, however, notoriously construe torture as being just punishment. Yet only inasmuch as a punishment is just (that is, deserved on the basis of the rule of law), proportionate to the gravity of the crime, and administered in accord with human dignity can some penalty be considered just and not torturous. For an excellent book on the horrors of torture and its deleterious affront to human dignity, especially the psychological injury torture inflicts, see William T. Cavanaugh, *Torture and Eucharist: Theology, Politics, and the Body of Christ* (Oxford: Blackwell Publishing, 1998), especially chapter one.

<sup>40</sup> ST II-II 19.2.

<sup>41</sup> ST I-II 62.2 ad 3: "*Licet caritas sit amor, non tamen omnis amor est caritas. Cum ergo dicitur quod omnis virtus est ordo amoris, potest intelligi vel de amore communiter dicto; vel de amore caritatis. Si de amore communiter dicto, sic dicitur quaelibet virtus esse ordo amoris, inquantum ad quamlibet cardinalium virtutum requiritur ordinata affectio, omnis autem affectionis radix et principium est amor. . . . Si autem intelligatur de amore caritatis, non datur per hoc intelligi quod quaelibet alia virtus essentialiter sit caritas, sed quod omnes aliae virtutes aliquantulum a caritate dependeant, ut infra patebit*"

<sup>42</sup> Note that pedagogy is not the only function of punishment. Aquinas also speaks of the debt of punishment whereby we must make satisfaction according to the dictates of justice. See ST I-II.87.6.

directed toward the human appetites. In the first instance, punishment is directed primarily to those who have transgressed the law due to an excessive attachment to their own appetites. In the second, punishment is directed to those who have not yet transgressed the law and are dissuaded from doing so for fear of punishment. In both cases, punishment exists for the sake of those not willfully inclined to obey the law of their own accord. Let us look at each in turn.

### *1. Restorative Justice*

When directed toward the restoration of justice, the aim of punishment is to cause a person to suffer something contrary to his will for having clung to his will in doing something disordered. “Punishment may be considered. . . . under the aspect of punishment, and in this way punishment is not due save for sin, because by means of punishment the equality of justice is restored, in so far as he who by sinning has exceeded in following his own will suffers something that is contrary to this will.”<sup>43</sup> Notice the manner in which Aquinas understands the “equity of justice.” The purpose of punishment is not to make the offender suffer for the suffering he caused by his offense. Rather, punishment seeks to redress the disordered appetites of the offender. Punishment is directed principally to the amendment of the offender’s disordered affections. A punishment achieves this aim, however, only when it is directed to the actual good of the offender and encourages him to desist from future offenses. The following text makes this point unambiguously:

Vindication consists in the infliction of a penal evil on one who has sinned. Accordingly, in the matter of vindication, we must consider the soul of the vindicator. For if his intention is directed chiefly to the evil of the person on whom he takes vindication and rests there, then his vindication is altogether unlawful: because to take pleasure in another’s evil belongs to hatred, which is contrary to the charity whereby we are bound to love all men. Nor is it an excuse that he intends the evil of one who has unjustly inflicted evil on him, as neither is

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<sup>43</sup> ST II-II 108.4: “*Secundum rationem poenae. . . . poena non debetur nisi peccato, quia per poenam reparatur aequalitas iustitiae, inquantum ille qui peccando nimis secutus est suam voluntatem, aliquid contra suam voluntatem patitur.*” See also *Compendium of Theology*, q. 121.

a man excused for hating one that hates him: for a man may not sin against another just because the latter has already sinned against him, since this is to be overcome by evil, which was forbidden by the Apostle, who says (Rm. 12:21): ‘Be not overcome by evil, but overcome evil by good.’ If, however, the vindicator’s intention be directed chiefly to some good, to be obtained by means of the punishment of the person who has sinned (for instance that the sinner may amend, or at least that he may be restrained and others be not disturbed, that justice may be upheld, and God honored), then vindication may be lawful, provided other due circumstances be observed.<sup>44</sup>

When it comes to God, Aquinas tells us that divine punishments aim to humble us and makes us more amenable to doing what is just. “Even when God punishes men by permitting them to fall into sin, this is directed to the good of virtue. Sometimes indeed it is for the good of those punished, when, to wit, men arise from sin, more humble and more cautious.”<sup>45</sup>

From a pedagogical point of view, a (just) ruler thus directs his punishments to the amendment of the disordered appetites of the offender, which in turn, restores the equity of justice within the community.<sup>46</sup> Against his disordered affections, an offender is made to suffer a punishment so as to redirect his affections to the common good. This has the effect of bringing such affections into conformity with the good of reason—this is the key. The restoration of justice requires the amendment of the offender’s appetites, the bringing of human love back into the order of reason—for ordered love is the goal of moral virtue. To recall a portion of text we recently considered: “When we say that virtue is order or ordering of love, we refer to the end to which virtue is ordered: because in us

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<sup>44</sup> ST II-II 108.1: “*Vindictio fit per aliquod poenale malum inflictum peccanti. Est ergo in vindicatione considerandus vindicantis animus. Si enim eius intentio feratur principaliter in malum illius de quo vindictam sumit, et ibi quiescat, est omnino illicitum, quia delectari in malo alterius pertinet ad odium, quod caritati repugnat, qua omnes homines debemus diligere. Nec aliquis excusatur si malum intendat illius qui sibi iniuste intulit malum, sicut non excusatur aliquis per hoc quod odit se odientem. Non enim debet homo in alium peccare, propter hoc quod ille peccavit prius in ipsum, hoc enim est vinci a malo, quod apostolus prohibet, Rom. XII, dicens, noli vinci a malo, sed vince in bono malum. Si vero intentio vindicantis feratur principaliter ad aliquod bonum, ad quod pervenitur per poenam peccantis, puta ad emendationem peccantis, vel saltem ad cohibitionem eius et quietem aliorum, et ad iustitiae conservationem et Dei honorem, potest esse vindictio licita, aliis debitis circumstantiis servatis.*”

<sup>45</sup> ST I-II.87.2 ad 1: “*Etiam quod aliqui puniuntur a Deo, dum permittit eos in aliqua peccata profluere, ad bonum virtutis ordinatur. Quandoque quidem etiam ipsorum qui peccant, cum scilicet post peccatum humiliores et cautiore resurgunt.*”

<sup>46</sup> As Aquinas indicates in ST II-II 108.1, the amendment of the sinner is not the only reason to punish, though it is an indispensable one.



love is set in order by virtue.”<sup>47</sup> In this case, love is directed to the common good of the community, which is its end; the principal virtue is legal justice.

By restoring the order of justice, punishment secures the common good in another way. When unjust actions go unpunished, the security of the commonwealth is undermined. Unpunished crime upsets the peace by giving the vicious a pretense for multiplying their evil deeds. The common good requires the punishment of criminals that they might refrain from harming others. The common good is secured when people feel assured that rulers will punish actions harmful to the commonwealth. There is thus a two-fold purpose to restorative justice: “The punishments of this life are sought, not for their own sake, because this is not the final time of retribution, but in their character of medicine, conducing either to the amendment of the sinner, or to the good of the republic whose calm is ensured by the punishment of evil-doers.”<sup>48</sup> When rulers punish, therefore, they cannot intend to inflict evil on the offender, for its own sake, but only for the good of the offender and the common good that is thereby secured.

## 2. Deterrence

For Aquinas, the second goal of punishment is medicinal in another way, to deter potential offenders from breaking the law. Punishment is not only medicinal for those who suffer it, but also for those who are persuaded to refrain from injustice for having witness the punishment of others.

Even the punishment that is inflicted according to human laws, is not always intended as a medicine for the one who is punished, but sometimes only for others: thus when a thief is hanged, this is not for his own amendment, but for the sake of others, that at least they may be deterred from crime through fear of the punishment, according to Prov. 19:25: ‘The wicked man being scourged, the fool shall be wiser.’ Accordingly the eternal punishments inflicted by God on the reprobate, are medicinal punishments for those who refrain from sin through the

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<sup>47</sup> ST I-II 55.1 ad 4: “*Ad quantum dicendum quod virtus dicitur ordo vel ordinatio amoris, sicut id ad quod est virtus, per virtutem enim ordinatur amor in nobis.*”

<sup>48</sup> ST II-II 68.1: “*Poenae autem praesentis vitae non per se expetuntur, quia non est hic ultimum retributionis tempus, sed in quantum sunt medicinales, conferentes vel ad emendationem personae peccantis, vel ad bonum reipublicae, cuius quies procuratur per punitionem peccantium.*”

thought of those punishments, according to Ps. 59:6: ‘Thou hast given a warning to them that fear Thee, that they may flee from before the bow, that Thy beloved may be liberated.’”<sup>49</sup>

Punishment can instill servile fear into the hearts of those disordered in their appetites, but who have not yet transgressed the law. In this secondary sense, the aim of punishment is the deterrence of sin.

In both the “equity of justice” and in cases of “deterrence” the important issue is the conformity of the subject’s will to the good of reason, as the law determines this. The basis for punishing is never revenge, whereby one delights in seeing another suffer as a consolation for an evil suffered. As cited above, such intentions are hateful and contrary to justice and charity. As far as the pedagogical dimension of punishment is concerned, therefore, the ultimate aim is always the virtue of the offender, whereby he is moved to the good by means of external incentive structures that appeal to his appetites and direct his future acts to the common good. By discouraging sinful behavior, punishment encourages such persons in the pathways of virtue.

This twofold medicinal approach only works, however, because it presupposes the nature of a habit. The successive performance of certain acts is what forms a habit. Likewise, we break habits by desisting from certain acts. Punishment itself is necessary on both counts, for not only does it serve to break vicious habits in the offender, it also serves to habituate them in the virtues, or accustom them to acting virtuously. The *fear* of punishment is useful in this regard as well, for while it discourages the formation of bad habits in the morally weak, it also encourages the formation of good habits. As Thomas Hibbs remarks, “Practices inculcate habits that rectify the appetitive part of the soul with respect to appropriate ends, which supply principles of actions. The correct ordering of

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<sup>49</sup> ST I-II 87.3 ad 2: “*Poena etiam quae secundum leges humanas infligitur, non semper est medicinalis ei qui punitur, sed solum aliis, sicut cum latro suspenditur, non ut ipse emendetur, sed propter alios, ut saltem metu poenae peccare desistant; secundum illud Prov. XIX, pestilente flagellato, stultus sapientior erit. Sic igitur et aeternae poenae reproborum a deo inflictae, sunt medicinales his qui consideratione poenarum abstinere a peccatis; secundum illud Psalmi LIX, dedisti metuentibus te significationem, ut fugiant a facie arcus, ut liberentur dilecti tui.*”

inclination, its harmony with reason, is important not just as a prerequisite to the operation of prudence, but also as a mark of true virtue.”<sup>50</sup>

By redressing disordered appetites, punishment helps root the actions of the morally immature individual in right reason. In so doing, rulers intend that their morally weak subjects will be accustomed to doing what is just and good, and thereby fulfill the law out of a self-perfecting love for the common good. As Aquinas states in regard to civil law:

Since some are found to be depraved, and prone to vice, and not easily amenable to words, it was necessary for such to be restrained from evil by force and fear, in order that, at least, they might desist from evil-doing, and leave others in peace, and that they themselves, by being accustomed in this way, might be brought to do willingly what hitherto they did from fear, and thus become virtuous. Now this kind of discipline, which compels through fear of punishment, is the discipline of laws.<sup>51</sup>

There are some final issues to address briefly that pertain to the order of divine punishment.<sup>52</sup> The first is the question of eternal punishment. In what sense is hell medicinal? The aim of eternal damnation is not medicinal in the first sense spoken of above, but only in the second, in that by fearing the punishment of hell, some are encouraged to withdraw from sin and turn toward God. For those who suffer damnation, however, hell must be considered condemnation for having turned away from God definitively.<sup>53</sup> It is the natural and intrinsic consequence of having deviated, in a definitive way, from the last end. The same is true for beatitude. Beatitude is reserved for those who have ordered their acts (in charity) to God as to their end. Consider a text

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<sup>50</sup> *Virtue's Splendor: Wisdom, Prudence, and the Human Good* (New York: Fordham University Press, 2001), 97.

<sup>51</sup> ST I-II 95.1: “*Sed quia inveniuntur quidam protervi et ad vitia prona, qui verbis de facili moveri non possunt; necessarium fuit ut per vim et metum cobiberentur a malo, ut saltem sic male facere desistentes, et aliis quietam vitam redderent, et ipsi tandem per huiusmodi assuetudinem ad hoc perducerentur quod voluntarie facerent quae prius metu implebant, et sic fierent virtuosus. Huiusmodi autem disciplina cogens metu poenae, est disciplina legum.*”

<sup>52</sup> The following remarks are intended to be brief and are, admittedly, insufficient for addressing the complexity of divine punishment. I will take up the question of divine punishment more thoroughly in chapter 7.

<sup>53</sup> In reflecting upon the theological significance of suffering, including the loss of eternal life, Pope John Paul II states: “Man ‘perishes’ when he loses ‘eternal life’. The opposite of salvation is not, therefore, only temporal suffering, any kind of suffering, but the definitive suffering: the loss of eternal life, being rejected by God, damnation.” The pope goes on to state that, “the only begotten Son was given to humanity primarily to protect man against this definitive evil and against definitive suffering. In his salvific mission, the Son must therefore strike evil right at its transcendental roots from which it develops in human history” (Encyclical Letter, *Salvifici doloris*, [1984], no. 14).

we have seen already:

Again, wherever there is a proper order to an end, this order must lead to the end, while a departure from this order prevents the attainment of the end. For things that depend on the end derive their necessity from the end; that is to say, this means is necessary if the end is to be attained—and under these conditions, if there be no impediment, the end is achieved. Now God has imposed on men's acts a certain order in relation to the final good. . . . So, it must be, if this order is rightly laid down, that those who proceed according to this order will attain the final good, and this is to be rewarded; but those who depart from this order by means of sin must be cut off from the final good, and this is to be punished.<sup>54</sup>

The second issue pertains to divine earthly punishments. Aquinas notes that *temporal* punishments are medicinal, even if a person is made to suffer innocently in this life. Aquinas makes the argument that such punishments are aimed at the avoidance of future sin or the attainment of some future good. The aim of such pedagogy is the humility of the disciple, whereby he is led to renounce and forsake the goods of this life, for the sake of greater spiritual goods. This loss of earthly happiness instructs the soul in the way of spiritual poverty.<sup>55</sup> Aquinas notes, however, that no person receives a *spiritual* punishment without having deserved it through some voluntary act. Aquinas summarizes how divine punishment functions pedagogically as follows:

It is known that a medicine never removes a greater good in order to promote a lesser [good]; thus the medicine of the body never blinds the eye, in order to repair the heel: yet sometimes it is harmful in lesser things that it may be helpful in things of greater consequence. And since spiritual goods are of the greatest consequence, while temporal goods are least important, sometimes a person is punished in his temporal goods without any fault of his own. Such are many of the punishments inflicted by God in this present life for our humiliation or probation. But no one is punished in spiritual goods without any fault on his part, neither in this nor in the future life, because in the latter punishment is not medicinal, but a result of spiritual damnation.<sup>56</sup>

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<sup>54</sup> SCG III, Ch. 140: "*Ubi cumque est aliquis debitus ordo ad finem, oportet quod ordo ille ad finem ducat, recessus autem ab ordine finem excludat: ea enim quae sunt ex fine, necessitatem sortiuntur ex fine; ut scilicet ea necesse sit esse, si finis debeat sequi; et eis absque impedimento existentibus, finis consequatur. Deus autem imposuit actibus hominum ordinem aliquem in respectu ad finem boni, . . . Oportet igitur quod, si ordo ille recte positus est, quod incedentes per illum ordinem finem boni consequantur, quod est praemiari: recedentes autem ab illo ordine per peccatum, a fine boni excludi, quod est puniri.*"

<sup>55</sup> An excellent text on this is found in Aquinas' commentary on Psalm 43, *In Psalmos*. See also Pope John Paul II, *Salvific doloris*, no. 22: "Suffering is also an invitation to manifest the moral greatness of man, his spiritual maturity."

<sup>56</sup> ST II-II 108.4: "*Sciendum tamen quod nunquam medicina subtrahit maius bonum ut promoveat minus bonum, sicut medicina carnalis nunquam caecat oculum ut sanet calcaneum, quandoque tamen infert nocumentum in minoribus ut*

Implicit in Aquinas' logic here is how punishment reveals the hierarchy of goods, and does so primarily by means of the proportionality of punishment to various offenses. In apprehending the nature or gravity of a punishment, we can apprehend the value of the good the precept secures:

Now sin comprises two things. First is the turning away from the immutable good, which is infinite, wherefore in this respect, sin is infinite. Second is the inordinate turning toward a mutable good. In this respect sin is finite . . . Accordingly, insofar as sin consists in a turning away from something [infinite], its corresponding punishment is damnation, which also is infinite, because it is the loss of the infinite good, i.e. God. But insofar as sin turns inordinately to something, its corresponding punishment is the pain of sense, which also is finite.<sup>57</sup>

This helps explain why the gravity of punishments must be proportionate to the offense.<sup>58</sup>

In sum, punishment plays an integral role in disciplining the morally weak. It helps conform their appetites to the good of reason. For it to do this, however, the pedagogical efficacy of punishment must presuppose human liberty, as Aquinas indicates:

By the one art of the divine governor, various things are variously governed according to their variety. Some, according to their nature, act of themselves, having dominion over their actions; and these are governed by God, not only in this, that they are moved by God himself, who works in them interiorly; but also in this, that they are induced by him to do good and to fly from evil, by precepts and prohibitions, rewards and punishments.<sup>59</sup>

What motivates us to act—whether we are prone to virtue or vice—is our cognitive apprehension of and affective dispositions toward good and evil. A ruler instructs us in the moral life by teaching us the difference between good and evil—both in regard to our

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*melioribus auxilium praestet. Et quia bona spiritualia sunt maxima bona, bona autem temporalia sunt minima; ideo quandoque punitur aliquis in temporalibus bonis absque culpa, cuiusmodi sunt plures poenae praesentis vitae divinitus inflictæ ad humiliationem vel probationem, non autem punitur aliquis in spiritualibus bonis sine propria culpa, neque in praesenti neque in futuro; quia ibi poenae non sunt medicinae, sed consequuntur spiritualem damnationem.*”

<sup>57</sup> ST I-II 87.4: “In peccato autem duo sunt. Quorum unum est aversio ab incommutabili bono, quod est infinitum, unde ex hac parte peccatum est infinitum. Aliud quod est in peccato, est inordinata conversio ad commutabile bonum. Et ex hac parte peccatum est finitum, . . . Ex parte igitur aversionis, respondet peccato poena damni, quae etiam est infinita, est enim amissio infiniti boni, scilicet Dei. Ex parte autem inordinatae conversionis, respondet ei poena sensus, quae etiam est finita.”

<sup>58</sup> ST I 105.9.

<sup>59</sup> ST I 103.5 ad 2: “Secundum unam artem Dei gubernantis, res diversimode gubernantur, secundum earum diversitatem. Quaedam enim secundum suam naturam sunt per se agentia, tanquam habentia dominium sui actus, et ista gubernantur a Deo non solum per hoc quod moventur ab ipso Deo in eis interius operante, sed etiam per hoc quod ab eo inducuntur ad bonum et retribuntur a malo per praecepta et prohibitiones, praemia et poenas.”

knowledge of good and evil and our affective regard for the same. Pedagogically, law is directed primarily to our practical reasoning, while punishment is directed to our affective dispositions. Yet to see the relationship of punishment and law to human powers, we must bear in mind the relationship of the appetites to reason. Law intimates practical moral wisdom, while punishment seeks the amendment of disordered love either in the will or the sensitive appetite. Inasmuch as we cling to sin through a perverse love bent on earthly happiness, it becomes necessary for rulers to accommodate moral weakness by drawing disordered affections to the common good through external punishments and rewards. Reason alone is not an infallible guide, nor is the human heart. Often we are made to see clearly what is good and evil, and are persuaded to act accordingly, only when we are confronted with the (physical) evil of punishment. If it is love that defines moral character, it is for disordered love that we suffer punishment. Punishment thus plays an indispensable role in leading us from servile to filial fear.

### *Conclusion*

Throughout this chapter on punishment, I have attempted to set forth the nature of punishment as something proper and fitting to rational creatures capable of voluntary action. That law is “rational persuasion” includes the role of punishment. I have explained Aquinas’ account of how law induces action in the order of formal causality. By now, we can see that the coercive aspect of law does not set itself against man’s liberty, but presupposes this liberty and leads us to virtue. Indeed, there is an involuntary dimension to those acts arising from fear of punishment. Nevertheless, this involuntary character originates not in the nature of law itself, but in the hearts of those who cling to their private good inordinately and oppose themselves to a much greater good. Any dialectic between law and liberty, therefore, is the outcome of sin, not law.

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I have dedicated the first four chapters of this work to setting down the Thomistic

foundations for a pedagogical theory of law. This foundation is necessary to a proper understanding of divine moral pedagogy, as Aquinas understands this concept. This foundation is both cognitive and affective. It assumes an integral unity between the intellect and the will in human action and suggests that law is formative in the shaping of moral character, both in terms of knowledge and appetite. In the words of Thomas Hibbs, law is “rational persuasion.” As such, it induces us to act for the human good and thereby leads us to virtue. Without law, formulated and promulgated for a given community, especially insofar as law embodies the collective wisdom of generations, we simply would not know—adequately or reliably, or in a timely manner—the difference between good and evil, nor be able to love the common good properly. The human person depends upon divine moral pedagogy, especially, for reaching the beatific vision. As a focal point of the remaining inquiry, we must grasp how God directs us to holiness according to his providence, such that he leads us to eternal beatitude. This he does by means of his divine law.

## PART TWO

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### *Law as a Hierarchy of Moral Discourse*



## CHAPTER FIVE

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### *Eternal Law: Ontological Foundation of Divine Moral Pedagogy*

Until now, I have presented mostly philosophical underpinnings for a pedagogical theory of law. This preliminary work has been necessary to grasp the rudiments of how law functions as moral instruction. For the remainder of this work, I wish to turn to divine moral pedagogy in particular. As I already pointed out, Aquinas affirms at the very outset of his treatise on law that, “the extrinsic principle moving to good is God, who both instructs us by means of his law, and assists us by his grace.”<sup>1</sup> It is by means of law and grace that God leads us to our perfection.

When we consider the structure of the treatise on law, however, it is not immediately evident that it discloses Aquinas’ understanding of how God has governed human history as a loving pedagogue. The structure of the treatise is characteristically scholastic in its arrangement. It begins with introductory questions on the nature and different species of law, followed by a question on the effects of law. It then moves to a fully developed exposition of each species of law, which supplies most of the content for the nineteen questions of the treatise.<sup>2</sup> The first three questions are thus preliminary and so orient the reader toward the body of the treatise, which proceeds from a discussion of eternal law and concludes with an

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<sup>1</sup> ST I-II.90, *prologus*.

<sup>2</sup> ST I-II 90-108.

exposition of the New Law. This movement from eternal law to the New passes through a detailed discussion of natural law, human law, and the Old Law. I would propose that this structure provides the interpretive key for unlocking Aquinas' insight into divine moral pedagogy.

Initially, I would present this hermeneutic as follows: Eternal law is the exemplar of practical moral wisdom in which human nature, human reason, and every species of law participate. What is intimated to man by means of (authentic) moral instruction is the divine rule of prudence to which we are to conform our actions. Natural law is the internal principle of moral instruction, which provides the innate precondition for the proper moral development of the human species. Human law and divine law serve as external principles of moral instruction that actualize us in our natural and supernatural perfection.

On the one hand, human law instills certain virtues and eradicates certain vices so as to secure the order of justice in civil society. God wills that civil law establish the harmony of peace, that thereby humanity might secure the temporal welfare requisite to our proper moral development. In this regard human law is a means to an end. On the other hand, divine law directs the community of mankind to its ultimate end by insuring, above all, a right relationship of human beings to God, which is realized most fully in the proper worship of God. The Old Law was an imperfect law in this regard, but nevertheless a necessary precursor to the New Law. Through the New Law, God establishes the means by which he justifies humanity through the eternal sacrifice of Jesus Christ. As we shall see in the final chapter, the New Law is a perfect pedagogy, for it gives to humanity both the internal and external principles by which God actualizes the elect in the supernatural existence of divine sonship.

In this present chapter, I intend to begin explicating divine moral pedagogy in the manner just described. I will demonstrate how eternal law is the ontological ground of moral pedagogy. Though it may strike us as somewhat peculiar—that what gives any species of law its pedagogical character is its participation of eternal law—if eternal law is the exemplar according to which all other species of law are truly law, it follows that it is the ontological ground for the pedagogical character of any law.

I will present this thesis in light of three considerations. The first concerns how eternal law determines the order of a person to their last end. Eternal law specifies the order of our nature to its proper acts, end, and perfection (good). This demonstrates that the order of a person to his last end is an order of divine wisdom that proceeds, in love, from the divine intellect. The second is the role eternal law has in making the good in things intelligible to reason, which in turn, makes divine goodness accessible to reason, though not immediately. Since reason would be impotent in an unintelligible world and before an unintelligible God, the intelligibility of goodness is antecedent to our ability to choose the good. Finally, I will consider how eternal law is the ultimate source of right practical reason. As the formal cause for what conduces to our end and what does not, eternal law is the ultimate rule and measure of our acts, according to which we judge what we are to do or avoid to attain our last end.

### *A. The Order of Persons to the Last End*

In the beginning of the *Prima Pars*, Aquinas explains that, “There must exist in the divine mind a form to the likeness of which the world was made.”<sup>3</sup> Eternal law is the ontological ground of moral pedagogy because it imparts the order proper to

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<sup>3</sup> ST I 15.1: “Necesse est quod in mente divina sit forma, ad similitudinem cuius mundus est factus.”

rational creatures, in accordance with eternal wisdom. God communicates this wisdom to us by means of the order he establishes in our nature. The proper place to begin this discussion of eternal law as the ontological ground of divine moral pedagogy, however, is Aquinas' discussion of divine providence. He defines divine providence as "the account of the order of things to their end," which preexists in the mind of God.<sup>4</sup> He goes on to explain that to order something to an end is proper to prudence. "Now it belongs to prudence . . . to direct other things towards an end."<sup>5</sup> As such, divine providence is nothing other than the form of the rule of prudence preexisting in the divine mind, according to which God orders all things to their end.<sup>6</sup>

As a rule of prudence divine providence is an order to some good. As I have indicated already, God directs all creatures to the absolutely highest good, the common good or final cause of the entire universe. This end is a universal, and not a particular, good:

Therefore, since the beginning of all things is something outside the universe, namely, God, it is clear . . . that we must conclude that the end of all things is some extrinsic good. This can be proved by reason. For it is clear that good has the nature of an end; wherefore, a particular end of anything consists in some particular good; while the universal end of all things is the universal good; which is good of itself by virtue of its essence, which is the very essence of goodness.<sup>7</sup>

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<sup>4</sup> ST I 22.1: "*ratio ordinis rerum in finem.*" Sr. Mary Cosmas Hughes states, "The fullness of the meaning of the term Providence may be seen here since it comes from the word 'prae-videre,' to see or contemplate before; therefore, a full understanding of the complete significance of the intelligibility of the universe in thomistic thought will involve a discussion of his doctrine on Divine Providence, in a word the conformity of the universe to the intellect of God" (*The Intelligibility of the Universe*, doctoral dissertation, The Catholic University of America Press, 1946. This work was published in *The Catholic University of America Philosophical Studies* 92 [Washington, D.C.: The Catholic University of America Press, 1946], 100).

<sup>5</sup> ST I.22.1: "*Prudentiae autem proprium est . . . ordinare alia in finem.*"

<sup>6</sup> Brian Coffey provides a detailed analysis of Aquinas' use of the term *ordo*. See "The Notion of Order According to St. Thomas Aquinas," *The Modern Schoolman* XXVII (1949), 1-18.

<sup>7</sup> ST I 103.2: "*Cum igitur principium rerum sit aliquid extrinsecum a toto universo, scilicet Deus, . . . necesse est quod etiam finis rerum sit quoddam bonum extrinsecum. Et hoc ratione apparet. Manifestum est enim quod bonum habet rationem finis. Unde finis particularis alicuius rei est quoddam bonum particulare, finis autem universalis rerum omnium est quoddam bonum universale. Bonum autem universale est quod est per se et per suam essentiam bonum, quod est ipsa essentia bonitatis.*"

According to Aquinas, there is only one universal good and this is the common good of God's own goodness. "Now the good of the whole universe is that which is apprehended by God, who is the maker and governor of all things: hence whatever he wills, he wills it under the aspect of the common good; this is his own goodness, which is the good of the whole universe."<sup>8</sup> Divine providence is an order of love within God that proceeds to his own goodness, as it were, from God's knowledge of himself. This rule of prudence in God—insofar as it is impressed upon creatures—is God's self-love extended to creatures, which are willed by God to participate in that same goodness. The question I wish to pose is this: How does God lead man to full participation of the divine good?

### 1. *Eternal Law and the Created Order*

If divine providence is the form of the order of all things existing in the mind of God—the divine rule of prudence—then eternal law is the *execution* of that order through the governance of all God creates.<sup>9</sup> "Two things pertain to the care of providence—namely, the 'reason of order' that is called providence and disposition; and the execution of order that is termed government."<sup>10</sup> Indeed, the very order of things to their perfection, itself, is the effect of eternal law. "For we observe that in nature things happen always or nearly always for the best; which would not be the case unless some sort of providence directed nature towards good as an end; which is to govern. The unfailing order we observe in things demonstrates the government of

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<sup>8</sup> ST I-II 19.10: "*Bonum autem totius universi est id quod est apprehensum a Deo, qui est universi factor et gubernator, unde quidquid vult, vult sub ratione boni communis, quod est sua bonitas, quae est bonum totius universi.*" See also ST I 19.1 ad 1; ST I 19.3; ST I 65.2; ST I-II 91.1 ad 3; ST III 46.2 and *Compendium theologiae*, q. 101.

<sup>9</sup> For a helpful exposition of this distinction, see Joseph Collins, O.P., "God's Eternal Law," *The Thomist* 23 (1960), 497-532.

<sup>10</sup> ST I.22 1 ad 2: "*Ad curam duo pertinent, scilicet ratio ordinis, quae dicitur providentia et dispositio; et executio ordinis, quae dicitur gubernatio.*" See also ST I.103.6.

the world.”<sup>11</sup> Eternal law is thus the means by which God leads all things to his goodness according to the rule of prudence preexisting in his mind.

As the type of the divine wisdom, inasmuch as by it all things are created, has the character of art, exemplar, or idea, so the type of divine wisdom, *as moving all things to their due end*, bears the character of law. Accordingly, eternal law is nothing else than the type of divine wisdom, as directing all actions and movements.<sup>12</sup>

In God, providence and eternal law are identical to the divine essence, since all is one in the Godhead. However, as Romanus Cessario says, “Because the eternal law principally reflects the divine intelligence, it stands in relationship to divine providence as a theory of practice stands in relationship to a conclusion for practical action.”<sup>13</sup> Providence is the rule of prudence existing in the divine mind, while eternal law is the governance of all things by the divine ruler; it brings to be in creation the order proper to all creatures by bringing creatures into conformity with the divine rule of prudence. In this way God moves creatures to their last end.<sup>14</sup>

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<sup>11</sup> ST I.103 1: “*Videmus enim in rebus naturalibus provenire quod melius est, aut semper aut in pluribus, quod non contingeret, nisi per aliquam providentiam res naturales dirigerentur ad finem boni, quod est gubernare. Unde ipse ordo certus rerum manifeste demonstrat gubernationem mundi.*”

<sup>12</sup> ST I-II 93 1: “*Unde sicut ratio divinae sapientiae inquantum per eam cuncta sunt creata, rationem habet artis vel exemplaris vel ideae; ita ratio divinae sapientiae moventis omnia ad debitum finem, obtinet rationem legis. Et secundum hoc, lex aeterna nihil aliud est quam ratio divinae sapientiae, secundum quod est directiva omnium actuum et motionum* [emphasis mine].”

<sup>13</sup> *Introduction to Moral Theology* (Washington D.C.: The Catholic University of America Press, 2001), 59. See also John Courtney Murray, *We Hold These Truths: Catholic Reflections on the American Proposition* (New York: Sheed and Ward, 1960), 330: “The Eternal Law is the uncreated Reason of God; it appoints an order of nature—an order of beings, each of which carries in its very nature also its end and purposes; and it commands that this order of nature be preserved by the steady pursuit of their ends on the part of all the natures within the order. Every creature has this Eternal Law, this transcendent order of reason, imprinted on it by the very fact that it is a nature, a purposeful dynamism striving for the fullness of its own being. In the irrational being creation, the immanence of the Eternal Law is unconscious; the law itself is a law of necessity. But in the rational creature the immanent law is knowable and known; it is a moral law that authoritatively solicits the consent of freedom. St. Thomas then defines the natural law as the ‘rational creature’s participation in the eternal law.’ The participation consists in man’s possession of reason, the godlike faculty, whereby man knows himself—his own nature and end—and directs himself freely, in something of divine fashion but under God, to the plenitude of self-realization of his rational and social being.”

<sup>14</sup> Gilson makes a refreshing observation about the term *ordinance*: “Taking the word ‘ordinance’ in the fullness of its meaning (to order), Thomas sees in the proof that, of its very essence, power is a matter of order. . . . Every relationship of order is essentially elevating, bringing up, raising the inferior term to the level of a superior one. This uplifting function is essential to the notion of order and, by the same token, to that of power” (*Elements of Christian Philosophy*. [Garden City, New York: Doubleday & Company, Inc., 1959], 269).

God achieves this conformity of creatures to providence by and through the order he inscribes into creatures. “Wherefore, all that is subject to divine providence are ruled and measured by eternal law . . . it is manifest that all things participate in some way of the eternal law insofar as, from its being impressed on them, they have their respective inclinations to their proper acts and ends.”<sup>15</sup> We can ascribe these inclinations to a creature’s respective nature.<sup>16</sup> Thus, all creatures participate in eternal law through the inclinations of their nature.<sup>17</sup>

Additionally, through inclinations, divine government orders creatures to their proper perfection (good). This is the essence of governance.

For as it belongs to the best to produce the best, it is not fitting that the supreme goodness of God should produce things without giving them their perfection. Now a thing’s ultimate perfection consists in the attainment of its end. Therefore, it belongs to the divine goodness, as it brought things into existence, so to lead them to their end: and this is to govern.<sup>18</sup>

Inasmuch as he governs them, what God wills for creatures is that they attain the perfection proper to their nature,<sup>19</sup> which is a likeness to and participation of the divine goodness.<sup>20</sup> This participation of divine goodness is the formal cause of each creature’s own created goodness.<sup>21</sup> Aquinas explains this as follows in his *Compendium theologiae*, when asking whether divine goodness is the last end of all things:

But the first object willed by the divine will is God’s goodness. . . . Hence the ultimate end of all things made by God must necessarily be the divine

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<sup>15</sup> ST I-II 91.2: “Unde cum omnia quae divinae providentiae subduntur, a lege aeterna reguntur et mensurentur . . . manifestum est quod omnia participant aliquantulum legem aeternam, inquantum scilicet ex impressione eius habent inclinationes in proprios actus et fines.”

<sup>16</sup> See John A.D. Cuddeback, “Law as an Extrinsic Principle of Action in Aquinas” doctoral dissertation, The Catholic University of America, 1997, 95-100.

<sup>17</sup> The inclinations of rational nature are a topic I will discuss more rigorously when we look at natural law.

<sup>18</sup> ST I 22.1: “Cum enim optimi sit optima producere, non convenit summae Dei bonitati quod res productas ad perfectum non perducatur. Ultima autem perfectio uniuscuiusque est in consecutione finis. Unde ad divinam bonitatem pertinet ut, sicut produxit res in esse, ita etiam eas ad finem perducatur. Quod est gubernare.” See also ST I.103.6.

<sup>19</sup> ST I 103.6; SCG, Bk. III, Ch. 113.

<sup>20</sup> ST I-II 2.8; ST I 103.2 ad 2; ST I 103.3. See Eleonore Stump and Norman Kretzmann, “Being and Goodness,” in *Thomas Aquinas: Contemporary Philosophical Perspectives*, ed. Brian Davies (Oxford: Oxford University Press, 2002), chapter 12.

<sup>21</sup> ST I 6.4; ST I 44.4.

goodness. Furthermore, the end of the generation of everything that is generated is its form. Once this is achieved, generation ceases. For everything that is generated, whether by art or by nature, is in some way rendered similar to the agent in virtue of its form, since every agent produces an effect that has some resemblance to the agent himself . . . . Hence in all things that are made, the end of their generation or production is the form of their maker or generator, in the sense that they are to achieve a likeness of that form. But the form of the first agent, who is God, is nothing else than his goodness. This, then, is the reason why all things were made: that they might be assimilated to the divine goodness.<sup>22</sup>

The perfection proper to each kind of being God creates is thus a likeness to divine goodness. When a creature achieves the perfection of its form, it attains the divine goodness to the fullest extent possible for the kind of thing it is. From all that has just been explained, we can conclude initially that eternal law directs creatures to their proper perfection (i.e. participation in the last end) through the inclinations of their nature. Creatures realize their perfection fully by attaining their proper good, a perfection that participates in divine goodness by way of similitude.<sup>23</sup>

## 2. *Eternal Law and Rational Nature*

As with other creatures, eternal law leads human beings to their perfection through the inclinations of their nature as well. As Aquinas states, “The rational creature is subject to divine providence in the most excellent way, insofar as it participates of providence, by being both provident for itself and for others. *Wherefore it participates of eternal reason, by which it has a natural inclination to its due act and end.*”<sup>24</sup>

Human beings are inclined to their perfection in and through their rational

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<sup>22</sup> *Compendium theologiae*, q. 101: “Primum autem volitum divinae voluntatis est eius bonitas, . . . . Necesse est igitur omnium rerum factarum a Deo, ultimum finem divinam bonitatem esse. Item, finis generationis uniuscuiusque rei generatae est forma eiusdem, hac enim adepta generatio quiescit. Unumquodque enim generatum, sive per artem sive per naturam, secundum suam formam simulatur aliquo modo agenti, nam omne agens agit aliquantulum sibi simile . . . . Omnium igitur quae fiunt, finis generationis sive perfectionis est forma facientis vel generantis, ut scilicet ad eius similitudinem perveniatur. Forma autem primi agentis, scilicet Dei, non est aliud quam eius bonitas. Propter hoc igitur omnia facta sunt ut divinae bonitati assimilentur.”

<sup>23</sup> Jean Porter has an instructive essay that touches on this: “Desire for God: Ground of the Moral Life in Aquinas,” *Theological Studies* 47 (1986), 48-68.

<sup>24</sup> ST I-II 91.2: “Rationalis creatura excellentiori quodam modo divinae providentiae subiacet, inquantum et ipsa fit providentiae particeps, sibi ipsi et aliis providens. Unde et in ipsa participatur ratio aeterna, per quam habet naturalem inclinationem ad debitum actum et finem. [emphasis mine]”



participation of eternal wisdom, according to which we direct ourselves to perfection in a voluntary manner.<sup>25</sup> In other words, eternal law imprints in us the inclinations proper to *rational* nature, a nature that is the principle of its own acts. “Every act of reason and will in us is based on that which is according to nature . . . for every act of reasoning is based in principles known naturally, and every act of appetite in respect of the means is derived from the natural appetite in respect of the last end.”<sup>26</sup> Since the inclinations to our proper act and end are the inclinations of *rational* nature, we ultimately attain divine goodness (by way of similitude) through the knowledge and love of divine goodness. We attain that end completely and supernaturally once we know God as he is in himself.<sup>27</sup>

Yet to say that eternal law orders human beings to their perfection by means of the inclinations proper to rational nature does not yet explain the relationship of eternal law to divine moral pedagogy. To see this plainly, let us return to Aquinas’ philosophy of education and recall what Aquinas identifies as the *internal* principle of moral instruction, namely, the “seeds of virtue” God places in the soul. Here, we can perceive how the human being’s participation of eternal law is the selfsame “seeds of virtue” existing in the soul as the internal principle of moral instruction. To recall what I established in chapter one, Aquinas identifies the “seeds of virtue” with the light of reason, the first principle(s) of practical reason, and the natural inclinations proper to rational nature. Yet are these not also the very same means by which rational creatures participate in eternal law? For Aquinas, “natural law is nothing other than the participation of eternal law in rational creatures.”<sup>28</sup> Aquinas thus

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<sup>25</sup> See Collins, “God’s Eternal Law,” 521-22.

<sup>26</sup> ST I-II 91.2 ad 2: “*Omnis operatio, rationis et voluntatis derivatur in nobis ab eo quod est secundum naturam . . . nam omnis ratiocinatio derivatur a principiis naturaliter notis, et omnis appetitus eorum quae sunt ad finem, derivatur a naturali appetitu ultimi finis.*”

<sup>27</sup> ST I-II 3.8.

<sup>28</sup> ST I-II 91.2: “*Lex naturalis nihil aliud est quam participatio legis aeternae in rationali creatura.*”

defines natural law as our participation of divine wisdom by the light of reason, first principles, and the inclinations proper to rational nature. That is, natural law is the internal principle of moral instruction.

In question 91, article 2 of the *Prima Secundae*, which is the first article on natural law, Aquinas quotes Psalm 9 and then interprets it for his reader. He states, “*Who shows us good things? The light of your countenance, O Lord, is signed upon us*, thus implying that the light of natural reason, whereby we discern what is good and what is evil, which pertains to natural law, is nothing else than the imprint on us of the divine light.”<sup>29</sup> The participation of eternal law through natural law is also linked to the first principles of practical reason. In article two of question 94 of the *Prima Secundae*, which is the chief question treating natural law, Aquinas links natural law to “the first principle in the practical reason,” namely, that good is to be done and pursued and evil is to be avoided.<sup>30</sup> Finally, Aquinas associates our participation of eternal law with the inclinations of human nature. Again, “To the natural law belongs those things to which a man is inclined naturally. And among these things it is proper for man to act according to reason.”<sup>31</sup> Besides the inclination to act according to reason, the will is inclined to the universal good, as mentioned already. Furthermore, in article 2 of question 94, Aquinas identifies other inclinations of human nature. First is the inclination to preserve ourselves in existence, which we share with all beings. Second is the inclination to beget and raise offspring, which we share with other animals.

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<sup>29</sup> *Quis ostendit nobis bona? cui quaestioni respondens, dicit, signatum est super nos lumen vultus tui, domine, quasi lumen rationis naturalis, quo discernimus quid sit bonum et malum, quod pertinet ad naturalem legem, nihil aliud sit quam impressio divini luminis in nobis.*”

<sup>30</sup> ST I-II 94.2.

<sup>31</sup> ST I-II 94.4: “*Ad legem naturae pertinent ea ad quae homo naturaliter inclinatur; inter quae homini proprium est ut inclinetur ad agendum secundum rationem.*”

Third is the inclination to truth, to social life, and to God, which is proper to rational nature alone.<sup>32</sup>

In sum, Aquinas identifies the order of human nature to the last end, which is the imprint in us of eternal law, with those “seeds of virtue” that are the precondition of moral development. This three-fold participation of eternal law is the internal principle of moral instruction through which the difference between good and evil is known and virtue attained. Recall from *De Veritate* how God is the supreme teacher of every human being.<sup>33</sup> No less is this true of our moral capacity, insofar as God places the internal principle of moral instruction within each soul. The magnitude of this truth, however, cannot be overlooked for all its subtlety. Without the “seeds of virtue,” we have no moral possibilities whatsoever, including authentic freedom. The imprint of eternal law in man is the ontological precondition of *virtuous* action. That is, natural law is man’s innate guide for voluntary action, which is moral action, and most especially the actions that grace elevates.

### *B. The Intelligibility of Goodness*

As we have seen, our apprehension of the good is antecedent to doing and pursuing the good and avoiding evil. “That a thing be done for the sake of an end, some knowledge of the end is required.”<sup>34</sup> The apprehension of the good, therefore, is requisite to attaining moral virtue, inasmuch as moral virtue presupposes the right ordering of our appetites according to reason. Yet, how could we apprehend a good if it were unintelligible to us? In particular, desiring and directing our actions to divine goodness presupposes that we apprehend something of divine perfection and the order of other goods to it. Hence, as we shall see, another reason why eternal law

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<sup>32</sup> ST I-II 94.2.

<sup>33</sup> See pages 11-12.

<sup>34</sup> ST I-II 6.1: “*Quod fiat aliquid propter finem, requiritur cognitio finis aliqualis.*”

is the ontological foundation of moral pedagogy is because, by the order it inscribes into all creatures, it makes the good in things and, consequently, divine goodness intelligible to us.

### 1. *Knowing the Good in Things*

To disclose further the relationship between the intelligibility of goodness and eternal law, I would like to investigate more carefully what the notion of good denotes. For Aquinas, the term *good* denotes the desirability of a thing. “For the notion of ‘good’ consists in this: that something is appetible.”<sup>35</sup> Nonetheless, our personal desire does not make a thing good; rather good is in the thing and so it is desirable.<sup>36</sup> As Aquinas says, “It is not accidental to the thing desired to be

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<sup>35</sup> ST I 5 1: “*Ratio enim boni in hoc consistit, quod aliquid sit appetibile.*”

<sup>36</sup> ST I 16.1; *In Libros Metaphysicorum*, trans. John P. Rowan (Chicago: Henry Regnery Company, 1961) Bk. XII, lesson 7, p. 2522: “But in our own case that which causes motion as a desirable good differs from that which causes motion as an intelligible good, though each causes motion as an unmoved mover. This is particularly evident in the case of an incontinent person; for according to his reason he is moved by an intelligible good, but according to his concupiscible power he is moved by something pleasant to the senses, which, while it seems to be good, is not good absolutely but only with some qualification. However, this kind of difference cannot be found in the first intelligible and the first desirable good. But the first intelligible and the first desirable good must be the same. The reason is that a concupiscible good, which is not an intelligible good, is merely an apparent good; but the first good ‘must be an object of will,’ i.e., an object desired by intellectual appetite. For will belongs to the intellectual order and not merely to that of concupiscible appetite. And this is so because what is desired by the concupiscible power seems to be good because it is desired; for concupiscence perverts the judgment of reason insofar as something pleasant to sense seems to be good to reason. But what is desired by intellectual appetite is desired because it seems to be good in itself. For ‘understanding’ as such, i.e., the act of intellection, which is moved in a way by an intelligible object, ‘is the principle of desire.’ Therefore it is evident that the object of concupiscible appetite is good only when it is desired through a dictate of reason. Hence it cannot be the first good, but only that which, because it is good, moves desire and is at once both appetible and intelligible: *Sed apud nos aliud est quod movet sicut desiderabile, et aliud quod movet sicut intelligibile bonum; cum tamen utrumque moveat sicut movens non motum. Et hoc praecipue apparet in eo qui est incontinens. Nam secundum rationem movetur ab intelligibili bono. Secundum autem vim concupiscibilem movetur ab aliquo delectabili secundum sensum, quod videtur bonum, cum non sit bonum simpliciter, sed solum secundum quid. Sed non potest esse huiusmodi diversitas in primo intelligibili et primo desiderabili. Sed oportet quod primum intelligibile et primum desiderabile sint eadem. Et hoc ideo, quia concupiscibile quod non est intelligibile bonum, est apparens bonum. Primum autem bonum oportet quod sit voluntabile, idest appetibile appetitu intellectuali. Nam voluntas in intellectu est, et non in appetitu concupiscentiae tantum. Et hoc ideo, quia quod appetitur secundum concupiscentiam videtur bonum, eo quod desideratur. Nam concupiscentia pervertit iudicium rationis, ut ei videatur bonum quod est delectabile. Sed illud quod appetitur appetitu intellectuali, desideratur, quia videtur bonum secundum se. Huiusmodi enim appetitus principium est intelligentia, idest actus intellectus qui movetur quodammodo ab intelligibili. Sic igitur patet quod concupiscibile non est bonum nisi quod desideratur secundum rationis dictamen. Non ergo potest esse primum bonum; sed solum illud quod, quia bonum est, movet desiderium, quod est appetibile et intelligibile simul.” For an excellent analysis of the term *good* in Aquinas, see Michael*

apprehended by the sense or the intellect; on the contrary, this belongs to it by its nature.”<sup>37</sup> Yet, the question I am asking is this: In general, what do we apprehend in an object, when we perceive it as being good?

