

THE FIRST PRINCIPLE OF PRACTICAL  
REASON: A COMMENTARY ON THE  
*SUMMA THEOLOGIAE*, 1-2, QUES-  
TION 94, ARTICLE 2

*by*

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# THE FIRST PRINCIPLE OF PRACTICAL REASON :

A Commentary on the *Summa theologiae*, 1-2,  
Question 94, Article 2

Many proponents and critics of Thomas Aquinas's theory of natural law have understood it roughly as follows. The first principle of practical reason is a command: *Do good and avoid evil*. Man discovers this imperative in his conscience; it is like an inscription written there by the hand of God. Having become aware of this basic commandment, man consults his nature to see what is good and what is evil. He examines an action in comparison with his essence to see whether the action fits human nature or does not fit it. If the action fits, it is seen to be good; if it does not fit, it is seen to be bad. Once we know that a certain kind of action — for instance, stealing — is bad, we have two premises, "Avoid evil" and "Stealing is evil," from whose conjunction is deduced: "Avoid stealing." All specific commandments of natural law are derived in this way.<sup>1</sup>

I propose to show how far this interpretation misses Aquinas's real position. My main purpose is not to contribute to the history of natural law, but to clarify Aquinas's idea of it for current thinking. Instead of undertaking a general review of Aquinas's entire natural law theory, I shall focus on the first principle of practical reason, which also is the first precept of natural law. This principle, as Aquinas states it, is: *Good is to be done and pursued, and evil is to be avoided*.<sup>2</sup> Although verbally this formula is only slightly different from that of the command, *Do good and avoid evil*, I shall try to show that the two formulae differ considerably in meaning and that they belong in different theoretical contexts.

This paper has five parts. 1) Since I propose to show that the common interpretation is unsound, it will be necessary to explicate the text in which Aquinas states the first principle. 2) Since the mistaken interpretation restricts the meaning of "good" and "evil" in the first principle to the value of moral actions, the meaning of these key terms must be clarified in the light of Aquinas's theory of final causality. 3) Since the mistaken interpretation tends to oppose the commandments of natural law to positive action, it will help to notice the broad scope Aquinas attributes to the first principle, for he considers it to be a source, rather than a limit, of action. 4) Since according to the mistaken interpretation natural law is a set of imperatives, it is important to see why the first principle is not primarily an imperative, although it is a genuine precept. 5) Since the mistaken interpretation regards all specific precepts of natural law as

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<sup>1</sup> This summary is not intended to reflect the position of any particular author. However, a full and accessible presentation along these general lines may be found in THOMAS J. HIGGINS, S.J., *MAN AS MAN: THE SCIENCE AND ART OF ETHICS* 49-69, 88-100, 120-126 (rev. ed., Milwaukee, 1958).

<sup>2</sup> "Bonum est faciendum et prosequendum, et malum vitandum." *SUMMA THEOLOGIAE* 1-2, q. 94, a. 2, c. (Leonine ed., Rome, 1882-1948). (*SUMMA THEOLOGIAE* will hereafter be referred to as S.T.)

conclusions drawn from the first principle, the significance of Aquinas's actual view — that there are many self-evident principles of natural law — must be considered.

## I

Aquinas's statement of the first principle of practical reason occurs in *Summa theologiae*, 1-2, question 94, article 2. Question 90 is concerned with what law is, question 91 with the distinction among the various modes of law, and question 92 with the effects of law. Aquinas begins treating each mode of law in particular in question 93; in that question he treats eternal law. Thus he comes to the study of natural law in question 94. Questions 95 to 97 are concerned with man-made law. Questions 98 to 108 examine the divine law, Old and New.

Question 94 is divided into six articles, each of which presents a position on a single issue concerning the law of nature. The first article raises the issue: "Whether natural law is a habit." Aquinas holds that natural law consists of precepts of reason, which are analogous to propositions of theoretical knowledge. Hence he denies that it is a habit, although he grants that it can be possessed habitually, for one *has* these principles even when he is not thinking of them.

The second issue raised in question 94 logically follows. It is: "Does natural law contain many precepts, or only one?" Unlike the issue of the first article, which was a question considered by many previous authors, this second point was not a standard issue.<sup>3</sup> For this reason the arguments, which Aquinas sets out at the beginning of the article in order to construct the issue he wants to resolve, do not refer to authorities, as the opening arguments of his articles usually do. Three arguments are set out for the position that natural law contains only one precept, and a single opposing argument is given to show that it contains many precepts.

The first argument concludes that natural law must contain only a single precept on the grounds that law itself is a precept<sup>4</sup> and that natural law has unity. The second argument reaches the same conclusion by reasoning that since natural law is based upon human nature, it could have many precepts only if the many parts of human nature were represented in it; but in this case even the demands of man's lower nature would have to be reflected in natural law. The third argument for the position that natural law has only one precept is drawn from the premises that human reason is one and that law belongs to reason.<sup>5</sup> The single argument Aquinas offers for the opposite conclusion is

<sup>3</sup> Paul-M. van Overbeke, O.P., *La loi naturelle et le droit naturel selon S. Thomas*, 65 *REVUE THOMISTE* 73-75 (1957) puts q. 94, a. 1 into its proper perspective. ODON LOTTIN, O.S.B., *LE DROIT NATUREL CHEZ SAINT THOMAS D'AQUIN ET SES PRÉDÉCESSEURS* 79 (2nd ed., Bruges, 1931) mentions that the issue of the second article had been posed by Albert the Great (cf. p. 118), but the question was not a commonplace. Obviously no one could ask it who did not hold that natural law consists of precepts, and even those who took this position would not ask about the unity or multiplicity of precepts unless they saw some significance in responding one way or the other.

<sup>4</sup> A position Aquinas develops in q. 92, a. 2, and applies in rejecting the position that natural law is a habit in q. 94, a. 1.

<sup>5</sup> That law pertains to reason is a matter of definition for Aquinas; law is an *ordinance of reason*, according to the famous definition of q. 90, a. 4.

based on an analogy between the precepts of natural law and the axioms of demonstrations: as there is a multiplicity of indemonstrable principles of demonstrations, so there is a multiplicity of precepts of natural law. These four initial arguments serve only to clarify the issue to be resolved in the response which follows. Of themselves, they settle nothing. After the response Aquinas comments briefly on each of the first three arguments in the light of his resolution of the issue. The argument that there are many precepts of natural law Aquinas will not comment upon, since he takes this position himself.

Aquinas's response to the question is as follows:

1) As I said previously, the precepts of natural law are related to practical reason in the same way the basic principles of demonstrations are related to theoretical reason, since both are sets of self-evident principles.

2) But something is called "self-evident" in two senses: in one way, objectively; in the other way, relative to us. Any proposition may be called "objectively self-evident" if its predicate belongs to the intelligibility of its subject. Yet to someone who does not know the intelligibility of the subject, such a proposition will not be self-evident. For example, the proposition, *Man is rational*, taken just in itself, is self-evident, for to say *man* is to say *rational*; yet to someone who did not know what man is, this proposition would not be self-evident. Consequently, as Boethius says in his *De hebdomadibus*,<sup>6</sup> there are certain axioms or propositions which are generally self-evident to everyone. In this class are propositions whose terms everyone understands — for example: *Every whole is greater than its parts*, and: *Two things equal to a third are equal to one another*. But there are other propositions which are self-evident only to the educated, who understand what the terms of such propositions mean. For example, to one who understands that angels are incorporeal, it is self-evident that they are not in a place by filling it up, but this is not evident to the uneducated, who do not comprehend this point.

3) Now among those things which fall within the grasp of everyone there is a certain order of precedence. For that which primarily falls within one's grasp is being, and the understanding of being is included in absolutely everything that anyone grasps. Hence the primary indemonstrable principle is: *To affirm and simultaneously to deny is excluded*. This principle is based on the intelligibility of being (and nonbeing), and all other principles are based on this one, as Aristotle says in the *Metaphysics*.<sup>7</sup>

4) But just as being is the first thing to fall within the unrestricted grasp of the mind, so good is the first thing to fall within the grasp of practical reason — that is, reason directed to a work — for every active principle acts on account of an end, and end includes the intelligibility of good.

5) It follows that the first principle of practical reason is one founded on the intelligibility of good — that is: *Good is what each thing tends toward*. Therefore this is the primary precept of law: *Good is to be done and pursued, and evil is to be avoided*. All other precepts of the law of nature are based on this one, in this way that under precepts of the law of nature come all those things-to-be-done or things-to-be-avoided which practical reason naturally grasps as human goods or their opposites.

6) Because good has the intelligibility of end, and evil has the intelligibility of contrary to end, it follows that reason naturally grasps as goods — in consequence, as things-to-be-pursued by work, and their opposites as evils and

<sup>6</sup> PATROLOGIA LATINA vol. 64, col. 1311 (ed. J. Migne, Paris, 1844-1865).

<sup>7</sup> METAPHYSICA bk. iii, 1005<sup>b</sup>29.

things-to-be-avoided — all the objects of man's natural inclinations. Hence the order of the precepts of the law of nature is according to the order of the natural inclinations.

7) First, there is in man an inclination based on the aspect of his nature which he has in common with all substances — that is, that everything tends according to its own nature to preserve its own being. In accordance with this inclination, those things by which human life is preserved and by which threats to life are met fall under natural law. Second, there is in man an inclination to certain more restricted goods based on the aspect of his nature which he has in common with other animals. In accordance with this inclination, those things are said to be of natural law "which nature teaches all animals," among which are the union of male and female, the raising of children, and the like. Third, there is in man an inclination to the good based on the rational aspect of his nature, which is peculiar to himself. For example, man has a natural inclination to this, that he might know the truth concerning God, and to this, that he might live in society. In accordance with this inclination, those things relating to an inclination of this sort fall under natural law. For instance, that man should avoid ignorance, that he should not offend those among whom he must live, and other points relevant to this inclination.<sup>8</sup>

Aquinas's solution to the question is that there are many precepts of the natural law, but that this multitude is not a disorganized aggregation but an orderly whole. The precepts are many because the different inclinations' objects, viewed by reason as ends for rationally guided efforts, lead to distinct norms of action. The natural law, nevertheless, is one because each object of inclination obtains its role in practical reason's legislation only insofar as it is subject to practical reason's way of determining action — by prescribing how ends are to be attained.<sup>9</sup>

Now we must examine this response more carefully.

In the first paragraph Aquinas restates the analogy between precepts of natural law and first principles of theoretical reason. The latter are principles of demon-

<sup>8</sup> S.T. 1-2, q. 94, a. 2, c. The translation is my own; the paragraphing is added. The two fullest commentaries on this article that I have found are J. B. Schuster, S.J., *Von den ethischen Prinzipien: Eine Thomasstudie zu S. Th.*, I-II, q. 94, a. 2, 57 ZEITSCHRIFT FÜR KATHOLISCHE THEOLOGIE 44-65 (1933) and MICHAEL V. MURRAY, S.J., PROBLEMS IN ETHICS 220-235 (New York, 1960). See also Van Overbeke, *op. cit. supra* note 3, at 450-58; Gregory Stevens, O.S.B., *The Relations of Law and Obligation*, 29 PROCEEDINGS OF THE AMERICAN CATHOLIC PHILOSOPHICAL ASSOCIATION 195-205 (1955). Many useful points have been derived from each of these sources for the interpretation developed below.

<sup>9</sup> After giving this response to the issue, Aquinas answers briefly each of the three introductory arguments. All of them tended to show that natural law has but one precept. To the first argument, based on the premises that law itself is a precept and that natural law is one, Aquinas answers that the many precepts of the natural law are unified *in relation* to the primary principle. To the second argument, that man's lower nature must be represented if the precepts of the law of nature are diversified by the parts of human nature, Aquinas unhesitatingly answers that all parts of human nature are represented in natural law, for the inclination of each part of man belongs to natural law insofar as it falls under a precept of reason; in this respect all the inclinations also fall under the one first principle. To the third argument, that law belongs to reason and that reason is one, Aquinas responds that reason indeed is one in itself, and yet that natural law contains many precepts because reason directs everything which concerns man, who is complex. Each of these three answers merely reiterates the response to the main question.

stration in systematic sciences such as geometry. From the outset, Aquinas speaks of "precepts" in the plural. The first paragraph implies that only self-evident principles of practical reason belong to natural law; Aquinas is using "natural law" here in its least extensive sense.<sup>10</sup> It is clear already at this point that Aquinas counts many self-evident principles among the precepts of the law of nature, and that there is a mistake in any interpretation of his theory which reduces all but one of the precepts to the status of conclusions.<sup>11</sup>

In the second paragraph of the response Aquinas clarifies the meaning of "self-evident." His purpose is not to postulate a peculiar meaning for "self-evident" in terms of which the basic precepts of natural law might be self-evident although no one in fact knew them.<sup>12</sup> That Aquinas did not have this in mind appears at the beginning of the third paragraph, where he begins to determine the priorities among those things "which fall within the grasp of everyone." No doubt there are some precepts not everyone knows although they are objectively self-evident—for instance, precepts concerning the relation of man to God: *God should be loved above all, and: God should be obeyed before all.* Man can be ignorant of these precepts because God does not fall within our grasp so that the grounds of his lovability and authority are evident to everybody.<sup>13</sup> However, basic principles of natural law on the whole, and particularly the precepts mentioned in this response, are self-evident to all men.

<sup>10</sup> In other texts he considers conclusions drawn from these principles also to be precepts of natural law—e.g., S.T. 1-2, q. 94, a. 4, ad 1. This point is merely lexicographical, yet it has caused some confusion—for instance, concerning the relationship between natural law and the law of nations, for sometimes Aquinas contradistinguishes the two while sometimes he includes the law of nations in natural law. See LOTTIN, *op. cit. supra* note 3, at 61-73.

<sup>11</sup> A careful reading of this paragraph also excludes another interpretation of Aquinas's theory of natural law—that proposed by Jacques Maritain. *MAN AND THE STATE* 84-94 (Chicago, 1951), is the most complete expression in English of Maritain's recent view. His position has undergone some development in its various presentations. Maritain suggests that natural law does not itself fall within the category of knowledge; he tries to give it a status independent of knowledge so that it can be the object of gradual discovery. He also claims that man's knowledge of natural law is not conceptual and rational, but instead is by inclination, connaturality, or congeniality. However, Aquinas does not present natural law as if it were an object known or to be known; rather, he considers the precepts of practical reason themselves to be natural law. Thus the principles of the law of nature cannot be *potential* objects of knowledge, unknown but waiting in hiding, fully formed and ready for discovery. Moreover, the fact that the precepts of natural law are viewed as self-evident principles of practical reason excludes Maritain's account of our knowledge of them. For Aquinas, there is no nonconceptual intellectual knowledge: *DE VERITATE*, q. 4, a. 2, ad 5. How misleading Maritain's account of the knowledge of natural law is, so far as Aquinas's position is concerned, can be seen by examining some studies based on Maritain: Kai Nielsen, *An Examination of the Thomistic Theory of Natural Moral Law*, 4 *NATURAL LAW FORUM* 47-50 (1959); PAUL RAMSEY, *NINE MODERN MORALISTS* 215-223 (Englewood Cliffs, N.J., 1962). Nielsen was not aware, as Ramsey was, that Maritain's theory of knowledge of natural law should not be ascribed to Aquinas.

<sup>12</sup> Nielsen, *op. cit. supra* note 11, at 50-52, apparently misled by Maritain, follows this interpretation. At any rate Nielsen's implicit supposition that the natural law for Aquinas must be formally identical with the eternal law is in conflict with Aquinas's notion of participation according to which the participation is *never* formally identical with that in which it participates.

<sup>13</sup> Thus Aquinas remarks (S. T. 1-2, q. 100, a. 3, ad 1) that the precept of charity is "self-evident to human reason, either by nature or by faith," since a knowledge of God

Why, then, has Aquinas introduced the distinction between objective self-evidence and self-evidence to us? I think he does so simply to clarify the meaning of "self-evident," for he wishes to deal with practical principles that are self-evident in the latter, and fuller, of the two possible senses.

Self-evidence in fact has two aspects. On the one hand, a principle is not self-evident if it can be derived from some prior principle, which provides a foundation for it. On the other hand, a principle is not useful as a starting point of inquiry and as a limit of proof unless its underivability is known. The objective aspect of self-evidence, underivability, depends upon the lack of a middle term which might connect the subject and predicate of the principle and supply the cause of its truth. In other words, the reason for the truth of the self-evident principle is what is directly signified by it, not any extrinsic cause. The subjective aspect of self-evidence, recognition of underivability, requires that one have such an adequate understanding of what is signified by the principle that no mistaken effort will be made to provide a derivation for it.