Since good is predicated of being [*ens*], we could say that the being of a thing *qua* being (its perfection) elicits our desire for it; that is, insofar as we apprehend a thing’s being, we desire it.<sup>38</sup> Aquinas affirms that being is desirable. “Every being as being is good. For all being as being has actuality and is in some way perfect; since every act implies some sort of perfection; and perfection implies desirability and goodness.”<sup>39</sup> Moreover, Aquinas affirms that, subjectively, we find being desirable. “Now the intellect apprehends primarily being itself; secondly, it apprehends that it understands being; and thirdly, it apprehends that it desires being. Hence the idea of being is first, that of truth second, and the idea of good third, though good is in things.”<sup>40</sup> Elsewhere, Aquinas states that, “Truth and good include one another; for truth is something good, otherwise it would not be desirable; and good is something true, otherwise it would not be intelligible.”<sup>41</sup> For Aquinas the intelligibility of goodness is rooted in the being of things—a thing’s act, perfection, and form.<sup>42</sup>

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Waldstein, “Dietrich von Hildebrand and St. Thomas Aquinas on Goodness and Happiness,” *Nova et Vetera* 2, English Edition (2003), 419ff.

<sup>37</sup> ST I 80.2 ad 1: “*Appetibili non accidit esse apprehensum per sensum vel intellectum, sed per se ei convenit.*”

<sup>38</sup> See Leo Elders, *The Metaphysics of Being of St. Thomas Aquinas: In Historical Perspective* (New York: E.J. Brill, 1993).

<sup>39</sup> ST I 5.3: “*Omne ens, inquantum est ens, est bonum. Omne enim ens, inquantum est ens, est in actu, et quodammodo perfectum, quia omnis actus perfectio quaedam est. Perfectum vero habet rationem appetibilis et boni.*”

<sup>40</sup> ST I 16.4 ad 2: “*Intellectus autem per prius apprehendit ipsum ens; et secundo apprehendit se intelligere ens; et tertio apprehendit se appetere ens. Unde primo est ratio entis, secundo ratio veri, tertio ratio boni, licet bonum sit in rebus.*”

<sup>41</sup> ST I 79.11 ad 2: “*Verum et bonum se invicem includunt, nam verum est quoddam bonum, alioquin non esset appetibile; et bonum est quoddam verum, alioquin non esset intelligibile.*”

<sup>42</sup> See Stephen Brock, *Action and Conduct: Thomas Aquinas and the Theory of Action* (Edinburgh: T&T Clark, 1998), 115: “The definite, the formed, is always, insofar as it is definite, something good. This is because goodness is convertible with perfection, which is to say, fullness or wealth, as opposed to defect, privation or penury. The good is ‘positive’ and not ‘negative.’ But the definite is always something positive. Negation merely *removes* something definite from the subject. It never, by itself, attributes anything definite to it. It leaves the subject indefinite. To the extent that something is indefinite, it cannot have the quality of an object apt to be that toward which something is aimed or inclined, the quality of something good.”

However, the apprehension of being *qua* being does not explain what, specifically, of a thing's perfection or being elicits our desire. If it were merely the being *qua* being of a thing, we would seek every good we apprehend. Yet this is not the case, since we often apprehend the perfection of a thing without being moved to love it. The apprehension of a thing's being *qua* being does not explain fully *what* we apprehend as desirable; it only establishes the ontological basis of a thing's desirability. My question thus pertains to what we apprehend in a thing that serves as the *formality* of our being drawn to it.

To invert the question, recall that no created thing moves the will of necessity, since we can always consider what is lacking in some thing or refrain from thinking of it altogether. No created good is perfect and thus, since the will is variously inclined to particulars, we do not desire any particular good of necessity.<sup>43</sup> So, perhaps, we can say that desire is *not* elicited in the will if a being is found wanting in some way. Yet does this not describe every created being? As such, we would have to conclude that no created being can elicit desire in the will, since no created being is perfect in every respect. However, this is not true either, for we desire many imperfect goods in this life and pursue them as ends. Given the fact that a created good *does* elicit desire in the will, inasmuch as we apprehend it under the formality of good, the particular *ratio* of the good in some thing is yet to be identified.

Aquinas tells us that to apprehend the good in a thing is to apprehend a thing's beauty.<sup>44</sup> For Aquinas beauty and goodness are the same, though they differ logically. On the one hand, beauty is predicable of an object of desire with respect to what the intellect grasps of a thing's form, that is, the mode, species, and order proper to the

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<sup>43</sup> ST I-II 10.2.

<sup>44</sup> *De Veritate*, q. 22, a. 1 ad 12.

thing's perfection, which is its good.<sup>45</sup> On the other hand, good is predicable of a thing's desirability with respect to the will, once we apprehend the beauty of the object. Thus our apprehending the beauty of a thing is what elicits a desire in the will.

Beauty and goodness in a thing are identical fundamentally; for they are based upon the same thing, namely, the form; and consequently goodness is praised as beauty. But they differ logically, for goodness properly relates to the appetite (goodness being what all things desire); and therefore it has the aspect of an end (the appetite being a kind of movement toward a thing). On the other hand, beauty relates to the cognitive faculty; for beautiful things are those that please when seen. Hence beauty consists in due proportion; for the senses delight in things duly proportioned, as in what is after their own kind—because even sense is a sort of reason, just as is every cognitive faculty. Now since knowledge is by assimilation, and similarity relates to form, beauty properly belongs to the nature of a formal cause.<sup>46</sup>

This explanation leads us closer to an answer. As we apprehend the beauty of a thing, our will is reduced from potency to act with respect to appetite.<sup>47</sup> Aquinas thus maintains that the will is moved to love by the beauty of a being, as we apprehend it. “The object moving the appetite is a good apprehended; whatever in the apprehension itself appears beautiful is taken as fitting and good, and thus Dionysius says, that all that is beautiful and good is worthy to be loved.”<sup>48</sup>

This answer, however, begs for further explanation; for what is most beautiful (good) in a thing is its order to the last end. Aquinas argues that every created good is good on account of the divine goodness to which it is ordered and in which it participates. “Everything is called good by reason of the similitude of the divine

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<sup>45</sup> ST I-II 85.4.

<sup>46</sup> ST I 5.4 ad 1: “*Quod pulchrum et bonum in subiecto quidem sunt idem, quia super eandem rem fundantur, scilicet super formam, et propter hoc, bonum laudatur ut pulchrum. Sed ratione differunt. Nam bonum proprie respicit appetitum, est enim bonum quod omnia appetunt. Et ideo habet rationem finis, nam appetitus est quasi quidam motus ad rem. Pulchrum autem respicit vim cognoscitivam, pulchra enim dicuntur quae visa placent. Unde pulchrum in debita proportionem consistit, quia sensus delectatur in rebus debite proportionatis, sicut in sibi similibus; nam et sensus ratio quaedam est, et omnis virtus cognoscitiva. Et quia cognitio fit per assimilationem, similitudo autem respicit formam, pulchrum proprie pertinet ad rationem causae formalis.*” See also ST I-II 27.1 ad 3.

<sup>47</sup> See Thomas Hibbs. *Virtue's Splendor: Wisdom, Prudence, and the Human Good* (New York: Fordham University Press, 2001), 202-6.

<sup>48</sup> ST II-II 145.2 ad 1: “*Quod obiectum movens appetitum est bonum apprehensum. Quod autem in ipsa apprehensione apparet decorum, accipitur ut conveniens et bonum, et ideo dicit dionysius, IV cap. De div. Nom., quod omnibus est pulchrum et bonum amabile.*” cf. Hibbs, *Virtue's Splendor*, 204.

goodness belonging to it, which is formally its own goodness.”<sup>49</sup> As such, what is beautiful and thus loved in any particular good is the goodness of the last end in which the thing participates by virtue of its form. As Gilson remarks, “All human love is a love of God unaware of itself; and indeed . . . all human love is an analogical participation in God’s own love for Himself.”<sup>50</sup> We thus love this or that good in its being ordered to the universal good. Aquinas explains it thus:

Man must, of necessity, desire all, whatsoever he desires, for the last end. This is evident for two reasons. First, because whatever man desires, he desires it under the aspect of good. And if he desire it, not as his perfect good, which is the last end, he must, of necessity, desire it as tending to the perfect good, because the beginning of anything is always ordained to its completion; as is clearly the case in effects both of nature and of art. Wherefore every beginning of perfection is ordained to complete perfection, which is achieved through the last end. Secondly, is because the last end stands in the same relation in moving the appetite, as the first mover in other movements. Now it is clear that secondary moving causes do not move save inasmuch as they are moved by the first mover. Therefore, secondary objects of the appetite do not move the appetite, except as ordained to the first object of the appetite, which is the last end.<sup>51</sup>

This is especially the case when we apprehend our own goodness and consequently are moved to desire our own perfection. “All things, by desiring their own perfection,

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<sup>49</sup> ST I 6.4; ST I 103.2 ad2: “*Nihilominus tamen unumquodque dicitur bonum similitudine divinae bonitatis sibi inhaerente, quae est formaliter sua bonitas denominans ipsum.*” Bernard Lonergan states, for example, “According to St. Thomas there is a strong sense of the Aristotelian *ti esti, quid sit?* What is it? that refers to a full understanding of the object. When you ask, ‘What is the good?’ in that sense, you are asking, ‘what is good by its essence?’ ‘What is good?’ asks for the essence, and there is only one thing that is good by its essence, and that is God. Everything else is good by participation; just as there is only one thing that exists by its essence, and everything else exists by participation. That good, that being, is known properly, as opposed to analogously, only in the beatific vision” (*Collected Works of Bernard Lonergan*, vol. 10: *Topics in Education: The Cincinnati Lectures of 1959 on the Philosophy of Education*, ed. Robert M. Doran and Frederick E. Crowe [Toronto: University of Toronto Press, 1993], 30-31.)

<sup>50</sup> *The Spirit of Mediaeval Philosophy*, trans. A.H.C. Downes (New York: Charles Scribner’s Sons, 1940), 278.

<sup>51</sup> ST I-II 1.6: “*Quod necesse est quod omnia quae homo appetit, appetat propter ultimum finem. Et hoc apparet duplici ratione. Primo quidem, quia quidquid homo appetit, appetit sub ratione boni. Quod quidem si non appetitur ut bonum perfectum, quod est ultimus finis, necesse est ut appetatur ut tendens in bonum perfectum, quia semper inchoatio alicuius ordinatur ad consummationem ipsius; sicut patet tam in his quae fiunt a natura, quam in his quae fiunt ab arte. Et ideo omnis inchoatio perfectionis ordinatur in perfectionem consummatam, quae est per ultimum finem. Secundo, quia ultimus finis hoc modo se habet in movendo appetitum, sicut se habet in aliis motionibus primum movens. Manifestum est autem quod causae secundae moventes non movent nisi secundum quod moventur a primo movente. Unde secunda appetibilia non movent appetitum nisi in ordine ad primum appetibile, quod est ultimus finis.*”



desire God himself, inasmuch as the perfection of all things are so many similitudes of the divine being.”<sup>52</sup>

Hence, if it is not being *qua* being that provides the formality for the elicitation of rational desire, the answer resides in the beauty of a thing, namely, the order of a thing to its end, which is one of the primary qualities of a thing predicable of the term *good*. “The goodness of a creature is not its very essence, but something superadded; it is either its existence, or some added perfection, *or the order to its end*.”<sup>53</sup> Gilson explains it thus, “In this sense, then, it is true that to love any good whatsoever is always to love its resemblance to the divine goodness, and, since it is this resemblance to God that makes this good to be good, we can say that what is loved in it is the Sovereign Good.”<sup>54</sup>

And yet, if it were not for the natural inclination of the will to the “Sovereign Good,”<sup>55</sup> this answer would still not fully account for why we desire some particular good. “God moves man’s will as the universal mover, to the universal object of the will, which is good. And without this universal motion, man cannot will anything.”<sup>56</sup> In other words, we desire a created good insofar as we apprehend it as being—in some partial and proximate way—a fulfillment of our own natural inclination to the universal good, namely, something perfective of us and suitable to the good of our nature, and thereby conducive to attaining our last end.

To desire a particular good as being conducive to our last end is to suggest that we are borne toward our perfection, in some partial way, by means of attaining the

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<sup>52</sup> ST I 6.1 ad 2: “*Omnia, appetendo proprias perfectiones, appetunt ipsum Deum, inquantum perfectiones omnium rerum sunt quaedam similitudines divini esse.*”

<sup>53</sup> ST I 6.3 ad 3: “*Bonitas rei creatae non est ipsa eius essentia, sed aliquid superadditum; vel ipsum esse eius, vel aliqua perfectio superaddita, vel ordo ad finem* [emphasis mine].”

<sup>54</sup> *The Spirit of Medieval Philosophy*, 286.

<sup>55</sup> ST I-II 10.1.

<sup>56</sup> ST I-II 9.6 ad 3: “*Deus movet voluntatem hominis, sicut universalis motor, ad universale obiectum voluntatis, quod est bonum. Et sine hac universali motione homo non potest aliquid velle.*”

particular good we presently desire. When Aquinas asks whether the will is of the good only, he states that, “Every inclination is to something like and fitting to the thing inclined.”<sup>57</sup> In another place he states, “For when we love a thing, by desiring it, we apprehend it as belonging to our well-being.”<sup>58</sup> A created good is thus a proximate end conducive to the last end. Our apprehension of an object’s participation of the last end—the beauty itself of the thing perceived—is what elicits our desire for it, but only if we apprehend this beauty as conducing to our happiness in some way.

Conversely, if we do not apprehend an object as conducive to our happiness, we will not desire it. For example, I can apprehend the goodness of the sun and yet be affectively averted from it for fear of getting sunburned, which would be harmful to my skin. What Aquinas ultimately argues, therefore, is that rational desire presupposes both the ontological goodness that exists in things—by their participation in divine goodness—and our apprehension of this goodness as, in some way, conducing to our happiness. It is not exclusively the former or the latter.<sup>59</sup>

From the above analysis, I would draw an initial conclusion. It is because of eternal law that the good in created things is intelligible to us. This is the case for two reasons. First, since eternal law is the cause of the order of things to their end, it

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<sup>57</sup> ST I-II 8.1: “*Nil autem inclinatur nisi in aliquid simile et conveniens.*”

<sup>58</sup> ST I-II 28.1: “*Cum enim aliquis amat aliquid quasi concupiscens illud, apprehendit illud quasi pertinens ad suum bene esse.*”

<sup>59</sup> Yet, allow me to affirm that, by loving a particular good on account of the universal good, we do not necessarily instrumentalize a created good. We can love a created good, for its own sake, in its being ordered to the last end, without “using” it as a means to the last end (as a *bonum utile*), such as we might use a tool. This distinction is especially relevant when the good loved is a person. A person is never a means to an end, but this does not negate the truth above, that what is loved in the person is his or her similitude to divine goodness, which we love in our love for that person. Such love is perfective of us precisely because we love the other, for their own sake, in their being ordered to God as to an end. Therefore, how we are to act in regard to a loved object will depend upon the ontological nature of the object. Some goods, such as persons, can never be used instrumentally without giving offense. Other goods, however, are to be used as a means to our last end—such as food and other external goods.

follows that it is also the cause for the intelligibility of the good in things on the part of things themselves. Second, eternal law is the cause for the intelligibility of goodness on the part of the rational subject apprehending the good, inasmuch as eternal law is the cause of our capacity for discerning what conduces to our happiness. Eternal law is the ontological foundation of moral pedagogy because it makes goodness intelligible to reason. That is, we cannot know what is good and evil if there is no ontological ground for apprehending good and evil in the first place.

## 2. *Knowing Divine Goodness*

The more fundamental matter, however, is the apprehension of divine goodness. For Aquinas, the order of things to the last end is what makes divine goodness intelligible to reason. Our apprehension of created goodness leads us to the goodness of the last end. This is indispensable to moral perfection because we cannot love the last end if we do not know anything of it. As Aquinas says, “Since to love God is something greater than to know Him, especially in this state of life, it follows that love of God presupposes knowledge of God.”<sup>60</sup> Yet in the present life we can apprehend divine goodness only by apprehending the goodness of the things God has made, for “we cannot know the things that are of God, as they are in themselves; but they are made known to us in their effects, according to Rm. 1:20: “The invisible things of God . . . are clearly seen, being understood by the things that are made.”<sup>61</sup>

A cause is always contained in its effect. When we know the effect, we know to a certain extent the cause as well. “Now creatures lead to the knowledge of God chiefly by their comeliness and beauty, which show forth the wisdom of their maker and

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<sup>60</sup> ST II-II 27.4 ad 2: “*Quia dilectio Dei est maius aliquid quam eius cognitio, maxime secundum statum viae, ideo praesupponit ipsam*”; SCG, Bk IIIb, Ch. 118.

<sup>61</sup> ST I-II 93.2 ad 1: “*Ea quae sunt Dei, in seipsis quidem cognosci a nobis non possunt, sed tamen in effectibus suis nobis manifestantur, secundum illud Rom. I, invisibilia Dei per ea quae facta sunt, intellecta, conspiciuntur.*” See also ST I 12.12.

governor; wherefore it is written (Wis. 13:5): ‘By the greatness of the beauty and of the creature, the creator of them may be seen, so as to be known thereby.’”<sup>62</sup> Aquinas tells us that an effect always has a certain likeness to its cause. Hence, the beauty of God is what draws us to himself, as this is apprehended in the beauty of his creatures.

To recall what I have explained already, the action of an agent is completed in the patient, insofar as the patient is brought into conformity with the form of the agent by way of likeness. “Now everything seeks after its own perfection; and the perfection and form of an effect consist in a certain likeness to the agent, since every agent makes its like; *and hence the agent itself is desirable and has the nature of good*. For the very thing which is desirable in it is the participation of its likeness.”<sup>63</sup> Thus the order of a thing to its end reveals something of the end itself. Once again, Stephen Brock is helpful here:

Nevertheless the note of ‘proportion’, the conformity of the effect to the agent, means that understanding the causal relation between them consists precisely in seeing a *kind* of logical unity between them. This unity is more than the mere fact of likeness or the sharing in a common description. The likeness is in fact the basis of the causal relation. To know the effect *is* to know something about the cause, even before anything is identified as the cause. The form of the effect in fact serves as the principal criterion for the identification of the cause. The causal relation consists in this, that some description is true of the effect because it is true of the cause, and to a higher degree.<sup>64</sup>

As a patient, the creature participates in the form of goodness that God is, such that to know the perfection of a created good is to know, to some degree, God’s own goodness. Aquinas puts the matter as follows:

Now the end of the agent and of the patient considered as such is the same, but in a different way respectively. For the impression which the agent

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<sup>62</sup> ST III 91.3 (supplement).

<sup>63</sup> ST I 6.1: “*Unumquodque autem appetit suam perfectionem. Perfectio autem et forma effectus est quaedam similitudo agentis, cum omne agens agat sibi simile. Unde ipsum agens est appetibile, et habet rationem boni, hoc enim est quod de ipso appetitur, ut eius similitudo participetur* [emphasis mine].”

<sup>64</sup> Brock, *Action and Conduct*, 111.

intends to produce, and which the patient intends to receive, are one and the same. . . . But it does not belong to the first agent, who is agent only, to act for the acquisition of some end; He intends only to communicate his perfection, which is his goodness, while every creature intends to acquire its own perfection, which is the likeness of the divine perfection and goodness.<sup>65</sup>

Put otherwise, divine goodness is the final cause all creatures attain by virtue of their formal participation in divine goodness. Since the final cause is always known through efficient causality,<sup>66</sup> Aquinas would say that we know divine goodness, by analogy, through the mediation of the goodness in creatures.

So, if we apprehend the goodness in created things, we apprehend, in a mediated way, the last end as the most desirable and thus preeminent good. As one commentator remarks, “From the species of nature (*exemplata*) apparent to the outer eye, man can gather a rudimentary, confused and inchoate knowledge of the End—not, indeed, in Himself but as somehow present by extension in His Creation, that is, in the very teleological design of the various specific natures, including human nature.”<sup>67</sup> In sum, by the very order of all things to the divine good that eternal law establishes, God draws us to the goodness of things perfective of us, especially his own goodness.

### C. The Good and Evil of Human Acts

For Aquinas, eternal law is the ultimate rule and measure of good and evil for human beings and, therefore, the ultimate point of reference for our moral character. To be good, simply speaking, we are bound to conform our acts to the rule and

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<sup>65</sup> ST I.44.4: “*Est autem idem finis agentis et patientis, inquantum huiusmodi, sed aliter et aliter, unum enim et idem est quod agens intendit imprimere, et quod patiens intendit recipere. . . . Sed primo agenti, qui est agens tantum, non convenit agere propter acquisitionem alicuius finis; sed intendit solum communicare suam perfectionem, quae est eius bonitas. Et unaquaeque creatura intendit consequi suam perfectionem, quae est similitudo perfectionis et bonitatis divinae.*”

<sup>66</sup> See Lawrence Dewan, “St. Thomas and the Causality of God’s Goodness,” *Laval Theologique et Philosophique* 34 (1978): 291-304.

<sup>67</sup> Oscar James Brown, *Natural Rectitude and Divine Law in Aquinas: An Approach to an Integral Interpretation of the Thomistic Doctrine of Law* (Toronto: Pontifical Institute of Mediaeval Studies, 1981), 158-59.

measure of eternal law. “Now it is from eternal law, which is divine reason, that human reason is the rule of the human will, from which the human will derives its goodness.”<sup>68</sup> This is so inasmuch as eternal law is the divine rule of prudence preexisting in God, to which we are to conform our practical reasoning if we are to achieve the human good by our free-decisions. Though reason is the proximate rule and measure of human acts, eternal law is the rule and measure of reason itself.

Yet such a claim does not seem to escape the charge of heteronomy. If human reason is not the ultimate measure of good and evil, then in what sense is the human person truly free? If eternal law is binding on our actions, then freedom and subjection must be antipodean. Yet, as I have shown, such an assertion has no support in Aquinas. It is precisely on this point, therefore, that the relationship between eternal law and moral pedagogy needs further clarification. Eternal law is the ontological foundation of moral pedagogy because it is the basis for determining the moral species of our actions.

As Aquinas explains, “Good is found [in things] not only as regards their substance, but also as regards their order towards an end and especially their last end, which is the divine goodness.”<sup>69</sup> To the extent to which we can apply this statement to rational beings, what this means is that our moral character is related to the absolutely first principle of all goodness. Our moral goodness is proportionate to the perfection proper to rational nature as eternal law determines this. Yet, because we direct ourselves to our end by means of free-decision, the present concern is with the order of human acts to the last end.

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<sup>68</sup> ST I-II 19.4: “*Autem ratio humana sit regula voluntatis humanae, ex qua eius bonitas mensuretur, habet ex lege aeterna, quae est ratio divina.*”

<sup>69</sup> ST I 22.1: “*In rebus autem invenitur bonum, non solum quantum ad substantiam rerum, sed etiam quantum ad ordinem earum in finem, et praecipue in finem ultimum, qui est bonitas divina.*”

The order proper to rational beings is an order of voluntary acts, which attain divine goodness through the rational participation of our acts in eternal law. In contradistinction to the proper order of non-rational creatures to their perfection, the conformity of our decisions with eternal law determines whether our acts are proportionate to the last end or not. Indeed, eternal law implies necessity, but in rational creatures, we are to understand necessity in the context of freedom, insofar as certain acts are contrary to eternal law because they do not conduce, in themselves, to man's perfection. As we have seen already, Aquinas refers to this as the necessity of the end, a necessity not contrary to the will:

Wherever a certain order is requisite to an end, that order must needs lead to that end, and infringement of that order debars from it [the end]: since those things that are on account of the end, take their necessity from the end; so that, to wit, they are necessary, if the end has to follow; and, given them, if there be no obstacle, the end will follow. Now, God appointed to man's actions a certain order in relation to the end of the good. . . . Consequently, given that this order is rightly followed, those who comply with it attain the end of good, . . . while those who forsake that order through sin, are debarred from the end of good.<sup>70</sup>

We cannot attain our perfection except by voluntary acts properly ordered to our end. Such acts are a participation of divine goodness (by way of similitude) proper to rational creatures alone. Moreover, such acts are virtuous because, by them, we attain the end of virtue, which is the good according to reason. "Necessity is twofold. One arises from 'coercion,' and this removes merit, since it runs counter to the will. The other arises from the obligation of a 'command,' or from the necessity of obtaining

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<sup>70</sup> SCG IIb, Ch. 140: "*Ubi cumque est aliquis debitus ordo ad finem, oportet quod ordo ille ad finem ducat, recessus autem ab ordine finem excludat: ea enim quae sunt ex fine, necessitatem sortiuntur ex fine; ut scilicet ea necesse sit esse, si finis debeat sequi; et eis absque impedimento existentibus, finis consequatur. Deus autem imposuit actibus hominum ordinem aliquem in respectu ad finem boni. . . . Oportet igitur quod, si ordo ille recte positus est, quod incedentes per illum ordinem finem boni consequantur. . . . recedentes autem ab illo ordine per peccatum, a fine boni excludi, quod est puniri* [brackets mine]." See also ST I 82.1.

an end, when, to wit, a man is unable to achieve the end of virtue without doing some particular thing.”<sup>71</sup>

Furthermore, the order proper to a human act constitutes a four-fold goodness. “First, that which, as an action, it derives from its genus; because as much as it has of action and being so much has it of goodness. Secondly, it has goodness according to species, which is derived from its *suitable* object. Thirdly, it has goodness from its circumstances, in respect as it were, of its accidents. Fourthly, it has goodness from its end, to which it is compared *as to the cause of its goodness*.”<sup>72</sup> For an act to be lacking in any of these means that it will fail to attain human perfection.

Evil, too, is relative to human perfection. Aquinas, following Augustine, defines evil as the privation of a due good.<sup>73</sup> For sub-rational beings evil is predicated of some privation to their material form. For example, one might think of an animal born blind. For man, however, evil is not first predicated of material privation, but chiefly the privation of an act’s goodness.<sup>74</sup> By such acts, we turn away from our last end through a disorder we introduce into the act. That is, we fail to conform ourselves to eternal law after the manner suitable to a rational nature.<sup>75</sup> In a passage worth quoting in full, Aquinas explains the good and evil of human acts:

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<sup>71</sup>ST II-II 58.3 ad 2: “*Duplex est necessitas. Una coactionis, et haec, quia repugnat voluntati, tollit rationem meriti. Alia autem est necessitas ex obligatione praecepti, sive ex necessitate finis, quando scilicet aliquis non potest consequi finem virtutis nisi hoc faciat.*”

<sup>72</sup>ST I-II 18.4: “*Una quidem secundum genus, prout scilicet est actio, quia quantum habet de actione et entitate, tantum habet de bonitate, ut dictum est. Alia vero secundum speciem, quae accipitur secundum obiectum conveniens. Tertia secundum circumstantias, quasi secundum accidentia quaedam. Quarta autem secundum finem, quasi secundum habitudinem ad causam bonitatis* [emphasis mine].”

<sup>73</sup>ST I 48.1.

<sup>74</sup>ST I-II 18.1.

<sup>75</sup>See ST I-II 109.2 ad 2: “To sin is nothing else than to fail in the good which belongs to any being according to its nature. Now as every created thing has its being from another, and, considered in itself, is nothing, so does it need to be preserved by another in the good which pertains to its nature. For it can of itself fail in good, even as of itself it can fall into non-existence, unless it is upheld by God: *Peccare nihil aliud est quam deficere a bono quod convenit alicui secundum suam naturam. Unaquaeque autem res creata, sicut esse non habet nisi ab alio, et in se considerata est nihil, ita indiget conservari in bono suae naturae convenienti ab alio. Potest autem per seipsam deficere a bono, sicut et per seipsam potest deficere in non esse, nisi divinitus conservaretur.*”



For every privation of good, in whatever subject, is an evil: whereas sin consists properly in an action done for a certain end, and lacking due order to that end. Now the due order to an end is measured by some rule. In things that act according to nature, this rule is the natural force that inclines them to that end. When therefore an action proceeds from a natural force, in accord with the natural inclination to an end, then the action is said to be right: since the mean does not exceed its limits, viz. the action does not swerve from the order of its active principle to the end. But when an action strays from this rectitude, it comes under the notion of sin. Now in those things that are done by the will, the proximate rule is the human reason, while the supreme rule is eternal law. When, therefore, a human action tends to the end, according to the order of reason and of the eternal law, then that action is right: but when it turns aside from that rectitude, then it is said to be a sin. Now it is evident that every voluntary action that turns aside from the order of reason and of eternal law, is evil, and that every good action is in accord with reason and eternal law. Hence it follows that a human action is right or sinful by reason of its being good or evil.<sup>76</sup>

In sum, moral goodness and moral evil are always relative to the divine goodness in which we are to participate by way of similitude. This participation of divine goodness is realized when our actions conduce to that perfection proper to our species, as God determines this through eternal law. In this way, eternal law is the rule and measure of virtue—a virtuous person being, for Aquinas, one who is well disposed to his end.<sup>77</sup> From what I have said thus far, it should be evident that eternal law defines the moral character of our acts in relation to divine goodness.<sup>78</sup> This order of means to end is not an arbitrary relationship, for an intrinsic

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<sup>76</sup> ST I-II 21.1: “*Quaelibet enim privatio boni in quocumque constituit rationem mali, sed peccatum proprie consistit in actu qui agitur propter finem aliquem, cum non habet debitum ordinem ad finem illum. Debitus autem ordo ad finem secundum aliquam regulam mensuratur. Quae quidem regula in his quae secundum naturam agunt, est ipsa virtus naturae, quae inclinat in talem finem. Quando ergo actus procedit a virtute naturali secundum naturalem inclinationem in finem, tunc servatur rectitudo in actu, quia medium non exit ab extremis, scilicet actus ab ordine activi principii ad finem. Quando autem a rectitudine tali actus aliquis recedit, tunc incidit ratio peccati. In his vero quae aguntur per voluntatem, regula proxima est ratio humana; regula autem suprema est lex aeterna. Quando ergo actus hominis procedit in finem secundum ordinem rationis et legis aeternae, tunc actus est rectus, quando autem ab hac rectitudine obliquatur, tunc dicitur esse peccatum. Manifestum est autem ex praemissis quod omnis actus voluntarius est malus per hoc quod recedit ab ordine rationis et legis aeternae, et omnis actus bonus concordat rationi et legi aeternae. Unde sequitur quod actus humanus ex hoc quod est bonus vel malus, habeat rationem rectitudinis vel peccati.*”

<sup>77</sup> ST I-II 65.2.

<sup>78</sup> ST I 103. 3: “Government is nothing but the directing of the things governed to the end; which consists in some good: *Cuius ratio est, quia gubernatio nihil aliud est quam directio gubernatorum ad finem, qui est aliquod bonum.*”

relationship exists between the moral species of our acts and the end to be achieved.<sup>79</sup>

## Conclusion

As the *exemplar* of all law, eternal law is the fountain of practical moral wisdom. It is the wisdom of God communicated to us through the order of our nature. Aquinas identifies our participation in that wisdom principally with natural law, which we will consider next. As the exemplar of all law, eternal law is the ontological foundation of moral pedagogy for three reasons. The first is because it establishes the order of nature to divine goodness. This order is inscribed in us as the internal principle of moral instruction. The second is that it makes the good in things intelligible to reason, especially the goodness of the last end. Consequently, we can apprehend the good in things and thus act accordingly. Finally, eternal law determines which acts conduce to the last end or not, such that we are capable, through reason, of directing our actions toward our last end so as to attain it. Eternal Law predisposes us to being taught and led to virtue. In this way, it is the ground of our entire motion and pilgrimage towards God.

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<sup>79</sup> As Pope John Paul II states in *Veritatis splendor*, “The primary and decisive element for moral judgment is the object of the human act, which establishes whether it is *capable of being ordered to the good and to the ultimate end, which is God*. This capability is grasped by reason in the very being of man, considered in his integral truth, and therefore in his natural inclinations, his motivations and his finalities, which always have a spiritual dimension as well. It is precisely these which are the contents of natural law and hence that ordered complex of ‘personal goods’ which serve the ‘good of the person’: the good which is the person himself and his perfection. These are the goods safeguarded by the commandments, which, according to Saint Thomas, contain the whole natural law. Reason attests that there are objects of the human act which are by nature ‘incapable of being ordered’ to God, because they radically contradict the good of the person made in his image. These are the acts which, in the Church’s moral tradition, have been termed ‘intrinsically evil’ [*intrinsece malum*]” (nos. 79-80).

*Natural law:  
The Internal Principle of Divine Moral Pedagogy*

Few if any questions in Aquinas' theological corpus have been more disputed, of late, than his question on natural law in the *Prima Secundae*.<sup>1</sup> This is peculiar given the relatively minor place it occupies in Aquinas' moral treatise, and the comparative clarity his account of it gives. For centuries, the Church has held up natural law—Aquinas' account of it especially—as the immutable and immanent rule and measure for the morality of human acts. As it is, a bevy of questions remain in dispute.<sup>2</sup> What

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<sup>1</sup> ST I-II 94.

<sup>2</sup> There are a number of works published on natural law theory (some old, some more recent) that I would commend to the reader, if only to appreciate the complexity, scope, and unending drama of natural law debate among solely Catholic commentators of Aquinas. From individual authors presented in alphabetical order, see Fulvio Di Blasi, *God and the Natural Law: A Rereading of Thomas Aquinas* (South Bend, IN: St. Augustine's Press, 2006); John Finnis, *Natural Law and Natural Right* (Oxford: Clarendon Press, 1980); Josef Fuchs, *Natural Law: A Theological Investigation* (New York: Sheed and Ward, 1965); Robert P. George, *In Defense of Natural Law* (Oxford: Clarendon Press, 1999); Pamela M. Hall, *Narrative and the Natural Law: An Interpretation of Thomistic Ethics* (South Bend, IN: University of Notre Dame Press, 1994); Russell Hittinger, *A Critique of the New Natural Law Theory*, (South Bend, IN: University of Notre Dame Press, 1989; *The First Grace: Rediscovering the Natural Law in a Post-Christian World* (Wilmington, DE: ISI Books, 2003); Anthony Lisska, *Aquinas's Theory of Natural Law: An Analytical Reconstruction* (Oxford: Clarendon Press, 1996); Dom Odon Lottin, *Le droit naturel chez Saint Thomas d'Aquin et ses Prédecesseurs*. (Bruges: Beyaeret, 1931); see also *Psychologie et Moral aux XII et XIII siècles*, vol. I (Louvain: Abbaye du Mont César, 1948); Jacques Maritain, *Natural Law: Reflections on Theory and Practice*, ed. with an introduction by William Sweet (South Bend, IN: St. Augustine's Press, 2001); Jean Porter, *Nature as Reason: A Thomistic Theory of the Natural Law* (Grand Rapids, MI: Eerdmans Publishing Company, 2005); Martin Rhonheimer, "The Cognitive Structure of the Natural Law and the Truth of Subjectivity" *The Thomist* 67 (2003), 1-44; *Natural Law and Practical Reason: A Thomistic View of Moral Autonomy* (New York: Fordham University Press, 2000); Heinrich Rommen, *The Natural Law: A Study in Legal and Social History and Philosophy*, trans. Thomas R. Hanley, O.S.B. London: Herder Books, 1947. For compilations, see *Common Truths: New Perspectives on Natural Law*, ed. By Edward B. McLean (Wilmington, DE: ISI Books, 2000); *St. Thomas Aquinas & the Natural Law Tradition: Contemporary Perspectives*, ed. John Goyette, Mark S Latkovic, and Richard S. Myers (Washington, D.C.: The Catholic University of America Press, 2004).

is natural law for Aquinas—exactly?<sup>3</sup> Is it truly a law that binds us? Is it a set of precepts deduced from nature? Is it human nature itself? Or is it simply our practical reason by which we determine what is good or evil for ourselves? And how do we know its precepts? Do we know them *per se*? Do we derive them syllogistically from first principles, as we do speculative conclusions? Or are they merely “read off” human nature? And what are the precepts of natural law, and why is there no agreement on them if there is such a thing? Are they universal? Do they admit exceptions? Is Aquinas’ natural law theory teleological or deontological? Is it static and ahistorical, or does it provide for the historical and contingent nature of human existence? Is it merely a “human” morality or does it fit comfortably within a theological context as circumscribed by the Gospel?

The questions put to Aquinas’ text are seemingly endless; and, of course, he is not here to answer any of them. My intention in this chapter is not, of course, to address all the issues that scholars raise about natural law theory, for this is unnecessary to my purpose. More modestly, I will propose a way of reading Aquinas’ natural law theory as the internal principle of divine moral pedagogy, which, whatever else may be the case, might shed fresh light on this doctrine. It is my contention that conceiving natural law in this manner is the best way to comprehend how natural law functions pedagogically within the divine economy.

To explore this idea, however, I must confront a dilemma that, to my knowledge, Aquinas never directly addresses: How can natural law be *internal* to us and, at the same time, retain its status as a law, which Aquinas categorically defines as an *external*

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<sup>3</sup> Vernon Bourke provides a good summary of how Aquinas’ understanding of natural law developed between his commentary on the *Sentences of Peter Lombard* and the *Summa theologiae*. “Is Thomas Aquinas a Natural Law Ethicist?” *The Monist* 58 (1974), 52-66.

principle of acts by which God moves us to good?<sup>4</sup> To resolve this dilemma, I will further clarify humanity's participation of eternal law in contradistinction to irrational creatures. I will do this in two steps. First, I will look in general at the uniqueness of eternal law's interiority within man as the internal principle of divine moral pedagogy. Second, I will explain the pedagogical function of the natural inclinations in Aquinas' natural law theory, which I discussed only briefly in chapter five.

### *A. The Interiority of Natural Law*

If we approach Aquinas' natural law theory from the perspective of his philosophy of education, we find a key for unlocking his natural law theory. After all, natural law theory is about what we naturally know of good and evil.<sup>5</sup> It is a theory of moral knowledge, and it is by such knowledge that we are supposedly bound to pursue or avoid certain kinds of actions. Yet natural law is not—first and foremost—a set of specifically determined precepts everyone innately knows. As we have seen, it is a capacity for (practical) moral knowledge; it is not, itself, this knowledge in its specificity. As should be evident by now, the universality of natural law is manifest in the universality of this moral capacity, not in the universality of our knowing the particular precepts of natural law. Moreover, and more fundamentally, the secondary and tertiary precepts of natural law, when they *are* known, often express the cumulative wisdom of generations. Practical moral wisdom is rarely, if ever, acquired outside of a moral tradition.

Allow me, then, to sketch the basic contours of what I have concluded thus far regarding natural law. First, Aquinas identifies natural law with the internal principle

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<sup>4</sup> ST I-II 90, *prologus*.

<sup>5</sup> Henry Veatch presents a terse summary of the epistemological objections philosophers have raised against natural law theory. Ironically, he presents this summary as a way to justify his wish to focus, instead, on the metaphysics of Aquinas' natural law theory. "On the Metaphysical Status of Natural Law," in *Anglican Theological Review* XLVII (1965), 170-80.

of moral instruction, and, as such, it is a moral potency in need of actualization. This is why Aquinas calls our participation of eternal law, *natural* law. As Russell Hittinger explains, what is *natural* in natural law is the way in which we know its moral precepts, namely, through the natural process of practical reasoning.<sup>6</sup> Natural law is not natural inasmuch as it is innate in all of its particular determinations, but insofar as the reasoning by which we come to the practical knowledge of good and evil is natural to us as rational beings.<sup>7</sup>

The second point follows from the first; what *all* know concerning good and evil is quite minimal, general, and inchoate. As Aquinas says, “Now all men know the truth to a certain extent, at least as to the common principles of natural law.”<sup>8</sup> Hence, he concludes elsewhere, “As regards the common principles whether speculative or of practical reason, truth or rectitude is the same for all, and is equally known by all.” Yet he goes on, “as to the proper conclusions of practical reason, neither is the truth or rectitude the same for all, nor, where it is the same, is it equally known by all.”<sup>9</sup> Therefore, only the most common precepts of natural law are known universally—such as “do good and avoid evil,” “do unjust harm to no man,” and so forth.

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<sup>6</sup> *The First Grace*, 10: “As we saw earlier, Tertullian used the adverb *naturaliter* (naturally) not to characterize the law but rather to describe how it is known. Nature is not the law, but the mode of knowing it.”

<sup>7</sup> STI-II 94.3: “For it has been stated (A2) that to the natural law belongs everything to which a man is inclined according to his nature. Now each thing is inclined naturally to an operation that is suitable to it according to its form: thus fire is inclined to give heat. Wherefore, since the rational soul is the proper form of man, there is in every man a natural inclination to act according to reason: and this is to act according to virtue: *Dictum est enim quod ad legem naturae pertinet omne illud ad quod homo inclinatur secundum suam naturam. Inclinatur autem unumquodque naturaliter ad operationem sibi convenientem secundum suam formam, sicut ignis ad calefaciendum. Unde cum anima rationalis sit propria forma hominis, naturalis inclinatio inest cuilibet homini ad hoc quod agat secundum rationem. Et hoc est agere secundum virtutem. Unde secundum hoc, omnes actus virtutum sunt de lege naturali, dicat enim hoc naturaliter unicuique propria ratio, ut virtuose agat.*”

<sup>8</sup> STI-II 94.3: “*Veritatem autem omnes aliquantulum cognoscunt, ad minus quantum ad principia communia legis naturalis.*”

<sup>9</sup> ST I-II 94.4: “*Sic igitur patet quod, quantum ad communia principia rationis sive speculativae sive practicae, est eadem veritas seu rectitudo apud omnes, et aequaliter nota . . . Sed quantum ad proprias conclusiones rationis practicae, nec est eadem veritas seu rectitudo apud omnes; nec etiam apud quos est eadem, est aequaliter nota.*” See also ST I-II 94.6

As to more specified precepts, such as “do not steal” and others such as those in the Decalogue, all people *can* know these through reason, but only after some reflection. When discussing the Decalogue, Aquinas explains that some acts are such that their moral species is difficult to determine.<sup>10</sup> He thus shows how the Ten Commandments function also as principles from which we determine more specific precepts. Such might be the case with the prohibition against polygamy. With other even more difficult determinations, Aquinas concludes that only the very wise can ascertain their moral species. The following text summarizes the matter:

Human reason cannot have a full participation of the dictate of the divine reason, but according to its own mode, and imperfectly. Consequently, as on the part of the speculative reason, by a natural participation of divine wisdom, there is in us the knowledge of certain general principles, but not proper knowledge of each single truth, such as that contained in the divine wisdom; so too, on the part of the practical reason, man has a natural participation of the eternal law, according to certain general principles, but not as regards the particular determinations of individual cases, which are, however, contained in the eternal law. Hence, it is necessary for human reason to proceed further to sanction them by law.<sup>11</sup>

So even if Aquinas does affirm that natural law cannot be abolished from the human heart,<sup>12</sup> the understanding of the most common principles is not the same degree of practical moral wisdom as is the understanding of secondary and tertiary precepts. For this reason, we cannot confuse the understanding of first principles with practical moral wisdom. The understanding of these principles is only a beginning of practical moral wisdom, a seed for knowing the difference between good and evil. Without at least a grasp of secondary principles, we know little about good and evil, though what we do understand is indispensable to acquiring this more

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<sup>10</sup> ST I-II 100.1.

<sup>11</sup> ST I-II 91. 3 ad 1: “*Ratio humana non potest participare ad plenum dictamen rationis divinae, sed suo modo et imperfecte. Et ideo sicut ex parte rationis speculativae, per naturalem participationem divinae sapientiae, inest nobis cognitio quorundam communium principiorum, non autem cuiuslibet veritatis propria cognitio, sicut in divina sapientia continentur; ita etiam ex parte rationis practicae naturaliter homo participat legem aeternam secundum quaedam communia principia, non autem secundum particulares directiones singulorum, quae tamen in aeterna lege continentur. Et ideo necesse est ulterius quod ratio humana procedat ad particulares quasdam legum sanctiones.*”

<sup>12</sup> ST I-II 94.6.

determinate knowledge. This provides a partial explanation for why individuals and even entire cultures may not act in accord with natural law, but rather become accustomed to vicious ways of life—natural law must be actualized through discovery and moral instruction, especially by the promulgation of divine law.

### *An External Principle of Acts, Written on the Heart*

As I have suggested, it is somewhat more problematic than we might imagine proposing that natural law is the *internal* principle of divine moral pedagogy. Aquinas asserts in the prologue to his treatise on law that law is an *external* principle of acts.<sup>13</sup> He makes no exceptions nor adds any qualifications to this assertion. Yet how can this be if natural law is “written on the heart,” rather than upon stone or parchment?<sup>14</sup> Neither does it resolve the dilemma to say that Aquinas only uses the term *law* analogously, for he applies the term *law* to natural law as something proper to it—that is, natural law concerns reason; it is for the common good; and it is promulgated by one who has care for the community.<sup>15</sup> “Because the rational creature partakes thereof [eternal law] in an intellectual and rational manner, therefore, the participation of eternal law in the rational creature is properly called a

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<sup>13</sup> ST I-II 90, *prologus*.

<sup>14</sup> ST I-II 94.6.

<sup>15</sup> See Stephen Brock, “The Legal Character of Natural Law According to St. Thomas Aquinas,” doctoral dissertation, University of Toronto, 1988. In this work, Brock examines each element of Aquinas’ definition of law and carefully lays out an argument for the truly legal character of natural law. Of particular interest is Brock’s analysis of the sources influencing Aquinas’ treatment of natural law and its relation to eternal law. Brock names two: a Franciscan treatise on law entitled *De legibus et praecetis* and another tract attributed to Jean de la Rochelle entitled *Summa fratris alexandri*. Brock argues for a strong identification in Aquinas between eternal law and natural law, thus giving to natural law a truly legal and thus extrinsic character. He shows that this strong identification indicates an important way (among others) that Aquinas was influenced by the *Summa fratris alexandri* (53-62). Brock’s conclusion in regard to the legal character of natural law attempts to challenge the prevailing view of Odon Lottin, who argued for a more minimalist interpretation of Aquinas’ teaching on natural law as being (more or less) reducible to practical reason. See Odon Lottin, “La valeur des formules de Saint Thomas d’Auin concernant la loi naturelle,” *Mélanges Joseph Maréchal* (Paris: Desclée de Brouwer, 1950), t.II pp. 345-377; *Psychologie et Morale aux XII et XIII siècles* (Louvain: Abbaye du Mont César, 1948) t.II pp. 63-67; and *Principes de Morale* (Louvain: Éditions du Mont Cesar, 1946), pp. 220-221, n. 2, cf. Brock, 11-12.



law, since a law is something pertaining to reason.”<sup>16</sup> Indeed, natural law possesses a greater likeness to the exemplar of law than any human law or other “law of nature” does.<sup>17</sup> As such, natural law *is* an external principle of acts, as every law is. Yet, as with *every* living creature’s participation of eternal law, it is interior to us, though our participation of eternal law is exceptional for its interiority.

One way to overcome the dilemma, therefore, is to see that natural law is *external* insofar as it comes from God, who is the creator of our nature. It is “written on the heart” insofar as we know it by our participation of eternal law through reason—the light of reason being a constitutive element of the internal principle of moral instruction. This distinction helps us identify natural law as the link uniting created reason to eternal wisdom, thus granting to us the capacity to act freely from an objectively grounded knowledge of truth, a knowledge that we acquire, however, through a process of learning.

To proceed, recall how natural law participates pedagogically in eternal law. The “the first common principle[s] of natural law (*prima principia communia*)” are *moral* principles from which we make practical judgments—by applying these principles to a particular act and determining the moral species of the act under consideration.<sup>18</sup> Without these principles, we could never know the difference between good and evil in any determinate way. Our particular judgments thus stand as conclusions contained within those principles that originate in the nature that God gives to us.

Thus, we must make a distinction. Inasmuch as the term *natural law* denotes our rational participation of eternal law, it refers primarily to the moral principles inscribed in our intellects and retained there perpetually by the habit of *synderesis*.

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<sup>16</sup> ST I-II 91.2 ad 3: “*Quia rationalis creatura participat eam intellectualiter et rationaliter, ideo participatio legis aeternae in creatura rationali proprie lex vocatur, nam lex est aliquid rationis.*”

<sup>17</sup> See Fulvio DiBlasi, “Law as ‘Act of Reason’ and ‘Command,’” *Nova et Vetera* 4, English Edition (2006), 518.

<sup>18</sup> ST I-II 94.4.

Only secondarily does it refer to the particular conclusions we know through a practical judgment. Consequently, we can distinguish between the first principles of natural law and the particular precepts we formulate through rational reflection. The significance of this distinction is that God gives these principles to each of us prior to any voluntary action on our part. As I have shown already, we can thus ascribe the internal principle of moral instruction to the order God inscribes into human nature (*ab extra*) as humanity's inimitable participation of eternal law.<sup>19</sup>

Note, however, that God inscribes this law within us exactly as he inscribes within any created species, its formal principles, namely, by causing every individual being to participate in some created nature. This is what makes natural law *qua* law an *external* principle moving us to good. Natural law is the precondition for moral agency, which God gives to us in the formal principles of human nature, and prior to any act on our part. Indeed, this is how God promulgates natural law. "The natural law is promulgated by the very fact that God instilled it into man's mind so as to be known by him naturally."<sup>20</sup>

However, inasmuch as we can reason to particular judgments of conscience through first principles, we can affirm that natural law is also a law "written on the heart." To be "written on the heart" signifies how man's participation of eternal law

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<sup>19</sup> As indicated above, it is not uncommon for scholars to divide over whether Aquinas understands natural law as law in the fullest sense of the term—that is, something extrinsically legislated by God as ruler of man—or as simply our own practical reason, something intrinsic to us. Stephen Brock ["The Legal Character of Natural Law," Chap. 2] and John Cuddeback ["Law as an Extrinsic Principle of Action in Aquinas," chap. 1] both present good summaries of the division that exists among scholars on this issue. I intend the distinction made above to help the reader see that natural law has both qualities; it is both external and internal in character. In the words of Pope John Paul II, natural law is "participated theonomy" (*Veritatis Splendor*, no. 41), a rational participation in Eternal Law. Natural law rules and measures us, but nonetheless it is a rule and measure that is *within* us. The Pope states, "He [God] cares for man not 'from without,' through the laws of physical nature, but 'from within,' through reason, which, by its natural knowledge of God's eternal law, is consequently able to show man the right direction to take in his free actions. In this way God calls man to participate in his own providence, since he desires to guide the world—not only the world of nature but also the world of human persons—through man himself, through man's reasonable and responsible care. The *natural law* enters here as the human expression of God's eternal law" (ibid, no. 43).

<sup>20</sup> ST I-II 90.4 ad 1: "*Promulgatio legis naturae est ex hoc ipso quod deus eam mentibus hominum inseruit naturaliter cognoscendam.*"

surpasses that of irrational animals—it is the innate seed of our (practical) moral reflections.<sup>21</sup> The significance of eternal law’s interiority to us, then, is that we enjoy a privilege no other irrational animal enjoys, namely, a *rational* participation of eternal law.<sup>22</sup>

Wherefore, since all things subject to divine providence are ruled and measured by the eternal law . . . it is evident that all things partake somewhat of the eternal law, insofar namely, *from its being imprinted on them*, they derive their proper acts and ends. Now among all others, the rational creature is subject to divine providence in a most excellent way, insofar as it partakes of a share of providence, by being both provident for itself and for others.<sup>23</sup>

To say that natural law is “written on the heart” is thus to suggest that its principles are always accessible to reason, though we must actualize them by rational reflection. This is how we become provident for ourselves and for others.

Yet Aquinas maintains that we can fail to actualize our innate moral capacity as a consequence of inordinate passion, vice, bad customs, and poor moral instruction. While the principles are always present within us, the conclusions may remain opaque.<sup>24</sup> Hence, to be “written on the heart” does not insure a moral indefectibility in our practical reasoning or in our actions. As Aquinas explains,

There belongs to the natural law, first, certain most general precepts that are known to all; and secondly, certain and more detailed precepts, which are, as it were, conclusions following closely from first principles. As to those general principles, the natural law, in the abstract, can nowise be blotted out from men’s hearts. But it is blotted out in the case of a particular action, insofar as reason is hindered from applying the general principle to a particular point of practice, on account of concupiscence or some other passion . . . But as to other, i.e. the secondary precepts, natural law can be blotted out from the human heart, wither by evil persuasions, just as in speculative matters errors occur in respect of necessary conclusions; or by

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<sup>21</sup> ST I-II 93.5.

<sup>22</sup> See Joseph Collins, O.P., “God’s Eternal Law,” *The Thomist* 23 (1960), 522ff.

<sup>23</sup> ST I-II 91.2: “Unde cum omnia quae divinae providentiae subduntur, a lege aeterna reguntur et mensurentur . . . manifestum est quod omnia participant aliquantulum legem aeternam, inquantum scilicet ex impressione eius habent inclinationes in proprios actus et fines. Inter cetera autem rationalis creatura excellentiori quodam modo divinae providentiae subiacet, inquantum et ipsa fit providentiae particeps, sibi ipsi et aliis providens [emphasis mine].”

<sup>24</sup> See Gregory Doolan, “The Relation of Culture and Ignorance to Culpability in Thomas Aquinas,” *The Thomist* 63 (1999), 105-24.

vicious customs and corrupt habits, as among some men, theft, and even unnatural vices . . . were not esteemed sinful.<sup>25</sup>

What I would propose, then, is that natural law is *not* said to be “written on the heart” simply because it is internal to us, for the operating principles of irrational animals are “internal” to them too. Of these, Aquinas says that God moves them to their perfection, as by an *external* agent, that is, apart from any rational knowledge of their own.<sup>26</sup> Yet this is not how God moves us to our perfection. As the *internal* principle of moral instruction, natural law is the ontological precondition for moral agency. Because natural law is “written on the heart,” we move ourselves to our perfection voluntarily, but only because God has first given us the capacity to know the difference between good and evil and to act from this knowledge.

Allow me to tease out one other implication consequent to resolving the dilemma I posed above, namely, what the relationship is between the natural inclinations and virtue. Recall how moral virtues predisposed us, affectively, to act according to right reason. As we saw previously, moral virtues presuppose the natural inclinations that God inscribes into our nature as a constitutive element of the internal principle of moral instruction.<sup>27</sup> For example, he states, “There is in man a natural inclination to act according to reason: and this is to act according to virtue.”<sup>28</sup> Hence, the natural inclinations denote another way eternal law impresses itself upon our nature (*ab extra*); yet as an integral feature of the internal principle of moral instruction, they

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<sup>25</sup> ST I-II 94.6: “*Ad legem naturalem pertinent primo quidem quaedam praecepta communissima, quae sunt omnibus nota, quaedam autem secundaria praecepta magis propria, quae sunt quasi conclusiones propinquae principiis. Quantum ergo ad illa principia communia, lex naturalis nullo modo potest a cordibus hominum deleri in universali. Deletur tamen in particulari operabili, secundum quod ratio impeditur applicare commune principium ad particulare operabile, propter concupiscentiam vel aliquam aliam passionem, . . . Quantum vero ad alia praecepta secundaria, potest lex naturalis deleri de cordibus hominum, vel propter malas persuasiones, eo modo quo etiam in speculativis errores contingunt circa conclusiones necessarias; vel etiam propter pravas consuetudines et habitus corruptos; sicut apud quosdam non reputabantur latrocinia peccata, vel etiam vitia contra naturam.*”

<sup>26</sup> ST I-II 6.1.

<sup>27</sup> See pages 14, 103-104.

<sup>28</sup> ST I-II 94.3: “. . . *naturalis inclinatio inest cuilibet homini ad hoc quod agat secundum rationem. Et hoc est agere secundum virtutem.*”

assume a surpassing excellence in the virtues we attain by means of our actions. Recall how Aquinas identifies natural law with the “seeds of virtue.” The purpose of any law is to make us virtuous. As a constitutive aspect of natural law, the natural inclinations are an external principle of acts—inasmuch as they are from God. Nevertheless, they are “written on the heart” in that they, too, are accessible to reason and thus function as the seedbed of virtue.

From these reflections, I would conclude further that natural law *qua* law is how God predisposes us to the possibility of divine sonship. As an external principle moving us to good, natural law functions pedagogically from within us as the *internal* principle of divine moral pedagogy. Through first principles and natural inclinations we possess the “seeds of virtue.” That is, while these principles of our action originate from God, as from an external agent, the actions themselves are our own. Yet because natural law functions as the *internal* principle of divine moral pedagogy, through it, God predisposes us to being led to beatitude by some *external* principle of moral instruction. More specifically, God created us to be actualized in beatitude under the tutelage of divine law, which he has promulgated for the purpose of leading us to a moral plenitude that infinitely surpasses the capacity of our nature.<sup>29</sup> The great dignity of this grace, however, is that God leads us to supernatural perfection within the context of natural freedom. It is natural law that opens man up to the possibility of charity.<sup>30</sup> As such, we can never legitimately oppose natural law

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<sup>29</sup> As we shall see, attaining beatitude necessitates the interior action of grace upon the soul in addition to the innate principles of rational agency. In the mean time, I am indebted to Peter Kwasniewski for encouraging me to emphasize the importance of seeing that natural law is an innate preparation for divine law. It is because we are at least in ‘seed’ law-abiding creatures that we are capable of being actualized by the law that truly leads us to our ultimate perfection as children of God. Natural law is the basis for the connaturality with divine goodness to which the New Law of grace elevates us. Indeed, it is because both natural law and divine law proceed, albeit in different ways, from the divine Mind that they have a mutual correspondence and coherence.

<sup>30</sup> See Michael Sherwin, *By Knowledge & By Love: Charity and Knowledge in the Moral Theology of St. Thomas Aquinas* (Washington D.C.: The Catholic University of America Press, 2005), 121-25.

to grace—as if grace abolishes nature—for it is natural law that predisposes us to the possibility of receiving grace and cooperating with it in the act of charity.<sup>31</sup> We will examine this last point more closely in the final chapter.

### *B. The Natural Inclinations*

Of all the aspects of Aquinas' natural law theory, the natural inclinations pose a most formidable challenge. To begin with, the term *naturalis inclinatio* is fraught with potential misunderstanding. One reason for this is the ease with which we might confuse natural inclinations for *instinct*. Aquinas does not equate these two things, as we shall see in a moment. Another reason is that the idea of natural inclinations introduces determinism into Aquinas' natural law theory, which some scholars might find uncomfortable. This determinism does not pertain to our actions, however, but rather to those ends that perfect our nature. Thus, to complete our study of natural law as the internal principle of divine moral pedagogy, I need to explicate further Aquinas' understanding of the natural inclinations. Here is the most germane segment wherein he discusses them in relation to our knowledge of the precepts of natural law:

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<sup>31</sup> The proper term here is *obediential potency*. For Aquinas, this term refers to the innate predisposition of human nature to the actualizing effects of grace. Man can attain supernatural beatitude because his nature is disposed to the beatifying efficacy of grace. See Steven Long, "Obediential Potency, Human Knowledge, and the Natural Desire of God," *International Philosophical Quarterly* 37 (1997), 45-63. See also, Ralph McInerny, *Preambula Fidei: Thomism and the Good of the Philosophers* (Washington D.C.: The Catholic University Press of America, 2006), chapter three. McInerny states, "We are called to a supernatural end, to a good that far exceeds anything owed our nature, to the beatific vision, to union with God himself. Those actually in this state can be seen as having realized a potency to be there. This potency is distinguished from natural potencies that have objects proportionate to our nature. Natural potencies in the usual sense are such that one having them has the means of fulfilling them. A potency to grace and glory is called 'obediential' precisely to distinguish it from fully 'natural' potencies. There is an extended sense of 'natural' according to which the obediential potency can be called natural. But the obediential potency can only become actual by divine agency. This is not of course the ordinary operation of God in the happenings of creation; natural potencies could neither be nor function without continuing divine causality. But in the case of obediential potency, God's intervention is needed to raise us up and order us to an end not proportionate with our nature, but far exceeding it. Inclination follows on form, and the form of the supernatural is grace" (85-86). If we situate Aquinas' teaching on obediential potency within a pedagogical theory of law, we can say that natural law—as the internal principle of divine moral pedagogy—constitutes the obediential potency that God actualizes in us by the grace of divine law.

Consequently, the first principle in the practical reason is one founded on the notion of good, viz. that good is to be done and pursued, and evil is to be avoided. All other precepts of natural law are based upon this: so that whatever practical reason naturally apprehends as man's good (or evil) belongs to the precepts of the natural law as something to be done or avoided. Since, however, good has the nature of an end, and evil, the nature of a contrary, hence it is that those things to which a man has a natural inclination, are naturally apprehended by reason as being good, and consequently as objects of pursuit, and their contraries as evil, and objects of avoidance. Wherefore, according to the order of natural inclinations is the order of precepts of the natural law.<sup>32</sup>

With this text in mind, I need to address two issues. The first is how Aquinas understands the influence of natural inclinations on human action. The second is the pedagogical function of the natural inclinations as an integral facet of the internal principle of divine moral pedagogy.

### *1. Natural Inclinations and Human Action*

What exactly are natural inclinations and what influence, if any, do they exercise over our actions? To answer these questions, let us look at a text where Aquinas distinguishes natural inclinations from other appetites:

Since all things flow from the divine will, all things in their own way are inclined by appetite towards good, but in different ways. Some are inclined to good by their natural habit, without knowledge, as plants and inanimate bodies. Such inclination towards good is called 'a natural appetite.' Others, again, are inclined towards good, but with some knowledge; not that they know the aspect of goodness, but that they apprehend some particular good; as in the sense, which knows the sweet, the white, and so on. The inclination that follows this apprehension is called 'a sensitive appetite.' Other things, again, have an inclination towards good, but with a knowledge whereby they perceive the aspect of goodness; this belongs to the intellect. This is most perfectly inclined towards what is good; not, indeed, as if it were merely guided by another towards some particular good only, like things devoid of knowledge, nor towards some particular good only, as things which have only

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<sup>32</sup> ST I-II 94.2: "*Et ideo primum principium in ratione practica est quod fundatur supra rationem boni, quae est, bonum est quod omnia appetunt. Hoc est ergo primum praeceptum legis, quod bonum est faciendum et prosequendum, et malum vitandum. Et super hoc fundantur omnia alia praecepta legis naturae, ut scilicet omnia illa facienda vel vitanda pertineant ad praecepta legis naturae, quae ratio practica naturaliter apprehendit esse bona humana. Quia vero bonum habet rationem finis, malum autem rationem contrarii, inde est quod omnia illa ad quae homo habet naturalem inclinationem, ratio naturaliter apprehendit ut bona, et per consequens ut opere prosequenda, et contraria eorum ut mala et vitanda. Secundum igitur ordinem inclinationum naturalium, est ordo praeceptorum legis naturae.*"

sensitive knowledge, but as inclined towards good in general. Such inclination is termed ‘will.’<sup>33</sup>

From a Thomistic point of view, a natural inclination is a particular thing’s innate appetite for the goods that actualize or perfect the thing in its mode of being or operation. Moreover, natural inclinations are consequent immediately to a thing’s form. For example, as the formal principle of the eye, the power of sight has a natural inclination to color.

What complicates Aquinas’ account of natural inclinations, however, is that it is integrated into a broader metaphysics of being that specifies how different kinds of beings move toward the goods to which they are naturally inclined. One difference between a natural inclination and an inclination proceeding from sense or reason is that the latter two are not automatically consequent to the subject’s form; rather, they are elicited in the subject by the *apprehension* of some form outside the subject, which is perceived as being perfective of the subject in its integral unity.<sup>34</sup> To see the

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<sup>33</sup> ST I 59.1: “*Cum omnia procedant ex voluntate divina, omnia suo modo per appetitum inclinantur in bonum, sed diversimode. Quaedam enim inclinantur in bonum, per solam naturalem habitudinem, absque cognitione, sicut plantae et corpora inanimata. Et talis inclinatio ad bonum vocatur appetitus naturalis. Quaedam vero ad bonum inclinantur cum aliqua cognitione; non quidem sic quod cognoscant ipsam rationem boni, sed cognoscunt aliquod bonum particulare; sicut sensus, qui cognoscit dulce et album et aliquid huiusmodi. Inclinatio autem hanc cognitionem sequens, dicitur appetitus sensitivus. Quaedam vero inclinantur ad bonum cum cognitione qua cognoscunt ipsam boni rationem; quod est proprium intellectus. Et haec perfectissime inclinantur in bonum; non quidem quasi ab alio solummodo directa in bonum, sicut ea quae cognitione carent; neque in bonum particulariter tantum, sicut ea in quibus est sola sensitiva cognitio; sed quasi inclinata in ipsum universale bonum. Et haec inclinatio dicitur voluntas.*” See also ST I 60.1 and 80.1.

<sup>34</sup> For example, Aquinas says, “The ‘animal appetite’ results from the form apprehended; this sort of appetite requires a special power of the soul—mere apprehension does not suffice. For a thing is desired as it exists in its own nature, whereas in the apprehensive power it exists not according to its own nature, but according to its likeness. Whence it is clear that sight desires naturally a visible object for the purpose of its act only—namely, for the purpose of seeing; but the animal by the appetitive power desires the thing seen, not merely for the purpose of seeing it, but also for other purposes. But if the soul did not require things perceived by the senses, except on account of the actions of the senses, that is, for the purpose of sensing them; there would be no need for a special genus of appetitive powers, since the natural appetite of the powers would suffice: *Appetitus animalis consequitur formam apprehensam. Et ad huiusmodi appetitum requiritur specialis animae potentia, et non sufficit sola apprehensio. Res enim appetitur prout est in sua natura, non est autem secundum suam naturam in virtute apprehensiva, sed secundum suam similitudinem. Unde patet quod visus appetit naturaliter visibile solum ad suum actum, scilicet ad videndum, animal autem appetit rem visam per vim appetitivam, non solum ad videndum, sed etiam ad alios usus. Si autem non indigeret anima rebus perceptis a sensu, nisi propter actiones sensuum, scilicet ut eas sentiret; non oporteret appetitum ponere speciale genus inter potentias animae, quia sufficeret appetitus naturalis potentiarum*” (ST I 78.1 ad 3).



significance of this, however, I wish to make a comparison between the actions of irrational animals and our own.<sup>35</sup>

According to Aquinas, we could never explain even an irrational animal's behavior from natural inclinations alone. As Aquinas states,

Each power of the soul is a form or nature, and has a natural inclination to something. Wherefore each power desires by the natural appetite that object suitable to itself. Above which natural appetite is the animal appetite, which follows the apprehension, and by which something is desired not as suitable to this or that power, such as sight for seeing, or sound for hearing; but as suitable to the animal, simply.<sup>36</sup>

For example, as a substantial form, a dog has a natural inclination to chew on things. Yet when a dog sees and/or smells a bone, for example, it does not proceed to chew the bone by natural inclination alone. It is borne toward this action in conjunction with its sensitive powers. Indeed, dogs have a natural inclination to chew things (which is why they like chewing bones), but the desire to chew *this* or *that* bone, here and now, proceeds from an inclination consequent to the dog's sensible apprehension of *this* or *that* bone as a thing suitable for chewing. Natural inclinations bear the mark of a thing's nature, insofar as they orient a thing to those ends perfective of its nature. Yet sensitive appetites are genuine responses of an irrational animal, in its integral nature, *to what it perceives in particular*.

Furthermore, irrational animals make judgments about the suitability of some particular object to its perfection, but they do so from natural instinct Aquinas tells us:

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<sup>35</sup> For a thorough comparison between rational appetite and sense appetite, see David Gallagher, "Thomas Aquinas on the Will as Rational Appetite" *Journal of the History of Philosophy* 29:4 (1991), 559-84.

<sup>36</sup> ST I 80.1 ad 3: "*Unaquaeque potentia animae est quaedam forma seu natura, et habet naturalem inclinationem in aliquid. Unde unaquaeque appetit obiectum sibi conveniens naturali appetitu. Supra quem est appetitus animalis consequens apprehensionem, quo appetitur aliquid non ea ratione qua est conveniens ad actum huius vel illius potentiae, utpote visio ad videndum et auditio ad audiendum; sed quia est conveniens simpliciter animali.*" See also ST I 78.1 ad 3.

We must observe that some things act without judgment; as a stone moves downwards; and in like manner all things which lack knowledge. And some act from judgment, but not a free judgment; as brute animals. For the sheep, seeing the wolf, judges it a thing to be shunned, from a natural and not a free judgment, because it judges, not from reason, but from natural instinct. And the same thing is to be said of any judgment of brute animals.<sup>37</sup>

Note here how Aquinas uses the term natural instinct (*naturali instinctu*). He assumes a distinction between instinct and inclination. A natural instinct is not an inclination toward some end, but the cause of an irrational animal's judgment about some sensibly perceived object. Aquinas describes instinct as an estimative power by which an animal "judges" what is fitting or harmful to it, and he distinguishes it from *liberum iudicium*. This innate sense of good and evil allows an irrational animal to judge in accord with its natural inclination, but not by a free-judgment. What this means is that an animal will always act according to its natural instinct, which is to act so as to attain those ends to which it is inclined. As such, an animal cannot deliberately act contrary to the good of its own nature.

An irrational animal is thus a being capable of interacting with its environment, not mechanistically, but spontaneously, even while it acts from instinct. The ontological basis of their action is its integral form, in which is to be found all the principles by which it has the inner dynamism to engage, and genuinely respond to, what it perceives in its environment. To use Aquinas' example, if a lamb perceives the presence of a wolf, by instinct it will judge the wolf to be threatening, and because it is naturally inclined to preserve its existence, it will flee. The lamb will not pause to deliberate about what it ought to do; nor can it decide freely to do otherwise, even though it does respond (in its own manner) to the threatening

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<sup>37</sup> ST I 83.1: "*Considerandum est quod quaedam agunt absque iudicio, sicut lapis movetur deorsum; et similiter omnia cognitione carentia. Quaedam autem agunt iudicio, sed non libero; sicut animalia bruta. Iudicat enim ovis videns lupum, eum esse fugiendum, naturali iudicio, et non libero, quia non ex collatione, sed ex naturali instinctu hoc indicat. Et simile est de quolibet iudicio brutorum animalium.*"

presence of the wolf. What this suggests, however, is that *instinct* exercises a determinative influence over an irrational animal in a way that reason does not.

Man is naturally inclined to certain ends perfective of our nature as well. These natural inclinations predispose us toward what is perfective of us. This is why we naturally desire such ends when we apprehend them. As Aquinas says in question 94, article 2: “Hence, it is that those things to which a man has a natural inclination, are naturally apprehended by reason as being good . . .”<sup>38</sup> For example, because the intellect has an innate inclination to truth, we naturally find truth desirable—who likes to be lied to? We differ from other animals, however, in that our *actions* proceed from a *free*-judgment about good and evil. As such, we do not judge from instinct, but by an act of comparison in our reason. Here is the rest of the text I cited above:

But man acts from judgment, because by his apprehensive power he judges that something should be avoided or sought. But because this judgment, in the case of some particular act, is not from a natural instinct, but from some act of comparison in the reason, therefore he acts from free judgment and retains the power of being inclined [rationally] to various things.<sup>39</sup>

From a Thomistic perspective, therefore, we must understand natural inclinations in relation to the metaphysics of a given nature, most especially a being’s integral form and the dependency of higher appetites upon the perception (sensible or rational) of the good that exists in things. As Aquinas summarizes the point:

But it is common to every nature to have some inclination; and this is its natural appetite or love. This inclination is found to exist differently in different natures; but in each according to its mode. Consequently, in the intellectual nature there is to be found a natural inclination coming from the will; in the sensitive nature, according to the sensitive appetite; but in a nature devoid of knowledge, only according to the tendency of the nature to something.<sup>40</sup>

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<sup>38</sup> ST I-II 94.2: “*Inde est quod omnia illa ad quae homo habet naturalem inclinationem, ratio naturaliter apprehendit ut bona . . .*”

<sup>39</sup> ST I 83.1: “*Sed homo agit iudicio, quia per vim cognoscitivam indicat aliquid esse fugiendum vel prosequendum. Sed quia iudicium istud non est ex naturali instinctu in particulari operabili, sed ex collatione quadam rationis; ideo agit libero iudicio, potens in diversa ferri [bracket mine].*”

<sup>40</sup> ST I 60.1: “*Est autem hoc commune omni naturae, ut habeat aliquam inclinationem, quae est appetitus naturalis vel amor. Quae tamen inclinatio diversimode invenitur in diversis naturis, in unaquaque secundum modum eius. Unde*

In sum, the difference between irrational animals and us is that we act from reason and judge freely concerning the objects we apprehend. Through our natural inclinations, God indeed orders our nature to certain ends that perfect us, just as he does with irrational animals. We *are* determined in this sense. Yet we are free in our pursuit of these ends because of the nature of our judgments. However, this also makes us responsible for our actions. Because they judge from instinct, irrational animals are not. Even more, our sinfulness makes divine moral pedagogy even more necessary. It is precisely on account of our rational nature, therefore, that God does not merely order us to certain ends by our natural inclinations. Our inclinations also assume a pedagogical function within the divine economy.<sup>41</sup> Let us now look at this.

## 2. The Natural Inclinations and the Order of Precepts

Let us begin by looking at the entire text on the natural inclinations and the order of precepts of natural law from question 94, article 2, which I have only partially quoted in different places:

Now as ‘being’ is the first thing that falls under the apprehension simply, so ‘good’ is the first thing that falls under the apprehension of the practical reason, which is directed to action: since every agent acts for an end under the aspect of good. Consequently the first principle of practical reason is one founded on the notion of good, viz. that ‘good is that which all things seek after.’ Hence this is the first precept of law, that ‘good is to be done and pursued, and evil is to be avoided.’ All other precepts of the natural law are based upon this: so that whatever the practical reason naturally apprehends as man’s good (or evil) belongs to the precepts of the natural law as something to be done or avoided. Since, however, good has the nature of an end, and evil, the nature of a contrary, hence it is that all those things to which man has a natural inclination, are naturally apprehended by reason as being good, and consequently as objects of pursuit, and their contraries as evil, and objects of avoidance. *Wherefore according to the order of natural inclinations, is the*

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*in natura intellectuali invenitur inclinatio naturalis secundum voluntatem; in natura autem sensitiva, secundum appetitum sensitivum, in natura vero carente cognitione, secundum solum ordinem naturae in aliquid.”*

<sup>41</sup> Admittedly, it is somewhat novel to look at the natural inclinations from a pedagogical perspective. For a good overview of how a number of Thomists appraise the role of the natural inclinations in Aquinas theory of natural law, see Matthew Levering, “Natural Law and Natural Inclinations: Rhonheimer, Pinckaers, McLeer” *The Thomist* 20 (2006), 155-201.

*order of the precepts of the natural law.* Because in man there is first of all an inclination to good in accordance with the nature which he has in common with all substances: inasmuch as every substance seeks the preservation of its own being, according to its nature: and by reason of this inclination, whatever is a means of preserving human life, and of warding off its obstacles, belongs to the natural law. Secondly, there is in man an inclination to things that pertain to him more specially, according to that nature which he has in common with other animals: and in virtue of this inclination, those things are said to belong to the natural law, ‘which nature has taught to all animals’ [\*Pandect. Just. I, tit. i], such as sexual intercourse, education of offspring and so forth. Thirdly, there is in man an inclination to good, according to the nature of his reason, which nature is proper to him: thus man has a natural inclination to know the truth about God, and to live in society: and in this respect, whatever pertains to this inclination belongs to the natural law; for instance, to shun ignorance, to avoid offending those among whom one has to live, and other such things regarding the above inclination.<sup>42</sup>

First of all, observe in this text the use of the word *order*. Recall that order in regard to practical reasoning always refers to the relation of means to ends. As I have shown already, we know the secondary and tertiary precepts of natural law by a process of practical reasoning, through which we discern whether some act is conducive to those ends perfective of our nature or not. Through our conscience, this reasoning process presupposes the application of principles to a particular act under consideration.

What Aquinas proposes in question 94, article 2, then, when he concludes that “according to the order of natural inclinations, is the order of the precepts of the

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<sup>42</sup> ST I-II 94.2: “Sicut autem ens est primum quod cadit in apprehensione simpliciter, ita bonum est primum quod cadit in apprehensione practicae rationis, quae ordinatur ad opus, omne enim agens agit propter finem, qui habet rationem boni. Et ideo primum principium in ratione practica est quod fundatur supra rationem boni, quae est, bonum est quod omnia appetunt. Hoc est ergo primum praeceptum legis, quod bonum est faciendum et prosequendum, et malum vitandum. Et super hoc fundantur omnia alia praecepta legis naturae, ut scilicet omnia illa facienda vel vitanda pertineant ad praecepta legis naturae, quae ratio practica naturaliter apprehendit esse bona humana. Quia vero bonum habet rationem finis, malum autem rationem contrarii, inde est quod omnia illa ad quae homo habet naturalem inclinationem, ratio naturaliter apprehendit ut bona, et per consequens ut opere prosequenda, et contraria eorum ut mala et vitanda. Secundum igitur ordinem inclinationum naturalium, est ordo praeceptorum legis naturae. Inest enim primo inclinatio homini ad bonum secundum naturam in qua communicat cum omnibus substantiis, prout scilicet quaelibet substantia appetit conservationem sui esse secundum suam naturam. Et secundum hanc inclinationem, pertinent ad legem naturalem ea per quae vita hominis conservatur, et contrarium impeditur. Secundo inest homini inclinatio ad aliqua magis specialia, secundum naturam in qua communicat cum ceteris animalibus. Et secundum hoc, dicuntur ea esse de lege naturali quae natura omnia animalia docuit, ut est coniunctio maris et feminae, et educatio liberorum, et similia. Tertio modo inest homini inclinatio ad bonum secundum naturam rationis, quae est sibi propria, sicut homo habet naturalem inclinationem ad hoc quod veritatem cognoscat de deo, et ad hoc quod in societate vivat. Et secundum hoc, ad legem naturalem pertinent ea quae ad huiusmodi inclinationem spectant, utpote quod homo ignorantiam vitet, quod alios non offendant cum quibus debet conversari, et cetera huiusmodi quae ad hoc spectant [emphasis mine].”

natural law” is that right practical reason naturally corresponds to the inclinations of our nature in the same way that natural instinct and natural inclinations correspond in other animals, but with this vital difference: While our natural appetites incline us to the ends perfective of our nature, the precepts of natural law enable us to know the truth (here and now) concerning the means that conduce to these same ends. Yet, by affirming a correspondence between the precepts of natural law and the order of inclinations, Aquinas is not suggesting that we deduce the precepts of natural law immediately from our natural inclinations, as if we were to say, for example: “We have an inclination to procreate; therefore, we ought not contracept.” Rather, he is conveying that we know the moral species of our acts by judging, through principles, whether this or that act conduces (or not) to the ends we apprehend through reason and to which we are naturally inclined.

If I but shuffle and collapse the argument in question 94, article 2 into its most rudimentary structure, Aquinas’ argument is as follows:

<b>Major (end):</b>	Those things to which man has a natural inclination are naturally apprehended by reason as being good and consequently as objects of pursuit, and their contraries as evil, and objects of avoidance . . .
<b>Minor (means):</b>	So that whatever [ <i>practical</i> ] reason naturally apprehends as man’s good (or evil) [object of choice] belongs to the precepts of natural law as something to be done or avoided.
<b>(Conclusion):</b>	Therefore, the order of precepts of natural law are according to the order of natural inclinations.

*Figure 10*

In general, what we express by the determinate precepts of natural law is the connaturality between right reason and the nature God has given us. In fact, our nature is the measure of our practical reasoning, that is, inasmuch as our nature is as eternal law determines it to be. Thus, an act is reasonable if it is in accord with our nature, as this is indicated to us in our natural inclinations. This is how we are to

interpret Aquinas when he says, for example, that, “Human reason is not, of itself, the rule of things: but the principles impressed on it by nature, are general rules and measures of all things relating to human conduct, whereof the natural reason is the rule and measure, although it is not the measure of things that are from nature.”<sup>43</sup>

In conjunction with the first principles of practical reason, the natural inclinations constitute a crucial aspect of the ontological basis for our doing and pursuing good and avoiding evil. As such, Aquinas’ insight into the natural inclinations is indispensable to a full understanding of natural law as the internal principle of divine moral pedagogy. Our natural inclinations intrinsically order us to the ends that perfect us, and are the “seeds of virtue” that dispose us to act according to reason that we might attain these ends. Yet God does not move us to seek these ends by any necessity. In sum, God makes the natural inclinations to function as an essential aspect of our innate potential for good human action. Here is another text wherein Aquinas describes the matter:

There are two ways in which a thing is subject to the eternal law . . . first, by partaking of the eternal law by way of knowledge; secondly, by way of action and passion, i.e. by partaking of the eternal law by way of an inward motive principle: and in this second way, irrational creatures are subject to the eternal law . . . But since the rational nature, together with that which it has in common with all creatures, has something proper to itself inasmuch as it is rational, consequently it is subject to the eternal law in both ways; because while each rational creature has some knowledge of the eternal law . . . it also has a natural inclination to that which is in harmony with the eternal law; for ‘we are naturally adapted to be the recipients of virtue’ (Ethic. ii, 1).<sup>44</sup>

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<sup>43</sup> ST I-II 91.3 ad 2: “Ratio humana secundum se non est regula rerum, sed principia ei naturaliter indita, sunt quaedam regulae generales et mensurae omnium eorum quae sunt per hominem agenda, quorum ratio naturalis est regula et mensura, licet non sit mensura eorum quae sunt a natura.”

<sup>44</sup> ST I-II 93.6: “Duplex est modus quo aliquid subditur legi aeternae . . . uno modo, inquantum participatur lex aeterna per modum cognitionis; alio modo, per modum actionis et passionis, inquantum participatur per modum principii motivi. Et hoc secundo modo subduntur legi aeternae irrationales creaturae . . . Sed quia rationalis natura, cum eo quod est commune omnibus creaturis, habet aliquid sibi proprium inquantum est rationalis, ideo secundum utrumque modum legi aeternae subditur, quia et notionem legis aeternae aliquo modo habet, ut supra dictum est; et iterum unicuique rationali creaturae inest naturalis inclinatio ad id quod est consonum legi aeternae; sumus enim innati ad habendum virtutes.”

In concert with practical reason, therefore, God predisposes us to moral plenitude by orienting us to the ends that perfect us, that he might motivate (incline) us—from within as it were—to seek these ends through our actions. This interior incentive structure, however, has no determinative influence over our actual decisions, though they do encourage us to seek these ends in accord with the prudent judgments of reason.

To revisit a previous illustration, our natural inclination to self-preservation is the basis of why we eat. We apprehend eating as good because we judge it a good way to preserve our existence. According to natural law, we ought to eat. However, we cannot eat anything or as much as we might (sensibly) desire. Hence, we have to determine, through a free-judgment, the mean in our eating, and we do so by judging whether our eating practices actually attain the end of self-preservation or not. This decision is free because our decision to eat this or that is not dictated by instinct, but by practical reason, whereby we make a rational judgment in regard to our health. If we repeatedly act in accord with a *right* judgment concerning the mean in this case, we actualize our natural inclination to self-preservation in the habit of temperance. By forming this virtue within our sensitive appetite, we habituate ourselves to eat according to right reason, such that we are accustomed to effectively preserve ourselves in existence as we are naturally inclined to do.

To further illustrate the pedagogical function of the natural inclinations, allow me to consider a more controversial matter. According to what I have been explaining, the judgment that “a contraceptive act is evil and to be avoided” expresses the moral truth that, by such acts, we cannot attain the end(s) to which our sexual nature inclines us—the begetting and education offspring and the unity of love between



spouses.<sup>45</sup> This is the ontological basis for why a contraceptive act is deemed contrary to natural law, though it is not my intention to fully substantiate that claim here. Stated somewhat differently, such acts are contrary to the human good because, by choosing this object, a couple cannot attain a due end, an end to which their nature inclines them.<sup>46</sup> The disorder inherent in contraceptive acts is the decisive quality that makes such acts intrinsically evil, for such acts eviscerate the proper correspondence between right reason and our ontology. We can know this truth—as a practical consideration—by a practical judgment.

To these reflections, I would add only that our natural inclinations do not dictate that we have an obligation to perform an act so as to attain every end to which we are naturally inclined. For example, just because we have a natural inclination to beget and educate offspring does not obligate us to get married and have intercourse. It only obligates us to reserve the use of our sexual faculties for marriage alone or, if we are married, to refrain from any marital act not ordered *per se* to procreation *and* the unity of spouses. Likewise, our natural inclination to self-preservation does not pose a moral impediment to fasting or abstinence. It simply exhorts us to eat in a manner that conduces to our health.

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<sup>45</sup> It is obvious that, by a contraceptive act, a couple cannot attain the procreative end of marriage, except accidentally. However, that the unitive end cannot be attained is not so obvious. This is why Pope John Paul II took such pains to show that, indeed, a contraceptive act is contrary to the self-giving love necessary to attaining the unitive end of the marital act. See Pope John Paul II, *Male and Female He Created Them: A Theology of the Body*, trans. and introd. Michael Waldstein (Boston: Pauline Books and Media, 2007).

<sup>46</sup> As I explained already when discussing eternal law, an act is unreasonable, or contrary to nature, or contrary to eternal law inasmuch as, by such an act, we are unable to attain a due end. Aquinas describes sin by saying that it is not pure privation but an act deprived of its due order (ST I-II 72.1 ad 2). In a question previous to this one, he responds to an objection concerning whether sin includes deviation from a due end, and not simply the last end. Aquinas responds by saying that, “eternal law first and foremost directs man to his end, and in consequence, makes man to be well disposed in regard to things which are directed to the end: hence when he says [Augustine], contrary to eternal law, he includes aversion from the end and all forms of inordinateness [including deviations from a due end]: “*Lex aeterna primo et principaliter ordinat hominem ad finem, consequenter autem facit hominem bene se habere circa ea quae sunt ad finem. Et ideo in hoc quod dicit contra legem aeternam, tangit aversionem a fine, et omnes alias inordinationes* (ST I-II 71.6 ad 3).”

## *Conclusion*

The complexity of natural law theory notwithstanding, scholars have understood and explained natural law in many ways. Yet as we have seen, Aquinas' natural law theory provides a theoretical account of man's innate capacity for coming to the knowledge of good and evil and acting in accord with the truth he knows. Yet having established that natural law is the internal principle of divine moral pedagogy, it should now be evident that an external principle of moral instruction is needed to actualize within us the more determinate precepts of natural law as well as the virtues. Indeed, this is precisely what happens throughout the process of moral development, which takes place, by God's design, within the family, society itself, and most especially the Kingdom of God, as we mature to the full stature of God's children.

Because natural law is essentially a moral capacity, the system of mores within which we live is of paramount importance to our proper moral development. Good laws have a formative effect upon our moral growth, while ill-conceived laws do just the opposite. Natural law is thus the precondition for our moral development within a historically unfolding, moral tradition. This is especially true of the Kingdom of God and the commands God has given that we might attain the common good of eternal beatitude.

What I will present in the next chapter is the historical unfolding of divine moral pedagogy within salvation history. We shall see that God has always been leading us to beatitude. From the beginning, through grace, precepts, and the incentive structures of punishment and reward, God has been leading us to the virtues by which we might attain the blessedness of heaven. This process of actualization, however, has been very gradual, always occurring within the context of a community God has gathered to himself. Throughout history, natural law is the precondition for

God bringing about this actualization within the dynamism of freedom and community.

As the internal principle of divine moral pedagogy, natural law allows for God's unfolding solicitude for man's happiness. Even in regard to the New Law, the inward action of the Holy Spirit does not annihilate natural law, for the dynamism of the Spirit also presupposes natural law. As we shall see, divine law does not impose itself upon us. It is the perfect pedagogy by which God accustoms us to the charity that proportions us to blessedness of God himself.

## CHAPTER SEVEN

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### *The Divine Economy as Divine Moral Pedagogy*

In his timeless study of Aquinas' treatise on law, *Natural Rectitude and Divine Law in Aquinas*, Oscar Brown reminds us of Aquinas' rationale for how to divide human history. He states, "It would scarcely be an exaggeration to say that for St. Thomas salvation history, which is indeed the whole of history, can be adequately recapitulated in terms of the three legal stages of human education: 'the first, before the law; the second, under the law; the third, under grace.'" <sup>1</sup> As we shall see, at each stage God graciously leads us to the supernatural life of divine sonship. Yet, inasmuch as God ordains us to an end infinitely exceeding our nature, the challenge of the following inquiry is to understand adequately the complex relationship between natural law and divine law. How does God actualize free persons in the beatific vision, especially when such an end exists beyond our natural potency for happiness? The beatific vision is not proper to our nature; much less can we reason our way to it. To delve into this mystery of faith, I will now turn specifically to the external principles <sup>2</sup> of moral instruction by which God leads us to beatitude. This

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<sup>1</sup> *Natural Rectitude and Divine Law in Aquinas: An Approach to an Integral Interpretation of the Thomistic Doctrine of Law* (Toronto: Pontifical Institute of Mediaeval Studies, 1981), 106. R.W. Southern indicates that Hugh of St. Victor's work *De sacramentis* and *De varietate mundi* influenced subsequent scholastics to divide salvation history according to these different stages. Hugh argued that the history of redemption could be better understood only having first grasped the state of creation prior to the Fall. He then divided history after the Fall according to the two covenantal laws and accompanying sacraments that God imparted to humanity through Moses and Christ. *Scholastic Humanism and the Unification of Europe*, Vol. II: *The Heroic Age* (Oxford: Blackwell, 2001), 62-63.

<sup>2</sup> Aquinas argues that divine law is one, though it includes two distinct phases within salvation history, the period of the Old Law and the period of the New Law. "Now things may be distinguished in two ways: first, as those things altogether specifically different, e.g. a horse and an ox. Secondly, as perfect and imperfect in the same species, e.g. a boy and a man: and in this way the Divine law is divided into Old and New. Hence the Apostle (Gal. 3:24-25) compares the state of man under the Old Law to that of a child "under a pedagogue"; but the state under the New Law, to that of a full-grown man, who is "no longer under a pedagogue: *Dupliciter autem inveniuntur aliqua distingui. Uno modo, sicut ea quae sunt omnino specie diversa, ut equus et bos. Alio modo, sicut perfectum et imperfectum in eadem specie, sicut puer et vir. Et hoc modo lex divina distinguitur*

analysis will proceed in conjunction with the two stages preceding the revelation of the Gospel, namely, the period before and after the giving of the Law at Sinai.

### *A. Divine Moral Pedagogy before Sinai*

In presenting the first phase of salvation history, I shall explore three themes pertaining to the beginning of human history up through the giving of the Law at Mount Sinai. The first is to consider the constitution of man in the state of original justice. The second is to explicate the pedagogical character of the precepts given in the garden. The third is to look at the pedagogical function of the punishments subsequent to the fall from grace. My intention here is to show how a pedagogical theory of law underlies Aquinas' theological interpretation of Genesis 1-3.

#### *1. Original Justice*

Aquinas cites the book of *Ecclesiastes* that, in the beginning, "God made man right (Eccles. 7:30)"<sup>3</sup> This rectitude included, first and foremost, the integral unity and order of man in the constitution of his interior life. "For this rectitude consisted in his reason being subject to God, the lower [appetitive] powers to reason, and the body to the soul." He goes on to affirm that, "the first subjection was the cause of both the second and the third; since while reason was subject to God, the lower powers remained subject to reason, as Augustine says."<sup>4</sup> This integral state into which God created man was the effect of grace and not nature alone.<sup>5</sup> Man possessed the gift of the Holy Spirit, but not "as the faithful possess him now, who are admitted to eternal happiness directly after

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*in legem veterem et legem novam. Unde apostolus, ad Gal. III, comparat statum veteris legis statui puerili existenti sub paedagogo, statum autem novae legis comparat statui viri perfecti, qui iam non est sub paedagogo*" (ST I-II 91.5).

<sup>3</sup> ST I 95.1: "*Deus fecit hominem rectum.*"

<sup>4</sup> ST I 95.1: "*Erat enim haec rectitudo secundum hoc, quod ratio subdebatur Deo, rationi vero inferiores vires, et animae corpus. Prima autem subiectio erat causa et secundae et tertiae, quandiu enim ratio manebat Deo subiecta, inferiora ei subdebantur, ut Augustinus dicit.*"

<sup>5</sup> ST I 95.1.

death.”<sup>6</sup> The grace of the Holy Spirit insured man’s integrity and safeguarded his body from corruption. So long as man remained in this grace, he would never suffer natural death.<sup>7</sup>

Nevertheless, despite this graced existence, the happiness man enjoyed was not the complete happiness of the beatific vision. “Man was happy in paradise, but not with that perfect happiness to which he was destined, which consists in the vision of the divine essence. He was, however, endowed with ‘a life of happiness in a certain measure,’ as Augustine says (Gen. ad lit. xi, 18), so far as he was gifted with natural integrity and perfection.”<sup>8</sup> The extent of this integrity and perfection included a sufficient measure of knowledge. “Wherefore the first man was endowed with such a knowledge of these supernatural truths as was necessary for the direction of human life in that state. But those things which cannot be known by merely human effort, and which are not necessary for the direction of human life, were not known by the first man.”<sup>9</sup> We can suppose, therefore, that this knowledge included a practical wisdom concerning the means by which we were to attain eternal beatitude. Above all, it could not have escaped man that his ultimate happiness depended upon his conforming to God’s law.

The intellectual virtues of faith, wisdom, knowledge, understanding, and prudence were not the only virtues man possessed either. According to Aquinas, as indicated by the subjection of his lower powers to reason, he also possessed all of the moral virtues, as well as hope and charity.<sup>10</sup> However, Aquinas makes an important distinction regarding the perfection of all these virtues. He explains that while man possessed the

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<sup>6</sup> ST I 95.1 ad 2: “*Sed quod non sic fuerit in eo, sicut nunc est in fidelibus, qui admittuntur ad perceptionem haereditatis aeternae statim post mortem.*”

<sup>7</sup> ST I 97.1-3.

<sup>8</sup> ST I 94.1 ad 1: “*Homo in Paradiso beatus fuit, non illa perfecta beatitudine in quam transferendus erat, quae in divinae essentiae visione consistit, habebat tamen beatam vitam secundum quendam modum, ut Augustinus dicit XI super Gen. Ad litt., inquantum habebat integritatem et perfectionem quandam naturalem.*”

<sup>9</sup> ST I 94.3: “*Unde et de his supernaturalibus tantam cognitionem primus homo accepit, quanta erat necessaria ad gubernationem vitae humanae secundum statum illum. Alia vero, quae nec naturali hominis studio cognosci possunt, nec sunt necessaria ad gubernationem vitae humanae, primus homo non cognovit.*”

<sup>10</sup> ST I 95.3.

perfection of every virtue in terms of *habitus*, he did not possess such perfection with respect to the *act* of every virtue.

But any virtue which implies imperfection incompatible with the perfection of the primitive state, could exist in that state as a habit, but not as to the act; for instance, penance, which is sorrow for sin committed; and mercy, which is sorrow for others' unhappiness; because sorrow, guilt, and unhappiness are incompatible with the perfection of the primitive state. Wherefore such virtues existed as habits in the first man, but not as to their acts; for he was so disposed that he would repent, if there had been a sin to repent for; and had he seen unhappiness in his neighbor, he would have done his best to remedy it.<sup>11</sup>

This state of possessing the perfection of all the virtues (at least in terms of *habitus*) firmly established man in a state of peace. This state was insured by the fact that man loved God above all. "In the state of perfect nature man referred the love of himself and of all other things to the love of God as to its end; and thus he loved God more than himself and above all things."<sup>12</sup>

Despite the preternatural perfection of paradise, however, this state of rectitude was fragile because the entire order depended upon man adhering to God in the obedience of faith. As soon as man turned away from God, original justice was destined to disintegrate, insofar as he would be excluded from God's grace and have to suffer much in regards to the integrity of his nature. The precise cause for this fragile state, however, was the fact that man did not yet enjoy the beatific vision. As Aquinas explains:

... since in the divine essence is beatitude itself, the intellect of a man who sees the divine essence has the same relation to God as a man has to beatitude. Now it is clear that man cannot willingly be turned away from beatitude, since naturally and necessarily he desires it, and shuns unhappiness. Wherefore no one who sees the essence of God can willingly turn away from God, which means to sin. Hence all who see God through his essence are so firmly established in the love of God, that for eternity they can never sin. Therefore, as Adam did sin, it is clear that he did not see God through his essence.<sup>13</sup>

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<sup>11</sup> ST I 95.3: "*Si vero imperfectio quae est de ratione virtutis alicuius, repugnat perfectioni primi status, poterat huiusmodi virtus ibi esse secundum habitum, sed non secundum actum, ut patet de poenitentia, quae est dolor de peccato commisso, et de misericordia, quae est dolor de miseria aliena; perfectioni enim primi status repugnat tam dolor, quam culpa et miseria. Unde huiusmodi virtutes erant in primo homine secundum habitum, sed non secundum actum, erat enim primus homo sic dispositus, ut si peccatum praecessisset, doleret; et similiter si miseriam in alio videret, eam pro posse repelleret.*"

<sup>12</sup> ST I-II 109.3: "*Unde homo in statu naturae integrae dilectionem sui ipsius referebat ad amorem Dei sicut ad finem, et similiter dilectionem omnium aliarum rerum. Et ita Deum diligebat plus quam seipsum, et super omnia.*"

<sup>13</sup> ST I 94.1: "*... cum divina essentia sit ipsa beatitudo, hoc modo se habet intellectus videntis divinam essentiam ad Deum, sicut se habet quilibet homo ad beatitudinem. Manifestum est autem quod nullus homo potest per voluntatem a*

While Aquinas affirms that man did not enjoy the beatific vision, further on in the same article he does state that man enjoyed a more perfect knowledge of God than we do presently, for he was . . .