Aquinas expresses the objective aspect of self-evidence by saying that the predicate of a self-evident principle belongs to the intelligibility of the subject, and he expresses the subjective aspect of self-evidence in the requirement that this intelligibility not be unknown. These remarks may have misleading connotations for us, for we have been conditioned by several centuries of philosophy in which analytic truths (truths of reason) are opposed to synthetic truths (truths of fact). Only truths of reason are supposed to be necessary, but their necessity is attributed to meaning which is thought of as a quality inherent in ideas in the mind. Only truths of fact are supposed to have any reference to real things, but all truths of fact are thought to be contingent, because it is assumed that all necessity is rational in character. Thus the modern reader is likely to wonder: "Are Aquinas's self-evident principles analytic or synthetic?" Of course, there is no answer to this question in Aquinas's terms. He does not accept the dichotomy between mind and material reality that is implicit in the analytic-synthetic distinction. Nor does he merely insert another bin between the two, as Kant did when he invented the synthetic a priori. Rather, Aquinas proceeds on the supposition that meanings derive from things known and that experienced things themselves contain a certain degree of intelligible necessity.<sup>14</sup>

Thus, "the predicate belongs to the intelligibility of the subject" does not mean that one element of a complex meaning is to be found among others within the complex. But does not Aquinas imagine the subject as if it were a container full of units of meaning, each unit a predicate? No, he thinks of the subject and the predicate as complementary aspects of a unified knowledge of a single objective dimension of the reality known. An object of consideration ordinarily belongs to the world of experience, and all the aspects of our knowledge of that object are grounded in that experience. For example, both subject and predicate of the proposition, *Rust is an oxide*, are based on experience. We

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sufficient to form the natural law precept of charity can come from either natural knowledge or divine revelation.

<sup>14</sup> A useful guide to Aquinas's theory of principles is PETER HOENEN, S.J., *REALITY AND JUDGMENT ACCORDING TO ST. THOMAS* (Chicago, 1952).

do not discover the truth of the principle by analyzing the meaning of "rust"; rather we discover that oxide belongs to the intelligibility of rust by coming to see that this proposition is a self-evident (underivable) truth.

But in this discussion I have been using the word "intelligibility" (*ratio*) which Aquinas uses both in this paragraph and later in the response. Here he says that in a self-evident principle the predicate belongs to the intelligibility of the subject; later he says that good belongs to the intelligibility of end and that end belongs to the intelligibility of good. I have just said that oxide belongs to the intelligibility of rust. Now what is an intelligibility?

It is not merely the meaning with which a word is used, for someone may use a word, such as "rust," and use it correctly, without understanding all that is included in its intelligibility. On the other hand, the intelligibility does not include all that belongs to things denoted by the word, since it belongs to one bit of rust to be on my car's left rear fender, but this is not included in the intelligibility of rust. One might translate *ratio* as "essence"; yet every word expresses some intelligibility, while not every word signifies essence. Thus "good" does not signify an essence, much less does "nonbeing," but both express intelligibilities.<sup>15</sup>

An intelligibility is all that would be included in the meaning of a word that is used correctly if the things referred to in that use were fully known in all ways relevant to the aspect then signified by the word in question. Thus the intelligibility includes the meaning with which a word is used, but it also includes whatever increment of meaning the same word would have in the same use if what is denoted by the word were more perfectly known. An intelligibility need not correspond to any part or principle of the object of knowledge, yet an intelligibility is an aspect of the partly known and still further knowable object. We may imagine an intelligibility as an intellect-sized bite of reality, a bite not necessarily completely digested by the mind. An intelligibility includes the meaning and potential meaning of a word uttered by intelligence about a world whose reality, although naturally suited to our minds, is not in itself cut into pieces — intelligibilities. These *we* distinguish and join in the processes of analysis and synthesis which constitute our rational knowing.

Hence part of an intelligibility may escape us without our missing all of it. The child who knows that rust is on metal has grasped one self-evident truth about rust, for metal does belong to the intelligibility of rust. The same child may not know that rust is an oxide, although oxide also belongs to the intelligibility of rust.

The important point to grasp from all this is that when Aquinas speaks of self-evident principles of natural law, he does not mean tautologies derived by mere conceptual analysis — for example: *Stealing is wrong*, where "stealing" means the *unjust* taking of another's property. Rather, he means the principles of practical inquiry which also are the limits of practical argument — a set of underivable principles for practical reason. To function as principles, their status as underivables must be recognized, and this recognition depends upon

<sup>15</sup> On "ratio" see ANDRÉ HAYEN, S.J., *L'INTENTIONNEL SELON SAINT THOMAS 175-194* (2nd ed., Bruges, Bruxelles, Paris, 1954).



a sufficient understanding of their terms, i.e., of the intelligibilities signified by those terms.

In the third paragraph Aquinas begins to apply the analogy between the precepts of the natural law and the first principles of demonstrations. *Being* is the basic intelligibility; it represents our first discovery about anything we are to know — that it is *something* to be known. The first principle, expressed here in the formula, “To affirm and simultaneously to deny is excluded,” is the one sometimes called “the principle of contradiction” and sometimes called “the principle of noncontradiction”: *The same cannot both be and not be at the same time and in the same respect*. In this more familiar formulation it is clearer that the principle is based upon being and nonbeing, for it is obvious that what the principle excludes is the identification of being with nonbeing. The objective dimension of the reality of beings that we know in knowing this principle is simply the definiteness that is involved in their very objectivity, a definiteness that makes a demand on the intellect knowing them, the very least demand — to think consistently of them.<sup>16</sup>

To say that all other principles are based on this principle does not mean that all other principles are derived from it by deduction. In fact the principle of contradiction does not directly enter into arguments as a premise except in the case of arguments *ad absurdum*.<sup>17</sup> Rather, this principle is basic in that it is given to us by our most primitive understanding. All other knowledge of anything adds to this elementary appreciation of the definiteness involved in its very objectivity, for any further knowledge is a step toward giving some intelligible character to this definiteness, i.e., toward defining things and knowing them in their wholeness and their concrete interrelations. But the first principle all the while exercises its unobtrusive control, for it drives the mind on toward judgment, never permitting it to settle into inconsistent muddle.

In the fourth paragraph Aquinas states that *good* is the primary intelligibility to fall under practical reason, and he explains why this is so. On the analogy he is developing, he clearly means that nothing can be understood by practical reason without the intelligibility of *good* being included in it.

Now what is practical reason? Is it simply knowledge sought for practical purposes? No, Aquinas considers practical reason to be the mind playing a certain role, or functioning in a certain capacity, the capacity in which it is “directed to a work.” Direction to work is intrinsic to the mind in this capacity; direction qualifies the very functioning of the mind. Practical reason is the mind working as a principle of action, not simply as a recipient of objective reality. It is the mind charting what is to be, not merely recording what already is.

It is easy to imagine that to know is to picture an object in one’s mind, but this conception of knowledge is false. Even for purely theoretical knowledge, to know is a fulfillment reached by a development through which one comes to share in a spiritual way the characteristics and reality of the world which is

<sup>16</sup> IN LIBROS METAPHYSICORUM ARISTOTELIS lib. 4, lect. 6.

<sup>17</sup> IN LIBROS POSTERIORUM ANALYTIICORUM ARISTOTELIS lib. 1, lect. 20.

known. Knowledge is a unity between man knowing and what he knows. In the case of theoretical knowledge, the known has the reality which is shared before the knower comes to share in it—in theory the mind must conform to facts and the world calls the turn. In practical knowledge, on the other hand, the knower arrives at the destination first; and what is known will be altered as a result of having been thought about, since the known must conform to the mind of the knower. The mind uses the power of the knower to see that the known will conform to it; the mind calls the turn.

Yet it would be a mistake to suppose that practical knowledge, because it is prior to its object, is independent of experience. Even in theoretical knowledge, actual understanding and truth are not discovered in experience and extracted from it by a simple process of separation. Experience *can be* understood and truth *can be* known about the things of experience, but understanding and truth attain a dimension of reality that is not actually contained within experience, although experience touches the surface of the same reality. In theoretical knowledge, the dimension of reality that is attained by understanding and truth is realized already in the object of thought, apart from our thought of it. Our minds use the data of experience as a bridge to cross into reality in order to grasp the more-than-given truth of things.

Practical knowledge also depends on experience, and of course the intelligibility of *good* and the truth attained by practical knowledge are not given in experience. But the practical mind is unlike the theoretical mind in this way, that the intelligibility and truth of practical knowledge do not attain a dimension of reality already lying beyond the data of experience ready to be grasped through them. No, practical knowledge refers to a quite different dimension of reality, one which is indeed a possibility through the given, but a possibility which must be realized, if it is to be actual at all, through the mind's own direction. The theoretical mind crosses the bridge of the given to raid the realm of being; there the mind can grasp everything, actual or possible, whose reality is not conditioned upon the thought and action of man. The practical mind also crosses the bridge of the given, but it bears gifts into the realm of being, for practical knowledge contributes that whose possibility, being opportunity, requires human action for its realization.