. . . not impeded by exterior things from a clear and steady contemplation of the intelligible effects which he perceived by the radiation of the first truth, whether by a natural or by a gratuitous knowledge. Hence Augustine says (Gen. ad lit. xi, 33) that, ‘perhaps God used to speak to the first man as He speaks to the angels; by shedding on his mind a ray of the unchangeable truth, yet without bestowing on him the experience of which the angels are capable in the participation of the divine essence.’<sup>14</sup>

Aquinas also says that man did not desire beatitude as anything other than a reward for his obedience.<sup>15</sup> These, then, are the characteristic features of original justice. Man was not in possession of beatitude, yet he was fully disposed within himself to be received into this blessedness.

We might wonder why God did not create man in the beatific vision. One explanation is that man would have been unable to direct himself to God by his own free decision. Man would have loved God necessarily, as God loves himself, and as we desire our own happiness. As Aquinas was quoted above, “no one who sees the essence of God can willingly turn away from God.” Yet why is this significant? Would it not have been better for us to be unable to turn away from God? It seems not, for according to God’s providence, God requires that we choose him as he has chosen us.

Since the perfection of goodness is not to be found in any creature, God did not choose us (in his perfect love) out of any necessity.<sup>16</sup> It was simply his good pleasure to do so. In his having chosen us, God has revealed his own goodness to us. Yet God did

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*beatitudine averti, naturaliter enim, et ex necessitate, homo vult beatitudinem, et fugit miseriam. Unde nullus videns Deum per essentiam, potest voluntate averti a Deo, quod est peccare. Et propter hoc, omnes videntes Deum per essentiam, sic in amore Dei stabiliuntur, quod in aeternum peccare non possunt. Cum ergo Adam peccaverit, manifestum est quod Deum per essentiam non videbat.”*

<sup>14</sup> ST I 94.1: “ . . . non impediatur per res exteriores a clara et firma contemplatione intelligibilium effectuum, quos ex irradiatione primae veritatis percipiebat, sive naturali cognitione sive gratuita. Unde dicit Augustinus, in XI super Gen. Ad litt., quod fortassis Deus primis hominibus antea loquebatur, sicut cum Angelis loquitur, ipsa incommutabili veritate illustrans mentes eorum; etsi non tanta participatione divinae essentiae . . . ”

<sup>15</sup> ST I 94.1 ad 2.

<sup>16</sup> ST I 19.3.



not choose us merely to reveal his goodness, but that we might also share in it through our own free acts. As I have shown already, we attain a likeness and proportionality to God's goodness in and through our own voluntary acts, though grace is required for supernatural life.<sup>17</sup> According to Aquinas, it is in the graced decision for God that man merits beatitude and thus receives a full measure of God's goodness.<sup>18</sup> We can only share eternally in this goodness—according to our own measure—by choosing him, in grace, as the decisive object of our happiness.

According to Aquinas' interpretation of the Genesis narrative, man's ability to make this decision also necessitated some external precepts, which were intended to test man's love of God, through his obedience. As I will show, these precepts functioned as a pedagogy intended to actualize man in the *act* of obedience. Aquinas seems to suggest that our first parents would not have possessed the perfection of obedience until some divine command required them to make a definitive choice for God.

## *2. The First Precepts of Law*

From a Thomistic perspective, why does Scripture indicate the giving of divine precepts in the garden? If man was created in grace, subject to God in his reason, in possession of all needed knowledge, and enjoyed the integrity of his faculties by the habits of virtue, what possible need could there have been for any precepts, especially if we consider man's situation from a pedagogical point of view? Did he not have all he needed to merit his ultimate end? Though Aquinas does not raise such questions himself, his remarks on the Genesis narrative provide some useful answers.

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<sup>17</sup> The loss of grace means that our acts will invariably fall short of that perfection. This ultimately explains why obedience to law (apart from grace) cannot justify us. Although outside the order of grace law retains its pedagogical character and leads us to some measure of virtue, without grace, obedience to law cannot ultimately justify us.

<sup>18</sup> In ST I 95.4 Aquinas explains that, because of the grace he enjoyed and the perfection of his integrity, the first man would have merited more by his actions than we do after the fall.

To begin, it is helpful to recollect the relationship between natural law and positive precepts. Aquinas presents two ways a positive precept specifies natural law:

Some things are derived from the general principles of natural law, by way of conclusions; e.g. that ‘one must not kill’ may be derived as a conclusion from the principle that ‘one should do harm to no man’: while some are derived therefrom by way of determination; e.g. the law of nature has it that the evil-doer should be punished; but that he be punished in this or that way is a determination of the law of nature.<sup>19</sup>

From our previous discussion, I established that positive law must have some real relation to the common good.<sup>20</sup> What a convention prescribes or forbids must conduce to the common good in some way. It is contrary to justice for a ruler to prescribe or forbid anything without that precept directing our actions to a due end. Hence, positive law can never be arbitrary. It must be consonant with natural law and achieve the common good.

If we turn now to the first precepts, let us initially consider the commands where God prescribed certain acts to be done. In his *Compendium of Theology*, Aquinas offers a brief comment concerning two of these precepts:

After the resurrection men will have no use for food or the reproductive functions; but the first man was so constituted that he had to sustain his life with food, and he had a mandate to perform the work of generation; for the human race was to be multiplied from this one parent. Hence he received two commands, in keeping with his condition. The first is that mentioned in Genesis 2:16: ‘Of every tree of Paradise thou shalt eat.’ The other is reported in Genesis 1:28: ‘Increase and multiply and fill the earth.’<sup>21</sup>

According to Aquinas, God commanded man to eat certain foods and to procreate insofar as these things were *necessary* for man to flourish in this life. As such, it would seem that it was unnecessary for God to command these acts, for natural law, alone,

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<sup>19</sup> ST I-II 95.2: “*Derivantur ergo quaedam a principiis communibus legis naturae per modum conclusionum, sicut hoc quod est non esse occidendum, ut conclusio quaedam derivari potest ab eo quod est nulli esse malum faciendum. Quedam vero per modum determinationis, sicut lex naturae habet quod ille qui peccat, puniatur; sed quod tali poena puniatur, hoc est quaedam determinatio legis naturae.*”

<sup>20</sup> See pages 77-78, 85-86.

<sup>21</sup> *Compendium theologiae*, q. 186: “*Post resurrectionem homines nec cibis nec venereis utentur, primus autem homo sic conditus fuit ut necesse haberet vitam cibis sustentare, et ei incumberet generationi operam dare, ut genus humanum multiplicaretur ex uno. Unde duo praecepta accepit in sui conditione. Ad primum pertinet quod ei dictum est: de omni ligno quod est in Paradiso comede; ad secundum quod ei dictum est: crescite et multiplicamini, et replete terram.*”

would have sufficed for knowing the necessity of such acts. So why did God command these things anyway? It seems that he issued these precepts either to make known his will that these things be done in a certain determinate way, which man could not have known, or to confirm man in the intrinsic necessity of such actions. From Aquinas' brief remarks, however, I cannot ascertain for certain whether Aquinas believed these precepts to be simple conclusions of natural law or positive determinations of the same.<sup>22</sup>

Aquinas is more forthcoming when he discusses the prohibition concerning the "tree of the knowledge of good and evil." In another text from the *Compendium of Theology*, he offers this commentary:

This state enjoyed by man depended on the submission of the human will to God. That man might be accustomed from the very beginning to follow God's will, God laid certain precepts on him. Man was permitted to eat of all the trees in Paradise, with one exception: he was forbidden under pain of death to eat of the tree of knowledge of good and evil. Eating of the fruit of this tree was prohibited, not because it was evil in itself, but that at least in this slight matter man might have some precept to observe for the sole reason that it was so commanded by God. Hence eating of the fruit of this tree was evil because it was forbidden. The tree was called the tree of knowledge of good and evil, not because it had the power to cause knowledge, but because of the sequel: by eating of it man learned by experience the difference between the good of obedience and the evil of disobedience.<sup>23</sup>

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<sup>22</sup> I was unable to find any other text where Aquinas comments on these precepts in regard to their relationship to natural law. Genesis, itself, does not give us a clear indication either way. The *Catechism of the Catholic Church* describes the creation narratives as a "liturgical poem" (no. 1079). Hence, Genesis 1-2 can be read liturgically, which may provide some insight into the nature of these precepts, especially in the light of the ceremonial precepts of the Old Law, which gave many prescriptions regarding food and worship. The *Catechism* concurs with many scholars who have shown how these precepts possess an eminently liturgical meaning, especially the precept regarding Adam's obligation to 'keep the garden' (Gen 2:15). Since liturgy concerns worship, and worship is a matter of positive precept, it follows that these precepts might well indicate positive determinations pertaining to ceremonial worship. See Eugene Maly, "Israel—God's Liturgical People," in *Liturgy for the People: Essays in Honor of Gerald Ellard, S.J.*, ed. William J. Leonard, S.J. (Milwaukee, WI: Bruce, 1963); Joseph Cardinal Ratzinger, *The Spirit of the Liturgy*, trans. John Saward (San Francisco: Ignatius Press, 2000), 24-28.

<sup>23</sup> *Compendium theologiae*, q. 188: "*Quia vero praedictus status hominis ex hoc dependebat quod humana voluntas Deo subiiceretur, ut homo statim a principio assuefieret ad Dei voluntatem sequendam, proposuit Deus homini quaedam praecepta, ut scilicet ex omnibus aliis lignis Paradisi vesceretur, prohibens sub mortis comminatione ne de ligno scientiae boni et mali vesceretur, cuius quidem ligni esus non ideo prohibitus est quia secundum se malus esset, sed ut homo saltem in hoc modico aliquid observaret ea sola ratione quia esset a Deo praeceptum: unde praedicti ligni esus factus est malus, quia prohibitus. Dicebatur autem lignum illud scientiae boni et mali, non quia haberet virtutem scientiae causativam, sed propter eventum sequentem, quia scilicet homo per eius esum experimento didicit quid intersit inter obedientiae bonum et inobedientiae malum.*"

How exactly are we to understand Aquinas' answer here? Was God being arbitrary? I would propose that there is more to Aquinas' answer than is immediately evident; but let us examine this text carefully to see what he intends to say.

We saw above that the integrity of original justice depended on two things—the grace of God and the subjection of reason to God's wisdom.<sup>24</sup> This is what Aquinas ultimately means when he says, "This state enjoyed by man depended on the submission of the human will to God." All would be well so long as man did not turn away from God. Therefore, since grace is a gift God gives over and above man's nature, being subject to God is absolutely necessary to man's happiness. From a pedagogical perspective, therefore, this explains the reason Aquinas gives for why God gave this precept, namely, "That man might be *accustomed* from the very beginning to follow God's will." At this point, the term *accustom* ought to have some significance for us. Since original justice depended upon man remaining subject to God, it was helpful to man for God to accustom him to obedience by means of some precepts.

Yet why was God required to forbid something to accustom man to obedience? Aquinas answers this question when he states, "Eating of the fruit of this tree was prohibited, not because it was evil in itself, but that at least in this slight matter man might have some precept to observe *for the sole reason that it was so commanded by God.*" This answer may strike us as an undeniable appeal to the arbitrary exercise of God's power. However, bear in mind that, for Aquinas, the operation of command is a *cognitive* operation in the *imperative* mood and also the principal operation of *prudence* by which a ruler intimates a said means as conducing to some end.<sup>25</sup> Thus, if we consider the matter aright, we can see that, since God's commands proceed in conjunction with his wisdom, it must have been necessary for God to forbid *something*, otherwise God would not have commanded it.

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<sup>24</sup> ST I 96.1-2.

<sup>25</sup> See pages 20-21, 79-85.

The command prohibiting the forbidden tree was thus a positive determination of natural law. Yet a ruler must have a good reason to specify natural law in this way. Hence, one reason for the forbidden tree—or so it seems to Aquinas—is that, by forbidding something, God provided man with a definite opportunity to learn obedience. Aquinas ends the passage by saying, “The tree was called the tree of knowledge of good and evil, not because it had the power to cause knowledge, but because of the sequel: by eating of it man learned by experience the difference between the good of obedience and the evil of disobedience.” We can assume that by their obedience, they would have learned the same lesson.

As Aquinas suggests, for man to learn obedience, God had to prohibit something, for without a purely positive prohibition, preternatural man was bereft of any opportunity to decide between his own will and God’s. For one thing, in the absence of any positive prohibition, the first man would have pursued all ends in conformity with natural law and the impulse of grace, which would have been to act according to his own inclination. For another thing, it would not have tested his faith if God had either prescribed something man naturally desired or had prohibited something man naturally abhorred, for again, preternatural man would be acting in accord with his own inclination.

Recall what Aquinas says about obedience:

Obedience perishes or diminishes when it holds its own in agreeable matters, because to wit, one’s own will seems to tend principally, not to the accomplishment of the precept, but to the fulfillment of one’s own desire; but that it increases in disagreeable or difficult matters, because there one’s own will tends to nothing beside the precept.<sup>26</sup>

By definition, therefore, learning obedience requires that man be commanded either to suffer some affliction he naturally abhors (as with Christ’s passion), or to refrain from

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<sup>26</sup> ST II-II 104.2 ad 3: “*Obedientia quae habet aliquid de suo in prosperis, est nulla vel minor, quia scilicet voluntas propria non videtur principaliter tendere ad implendum praeceptum, sed ad assequendum proprium volitum, in adversis autem vel difficilibus est maior, quia propria voluntas in nihil aliud tendit quam in praeceptum.*”

something he naturally desires.<sup>27</sup> As indicated by Eve's three-fold justification for eating the fruit in Genesis 3, the latter was definitely the case; and it was a more moderate test of faith than Christ's own, since it did not require any affliction, but involved only self-denial.<sup>28</sup> To obey in such circumstances is the act by which man declares, by a definitive choice, that God is the ultimate object of his love.<sup>29</sup>

Aquinas' interpretation of the first precepts might not satisfy every exegete. Nevertheless, I have presented it here merely to show the consistency of his understanding of the first precepts with a pedagogical theory of law. According to Aquinas, God gave precepts from the beginning in order to actualize man in the *act* of obedience by which he would merit eternal beatitude. In this way, especially, the precept regarding the forbidden fruit functioned pedagogically as the formality through which God sought to lead man to his perfection. In effect, by prohibiting something, God set up a trial that required Adam and Eve to choose between the divine good and the goods of this life, though in such a way that they would not have to suffer any actual affliction. As Oscar Brown relates, "Thus it is that the true dimensions of natural rectitude . . . do not appear except as included in the sustaining matrix of divine positive law. The latter is

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<sup>27</sup> Aquinas mentions in the *Summa theologiae* that the forbidden tree prefigured something, though he does not indicate what. "The reason for the prohibition concerning the tree of knowledge of good and evil was not that this tree was naturally evil: and yet this prohibition was reasonable in its relation to something else, inasmuch as by it something is figured: *prohibitio ligni scientiae boni et mali non fuit propter hoc quod illud lignum esset naturaliter malum, sed tamen ipsa prohibitio habuit aliquam rationem ex ordine ad aliud, inquantum scilicet per hoc aliquid figurabatur.* (ST I-II 102.1 ad 2)." It may be that what Aquinas had in mind is the passage from Hebrews where it says that, "Although he [Christ] was a son, he learned obedience through what he suffered; and being made perfect he became the source of eternal salvation to all who obey him . . ." (5:8). That is, the trial of Adam prefigures Christ's own passion.

<sup>28</sup> See the *Catechism*, no. 376: "As long as he remained in the divine intimacy, man would not have to suffer."

<sup>29</sup> Aquinas identifies the first sin with the sin of pride, whereby man coveted God's likeness inordinately (ST II-II 163.2). Furthermore, Aquinas opposes pride to filial fear in the irascible appetite (ST II-II 162.3). Recall that filial fear is the fear that animates the virtue of obedience. Such fear is rooted in a love of God that loathes being separated from God by sin. Thus, the essence of pride is that man no longer loves God as his last end. Likewise, as a virtue, the essence of obedience is that man declares his love for God as his last end.

always envisaged as an aid to and the real fulfillment of, the *lex naturalis*—especially when it comes to those natural inclinations that are of a properly spiritual order.”<sup>30</sup>

### 3. The Punishments for Original Sin

What function, if any, do the punishments of original sin have in the moral development of fallen man? Aquinas explains that these punishments were not only the inevitable fallout of original sin, but that man was left to suffer them in order that God might humble man before promulgating the Law at Sinai.

Hence it was fitting that the Law should be given at such a time as would be appropriate for the overcoming of man’s pride. For man was proud of two things, viz. of knowledge and of power. He was proud of his knowledge, as though his natural reason could suffice him for salvation: and accordingly, in order that his pride might be overcome in this matter, man was left to the guidance of his reason without the help of a written law: and man was able to learn from experience that his reason was deficient, since about the time of Abraham man had fallen headlong into idolatry and the most shameful vices.<sup>31</sup>

As we consider these punishments, I will demonstrate that, for Aquinas, God humbled man’s pride by allowing him to suffer a loss of integrity that mirrors the disorder of pride itself. Insofar as man’s beatitude depended upon his subjection to God, the source of man’s suffering is the insubordination of things that ought to have remained under man’s dominion. By allowing man to bear such revolt, God was, in fact, leading man back to Himself. Man was now to learn obedience by what he suffered, though it is Christ who would most fully bear this punishment for man’s sin. Let us look first at Aquinas’ explanation for the general punishments man suffered.

By creating him in grace, God bestowed a special favor upon man. As a result, “as long as his mind was subject to God, the lower powers of his soul would be subject to

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<sup>30</sup> Brown, *Natural Rectitude and Divine Law in Aquinas*, 108.

<sup>31</sup> ST I-II 98.6: “*Conueniens igitur fuit tali tempore legem veterem dari, ad superbiam hominum convincendam. De duobus enim homo superbiebat, scilicet de scientia, et de potentia. De scientia quidem, quasi ratio naturalis ei posset sufficere ad salutem. Et ideo ut de hoc eius superbia convinceretur permissus est homo regimini suae rationis absque adminiculo legis scriptae, et experimento homo discere potuit quod patiebatur rationis defectum, per hoc quod homines usque ad idololatriam et turpissima vitia circa tempora Abrahae sunt prolapsi.*”

his rational mind, and his body to his soul.”<sup>32</sup> Aquinas goes on to describe a two-fold defect that arises from original sin. “One is by way of a punishment appointed by a judge: and such a defect should be equal in those to whom the sin pertains equally. The other defect is that which results accidentally from this punishment.”<sup>33</sup> In the first case, God withdrew the divine favor of a graced existence, which man had enjoyed previously. This punishment—the principal punishment God inflicted—was really nothing other than the inevitable consequence of having turned away from God in the first place. The second defect pertains to all the other afflictions that distressed man’s integrity for having lost the gift of grace. This is how Aquinas summarizes the effect of this lost grace upon the interior faculties of the soul:

As soon as the human will threw off the yoke of subjection to God, the perfect subjection of the lower powers to reason and of the body to the soul likewise disintegrated. As a result, man experienced in his lower, sensitive appetite the inordinate stirrings of concupiscence, anger, and all the other passions. These movements no longer followed the order set by reason but rather resisted reason, frequently darkening the mind and, so to speak, throwing it into confusion. This is that rebellion of the flesh against the spirit that Scripture mentions.<sup>34</sup>

Here is what he says happened to the body:

. . . nor was the body wholly subject to the soul; whence arose death and other bodily defects. For life and soundness of body depend on the body being subject to the soul, as the perfectible is subject to its perfection. Consequently, on the other hand, death, sickness, and all defects of the body are due to the lack of the body’s subjection to the soul. It is therefore evident that as the rebellion of the carnal appetite against the spirit is a punishment of our first parents’ sin, so also are death and all defects of the body.<sup>35</sup>

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<sup>32</sup> ST II-II 164.1: “. . . ut quandiu mens eius esset Deo subiecta, inferiores vires animae subiicerentur rationali menti, et corpus animae subiiceretur.”

<sup>33</sup> ST II-II 164.1 ad 4: “ Uno modo, per modum poenae taxatae a iudice. Et talis defectus aequalis debet esse in his ad quos aequaliter pertinet peccatum. Alius autem defectus est qui ex huiusmodi poena per accidens consequitur.”

<sup>34</sup> *Compendium theologiae*, q. 192: “ Consequens fuit ut subducta humana voluntate a subiectione divina, deperiret illa perfecta subiectio inferiorum virium ad rationem et corporis ad animam: unde consecutum est ut homo sentiret in inferiori appetitu sensibili, concupiscentiae et irae et ceterarum passionum inordinatos motus non secundum ordinem rationis, sed magis ei repugnantes, et eam plerumque obnubilantes, et quasi perturbantes: et haec est repugnantia carnis ad spiritum, de qua Scriptura loquitur.”

<sup>35</sup> ST II-II 164.1: “ . . . nec etiam corpus totaliter subiiceretur animae, unde consequitur mors, et alii corporales defectus. Vita enim et incolunitas corporis consistit in hoc quod subiiciatur animae, sicut perfectibile suae perfectioni, unde, per oppositum, mors et aegritudo, et quilibet corporalis defectus, pertinet ad defectum subiectionis corporis ad animam. Unde patet quod, sicut rebellio carnalis appetitus ad spiritum est poena peccati primorum parentum, ita etiam et mors et omnes corporales defectus.”



Notice how these seemingly natural conditions are all attributable to man's disobedience. As soon as man turned away from God, he experienced a disruption in the order that was to exist within himself. The sensitive appetites no longer obeyed reason, while the will was subject to the caprices of passion. The other result was physical suffering and the corruption of the body that eventually ends in the separation of the soul from the body at death.

By allowing the disintegration of man's integrity—particularly death—God conveys a powerful truth: that as the body cannot resist corruption without the soul, neither can the soul find its proper integrity without God. For his revolt against the divine order, man was punished with the rebellion of his lower appetites against reason. "Hence Augustine says (*De Civ. Dei* xiii, 13) that, 'as soon as they disobeyed the divine command, and forfeited Divine grace, they were ashamed of their nakedness, for they felt the impulse of disobedience in the flesh, as though it were a punishment corresponding to their own disobedience.'"<sup>36</sup> Likewise, by separating himself from the wisdom of God, man's body was sundered from its formal principle, the soul. Man's natural death seems to signify an even great spiritual death—the eternal separation of the soul from God.

Besides mirroring the essence of man's revolt, these punishments also counter the ambitions of pride. As our previous study of punishment clarified, by being made to suffer the loss of those goods he inordinately desires, these afflictions direct man to a due end—the common good of divine goodness. In this sense, disintegration and death profoundly inhibit man's pursuit of the knowledge and power he coveted. Man is cut off, as it were, from what he covets:

Hence, they were punished in two ways. In the first place by being deprived of that which was befitting the state of integrity, namely the place of the earthly paradise: and this is indicated (*Gn.* 3:23) where it is stated that 'God sent him out of the paradise of pleasure.' And since he was unable, of himself, to return to that

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<sup>36</sup> ST I 95.1: "Unde Augustinus dicit, XIII de CIV. Dei, quod posteaquam praecepti facta transgressio est, confestim, gratia deserente divina, de corporum suorum nuditate confusi sunt, senserunt enim motum inobedientis carnis suae, tanquam reciprocam poenam inobedientiae suae."

state of original innocence, it was fitting that obstacles should be placed against his recovering those things that were befitting his original state, namely food (lest he should take of the tree of life) and place; for ‘God placed before Paradise cherubim and a flaming sword.’ Secondly, they were punished by having appointed to them things befitting a nature bereft of the aforesaid favor: and this as regards both the body and the soul.<sup>37</sup>

Such punishments serve a pedagogical function, in that they confront man with evils he is unable to evade. By humbling him in this way, God uses these sufferings to predispose man to the grace he will again offer through Jesus Christ. Man’s banishment from paradise was thus more an act of God’s discipline than a final condemnation, for he did promise a redeemer (Genesis 3:15).

If we look now at Aquinas’ explanation for the particular punishments Adam and Eve each suffered respectively, we discover that original sin not only upset the order of divine justice and the natural integrity of man’s nature, but it also affected deeply the order of love between man and woman and the rightful dominion of man over creation. The former is evident in the shame each felt at the unseemly movement of their concupiscence. To this disorder, Aquinas explains the punishments God assigned to Adam and Eve, as these pertain to the distinction of sex. As regards Eve:

. . . punishment was appointed in respect of two things on account of which she is united to the man; and these are the begetting of children, and community of works pertaining to family life. As regards the begetting of children, she was punished in two ways: first in the weariness to which she is subject while carrying the child after conception, and this is indicated in the words (Gn. 3:16), ‘I will multiply thy sorrows, and thy conceptions’; secondly, in the pain which she suffers in giving birth, and this is indicated by the words (Gn. 3:16), ‘In sorrow shalt thou bring forth.’ As regards family life she was punished by being subjected to her husband’s authority, and this is conveyed in the words (Gn. 3:16), ‘Thou shalt be under thy husband’s power.’<sup>38</sup>

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<sup>37</sup> ST II-II 164.2: “*Et ideo dupliciter puniti fuerunt. Primo quidem, quantum ad hoc quod subtractum fuit eis id quod integritatis statui competeat, scilicet locus terrestris Paradisi, quod significatur Gen. III, cum dicitur, et emisit eum Deus de Paradiso voluptatis. Et quia ad illum statum primae innocentiae per seipsum redire non poterat, convenienter apposita sunt impedimenta ne rediret ad ea quae primo statui competeabant, scilicet a cibo, ne sumeret de ligno vitae; et a loco, collocavit Deus ante Paradisum cherubin et flammeum gladium. Secundo autem puniti fuerunt quantum ad hoc quod attributa sunt eis ea quae naturae conveniunt tali beneficio destitutae. Et hoc quidem et quantum ad corpus, et quantum ad animam.*”

<sup>38</sup> ST II-II 164.2: “*Mulieri quidem attributa est poena secundum duo propter quae viro coniungitur, quae sunt generatio prolis, et communicatio operum pertinentium ad domesticam conversationem. Quantum autem ad generationem prolis, punita fuit dupliciter. Primo quidem, quantum ad taedia quae sustinet portando prolem conceptam, et hoc significatur cum dicitur, multiplicabo aerumnas tuas et conceptus tuos. Et quantum ad dolorem quem patitur in pariendo, et quantum ad hoc dicitur,*

In regard to Adam:

Now, just as it belongs to the woman to be subject to her husband in matters relating to the family life, so it belongs to the husband to provide the necessities of that life. In this respect he was punished in three ways. First, by the barrenness of the earth, in the words (Gn. 3:17), ‘Cursed is the earth in thy work.’ Secondly, by the cares of his toil, without which he does not win the fruits of the earth; hence the words (Gn. 3:17), ‘With labor and toil shalt thou eat thereof all the days of thy life.’ Thirdly, by the obstacles encountered by the tillers of the soil, wherefore it is written (Gn. 3:18), ‘Thorns and thistles shall it bring forth to thee.’<sup>39</sup>

If we reflect on the fact that Adam and Eve experienced the revolt of concupiscence (excessive desire) as an immediate consequence for their own disobedience, it is fitting that they would each suffer some punishment corresponding to the responsibilities flowing from the conjugal act, namely, the bearing of offspring and the household economy. These punishments burden our life-sustaining activities, not because such actions are evil in themselves, but because of the disordered appetites that now accompany our pursuit of these goods. Ironically, concupiscence is not only related to sexuality, but also to food, which Adam was now to get from thistle and thorn laden (insubordinate) fields.

These particular punishments thus serve a pedagogical function akin to what we saw above. In opposition to the pride of securing happiness by his own power alone, hardships now confront man and woman pertaining to things to which they have an exceedingly selfish and disordered appetite—the things of the flesh. Eve must suffer the pangs of bringing children into the world, while Adam must toil in providing for his family.

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*in dolore paries. Quantum vero ad domesticam conversationem, punitur secundum hoc quod subiicitur dominationi viri, per hoc quod dicitur, sub viri potestate eris.”*

<sup>39</sup> ST II-II 164.2: “*Sicut autem ad mulierem pertinet ut subdatur viro in his quae ad domesticam conversationem pertinent, ita ad virum pertinet quod necessaria vitae procuret. Et circa hoc punitur tripliciter. Primo quidem, per terrae sterilitatem, cum dicitur, maledicta terra in opere tuo. Secundo, per laboris anxietatem, sine qua fructus terrae non percipit, unde dicitur, in labore comedes de ea cunctis diebus vitae tuae. Tertio, quantum ad impedimenta quae proveniunt terram colentibus, unde dicitur, spinas et tribulos germinabit tibi.”*

On a Thomistic reading, the punishments man suffered for original sin are intended to humble man that he might come to see that he cannot attain happiness by his own power alone, nor in any created good. Moreover, as punishment, these afflictions counter the inordinate appetites that result from pride. Yet because of the resilience of pride, it was long before God promulgated a law intended to restore us to the life of grace by which man was, once again, able to attain eternal beatitude.

One final observation—original sin did not destroy man’s prospects for moral integrity altogether; and this is because original sin did not destroy natural law. Aquinas tells us that, while original sin destroyed the good of supernatural justice, it did not destroy “the principles of which nature is constituted and the properties that flow from them, such as the powers of the soul.” Neither did it destroy the “natural inclination to virtue,” though this was significantly “diminished by sin.”<sup>40</sup> The hope for man lay in the enduring function of natural law as the internal principle of moral instruction and, most especially, in a merciful God who continued leading man to eternal beatitude by means of his divine law.<sup>41</sup>

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<sup>40</sup> Here is a more complete citation of ST I-II 85.1: “The good of human nature is threefold. First, there are the principles of which nature is constituted, and the properties that flow from them, such as the powers of the soul, and so forth. Secondly, since man has from nature an inclination to virtue, as stated above (Q60, A1; Q63, A1), this inclination to virtue is a good of nature. Thirdly, the gift of original justice, conferred on the whole of human nature in the person of the first man, may be called a good of nature. Accordingly, the first-mentioned good of nature is neither destroyed nor diminished by sin. The third good of nature was entirely destroyed through the sin of our first parent. But the second good of nature, viz. the natural inclination to virtue, is diminished by sin. Because human acts produce an inclination to like acts, as stated above (Q50, A1). Now from the very fact that thing becomes inclined to one of two contraries, its inclination to the other contrary must needs be diminished. Wherefore as sin is opposed to virtue, from the very fact that a man sins, there results a diminution of that good of nature, which is the inclination to virtue: *Respondeo dicendum quod bonum naturae humanae potest tripliciter dici. Primo, ipsa principia naturae, ex quibus natura constituitur, et proprietates ex his causatae, sicut potentiae animae et alia huiusmodi. Secundo, quia homo a natura habet inclinationem ad virtutem, ut supra habitum est, ipsa inclinatio ad virtutem est quoddam bonum naturae. Tertio modo potest dici bonum naturae donum originalis iustitiae, quod fuit in primo homine collatum toti humanae naturae. Primum igitur bonum naturae nec tollitur nec diminuitur per peccatum. Tertium vero bonum naturae totaliter est ablatum per peccatum primi parentis. Sed medium bonum naturae, scilicet ipsa naturalis inclinatio ad virtutem, diminuitur per peccatum. Per actus enim humanos fit quaedam inclinatio ad similes actus, ut supra habitum est. Oportet autem quod ex hoc quod aliquid inclinatur ad unum contrariorum, diminuatur inclinatio eius ad aliud. Unde cum peccatum sit contrarium virtuti, ex hoc ipso quod homo peccat, diminuitur bonum naturae quod est inclinatio ad virtutem.*”

<sup>41</sup> In the words of Russell Hittinger: “Insofar as natural law can be said to be ‘in’ things or nature, it is an order of inclinations of reason and will by which men are moved to a common good. While the created order continues to move men, the effect of that law (in the creature) is bent by sin—not so bent that God fails to move the finite mind, for the fallen man is still a spiritual creature, possessed of the God-given light of moral understanding, but bent enough that this movement requires the remediation of divine positive

## B. Divine Moral Pedagogy After Sinai

Technically speaking, Aquinas marks the inauguration of divine law with the giving of the Mosaic Law at Sinai. It was completed with the outpouring of the Holy Spirit at Pentecost.<sup>42</sup> To begin this examination of divine law, let us first glance at Aquinas' general overview for why God promulgated divine law in the first place.

Aquinas offers four distinct reasons God needed to promulgate divine law.<sup>43</sup> Throughout this chapter, I have indicated the first reason he gives, namely, to lead man to eternal beatitude. The second reason pertains to the uncertainty of human judgments (after the fall) concerning practical and contingent matters: "In order, therefore, that man may know without any doubt what he ought to do and what he ought to avoid, it was necessary for man to be directed in his proper acts by a law given by God, for it is certain that such a law cannot err." The third reason is necessitated by the natural limits of human law. "Because . . . man is not competent to judge of interior movements that are hidden, but only of exterior acts which appear," Aquinas explains that "for the perfection

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law and the new law of grace. In fact, Thomas held that God left men in such a condition—between the time of the fall and the Mosaic law—in order to chastise them" (*The First Grace: Rediscovering the Natural Law in a Post-Christian World* [Wilmington, DE: ISI Books, 2003], 11).

<sup>42</sup> For Aquinas, divine law refers exclusively to the Old Law and the New Law, and not to the precepts of the garden.

<sup>43</sup> The entire text is given in this footnote. ST I-II 91.4: "Respondeo dicendum quod praeter legem naturalem et legem humanam, necessarium fuit ad directionem humanae vitae habere legem divinam. Et hoc propter quatuor rationes. Primo quidem, quia per legem dirigitur homo ad actus proprios in ordine ad ultimum finem. Et si quidem homo ordinaretur tantum ad finem qui non excederet proportionem naturalis facultatis hominis, non oporteret quod homo haberet aliquid directivum ex parte rationis, supra legem naturalem et legem humanitatis positam, quae ab ea derivatur. Sed quia homo ordinatur ad finem beatitudinis aeternae, quae excedit proportionem naturalis facultatis humanae, ut supra habitum est; ideo necessarium fuit ut supra legem naturalem et humanam, dirigeretur etiam ad suum finem lege divinitus data. Secundo, quia propter incertitudinem humani iudicii, praecipue de rebus contingentibus et particularibus, contingit de actibus humanis diversorum esse diversa iudicia, ex quibus etiam diversae et contrariae leges procedunt. Ut ergo homo absque omni dubitatione scire possit quid ei sit agendum et quid vitandum, necessarium fuit ut in actibus propriis dirigeretur per legem divinitus datam, de qua constat quod non potest errare. Tertio, quia de his potest homo legem ferre, de quibus potest indicare. Iudicium autem hominis esse non potest de interioribus motibus, qui latent, sed solum de exterioribus actibus, qui apparent. Et tamen ad perfectionem virtutis requiritur quod in utrisque actibus homo rectus existat. Et ideo lex humana non potuit cohibere et ordinare sufficienter interiores actus, sed necessarium fuit quod ad hoc superveniret lex divina. Quarto quia, sicut Augustinus dicit, in I de Lib. Arb., lex humana non potest omnia quae male fiunt, punire vel prohibere, quia dum auferre vellet omnia mala, sequeretur quod etiam multa bona tollerentur, et impediretur utilitas boni communis, quod est necessarium ad conversationem humanam. Ut ergo nullum malum improhibitum et impunitum remaneat, necessarium fuit supervenire legem divinam, per quam omnia peccata prohibentur. Et istae quatuor causae tanguntur in Psalmo XVIII, ubi dicitur, lex domini immaculata, id est nullam peccati turpitudinem permittens; convertens animas, quia non solum exteriores actus, sed etiam interiores dirigit; testimonium domini fidele, propter certitudinem veritatis et rectitudinis; sapientiam praestans parvulis, inquantum ordinat hominem ad supernaturalem finem et divinum."

of virtue it is necessary for man to conduct himself aright in both kinds of acts.” He thus concludes that since “human law could not sufficiently curb and direct interior acts . . . it was necessary for this purpose that a divine law should supervene.” Finally, due to the requirements of the common good, which prevents human law from forbidding or punishing every vice, he explains that, “In order . . . that no evil might remain unforbidden and unpunished, it was necessary for the divine law to supervene, whereby all sins are forbidden.” Aquinas sums up this fourfold need for divine law by appealing to Psalm (18)19, “‘The law of the Lord is unspotted,’ i.e. allowing no foulness of sin; ‘converting souls,’ because it directs not only exterior, but also interior acts; ‘the testimony of the Lord is faithful,’ because of the certainty of what is true and right; ‘giving wisdom to little ones,’ by directing man to an end supernatural and divine.”

If we consider these four reasons from a pedagogical perspective, we can see that the first pertains to the common good of divine goodness. The second focuses upon the role of right practical reason in attaining this end. The third stresses the importance of ordered appetites in forming the habits of virtue. The fourth reason concerns the importance of punishment. All four reasons, then, pertain to the pedagogy of law in relation to proper moral formation.

This four-point overview, however, does not exhaust the reasons Aquinas gives for the promulgation of divine law. Aquinas also speaks about the need to direct man in his relations to a community or commonwealth of human beings under God.<sup>44</sup> One of the purposes of this commonwealth is to provide individuals with the support necessary to attain their proper moral excellence. The fact that God leads man to beatitude within the context of a “commonwealth,” bespeaks (among other things) the social context of moral development. Aquinas puts the matter in this way:

The end of the divine law is that man may adhere to God. Now, in this, one man is assisted by another both in his knowledge and in his affections: because one

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<sup>44</sup> ST I-II 100.5.

man helps another to know the truth; and one urges another to good, and withdraws him from evil. Hence it is said (Prov. xxvii. 17): 'Iron sharpeneth iron, so a man sharpeneth the countenance of his friend'; and (Eccles. iv. 9-12): 'It is better . . . that two should be together, than one: for they have the advantage of their society: if one fall he shall be supported by the other. Woe to him that is alone, for when he falleth, he hath none to lift him up. And if two lie together, they shall warm one another; how shall one alone be warmed? And if a man prevail against one, two shall withstand him.' Therefore it behooved the divine law to direct the mutual relations between man and man.<sup>45</sup>

Aquinas also describes this moral socialization in terms of charity. It is within the context of a chosen people that God accustoms us to the virtue whereby we are to love him above all things and love our neighbor as ourselves. It is by charity, especially, that we adhere to God as our last end.<sup>46</sup> Divine law achieves this aim by directing us, in a certain order, to the divine good and to the good of our neighbor, with whom we progress in our earthly life toward this end.<sup>47</sup> Consequently, Aquinas affirms the Gospel teaching that the ultimate purpose of divine law is to actualize in us the proper order of charity. Christ articulates this aim in the form of a two-fold command, which intimates the vital necessity of ordered love for eternal beatitude: "You shall love the Lord your

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<sup>45</sup> SCG IIb, Ch. 128: "*Finis divinae legis est ut homo Deo adhaereat. Iuvatur autem unus homo in hoc ex alio tam quantum ad cognitionem, quam etiam quantum ad affectionem: iuvant enim se homines mutuo in cognitione veritatis; et unus alium provocat ad bonum, et retrahit a malo. Unde Prov. 27-17 dicitur: ferrum ferro acuitur, et homo exacuit faciem amici sui. Et Eccle. 4 dicitur: 9 melius est duos esse quam unum: habent enim emolumentum societatis; si unus ceciderit, ab altero fulciatur. Vae soli: qui cum ceciderit, non habet sublevantem. Et si dormierint duo, fovebunt se mutuo: unus quomodo calefiet? et si quis praevaluerit contra unum, duo resistunt ei. Oportuit igitur lege divina ordinari societatem hominum ad invicem.*"

<sup>46</sup> ST II-II 44.3. See also SCG III, Ch. 116: "Since the chief intention of God's law is that man adhere to God; and since man adheres most firmly to God by love: it follows of necessity that the principal purpose of the law is directed to love. It is evident that man adheres to God principally by love. In man there are two things whereby he can adhere to God, his intellect and his will: for by the inferior faculties of his soul he cannot adhere to God, but to lower beings. But the adhesion of the intellect is completed by the adhesion of the will, because by his will man, as it were, rests in that which the intellect apprehends. Now, the will adheres to a thing either by love or by fear, but not in the same way. For when it adheres to a thing through fear, it adheres on account of something else, namely in order to avoid an evil that threatens unless it adhere to that thing. But when it adheres to a thing through love, it adheres for its own sake. Now, that which is for its own sake is of more account than that which is for another's sake. Therefore to adhere to God by love is to adhere to Him in the closest way possible: and consequently this is the chief intention of the divine law: *Quia vero intentio divinae legis ad hoc principaliter est ut homo Deo adhaereat; homo autem potissime adhaeret Deo per amorem: necesse est quod intentio divinae legis principaliter ordinetur ad amandum. Quod autem per amorem homo maxime Deo adhaereat, manifestum est. Duo enim sunt in homine quibus Deo potest adhaerere, intellectus scilicet et voluntas: nam secundum inferiores animae partes Deo adhaerere non potest, sed inferioribus rebus. Adhaesio autem quae est per intellectum, completionem recipit per eam quae est voluntatis: quia per voluntatem homo quodammodo quiescit in eo quod intellectus apprehendit. Voluntas autem adhaeret alicui rei vel propter amorem, vel propter timorem: sed differenter. Nam ei quidem cui inhaeret propter timorem, inhaeret propter aliud: ut scilicet evitet malum quod, si non adhaereat ei, imminet. Ei vero cui adhaeret propter amorem, adhaeret propter seipsum. Quod autem est propter se, principalius est eo quod est propter aliud. Adhaesio igitur amoris ad Deum est potissimus modus ei adhaerendi. Hoc igitur est potissime intentum in divina lege.*"

<sup>47</sup> ST II-II 44.8.

God with all your heart, with all your soul, and with all your mind. This is the greatest and the first commandment. The second is like it: You shall love your neighbor as yourself. The whole of the law and the prophets depend on those two commandments (Matthew 22:37-40).”<sup>48</sup> Here is Aquinas’ explanation of the order of charity:

The order of those four things we have to love out of charity is expressed in Holy Writ. For when we are commanded to love God with our ‘whole heart,’ we are given to understand that we must love Him above all things. When we are commanded to love our neighbor ‘as ourselves,’ the love of self is set before love of our neighbor. In like manner where we are commanded (1 Jn. 3:16) ‘to lay down our souls,’ i.e. the life of our bodies, ‘for the brethren,’ we are given to understand that a man ought to love his neighbor more than his own body; and again when we are commanded (Gal. 6:10) to ‘work good . . . especially to those who are of the household of the faith,’ and when a man is blamed (1 Tim. 5:8) if he ‘have not care of his own, and especially of those of his house,’ it means that we ought to love most those of our neighbors who are more virtuous or more closely united to us.<sup>49</sup>

Although charity is the principal virtue at which divine law aims, it is not the only one.<sup>50</sup> Since we can specify charity by a multitude of acts, divine law also specifies other precepts traceable to the two-fold precept of charity.<sup>51</sup> “These two principles are the first general principles of natural law, and are self-evident to human reason, either through nature or through faith. Wherefore all the precepts of the Decalogue are referred to these, as conclusions to common principles.”<sup>52</sup> Because these are

<sup>48</sup> For Aquinas’ explanation of Christ’s words, see ST II-II 44.5.

<sup>49</sup> ST II-II 44.8 ad 2: “*Ordo quatuor diligendorum ex caritate in sacra Scriptura exprimitur. Nam cum mandatur quod Deum ex toto corde diligamus, datur intelligi quod Deum super omnia debemus diligere. Cum autem mandatur quod aliquis diligat proximum sicut seipsum, praefertur dilectio sui ipsius dilectioni proximi. Similiter etiam cum mandatur, I Ioan. III, quod debemus pro fratribus animam ponere, idest vitam corporalem, datur intelligi quod proximum plus debemus diligere quam corpus proprium. Similiter etiam cum mandatur, ad Gal. Ult., quod maxime operemur bonum ad domesticos fidei; et I ad Tim. V vituperatur qui non habet curam suorum, et maxime domesticorum; datur intelligi quod inter proximos, meliores et magis propinquos magis debemus diligere.*”

<sup>50</sup> ST I-II 100.2.

<sup>51</sup> Ronald Lawler has this to say about Aquinas’ explanation for the two-fold commandment: “In his treatment of the logic of moral precepts, Aquinas points out that the first principles of the moral law itself are those of love . . . From them flow ‘with but slight reflection (ST I-II, q. 100, a. 3),’ the principles expressed in the Decalogue. These are the clearly necessary requirements of love, when they are understood properly (Aquinas’s own explanation of them is a masterpiece). For the precepts of the Decalogue do not point out to us simply certain ways by which we might choose to serve the ends of love. Instead, they direct us immediately to care for the personal goods which *are* ends that all the activities of loving are to be concerned with” (“The Love of God and Mortal Sin,” in *Principles of Catholic Moral Life*, ed. William E. May [Chicago: Franciscan Herald Press, 1981], 197).

<sup>52</sup> ST I-II 100.3 ad 1: “*Illa duo praecepta sunt prima et communia praecepta legis naturae, quae sunt per se nota rationi humanae, vel per naturam vel per fidem. Et ideo omnia praecepta Decalogi ad illa duo referuntur sicut conclusiones ad*



*general* precepts, however, divine law further specifies the principle of charity by more determinate principles of action in regard to how we are to love God and our neighbor.<sup>53</sup> Let us now look specifically at the Old Law, wherein God first set forth these requirements of charity.

### 1. Some General Considerations of the Old Law

As with the punishments for original sin, one of the primary goals of the Old Law was to convince man of his pride. After the fall, man's sin proliferated considerably, leading him into many vices. It seems that the first step in predisposing man to grace was to enable him to see his pride for what it is, the source of moral weakness. According to Aquinas, the irony of God's wisdom in promulgating the Old Law is that he succeeded in convincing (at least) a portion of humanity of its moral weakness. He accomplished this by giving the people of Israel a law they were unable to fulfill.

God sometimes permits certain ones to fall into sin, that they may thereby be humbled. So also did he wish to give such a law as men by their own forces could not fulfill, so that, while presuming on their own powers, they might find themselves to be sinners, and being humbled might have recourse to the help of grace.<sup>54</sup>

For those Israelites who *were* humble and sincerely seeking God, however, God had a specific purpose for promulgating the Old Law. As Aquinas goes on to explain,

With regard to good men, the Law was given to them as a help; which was most needed by the people, at the time when the natural law began to be obscured on account of the exuberance of sin: for it was fitting that this help should be bestowed on men in an orderly manner, so that they might be led from

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*principia communia.*" See also ST I-II 100.5. For an excellent discussion of how the Golden Rule is a first principle of natural law, See Ralph McInerny, "The Golden Rule and Natural Law," *The Modern Schoolman* LXIX (1992), 421-30. For an "analytic exegesis" that provides a thorough defense of Aquinas' claim in this passage, see Mary Hayden Lemmons, "Are the Love Precepts Really Natural Law's Primary Precepts?" in *Relations: From Having to Being*, ed. Thérèse-Anne Druart, *Proceedings of the American Catholic Philosophical Association* LXVI (1992), 45-71.

<sup>53</sup> ST II-II 44.2.

<sup>54</sup> St I-II 98.2 ad 3: "*Deus aliquando permittit aliquos cadere in peccatum, ut exinde humilientur. Ita etiam voluit talem legem dare quam suis viribus homines implere non possent, ut sic dum homines de se praesumentes peccatores se invenirent, humiliati recurrerent ad auxilium gratiae.*"

imperfection to perfection; wherefore it was becoming that the Old Law should be given between the law of nature and the law of grace.<sup>55</sup>

That is, the Old Law also prepared for the coming of Christ those bereft of practical moral wisdom, though not necessarily inveterate in their affections.

Therefore, what the Old Law provided pedagogically was twofold: first it specified natural law so as to actualize the first principles of practical reason. In this, God aimed to form the consciences of the Israelites in anticipation of the New Law, through which the Holy Spirit would be given. The true success of the Old Law, however, was not in its having successfully justified the Israelites as a people—though there were some righteous Israelites—but rather in predisposing them to being the people through whom God would give the law of grace.

Moreover, though the covenant bound Israel alone, God prepared all the nations for Christ, who by this time had become so accustomed to idolatry that they were no longer rooted in even the rudimentary principles of natural reason. “It was not fitting for the Old Law to be given at once after the sin of the first man: both because man was so confident in his own reason, that he did not acknowledge his need of the Old Law; because as yet the dictate of the natural law was not darkened by habitual sinning.”<sup>56</sup> By the time of the Exodus, however, this was no longer the case Aquinas tells us. Hence, through the covenant with Israel, God endeavored to convince the entire human family of its sinfulness.

That the Old Law was intended for all the nations, however, did not bind the other nations to all the precepts of the Old Law.<sup>57</sup> The Gentiles were only bound by those precepts derived immediately from the first principles of natural law. Beyond these, God

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<sup>55</sup> ST I-II 98.6: “*Ex parte vero bonorum, lex data est in auxilium. Quod quidem tunc maxime populo necessarium fuit, quando lex naturalis obscurari incipiebat propter exuberantiam peccatorum. Oportebat autem huiusmodi auxilium quodam ordine dari, ut per imperfecta ad perfectionem manuducerentur. Et ideo inter legem naturae et legem gratiae, oportuit legem veterem dari.*”

<sup>56</sup> ST I-II 98.6 ad 1: “*Statim post peccatum primi hominis non competebat legem veterem dari, tum quia nondum homo recognoscebat se ea indigere, de sua ratione confisus. Tum quia adhuc dictamen legis naturae nondum erat obtenebratum per consuetudinem peccandi.*”

<sup>57</sup> ST I-II 98.5.

added many positive determinations to natural law to form Israel into a priestly nation that they might be the people through whom Christ would come into the world. Aquinas calls this a “prerogative of holiness in reverence for Christ.”<sup>58</sup> Nevertheless, even though these precepts were binding on Israel alone, they served a pedagogical function in relation to all the nations. These precepts sought to accustom Israel to a certain pattern of life that anticipated the universal Kingdom to be established by Christ. As such, the Old Law had a typological significance for the entire human family.

The Jewish people were chosen by God that Christ might be born of them. Consequently the entire state of that people had to be prophetic and figurative, as Augustine states (*Contra Faust.* xxii, 24). For this reason even the judicial precepts that were given to this people were more figurative than those which were given to other nations. Thus, too, the wars and deeds of this people are expounded in the mystical sense: but not the wars and deeds of the Assyrians or Romans, although the latter are more famous in the eyes of men.<sup>59</sup>

We will speak in greater depth below about the pedagogical significance of typology. In the mean time, it suffices to say that the Old Law endeavored to form the people of Israel into a priestly nation, so as to prepare the world for the coming of its savior. As Aquinas summarizes the matter:

For the Old Law ordained men to Christ in two ways. First by bearing witness to Christ; wherefore He Himself says (Lk. 24:44): ‘All things must needs be fulfilled, which are written in the law . . . and in the prophets, and in the psalms, concerning Me’: and (Jn. 5:46): ‘If you did believe Moses, you would perhaps believe Me also; for he wrote of Me.’ Secondly, as a kind of disposition, since by withdrawing men from idolatrous worship, it enclosed [concludebat] them in the worship of one God, by Whom the human race was to be saved through Christ. Wherefore the Apostle says (Gal. 3:23): ‘Before the faith came, we were kept under the law shut up (*conclusi*), unto that faith which was to be revealed.’<sup>60</sup>

<sup>58</sup> ST I-II 98.5: “*praerogativam sanctitatis obtineret, propter reverentiam Christi.*”

<sup>59</sup> ST I-II 104.2 ad 2: “*Populus Iudaeorum ad hoc electus erat a Deo, quod ex eo Christus nasceretur. Et ideo oportuit totum illius populi statum esse propheticum et figuralem, ut Augustinus dicit, contra faustum. Et propter hoc etiam iudicialia illi populo tradita, magis sunt figuralia quam iudicialia aliis populis tradita. Sicut etiam bella et gesta illius populi exponuntur mystice; non autem bella vel gesta Assyriorum vel Romanorum, quamvis longe clariora secundum homines.*”

<sup>60</sup> ST I-II 98.2: “*Lex enim vetus homines ordinabat ad Christum dupliciter. Uno quidem modo, testimonium Christo perhibendo, unde ipse dicit, Lucae ult., oportet impleri omnia quae scripta sunt in lege et Psalmis et prophetis de me; et Ioan. V, si crederetis Moysi, crederetis forsitan et mihi, de me enim ille scripsit. Alio modo, per modum cuiusdam dispositionis, dum, retrahens homines a cultu idololatriae, concludebat eos sub cultu unius Dei, a quo salvandum erat humanum genus per Christum, unde apostolus dicit, ad Gal. III, priusquam veniret fides, sub lege custodiebamur conclusi in eam fidem quae revelanda erat.*” Note the reference to Galatians 3:23 in this text. See also ST I-II 102.3.

## 2. How the Old Law Specified Natural Law for a Supernatural End

As I turn now to the specific precepts of the Old Law, I will consider their pedagogical function according to the three-fold division Aquinas gives us—the moral precepts, the ceremonial precepts, and the judicial precepts.<sup>61</sup> In examining these precepts, keep in mind that, as with human law, the Old Law specified the common principles of natural law.<sup>62</sup> “The Old Law is distinct from the natural law, not as being altogether different from it, but as something added thereto. For just as grace presupposes nature, so must divine law presuppose the natural law.”<sup>63</sup> However, it did so to direct man to a supernatural end. In other words, the Old Law presupposed nature so as to predispose nature to grace.

Moreover, we can distinguish the two kinds of specification as we did when discussing the precepts of the garden. Some precepts of the Old Law are derived from natural law and thus God commanded them because of their intrinsic moral character. Others were good or evil only because God determined certain things be done or avoided with a view to the supernatural end to which he was leading man:

The divine right is that which is promulgated by God. Such things are partly those that are naturally just, yet their justice is hidden to man, and partly are made just by God’s decree. Hence also divine right may be divided in respect of these two things, even as human right is. For divine law commands certain things because they are good, and prohibits others, because they are evil, while others are good because they are prescribed, and others evil because they are prohibited.”<sup>64</sup>

We can see the pedagogical relationship between natural law and divine law by observing the way in which God specified natural law. On one level, God revealed the precepts of

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<sup>61</sup> ST I-II 99.1-4.

<sup>62</sup> See Randall B. Smith, “How the Old Law Shows Forth the Precepts of the Natural Law: A Commentary on Certain Questions Concerning the Law in the ‘Summa of Theology’ of Thomas Aquinas,” doctoral dissertation, University of Notre Dame, 1998.

<sup>63</sup> ST I-II 99.2 ad 1: “*Lex vetus distinguitur a lege naturae non tanquam ab ea omnino aliena, sed tanquam aliquid ei superaddens. Sicut enim gratia praesupponit naturam, ita oportet quod lex divina praesupponat legem naturalem.*” See also ST I-II 91.4 ad 2.

<sup>64</sup> ST II-II 57.2 ad 3: “*Ius divinum dicitur quod divinitus promulgatur. Et hoc quidem partim est de his quae sunt naturaliter iusta, sed tamen eorum iustitia homines latet, partim autem est de his quae fiunt iusta institutione divina. Unde etiam ius divinum per haec duo distingui potest, sicut et ius humanum. Sunt enim in lege divina quaedam praecepta quia bona, et prohibita quia mala, quaedam vero bona quia praecepta, et mala quia prohibita.*”

the Decalogue, which present Israel with *secondary* principles of action intended to direct human beings in their relationship to God and to each another. However, as secondary principles of action, the precepts of the Decalogue are further specified by other moral precepts, including the ceremonial and judicial precepts. “The ceremonial precepts are determinations of the moral precepts whereby man is directed to God, just as the judicial precepts are determinations of the moral precepts whereby he is directed to his neighbor.”<sup>65</sup> This more determinate level of specification determines the path by which God leads man to eternal beatitude.

We can thus discern three levels of moral instruction in the Old Law.<sup>66</sup> First are the common precepts of natural law, which serve as the interior principle of divine moral pedagogy. Next are the secondary principles of action contained in the Decalogue, which are like conclusions contained within the most common principles of natural law. As external principles of divine moral pedagogy, these precepts partially actualized the first principles of practical reason. Finally, there are the tertiary principles contained in other moral, ceremonial, and judicial precepts, which are to the Ten Commandments more determinate conclusions. These external principles of divine moral pedagogy actualize us in the practical moral wisdom we need as a preparation for the coming of Christ through whom the human good is perfected and elevated by grace. From the standpoint of moral pedagogy, what distinguishes the Old Law from ordinary human law, therefore, is the

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<sup>65</sup> ST I-II 101.1: “*Caeremonialia praecepta determinant praecepta moralia in ordine ad Deum, sicut iudicialia determinant praecepta moralia in ordine ad proximum.*” See also ST I-II 100.11. Eberhard Schockenhoff explains Aquinas’ thought on this well: “The Decalogue presents the unchangeable and perennially valid basic principles of the Torah, as opposed to the time-conditioned and historically revisable unfolding of these principles in the rest of Yahweh’s law . . . . If this exposition is correct, then the biblical text is at least open to the classical understanding in the Christian tradition, which regarded the transmission of the commandments by means of a direct divine address to each person as a theological justification of the separation of the *praecepta decalogi* from the other precepts of the *lex vetus* [cf. ST I-II, q. 100, a. 3]” (*Natural Law & Human Dignity: Universal Ethics in an Historical World*, trans. Brian McNeil [Washington D.C.: The Catholic University Press of America, 2003], 242). For a general exposition of the Decalogue, see pages 241-55.

<sup>66</sup> ST I-II 100.11.

form of righteousness divine law embodies, a righteousness that is proportionate to eternal beatitude.

As Aquinas explains, all the precepts of the Old Law are *moral* precepts, providing Israel with a detailed rule by which they were to assume a particular way of life proper to the covenant. We can only grasp the intelligibility of these precepts, however—especially the tertiary precepts—in light of the supernatural purpose God had for promulgating the Old Law. While the precepts of the Decalogue represent precepts derivable immediately from the first principles of practical reason, the other precepts represent a set of positive laws preparing Israel to be the people through whom Christ would enter the world. Yet, because it did not confer grace, the Old Law projected a striking contrast between the form of righteousness embodied in the Law—which was Christocentric—and the moral depravity of man as exemplified in Israel’s failure to conform to the law.<sup>67</sup> This had the effect of humbling man’s pride, prefiguring the New Law, and preparing for the coming of Christ. Let us turn then and look at each division of the Old Law’s precepts. In what follows, it is not my intention to set forth all the specifics of the Old Law’s pedagogy,

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<sup>67</sup> See Thomas Hibbs, “Divine Irony and the Natural Law: Speculation and Edification in Aquinas,” in *International Philosophical Quarterly* XXX (1990), 419-29. Hibbs expatiates the rather ironic and dialectical character of divine pedagogy. He describes the method of divine pedagogy as comedic, inasmuch as salvation history turns on the descent of God into human history to provide what man, in his pride, does not realize he needs. What is ultimately tragic—man’s hopelessly fallen condition—undergoes a dramatic reversal due to the Incarnation of God’s Word. “The law is an instrument, but it does not supply the sort of smooth, straightforward, didactic help one might expect. Man’s moral predicament, the symptom of which is estrangement from God and himself, demands a more radical cure. It requires irony, an irony that instructs by edifying. The first stage in inquiry about the good is oblique and self-reflective, rather than direct and ‘objective.’ The old law aids only by accusing . . . Divine pedagogy is thus analogous to Socratic dialectic. And, as is clear from the Platonic dialogues, the ironic beginning is an unexpected circuit in philosophical discourse, unexpected, that is, from the point of view of the inquirer. The accusation of the law is an abrupt interruption of an individual’s speculative inquiry into good. Why is such a point of departure necessary? Without the initial acknowledgment that one is at present indisposed to the inquiry, one is apt to misconstrue the character of the inquiry, particularly its application to one’s present condition. Two benefits, moreover, accrue to this apparently negative moment in moral discourse. First, one gains self-knowledge; the inquirer is now in a better position to gauge the character of the inquiry and its relation to the capacities and needs of the self. Second, one gains respect for the instrument, namely, divine law, which provides the occasion for the knowledge and which offers grace as a cure. It is not accidental that the treatise on law in the *Summa* is comfortably ensconced between the treatises on sin and grace. As Thomas describes the ethical endeavor, the conundrum is not just that the end transcends nature, for human nature is incapacitated even with respect to natural things” (426). For a full treatment on Salvation history as divine comedy in Aquinas’ *Summa Contra Gentiles*, see Hibbs’s *Dialectic and Narrative: An Interpretation of the Summa contra gentiles*, (Notre Dame, IN: University of Notre Dame Press, 1995).

except insofar as it is necessary to provide sufficient proof that Aquinas indeed understands the order of these precepts as divine moral pedagogy.

### *a. The Moral Precepts: Specifying Secondary Principles of Natural Law*

The *Catechism of the Catholic Church* affirms that, “The moral law is the work of divine wisdom. Its biblical meaning can be defined as fatherly instruction, God’s pedagogy.”<sup>68</sup> The use of the term *pedagogy* here expresses God’s concern for the formation of our moral character, especially our capacity for love. As indicated previously, the Decalogue provides a more determinate knowledge of the most common principles of natural law and the two-fold precept of charity, but without descending too far into particulars. As such, the Decalogue offers a basic pedagogy for the ordinary occasions of virtuous living.

Just as when we instruct a man in some science, we begin by putting before him certain general maxims, even so the Law, which forms man to virtue by instructing him in the precepts of the Decalogue, which are the first of all precepts, which gave expression, by prohibition or by command, to those things which are of most common occurrence in the course of human life.<sup>69</sup>

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<sup>68</sup> *Catechism of the Catholic Church*, Second Edition (Liberia Editrice Vaticana, 1997), no. 1950.

<sup>69</sup> ST II-II 122.3 ad 4: “*Sicut et qui instruitur in aliqua scientia primo proponuntur quaedam communia documenta, ita etiam lex, quae instituit hominem ad virtutem, in praeceptis Decalogi, quae sunt prima, ea proposuit, vel prohibendo vel mandando, quae communius in cursu humanae vitae solent accidere.*”

See also ST I-II 100.3: “Consequently, two kinds of precepts are not reckoned among the precepts of the Decalogue: viz. first general principles, for they need no further promulgation after being once imprinted on the natural reason to which they are self-evident; as, for instance, that one should do evil to no man, and other similar principles; and again those which the careful reflection of wise men shows to be in accord with reason; since the people receive these principles from God, through being taught by wise men. Nevertheless both kinds of precepts are contained in the precepts of the Decalogue; yet in different ways. For the first general principles are contained in them, as principles in their proximate conclusions; while those which are known through wise men are contained, conversely, as conclusions in their principles: *Inter praecepta ergo Decalogi non computantur duo genera praeceptorum, illa scilicet quae sunt prima et communia, quorum non oportet aliam editionem esse nisi quod sunt scripta in ratione naturali quasi per se nota, sicut quod nulli debet homo malefacere, et alia huiusmodi; et iterum illa quae per diligentem inquisitionem sapientum inveniuntur rationi convenire, haec enim proveniunt a Deo ad populum mediante disciplina sapientum. Utraque tamen horum praeceptorum continentur in praeceptis Decalogi, sed diversimode. Nam illa quae sunt prima et communia, continentur in eis sicut principia in conclusionibus proximis, illa vero quae per sapientes cognoscuntur, continentur in eis, e converso, sicut conclusiones in principiis*”

See also ST I-II 100.11: “As is evident from what has been stated (Q99, AA3, 4), the judicial and ceremonial precepts derive their force from their institution alone: since before they were instituted, it seemed of no consequence whether things were done in this or that way. But the moral precepts derive their efficacy from the very dictate of natural reason, even if they were never included in the Law. Now of these there are three grades: for some are most certain, and so evident as to need no promulgation; such as the commandments of the love of God and our neighbor, and others like these, as stated above (A3), which are, as it were, the ends of the commandments; wherefore no man can have an erroneous judgment about them. Some precepts are more detailed, the reason of which even an uneducated man can easily

Besides affirming that the Decalogue provides secondary principles of action, Aquinas' commentary on the Decalogue also reveals another pedagogical dimension. Aquinas shows how the sequencing of the Decalogue is a divine pedagogy in itself. What is especially noteworthy is how the Decalogue's sequencing sets forth, in a very general way, the *form* charity is to assume in us under the New Law; and it does this by revealing how the right order of justice conforms to the hierarchy of goods. Eberhard Schockenhoff confirms this reading of Aquinas when he states:

But even if we wish to query details of the connections which Thomas makes, they can aid a theological understanding of the Decalogue, since they show that it was not by pure chance that the individual commandments landed in the place they occupy in the Decalogue, and that they do not simply stand alongside one another without any interconnections. Thomas discerns a meaningful and gradated ordering especially in the commandments on the second tablet, which follow the hierarchy of the goods protected by the precepts or the diminishing gravity of the sinful assaults on these goods.<sup>70</sup>

Insofar as the Ten Commandments are specifications of the two-fold precept of charity, the sequencing of the Ten Commandments reveals the order of charity.

Before I proceed to show this, note that Aquinas has a number of articles addressing the sequencing of the Decalogue, each of which is considerably long. I have opted to cite the entirety of each text for the benefit of the reader, while offering only a brief commentary (of my own) on the relationship of the Decalogue's sequencing to the order

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grasp; and yet they need to be promulgated, because human judgment, in a few instances, happens to be led astray concerning them: these are the precepts of the Decalogue. Again, there are some precepts the reason of which is not so evident to everyone, but only the wise; these are moral precepts added to the Decalogue, and given to the people by God through Moses and Aaron. But since the things that are evident are the principles whereby we know those that are not evident, these other moral precepts added to the Decalogue are reducible to the precepts of the Decalogue, as so many corollaries: *sicut ex dictis patet, praecepta iudicialia et caeremonialia ex sola institutione vim habent, quia antequam instituerentur, non videbatur differre utrum sic vel aliter fieret. Sed praecepta moralia ex ipso dictamine naturalis rationis efficaciam habent, etiam si nunquam in lege statuantur. Horum autem triplex est gradus. Nam quaedam sunt certissima, et adeo manifesta quod editione non indigent; sicut mandata de dilectione Dei et proximi, et alia huiusmodi, ut supra dictum est, quae sunt quasi fines praeceptorum, unde in eis nullus potest errare secundum iudicium rationis. Quaedam vero sunt magis determinata, quorum rationem statim quilibet, etiam popularis, potest de facili videre; et tamen quia in paucioribus circa huiusmodi contingit iudicium humanum perverti, huiusmodi editione indigent, et haec sunt praecepta Decalogi. Quaedam vero sunt quorum ratio non est adeo cuilibet manifesta, sed solum sapientibus, et ista sunt praecepta moralia superaddita Decalogo, tradita a Deo populo per Moysen et Aaron. Sed quia ea quae sunt manifesta, sunt principia cognoscendi eorum quae non sunt manifesta; alia praecepta moralia superaddita Decalogo reducuntur ad praecepta Decalogi, per modum cuiusdam additionis ad ipsa.*"

<sup>70</sup> *Natural Law & Human Dignity*, 254.



of charity. I recommend that the reader read each passage just prior to my commentary on it.

In the first text,<sup>71</sup> Aquinas explains the sequencing of the Ten Commandments according to what we owe in justice to others. What is assumed in his explanation is how the order of justice reflects the regard we are to have for the goodness of God and the good(s) of our neighbor. This two-fold relation to good is revealed first and foremost in the division between the two tablets, which distinguishes the highest good from the created goods we are to love in a certain descending order. With the first three

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<sup>71</sup>ST I-II 100.5: “Man owes three things to the head of the community: first, fidelity; secondly, reverence; third, service. Fidelity to his master consists in his not giving sovereign honor to another: and this is the sense of the first commandment, in the words ‘Thou shalt not have strange gods.’ Reverence to his master requires that he should do nothing injurious to him: and this is conveyed by the second commandment, ‘Thou shalt not take the name of the Lord thy God in vain.’ Service is due to the master in return for the benefits his subjects receive from him: and to this belongs the third commandment of the sanctification of the Sabbath in memory of the creation of all things. To his neighbors a man behaves himself well both in particular and in general. In particular, as to those to whom he is indebted, by paying his debts: and in this sense is to be taken the commandment about honoring one’s parents. In general, as to all men, by doing harm to none, either by deed, or by word, or by thought. By deed, harm is done to one’s neighbor—sometimes in his person, i.e. as to his personal existence; and this is forbidden by the words, ‘Thou shalt not kill’: sometimes in a person united to him, as to the propagation of offspring; and this is prohibited by the words, ‘Thou shalt not commit adultery’: sometimes in his possessions, which are directed to both the aforesaid; and with this regard to this it is said, ‘Thou shalt not steal.’ Harm done by word is forbidden when it is said, ‘Thou shalt not bear false witness against thy neighbor’: harm done by thought is forbidden in the words, ‘Thou shalt not covet.’ The three precepts that direct man in his behavior towards God may also be differentiated in this same way. For the first refers to deeds; wherefore it is said, ‘Thou shalt not make . . . a graven thing’: the second, to words; wherefore it is said, ‘Thou shalt not take the name of the Lord thy God in vain’: the third, to thoughts; because the sanctification of the Sabbath, as the subject of a moral precept, requires repose of the heart in God. Or, according to Augustine (In Ps. 32: Conc. 1), by the first commandment we reverence the unity of the First Principle; by the second, the Divine truth; by the third, His goodness whereby we are sanctified, and wherein we rest as in our last end: *Principi autem communitatis tria debet homo, primo quidem, fidelitatem; secundo, reverentiam; tertio, famulatum. Fidelitas quidem ad dominum in hoc consistit, ut honorem principatus ad alium non deferat. Et quantum ad hoc accipitur primum praeceptum, cum dicitur, non habebis deos alienos. Reverentia autem ad dominum requiritur ut nihil iniuriosum in eum committatur. Et quantum ad hoc accipitur secundum praeceptum, quod est, non assumes nomen domini Dei tui in vanum. Famulatus autem debetur domino in recompensationem beneficiorum quae ab ipso percipiunt subditi. Et ad hoc pertinet tertium praeceptum, de sanctificatione sabbati in memoriam creationis rerum. Ad proximos autem aliquis bene se habet et specialiter, et generaliter. Specialiter quidem, quantum ad illos quorum est debitor, ut eis debitum reddat. Et quantum ad hoc accipitur praeceptum de honoratione parentum. Generaliter autem, quantum ad omnes, ut nulli nocumentum inferatur, neque opere neque ore neque corde. Opere quidem infertur nocumentum proximo, quandoque quidem in personam propriam, quantum ad consistentiam scilicet personae. Et hoc prohibetur per hoc quod dicitur, non occides. Quandoque autem in personam coniunctam quantum ad propagationem prolis. Et hoc prohibetur cum dicitur, non moechaberis. Quandoque autem in rem possessam, quae ordinatur ad utrumque. Et quantum ad hoc dicitur, non furtum facies. Nocumentum autem oris prohibetur cum dicitur, non loqueris contra proximum tuum falsum testimonium. Nocumentum autem cordis prohibetur cum dicitur, non concupisces. Et secundum hanc etiam differentiam possent distinguī tria praecepta ordinantia in Deum. Quorum primum pertinet ad opus, unde ibi dicitur, non facies sculptile. Secundum ad os, unde dicitur, non assumes nomen Dei tui in vanum. Tertium pertinet ad cor, quia in sanctificatione sabbati, secundum quod est morale praeceptum, praecipitur quies cordis in Deum. Vel, secundum Augustinum, per primum praeceptum reveremur unitatem primi principii; per secundum, veritatem divinam; per tertium, eius bonitatem, qua sanctificamur, et in qua quiescimus sicut in fine.”*

commandments, the Decalogue identifies the order of justice with the acts of fidelity, reverence, and service we owe to God. These acts specify the deeds, words, and thoughts God deserves in virtue of being our last end and the *bonum suum*.

In regard to the second tablet, the sequencing of the commandments mirrors the sequencing of the first tablet by specifying the deeds, words, and thoughts we are to do or avoid on behalf of our neighbor's good. The second tablet begins with the honor we owe our parents, to whom we owe the greatest debt for having given us life. Then, in descending order, comes the good of our neighbor's life, family, property, and good name. As revealed in the descending order of these commandments, we owe a greater debt of justice to our parents than to those who are not so near to us. Likewise, murder incurs a greater debt of justice than adultery, and so forth.

In the second text,<sup>72</sup> Aquinas explains the sequencing of the Decalogue by appealing to the order of right reason, an order that pertains to the cognitive dimension of our acts.

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<sup>72</sup> ST I-II 100.6: "The precepts of the Decalogue are such as the mind of man is ready to grasp at once. Now it is evident that a thing is so much the more easily grasped by reason, as its contrary is more grievous and repugnant to reason. Moreover, it is clear, since the order of reason begins with the end, that for a man to be inordinately disposed towards his end is supremely contrary to reason. Now the end of human life and society is God. Consequently it was necessary for the precepts of the Decalogue, first of all, to direct man to God; since the contrary to this is most grievous . . . Now among those things whereby we are ordained to God, the first is that man should be subjected to him faithfully, by having nothing in common with his enemies. The second is that he should show him reverence: the third that he should offer him service. Thus, in an army, it is a greater sin for a soldier to act treacherously and make a compact with the foe, than to be insolent to his commander: and this last is more grievous than if he be found wanting in some point of service to him. As to the precepts that direct man in his behavior towards his neighbor, it is evident that it is more repugnant to reason, and a more grievous sin, if man does not observe the due order as to those persons to whom he is most indebted. Consequently, among those precepts that direct man in his relations to his neighbor, the first place is given to that one which regards his parents. Among the other precepts we again find the order to be according to the gravity of sin. For it is more grave and more repugnant to reason, to sin by deed than by word; and by word than by thought. And among sins of deed, murder, which destroys life in one already living is more grievous than adultery, which imperils the life of the unborn child; and adultery is more grave than theft, which regards external goods: *Praecepta Decalogi dantur de his quae statim in promptu mens hominis suscipit. Manifestum est autem quod tanto aliquid magis a ratione suscipitur, quanto contrarium est gravius et magis rationi repugnans. Manifestum est autem quod, cum rationis ordo a fine incipiat, maxime est contra rationem ut homo inordinate se habeat circa finem. Finis autem humanae vitae et societatis est Deus. Et ideo primo oportuit per praecepta Decalogi hominem ordinare ad Deum, cum eius contrarium sit gravissimum. Sicut etiam in exercitu, qui ordinatur ad ducem sicut ad finem, primum est quod miles subdatur duci, et huius contrarium est gravissimum; secundum vero est ut aliis coordinetur. Inter ipsa autem per quae ordinamur in Deum, primum occurrit quod homo fideliter ei subdatur, nullam participationem cum inimicis habens. Secundum autem est quod ei reverentiam exhibeat. Tertium autem est quod etiam famulatum impendat. Maiusque peccatum est in exercitu si miles, infideliter agens, cum hoste pactum habeat, quam si aliquam irreverentiam faciat duci, et hoc est etiam gravius quam si in aliquo obsequio ducis deficiens inveniatur. In praeceptis autem ordinantibus ad proximum, manifestum est quod magis repugnat rationi, et gravius peccatum est, si homo non servet ordinem debitum ad personas quibus magis est debitor. Et ideo inter praecepta ordinantia ad*

As we have seen already, the order of right reason is the formal cause for ordering our appetites, of which charity is the principal virtue. In this regard, the sequencing of the Decalogue reveals that it is more contrary to reason, for example, to offend God than our neighbor. It is more contrary to reason to offend our parents than those who are not so intimately connected to us. Likewise, it is more contrary to reason to offend the sanctity of another's life than their property, and so forth. Hence, as the sequencing of the Decalogue reveals the order of reason, and the order of reason corresponds to the hierarchy of goods, so does the Decalogue reveal the order of charity.

In the third text,<sup>73</sup> Aquinas shows how the sequencing of the Decalogue specifies the order of *virtues* proper to justice. With all forms of justice, the object is a right relationship to others. Yet there is a certain order to our relationships with others, depending upon whether the others with whom we are to relate are our equals or not. The first three commandments pertain to the virtue of religion, which orders our relationship to God, who is infinitely above us. Thus, religion is the chief form of justice.

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*proximum, primo ponitur praeceptum pertinens ad parentes. Inter alia vero praecepta etiam apparet ordo secundum ordinem gravitatis peccatorum. Gravius est enim, et magis rationi repugnans, peccare opere quam ore, et ore quam corde. Et inter peccata operis, gravius est homicidium, per quod tollitur vita hominis iam existentis, quam adulterium, per quod impeditur certitudo prolis nasciturae; et adulterium gravius quam furtum, quod pertinet ad bona exteriora.”*

<sup>73</sup> ST II-II 122.1: “The precepts of the Decalogue are the first principles of the Law: and the natural reason assents to them at once, as to principles that are most evident. Now it is altogether evident that the notion of duty, which is essential to a precept, appears in justice, which is of one towards another. Because in those matters that relate to himself it would seem at a glance that man is master of himself, and that he may do as he likes: whereas in matters that refer to another it appears manifestly that a man is under obligation to render to another that which is his due. Hence the precepts of the Decalogue must pertain to justice. Wherefore the first three precepts are about acts of religion, which is the chief part of justice; the fourth precept is about acts of piety, which is the second part of justice; and the six remaining are about justice commonly so called, which is observed among equals: *Praecepta Decalogi sunt prima praecepta legis, et quibus statim ratio naturalis assentit sicut manifestissimis. Manifestissime autem ratio debiti, quae requiritur ad praeceptum, apparet in iustitia, quae est ad alterum, quia in his quae spectant ad seipsum, videtur primo aspectui quod homo sit sui dominus, et quod liceat ei facere quodlibet; sed in his quae sunt ad alterum, manifeste apparet quod homo est alteri obligatus ad reddendum ei quod debet. Et ideo praecepta Decalogi oportuit ad iustitiam pertinere. Unde tria prima praecepta sunt de actibus religionis, quae est potissima pars iustitiae; quartum autem praeceptum est de actu pietatis, quae est pars iustitiae secunda; alia vero sex dantur de actibus iustitiae communiter dictae, quae inter aequales attenditur.”* In commenting on this text, Fr. Lawrence Dewan maintains that Aquinas changed the view he held in the *Prima Secundae* on the Decalogue (ST I-II 100.3), namely, that they are derived from first principles. Dewan believes that this passage provides evidence of Aquinas' later belief that the precepts of the Decalogue are known *per se*. I disagree with this interpretation. The ‘Law’ to which Aquinas is referring here, of which the Precepts of the Decalogue are first principles and to which the mind assents at once, is the Mosaic Law. The precepts of the Decalogue are the first principles of the Mosaic Law. By saying that the mind assents to them at once [*statim*], Aquinas is only affirming that these precepts are so easily traceable to first principles that we can assent to them with very little reflection. This is what Aquinas affirms in ST I-II 100.1. He even uses the same term *statim*. “Jean Porter on Natural Law: Thomistic Notes,” *The Thomist* 66 (2002), 279.

Next in gravity is the virtue of piety, which the fourth commandment enjoins on us. Through piety, we honor our parents (and our homeland) to whom we stand in a relationship of inequality, since they are the proximate source of our life and security. Finally, the last six commandments direct us to the virtue of justice proper which establishes us in a right relation to our equals. Again, the order of virtue embodied in justice corresponds to the hierarchy of goods, which thus reveals the order of charity, which Aquinas tells us is the *form* of every virtue.<sup>74</sup>

We might notice that neither the two-fold precept of charity nor the Decalogue includes a precept about the love of self or the love of our body, which the order of charity requires. To this Aquinas retorts,

As Augustine says (De Doctr. Christ. i, 23), ‘though four things are to be loved out of charity, there was no need of a precept as regards the second and fourth,’ i.e. love of oneself and of one’s own body. ‘For however much a man may stray from the truth, the love of himself and of his own body always remains in him.’ And yet the mode of this love had to be prescribed to man, namely, that he should love himself and his own body in an ordinate manner, and this is done by his loving God and his neighbor.<sup>75</sup>

From a pedagogical perspective, therefore, God reveals (in a very general way) the order of charity through the order of justice.

The ineffable wisdom of God’s pedagogy in promulgating the Decalogue is revealed in the fact that justice is something more accessible to reason. As individual principles, the Ten Commandments are immediately derivable from the principles of natural law.<sup>76</sup> Yet, in sequencing the Decalogue as he did, God intimates the proper order of charity, even while the Old Law conferred no grace to actualize us in this virtue. In this manner, God anticipates the New Law, which enables man—by the power of the Holy Spirit—to

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<sup>74</sup> ST II-II 23.8.

<sup>75</sup> ST II-II 44.3 ad 1: “*Sicut Augustinus dicit, in I de doct. Christ., cum quatuor sint ex caritate diligenda, de secundo et quarto, idest de dilectione sui et corporis proprii, nulla praecepta danda erant, quantumlibet enim homo excidat a veritate, remanet illi dilectio sui et dilectio corporis sui. Modus autem diligendi praecipendus est homini, ut scilicet se ordinate diligat et corpus proprium. Quod quidem fit per hoc quod homo diligit Deum et proximum.*”

<sup>76</sup> The only exception to this is the third commandment, which specifies the manner in which God is to be served, namely, by setting aside a day of rest (ST I-II 100.3 ad 2).

fulfill the precepts of the Decalogue from the infused virtue of charity. As Aquinas explains,

Whatever God works in us by his grace, He teaches us first of all by his law, according to Jeremiah 31:33, 'I will give my law in their heart'. Now God causes in us the order of charity, according to Canticle 2:4: 'He set in order charity in me.' Therefore, the order of charity comes under the precept of the Law.<sup>77</sup>

In question 122 of the *Secunda Secundae*, beginning in article two, Aquinas offers a final set of reflections on the sequencing of the Decalogue, yet his focus is different from the other passages we have considered. His explanation turns specifically to the *process* of divine moral pedagogy. His explanation shows that the sequencing of the Decalogue reveals the order of divine moral pedagogy, by which God leads us from sin to righteousness. If we thus consider the second article of question 122, Aquinas illuminates the process of moral growth commenced by the first commandment.<sup>78</sup> The beginning of this process requires the acknowledgment that God is our last end. Thus, we are first commanded to have no other gods besides the Lord. This commandment pertains,

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<sup>77</sup> ST II-II 44.8: "*Quod Deus in nobis facit per gratiam, instruit per legis praecepta, secundum illud Ierem. XXXI, dabo legem meam in cordibus eorum. Sed Deus causat in nobis ordinem caritatis, secundum illud Cant. II, ordinavit in me caritatem. Ergo ordo caritatis sub praecepto legis cadit.*"

<sup>78</sup> ST II-II 122.2: "It pertains to law to make men good, wherefore it behooved the precepts of the Law to be set in order according to the order of generation, the order, to wit, of man's becoming good. Now two things must be observed in the order of generation. The first is that the first part is the first thing to be established; thus in the generation of an animal the first thing to be formed is the heart, and in building a home the first thing to be set up is the foundation: and in the goodness of the soul the first part is goodness of the will, the result of which is that a man makes good use of every other goodness. Now the goodness of the will depends on its object, which is its end. Wherefore since man was to be directed to virtue by means of the Law, the first thing necessary was, as it were, to lay the foundation of religion, whereby man is duly directed to God, Who is the last end of man's will. The second thing to be observed in the order of generation is that in the first place contraries and obstacles have to be removed. Thus the farmer first purifies the soil, and afterwards sows his seed, according to Jer. 4:3, "Break up anew your fallow ground, and sow not upon thorns." Hence it behooved man, first of all to be instructed in religion, so as to remove the obstacles to true religion. Now the chief obstacle to religion is for man to adhere to a false god, according to Mt. 6:24, "You cannot serve God and mammon." Therefore in the first precept of the Law the worship of false gods is excluded: *Legem pertinet facere homines bonos. Et ideo oportet praecepta legis ordinari secundum ordinem generationis, qua scilicet homo fit bonus. In ordine autem generationis duo sunt attendenda. Quorum primum est quod prima pars primo constituitur, sicut in generatione animalis primo generatur cor, et in domo primo fit fundamentum. In bonitate autem animae prima pars est bonitas voluntatis, ex qua aliquis homo bene utitur qualibet alia bonitate. Bonitas autem voluntatis attenditur ad obiectum suum, quod est finis. Et ideo in eo qui erat per legem instituendus ad virtutem, primo oportuit quasi iacere quoddam fundamentum religionis, per quam homo debite ordinatur in Deum, qui est ultimus finis humanae voluntatis. Secundo attendendum est in ordine generationis quod primo contraria et impedimenta tolluntur, sicut agricola primo purgat agrum, et postea proicit semina, secundum illud Ierem. IV, novate vobis novale, et nolite serere super spinas. Et ideo circa religionem primo homo erat instituendus ut impedimenta verae religionis excluderet. Praecipuum autem impedimentum religionis est quod homo falso deo inhaereat, secundum illud Matth. VI, non potestis servire Deo et mammonae. Et ideo in primo praecepto legis excluditur cultus falsorum deorum.*"

above all, to eliminating the vice wherein man offends the virtue of religion by excess, namely, superstition.

In article three, Aquinas goes on to explain how God eliminates the vice opposed to the virtue of religion by means of defect, namely, irreligion.<sup>79</sup> Thus, after acknowledging God as our last end, we must learn how to reverence him. The second commandment thus teaches us to reverence the name of God.

If we move then to article 4, Aquinas explains that, by prescribing the proper form of worship, the third precept of the Decalogue completes the process of establishing man in the virtue of religion.<sup>80</sup> As we shall see, God further specifies the third commandment

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<sup>79</sup> ST II-II 122.3: “In one who is being instructed in virtue it is necessary to remove obstacles to true religion before establishing him in true religion. Now a thing is opposed to true religion in two ways. First, by excess, when, to wit, that which belongs to religion is given to others than to whom it is due, and this pertains to superstition. Secondly, by lack, as it were, of reverence, when, to wit, God is contemned, and this pertains to the vice of irreligion . . . Now superstition hinders religion by preventing man from acknowledging God so as to worship Him: and when a man’s mind is engrossed in some undue worship, he cannot at the same time give due worship to God, according to Is. 28:20, ‘The bed is straitened, so that one must fall out,’ i.e. either the true God or a false god must fall out from man’s heart, “and a short covering cannot cover both.” On the other hand, irreligion hinders religion by preventing man from honoring God after he has acknowledged Him. Now that one must first of all acknowledge God with a view to worship, before honoring Him we have acknowledged. For this reason the precept forbidding superstition is placed before the second precept, which forbids perjury that pertains to irreligion: *Prius impedimenta verae religionis excludere in eo qui instituitur ad virtutem, quam eum in vera religione fundare. Opponitur autem verae religioni aliquid dupliciter. Uno modo, per excessum, quando scilicet id quod est religionis alteri indebite exhibetur, quod pertinet ad superstitionem. Alio modo, quasi per defectum reverentiae, cum scilicet Deus contemnitur, quod pertinet ad vitium irreligiositatis, ut supra habitum est. Superstitio autem impedit religionem quantum ad hoc, ne suscipiatur Deus ad colendum. Ille autem cuius animus implicatus est indebito cultui, non potest simul debitum Dei cultum suscipere, secundum illud Isaiae XXVIII, angustatum est stratum, ut alter decadat, scilicet Deus verus vel falsus a corde hominis, et pallium breve utrumque operire non potest. Per irreligiositatem autem impeditur religio quantum ad hoc, ne Deus, postquam susceptus est, honoretur. Prius autem est Deum suscipere ad colendum quam eum susceptum honorare. Et ideo praemittitur praeceptum quo prohibetur superstitioni secundo praecepto, quo prohibetur periurium, ad irreligiositatem pertinens.”*

<sup>80</sup> ST II-II 122.4: “The obstacles to true religion being removed by the first and second precepts of the Decalogue . . . it remained for the third precept to be given whereby man is established in true religion. Now it belongs to religion to give worship to God: and just as the Divine scriptures teach the interior worship under the guise of certain corporal similitudes, so is external worship given to God under the guise of sensible signs. And since for the most part man is induced to pay interior worship, consisting in prayer and devotion, by the interior instincts of the Holy Ghost, a precept of the Law is necessary respecting the exterior worship that consists in sensible signs. Now the precepts of the Decalogue are, so to speak, first and common principles of the Law, and consequently the third precept of the Decalogue describes the exterior worship of God as the sign of a universal boon that concerns all. This universal boon was the work of the Creation of the world, from which work God is stated to have rested on the seventh day: and sign of this we are commanded to keep holy seventh day—that is, to set it aside as a day to be given to God. Hence after the precept about the hallowing of the Sabbath the reason for it is given: ‘For in six days the Lord made heaven and earth . . . and rested on the seventh day’: *Remotis impedimentis verae religionis per primum et secundum praeceptum Decalogi, ut supra dictum est, consequens fuit ut tertium praeceptum poneretur, per quod homines in vera religione fundarentur. Ad religionem autem pertinet cultum Deo exhibere. Sicut autem in Scriptura divina traduntur nobis sub aliquibus corporalium rerum similitudinibus, ita cultus exterior Deo exhibetur per aliquod sensibile signum. Et quia ad interiorem cultum, qui consistit in oratione et devotione, magis inducitur homo ex interiori Spiritus Sancti instinctu, praeceptum legis dandum fuit de exteriori cultu secundum aliquod sensibile signum. Et quia praecepta Decalogi sunt*

with the ceremonial precepts. Nevertheless, the third commandment itself completes the initial stages of moral development by setting aside a day of worship in honor of God's rest on the seventh day of creation. Among other things, the Sabbath rest functions pedagogically to arrest the ambitions of pride. If by pride man coveted God's likeness inordinately, sought his happiness by his own knowledge and strength—only to fall into idolatry—by the third commandment God directs man to the ultimate object of his happiness by means of worship. Without needing to belabor the point, Aquinas' commentary on the remaining precepts carries on in similar fashion, expounding the divine pedagogy of each precept and its placement within the Decalogue.

To sum up our treatment of the Decalogue, not only does it provide secondary principles of actions that inform our conscience, but by sequencing the precepts as he does, God teaches us the order of charity while also revealing the unfolding logic of his pedagogy. God counters the sin of pride by purifying man's mind of error and his heart of disordered attachment to earthly goods, that by faith he might eventually cling to God in charity.<sup>81</sup> In addition to this pedagogy, God also teaches man the rudiments of how to love his neighbor. What remains for God to accomplish by the New Law is the infusion of charity, which he confers through the New Law of grace, followed by the perfection of charity in the beatific vision. Hence, just as there was a sequential

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*quasi quaedam prima et communia legis principia, ideo in tertio praecepto Decalogi praecipitur exterior Dei cultus sub signo communis beneficii quod pertinet ad omnes, scilicet ad repraesentandum opus creationis mundi, a quo requiescere dicitur Deus septimo die, in cuius signum, dies septima mandatur sanctificanda, idest deputanda ad vacandum Deo. Et ideo Exod. XX, praemisso praecepto de sanctificatione sabbati, assignatur ratio, quia sex diebus fecit Deus caelum et terram, et in die septimo requievit."*

<sup>81</sup> See ST II-II 44.1: Now the end of the spiritual life is that man be united to God, and this union is effected by charity, while all things pertaining to the spiritual life are ordained to this union, as to their end. Hence the Apostle says (1 Tim. 1:5): 'The end of the commandment is charity from a pure heart, and a good conscience, and an unfeigned faith.' For all the virtues, about whose acts the precepts are given, are directed either to the freeing of the heart from the whirl of the passions—such are the virtues that regulate the passions—or at least to the possession of a good conscience—such are the virtues that regulate operations—or to the having of a right faith—such are those which pertain to the worship of God: and these three things are required of man that he may love God: *Finis autem spiritualis vitae est ut homo uniatur Deo, quod fit per caritatem, et ad hoc ordinantur, sicut ad finem, omnia quae pertinent ad spiritualem vitam. Unde et apostolus dicit, I ad Tim. I, finis praecepti est caritas de corde puro et conscientia bona et fide non ficta. Omnes enim virtutes, de quarum actibus dantur praecepta, ordinantur vel ad purificandum cor a turbinationibus passionum, sicut virtutes quae sunt circa passiones; vel saltem ad habendam bonam conscientiam, sicut virtutes quae sunt circa operationes; vel ad habendam rectam fidem, sicut illa quae pertinent ad divinum cultum. Et haec tria requiruntur ad diligendum Deum."*

unravelling of original justice from the fall onward, so there is a corresponding sequence to the process by which God justifies us in teaching us how to love. While I could spend more time explicating the pedagogical significance of the Decalogue, it suffices merely to show the degree to which Aquinas emphasizes this aspect of the Ten Commandments.

One last observation: The third precept of the Decalogue sums up the pedagogical focal point of the Old Law. For Aquinas, the ceremonial precepts specify the third commandment. In both Scripture and the *Summa theologiae*, more attention is given to the ceremonial precepts than to any other order of precepts.<sup>82</sup> The reason is because the ceremonial precepts target the historical manifestation of man's separation from God, namely, the idolatry that results from pride. As we shall see, God promulgated the ceremonial precepts to wean Israel from idolatry so as to establish them in a true *form* of worship, which Christ would institute.

### *b. The Ceremonial Precepts: Further Specification of the First Tablet*

As I mentioned above, the ceremonial precepts represent further specifications of the Decalogue. In particular, they express certain “positive” determinations of the third commandment concerning the practice of worship. As such, they cannot be derived from natural law immediately; nonetheless, they are in accord with natural law in that they directed Israel to a due end by means of cultic worship.<sup>83</sup> Aquinas is clear, moreover, that the ceremonial precepts not only predispose Israel to a form of worship antithetical to the idolatrous practices of the surrounding nations, but they also prefigure the more perfect form of worship to be instituted by Christ.<sup>84</sup> In short, the ceremonial precepts

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<sup>82</sup> In Scripture, the Ceremonial precepts occupy over half of the precepts presented in the *Pentateuch*. See Gordon J. Wenham, *Numbers: An Introduction and Commentary* (Downers Grove, IL: InterVarsity Press, 1981), 26. In the *Summa theologiae*, Aquinas devotes roughly 14 pages to the moral precepts, 37 pages to the ceremonial precepts and 16 pages to the judicial precepts respectively. This is according to the pagination given in the translation of the Fathers of the English Dominican Province.

<sup>83</sup> ST I-II 99.3 ad 2.

<sup>84</sup> ST I-II 102.2.



were not arbitrary in their determinations, but exceedingly sagacious in how they prepared the world for the coming of the Messiah.

First of all, Aquinas discusses the ceremonial precepts in reference to two categories of people, namely, the vicious as well as the good-willed who lived under the pedagogy of the Old Law. The ceremonial precepts were given to accommodate the whole spectrum of moral character.

Every law is given to a people. Now a people contains two kinds of men: some, prone to evil, who have to be coerced by the precepts of the law . . . some inclined to good, either from nature or from custom, or rather from grace; and the like have to be taught and improved by means of the precepts of the law. Accordingly, with regard to both kinds of men it was expedient that the Old Law should contain many ceremonial precepts. For in that people there were many prone to idolatry; wherefore it was necessary to recall them by means of ceremonial precepts from the worship of idols to the worship of God. And since men served idols in many ways, it was necessary on the other hand to devise many means of repressing every single one: and again, to lay many obligations on such like men, in order that being burdened, as it were, by their duties to the divine worship, they might have no time for the service of idols. As to those who were inclined to good, it was again necessary that there should be many ceremonial precepts; both because thus their mind turned to God in many ways, and more continually; and because the mystery of Christ, which was foreshadowed by these ceremonial precepts, brought many boons to the world, and afforded men many considerations, which needed to be signified by various ceremonies.<sup>85</sup>

Take note of the appeal to both the cognitive and affective dimension of divine worship. To those inclined to idolatry, the ceremonial precepts were intended to turn their affections away from idolatry and toward God with the aid of coercive incentive structures. To those inclined affectively to good, the precepts were intended primarily to dispose minds to the coming of Christ.