When I think that there should be more work done on the foundations of specific theories of natural law, such a judgment is practical knowledge, for the mind requires that the situation it is considering change to fit its demands rather than the other way about. Practical reason does not have its truth by conforming to what it knows, for what practical reason knows does not have the being and the definiteness it would need to be a standard for intelligence. Only after practical reason thinks does the object of its thought begin to be a reality. Practical reason has its truth by anticipating the point at which something that is possible through human action will come into conformity with reason, and by directing effort toward that point.<sup>18</sup>

<sup>18</sup> S. T. 1, q. 79, a. 11; 1-2, q. 57, aa. 4-5; 3, q. 78, a. 5, c.; IN LIBROS ETHICORUM ARISTOTELIS lib. 1, lect. 1. See JOHN E. NAUS, S.J., THE NATURE OF THE PRACTICAL INTELLECT ACCORDING TO SAINT THOMAS AQUINAS (Roma, 1959).

Now if practical reason is the mind functioning as a principle of action, it is subject to all the conditions necessary for every active principle. One of these is that every active principle acts on account of an end. An active principle is going to bring about something or other, or else it would not be an active principle at all. It is necessary for the active principle to be oriented toward that something or other, whatever it is, if it is going to be brought about. This orientation means that at the very beginning an action must have definite direction and that it must imply a definite limit.<sup>19</sup>

There are two ways of misunderstanding this principle that make nonsense of it. One is to suppose that it means anthropomorphism, a view at home both in the primitive mind and in idealistic metaphysics. If every active principle acts *on account of an end*, so the anthropomorphic argument goes, then it must act *for the sake of a goal*, just as men do when they act with a purpose in view. But the generalization is illicit, for acting with a purpose in view is only one way, the specifically human way, in which an active principle can have the orientation it needs in order to begin to act. The other misunderstanding is common to mathematically minded rationalists, who project the timelessness and changelessness of formal system onto reality, and to empiricists, who react to rationalism without criticizing its fundamental assumptions. The rationalist, convinced that reality is unchangeable, imagines that the orientation present in an active principle must not refer to real change, and so he reduces this necessary condition of change to the status of something which stably is at a static moment in time. What is at a single moment, the rationalist thinks, is stopped in its flight, so he tries to treat every relationship of existing beings to their futures as comparisons of one *state* of affairs to another. It is the rationalistic assumptions in the back of his mind that make the empiricist try to reduce dispositional properties to predictions about future states.

Let us imagine a teaspoonful of sugar held over a cup of hot coffee. It is nonsense to claim that the solubility of the sugar merely means that it will dissolve. Solubility is true of the sugar *now*, and yet this property is unlike those which characterize the sugar as to what it actually is already, for solubility characterizes it with reference to a process in which it is *suited to be* involved. The orientation of an active principle toward an end is like that — it is a real aspect of dynamic reality. In the case of practical reason, acting on account of an end is acting for the sake of a goal, for practical reason is an active principle that is conscious and self-determining. Purpose in view, then, is a real aspect of the dynamic reality of practical reason, and a necessary condition of reason's being practical.

But must every end involve good? In some senses of the word "good" it need not. Not all outcomes are ones we want or enjoy. But if "good" means that toward which each thing tends by its own intrinsic principle of orientation, then for each active principle the end on account of which it acts also is a good for it, since nothing can act with definite orientation except on account of something toward which, for its part, it tends. And, in fact, *tendency toward* is more basic than *action on account of*, for every active principle tends toward what its

<sup>19</sup> S. T. 1-2, q. 1, a. 2; SUMMA CONTRA GENTILES 3, c. 2.

action will bring about, but not every tending ability goes into action on account of the object of its tendency.

Practical reason, therefore, presupposes good. In its role as active principle the mind must think in terms of what can be an object of tendency. In other terms the mind can think, but then it will not set out to cause what it thinks. If the mind is to work toward unity with what it knows by conforming the known to itself rather than by conforming itself to the known, then the mind must think the known under the intelligibility of the good, for it is only as an object of tendency and as a possible object of action that what is to be through practical reason has any reality at all. Thus it is that good first falls within the grasp of practical reason just as being first falls within the unrestricted grasp of the mind.

In the fifth paragraph Aquinas enunciates the first principle of practical reason and indicates the way in which other evident precepts of the law of nature are founded on it.

He points out, to begin with, that the first principle of practical reason must be based on the intelligibility of good, by analogy with the primary theoretical principle which is based on the intelligibility of being. The intelligibility of good is: *what each thing tends toward*. This formula is a classic expression of what the word "good" means.<sup>20</sup> Of course, we often mean more than this by "good," but any other meaning at least includes this notion. "Good is what each thing tends toward" is not the formula of the first principle of practical reason, then, but merely a formula expressing the intelligibility of good.<sup>21</sup> "First principle of practical reason" and "first precept of the law" here are practically synonyms; their denotation is the same, but the former connotes derived practical knowledge while the latter connotes rationally guided action.

Until the object of practical reason is realized, it exists only in reason and in the action toward it that reason directs. Now since any object of practical reason first must be understood as an object of tendency, practical reason's first step in effecting conformity with itself is to direct the doing of works in pursuit of an end. Just as the principle of contradiction expresses the definiteness which is the first condition of the objectivity of things and the consistency which is the first condition of theoretical reason's conformity to reality, so the first principle of practical reason expresses the imposition of tendency, which is the first condition of reason's objectification of itself, and directedness or intentionality,

<sup>20</sup> ETHICA NICOMACHEA bk. 1, 1094<sup>b</sup>3.

<sup>21</sup> D. O'Donoghue, *The Thomist Conception of Natural Law*, 22 IRISH THEOLOGICAL QUARTERLY 101 (also, p. 107, n. 3) (1955), holds that Aquinas means that "Good is what all things tend toward" is the first principle of practical reason, and so Fr. O'Donoghue wishes to distinguish this from the first precept of natural law. However, Aquinas actually says: "Et ideo primum principium in ratione practica est quod fundatur supra rationem boni, quae est, *Bonum est quod omnia appetunt*." S. T., 1-2, q. 94, a. 2, c. Fr. O'Donoghue must read "quae" as if it refers to "primum principium," whereas it can only refer to "rationem boni." The *primum principium* is identical with the first precept mentioned in the next line of text, while the *ratio boni* is not a principle of practical reason but a quasi definition of "good," and as such a principle of understanding. The principle of contradiction is likewise founded on the *ratio* of being, but no formula of this *ratio* is given here.

which is the first condition for conformity to mind on the part of works and ends. A sign that intentionality or directedness is the first condition for conformity to practical reason is the expression of imputation: "He acted on purpose, intentionally."

In forming this first precept practical reason performs its most basic task, for it simply determines that whatever it shall think about must at least be set on the way *to something* — as it must be if reason is to be able to think of it practically. Any other precept will add to this first one; other precepts determine precisely what the direction is and what the starting point must be if that direction is to be followed out. The first principle of practical reason thus gives us a way of interpreting experience; it provides an outlook in terms of which subsequent precepts will be formed, for it lays down the requirement that every precept must prescribe, just as the first principle of theoretical reason is an awareness that every assent posits. Awareness of the principle of contradiction demands consistency henceforth; one must posit in assenting, and thought cannot avoid the position assenting puts it in. Similarly, the establishment of the first precept of practical reason determines that there shall be direction henceforth. In prescribing we must direct, and we cannot reasonably avoid carrying out in reality the intelligibility which reason has conceived.

Practical reason, equipped with the primary principle it has formed, does not spin the whole of natural law out of itself. It is true that if "natural law" refers to all the general practical judgments reason can form, much of natural law can be derived by reasoning. But reason needs starting points. And it is with these starting points that Aquinas is concerned at the end of the fifth paragraph. The primary precepts of practical reason, he says, concern the things-to-be-done that practical reason naturally grasps as human goods, and the things-to-be-avoided that are opposed to those goods.

Of course, we can be conditioned to enjoy perverse forms of indulgence, but we could not be conditioned if we did not have, not only at the beginning but also as an underlying constant throughout the entire learning process, an inclination toward pleasure. We can be taught the joys of geometry, but that would be impossible if we did not have natural curiosity that makes us appreciate the point of asking a question and getting an answer. Our personalities are largely shaped by acculturation in our particular society, but society would never affect us if we had no basic aptitude for living with others. The infant learns to feel guilty when mother frowns, because he *wants* to please.

Practical reason's task is to direct its object toward the point at which it will attain the fullness of realization that is conceived by the mind before it is delivered into the world. But in directing its object, practical reason presides over a development, and so it must use available material. Hence the basic precepts of practical reason accept the possibilities suggested by experience and direct the objects of reason's consideration toward the fulfillments taking shape in the mind.

In the sixth paragraph Aquinas explains how practical reason forms the basic principles of its direction. The primary precept provides a point of view

from which experience is considered. Within experience we have tendencies which make themselves felt; they point their way toward appropriate objects. These inclinations are part of ourselves, and so their objects are human goods. Before intelligence enters, man acts by sense spontaneity and learns by sense experience. Thus in experience we have a basis upon which reason can form patterns of action that will further or frustrate the inclinations we feel.

We can reflect upon and interpret our experience in a purely theoretical frame of mind. In that case we simply observe that we have certain tendencies that are more or less satisfied by what we do. However, when the question concerns what we shall do, the first principle of practical reason assumes control and immediately puts us in a nontheoretical frame of mind. This principle provides us with an instrument for making another kind of sense of our experience. The object of a tendency becomes an objective which is to be imposed by the mind as we try to make the best of what faces us by bringing it into conformity with practical truth. Practical reason is mind directed to direct and it directs as it can. But it can direct only toward that for which man can be brought to act, and that is either toward the objects of his natural inclinations or toward objectives that derive from these. If practical reason ignored what is given in experience, it would have no power to direct, for what-is-to-be cannot come from nothing. The direction of practical reason presupposes possibilities on which reason can get leverage, and such possibilities arise only in reflection upon experience. The leverage reason gets on these possibilities is expressed in the basic substantive principles of natural law.

At the beginning of paragraph six Aquinas seems to have come full circle, for the opening phrase here, "good has the intelligibility of end," simply reverses the last phrase of paragraph four: "end includes the intelligibility of good." There is a circle here, but it is not vicious; Aquinas is clarifying, not demonstrating. In the fourth paragraph he is pointing out that the need for practical reason, as an active principle, to think in terms of end implies that its first grasp on its objects will be of them as good, since any objective of action must first be an object of tendency. Now in the sixth paragraph he is indicating the basis on which reason primarily prescribes as our natural inclinations suggest. Is reason merely an instrument in the service of nature, accepting what nature indicates as good by moving us toward it? No, the derivation is not direct, and the position of reason in relation to inclination is not merely passive. Using the primary principle, reason reflects on experience in which the natural inclinations are found pointing to goods appropriate to themselves. But why does reason take these goods as its own? Not because they are given, but because reason's good, which is intelligible, contains the aspect of end, and the goods to which the inclinations point are prospective ends. Reason prescribes according to the order of natural inclinations because reason directs to possible actions, and the possible patterns of human action are determined by the natural inclinations, for man cannot act on account of that toward which he has no basis for affinity in his inclinations.

The seventh and last paragraph of Aquinas's response is very rich and interest-

ing, but the details of its content are outside the scope of this paper. Here Aquinas indicates how the complexity of human nature gives rise to a multiplicity of inclinations, and these to a multiplicity of precepts. It is noteworthy that in each of the three ranks he distinguishes among an aspect of nature, the inclination based upon it, and the precepts that are in accordance with it. Nature is not natural law; nature is the given from which man develops and from which arise tendencies of ranks corresponding to its distinct strata. These tendencies are not natural law; the tendencies indicate possible actions, and hence they provide reason with the point of departure it requires in order to propose ends. The precepts of reason which clothe the objects of inclinations in the intelligibility of ends-to-be-pursued-by-work — these precepts *are* the natural law. Thus natural law has many precepts which are unified in this, that all of these precepts are ordered to practical reason's achievement of its own end, the direction of action toward end.

## II

There is one obvious difference between the two formulae, "Do good and avoid evil," and "Good is to be done and pursued, and evil is to be avoided." That difference is the omission of *pursuit* from the one, the inclusion of it in the other. The mistaken interpretation of Aquinas's theory of natural law overlooks the place of final causality in his position and restricts the meaning of "good" and "evil" in the first principle to the quality of moral actions. In this section I wish to clarify this point, and the lack of "prosequendum" in the non-Thomistic formula is directly relevant.

We have seen how important the conception of end, or final causality, is to Aquinas's understanding of natural law. Practical reason understands its objects in terms of good because, as an active principle, it necessarily acts on account of an end. Practical reason prescribes precisely in view of ends. The first precept is that all subsequent direction must be in terms of intelligible goods, i.e., ends toward which reason can direct.

Nevertheless, a theory of natural law, such as I sketched at the beginning of this paper, which omits even to mention final causality, sometimes has been attributed to Aquinas. Thus to insure this fundamental point, it will be useful to examine the rest of the treatise on law in which the present issue arises.

In defining law, Aquinas first asks whether law is something belonging to reason. His response, justly famous for showing that his approach to law is intellectualistic rather than voluntaristic, may be summarized as follows. The end is the first principle in matters of action; reason orders to the end; therefore, reason is the principle of action. The principle in action is the rule of action; therefore, reason is the rule of action. The rule of action binds; therefore, reason binds. But binding is characteristic of law; therefore, law pertains to reason.<sup>22</sup> From this argument we see that the notion of end is fundamental to Aquinas's conception of law, and the priority of end among principles of action is the most basic reason why law belongs to reason.

In the next article, Aquinas adds another element to his definition by asking

<sup>22</sup> S. T. 1-2, q. 90, a. 1, c.

whether law always is ordained to the common good. His response is that law, as a rule and measure of human acts, belongs to their principle, reason. But in reason itself there is a basic principle, and the first principle of practical reason is the ultimate end. Since the ultimate end is a common good, law must be ordained to the common good.<sup>23</sup> What is noteworthy here is Aquinas's assumption that the first *principle* of practical reason is the last *end*. The good of which practical reason prescribes the pursuit and performance, then, primarily is the last end, for practical reason cannot direct the possible actions which are its objects without directing them to an end.

Thus we see that final causality underlies Aquinas's conception of what law is. But it is central throughout the whole treatise. In the treatise on the Old Law, for example, Aquinas takes up the question whether this law contains only a single precept. His response is that since precepts oblige, they are concerned with duties, and duties derive from the requirements of an end. Hence it belongs to the very intelligibility of precept that it direct to an end. Since the Old Law directs to a single end, it is one in this respect; but since many things are necessary or useful to this end, precepts are multiplied by the distinction of matters that require direction.<sup>24</sup> Again, what is to be noticed in this response is that Aquinas's whole understanding of law clearly depends on final causality. Obligation is a strictly derivative concept, with its origin in ends and the requirements set by ends.<sup>25</sup> If natural law imposes obligations that good acts are to be done, it is only because it primarily imposes with rational necessity that an end must be pursued.

In his youthful commentary on Lombard's *Books of Sentences*, Aquinas goes so far as to consider the principles of practical reason — which he already compares to the principles of demonstrations — to be so many innate natural ends.<sup>26</sup> He remarks that the habit of these ends is synderesis, which is the habit of the principles of the natural law.<sup>27</sup> Hence in this early work he is saying that the natural law is precisely the ends to which man is naturally inclined insofar as these ends are present in reason as principles for the rational direction of action.

Later in the same work Aquinas explicitly formulates the notion of the law of nature for the first time in his writings. Why are the principles of practical reason called "natural law"? Precisely because man knows the intelligibility of end and the proportion of his work to end. Suitability of action is not to a static nature, but to the ends toward which nature inclines. Evil is not explained ultimately by opposition to law, but opposition to law by unsuitability of action to end. This early treatment of natural law is saturated with the notion of end.<sup>28</sup>

So far as I have been able to discover, Aquinas was the first to formulate the primary precept of natural law as he did. Lottin informs us that already with

<sup>23</sup> S.T. 1-2, q. 90, a. 2, c.

<sup>24</sup> *Id.* at q. 99, a. 1, c.

<sup>25</sup> See Stevens, *op. cit. supra* note 8, at 202-205.

<sup>26</sup> SUPER LIBROS SENTENTiarUM PETRI LOMBARDI bk. 3, d. 33, q. 2, a. 4, q'la. 4, c. (ed. Mardonnet-Moos, Paris, 1929-1947).

<sup>27</sup> See LOTTIN, *op. cit. supra* note 3, at 68-73.

<sup>28</sup> SUPER LIBROS SENTENTiarUM PETRI LOMBARDI bk. 4, d. 33, q. 1, a. 1, c. (in ST. THOMAS, 7 OPERA, Putina ed., 1852-1873).



Stephen of Tournai, around 1160, there is a definition of natural law as an innate principle for doing good and avoiding evil.<sup>29</sup> While this is a definition rather than a formulation of the first principle, it is still interesting to notice that it does not include *pursuit*. In fact, several authors to whom Lottin refers seem to think of natural law as a principle of choice; and if the good and evil referred to in their definitions are properly objects of choice, then it is clear that their understanding of natural law is limited to its bearing upon moral good and evil — the value immanent in action — and that they simply have no idea of the relevance of good as end — a principle of action that transcends action.<sup>30</sup> William of Auxerre's position is particularly interesting. He not only omits any mention of end, but he excludes experience from the formation of natural law, so that the precepts of natural law seem to be for William pure intuitions of right and wrong.<sup>31</sup>

Thus it is clear that Aquinas emphasizes end as a principle of natural law. But it is also clear that the end in question cannot be identified with moral goodness itself.