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<sup>85</sup> ST I-II 101.3: “*Omnis lex alicui populo datur. In populo autem duo genera hominum continentur, quidam proni ad malum, qui sunt per praecepta legis coercendi, ut supra dictum est; quidam habentes inclinationem ad bonum, vel ex natura vel ex consuetudine, vel magis ex gratia; et tales sunt per legis praeceptum instruendi et in melius promovendi. Quantum igitur ad utrumque genus hominum, expediebat praecepta caeremonialia in veteri lege multiplicari. Erant enim in illo populo aliqui ad idololatriam proni, et ideo necesse erat ut ab idololatriae cultu per praecepta caeremonialia revocarentur ad cultum Dei. Et quia multipliciter homines idololatriae deservebant, oportebat e contrario multa institui ad singula reprimenda, et iterum multa talibus imponi, ut, quasi oneratis ex his quae ad cultum Dei impenderent, non vacaret idololatriae deservire. Ex parte vero eorum qui erant prompti ad bonum, etiam necessaria fuit multiplicatio caeremonialium praeceptorum. Tum quia per hoc diversimode mens eorum referebatur in Deum, et magis assidue. Tum etiam quia mysterium Christi, quod per huiusmodi caeremonialia figurabatur, multiplices utilitates attulit mundo, et multa circa ipsum considerata erant, quae oportuit per diversa caeremonialia figurari.*”

Second, Aquinas explains how the mode of worship that the ceremonies prescribe corresponds to man's various spiritual states. "For in the state of future bliss, the human intellect will gaze on the divine truth in itself. Wherefore the external worship will not consist in anything figurative, but solely in the praise of God, proceeding from inward knowledge and affection."<sup>86</sup> In regard to the present state, Aquinas observes that, "we are unable to gaze on the divine truth in itself, and we need the ray of divine truth to shine upon us under the *form* of certain sensible figures . . . in various ways, however, according to the various states of human knowledge."<sup>87</sup> Aquinas then continues by distinguishing between the Old and the New Law. As to the Old Law he states, "the external worship . . . needed to be figurative not only of the future truth to be manifested in our heavenly fatherland, but also of Christ, who is the way *leading* to that true fatherland."<sup>88</sup>

Aquinas establishes a link, therefore, between the figurative significance of the ceremonial precepts and the various "forms of knowledge" proper to man under the Old Law, the New Law, and among the blessed. For Aquinas, that the ceremonial precepts are construed as "figures" indicates a divine pedagogy at work, inasmuch as God was gradually leading Israel from idolatry to true worship by a form of worship corresponding to their moral condition, including their state of knowledge. In this, we observe what is rightly called divine accommodation.

The things of God are not to be revealed to man except in proportion to his capacity: else he would be in danger of downfall, were he to despise what he cannot grasp. Hence it was more beneficial that the divine mysteries should be revealed to uncultured people under a veil of figures, that thus they might know them at least implicitly by using those figures to honor God.<sup>89</sup>

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<sup>86</sup> ST I-II 101.2: "In statu enim futurae beatitudinis, intellectus humanus ipsam divinam veritatem in seipsa intuebitur. Et ideo exterior cultus non consistet in aliqua figura, sed solum in laude Dei, quae procedit ex interiori cognitione et affectione."

<sup>87</sup> ST I-II 101.2: "Non possumus divinam veritatem in seipsa intueri, sed oportet quod radius divinae veritatis nobis illucescat sub aliquibus sensibilibus figuris . . . diversimode tamen, secundum diversum statum cognitionis humanae [emphasis mine]."

<sup>88</sup> ST I-II 101.2: "Exteriorem cultum veteris legis non solum esse figurativum futurae veritatis manifestandae in patria; sed etiam esse figurativum Christi, qui est via ducens ad illam patriae veritatem."

<sup>89</sup> ST I-II 101.2 ad 1: "Divina non sunt revelanda hominibus nisi secundum eorum capacitatem, alioquin daretur eis praecipitii materia, dum contemnerent quae capere non possent. Et ideo utilis fuit ut sub quodam figurarum velamine divina mysteria rudi populo traderentur, ut sic saltem ea implicate cognoscerent, dum illis figuris deservirent ad honorem Dei."

This divine accommodation was efficacious in that it accustomed Israel to worship God in such manner that they could both turn away from idolatry and, at the same time, be prepared for the worship Christ would institute. Hence, according to Aquinas, the ceremonial precepts actualized the Israelites in the practice of divine worship. By these practices, God accustomed Israel to the virtue of religion. Yet with respect to the process of habituation, this moral development remained imperfect and incomplete.

Finally, when we see how he explains the specific rationale for the ceremonial precepts, the emphasis Aquinas gives to their figurative significance brings us to a better appreciation of their pedagogical import.<sup>90</sup> As a medieval exegete, Aquinas interprets what he calls the “causes” of the ceremonial precepts by appealing to the four-fold sense of Scripture.<sup>91</sup> These causes refer to the particular reasons Aquinas attributes to God for prescribing the ceremonial precepts, reasons revealed primarily in their literary-historical significance. It is noteworthy that, in introducing the causes of the ceremonial precepts, Aquinas cites Aristotle on the function of the wise man: “It is the function of a wise man to do everything in order.”<sup>92</sup> That is, through the typological significance of the ceremonial precepts, God reveals the wisdom of his pedagogy:

Now in order to direct his mind to God aright, man must recognize that whatever he has is from God as from its first principle, and direct it to God as its last end . . . . Wherefore in offering up sacrifices man made protestation that God is the first principle of the creation of all things, and their last end, to which all things must be directed. And since, for the human mind to be directed to God aright, it must recognize no first author of things other than God, nor place its

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<sup>90</sup> See ST I-II 102.

<sup>91</sup> ST I-II 102.2. The Christian tradition has always discerned a four-fold meaning in Scripture. The first level of meaning is the literary/historical sense, which regards the intention of the human author. The second level is the allegorical sense; it discerns in Scripture certain “types” or “figures” that have their ultimate meaning and significance in the person of Jesus Christ. The third level of meaning is the tropological sense, which reveals the moral significance of Scripture for the Christian believer. Finally, the anagogical sense ultimately orients the Scriptures to their fulfillment in the end times. These last three senses are attributable to the divine author of Scripture—the Holy Spirit—whose intended meaning transcends the human author’s intended meaning, though it is a rule of exegesis that the spiritual senses must be rooted in the literary/historical sense. Regardless of how this ancient method of exegesis might be appraised in our own time, Aquinas’ use of this method is rather illuminating for grasping his pedagogical understanding of the ceremonial precepts. For the Magisterium’s regard of the four-fold sense of Scripture, see the *Catechism of the Catholic Church*, nos. 115-19.

<sup>92</sup> ST I-II 102.1: “*Secundum philosophum, in I metaphys., ea quae ex divina sapientia procedunt, oportet esse ordinata.*”

end in any other; for this reason it was forbidden in the Law to offer sacrifice to any other but God . . . Wherefore another reasonable cause may be assigned to the ceremonies of the sacrifices, from the fact that thereby men were withdrawn from offering sacrifices to idols. Hence too it is that the precepts about the sacrifices were not given to the Jewish people until after they had fallen into idolatry, by worshipping the molten calf: as though those sacrifices were instituted, that the people, being ready to offer sacrifices, might offer those sacrifices to God rather than to idols.<sup>93</sup>

Notice from this text the emphasis Aquinas places upon practical moral wisdom and its relationship to the importance of Israel placing their end in God.

The ceremonial precepts directed Israel to the worship of the One God in a number of ways. The first was by keeping them so excessively busy in performing the requirements of their own ceremonies that they would have no time to be drawn into the worship of other peoples.<sup>94</sup> Secondly, they served to remind Israel of the blessings God had bestowed upon them. For example the ceremonies pertaining to Passover reminded Israel of the Exodus, when God delivered Israel from the slavery of Egypt by many wondrous deeds.<sup>95</sup> Finally, the Israelites were made to sacrifice animals not sacrificed by the other nations. The animals they were to sacrifice were venerated by Egypt to such a degree that the Egyptians deemed it “abominable” to slay them.<sup>96</sup> In this manner, the Israelites were excising the customary form of worship they had acquired in Egypt and were being formed in a new manner of worship. This was the historical significance of their pedagogical function.

In regard to the allegorical sense of the ceremonial precepts, Aquinas explains their signification in reference to Christ. For example, Aquinas shows how the sacrifices of the

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<sup>93</sup> ST I-II 102.3: “*Ad rectam autem ordinationem mentis in Deum pertinet quod omnia quae homo habet, recognoscat a Deo tanquam a primo principio, et ordinet in Deum tanquam in ultimum finem . . . Et ideo in oblatione sacrificiorum protestabatur homo quod Deus esset primum principium creationis rerum et ultimus finis, ad quem essent omnia referenda. Et quia pertinet ad rectam ordinationem mentis in Deum ut mens humana non recognoscat alium primum auctorem rerum nisi solum Deum, neque in aliquo alio finem suum constituat; propter hoc prohibebatur in lege offerre sacrificium alicui alteri nisi Deo . . . Et ideo de causa caeremoniarum circa sacrificia potest assignari ratio alio modo, ex hoc quod per huiusmodi homines retraherentur a sacrificiis idolorum. Unde etiam praecepta de sacrificiis non fuerunt data populo Iudaeorum nisi postquam declinavit ad idololatriam, adorando vitulum conflatilem, quasi huiusmodi sacrificia sint instituta ut populus ad sacrificandum promptus, huiusmodi sacrificia magis Deo quam idolis offerret.*”

<sup>94</sup> ST I-II 101.3.

<sup>95</sup> ST I-II 102.2.

<sup>96</sup> ST I-II 102.3 ad 2.

Old Law prefigured the one, eternal sacrifice of Christ. “Now of all the gifts which God vouchsafed to mankind after they had fallen away by sin, the chief is that he gave his Son . . . And for this reason all the other sacrifices of the Old Law were offered up in order to foreshadow this one individual and paramount sacrifice.”<sup>97</sup> The same holds for the tropological and anagogical senses. While the tropological sense prefigures the sacramental and liturgical life of the Church on earth, the anagogical sense prefigures the heavenly liturgy. It is not possible in this present study to actually present every literary/historical and mystical signification of the cultic ceremonies of Israel; nor is it necessary to accept all of Aquinas’ interpretations.<sup>98</sup> What is necessary is that we grasp Aquinas’ emphasis upon the pedagogical function of the ceremonial precepts themselves.

To conclude, here is a text wherein Aquinas summarizes the main point we have been considering:

The reason for whatever conduces to an end must be taken from that end. Now the end of the ceremonial precepts was twofold: for they were ordained to the divine worship, for that particular time, and to the foreshadowing of Christ; just as the words of the prophets regarded the time being in such a way as to be utterances figurative of the time to come, as Jerome says on Osee 1:3. Accordingly the reasons for the ceremonial precepts of the Old Law can be taken in two ways. First, in respect of the divine worship which was to be observed for that particular time: and these reasons are literal: whether they refer to the shunning of idolatry; or recall certain divine benefits; or remind men of the divine excellence; or point out the disposition of mind which was then required in those who worshipped God. Secondly, their reasons can be gathered from the point of view of their being ordained to foreshadow Christ: and thus their reasons are figurative and mystical: whether they be taken from Christ himself and the Church, which pertains to the allegorical sense; or to the morals of the Christian people, which pertains to the moral sense; or to the state of future glory, in as much as we are brought thereto by Christ, which refers to the anagogical sense.<sup>99</sup>

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<sup>97</sup> ST I-II 102.3: “*Inter omnia autem dona quae Deus humano generi iam per peccatum lapso dedit, praeceptum est quod dedit filium suum . . . Et propter hoc omnia alia sacrificia offerebantur in veteri lege ut hoc unum singulare et praeceptum sacrificium figuraretur.*”

<sup>98</sup> For his complete commentary on the causes of the ceremonial precepts, see ST I-II 101.3-5.

<sup>99</sup> ST I-II 102.2: “*Ratio eorum quae sunt ad finem, oportet quod a fine sumatur. Finis autem praeceptorum caeremonialium est duplex; ordinabatur enim ad cultum Dei pro tempore illo, et ad figurandum Christum; sicut etiam verba prophetarum sic respiciebant praesens tempus, quod etiam in figuram futuri dicebantur, ut Hieronymus dicit, super Osee. Sic igitur rationes praeceptorum caeremonialium veteris legis dupliciter accipi possunt. Uno modo, ex ratione cultus divini qui erat pro tempore illo observandus. Et rationes istae sunt litterales, sive pertineant ad vitandum idololatriae cultum; sive ad rememoranda aliqua Dei beneficia; sive ad insinuandam excellentiam divinam; vel etiam ad designandam dispositionem mentis quae tunc requirebatur in colentibus Deum. Alio modo possunt eorum rationes assignari secundum quod ordinantur ad figurandum Christum. Et sic habent rationes figurales et mysticas, sive accipiantur ex ipso Christo et ecclesia, quod*

As before, notice how he makes reference to practical moral wisdom as this pertains to cultic worship. The ceremonial precepts are unique in their pedagogical significance because they teach on many levels and for a variety of people. All in all, however, the emphasis Aquinas gives to the relationship between divine wisdom, practical reasoning, and the four-fold sense of the ceremonies show us how powerfully these precepts intimate the form of cultic worship that God eventually instituted in Christ.

### *c. The Judicial Precepts: Further Specification of the Second Tablet*

When God established Israel as a nation at Mt. Sinai, it was necessary that he govern them by a set of precepts that would order their life as a civic community. This was the purpose of the judicial precepts. Like the ceremonial precepts, the judicial precepts were determinations of natural law, but in this case, determinations pertaining to the second tablet of the Decalogue, the love of neighbor.<sup>100</sup> As laws ordering civic life, the judicial precepts served as an equivalent to positive human law. They, too, served a pedagogical function for they were promulgated that Israel might be accustomed to a form of justice proper to a commonwealth under the governance of a covenantal theocracy. In this sense, Aquinas says, the judicial precepts were figurative. In other words, as a covenantal people, the political life of Israel as a whole was a figure of the Kingdom of God that Christ would establish. Aquinas describes this Israelite commonwealth as an order of “justice and equity.”<sup>101</sup>

According to Aquinas, God established this order of justice and equity according to four relationships characteristic of any commonwealth. First, “of the people’s sovereign to his subjects; a second of the subjects among themselves; a third, of the citizens to foreigners; a fourth, of members of the same household, such as the order of the father

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*pertinet ad allegoriam; sive ad mores populi christiani, quod pertinet ad moralitatem; sive ad statum futurae gloriae, prout in eam introducimur per Christum, quod pertinet ad anagogiam.”*

<sup>100</sup> ST I-II 99.4 and STI-II 104.1.

<sup>101</sup> ST I-II 104.2.

to his son; of the wife to her husband; of the master to his servant.”<sup>102</sup> As with the ceremonial precepts, Aquinas explains at length the causes of the precepts, which again reveal to us their pedagogical significance.<sup>103</sup> In general, the judicial precepts attended all of the various aspects required for making Israel a well-ordered nation capable of fulfilling the covenant. Moreover, the ordering of Israel’s commonwealth specified for God’s chosen people the intrinsic common good of its political existence. What is unique in this specification is how it prefigured and thus anticipated the intrinsic common good of the Kingdom that Christ would institute as his Church.

It is not my intention to offer a detailed explication of the pedagogical function for each of the judicial precepts. What I will address, however, is the contingent and historical character of the judicial precepts as moral pedagogy. While some precepts of the Old Law have a universal and timeless character—such as the Decalogue—the judicial precepts are entirely provisional and tailored to the common good of Israel alone, even though they embody a superlative order of justice that every nation would be wise to emulate in some manner.<sup>104</sup> The ceremonial precepts have this same provisional character, in that they were binding only on Israel until the advent of the New Law, at which time they were replaced by a new (albeit universal) economy of divine worship.<sup>105</sup>

In order to reflect adequately upon the historical character of the judicial precepts, it is helpful to consider what Aquinas says about human law in this regard.<sup>106</sup> In general, the pedagogical character of human law established a manner of life necessary to the requirements of the common good of a given people, at a given time and place, and so

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<sup>102</sup> ST I-II 104.4: “*Principum populi ad subditos; alius autem, subditorum ad invicem; tertius autem, eorum qui sunt de populo ad extraneos; quartus autem, ad domesticos, sicut patris ad filium, uxoris ad virum, et domini ad servum.*”

<sup>103</sup> See ST I-II 105.

<sup>104</sup> ST I-II 104.3.

<sup>105</sup> See ST I-II 103.3-4 and ST I-II.104.3.

<sup>106</sup> Though not always faithful to the letter of Aquinas, Michael Bauer has offered recently an interesting and creative way of using Aquinas’ treatment of human law to address challenges leveled against Aquinas’ pedagogical theory of law by historicist and positivist theories of law. “Natural Law and the Legislation of Virtue: Historicity, Positivity, and Circularity,” *Vera Lex*, New Series 2 (2001), 51-70.

forth.<sup>107</sup> The contingent circumstances of a people contribute much to determining what, in fact, conduces to the common good or not. This suggests that the positive laws (in particular) governing human society—be they human or divine—have a historical character, not in being morally relative and conditioned in an absolute way, but in that they establish an objectively grounded moral tradition that also responds to the contingent reality of a given people.<sup>108</sup> As Romanus Cessario puts it, “The form of the moral good is found in a world of general moral meanings, of historical happenings, and of express personal motives.”<sup>109</sup>

An integral part of any positive law’s pedagogical function, therefore, is to accustom those governed to the particular requirements of the common good of that community. The requirements of the common good have a certain fluidity characteristic of the process by which practical reason applies universal principles to particular circumstances.<sup>110</sup> In the words of Aquinas, “The obligation of observing justice is indeed

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<sup>107</sup> ST I-II 96.1; ST I-II 104.3.

<sup>108</sup> On this distinction, Thomas Hibbs states, “In the process of becoming more virtuous, we come to see more clearly the meaning and scope of the precepts, many of which are merely provisional. If we come to understand more fully what is required of us beyond conformity to rules, we also come to see that some precepts are more than merely instrumental or provisional, that they are constitutive of the goods that the virtues themselves aim at and embody. To distinguish among the precepts—to understand their relationship to one another—requires more than knowledge provided by prudence; it also requires a knowledge of the institutional structures of our regime, of the way the common good is peculiarly embodied in our politics” (*Virtue’s Splendor: Wisdom, Prudence, and the Human Good* [New York: Fordham University Press, 2001], 81).

<sup>109</sup> See Romanus Cessario, *Introduction to Moral Theology* (Washington D.C.: The Catholic University of America Press, 2001), 167. Later in the same work, he states, “Christian moral realism does not permit recourse to mental abstraction as a substitute for contact with the singular realities of history, society, and personal development. The natural law provides guidance for life in the real world of contingencies. Because historical and cultural determinations form the spheres in which human life unfolds individually and communally, these contingent factors fit easily into the elaboration of a natural law ethic” (94).

<sup>110</sup> For an excellent investigation into the historical character of human society and the universality of natural law, see Eberhard Schockenhoff, *Natural Law & Human Dignity*. John Courtney Murray also illuminates this matter when he states: “The natural law, as Rommen points out, ‘is not in the least some sort of rationalistically deduced, norm-abounding code of immediately evident or logically derived rules that fits every concrete historical situation.’ Like the whole of the *philosophia perennis*, the doctrine of natural law is oriented toward constant contact with reality and the data of experience. . . . The ‘man’ that it knows is not the Lockean individual, leaping full grown into abstract existence in a ‘state of nature,’ but the real man who grows in history, amid changing conditions of social life, acquiring wisdom by the discipline of life itself, in many respects only gradually exploring the potentialities and demands and dignities of his own nature. He knows indeed that there is an order of reason fixed and unalterable in its outlines, that is not at the mercy of his caprice or passion. But he knows, too, that the order of reason is not constructed in geometric fashion, apart from consultation of experience, and the study of ‘customs of human life and . . . all juridical and civil matters, such as are laws and precepts of political life,’ as St. Thomas puts it. The



perpetual. But the determination of those things that are just, according to human or divine institution, must needs be different, according to the different states of mankind.”<sup>111</sup> For example, the form of the regime under which a people are governed necessitates various kinds of legal structures. “Precepts of law are directed to the end intended by the lawgiver. Wherefore precepts of law must needs be framed in various ways according to the various ends intended by lawgivers, so that even in human affairs there are laws of democracies, others of kingdoms, and others again of tyrannical governments.”<sup>112</sup> Positive law will also need to accommodate the moral condition of the people. In sum, “The general principles of the natural law cannot be applied to all men in the same way on account of the great variety of human affairs: and hence arises the diversity of positive laws among various people.”<sup>113</sup> Aquinas puts it best in *De Malo* when he argues, “The same things are not just and good everywhere and for all persons: they must be determined by law. This is because of the mutability of human nature and the various conditions of human beings and things, according to the diversity of places and times.”<sup>114</sup>

No less is this the case for the judicial precepts of the Old Law. God determined the particulars of the judicial precepts with a view to the typological significance of Israel for

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natural-law philosopher does not indeed speak of a ‘natural law without changing content,’ as do the Neo-Kantians, to whom natural law is a purely formal category, empty of material content until it be filled by positive law and its process of legalizing the realities of a given sociological situation. However, the natural-law philosopher does speak of a ‘natural law with changing and progressive applications,’ as the evolution of human life brings to light new necessities in human nature that are struggling for expression and form. Natural law is a force conservative of all acquired human values; it is also a dynamic of progress toward fuller human realization, personal and social. Because it is law, it touches human life with a firm grasp, to give it form; but because it is a living law, it lays upon life no ‘dead hand’, to petrify it into formalism” (*We Hold These Truths: Catholic Reflections on the American Proposition* [New York: Sheed and Ward, 1960], 331).

<sup>111</sup> ST I-II 104.3 ad 1: “*Iustitia quidem perpetuo est observanda. Sed determinatio eorum quae sunt iusta secundum institutionem humanam vel divinam, oportet quod varietur secundum diversum hominum statum.*”

<sup>112</sup> ST II-II 140.1: “*Praecepta legis ordinantur ad intentionem legislatoris. Unde secundum diversos fines quos intendit legislator, oportet diversimode praecepta legis institui. Unde et in rebus humanis alia sunt praecepta democratica, alia regia, alia tyrannica.*” See also ST I-II 103.3 ad 2.

<sup>113</sup> ST I-II 95.2 ad 3: “*Principia communia legis naturae non possunt eodem modo applicari omnibus, propter multam varietatem rerum humanarum. Et exinde provenit diversitas legis positivae apud diversos.*”

<sup>114</sup> *De Malo*, q. 2.4 ad 13: “*Et sic non sunt eadem iusta et bona ubique et apud omnes, sed oportet ea lege determinari. Et hoc contingit propter mutabilitatem naturae humanae et diversas conditiones hominum et rerum, secundum diversitatem locorum et temporum . . .*” cf. Schockenhoff, *Natural Law & Human Dignity*, 31.

the salvation of the world, but also to the kind of regime Israel was to have, the moral condition of the Israelites when they received the law, and other such contingencies bearing on the life of God's chosen people. Hence, the significance of the judicial precepts, from the perspective of divine moral pedagogy, is that they were almost entirely provisional and intended to provide the civic framework within which Israel would successfully function as the chosen people of God.

### *Conclusion*

Salvation history is the history of divine moral pedagogy—at least this is one way to consider the matter. Down through the ages, God has been leading us toward an ever-increasing participation of his own ineffable and infinite goodness. This benevolent providence, however, has never proceeded except in conjunction with our free cooperation. This free cooperation renders divine moral pedagogy a gradual process by which God brings human history nearer and nearer to its ultimate consummation.<sup>115</sup>

As we have seen, natural law is the precondition that makes us alone, of all earthly creatures, capable of the dignity of God's children. Yet divine sonship is not a given for rational nature. It is a gift actualized in us by God, to whom we must cling so as to attain such a noble destiny. Hence, it is precisely the struggle of faith that gives human history its distinctive character. Our natural powers alone are incapable of leading us beyond our innate aspirations for happiness. A revelation of that ultimate end for which we were made and the means conducing thereto must elevate and perfect these powers. Only

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<sup>115</sup> In his post-synodal apostolic exhortation, *Familiaris consortio*, Pope John Paul II refers to this principle of moral pedagogy as the principle of gradualness: "What is needed is a continuous, permanent conversion which, while requiring an interior detachment from every evil and an adherence to good in its fullness, is brought about concretely in steps which lead us ever forward. Thus a dynamic process develops, one which advances gradually with the progressive integration of the gifts of God and the demands of his definitive and absolute love in the entire personal and social life of man. Therefore an educational growth process is necessary, in order that individual believers, families and peoples, even civilization itself, by beginning from what they have already received of the mystery of Christ, may patiently be led forward, arriving at a richer understanding and a fuller integration of this mystery in their lives." As will become evident upon considering the example of divine governance, the principle of gradualness is key to understanding the pedagogical function of any system of law in the process of moral development. This function is to lead—by stages—those governed to a greater degree of moral perfection.

divine law can lead us to a good that is inconceivable to us. Yet, at the same time, this elevation must occur without ever negating what *is* a given, namely, our rational nature.

Hence, the pedagogy of divine law is eminently historical, for history is the arena within which justification is gradually imparted through the laws God has given to his people. As salvation history makes known, we can and have forsaken these covenantal laws. As such, man's progress depends upon a countless number of practical engagements, wherein man must somehow navigate the labyrinth of good and evil within a multitude of ever-fluctuating circumstances. In the end, this is why God must lead us to our eternal beatitude. In order to attain our end, we must ultimately abandon ourselves in faith to the gradual revelation of divine wisdom. The divine economy, then, is revealed as a hierarchy of moral discourse, wherein God teaches us obedience that we might share eventually (and fully) in his own supernatural beatitude.

In looking at the divine economy as a hierarchy of moral discourse, we can see that salvation history is the history of God's engagement with man's moral predicament. The various stages of this history have required God to instruct us with a view to our actual moral condition. This divine accommodation has always expressed God's intention to actualize within us the obediential potency for eternal beatitude. At times, this history reveals the need for God to humble us. This was the primary purpose for the sanctions of original sin, but most especially the Old Law, which man was unable to fulfill due to pride and because God had conferred no elevating grace upon us through this law. Thus, the Old Law was entirely preparatory in this regard. God endeavored only to predispose the human family to the perfect law of grace, which He was to confer upon us through Jesus Christ. It is the New Law, then, that brings the hierarchy of moral discourse to its consummation.

## CHAPTER EIGHT

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### *The New Law: Perfect Law, Perfect Pedagogy*

When discussing the character of the New Law, Aquinas draws from the writings of St. Paul to affirm that, “The New Law fulfills the Old by justifying men through the power of Christ’s passion.” In this way, the New Law “gives what the Old Law promised.”<sup>1</sup> What exactly does the New Law give, however? The simple answer is grace. More specifically, the New Law enables human beings to merit eternal beatitude by their actions. Justification is a gift to fallen humanity; and we observe the gratuitousness of this gift in the fact that, even while the New Law does not restore the elect to the integrity of original justice, they can still attain eternal beatitude through their own free-decisions. The paradox of this gift is that the New Law actualizes human beings in moral perfection, despite the weaknesses of nature that remain due to original sin. This is the power of the New Law as a moral pedagogy.<sup>2</sup>

To fully explicate the pedagogical character of the New Law, I will address two matters. The first is to further explain the fundamental difference between the New and the Old Law. The second is to look specifically at the pedagogical character of the New

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<sup>1</sup> Here is a more complete citation of ST I-II 107.2: “*In veteri autem lege duo possunt considerari, scilicet finis; et praecepta contenta in lege. Finis vero cuiuslibet legis est ut homines efficiantur iusti et virtuosus, ut supra dictum est. Unde et finis veteris legis erat iustificatio hominum. Quam quidem lex efficere non poterat, sed figurabat quibusdam caeremonialibus factis, et promittebat verbis. Et quantum ad hoc, lex nova implet veterem legem iustificando virtute passionis Christi. Et hoc est quod apostolus dicit, ad Rom. VIII, quod impossibile erat legi, Deus, filium suum mittens in similitudinem carnis peccati, damnavit peccatum in carne, ut iustificatio legis impleretur in nobis. Et quantum ad hoc, lex nova exhibet quod lex vetus promittebat; secundum illud II ad Cor. I, quotquot promissiones Dei sunt, in illo est, idest in Christo.*”

<sup>2</sup> See Thomas Hibbs, “Transcending Humanity in Aquinas,” in *Relations: From Having to Being*, ed. Thérèse-Anne Druart, Proceedings of the American Catholic Philosophical Association LXVI (1992), 191-202.

Law—especially the function of the theological virtues, the gifts of the Holy Spirit, and the actualizing effects of grace in free-decision.

### *A. The Difference Grace Makes*

At the beginning of this work, I suggested that the designation of the Old Law as a pedagogue, in both St. Paul's letter to the Galatians and in Aquinas, did not exclude the New Law from having a pedagogical character. Paul's emphasis in distinguishing between the Old and the New Law is that, with the Old Law, God's people were "under" a pedagogue. Aquinas points out that, "The Old Law disposed men to (the coming of) Christ, as the imperfect in comparison disposes to the perfect, wherefore it was given to a people as yet imperfect in comparison to the perfection which was to result from Christ's coming: and for this reason, that people is compared to a child that is *still under* a pedagogue (Gal. 3:24)."<sup>3</sup>

By comparing Israel to children still under a pedagogue, Aquinas highlights the coercive dimension of the Old Law as well as the moral weakness of man after the fall. Accordingly, he links the pedagogical efficacy of the Old Law to the temporal incentive structures of punishment and reward, which, in the end, merely caused Israel to stumble.<sup>4</sup>

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<sup>3</sup> ST I-II 99.6: "Lex vetus disponebat ad Christum sicut imperfectum ad perfectum, unde dabatur populo adhuc imperfecto in comparatione ad perfectionem quae erat futura per Christum, et ideo populus ille comparatur puero sub paedagogo existenti, ut patet Galat. III."

<sup>4</sup> See for example ST I-II 107.1 ad 2: "All the differences assigned between the Old and New Laws are gathered from their relative perfection and imperfection. For the precepts of every law prescribe acts of virtue. Now the imperfect, who as yet are not possessed of a virtuous habit, are directed in one way to perform virtuous acts, while those who are perfected by the possession of virtuous habits are directed in another way. For those who as yet are not endowed with virtuous habits, are directed to the performance of virtuous acts by reason of some outward cause: for instance, by the threat of punishment, or the promise of some extrinsic rewards, such as honor, riches, or the like. Hence the Old Law, which was given to men who were imperfect, that is, who had not yet received spiritual grace, was called the 'law of fear,' inasmuch as it induced men to observe its commandments by threatening them with penalties; and is spoken of as containing temporal promises. On the other hand, those who are possessed of virtue are inclined to do virtuous deeds through love of virtue, not on account of some extrinsic punishment or reward. Hence the New Law which derives its pre-eminence from the spiritual grace instilled into our hearts, is called the 'Law of love': and it is described as containing spiritual and eternal promises, which are objects of the virtues, chiefly of charity. Accordingly such persons are inclined of themselves to those objects, not as to something foreign but as to something of their own. For this reason, too, the Old Law is described as 'restraining the hand, not the will' [\*Peter Lombard, Sent. iii, D, 40]; since when a man refrains from some sins through fear of being punished, his will does not shrink simply from sin, as does the will of a man who refrains from sin through love of righteousness: and hence the New Law, which is

Since the fall, God has disciplined in this manner, precisely because of man's servile attachment to earthly goods. Thus, due to original sin, the Old Law could not move human beings (inwardly) to virtue, that is, since the internal principle of moral instruction—which holds a place of primacy in moral instruction—had been so weakened by pride. Therefore, on Aquinas' reading of Paul, the Old Law taught Israel to fear God's retribution (for fear of losing the promised blessings), while also spurring them on to cry out for deliverance from their sin.<sup>5</sup> The latter resulted from their having suffered the covenant curses after failing to adhere faithfully to the precepts of the Old Law.<sup>6</sup>

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the Law of love, is said to restrain the soul: *Omnes differentiae quae assignantur inter novam legem et veterem, accipiuntur secundum perfectum et imperfectum. Praecepta enim legis cuiuslibet dantur de actibus virtutum. Ad operanda autem virtutum opera aliter inclinatur imperfecti, qui nondum habent virtutis habitum; et aliter illi qui sunt per habitum virtutis perfecti. Illi enim qui nondum habent habitum virtutis, inclinatur ad agendum virtutis opera ex aliqua causa extrinseca, puta ex comminatione poenarum, vel ex promissione aliquarum extrinsecarum remunerationum, puta honoris vel divitiarum vel alicuius huiusmodi. Et ideo lex vetus, quae dabatur imperfectis, idest nondum consecutis gratiam spiritualem, dicebatur lex timoris, inquantum inducebat ad observantiam praeceptorum per comminationem quarundam poenarum. Et dicitur habere temporalia quaedam promissa. Illi autem qui habent virtutem, inclinatur ad virtutis opera agenda propter amorem virtutis, non propter aliquam poenam aut remunerationem extrinsecam. Et ideo lex nova, cuius principalitas consistit in ipsa spirituali gratia indita cordibus, dicitur lex amoris. Et dicitur habere promissa spiritualia et aeterna, quae sunt obiecta virtutis, praecipue caritatis. Et ita per se in ea inclinatur, non quasi in extranea, sed quasi in propria. Et propter hoc etiam lex vetus dicitur cohibere manum, non animum, quia qui timore poenae ab aliquo peccato abstinere, non simpliciter eius voluntas a peccato recedit, sicut recedit voluntas eius qui amore iustitiae abstinere a peccato. Et propter hoc lex nova, quae est lex amoris, dicitur animum cohibere.*"

<sup>5</sup> Pope John Paul II affirms this reading of St. Paul in *Veritatis splendor* when he states, "The law of the Spirit of life in Christ Jesus has set me free from the law of sin and death (Rom. 8:2)." With these words the Apostle Paul invites us to consider in the perspective of the history of salvation, which reaches its fulfillment in Christ, *the relationship between the (Old) Law and grace* (the New Law). He recognizes the pedagogical function of the Law, which, by enabling sinful man to take stock of his own powerlessness and by stripping him of the presumption of his self-sufficiency, leads him to ask for and to receive 'life in the Spirit.' Only in this new life is it possible to carry out God's commandments. Indeed, it is through faith in Christ that we have been made righteous" (no. 23).

<sup>6</sup> On this aspect of divine discipline, Pope John Paul II offers an illuminating insight that can only be grasped fully in the light of Christian faith, nevertheless an insight that was beginning to emerge in the consciousness of Israel. The Pope explains, "Already in the Old Testament we note an orientation that begins to go beyond the concept to which suffering has meaning only as punishment for sin, insofar as it emphasizes at the same time the educational value of suffering as a punishment. Thus the sufferings inflicted by God upon the Chosen People there is included an invitation of his mercy, which corrects in order to lead to conversion: ' . . . these punishments were designed not to destroy but to discipline our people' (2 Mac. 6:12). Thus the personal dimension of punishment is affirmed. According to this dimension, punishment has a meaning not only because it serves to repay the objective evil of the transgression with another evil, but first and foremost because it creates the possibility of rebuilding goodness in the subject who suffers. There is an extremely important aspect of suffering. It is profoundly rooted in the entire Revelation of the Old and above all the New Covenant. Suffering must serve for conversion, that is, for the rebuilding of goodness in the subject, who can recognize the divine mercy in this call to repentance. The purpose of penance is to overcome evil, which under different forms lies dormant in man. Its purpose is also to strengthen goodness both in man himself and in his relationships with others and especially God" (Encyclical Letter, *Sabnifici doloris* [1984], no. 13).

Moreover, by providing more occasions for human beings to falter, the pedagogy of the Old Law actually led to an increase of sin. Hence, Aquinas reiterates St. Paul's teaching that,

The law is said to have been deadly, as being not the cause, but the occasion of death, on account of its imperfection: in so far as it did not confer grace enabling man to fulfill what is prescribed, and to avoid what it forbade. Hence this occasion was not given to men, but taken by them. Wherefore the Apostle says (Rm. 5:11): 'Sin, taking occasion by the commandment, seduced me, and by it killed me.' In the same sense when it is said that 'the law entered in that sin might abound,' the conjunction 'that' must be taken as consecutive and not final: in so far as men, taking occasion from the law, sinned all the more, both because a sin became more grievous after law had forbidden it, and because concupiscence increased, since we desire a thing the more from its being prohibited.<sup>7</sup>

In this way, the Old Law humbled sinners in order to predispose them to the grace of the Holy Spirit. Hence, the Old Law was necessary, but insufficient for attaining eternal beatitude, insofar as it was a law for the morally immature.<sup>8</sup> Through precepts prescribing the form charity was to assume in us, the Old Law directed man to supernatural happiness. Nevertheless, it was imperfect because it did not provide the grace required to fulfill the twofold command of charity, by which we attain supernatural happiness.

In contrast to the Old Law, what God offers through the New Law is the ability to attain the blessedness of heaven by the actualizing effects of grace in the soul. Consequently, the pedagogy of the New Law has no coercive aspect to it, for what moves us is the charity of God himself. "It belongs to the law to induce men to observe its commandments. This the Old Law did by the fear of punishment: but the New Law, by charity, which is poured into our hearts by the grace of Christ, bestowed in the New

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<sup>7</sup> ST I-II 98.1 ad 2: "Lex dicitur occidisse, non quidem effective, sed occasionaliter, ex sua imperfectione, inquantum scilicet gratiam non conferebat, per quam homines implere possent quod mandabat, vel vitare quod vetabat. Et sic occasio ista non erat data, sed sumpta ab hominibus. Unde et apostolus ibidem dicit, occasione accepta peccatum per mandatum seduxit me, et per illud occidit. Et ex hac etiam ratione dicitur quod lex subintravit ut abundaret delictum, ut ly ut teneatur consecutive, non causaliter, inquantum scilicet homines, accipientes occasionem a lege, abundantius peccaverunt; tum quia gravius fuit peccatum post legis prohibitionem; tum etiam quia concupiscentia crevit, magis enim concupiscimus quod nobis prohibetur."

<sup>8</sup> ST I-II 98.2 ad 2.

Law, but figured in the Old.”<sup>9</sup> As a moral pedagogy, the discipline of the New Law is entirely “within” the soul. It perfects the elect by conforming them interiorly to the demands of charity. As Aquinas summarizes the matter:

In things ordained to an end, there is perfect goodness when a thing is such that it is sufficient in itself to conduce to the end: while there is imperfect goodness when a thing is of some assistance in attaining the end, but is not sufficient for the realization thereof. . . . The end of the Divine law is to bring man to that end which is everlasting happiness; which end is hindered by any sin, not only of external, but also of internal action. Consequently that which suffices for the perfection of human law, viz. the prohibition and punishment of sin, does not suffice for the perfection of the Divine law: but it is requisite that it should make man altogether fit to partake of everlasting happiness. Now this cannot be done save by the grace of the Holy Ghost, whereby ‘charity’ which fulfilleth the law . . . ‘is spread abroad in our hearts’ (Rm. 5:5): since ‘the grace of God is life everlasting’ (Rm. 6:23). But the Old Law could not confer this grace, for this was reserved to Christ; because, as it is written (Jn. 1:17), the law was given ‘by Moses, grace and truth came by Jesus Christ.’ Consequently the Old Law was good indeed, but imperfect, according to Heb. 7:19: ‘The law brought nothing to perfection.’<sup>10</sup>

Additionally, Aquinas explains that Christ first had to redeem man, for prior to the promulgation of the New Law, sin had to be cast out of human nature.<sup>11</sup> Only then could God extend the gift of grace to others.

In short, Christ fulfilled all righteousness and, on our behalf, merited the grace of the Holy Spirit, in whose power the elect attain the beatific vision. He fulfilled all righteousness by fulfilling all the precepts of the Old Law.<sup>12</sup> This is why Christ is the

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<sup>9</sup> ST I-II 91.5: “ *Ad legem pertinet inducere homines ad observantias mandatorum. Et hoc quidem lex vetus faciebat timore poenarum, lex autem nova facit hoc per amorem, qui in cordibus nostris infunditur per gratiam Christi, quae in lege nova confertur, sed in lege veteri figurabatur.*”

<sup>10</sup> ST I-II 98.1: “ *Perfecta quidem bonitas est, in his quae ad finem ordinantur, quando aliquid est tale quod per se sufficiens est inducere ad finem, imperfectum autem bonum est quod operatur aliquid ad hoc quod perveniatur ad finem, non tamen sufficit ad hoc quod ad finem perducat. Sicut medicina perfecte bona est quae hominem sanat, imperfecta autem est quae hominem adiuvat, sed tamen sanare non potest. Est autem sciendum quod est alius finis legis humanae, et alius legis divinae. Legis enim humanae finis est temporalis tranquillitas civitatis, ad quem finem pervenit lex cobibendo exteriores actus, quantum ad illa mala quae possunt perturbare pacificum statum civitatis. Finis autem legis divinae est perducere hominem ad finem felicitatis aeternae; qui quidem finis impeditur per quodcumque peccatum, et non solum per actus exteriores, sed etiam per interiores. Et ideo illud quod sufficit ad perfectionem legis humanae, ut scilicet peccata prohibeat et poenam apponat, non sufficit ad perfectionem legis divinae, sed oportet quod hominem totaliter faciat idoneum ad participationem felicitatis aeternae. Quod quidem fieri non potest nisi per gratiam Spiritus Sancti, per quam diffunditur caritas in cordibus nostris, quae legem adimplet, gratia enim Dei vita aeterna, ut dicitur Rom. VI. Hanc autem gratiam lex vetus conferre non potuit, reservabatur enim hoc Christo, quia, ut dicitur Ioan. I, lex per Moysen data est; gratia et veritas per iesum Christum facta est. Et inde est quod lex vetus bona quidem est, sed imperfecta; secundum illud Heb. VII, nihil ad perfectum adduxit lex.*”

<sup>11</sup> ST I-II 106.3.

<sup>12</sup> For an excellent summary of how Christ’s passion fulfilled the three-fold precepts of the Old Law, see Matthew Levering, “Israel and the Shape of Thomas Aquinas’s Soteriology,” *The Thomist* 63 (1999), 65-82.



New Adam. Because of Christ's obedient love, the Father has granted human beings access, once again, to the life of grace. This access to grace is granted through the power of the Holy Spirit, which inwardly conforms the elect to the righteousness of Christ. This is a grace that exceeds the grace Adam received. The elect are divinized as sons of God—in God's own Son—and thereby enabled to fulfill the command of charity through the righteousness that belongs properly to Christ, the New Adam; and they can do this despite the weakness of original sin. In what follows, I will consider in more detail how the law of grace actualizes the elect in this divine sonship.

### *B. The Pedagogical Character of the New Law*

Throughout this work, I have focused upon the interplay between the internal and the external principle of moral instruction. The internal principle enjoys priority over the external principle. In particular, the first principles of practical reason and the natural inclinations provide the innate precondition for all moral instruction. What I have shown is that, through law, rulers lead us to virtue—they lead us from potency to act. Law actualizes us in virtue by conforming us to the wisdom of the lawgiver, in our reason, in our appetites, and ultimately in our actions. What I will now demonstrate is that we can say the same about the New Law, but to an infinitely greater degree.

#### *1. The New Law as Moral Pedagogy*

Pedagogically, since the New Law proportions human beings to a supernatural end, it follows that it must provide an internal principle of moral instruction that makes the attainment of this end possible through our own actions. To begin the present inquiry, let us consider the following passage:

Man is perfected by virtue, for those actions whereby he is directed to happiness. . . . Now man's happiness is twofold. . . . One is proportionate to human nature, a happiness, to wit, which man can obtain by means of his natural principles. The other is a happiness surpassing man's nature, and which man can obtain by the

power of God alone, by a kind of participation of the Godhead, about which it is written (2 Pt. 1:4) that by Christ we are made ‘partakers of the divine nature.’ And because such happiness surpasses the capacity of human nature, man’s natural principles, which enable him to act well according to his capacity, do not suffice to direct man to this same happiness. *Hence it is necessary for man to receive from God some additional principles*, whereby he may be directed to supernatural happiness, even as he is directed to his connatural end, by means of his natural principles, albeit not without divine assistance.<sup>13</sup>

Aquinas’ remarks here clarify his understanding of the relationship between nature and grace.<sup>14</sup> The New Law provides “additional principles” that enable the elect to attain

eternal beatitude. More importantly, however, by Aquinas’ comment at the end of the

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<sup>13</sup> ST I-II 62.1: “*Per virtutem perficitur homo ad actus quibus in beatitudinem ordinatur, . . . Est autem duplex hominis beatitudo sive felicitas, ut supra dictum est. Una quidem proportionata humanae naturae, ad quam scilicet homo pervenire potest per principia suae naturae. Alia autem est beatitudo naturam hominis excedens, ad quam homo sola divina virtute pervenire potest, secundum quandam divinitatis participationem; secundum quod dicitur II Petr. I, quod per Christum facti sumus consortes divinae naturae. Et quia huiusmodi beatitudo proportionem humanae naturae excedit, principia naturalia hominis, ex quibus procedit ad bene agendum secundum suam proportionem, non sufficiunt ad ordinandum hominem in beatitudinem praedictam. Unde oportet quod superaddantur homini divinitus aliqua principia, per quae ita ordinetur ad beatitudinem supernaturalem, sicut per principia naturalia ordinatur ad finem connaturalem, non tamen absque adiutorio divino. [emphasis mine].*”

<sup>14</sup> During the midspan of the twentieth century, theologians were (and perhaps still are) entrenched in debates about the relationship between nature and grace. See Edward T. Oaks, “The Paradox of Nature and Grace: On John Millbank’s *The Suspended Middle: Henri de Lubac and the Debate Concerning the Supernatural*,” *Nova et Vetera* 4, English Edition, (2006), 667-96; Denis Bradley, *Aquinas on the Twofold Human Good* (Washington D.C.: The Catholic University of America Press, 1997). In particular, two questions have focused the debate. First, did God create man in a state of pure nature? Second, does man have a natural desire for eternal beatitude? From our previous considerations in chapter 7, it is evident that Aquinas never argues for a state of pure nature. In the beginning, man was created in grace; but he lost this grace. One tragedy of man’s fall, however, is that he was no longer capable of fully achieving even the natural human good. The more important distinction we find in Aquinas, then, is not between pure nature and grace, but between graced-nature, fallen nature, and redeemed nature. Moreover, as far as human actions are concerned, the text above clearly indicates that Aquinas distinguishes between the principles of nature and those of grace, as well as between natural and supernatural happiness. Accordingly—we could ask—does the will have a *natural* desire for supernatural beatitude? The answer is complicated but would, nevertheless, be ‘no.’ To think of or to will supernatural beatitude is beyond the innate power of the human intellect and will. Hypothetically, man in a pure state of nature could only desire to know and love God (the universal truth and good) in a manner proportionate to his natural powers. Nevertheless, to posit that man was created for natural happiness alone prescinds from God’s purpose of creating man *in grace*. Man was created in grace that he might participate in the blessedness of God Himself. Hence, from the beginning, God directed human nature to eternal beatitude, something that would not have occurred to man (even to think or desire) had he been created in a state of pure nature. With a graced existence, man was empowered to seek after a blessedness that exceeded what he could have willed by his natural powers alone. Nevertheless, without the obediential potency for a graced existence, it would have been impossible for human nature to be ordered to such an end. Hence, to ask whether man has a *natural* desire for beatitude is somewhat misguided from a Thomistic perspective. There never has been a state of pure nature—only a state of graced nature, fallen nature, or redeemed nature. See Steven A. Long, “On the Possibility of a Purely Natural End for Man,” *The Thomist* 64 (2000), 211-237. Through the New Law, man is restored to a graced-existence, but in a manner that exceeds man’s preternatural state in some important ways, as we shall see further on. Nevertheless, even with the grace of the New Law, man still toils beneath the burden of a fallen (but redeemed) nature. That is, the power of our natural principles remain weakend; and yet, the grace of the Holy Spirit—by exceeding the grace of Adam—has given the elect a capacity to transcend the weakened state of a fallen nature, and even more, to thereby attain a perfection that surpasses what man could attain in a preternatural state. Again, this dramatic reversal in salvation history, as instigated by the pedagogy of divine law, reveals the comedic and didactic character of divine moral pedagogy, as Thomas Hibbs has pointed out.

passage—that God assists us when we act by natural principles alone—we can observe that, through the efficacy of the New Law, the elect act for a supernatural end from natural principles, but with the additional assistance of grace, which the New Law provides through the power of the Holy Spirit. These “additional principles” do not supplant the natural principles of rational agency; for just as natural law is a divine assistance that enables human beings to act for the human good on a natural level, so too, as children of God, these “additional principles” enable the elect to act for the divine good. In both cases, God “assists” individuals in their actions, although the manner of assistance differs in each case.

There are two ways in which a thing may be instilled into man. First, through being part of his nature, and thus the natural law is instilled into man. Secondly, a thing is instilled into man by being, as it were, added on to his nature by a gift of grace. In this way the New Law is instilled into man, not only by indicating to him what he should do, but also by helping him to accomplish it.<sup>15</sup>

Indeed, these “additional principles,” are what give the New Law its unique character.

Consistent with his philosophy of education, Aquinas also identifies some additional *external* principles of moral instruction associated with the New Law. As with any pedagogy, the external principle is ancillary to the internal principle and presupposes it. For Aquinas, the external principle comprises all the teachings and commandments that teach us the right use of grace. He thus explains, “There is a twofold element in the Law of the Gospel. There is the chief element, viz. the grace of the Holy Ghost bestowed inwardly. . . . The other element of the Evangelical Law is secondary, namely, the teachings of faith, and those commandments which direct human affections and human actions.”<sup>16</sup> In another article of the same question, he states,

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<sup>15</sup> ST I-II 106.1 ad 2: “*Dupliciter est aliquid inditum homini. Uno modo, pertinens ad naturam humanam, et sic lex naturalis est lex indita homini. Alio modo est aliquid inditum homini quasi naturae superadditum per gratiae donum. Et hoc modo lex nova est indita homini, non solum indicans quid sit faciendum, sed etiam adiuvans ad implendum.*”

<sup>16</sup> ST I-II 106.2: “*Ad legem evangelii duo pertinent. Unum quidem principaliter, scilicet ipsa gratia Spiritus Sancti interius data. Et quantum ad hoc, nova lex iustificat. . . . Aliud pertinet ad legem evangelii secundario, scilicet documenta fidei, et praecepta ordinantia affectum humanum et humanos actus.*”

Nevertheless the New Law contains certain things that dispose us to receive the grace of the Holy Ghost, and pertaining to the use of that grace: such things are of secondary importance, so to speak, in the New Law; and the faithful need to be instructed concerning them, both by word and writing, both as to what they should believe and as to what they should do. Consequently we must say that the New Law is in the first place a law that is inscribed on our hearts, but that secondarily it is a written law.<sup>17</sup>

Along the same lines, Aquinas speaks about gratuitous grace wherein a person leads another to God by means of persuasion and teaching.<sup>18</sup> Recall that in order for a teacher to instruct another, they must be in act relative to that about which they are instructing. Aquinas identifies a number of gifts that teachers of the New Law might possess so as to lead others to God. Of these Aquinas mentions faith, the word of wisdom, the word of knowledge, the grace of healing, the working of miracles, the gift of prophecy, the discerning of spirits, the gift of tongues, and the gift of interpreting tongues. In regard to those led to God by another, these gifts function as external inducements to faith.

In the most general way, therefore, I would suggest that the New Law functions pedagogically in a manner congruent to all moral pedagogy. It comprises both internal and external principles that actualize the elect in supernatural perfection. As to the relationship of the internal principle over the external principle, Aquinas says, “And thus there is a twofold grace—one whereby man himself is united to God, and this is called the grace that makes [the soul] pleasing—the other is that whereby one man cooperates with another in *leading* him to God, and this gift is called gratuitous grace.”<sup>19</sup> As to the priority of the internal principle over the external, Aquinas says,

Now the end is always greater than the means. But the grace that makes [the soul] pleasing ordains a man immediately to a union with his last end, whereas gratuitous grace ordains a man to what is preparatory to the end; i.e. by prophecy

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<sup>17</sup> ST I-II 106.1: “*Habet tamen lex nova quaedam sicut dispositiva ad gratiam Spiritus Sancti, et ad usum huius gratiae pertinentia, quae sunt quasi secundaria in lege nova, de quibus oportuit instrui fideles Christi et verbis et scriptis, tam circa credenda quam circa agenda. Et ideo dicendum est quod principaliter nova lex est lex indita, secundario autem est lex scripta.*”

<sup>18</sup> ST I-II 111.4.

<sup>19</sup> ST I-II 111.1: “*Secundum hoc igitur duplex est gratia. Una quidem per quam ipse homo Deo coniungitur, quae vocatur gratia gratum faciens. Alia vero per quam unus homo cooperatur alteri ad hoc quod ad deum reducat [emphasis mine].*” Henceforth, I will call *gratia gratum faciens* sanctifying grace.

and miracles and so forth, men are *induced* to unite themselves to their last end. And hence sanctifying grace is nobler than gratuitous grace.<sup>20</sup>

As with any form of pedagogy, the New Law comprises two principles—one internal, the other external.<sup>21</sup> Likewise, the efficacy of the external principle presupposes the priority of the internal principle. Because of the unique character of the internal principle of the New Law, let us now examine this principle more thoroughly.

## 2. The Internal Principle of the New Law

When we discussed the internal principle of moral instruction, I explained how it consists of three things: the light of reason, the first principles of practical reason, and the natural inclinations. What I wish now to show is that the New Law supplies an internal principle of divine moral pedagogy that surpasses in efficacy the function of the natural internal principle of moral instruction, yet in a manner that does not supplant these natural seeds of moral perfection but, in fact, presupposes them. There are three aspects to the internal principle of the New Law. They are the participation of the soul's essence in the divine nature, the infused habits, and the movement of the Holy Spirit in free-decision.

In regard to the first, Aquinas explains how grace is in the essence of the soul. The presence of grace in the soul's essence is how the elect participate in the divine nature. Aquinas compares the participation of the soul in the divine nature to the light of reason.

Even as the natural light of reason is something besides the acquired virtues, which are ordained to this natural light, so also the light of grace which is a participation of the divine nature is something besides the infused virtues which are derived from and are ordained to this light, hence the Apostle says (Eph. 5:8): "For you were heretofore darkness, but now light in the Lord. Walk then as children of the light." For as the acquired virtues enable a man to walk, in

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<sup>20</sup> ST I-II 111.5: "*Semper autem finis potior est his quae sunt ad finem. Gratia autem gratum faciens ordinat hominem immediate ad coniunctionem ultimi finis. Gratiae autem gratis datae ordinant hominem ad quaedam praeparatoria finis ultimi, sicut per prophetiam et miracula et alia huiusmodi homines inducuntur ad hoc quod ultimo fini coniungantur. Et ideo gratia gratum faciens est multo excellentior quam gratia gratis data.* [emphasis mine]."

<sup>21</sup> See Servais Pinckaers, O.P. "The Return of the New Law to Moral Theology," in *The Pinckaers Reader: Renewing Thomistic Moral Theology*, ed. John Berkman and Craig Steven Titus (Washington D.C.: The Catholic University of America Press, 2005), especially pages 377-80.

accordance with the natural light of reason, so do the infused virtues enable a man to walk as befits the light of grace.<sup>22</sup>

This passage indicates that the light of grace unites human nature to the divine nature in a manner similar to how the natural light of reason is a natural participation in divine reason.

The second aspect of the internal principle of the New Law is the infusion of the theological and moral virtues and the Gifts of the Holy Spirit.<sup>23</sup> Aquinas explains how the infused virtues of faith, hope, and charity proportion the elect to the divine good, as to an end.<sup>24</sup> Recall how the first principles of practical reason and the natural inclinations order man to the human good. In part, the New Law elevates the principles of rational agency by the infusion of supernatural habits that proportion the rational powers to man's ultimate end. Here is how Aquinas describes it:

The theological virtues direct man to supernatural happiness in the same way as by the natural inclination man is directed to his connatural end. Now the latter happens in respect of two things. First, in respect of the reason or intellect, in so far as it contains the first universal principles which are known to us by the natural light of the intellect, and which are reason's starting-point, both in speculative and in practical matters. Secondly, through the rectitude of the will which tends naturally to good as defined by reason. But these two fall short of the order of supernatural happiness, according to 1 Cor. 2:9: 'The eye hath not seen, nor ear heard, neither hath it entered into the heart of man, what things God hath prepared for them that love Him.' Consequently in respect of both the above things man needed to receive in addition something supernatural to direct him to a supernatural end. First, as regards the intellect, man receives certain supernatural principles, which are held by means of a Divine light: these are the articles of faith, about which is faith. Secondly, the will is directed to this end, both as to that end as something attainable—and this pertains to hope—and as

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<sup>22</sup> ST I-II 110.3: "*Sicut igitur lumen naturale rationis est aliquid praeter virtutes acquisitas, quae dicuntur in ordine ad ipsum lumen naturale; ita etiam ipsum lumen gratiae, quod est participatio divinae naturae, est aliquid praeter virtutes infusas, quae a lumine illo derivantur, et ad illud lumen ordinantur. Unde et apostolus dicit, ad Ephes. V, eratis aliquando tenebrae, nunc autem lux in domino, ut filii lucis ambulate. Sicut enim virtutes acquisitae perficiunt hominem ad ambulandum congruenter lumini naturali rationis; ita virtutes infusae perficiunt hominem ad ambulandum congruenter lumini gratiae.*"

<sup>23</sup> Romanus Cessario has done some excellent work on the infused virtues and gifts. See *The Moral Virtues and Theological Ethics* (Notre Dame, IN: University of Notre Dame Press, 1991); *The Virtues, Or the Examined Life*. New York: Continuum International Publishing Group, Inc., 2002). Additionally, Servais Pinckaers has been instrumental in restoring Aquinas' theology of the infused virtues and gifts to their proper place in moral theology. For Anglophones, see *The Sources of Christian Ethics*, trans. Sr. Mary Thomas Noble (Washington D.C.: The Catholic University of America Press, 1995); *The Pinckaers Reader: Renewing Thomistic Moral Theology*, ed. John Berkman and Craig Steven Titus (Washington D.C.: The Catholic University of America Press, 2005)

<sup>24</sup> ST I-II 62.1 ad 1.

to a certain spiritual union, whereby the will is, so to speak, transformed into that end—and this belongs to charity. For the appetite of a thing is moved and tends towards its connatural end naturally; and this movement is due to a certain conformity of the thing with its end.<sup>25</sup>

We can conclude, therefore, that the theological virtues supply the habits that dispose these powers in such manner that the elect might act so as to attain the divine good.<sup>26</sup>

What is more, Aquinas' explanation of the theological virtues demonstrates how theological acts do not differ in their psychological structure from natural human acts. By disposing the intellect in regard to the divine good, the virtue of faith contributes to the cognitive dimension of theological acts.<sup>27</sup> By disposing the will, the virtues of hope and

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<sup>25</sup> ST I-II 62.3: “*Virtutes theologicæ hoc modo ordinant hominem ad beatitudinem supernaturalem, sicut per naturalem inclinationem ordinatur homo in finem sibi connaturalem. Hoc autem contingit secundum duo. Primo quidem, secundum rationem vel intellectum, in quantum continet prima principia universalia cognita nobis per naturale lumen intellectus, ex quibus procedit ratio tam in speculandis quam in agendis. Secundo, per rectitudinem voluntatis naturaliter tendentis in bonum rationis. Sed hæc duo deficiunt ab ordine beatitudinis supernaturalis; secundum illud I ad Cor. II, oculus non vidit, et auris non audivit, et in cor hominis non ascendit, quæ præparavit Deus diligentibus se. Unde oportuit quod quantum ad utrumque, aliquid homini supernaturaliter adderetur, ad ordinandum ipsum in finem supernaturalem. Et primo quidem, quantum ad intellectum, adduntur homini quædam principia supernaturalia, quæ divino lumine capiuntur, et hæc sunt credibilia, de quibus est fides. Secundo vero, voluntas ordinatur in illum finem et quantum ad motum intentionis, in ipsum tendentem sicut in id quod est possibile consequi, quod pertinet ad spem, et quantum ad unionem quandam spiritualem, per quam quodammodo transformatur in illum finem, quod fit per caritatem. Appetitus enim uniuscuiusque rei naturaliter movetur et tendit in finem sibi connaturalem, et iste motus provenit ex quadam conformitate rei ad suum finem.*” See also, ST I-II 62.3

<sup>26</sup> See ST I-II 110.3: “But if anyone rightly considers the nature of virtue, this cannot hold, since, as the Philosopher says (Physic. vii, text. 17), ‘virtue is disposition of what is perfect—and I call perfect what is disposed according to its nature.’ Now from this it is clear that the virtue of a thing has reference to some pre-existing nature, from the fact that everything is disposed with reference to what befits its nature. But it is manifest that the virtues acquired by human acts of which we spoke above (Q55, seqq.) are dispositions, whereby a man is fittingly disposed with reference to the nature whereby he is a man; whereas infused virtues dispose man in a higher manner and towards a higher end, and consequently in relation to some higher nature, i.e. in relation to a participation of the Divine Nature, according to 2 Pt. 1:4: ‘He hath given us most great and most precious promises; that by these you may be made partakers of the Divine Nature.’ And it is in respect of receiving this nature that we are said to be born again sons of God: *Sed si quis recte consideret rationem virtutis, hoc stare non potest. Quia ut philosophus dicit, in VII physic., virtus est quædam dispositio perfecti, dico autem perfectum, quod est dispositum secundum naturam. Ex quo patet quod virtus uniuscuiusque rei dicitur in ordine ad aliquam naturam præexistentem, quando scilicet unumquodque sic est dispositum, secundum quod congruit suæ naturæ. Manifestum est autem quod virtutes acquisitæ per actus humanos, de quibus supra dictum est, sunt dispositiones quibus homo convenienter disponitur in ordine ad naturam qua homo est. Virtutes autem infusæ disponunt hominem altiori modo, et ad altiorem finem, unde etiam oportet quod in ordine ad aliquam altiorem naturam. Hoc autem est in ordine ad naturam divinam participatam; secundum quod dicitur II Petr. I, maxima et pretiosa nobis promissa donavit, ut per hæc efficiamini divinæ consortes naturæ. Et secundum acceptionem huius naturæ, dicimur regenerari in filios Dei.*”

<sup>27</sup> Concerning the relationship of faith to practical reason, Pinckaers observes that, “The intervention of faith in morality has been too limited, confined to some obligations concerning Creed and the Act of Faith. Faith has been separated too much from morality. If St. Thomas places faith at the head of the virtues, this means that with hope and charity, it enlightens and inspires all of Christian activity from within. He defines the New Law as the grace of the Holy Spirit, received through faith in Christ (including faith in redemption and in the sacraments), working through charity. Does this not mean that faith illumines and charity animates all virtues, all acts? Faith, however, should be placed not in competition but in concordance with reason, which it strengthens, rectifies when necessary, and surpasses in the line of perfection. It can even effect changes in the practical judgment, for the measure of the infused virtues is different from that of the

love contribute to the volitional dimension of theological acts. Recall that the operations of intellect and will are conjoined in human action, forming a single principle in human action. Nevertheless, since we cannot will what we do not comprehend, Aquinas ascribes a certain priority to the intellect. This priority is affirmed in how Aquinas describes the relationship between faith, hope, and charity:

Again, the last end must of necessity be present to the intellect before it is present to the will, since the will has no inclination for anything except in so far as it is apprehended by the intellect. Hence, as the last end is present in the will by hope and charity, and in the intellect, by faith, the first of all the virtues must, of necessity, be faith, because natural knowledge cannot reach God as the object of heavenly bliss, which is the aspect under which hope and charity tend towards Him.<sup>28</sup>

Therefore, while Aquinas insists that the theological virtues “are all infused together,” there exists an order of generation among these principles that reflects the priority of reason in voluntary acts.

Order is twofold: order of generation, and order of perfection. By order of generation, in respect of which matter precedes form, and the imperfect precedes the perfect, in one same subject faith precedes hope, and hope charity, as to their acts: because habits are all infused together. For the movement of the appetite cannot tend to anything, either by hoping or loving, unless that thing be apprehended by the sense or by the intellect. Now it is by faith that the intellect apprehends the object of hope and love. Hence in the order of generation, faith precedes hope and charity. In like manner a man loves a thing because he apprehends it as his good. Now from the very fact that a man hopes to be able to obtain some good through someone, he looks on the man in whom he hopes as a good of his own. Hence for the very reason that a man hopes in someone, he proceeds to love him: so that in the order of generation, hope precedes charity as regards their respective acts. But in the order of perfection, charity precedes faith and hope: because both faith and hope are quickened by charity, and receive from charity their full complement as virtues. For thus charity is the mother and the root of all the virtues, inasmuch as it is the form of them all.<sup>29</sup>

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acquired virtues and is more demanding (Ia-IIae, q. 63, a. 4). This is also true in the way the Gifts of the Holy Spirit interact with the virtues which they perfect, according to St. Thomas’s beautiful article interpreting the beatitudes (q. 69, a. 3). . . . Since there is a connection between the virtues and the Gifts, and they form an organic unity, we should not hesitate to say that the light of faith, refracted notably through the Gospel teaching, can enlighten and renew all the actions, judgments, and practical criteria of the Christian, without in any way denying reason” (“Christ, Moral Absolutes, and the Good: Recent Moral Theology,” *The Thomist* 55, [1991], 136).

<sup>28</sup> ST II-II 4.7: “*Ipse autem ultimus finis oportet quod prius sit in intellectu quam in voluntate, quia voluntas non fertur in aliquid nisi prout est in intellectu apprehensum. Unde cum ultimus finis sit quidem in voluntate per spem et caritatem, in intellectu autem per fidem, necesse est quod fides sit prima inter omnes virtutes, quia naturalis cognitio non potest attingere ad deum secundum quod est obiectum beatitudinis, prout tendit in ipsum spes et caritas.*”

<sup>29</sup> ST I-II 62.4: “*Duplex est ordo, scilicet generationis, et perfectionis. Ordine quidem generationis, quo materia est prior forma, et imperfectum perfecto, in uno et eodem; fides praecedat spem, et spes caritatem, secundum actus (nam habitus simul*



As is evident from these texts, the order of generation among the theological virtues corresponds to the voluntary structure of rational agency. Theological acts proceed in the knowledge of the divine good we have by faith, in conjunction with the supernatural appetite for the same good we have by hope and charity. By disposing our powers of intellect and will to the divine good, the theological virtues function as seeds of supernatural life. I would suggest that the infused moral virtues function in similar fashion. As habits, the infused moral virtues provide the potency for us to be actualized in the acts of these same virtues.

In addition to the theological virtues, Aquinas also describes the Gifts of the Holy Spirit as a constitutive element of the New Law. He defines the Gifts as habits whereby God disposes us to obey the instincts of the Holy Spirit.<sup>30</sup> In contradistinction to the theological virtues—which ordain us to a supernatural end—the gifts dispose us to deciding upon the means conducing to this end. In the following text, Aquinas describes the function of these gifts as follows:

In order to differentiate the gifts from the virtues, we must be guided by the way in which Scripture expresses itself, for we find there that the term employed is ‘spirit’ rather than ‘gift.’ For thus it is written (Is. 11:2,3): ‘The spirit . . . of wisdom and of understanding . . . shall rest upon him,’ etc.: from which words we are clearly given to understand that these seven are there set down as being in us by Divine inspiration. Now inspiration denotes motion from without. For it must be noted that in man there is a twofold principle of movement, one within him, viz. the reason; the other extrinsic to him, viz. God. . . . Now it is evident that whatever is moved must be proportionate to its mover: and the perfection of the mobile as such, consists in a disposition whereby it is disposed to be well moved by its mover. Hence the more exalted the mover, the more perfect must be the disposition whereby the mobile is made proportionate to its mover: thus we see that a disciple needs a more perfect disposition in order to receive a higher teaching from his master. Now it is manifest that human virtues perfect man

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*infunduntur) non enim potest in aliquid motus appetitivus tendere vel sperando vel amando, nisi quod est apprehensum sensu aut intellectu. Per fidem autem apprehendit intellectus ea quae sperat et amat. Unde oportet quod, ordine generationis, fides praecedat spem et caritatem. Similiter autem ex hoc homo aliquid amat, quod apprehendit illud ut bonum suum. Per hoc autem quod homo ab aliquo sperat se bonum consequi posse, reputat ipsum in quo spem habet, quoddam bonum suum. Unde ex hoc ipso quod homo sperat de aliquo, procedit ad amandum ipsum. Et sic, ordine generationis, secundum actus, spes praecedat caritatem. Ordine vero perfectionis, caritas praecedat fidem et spem, eo quod tam fides quam spes per caritatem formatur, et perfectionem virtutis acquirit. Sic enim caritas est mater omnium virtutum et radix, inquantum est omnium virtutum forma.”*

<sup>30</sup> ST I-II 68.3.

according as it is natural for him to be moved by his reason in his interior and exterior actions. Consequently man needs yet higher perfections, whereby to be disposed to be moved by God. These perfections are called gifts, not only because they are infused by God, but also because by them man is disposed to become amenable to the Divine inspiration, according to Is. 50:5: ‘The Lord . . . hath opened my ear, and I do not resist; I have not gone back. Even the Philosopher says . . . that for those who are moved by Divine instinct, there is no need to take counsel according to human reason, but only to follow their inner instincts, since they are moved by a principle higher than human reason. This then is what some say, viz. that the gifts perfect man for acts which are higher than acts of virtue.’<sup>31</sup>

What is most striking in this text is the concluding portion of it. Aquinas states that the gifts dispose the elect, interiorly, to being moved by the instincts of the Holy Spirit, which Aristotle’s texts associates with counsel. Recall that we take counsel regarding means and not ends. Hence, Aquinas is suggesting that the gifts dispose the elect to the instincts of divine counsel. Aquinas’ reference to divine instinct as counsel suggests that the Holy Spirit’s inspirations move the elect by moving a free-decision to do this or that in particular. On this, Aquinas explains that,

In matters directed to the supernatural end, to which man’s reason moves him, according as it is, in a manner, and imperfectly, informed by the theological virtues, the motion of reason does not suffice, unless it receive in addition the instinct and motion of the Holy Ghost, according to Rm. 8:14,17: ‘Whosoever are led by the Spirit of God, they are sons of God . . . and if sons, heirs also’: and Ps. 142:10: ‘Thy good Spirit shall lead me into the right land,’ because, to wit, none can receive the inheritance of that land of the Blessed, except he be moved and led thither by the Holy Ghost. Therefore, in order to accomplish this end, it is necessary for man to have the gift of the Holy Ghost.<sup>32</sup>

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<sup>31</sup> ST I-II 68.1: “*Et ideo ad distinguendum dona a virtutibus, debemus sequi modum loquendi Scripturae, in qua nobis traduntur non quidem sub nomine donorum, sed magis sub nomine spirituum, sic enim dicitur Isaiae XI, requiescet super eum spiritus sapientiae et intellectus, etc.. Ex quibus verbis manifeste datur intelligi quod ista septem enumerantur ibi, secundum quod sunt in nobis ab inspiratione divina. Inspiratio autem significat quandam motionem ab exteriori. Est enim considerandum quod in homine est duplex principium movens, unum quidem interius, quod est ratio; aliud autem exterius, quod est Deus, ut supra dictum est; et etiam philosophus hoc dicit, in cap. De bona fortuna. Manifestum est autem quod omne quod movetur, necesse est proportionatum esse motori, et haec est perfectio mobilis inquantum est mobile, dispositio qua disponitur ad hoc quod bene moveatur a suo motore. Quanto igitur movens est altior, tanto necesse est quod mobile perfectiori dispositione ei proportionetur, sicut videmus quod perfectius oportet esse discipulum dispositum, ad hoc quod altiore doctrinam capiat a docente. Manifestum est autem quod virtutes humanae perficiunt hominem secundum quod homo natus est moveri per rationem in his quae interius vel exterius agit. Oportet igitur inesse homini altiores perfectiones, secundum quas sit dispositus ad hoc quod divinitus moveatur. Et istae perfectiones vocantur dona, non solum quia infunduntur a Deo; sed quia secundum ea homo disponitur ut efficiatur prompte mobilis ab inspiratione divina, sicut dicitur Isaiae L, dominus aperuit mihi aurem; ego autem non contradico, retrorsum non abii. Et philosophus etiam dicit, in cap. De bona fortuna, quod his qui moventur per instinctum divinum, non expedit consiliari secundum rationem humanam, sed quod sequantur interiorem instinctum, quia moventur a meliori principio quam sit ratio humana. Et hoc est quod quidam dicunt, quod dona perficiunt hominem ad altiores actus quam sint actus virtutum.*”

<sup>32</sup> ST I-II 68.2: “*Sed in ordine ad finem ultimum supernaturalem, ad quem ratio movet secundum quod est aliquantulum et imperfecte formata per virtutes theologicas; non sufficit ipsa motio rationis, nisi desuper adsit instinctus et motio Spiritus*

That about which God moves and leads us is the means by which we merit eternal beatitude.

Aquinas thus argues that the Holy Spirit provides what nature alone is incapable of generating, namely, an interior predisposition to act in a manner exceeding the capabilities of our nature. The following text illuminates the point:

The gifts are habits perfecting man so that he is ready to follow the instincts of the Holy Ghost, even as the moral virtues perfect the appetitive powers so that they obey the reason. Now just as it is natural for the appetitive powers to be moved by the command of reason, *so it is natural for all the forces in man to be moved by the instinct of God, as by a superior power.* Therefore whatever powers in man can be the principles of human actions, can also be the subjects of gifts, even as they are virtues; and such powers are the reason and appetite.<sup>33</sup>

In another text relating similar ideas, Aquinas again draws attention to a striking parallel that compares the relationship of the Holy Spirit and the gifts to the relationship between reason and the moral virtues.

The gifts are perfections of man, whereby he becomes amenable to the instincts of the Holy Ghost. Now it is evident . . . that the moral virtues perfect the appetitive power according as it partakes somewhat of the reason, in so far as it has a natural aptitude to be moved by the command of reason. Accordingly the gifts of the Holy Ghost, as compared with the Holy Ghost Himself, are related to man, even as the moral virtues, in comparison with the reason, are related to the appetitive power. Now the moral virtues are habits, whereby the powers of appetite are disposed to obey reason promptly. Therefore the gifts of the Holy Ghost are habits whereby man is perfected to obey readily the Holy Ghost.<sup>34</sup>

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*Sancti; secundum illud Rom. VIII, qui spiritu Dei aguntur, hi filii Dei sunt; et si filii, et haeredes, et in Psalmo CXLII, dicitur, spiritus tuus bonus deducet me in terram rectam; quia scilicet in haereditatem illius terrae beatorum nullus potest pervenire, nisi moveatur et deducatur a Spiritu Sancto. Et ideo ad illum finem consequendum, necessarium est homini habere donum Spiritus Sancti.*"

<sup>33</sup> ST I-II 68.4: " *Dona sunt quidam habitus perficientes hominem ad hoc quod prompte sequatur instinctum Spiritus Sancti, sicut virtutes morales perficiunt vires appetitivas ad obediendum rationi. Sicut autem vires appetitivae natae sunt moveri per imperium rationis, ita omnes vires humanae natae sunt moveri per instinctum Dei, sicut a quadam superiori potentia. Et ideo in omnibus viribus hominis quae possunt esse principia humanorum actuum, sicut sunt virtutes, ita etiam sunt dona, scilicet in ratione, et in appetitiva.*"

<sup>34</sup> ST I-II 68.3: " *Dona sunt quaedam perfectiones hominis, quibus disponitur ad hoc quod homo bene sequatur instinctum Spiritus Sancti. Manifestum est autem ex supradictis quod virtutes morales perficiunt vim appetitivam secundum quod participat aliquantulum rationem, inquantum scilicet nata est moveri per imperium rationis. Hoc igitur modo dona Spiritus Sancti se habent ad hominem in comparatione ad Spiritum Sanctum, sicut virtutes morales se habent ad vim appetitivam in comparatione ad rationem. Virtutes autem morales habitus quidam sunt, quibus vires appetitivae disponuntur ad prompte obediendum rationi. Unde et dona Spiritus Sancti sunt quidam habitus, quibus homo perficitur ad prompte obediendum Spiritui Sancto.*"

In sum, the internal principle of moral instruction proper to the New Law results not only from the action of grace upon the soul in its essence, but also within its powers. This effect of grace does not so much replace the natural internal principle of moral instruction so much as elevates it. By uniting the soul in its essence to the divine nature, proportioning the powers of intellect and will to the divine good (as to an end), and disposing the powers of the soul to being moved by divine instinct in free-decision, grace makes the elect capable of acting so as to merit eternal beatitude by means of their own actions.

At this point, I need to address one last element of the internal action of grace, namely, the movement of divine instinct in a free-decision. When Aquinas asks whether grace is (only) a quality in the soul, he makes the following distinction:

There is understood to be an effect of God's gratuitous will in whoever is said to have God's grace. Now it was stated (Q109, A1) that man is aided by God's gratuitous will in two ways: first, inasmuch as man's soul is moved by God to know or will or do something, and in this way the gratuitous effect in man is not a quality, but a movement of the soul; for 'motion is the act of the mover in the moved.' Secondly, man is helped by God's gratuitous will, inasmuch as a habitual gift is infused by God into the soul.<sup>35</sup>

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<sup>35</sup> ST I-II 110.2: "*Sicut iam dictum est, in eo qui dicitur gratiam Dei habere, significatur esse quidam effectus gratituae Dei voluntatis. Dictum est autem supra quod dupliciter ex gratuita Dei voluntate homo adiuvatur. Uno modo, inquantum anima hominis movetur a Deo ad aliquid cognoscendum vel volendum vel agendum. Et hoc modo ipse gratuitus effectus in homine non est qualitas, sed motus quidam animae, actus enim moventis in moto est motus, ut dicitur in III physic.. Alio modo adiuvatur homo ex gratuita Dei voluntate, secundum quod aliquod habituale donum a Deo animae infunditur.*" See also ST I-II 112.2: "Grace is taken in two ways: first, as a habitual gift of God. Secondly, as a help from God, who moves the soul to good. Now taking grace in the first sense, a certain preparation of grace is required for it, since a form can only be in disposed matter. But if we speak of grace as it signifies a help from God to move us to good, no preparation is required on man's part, that, as it were, anticipates the Divine help, but rather, every preparation in man must be by the help of God moving the soul to good. And thus even the good movement of the free-decision, whereby anyone is prepared for receiving the gift of grace is an act of the free-decision moved by God. And thus man is said to prepare himself, according to Prov. 16:1: 'It is the part of man to prepare the soul'; yet it is principally from God, who moves the free-decision. Hence it is said that man's will (*volens*) is prepared by God, and that man's steps are guided by God: *Sicut supra dictum est, gratia dupliciter dicitur, quandoque quidem ipsum habituale donum Dei; quandoque autem ipsum auxilium Dei moventis animam ad bonum. Primo igitur modo accipiendo gratiam, praeexigitur ad gratiam aliqua gratiae praeparatio, quia nulla forma potest esse nisi in materia disposita. Sed si loquamur de gratia secundum quod significat auxilium Dei moventis ad bonum, sic nulla praeparatio requiritur ex parte hominis quasi praeveniens divinum auxilium, sed potius quaecumque praeparatio in homine esse potest, est ex auxilio Dei moventis animam ad bonum. Et secundum hoc, ipse bonus motus liberi arbitrii quo quis praeparatur ad donum gratiae suscipiendum, est actus liberi arbitrii moti a Deo, et quantum ad hoc, dicitur homo se praeparare, secundum illud Prov. XVI, hominis est praeparare animum. Et est principaliter a Deo movente liberum arbitrium, et secundum hoc, dicitur a Deo voluntas hominis praeparari, et a domino gressus hominis dirigi.*"

This distinction further clarifies the uniqueness of the New Law's pedagogy. Just as sanctifying grace and the infused habits provide the *potency* for theological action, so the divine instinct moves the elect to perform some particular theological act. This action of God upon the soul *leads* the elect from potency to act. Here, especially, do we see the unique character of the New Law, for the cause of actualization is not merely the outward inducements that lead one to God—it is also the interior inducement of God's action on the rational powers. For example, when describing the justification of the ungodly, Aquinas states, "God does not justify us without ourselves, because while we are being justified we consent to God's justification by a movement of our free-decision. Nevertheless this movement is not the cause of grace, but the effect; hence the whole operation pertains to grace."<sup>36</sup> In another text, he conveys the same idea:

A movement of free-decision is required for the justification of the ungodly, inasmuch as man's mind is moved by God. Now God moves man's soul by turning it to Himself according to Ps. 84:7 (Septuagint): 'Thou wilt turn us, O God, and bring us to life.' Hence for the justification of the ungodly a movement of the mind is required, by which it is turned to God. Now the first turning to God is by faith, according to Heb. 11:6: 'He that cometh to God must believe that He is.' Hence a movement of faith is required for the justification of the ungodly.<sup>37</sup>

In summary, we can describe the pedagogical character of the New Law as comprising four elements: a) the gratuitous grace that accompanies the external inducements to faith, b) sanctifying grace, which is the participation of the soul's essence in the divine nature, c) habitual grace, which includes the theological and infused moral virtues as well as the Gifts of the Holy Spirit, and d) operating grace, which is the movement of the soul's powers by God in the moment of free-decision. These four elements do not exhaust the distinctions of grace Aquinas gives us, but they do identify the basic elements involved in

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<sup>36</sup> ST I-II 111.2 ad 2: *Deus non sine nobis nos iustificat, quia per motum liberi arbitrii, dum iustificamur, Dei iustitiae consentimus. Ille tamen motus non est causa gratiae, sed effectus. Unde tota operatio pertinet ad gratiam.*"

<sup>37</sup> ST I-II 113.4: "*Sicut dictum est, motus liberi arbitrii requiritur ad iustificationem impii, secundum quod mens hominis movetur a Deo. Deus autem movet animam hominis convertendo eam ad seipsum; ut dicitur in Psalmo LXXXIV, secundum aliam litteram, Deus, tu convertens vivificabis nos. Et ideo ad iustificationem impii requiritur motus mentis quo convertitur in deum. Prima autem conversio in deum fit per fidem; secundum illud ad Heb. XI, accedentem ad deum oportet credere quia est. Et ideo motus fidei requiritur ad iustificationem impii.*"

the pedagogy of the New Law. It is by means of these divine aids that the elect are enabled by the Holy Spirit to fulfill the two-fold commandment of love in every free-decision.

### *C. The Causality of Grace In Free-Decision*

Throughout this work, I have made the case that law actualizes us—leads us to virtue—in the order of formal and not efficient causality. In making this case, I have demonstrated how law does not compromise the voluntary structure of rational agency, but rather presupposes it. Law does not oppose liberty, but actualizes our free-decisions in the good of reason. In short, law does not push us around. To *induce* us to act does not imply that we are *coerced* to act, but that we are lead from potency to act in the order of formal causality. I would like now to make the same case for the New Law, namely, that the New Law actualizes us in the order of formal causality. Since the efficacy of the New Law is principally in the interior action of grace upon the soul, in order to make this case, I will see whether Aquinas makes any reference to grace as a formal cause.

#### *1. Looking for Formal Causes*

In the first text I wish to consider, Aquinas is asking whether the justification of the ungodly takes place in an instant or successively. The answer he gives is of particular relevance to understanding the causality of grace in the soul. He states,

The entire justification of the ungodly consists as to its origin in the infusion of grace. For it is by grace that free-decision is moved and sin is remitted. Now the infusion of grace takes place in an instant and without succession. And the reason of this is that if a *form be not suddenly impressed upon its subject*, it is either because that subject is not disposed, or because the agent needs time to dispose the subject. Hence we see that immediately the matter is disposed by a preceding alteration, the substantial *form* accrues to the matter; thus because the atmosphere of itself is disposed to receive light, it is suddenly illuminated by a body actually luminous. Now it was stated (Q112, A2) that God, in order to infuse grace into the soul, needs no disposition, save what He Himself has made. And sometimes this sufficient disposition for the reception of grace He makes suddenly, sometimes gradually and successively, as stated above (Q112, A2, ad 2). For the reason why

a natural agent cannot suddenly dispose matter is that in the matter there is a resistant which has some disproportion with the power of the agent; and hence we see that the stronger the agent, the more speedily is the matter disposed. Therefore, *since the divine power is infinite, it can suddenly dispose any matter whatsoever to its form*; and much more man's free-decision, whose movement is by nature instantaneous.<sup>38</sup>

In this text, justification is described as grace bringing the elect into conformity with the *form* of the divine agent. As Aquinas states elsewhere, "Not only is every motion from God as from a first mover, but all formal perfection is from him as from a first act."<sup>39</sup>

What these texts suggest is that the divine power conforms us to the form of God.

What is more, when speaking about the infused virtues and gifts, Aquinas refers to them as formal causes. For example, Aquinas says of God's solicitude that,

He so provides for natural creatures, that not merely does He move them to their natural acts, but He bestows upon them *certain forms* and powers, which are the principles of acts, in order that they may of themselves be inclined to these movements, and thus the movements whereby they are moved by God become natural and easy to creatures, according to Wis. 8:1: 'she . . . ordereth all things sweetly.' Much more therefore does He infuse into such as He moves towards the acquisition of supernatural good, *certain forms* or supernatural qualities, whereby they may be moved by Him sweetly and promptly to acquire eternal good; and thus the gift of grace is a quality.<sup>40</sup>

Hence, insofar as God disposes the soul to being moved by Him to think, will, or do something, the New Law functions as a formal, and not an efficient, cause of human action. In fact, Aquinas says exactly this: "Grace, as a quality, is said to act upon the soul,

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<sup>38</sup> ST I-II 113.7: "Tota iustificatio impij originaliter consistit in gratiae infusione, per eam enim et liberum arbitrium movetur, et culpa remittitur. Gratiae autem infusio fit in instanti absque successione. Cuius ratio est quia quod aliqua forma non subito imprimatur subiecto, contingit ex hoc quod subiectum non est dispositum, et agens indiget tempore ad hoc quod subiectum disponat. Et ideo videmus quod statim cum materia est disposita per alterationem praecedentem, forma substantialis acquiritur materiae, et eadem ratione, quia diaphanum est secundum se dispositum ad lumen recipiendum, subito illuminatur a corpore lucido in actu. Dictum est autem supra quod Deus ad hoc quod gratiam infundat animae, non requirit aliquam dispositionem nisi quam ipse facit. Facit autem huiusmodi dispositionem sufficientem ad susceptionem gratiae, quandoque quidem subito, quandoque autem paulatim et successive, ut supra dictum est. Quod enim agens naturale non subito possit disponere materiam, contingit ex hoc quod est aliqua proportio eius quod in materia resistit, ad virtutem agentis, et propter hoc videmus quod quanto virtus agentis fuerit fortior, tanto materia citius disponitur. Cum igitur virtus divina sit infinita, potest quamcumque materiam creatam subito disponere ad formam, et multo magis liberum arbitrium hominis, cuius motus potest esse instantaneus secundum naturam."

<sup>39</sup> ST I-II 109.1: "Non solum autem a Deo est omnis motio sicut a primo movente; sed etiam ab ipso est omnis formalis perfectio sicut a primo actu."

<sup>40</sup> ST I-II 110.2: "Creaturis autem naturalibus sic providet ut non solum moveat eas ad actus naturales, sed etiam largiatur eis formas et virtutes quasdam, quae sunt principia actuum, ut secundum seipsas inclinentur ad huiusmodi motus. Et sic motus quibus a Deo moventur, fiunt creaturis connaturales et faciles; secundum illud Sap. VIII, et disponit omnia suaviter. Multo igitur magis illis quos movet ad consequendum bonum supernaturale aeternum, infundit aliquas formas seu qualitates supernaturales, secundum quas suaviter et prompte ab ipso moveantur ad bonum aeternum consequendum. Et sic donum gratiae qualitas quaedam Est [emphasis mine]."

not after the manner of an efficient cause, but after the manner of a formal cause, as whiteness makes a thing white, and justice, just.”<sup>41</sup>

Nevertheless, how are we to understand the causality of divine instinct in moving a free-decision? To be consistent with what I have established thus far about the pedagogical character of law, we need to see whether a formal cause is involved in the movement of divine instinct. The difficulty here is that Aquinas never states explicitly in his treatise on grace what kind of causality it is from which a free-decision moved by divine instinct proceeds.<sup>42</sup> To uncover this matter, we will need to look elsewhere in the *Summa theologiae*.

An important distinction governs this matter, one that might be overlooked easily. When Aquinas speaks about divine instinct moving the free-decision of a theological act, he cannot be describing precisely the same kind of movement as when he affirms that God is the First Act of the intellect and will’s operations in a natural human act.<sup>43</sup> By tracing the lines of causality back to God as the First Act of the intellect and will, Aquinas affirms the distinction there is, in reality, between the

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<sup>41</sup> ST I-II 110.2 ad 1: “*G ratia, secundum quod est qualitas, dicitur agere in animam non per modum causae efficientis, sed per modum causae formalis, sicut albedo facit album, et iustitia iustum.*” He reaffirms this statement in ST I-II.111.2 ad 1.

<sup>42</sup> See for example, ST I-II 111.2; ST I-II 112.2; ST I-II 112.3; ST I-II 113.3 ; ST I-II 113.4. Steven Long has penned a beautifully reasoned essay on the necessity of God’s causality on the will. He addresses the most common misconceptions about the nature of created liberty, especially as this pertains to the divinely permitted defect of evil in the order of secondary causality. At one point he remarks, “It is widely thought that if God is a cause of the free human act, then this cause must only be a remote precondition—a sort of deistic stage-setting—and not a causality that extends as far as moving the human person freely to act, actualizing the person’s free self-determination. Yet the denial that God activates and moves human creatures freely depicts divine causality as coercive or violent, and defines human freedom in metaphysical terms more proportioned to God than to a creature that can neither be nor act apart from God (‘Providence, Freedom, and Natural Law,’ *Nova et Vetera* 4, English Edition [2006], 559). In response to this remark, I would suggest that one of the reasons some might respond abhorrently to the movement of divine causality in free-decision has to do with assuming that God’s agency in moving a free-decision is wholly explained by efficient causality. If this is the case, I can understand why some might assume that the agency of God in free-decision is coercive and violent. If, however, we consider Long’s own manner of expressing himself in this passage (and this is the case throughout his essay), we see a repeated emphasis on words like ‘actualizing,’ ‘activates,’ and ‘act.’ The act of something is its form. For an agent to actualize a patient is for the agent to bring the patient into conformity with itself. To be actualized is to be informed. That God moves a free-decision, therefore, it does not follow that this movement is explained by efficient causality alone. To make this assumption may very well leave the impression that God is pushing us around (See ST I 105.4). What I hope to demonstrate as we proceed is the necessity of including formal causality in the agency of God when he moves our free-decisions.

<sup>43</sup> See ST I 105.3-5.



primary and secondary levels of causality involved in a free-decision.<sup>44</sup> This is how Aquinas can affirm, for instance, that God is the cause of every act, but that we are the cause of every deficiency in a sinful act. As the First Act of any free-decision, God gives to us the intellectual and volitional forms (and consequent inclinations) by which we operate as rational beings. He moves us to move ourselves, if you will; and he moves us in our moving ourselves. In this way, we are actualized or empowered to determine ourselves to whatever particular goods we wish to consider. It is precisely insofar as we are able to determine ourselves in this manner that we are responsible for our actions.<sup>45</sup> Without God's agency, however, we would not possess the power (forms and inclinations) to act at all. God establishes in us the voluntary structure of rational agency and is thus the author of our freedom. Nevertheless, how we use that liberty—apply the form—is something that can be judged to be good or evil.

In a theological act, however, there is something at work in us in addition to the causality of God moving the powers to their operation. There is the agency of operative grace moving a free-decision to *this* good-to-be-done here and now. By the causality of the divine instinct moving a free-decision, God seems to determine us to some good in particular, namely, this action which is to be done here and now for love of God—to believe right now, to feed this poor person today, to receive the sacrament of reconciliation this afternoon, and so forth—hence, the identification of divine instinct with divine counsel, which pertains to some particular means to the end. In the act of justification for instance, God turns the mind and the will to the divine good in and through this act here and now; and in moving the elect thus, he also effects in them a turn away from sin, perhaps some sinful act one is considering at the moment.<sup>46</sup> The movement of grace in free-decision thus seems to determine

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<sup>44</sup> See ST I-II 6.1 ad 3 and ST I-II 9.6.

<sup>45</sup> Again, see ST I 105.3-5.

<sup>46</sup> ST I-II 113.3-5.

free-decision in the order of specification. This raises an issue, however, in need of a solution.

The problem to which I am referring is whether we can reduce the agency of divine instinct in theological acts to efficient causality. Aquinas never makes this claim; he simply affirms that, in theological acts of free-decision, God moves us to know, will, or do something by means of grace. If God does determine a free-decision on the level of specification, however, it seems problematic to exclude formal causality. Because Aquinas is speaking about grace *moving* free-decision to this good right here—it might leave the impression that he is referring only to an efficient cause. Yet since, as the First Act of any operation of intellect and will, he moves us by imparting the form and its inclination, would this not adequately explain how God also moves the elect to choose this good here and now? In other words, can the *efficient* causality of another agent move the will to choose this particular good without also actualizing the will in a form that inclines the will to *this* or *that* object of choice?

From chapter one of this work, I demonstrated that the formal causality of the intellect has the power to move the will to some particular good, that is, to reduce it from potency to act in the order of specification. Why, then, is it not necessary that God also move the will in the operation of some determinate choice by means of a formal cause that leads the will from potency to act? The matter here is not *whether* God moves the free-decision, but in what manner. “Therefore, *since the divine power is infinite, it can suddenly dispose any matter whatsoever to its form*; and much more man’s free-decision, whose movement is by nature instantaneous.”<sup>47</sup>

Besides the text just cited, in a few other places, Aquinas gives us a possible

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<sup>47</sup> ST I-II 113.7: “*Cum igitur virtus divina sit infinita, potest quamcumque materiam creatam subito disponere ad formam, et multo magis liberum arbitrium hominis, cuius motus potest esse instantaneus secundum naturam.*”

indication of what kind of causality is at work in divine instinct.<sup>48</sup> “Now just as it is natural for the appetitive powers to be moved by the command of reason, so it is natural for all the forces in man to be moved by the instinct of God, as by a superior power.”<sup>49</sup> Notice first how Aquinas draws a parallel between the intellect’s causality upon the will and the divine instinct’s causality upon the rational powers. The intellect moves the will as a formal cause, but I will say more on this momentarily. As I have mentioned previously, Aquinas refers to divine instinct as divine inspiration and as something akin to the counsel of reason.<sup>50</sup> What I wish now to demonstrate is that Aquinas’ use of the term *divine instinct* gives us good reason to consider the possibility that the divine agency in a free-decision moved by grace is formal and not merely efficient.

The method of this inquiry is to see if Aquinas ever associates the word *instinct* with formal causality. As I indicated in chapter 6, when discussing the inclinations of natural law, I explained that instincts and inclinations differ from one another. For Aquinas, instincts function in the actions of irrational animals as a formal cause of an animal’s sensitive appetites. In fact, if we look at a number of texts, we will see that Aquinas

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<sup>48</sup> For an excellent discussion of divine instinct, See Michael Sherwin, *By Knowledge & By Love: Charity and Knowledge in the Moral Theology of St. Thomas Aquinas* (Washington, D.C.: The Catholic University of America Press, 2005), 139-44; Servais Pinckaers, “Morality and the Movement of the Holy Spirit: Aquinas’s Doctrine of *Instinctus*,” *The Pinckaers Reader: Renewing Thomistic Moral Theology*, ed. John Berkman and Craig Steven Titus (Washington D.C.: The Catholic University of America Press, 2005), 385-95. Pinckaers explains that Aquinas’ use of the term *instinctus* appears 298 times throughout his corpus, the majority of which refer to the instinct involved in the moral and spiritual life (387). Pinckaers also provides a beautiful citation from J. H. Walgrave’s essay, “*Instinctus Spiritus Sancti. Een proeve tot Thomas-interpretatie*” (*Ephemerides Theologiae Lovanienses* 5 (1969): 417-31. It is worth presenting here: “The instinct (of the Holy Spirit) comes from outside but works from inside: it is exterior by its origin, but interior by its way of working within us. The more perfect its work, the more interiorized it becomes; and our will and the Holy Spirit work together as if they were forming a unique principle. The growth of the motion received by our spirit does not diminish the very motion of freedom. Indeed, under the New Law, the instinct of the Holy Spirit becomes in us our own instinct. The instinct of the Holy Spirit builds up the very movement of the free will. This highlights, in the context of the analogy that regulates the use of the word ‘instinct,’ the radical opposition between the highest and the lowest position on the scale of analogates. To be moved by natural instinct is a sign of a lack of freedom; to be moved by an instinct led by the Holy Spirit is the sign of a growing freedom, which belongs to God’s children” (430). Cf. *The Pinckaers Reader*, 386. In what follows, I will take up this insight on the relationship between divine instinct and human freedom.