To begin with, Aquinas specifically denies that the ultimate end of man could consist in morally good action. Moral action, and that upon which it immediately bears, can be directed to ulterior goods, and for this very reason moral action cannot be the absolutely ultimate end.<sup>32</sup> Moreover, Aquinas expressly identifies the principles of practical reason with the ends of the virtues preexisting in reason. Prudence is concerned with moral actions which are in fact means to ends, and prudence directs the work of all the moral virtues.<sup>33</sup> Hence the principles of natural law, in their expression of ends, transcend moral good and evil as the end transcends means and obstacles.

This transcendence of the goodness of the end over the goodness of moral action has its ultimate metaphysical foundation in this, that the end of each creature's action can be an end for it only by being a participation in divine goodness. The goodness of God is the absolutely ultimate final cause, just as the power of God is the absolutely ultimate efficient cause.<sup>34</sup> This end, of course, does not depend for realization on human action, much less can it be identified with human action. But moral good and evil are precisely the inner perfection or privation of human action. Hence the end transcends morality and provides an extrinsic foundation for it. This point is of the greatest importance in Aquinas's treatise on the end of man. Aristotle identifies the end of man with virtuous activity,<sup>35</sup> but Aquinas, despite his debt to Aristotle, sees the end of man as the *attainment* of a good. The good in question is God, who altogether transcends human activity. Hence an end for Aquinas has two inseparable aspects — what is attained and the attainment of it. But if these must be distinguished, the end is rather in what is attained than in its attainment.<sup>36</sup>

<sup>29</sup> Lottin, *op. cit. supra* note 3, at 16, n. 1.

<sup>30</sup> *Id.* at 17-18; cf. p. 108, lines 17-27.

<sup>31</sup> *Id.* at 35, n. 2.

<sup>32</sup> *SUMMA CONTRA GENTILES* 3, ch. 34 (ed. C. Pera, P. Murc, P. Caramello, Turin, 1961).

<sup>33</sup> S. T. 2-2, q. 47, a. 6, c.

<sup>34</sup> *SUMMA CONTRA GENTILES* 3, chs. 18-19.

<sup>35</sup> *ETHICA NICOMACHEA* bk. 1, 1098<sup>a</sup>17.

<sup>36</sup> S. T. 1-2, qq. 1-5, esp. q. 2, a. 7.

Nor should it be supposed that the end's transcendence over moral virtue is a peculiarity of the supernatural end. Natural law does not direct man to his supernatural end; in fact, it is precisely because it is inadequate to do so that divine law is needed as a supplement.<sup>37</sup> Or, to put the same thing in another way, not everything contained in the Law and the Gospel pertains to natural law, because many of these points concern matters supernatural.<sup>38</sup> And yet, as we have seen, the principles of natural law are given the status of ends of the moral virtues.

An attentive reading of the last two paragraphs of the response examined above would be by itself sufficient for our present point. The goods in question are objects of man's natural inclinations. These goods are not primarily works that are to be done. Rather, the works are means to ulterior ends: reason grasps the objects of the natural inclinations as goods and so as things-to-be-pursued by work. The works obviously are means to the goods. And what are the objects of the natural inclinations? Not merely morally good acts, but such substantive goods as self-preservation, the life and education of children, and knowledge.

Some interpreters mistakenly ask whether the word "good" in the first principle has a transcendental or an ethical sense.<sup>39</sup> The issue is a false one, for there is no question of extending the meaning of "good" to the amplitude of the transcendentals convertible with "being." The very text clearly indicates that Aquinas is concerned with good as the object of practical reason; hence the goods signified by the "good" of the first principle will be *human* goods. It must be so, since the good pursued by practical reason is an objective of *human* action. But to grant this point is not at all to identify the good in question with moral value, for this particular category of value by no means exhausts human goods. The preservation of human life is certainly a human good. The act which preserves life is not the life preserved; in fact, they are so distinct that it is possible for the act that preserves life to be morally bad while the life preserved remains a human good.

The failure to keep this distinction in mind can lead to chaos in normative ethics. But more important for our present purpose is that this distinction indicates that the good which is to be done and pursued should not be thought of as exclusively the good of moral action. The pursuit of the good which is the end is primary; the doing of the good which is the means is subordinate. The good which is the end is the principle of moral value, and at least in some respects this principle transcends its consequence, just as *being* in a certain respect is a principle (of beings) that transcends even the most fundamental category of beings.<sup>40</sup>

<sup>37</sup> S. T. 1-2, q. 91, a. 4.

<sup>38</sup> *Id.* at q. 94, a. 4, ad 1.

<sup>39</sup> E.g., Schuster, *op. cit. supra* note 8, at 54-55.

<sup>40</sup> Although too long a task to be undertaken here, a full comparison of Aquinas's position to that of Suarez would help to clarify the present point. See WALTER FARRELL, O.P., *THE NATURAL MORAL LAW ACCORDING TO ST. THOMAS AND SUAREZ* 103-155 (Ditchling, 1930). We at least can indicate a few significant passages. Suarez offers a number of formulations of the first principle of the natural law. He manages to treat the issue of the unity or multiplicity of precepts without actually stating the primary precept. De

Aquinas, of course, never takes a utilitarian view of the value of moral action. But his alternative is not the deontologism that assigns to moral value and the perfection of intention the status of absolutes. Utilitarianism is an inadequate ethical theory partly because it overly restricts natural inclination, for it assumes that man's sole determinate inclination is in regard to pleasure and pain. Aquinas recognizes a variety of natural inclinations, including one to act in a rational way.<sup>41</sup> Among the *ends* toward which the precepts of the natural law direct, then, moral value has a place. Hence good human action has intrinsic worth, not merely instrumental value as utilitarianism supposes. Moreover, because the end proposed by the utilitarians is only a psychic state and because utilitarians also hold a mechanistic theory of causality, utilitarianism denies that any kind of action is intrinsically good or bad. Thus actions are considered good or bad only by virtue of extrinsic consequences. Aquinas, on the contrary, understands human action not merely as a piece of behavior but as an object of choice. He considers a whole range of nonpsychic realities to be human goods. His theory of causality does not preclude an intrinsic relationship between acts and ends. Hence he holds that some species of acts are bad in themselves, so that they cannot become good under any circumstances.<sup>42</sup>

In sum, the mistaken interpretation of Aquinas's theory of natural law sup-

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LEGIBUS II, 8, 2. Previously, however, he had given the principle in the formulation: "Good is to be done and evil avoided." *Id.* at II, 7, 2. But there and in a later passage, where he actually mentions *pursuit*, he seems to be repeating received formulae. The formula (*Id.* at II, 15, 2) referring to *pursuit* subordinates it to the avoidance of evil: "Evil is to be avoided and good is to be pursued." Perhaps Suarez's most personal and most characteristic formulation of the primary precept is given where he discusses the scope of natural law. There his formulation of the principle is specifically moralistic: *The upright is to be done and the wrong avoided.* (*Id.* at II, 7, 5: "*Honestum est faciendum, pravum vitandum.*") Here too Suarez suggests that this principle is just one among many first principles; he juxtaposes it with *Do unto others as you would have them do unto you*. As to the end, Suarez completely separates the notion of it from the notion of law. He considers the goodness and badness with which natural law is concerned to be the moral value of acts in comparison with human nature, and he thinks of the natural law itself as a divine precept that makes it possible for acts to have an *additional* value of conformity with the law. *Id.* at II, 6. In neither aspect is the end fundamental. For this reason, too, the natural inclinations are not emphasized by Suarez as they are by Aquinas. Although Suarez mentions the inclinations, he does so while referring to Aquinas. *Id.* at II, 5, 1-2. Before the end of the very same passage Suarez reveals what he really thinks to be the foundation of the precepts of natural law. It is not the inclinations but the quality of actions, a quality grounded on their own "intrinsic character and immutable essence, which in no way depend upon any extrinsic cause or will, any more than does the essence of other things which in themselves involve no contradiction." (We see at the beginning of paragraph 5 that Suarez accepts this position as to its doctrine of "the intrinsic goodness or turpitude of actions," and so as an account of the *foundation* of the natural law precepts, although he does not accept it as an account of natural law, which he considers to require an act of the divine will.) Later Suarez interprets the place of the inclinations in Aquinas's theory. As Suarez sees it, the inclinations are not principles in accordance with which reason forms the principles of natural law; they are only the matter with which the natural law is concerned. *Id.* at II, 8, 4. In other words, in Suarez's mind Aquinas only meant to say of the inclinations that they are subject to natural law. This interpretation simply ignores the important role we have seen Aquinas assign the inclinations in the formation of natural law.

<sup>41</sup> S. T. 1-2, q. 94, a. 3, c.

<sup>42</sup> *Id.* at q. 18, aa. 6-7; SUPER LIBROS SENTENTIARUM PETRI LOMBARDI bk. 2, d. 40, q. 1, aa. 1-2.

poses that the word "good" in the primary precept refers solely to moral good. In fact, it refers primarily to the end which is not limited to moral value. The mistaken interpretation inevitably falls into circularity; Aquinas's real position shows where moral reasoning can begin, for it works from transmoral principles of moral action. The mistaken interpretation offers as a principle: *Do good*. It subsumes actions under this imperative, which limits the meaning of "good" to the good of action. Aquinas suggests as a principle: *Work in pursuit of the end*. This principle enables the good that is an end not only to illuminate but also to enrich with value the action by which it is attained.

### III

The mistaken interpretation of Aquinas's theory suggests that law is essentially a curb upon action. Law is imagined as a command set over against even those actions performed in obedience to it. And of course it is much more opposed to wrong actions. In this section, I propose three respects in which the primary principle of practical reason as Aquinas understands it is broader in scope than this false interpretation suggests. A clearer understanding of the scope of natural law will further unfold the implications of the point treated in the last section; at the same time, it will be a basis for the fourth section.

The mistaken interpretation suggests that natural law is a set of imperatives whose form leaves no room to discriminate among degrees of force to be attached to various precepts. All precepts seem equally absolute; violation of any one of them is equally a violation of the law.

For Aquinas, however, natural law includes counsels as well as precepts. In other words, the first principle refers not only to the good which must be done, but also to the nonobligatory good it would be well to do.

In the article next after the one commented upon above, Aquinas asks whether the acts of all the virtues are of the law of nature. In his response he does not exclude virtuous acts which are beyond the call of duty. He does make a distinction: all virtuous acts as such belong to the law of nature, but particular virtuous acts may not, for they may depend upon human inquiry.<sup>43</sup>

Later, in treating the Old Law, Aquinas maintains that all the moral precepts of the Old Law belong to the law of nature, and then he proceeds to distinguish those moral precepts which carry the obligation of strict precept from those which convey only the warning of counsel.<sup>44</sup> Indeed, in treating natural law in his commentary on the *Sentences*, Aquinas carefully distinguishes between actions fully prohibited because they totally obstruct the attainment of an end and actions restricted because they are obstacles to its attainment. Lottin notices this point. Today, he says, we restrict the notion of law to strict obligations. But Aquinas took a broader view of it, for he understood law as a principle of order which embraces the whole range of objects to which man has a natural inclination. Consequently, when Aquinas wishes to indicate strict

<sup>43</sup> S. T. 1-2, q. 94, a. 3, c.

<sup>44</sup> *Id.* at q. 100, aa. 1-2.

obligation he often uses a special mode of expression to make this idea explicit.<sup>45</sup>

Suarez refers to the passages where Aquinas discusses the scope of the natural law. Although aware that Aquinas includes counsels as well as precepts in natural law, Suarez prefers to limit his concern to matters of strict obligation: "But we properly inquire concerning precepts."<sup>46</sup> It never occurs to Suarez to wonder why he himself narrows the scope Aquinas attributed to law.

The difference between the two points of view is no mystery. Aquinas thinks in terms of the end, and obligation is merely one result of the influence of an intelligible end on reasonable action. "Good" in the first principle, since it refers primarily to the end, includes within its scope not only what is absolutely necessary but also what is helpful, and the opposed evil includes more than the perfect contrary of the good. Like most later interpreters, Suarez thinks that what is morally good or bad depends simply upon the agreement or disagreement of action with nature, and he holds that the obligation to do the one and to avoid the other arises from an imposition of the will of God.<sup>47</sup> Hence "evil" in the first principle of natural law denotes only the actions which definitely disagree with nature, the doing of which is forbidden, and "good" denotes only the actions whose omission definitely disagrees with nature, the doing of which is commanded. An act which falls in neither of these categories is simply of no interest to a legalistic moralist who does not see that moral value and obligation have their source in the end.

Perhaps even more surprising is another respect in which the first practical principle as Aquinas sees it has a broader scope than is usually realized. "Every judgment of practical reason proceeds from naturally known principles."<sup>48</sup> The derivative is from the underived, the underivable principles. In practical reason it is self-evident precepts that are underivable, *natural* law. Not only virtuous and self-restrained men, but also vicious men and backsliders make practical judgments. Indeed, if evildoers lacked practical judgment they could not engage in human action at all.<sup>49</sup> It follows that practical judgments made in evil action nevertheless fall under the scope of the first principle of the natural law, and the word "good" in this principle must refer somehow to deceptive and inadequate human goods as well as to adequate and genuine ones.

It is important, however, to see the precise manner in which the principle, *Good is to be done and pursued*, still rules practical reason when it goes astray. "Good" is not merely a generic expression for whatever anyone may happen to want,<sup>50</sup> for if this were the case there would not be a single first principle but as many first principles as there are basic commitments, and each first principle would provide the major premise for a different system of rules. Still, if "good" denoted only moral goods, either wrong practical judgments could in no way

<sup>45</sup> LOTTIN, *op. cit. supra* note 3, at 75, points out that Aquinas will add to the expression "law of nature" a further word — e.g., "precept" — to express strict obligation.

<sup>46</sup> DE LEGIBUS II, 7, 11.

<sup>47</sup> *Id.* at II, 7.

<sup>48</sup> S. T. 1-2, q. 100, a. 1, c.

<sup>49</sup> See DE MALO q. 3, a. 9, ad 7.

<sup>50</sup> A. G. SERTILLANGES, O.P., *LA PHILOSOPHIE MORALE DE SAINT THOMAS D'AQUIN* 109 (Paris, 1946), seems to fall into this mistaken interpretation.

issue from practical reason or the formula we are examining would not in reality express the first principle of practical reason.

Aquinas mentions this point in at least two places. In one he explains that for practical reason, as for theoretical reason, it is true that false judgments occur. Yet even though such judgments originate in first principles, their falsity is not due to the principles so much as to the bad use of the principles.<sup>51</sup> Similarly he explains in another place that the power of first principles is present in practical misjudgment, yet the defect of the judgment arises not from the principles but from the reasoning through which the judgment is formed.<sup>52</sup>

Just as the principle of contradiction is operative even in false judgments, so the first principle of practical reason is operative in wrong evaluations and decisions. First principles do not sanction error, but of themselves they set only limited requirements. As a disregard of the principle of contradiction makes discourse disintegrate into nonsense, so a disregard of the first principle of practical reason would make action dissolve into chaotic behavior. The insane sometimes commit violations of both principles within otherwise rational contexts, but erroneous judgment and wrong decision need not always conflict with first principles. Hence first principles must be supplemented by other principles and by a sound reasoning process if correct conclusions are to be reached. The first practical principle, as we have seen, requires only that what it directs have intentionality toward an intelligible purpose. The possible underived ends are indicated by the fundamental inclinations which ground appropriate precepts. "Good" in the first principle refers with priority to these underived ends, yet by itself the first principle cannot exclude ends presented in other practical judgments even if their derivation is unsound.

Assumption of a group of principles inadequate to a problem, failure to observe the facts, or error in reasoning can lead to results within the scope of first principles but not sanctioned by them. The first precept directs us to direct our action toward ends within human power, and even immoral action in part fulfills this precept, for even vicious men act for a human good while accepting the violation of more adequate human good. The good which is the object of pursuit can be the principle of the rational aspects of defective and inadequate efforts, but the good which characterizes morally right acts completely excludes wrong ones.

After observing these two respects in which the mistaken interpretation unduly restricts the scope of the first principle of practical reason, we may note also that this principle as Aquinas understands it is not merely a principle of imperative judgments. Rather, it is primarily a principle of actions. Aquinas thinks of law as a set of principles of practical reason related to *actions themselves* just as the principles of theoretical reason are related to *conclusions*.<sup>53</sup> Law is not a constraint upon actions which originate elsewhere and which would flourish better if they were not confined by reason. Law, rather, is a source of actions. Law makes human life possible. Animals behave without law, for they live by

<sup>51</sup> DE VERITATE q. 16, a. 2, ad 6.

<sup>52</sup> SUPER LIBROS SENTENTIARUM PETRI LOMBARDI bk. 2, d. 39, q. 3, a. 1, ad 1.