<sup>49</sup> ST I-II 68.4: “*Sicut autem vires appetitivae natae sunt moveri per imperium rationis, ita omnes vires humanae natae sunt moveri per instinctum Dei, sicut a quadam superiori potentia.*” See also ST I-II 68.2.

<sup>50</sup> In ST I-II 68.1, Aquinas uses all three terms: “*inspiratione divina. . . quod his qui moventur per instinctum divinum, non expedit consilium secundum rationem humanam, sed quod sequantur interiorem instinctum, quia moventur a meliori principio quam sit ratio humana.*”

always compares instinct in irrational animals to the function of reason in humans. He also attributes irrational animal instincts to the divine intellect. The following chart provides a number of texts that illustrate the point:

1	<b>II Sententia, dist. 20, q. 2, a. 2:</b> Other animals pursue the fitting and flee the harmful not by rational deliberation but by the natural instinct of estimative power.	<i>Alia animalia non prosequuntur conveniens et fugiunt nocivum per rationis deliberationem, sed per naturalem instinctum aestimativae virtutis.</i>
2	<b>II Sent. Dist. 25, q. 1 a. 1 ad 7:</b> Animals do not apprehend an account of what is fitting by a comparison, but by a certain natural instinct; and thus animals have [the power of] estimation, but not [the power of] cognition.	<i>Animalia non apprehendunt rationem convenientis per collationem, sed per quemdam naturalem instinctum; et ideo animalia habent aestimationem sed non cognitionem.</i>
3	<b>III Sent. Dist., 36, q. 1, a. 1 ad 4:</b> . . . as animals do not recognize the account of what is fitting and harmful by an inquiry of reason, as man does, but by natural instinct, which is said to be an estimation.	<i>. . . sicut animalia cognoscunt rationem convenientis et nocivi non per inquisitionem rationis, ut homo, sed per instinctum naturae, qui dicitur aestimatio.</i>
4	<b>ST I-II.3.6:</b> Thus perfect prudence is in man, with whom is the idea of things to be done; while imperfect prudence is in certain irrational animals, who are possessed of certain particular instincts in respect of works similar to works of prudence.	<i>Sicut perfecta prudentia invenitur in homine, apud quem est ratio rerum agibilium, imperfecta autem prudentia est in quibusdam animalibus brutis, in quibus sunt quidam particulares instinctus ad quaedam opera similia operibus prudentiae.</i>
5	<b>ST I-II.11.2:</b> Imperfect knowledge is that by which the end and the good are known in the particular. Such knowledge is in brute animals: whose appetitive powers do not command with freedom, but are moved according to a natural instinct to whatever they apprehend.	<i>Imperfecta autem cognitio est qua cognoscitur particulariter finis et bonum, et talis cognitio est in brutis animalibus. Quorum etiam virtutes appetitivae non sunt imperantes libere; sed secundum naturalem instinctum ad ea quae apprehenduntur, moventur.</i>
6	<b>ST I-II.17.2 ad 3:</b> Impulse to action is in brute animals otherwise than in man. For the impulse of man to action arises from the directing reason; wherefore his impulse is one of command. On the other hand, the impulse of the irrational animal arises from natural instinct; because as soon as they apprehend the fitting or the unfitting, their appetite is moved naturally to pursue or to avoid.	<i>Aliter invenitur impetus ad opus in brutis animalibus, et aliter in hominibus. Homines enim faciunt impetum ad opus per ordinationem rationis, unde habet in eis impetus rationem imperii. In brutis autem fit impetus ad opus per instinctum naturae, quia scilicet appetitus eorum statim apprehenso convenienti vel inconvenienti, naturaliter movetur ad prosecutionem vel fugam.</i>

7	<p><b>ST I-II.40.3:</b> Because . . . sensitive appetite of brute animals . . . result[s] from the apprehension of an intellect, just as the appetite of the intellectual nature, which is called the will. But there is a difference, in that the will is moved by an apprehension of the intellect in the same subject; whereas the movement of the natural appetite results from the apprehension of the <i>separate intellect</i>, which nature established, as does also the sensitive appetite of brute animals, who act from a certain natural instinct.</p>	<p><i>Ut enim . . . appetitus sensitivus brutorum animalium . . . sequuntur apprehensionem alicuius intellectus, sicut et appetitus naturae intellectivae, qui dicitur voluntas. Sed in hoc est differentia, quod voluntas movetur ex apprehensione intellectus coniuncti, sed motus appetitus naturalis sequitur apprehensionem intellectus separati, qui naturam instituit; et similiter appetitus sensitivus brutorum animalium, quae etiam quodam instinctu naturali agunt.</i></p>
8	<p><b>ST I-II.40.3 ad 1:</b> Although brute animals do not know the future, yet an animal is moved by its natural instinct to something future, as though it foresaw the future. Because this instinct is planted in them by the <i>Divine Intellect</i> that foresees the future.</p>	<p><i>Quamvis bruta animalia non cognoscant futurum, tamen ex instinctu naturali movetur animal ad aliquid in futurum, ac si futurum praevideret. Huiusmodi enim instinctus est eis inditus ab intellectu divino praevidente futura</i></p>
9	<p><b>ST I-II.46.4 ad 2:</b> Brute animals have a natural instinct imparted to them by the <i>Divine Reason</i>, in virtue of which they are gifted with movements, both internal and external, like unto rational movements.</p>	<p><i>Bruta animalia habent instinctum naturalem ex divina ratione eis inditum, per quem habent motus interiores et exteriores similes motibus rationis.</i></p>

As is evident from the above samplings, whenever Aquinas speaks about animal instinct, he always compares it to the function of reason in rational appetites. This would suggest that natural instinct functions in irrational animals as the formal cause of their sensitive appetites. What is more, in the last three texts he attributes natural instinct to the divine intellect. Aquinas affirms that sense apprehension elicits an appetite in irrational animals according to the causality of the divine intellect, as this is present within animals through their natural instinct. We can thus suppose that the formal causality of natural instinct, which moves the sensitive appetite, participates in the divine intellect. This is why natural instinct is a participation in eternal law or eternal reason, though not a rational one.<sup>51</sup> Irrational animals are not masters of their own acts.

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<sup>51</sup> ST I-II.93.5, ad 1-2.

What I need to show, however, is whether Aquinas speaks about divine instinct in relation to human action in the same manner. Let us consider another set of texts:

1	<p><b>ST I-II.68.3:</b> The gifts are perfections of man, whereby he becomes amenable to the instincts of the Holy Spirit. Now it is evident . . . that the moral virtues perfect the appetitive power according as it partakes somewhat of the reason, in so far, to wit, as it has a natural aptitude to be moved by the command of reason. Accordingly the gifts of the Holy Ghost, as compared with the Holy Ghost Himself, are related to man, even as the moral virtues, in comparison with the reason, are related to the appetitive power. Now the moral virtues are habits, whereby the powers of appetite are disposed to obey reason promptly. Therefore the gifts of the Holy Ghost are habits whereby man is perfected to obey readily the Holy Ghost.</p>	<p><i>Dona sunt quaedam perfectiones hominis, quibus disponitur ad hoc quod homo bene sequatur instinctum spiritus sancti. Manifestum est autem ex supradictis quod virtutes morales perficiunt vim appetitivam secundum quod participat aliquantulum rationem, inquantum scilicet nata est moveri per imperium rationis. Hoc igitur modo dona spiritus sancti se habent ad hominem in comparatione ad spiritum sanctum, sicut virtutes morales se habent ad vim appetitivam in comparatione ad rationem. Virtutes autem morales habitus quidam sunt, quibus vires appetitivae disponuntur ad prompte obediendum rationi. Unde et dona spiritus sancti sunt quidam habitus, quibus homo perficitur ad prompte obediendum spiritui sancto.</i></p>
2	<p><b>ST I-II.68.4:</b> The gifts are habits perfecting man so that he is ready to follow the instincts of the Holy Ghost, even as the moral virtues perfect the appetitive powers so that they obey the reason. Now just as it is natural for the appetitive powers to be moved by the command of reason, so it is natural for all the forces in man to be moved by the instinct of God, as by a superior power. Therefore whatever powers in man can be the principles of human actions, can also be the subjects of gifts, even as they are virtues; and such powers are the reason and appetite.</p>	<p><i>Dona sunt quidam habitus perficientes hominem ad hoc quod prompte sequatur instinctum spiritus sancti, sicut virtutes morales perficiunt vires appetitivas ad obediendum rationi. Sicut autem vires appetitivae natae sunt moveri per imperium rationis, ita omnes vires humanae natae sunt moveri per instinctum dei, sicut a quadam superiori potentia. Et ideo in omnibus viribus hominis quae possunt esse principia humanorum actuum, sicut sunt virtutes, ita etiam sunt dona, scilicet in ratione, et in VI appetitiva.</i></p>

In these texts on the Gifts of the Holy Spirit, Aquinas compares the function of the divine instinct to human reason. In the texts on natural instinct, Aquinas compares the function of natural instinct to human reason. It would seem reasonable, therefore, to conclude, that as the moral virtues are habits that dispose the appetites to being moved by the intellect, so the Gifts of the Spirit are habits that dispose the rational powers of the soul to being moved by the promptings of the divine intellect. Yet, because the intellect moves the will as a formal cause, it seems reasonable to conclude further that the

divine instinct moves the will in a free-decision as a formal cause as well. This is not to say that divine instinct “presents” the will with its object, but that the divine instinct inspires in us the inclination to choose this or that here and now. In this manner the New Law leads the will from potency to act.

For God to move us in this manner, however, God must first give us the *potency* to be so moved. This he does through the infused habits. What this means is that the efficacy of the New Law implies the same distinction we find in every law. There is, in the first place, the interior principle, which is the disposition (caused in us formally by the infused gifts) to respond to the promptings of divine instinct. There is, in the second place, the external principle of moral instruction, namely, the promptings of divine instinct caused in us formally by operating grace as an inclination to actually do this or that here and now. How the New Law surpasses the efficacy of other species of law, then, is that both the internal and external principles of pedagogy are within the soul in the form of grace.<sup>52</sup>

To suggest that the efficacy of the divine instinct is more fully explained by reference to formal causality, therefore, is not to deny the need for an efficient cause. It is only to affirm the theoretical inadequacy of reducing the causality of divine instinct to efficient causality. What the efficient causality of divine agency effects in a free-decision is the participation of the powers in some form that inclines us to do this or that right here and now. The causality of divine instinct informs our thinking and willing as divine counsel and inspiration.<sup>53</sup> To clarify the point, it is helpful to return to a passage I cited earlier in this work from Stephen Brock:

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<sup>52</sup> This does not exclude the external inducements to faith presented by miracles and prophecies. Rather, the internal inducement of divine instinct inclines us to accept in faith what reason cannot itself demonstrate.

<sup>53</sup> There is thus a certain priority in the movement of divine instinct. The term *priority* here does not mean temporally, but metaphysically. In another passage, Steven Long makes a helpful remark on this distinction. In reference to the causality of God on the natural operation of our rational powers, he states: “There is a motion bestowed by God without which the rational creature cannot proceed to its act of self-determination. This motion is ‘prior’—hence premotion—not in a temporal sense, but in the sense in which the cause is prior to that which is caused: Apart from this moving of the rational creature from potency to act with respect to its act of self-determination there can be no such act. But of course, in time,

There is nothing mysterious at all . . . about the power of binding agent and patient together. Looking for an agent is looking for what had power to produce a movement in something, and this simply means looking for the original depository of the wealth or the substance whose parceling out is the movement. ‘To act is nothing other than to communicate that through which the agent is in act, insofar as it is possible [de pot. q. 2, a. 1]’. . . . What is ‘given’ is a form, not a thing, and the ‘giving’ of form does not consist in handing it over, but in forming something according to it. ‘A natural agent is not something handing over its own form to another subject, but reducing the subject which undergoes [the action] from potency to act [SCG III, 69 p 2458].’ The action does not consist in the agent’s letting go of something and leaving it in the patient, but in its bringing the patient into conformity with itself.<sup>54</sup>

## 2. Divine Instinct and Efficient Causality

My reason for proposing that we can more completely explain the agency of divine instinct in free-decision by an appeal to formal causality is based on a number of texts that seem to require such an interpretation. When speaking about the justification of the ungodly, Aquinas makes the following statement:

God moves everything in its own manner, just as we see that in natural things, what is heavy and what is light are moved differently, on account of their diverse natures. Hence *He moves man to justice according to the condition of his human nature*. But it is man’s proper nature to have free-decision. Hence in him who has the use of reason, God’s motion to justice does not take place without a movement of free-decision; but He so infuses the gift of justifying grace that at the same time He moves the free-decision to accept the gift of grace, *in such as are capable of being moved thus*.<sup>55</sup>

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the motion is simultaneous with the activation of the power of self-determination” (*Providence*, 566). The best way to describe God’s agency in free-decision, then, is to say that we can act supernaturally only to the extent to which our free-decisions are informed by operating grace. Operating grace moves us by leading us from the *potency* of a theological virtue to an *act* of that virtue by means of a form that inclines us to this act here and now. Operating grace is the superabundance and fullness of divine goodness in which our created acts participate. It is God that causes our free-decisions to have any theological character whatsoever. Yet this supernatural free-decision is the resultant efficacy of a form—i.e a theological *actus*. A theological act participates much more fully in the First Act than does a natural human act, for it attains the end precisely through participating in it by grace.

<sup>54</sup> Brock, *Action and Conduct: Thomas Aquinas and the Theory of Action* (Edinburgh: T&T Clark, 1998), 108-9.

<sup>55</sup> ST I-II 113.3: “*Deus autem movet omnia secundum modum uniuscuiusque, sicut in naturalibus videmus quod aliter moventur ab ipso gravia et aliter levia, propter diversam naturam utriusque. Unde et homines ad iustitiam movet secundum conditionem naturae humanae. Homo autem secundum propriam naturam habet quod sit liberi arbitrii. Et ideo in eo qui habet usum liberi arbitrii, non fit motio a Deo ad iustitiam absque motu liberi arbitrii; sed ita infundit donum gratiae iustificantis, quod etiam simul cum hoc movet liberum arbitrium ad donum gratiae acceptandum, in his qui sunt huius motionis capaces* [emphasis mine].”



The implication of this text is twofold: first, God's justifying grace functions within and through the psychological structure of rational agency.<sup>56</sup> As I have demonstrated already, the will chooses this or that good in conjunction with the formal causality of a practical judgment; a choice itself functions as the efficient cause of the free-decision. For a cause outside the agent to move the will to choose this or that good, therefore, it must do so by effecting in the will, an inclination for that good to which it is being moved. In other words, the free-decision of a person proportionate to the divine good must be actualized in a form that inclines the will to choose some means that is capable of attaining the divine good as an end. This form is that of charity—the act, not the *habitus*.<sup>57</sup> As Aquinas tells us, charity is the form of every virtuous act, inasmuch as it is the movement of the will in every virtuous act to the divine good as to an end. In fact, the act of charity is a participation of the person in the divine good.<sup>58</sup>

This leads to a second point. As I have made clear in chapter 6 already—when discussing the different meanings of interiority between irrational and rational animals—it is insufficient to describe a voluntary act as merely proceeding from an

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<sup>56</sup> This is how I understand Walgrave's remark cited above, part of which is the following: "The instinct (of the Holy Spirit) comes from outside but works from inside: it is exterior by its origin, but interior by its way of working within us. The more perfect its work, the more interiorized it becomes; and our will and the Holy Spirit work together as if they were forming a unique principle. The growth of the motion received by our spirit does not diminish the very motion of freedom. Indeed, under the New Law, the instinct of the Holy Spirit becomes in us our own instinct. The instinct of the Holy Spirit builds up the very movement of the free will" (*Instinctus Spiritus Sancti*, 430).

<sup>57</sup> By the term *act*, I do not mean a complete human act. Rather, I am saying that in the will's operation of choice, the will is actualized in the form (mode) of charity. This is what makes a human act (at least in part) a charitable human act. What I may be doing, for example, is telling someone the truth. This human act of 'telling the truth' is charitable, however, only to the extent to which it is actualized—i.e. directed to the last end—in charity. See ST I-II 100.10, wherein Aquinas distinguishes between an act of charity as such—to love the Lord and one's neighbor—and an act performed in the mode of charity—to do something for love of God. Of the latter he states, "the intending of the end is a sort of formal mode of an act ordered to that end: *intentio finis est quidam modus formalis actus ordinati in finem*."

<sup>58</sup> ST II-II 4.3; ST II-II 23.8 ad 1. Sherwin explains how Aquinas' understanding of charity as the formal cause of virtuous acts developed over time. In Aquinas' mature works, "charity orders by being an act that is itself ordered to the ultimate end. The intellect orders acts to the ultimate end, while the will moves the acts of the virtues toward this ultimate end. Consequently, in his mature works, Aquinas refuses to call charity an exemplar form [which is more proper to the intellect]. In fact, he reverses his earlier teaching and explicitly denies that charity is an exemplar. He now affirms instead that charity is solely the efficient cause of the virtues. 'Charity is called the form of the other virtues not as being their exemplar or their essential form, but rather as being their efficient cause, in so far as it instills the form on all of them [ST II-II 23.8 ad 1]'" (*By Knowledge & By Love*, 199).

interior principle. Through natural instinct, the cause of an irrational animal's sense appetites is interior to them as well, and yet they do not act voluntarily, but from natural instinct. In human beings, a rational appetite is elicited in conjunction with an interior *rational* principle—which is a cognitively apprehended form that actualizes us in the willing of some particular good as known. This is the full meaning of voluntariness. Herein lay the specific reason why we can make *free*-decisions. Aquinas affirms this truth even in regard to theological acts.

For the movement of the appetite cannot tend to anything, either by hoping or loving, unless that thing be apprehended by the sense or by the intellect. Now it is by faith that the intellect apprehends the object of hope and love. Hence in the order of generation, faith precedes hope and charity.<sup>59</sup>

Aquinas is not suggesting here that the knowledge (or habit) of faith, of its own, reduces the will from potency to act in regard to hope and charity. The acts of hope and charity in the will are the actualization (by God) of our willing God as the object of our ultimate happiness. It is in not affirming this last point that Pelagianism went astray.<sup>60</sup> Nevertheless, we cannot be actualized in hope and charity without, at the same time, being actualized in the knowledge of that which we are actualized to love in charity. In other words, God would not move the will to the act of charity without also moving the intellect to the knowledge of faith. Insofar as the intellect and the will form a single

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<sup>59</sup> ST I-II 62.4: “*Motus appetitivus tendere vel sperando vel amando, nisi quod est apprehensum sensu aut intellectu. Per fidem autem apprehendit intellectus ea quae sperat et amat. Unde oportet quod, ordine generationis, fides praecedat spem et caritatem.*” Aquinas does point out, however, that faith itself does not “moderate” the appetitive movement the way the moral virtues do. Faith only “shows the object” (ST I-II 66.6 ad 1). Yet, this only affirms that faith, by specifying for the will its object, functions in conjunction with practical reason as the exemplary formal cause of our free-decisions moved by God.

<sup>60</sup> ST II-II 6.1: “The Pelagians held that this cause was nothing else than man's free-will: and consequently they said that the beginning of faith is from ourselves, inasmuch as, to wit, it is in our power to be ready to assent to things which are of faith, but that the consummation of faith is from God, Who proposes to us the things we have to believe. But this is false, for, since man, by assenting to matters of faith, is raised above his nature, this must needs accrue to him from some supernatural principle moving him inwardly; and this is God. Therefore faith, as regards the assent, which is the chief act of faith, is from God moving man inwardly by grace: *Hanc autem causam pelagiani ponebant solum liberum arbitrium hominis, et propter hoc dicebant quod initium fidei est ex nobis, inquantum scilicet ex nobis est quod parati sumus ad assentiendum his quae sunt fidei; sed consummatio fidei est a Deo, per quem nobis proponuntur ea quae credere debemus. Sed hoc est falsum. Quia cum homo, assentiendo his quae sunt fidei, eleveetur supra naturam suam, oportet quod hoc insit ei ex supernaturali principio interius movente, quod est Deus. Et ideo fides quantum ad assensum, qui est principalis actus fidei, est a Deo interius movente per gratiam.*”

principle in our actions, so the theological virtues are infused together. Likewise, because of the psychological structure of human agency, the *act* of charity is conjoined to the *act* of faith in any supernaturally meritorious human action.<sup>61</sup>

In another text, wherein the matter concerns the movement of the will to charity itself, Aquinas explains exactly what I have just stated:

When the Holy Ghost moves the human *mind*, the movement of *charity* does not proceed from this movement [of the human mind being moved by God] in such a way that the human mind be merely moved without being the principle of this movement [of charity], as when a body is moved by some extrinsic motive power. For this is contrary to the nature of a voluntary act, whose principle needs to be in itself . . . so that it would follow that to love is not a voluntary act, which involves a contradiction, since love, of its very nature, implies an act of the will [which is a *rational* appetite]. Likewise, neither can it be said that the Holy Ghost moves the will in such a way to the act of loving, as though the will were an instrument, for an instrument, though it be a principle of action, nevertheless *has not the power to act or not to act*, for then again the act would cease to be voluntary and meritorious, whereas . . . the love of charity is the root of merit: and, given that the will is moved by the Holy Ghost to the act of love, it is necessary that the will also should be the efficient cause of that act.<sup>62</sup>

As this text implies, to understand how grace moves a free-decision, we must acknowledge that faith (as an exemplary form) specifies the object of hope and charity, making these movements of the will accord with the will's rational nature. Nevertheless, since the act of faith presupposes an act of will, the will must also be actualized in the

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<sup>61</sup> Nevertheless, we can possess the *habitus* of faith without charity. This is what Aquinas calls dead or formless faith, a faith that does not bear the fruit of good works (ST II-II 4.4). The *act* of faith, however, requires charity moving us to the end.

<sup>62</sup> ST II-II 23.2: “*Non enim motus caritatis ita procedit a Spiritu Sancto movente humanam mentem quod humana mens sit mota tantum et nullo modo sit principium huius motus, sicut cum aliquod corpus movetur ab aliquo exteriori movente. Hoc enim est contra rationem voluntarii, cuius oportet principium in ipso esse, . . . Unde sequeretur quod diligere non esset voluntarium. Quod implicat contradictionem, cum amor de sui ratione importet quod sit actus voluntatis. Similiter etiam non potest dici quod sic moveat Spiritus Sanctus voluntatem ad actum diligendi sicut movetur instrumentum quod, etsi sit principium actus, non tamen est in ipso agere vel non agere. Sic enim etiam tolleretur ratio voluntarii . . . cum tamen supra habitum sit quod dilectio caritatis est radix merendi. Sed oportet quod sic voluntas moveatur a Spiritu Sancto ad diligendum quod etiam ipsa sit efficiens hunc actum.* [emphasis mine].” Of the term *mind* in Aquinas, Anthony Kenny states, “Following Augustine, Aquinas thinks of the mind as consisting not just of intellect, but of intellect plus will” (*Aquinas on Mind* [New York: Routledge, 1993], 42). However, Michael Dauphinais points out that in Aquinas’ later works, particularly the *Summa theologiae*, the use of the term mind [*mens*] is synonymous with the term intellect [*intellectus*]. “Loving the Lord Your God: The *Imago Dei* in Saint Thomas Aquinas” *The Thomist* 63 (1999), 254-55. Dauphinais’s clarification (cf. John P. O’Callahan) is significant in that it confirms in the passage cited that the movement of charity in the will proceeds in conjunction with the formal causality of the intellect effected through the knowledge of faith.

form of charity, a form that moves the intellect as an efficient cause in the act of faith.<sup>63</sup> In sum, by the power of the Holy Spirit, God leads the elect from potency to act—in their knowledge, appetites, and actions—but in a manner complementary to the voluntary agency of a rational agent.

But let us turn now to the exercise of liberty itself. Even with the promptings of divine instinct, a person can decide otherwise.<sup>64</sup> Because our will is a rational appetite, it can always be moved to some other apprehended good. Furthermore, because the will is the efficient cause of the intellect's operation, we can move ourselves to consider the object of faith from different points of view, or not at all.

Hence, the importance of including formal causality in the agency of divine instinct is that it explains how a person can refuse to use the grace he or she is given. Put otherwise, to exclude formal causality from the agency of divine instinct is to remove from the acting person (being moved by grace) the possibility of making any other decision, including the possibility among the elect of committing sin—and this while our knowledge of the divine essence is yet mediated by faith.<sup>65</sup> This illuminates why Aquinas makes a point of stating that movements of grace have a

necessity—not indeed of coercion, but of infallibility—as regards *what it is ordained to by God*, since God's intention cannot fail, according to the saying of Augustine in his book on the Predestination of the Saints (*De Dono Persev.* xiv) that 'by God's good gifts whoever is liberated, is most certainly liberated.' Hence if God intends, while moving, that the one whose heart He moves should attain to grace,

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<sup>63</sup> ST II-II 2.1-2. For a very thorough treatment of how grace informs each stage of human action, see Sherwin, *By Knowledge & By Love*, 191-202.

<sup>64</sup> See Pius XII, *Humani Generis* (1950), no. 4: "Furthermore, the human intelligence sometimes experiences difficulties in forming judgments about the credibility of the Catholic Faith, notwithstanding the many wonderful external signs God has given, which are sufficient to prove with certitude by the natural light of reason alone the divine origin of the Christian religion. For man can, whether from prejudice or passion or bad faith, refuse and resist not only the evidence of the external proofs that are available, but also the impulses of actual grace." For an excellent treatment of predestination in Aquinas, see John Saward, "The Grace of Christ in His Principal Members: St Thomas Aquinas on the Pastoral Epistles" in *Aquinas on Scripture: An Introduction to His Biblical Commentaries*, ed. Thomas Weinandy, Daniel Keating, and John Yocham (London: T & T Clark Publishers (2005).

<sup>65</sup> I am not here equating liberty with making sinful choices. Rather, I am affirming the obvious, that even saints commit sin by a free-decision, and therefore the efficacy of divine instinct upon the soul in free-decision, even among the saints, cannot be necessary in any fatalistic manner, as if we are unable to frustrate the operation of grace in the soul.

he will infallibly attain to it, according to Jn. 6:45: ‘Every one that hath heard of the Father, and hath learned, cometh to Me.’<sup>66</sup>

What this text indicates is that a free-decision moved by grace will attain the divine good to which it is ordained necessarily and never fall shy of its mark. What this text does not indicate is that a person inspired by divine instinct is bound by necessity to choose this or that determinate path. The effect of grace moving the free-decision is not necessary in *this* way. It was not necessary, for example, that Mary acquiesced to the Angel Gabriel, even while it *was* necessary that her “yes”—because it was actualized in charity—attain the highest perfection possible to an earthly creature. Mary could have decided otherwise, just as Eve did despite the grace she possessed. Yet Mary did say “yes” and this “yes” was moved by divine instinct.

It strikes me as inadequate, therefore, to maintain that grace moves the elect to particular choices by the necessity of an efficient cause, unless we also affirm that what the efficient cause does is impart a form and consequent inclination which we are capable of resisting. In short, we are to understand the movement of grace in free-decision as the inclination consequent to the prompting of divine instinct to do *this* or *that* here and now. The necessity of infallibility refers to the necessity of a theological act’s indefectability. Because these free-decisions are actualized in charity, they necessarily attain their mark. Divine instinct is divine counsel; divine counsel is infallible. Yet we can always do something otherwise than what divine counsel prompts us to do. Divine instinct is not coercive.

To put the matter as plainly as possible, without operating grace, we cannot choose in a manner conducing to eternal beatitude; but with this grace we can still choose

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<sup>66</sup> ST I-II 112.3: “*Et tunc habet necessitatem ad id ad quod ordinatur a Deo, non quidem coactionis, sed infallibilitatis, quia intentio Dei deficere non potest; secundum quod et Augustinus dicit, in libro de praedest. Sanct., quod per beneficia Dei certissime liberantur quicumque liberantur. Unde si ex intentione Dei moventis est quod homo cuius cor movet, gratiam consequatur, infallibiliter ipsam consequitur; secundum illud Ioan. VI, omnis qui audit a patre et didicit, venit ad me.*” My use of this text is taken out of its immediate context, wherein Aquinas is asking whether grace is necessary to the soul that prepares for it. Nevertheless, the text is applicable to the point I am making, for Aquinas ascribes the necessity of infallibility to “God the Mover: *Deo movente.*”

otherwise, for we can always pursue other goods we might move ourselves to consider. Tragically, this is why even a Christian can suffer the evil of damnation. To see that Aquinas indeed affirms this, let us consider a text wherein he is discussing whether angels were created in grace. He states in the reply to the second objection the following: “Every form inclines the subject after the mode of the subject’s nature. Now it is the mode of an intellectual nature to be inclined freely towards the objects it desires. Consequently the movement of grace does not impose necessity; but he who has grace can fail to make use of it, and can sin.”<sup>67</sup> The same applies to us as rational beings.<sup>68</sup>

The conclusion to which all this leads, finally, is that the New Law moves us in the order of formal causality, as does any law. Indeed, there is always efficient causality behind the actualization of any potency, even in human law. Yet, what the divine ruler effects in the elect is their conformity to divine goodness, not only in the soul’s essence and powers, but most especially, in the virtuous human acts by which the elect attain the divine common good.<sup>69</sup> The New Law is a perfect pedagogy in that it provides both the internal and external principles by which human beings are first disposed to and then led to the divine goodness, as to an end. Such favor is extraordinary. It is extraordinary not only in its gratuity, but in its sublime esteem for liberty, which is, in the end, a most arresting confirmation of God’s love. This gratuity is exemplified most especially in the free-decision of Jesus Christ to die for all sinners and bear the curse of Adam—a decision that has merited for us the grace of the Holy Spirit and thus set us free from the

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<sup>67</sup> ST I 62.3 ad 2: “*Omnis forma inclinat suum subiectum secundum modum naturae eius. Modus autem naturalis intellectualis naturae est, ut libere feratur in ea quae vult. Et ideo inclinatio gratiae non imponit necessitatem, sed habens gratiam potest ea non uti, et peccare.*”

<sup>68</sup> I am indebted to Stephen Brock (Pontifical University of the Holy Cross, Rome) for pointing me to some key texts that helped me clarify this portion of my analysis. He also reminded me that grace is not equivalent to God Himself. Grace is created in the soul and, therefore, such that it can be resisted or frustrated; that is, we can fail to use grace. I am also indebted to Michael Sherwin and Peter Kwasniewski for their critiques of earlier versions of section C.

<sup>69</sup> To return to my truth telling example, I can tell the truth in a charitable manner or not. The difference is whether my telling the truth is informed by the love of God. If charity is the form of my truth telling, such an act is a charitable one. If not, I may very well be ‘telling the truth,’ but in a manner that neither justifies me nor merits eternal beatitude.

otherwise inescapable dominion of sin and death. God does not impose His will upon the human race; He induces us to act through the power of the Holy Spirit.

#### *D. Some Final Considerations*

A couple of points remain for me to address. The first concerns the relationship of the Holy Spirit to the Word of God. Recall that Aquinas identifies the New Law's actualizing principle with the Holy Spirit, public revelation, and the external inducements to faith. What, then, is the relationship, pedagogically speaking, between these principles? Although I cannot fully develop the point here, it would seem that the Holy Spirit is the primary teacher of the New Law and that the pedagogy is the Word of God given in and through the person of Jesus Christ. The content of that pedagogy is transmitted to us by means of Sacred Scripture and the living Tradition of the Church, which Aquinas refers to as the "written" aspect of the New Law.<sup>70</sup> These external principles of apostolic ministry are directed to the interior work the Holy Spirit accomplishes in those called to be members of Christ.

However, we must also acknowledge that Christ, too, is the teacher of the New Law.<sup>71</sup> In light of this fact, I would thus add that Christ's moral instruction—particularly the Sermon on the Mount—present secondary principles of action according to which the Holy Spirit moves us to derive practical moral conclusions. Consider, for example, this remark Aquinas makes about the beatitudes. "Augustine says we should take note that, when he [Jesus] said: 'He that heareth these My words,' he indicates clearly that this sermon of the Lord is replete with all the precepts whereby a Christian's life is formed . . . As is evident from Augustine's words . . . the sermon contains all the information of the

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<sup>70</sup> ST I-II 106.1.

<sup>71</sup> For a good discussion of this, see Michael Dauphinais, "Christ the Teacher: The Pedagogy of the Incarnation According to Saint Thomas Aquinas," doctoral dissertation (Notre Dame, IN: University of Notre Dame, 2000), 29.

Christian life.”<sup>72</sup> Note Aquinas’ reference to precepts as a basis for moral formation.

While Christ’s teachings provide the secondary principles, I would suggest that the counsels of the Holy Spirit move the elect from principles to particular judgments. In effect, the external pedagogy of Christ’s teaching serves to ground our practical judgments within the moral tradition of the Christian community, which Christ entrusted to the apostles. There is thus no basis upon which anyone can defend a capricious private interpretation of the Holy Spirit’s inspirations. Any practical judgment that one claims to be rooted in the inspirations of the Holy Spirit must be reducible to the moral criteria handed down by apostolic tradition.

Building upon the relationship between Christ and the Holy Spirit, I would further propose that the moral teachings of Christ are particular determinations of natural law. There is a connate relationship between the first principles of practical reason and the precepts of the New Law. Yet these secondary principles direct the human person to the full realization of charity, which neither the Old Law nor any human law is capable of doing. As principles of action, Christ’s teaching provides a rule and measure of what divine love requires, not simply in terms of our outward acts, but also in regard to our inward dispositions. The text I just cited above goes on to say, “Therein man’s interior movements are ordered. Because after declaring that his end is Beatitude; and after commending the authority of the apostles, through whom the teaching of the Gospel was to be promulgated, He orders man’s interior movements, first in regard to man himself, secondly in regard to his neighbor.”<sup>73</sup> The Holy Spirit’s role, therefore, is also to

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<sup>72</sup> ST I-II 108.3: “*Sed contra est quod Augustinus dicit, in libro de serm. Dom. In monte, considerandum est quia, cum dixit, qui audit verba mea haec, satis significat sermonem istum domini omnibus praeceptis quibus christiana vita formatur, esse perfectum . . . Sicut ex inducta auctoritate Augustini apparet, sermo quem dominus in monte proposuit, totam informationem christianae vitae continet.*” On the Beatitudes in Aquinas, See Servais Pinckaers, O.P., “Beatitude and the Beatitudes in Aquinas’s *Summa Theologiae*,” in *The Pinckaers Reader: Renewing Thomistic Moral Theology*, ed. John Berkman and Craig Steven Titus [Washington D.C.: The Catholic University of America Press, 2005], 115-29.

<sup>73</sup> ST I-II 108.3: “*In quo perfecte interiores motus hominis ordinantur. Nam post declaratum beatitudinis finem; et commendata apostolica dignitate, per quos erat doctrina evangelica promulganda; ordinat interiores hominis motus, primo quidem quantum ad seipsum; et deinde quantum ad proximum.*”



bring the appetitive dimension of human actions into conformity with the rule and measure of the Gospel. This the Holy Spirit achieves through the infused habits and the actualization of a free-decision in charity. More specifically, however, since Christ is, in himself, the embodiment of the beatitudes, it is more proper to say that the Holy Spirit conforms the elect to the person of Christ, the Incarnate Word of God.

This reflection on the relationship between the Holy Spirit and Christ leads to a second matter I wish to address, namely, how the New Law *accustoms* the elect to the manner of life proper to God's Kingdom. Recall that custom (as law) becomes a second nature to us if we conform our actions to the wisdom that custom embodies. This second nature is present to us in the habits of virtue that custom helps form in the appetites. It is thus evident that the New Law accustoms the elect to virtue in a way that exceeds what we are capable of even imagining, much less realizing in merely human society. Yet this process of habituation does not compromise human nature. To the contrary, it recapitulates human nature in Christ and is the basis for being called sons and daughters of God.

More specifically, the second nature that grace imparts is divine nature. By participation in the divine nature, the elect are divinized by the Holy Spirit who conforms them to the person of Christ. Indeed, this is a participation in Christ's two-fold nature. Our participation in the Kingdom of God is actually a participation in the very life of the Godhead—that is, an unprecedented friendship with God.<sup>74</sup> The common good of God's Kingdom is God himself, and human beings attain this end by being “accustomed,” as it were, to the Person of Jesus Christ. The Christian life, therefore, is the full realization of all that the Old Law prefigured. In Christ, the moral law is fulfilled

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<sup>74</sup> See Joseph Bobik, “Aquinas on Friendship with God,” *The New Scholasticism* LX (1986), 257-71.

by our righteousness; the ceremonial precepts are fulfilled through our worship;<sup>75</sup> the judicial precepts are fulfilled in our fellowship.

### *Conclusion*

The New Law is a perfect and complete pedagogy. As Aquinas makes clear, it is perfect not only in regard to its end, but more importantly, because it provides the grace necessary to attain this end. This grace imparts the gift of divine sonship and so enables human beings to act as children of God destined for eternal beatitude. Moreover, the New Law consummates the hierarchy of moral discourse in that, through the internal and external principles of its pedagogy—which are exclusive to the New Law and originate in the indwelling presence of the Holy Spirit—it leads the elect to a perfection surpassing the innate capacity of human nature. It differs from the natural order of moral instruction, in that grace insures the New Law’s efficacy in leading us to eternal beatitude. The grace of the New Law does not supplant natural law, but rather elevates it.<sup>76</sup>

The sublime beauty of the New Law, moreover, is the way in which it moves the elect to eternal beatitude. The interior effect and movement of the Holy Spirit conforms the elect to Christ so that their actions are made to share in Christ’s filial love. In and with Christ, the faithful can pour themselves out to the Father in charity by actions that truly merit the blessedness of the beatific vision. More specifically, their actions proceed from the filial obedience of God’s own Son. Consequently, the Christian life is the complete actualization of moral perfection, for the Christian is given the divine capacity to act with a degree of righteousness inaccessible to even preternatural man. In Christ, the elect act in the truth and love of God himself.

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<sup>75</sup> For an enlightening presentation of Aquinas on the sacrifice of the New Law, see Romanus Cessario, O.P., “‘*Circa res . . . aliquid fit*’ (*Summa theologiae* II-II, q. 85, a. 3, ad 3): Aquinas on New Law Sacrifice,” *Nova et Vetera* 4, English Edition (2006), 295-312.

<sup>76</sup> As Thomas Hibbs concludes, “In fact, the effect of divine law and the infused virtues is to actualize what is latent within, and most intimate to, nature itself” (“The Hierarchy of Moral Discourse in Aquinas,” *American Catholic Philosophical Quarterly* LXIV [1990], 214).

Hence, Aquinas calls the New Law a “law of freedom,” for God does not secure our moral perfection by a plentitude of precepts and the temporal incentive structures of punishment and reward alone, but by the inward action of the Holy Spirit, which proceeds from the Father of all wisdom and his eternal Word.<sup>77</sup> The New Law is the law of freedom precisely because the elect attain beatitude by grace-filled free-decisions. It is through the New Law that God fully reveals the integral relationship between law, liberty, and virtue. The effect of this law is to make perfect what is imperfect; and since grace infinitely increases the voluntariness of human actions, the elect are perfectly free when they are actualized in the grace of the New Law.

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<sup>77</sup> ST I-II 108.1 ad 2: “Accordingly the New Law is called the law of liberty in two respects. First, because it does not bind us to do or avoid certain things, except such as are of themselves necessary or opposed to salvation, and come under the prescription or prohibition of the law. Secondly, because it also makes us comply freely with these precepts and prohibitions, inasmuch as we do so through the instinct of grace: *Sic igitur lex nova dicitur lex libertatis dupliciter. Uno modo, quia non arctat nos ad facienda vel vitanda aliqua, nisi quae de se sunt vel necessaria vel repugnantia saluti, quae cadunt sub praecepto vel prohibitione legis. Secundo, quia huiusmodi etiam praecepta vel prohibitiones facit nos libere implere, inquantum ex interiori instinctu gratiae ea implemus.*”

## CONCLUSION

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### *The Pedagogical Character of Law*

How does law lead us [*inducere*] to virtue? This is the question with which I began. As we saw in the first part, Aquinas' philosophy of education helps us comprehend how law achieves its proper effect; law functions as moral pedagogy. Not only does it supply us with principles of action—both internal and external—but through a process of habituation, it also leads us from potency to act. This process of “being accustomed to virtue” pertains to both the cognitive and appetitive aspects of human action. This does not mean that law pushes us around, however. To the contrary, as rational persuasion, law moves us to good and away from evil in the order of formal causality. In general, law does not move us to good as a Chess player might move pieces across the board, but rather as the rules of Chess determine the form of how Chess is played. Or by another analogy, law does not move us to good the way a trumpeter pushes air through a trumpet to sound a note, but as the composition played actualizes the musician in a certain melody. It is as a formal cause of our acts that law moves us to virtue. For our actions to be virtuous is for us to be actualized in the form itself that law expresses. This form is what Aquinas calls the good of reason, the good of virtue—the good as such.

This is especially true of divine moral pedagogy, which we considered in the second part. Aquinas shows us that salvation history is the history of divine moral pedagogy. As we have seen, divine moral pedagogy unfolds historically as a hierarchy of moral discourse, leading the elect to eternal beatitude in a manner that both corroborates and

elevates human nature. God created us in grace, but having lost this grace through sin, God then restored human nature to grace to thereby make men partakers of the divine nature. The person of Jesus Christ, the Eternal Son of God is, as it were, the form to which the elect are conformed, through the New Law, by the infusion of grace into the soul. This actualization of the elect, however, does not abolish the principles of nature by which we act in freedom. Rather, the New Law elevates these principles, actualizing human nature in the grace of divine sonship. Hence, whether it is natural, human, or divine law we are speaking of, the effect of law presupposes the voluntary structure of rational agency, as Aquinas understands this. The pedagogical function of law—that law forms our moral character—depends entirely upon the psychological structures of human nature that give rise to rational agency, particularly the formal causality of the intellect in human action. The proper effect of law is to lead us to virtue, an effect that is possible only because man is master of his own acts.

### *Implications of this Study and Areas for Further Research*

In what remains, I would like to point out the most practical implication of this study. It concerns the problem of ignoring the pedagogical character of law. In our contemporary culture, it seems that we generally understand law and freedom in purely negative terms. We conceive law as a mere “restraint” to the exercise of liberty, while we conceive liberty as “autonomy” from the will of another. In this context, we conceive moral formation as an entirely personal (as opposed to public) matter, which is consigned almost entirely to the societies of family and church.

From this way of conceiving the relationship between law, liberty, and virtue, important questions naturally arise regarding a classical understanding of law as moral pedagogy: How can one posit that the proper effect of law is to lead us to virtue without recognizing that such a theory of law could make a political society vulnerable to the

most egregious forms of tyranny? In a pluralistic setting, can there be any public consensus on which virtues are necessary to the common welfare? And is it really the role of the modern state, after all, to make us virtuous? Is this not better left to other mediating institutions of society? Admittedly, there is something unsettling about a pedagogical theory of law, at least as far as civil law is concerned. I would suggest, however, that reticence to affirm the pedagogical character of law stems from a particular conception of law that has deeply shaped contemporary Christian ethics and modern political theory.

For the most part, western civilization espouses a theory of law influenced by classical liberalism and the natural rights tradition, both of which have developed out of a voluntarist conceptualization of law's relationship to human action.<sup>1</sup> When I set out to develop the present thesis on the pedagogical character of law, I had intended to contrast Aquinas' conception of law with that of the modern period. I quickly realized, however, that in a single work such a comparison is impossible. The complexity of such a comparison notwithstanding, I saw that expounding Aquinas' thought alone would be a formidable enough challenge. In an effort to help restore a properly Thomistic understanding of the relationship between law and virtue, I thus deemed it better to contextualize this project more proximately within the virtue-ethics tradition.

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<sup>1</sup> I do not use the adjective *voluntarist* in a pejorative manner here. I use it to describe a radically different conception of the psychology of human action that ascribes a primacy and autonomy to the will in human action. Historically, voluntarism represents a significant departure from Aquinas' account of rational agency. For an excellent and penetrating investigation of this difference see Peter Kwasniewski, "William of Ockham and the Metaphysical Roots of Natural Law," *The Aquinas Review* 11 (2004), 1-84. See also Heiko Oberman, *The Harvest of Medieval Theology*, (Grand Rapids: Eerdmans Publishing Co., 1963); Heinrich Rommen, *The Natural Law: A Study in Legal and Social History and Philosophy*, trans. Thomas R. Hanley, O.S.B. (St. Louis, MO: B. Herder Books, 1947), 57-58; Duns Scotus, *Duns Scotus on the Will & Morality*, compiled, translated and introduced by Allan Wolter, O.F.M. (Washington D.C.: The Catholic University Press of America, 1997). In his lecture at the University of Regensburg on September 12, 2006, Pope Benedict XVI identifies the roots of this departure from Thomism with Duns Scotus. He states, "In all honesty, one must observe that in the late Middle Ages, we find trends in theology which would sunder this synthesis between the Greek spirit and the Christian spirit. In contrast with the so-called intellectualism of Augustine and Thomas, there arose with Duns Scotus a voluntarism which ultimately led to a claim that we can only know God's '*voluntas ordinata*.' Beyond this is the realm of God's freedom, in virtue of which he could have done the opposite of everything he has actually done."

Nevertheless, in our present cultural climate, to lead subjects to virtue is not deemed the proper effect of law; but instead, law is said to bolster the defense and mitigation of individual rights. To this end, securing the right of personal liberty (and not the virtue of justice) is conceived as the most proper effect of law. This I think is a problem, however. I would never deny that a greater sensitivity to natural rights and the legitimate exercise of liberty has been a momentous development in modern legal theory.

Yet, in having neglected the pedagogical character of law, it would seem that we have become increasingly accustomed to use our liberty and to posit rights in ways that are ultimately contrary to the human good. Take for example, the social practices that have arisen as a result of atomistic individualism, consumerism, materialism, and nihilism. We might assume that these are merely “cultural” or “philosophical” or “religious” problems and not a consequence of our legal culture. Yet, I would suggest otherwise. These patterns of social practice emerged in western civilization largely—albeit gradually—from changes in law and legal theory that, down through the past few centuries or so, has preceded and abetted unprecedented (moral) changes in western civilization—and not the other way around.

Recently, in the United States for example, we have seen a dramatic change in the attitudes and practices of our people since abortion was legalized in our country. Regardless of how people might consequently justify the Supreme Court ruling in *Roe vs. Wade*, since this historic change in our law, the practice of abortion has increased (not diminished) and given further ascendancy to the “culture of death.” Before the court decision, the large majority of people in America regarded abortion as an evil to be avoided, and as a practice it was statistically rare. At present, however, at least half of the American people now think and act differently on this matter than before. Forty-eight million (plus) abortions later, this change of law has accustomed many Americans to regard abortion as a “right” of women, a perspective that was quite marginal before its

legalization. How could such a change occur in just over thirty years? Certainly, many factors have been at work, but I would suggest that the simple change in the law accounts for much of it.

The most immediate implication of a pedagogical theory of law, therefore, is recognizing the effect law has on moral development. The development of moral character occurs within a moral tradition specified to a large extent by the laws (and customs) governing a community. These laws accustom us to certain beliefs and the exercise of certain practices. This is true regardless of whether we are speaking about the domestic, ecclesial, or political communities to which we belong. If law induces us to act in the order of formal causality, then it follows that law will form us regardless of what we might think law *ought* to do. Even if modern political theory convinces us that law ought not legislate morality, but only adjudicate rights, nevertheless, law will accustom the social body to think and act in certain ways. Hence, poorly conceived laws—poor governance—will conform people to vicious practices, whether we want them to or not.

In light of this problem, I would commend two areas of future research. The first is to bring Aquinas' pedagogical theory of law to bear more directly on Christian ethics, namely, by bringing it into conversation with a Christian theory of rights. The second area of research is to study the cultural impact recent changes in the law (either civil or canonical) have made on social patterns of living. For example, one might look at how laws touching upon the institution of marriage have influenced the moral stability of family life. Such a project might raise public awareness of the role law plays in moral formation.



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