<sup>53</sup> S. T. 1-2, q. 90, a. 1, ad 2.

instinct without thought and without freedom. Man cannot begin to act as man without law.

The first precept does not say what we *ought* to do in contradistinction to what we *will* do. Opposition between the direction of reason and the response of will can arise only subsequent to the orientation toward end expressed in the first principle. One whose practical premise is, "Pleasure is to be pursued," might reach the conclusion, "Adultery ought to be avoided," without this prohibition becoming a principle of his action. But the first principle of practical reason cannot be set aside in this manner, as we have seen, and so it cannot represent an imposition contrary to the judgment that actually informs our choice.<sup>54</sup> The first principles of practical reason are a source not only for judgments of conscience but even for judgments of prudence; while the former can remain merely speculative and ineffectual, the latter are the very structure of virtuous action.<sup>55</sup>

Throughout history man has been tempted to suppose that wrong action is wholly outside the field of rational control, that it has no principle in practical reason. Naturalism frequently has explained away evil-doing, just as some psychological and sociological theories based on determinism now do. No less subversive of human responsibility, which is based on purposive—and, therefore, rational—agency, is the existentialist notion that morally good and morally bad action are equally reasonable, and that a choice of one or the other is equally a matter of arational arbitrariness. Aquinas's understanding of the first principle of practical reason avoids the dilemma of these contrary positions. The first principle of morally good action is the principle of all human action, but bad action fulfills the requirement of the first principle less perfectly than good action does. If the first principle of practical reason were *Do morally good acts*, then morally bad acts would fall outside the order of practical reason; if *Do morally good acts* nevertheless were the first precept of natural law, and morally bad acts fell within the order of practical reason, then there would be a domain of reason outside natural law. However, since the first principle is *Good is to be done and pursued*, morally bad acts fall within the order of practical reason, yet the principles of practical reason remain identically the principles of natural law. More than correct principles are required, however, if reason is to reach its appropriate conclusion in action toward the good.

The mistaken interpretation of Aquinas's theory of natural law, with its restrictive understanding of the scope of the first practical principle, suggests that before reason comes upon the scene, that whole broad field of action lies open before man, offering no obstacles to his enjoyment of an endlessly rich and satisfying life, but that cold reason with its abstract precepts successively marks section after section of the field out of bounds, progressively enclosing the submissive subject in an ever-shrinking pen, while those who act at the promptings of uninhibited spontaneity range freely over all the possibilities of life. The

<sup>54</sup> For the notion of judgment forming choice see *id.* at q. 13, a. 3.

<sup>55</sup> DE VERITATE q. 17, a. 2; S. T. 2-2, q. 47, a. 6. For a comparison between judgments of prudence and those of conscience see my paper, *The Logic of Moral Judgment*, 26 PROCEEDINGS OF THE AMERICAN CATHOLIC PHILOSOPHICAL ASSOCIATION 67-76, esp. p. 70, n. 7 (1962).

true understanding of the first principle of practical reason suggests on the contrary that the alternative to moral goodness is an arbitrary restriction upon the human goods which can be attained by reasonable direction of life. The first principle of practical reason directs toward ends which make human action possible; by virtue of the first principle are formed precepts that represent every aspect of human nature. Together these principles open to man all the fields in which he can act; rational direction insures that action will be fruitful and that life will be as productive and satisfying as possible. Whatever man may achieve, his action requires at least a remote basis in the tendencies that arise from human nature. Similarly, actual being does not eliminate unrealized possibilities by demanding that they be not only self-consistent but also consistent with what already is; rather, it is partly by this demand that actual being grounds possibility.

#### IV

The mistaken interpretation of Aquinas's theory of natural law considers natural law precepts to be a set of imperatives. In this section I wish to show both that the first principle does not have primarily imperative force and that it is really prescriptive. The distinction between these two modes of practical discourse often is ignored, and so it may seem that to deny imperative force to the primary precept is to remove it from practical discourse altogether and to transform it into a merely theoretical principle. Hence I shall begin by emphasizing the practical character of the principle, and then I shall proceed to clarify its lack of imperative force.<sup>56</sup>

<sup>56</sup> Even those interpreters who usually can be trusted tend to fall into the mistake of considering the first principle of practical reason as if it were fundamentally theoretical. Lottin, for instance, suggests that the first assent to the primary principle is an act of theoretical reason. At first it appears, he says, simply as a truth, a translation into moral language of the principle of identity. A formula of the first judgment of practical reason might be "That which is good, is good — *i.e.*, desirable," or "The good is that which is to be done, the evil is that which is to be avoided." ODON LOTTIN, O.S.B., 1 *PRINCIPES DE MORALE* 22, 122 (Louvain, 1946).

Significant in these formulations are the "that which (*ce qui*)" and the double "is," for these expressions mark the removal of gerundive force from the principal verb of the sentence. Thus Lottin makes the precept appear as much as possible like a theoretical statement expressing a peculiar aspect of the good — namely, that it is the sort of thing that demands doing. Sertillanges also tries to understand the principle as if it were a theoretical truth equivalent to an identity statement. Among his formulations are: "That which is to be done is to be done," and: "The good is an end worth pursuing." SERTILLANGES, *op. cit. supra* note 50, at 102, 109.

Many other authors could be cited: *e.g.*, Stevens, *op. cit. supra* note 8, at 199. They wish to show that the first principle really is a truth, that it really is self-evident. This desire leads them to forget that they are dealing with a precept, and so they try to treat the first principle of practical reason as if it were theoretical. They ignore the peculiar character of practical truth and they employ an inadequate notion of self-evidence. There is a constant tendency to reduce practical truth to the more familiar theoretical truth and to think of undervivability as if it were simply a matter of conceptual identity. These same difficulties underlie Maritain's effort to treat the primary precept as a truth necessary by virtue of the predicate's inclusion of the intelligibility of the subject rather than the reverse. NEUF LEÇONS SUR LES NOTIONS PREMIÈRES DE LA PHILOSOPHIE MORALE 158-160 (Paris, 1951).

Maritain recognizes that "is to be" cannot be derived from the meaning of "good" by analysis. Thinking that the practical principle must be equivalent to a theoretical



The good which is the subject matter of practical reason is an objective possibility, and it could be contemplated. But in that case the principle that will govern the consideration will be that agents necessarily act for ends, not that good is to be done and pursued. For Aquinas, practical reason not only has a peculiar subject matter, but it is related to its subject matter in a peculiar way, for practical reason introduces the order it knows, while theoretical reason adopts the order it finds.<sup>57</sup> The object of the practical intellect is not merely the actions men perform, but the *good which can be directed to realization, precisely insofar as that is a mode of truth*.<sup>58</sup> Practical reason is related to the movement of action as a principle, not as a consequence.<sup>59</sup>

Laws are formed by practical reason as principles of the actions it guides just as definitions and premises are formed by theoretical reason as principles of the conclusions it reaches.<sup>60</sup> A law is an expression of reason just as truly as a statement is, but a statement is an expression of reason asserting, whereas a law is an expression of reason prescribing.<sup>61</sup> The primary principle of practical reason, as we have seen, eminently fulfills these characterizations of law. The principle is formed because the intellect, assuming the office of active principle, accepts the requirements of that role, and demands of itself that in directing action it must really direct. The precept that good is to be sought is genuinely a principle of action, not merely a point of departure for speculation about human life.

The principles of practical reason belong to a logical category quite different from that of theoretical statements: precepts do not inform us of requirements; they express requirements as directions for action. The point of saying that good is to be pursued is not that good is the sort of thing that has or is this peculiar property, obligatoriness—a subtle mistake with which G. E. Moore launched contemporary Anglo-American ethical theory. The point rather is to issue the fundamental directive of practical reason. “Is to be” is the copula of the first practical principle, not its predicate; the gerundive is the mode rather than the matter of law. To know the first principle of practical reason is not to reflect upon the way in which goodness affects action, but to know a good in such a way that in virtue of that very knowledge the known good is ordained toward realization.

But if it is significant that the first principle of practical reason is really a precept and not merely a theoretical statement, it is less clear but equally important that this principle is not an imperative, as the mistaken interpretation of Aquinas's theory considers it to be.

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truth, he suggests that the opposite relationship obtains. The theoretical character of the principle for Maritain is emphasized by his first formulation of it as a metaphysical principle applicable to all good and all action. Only secondarily does he consider it a moral principle applicable to human good and free action. The difference between the two formulations is only in the content considered, not at all in the mode of discourse.

<sup>57</sup> IN LIBROS ETHICORUM AD NICHOMACHUM, lib. 1, lect. 1.

<sup>58</sup> S. T. 1, q. 79, a. 11, ad 2: “*Objectum intellectus practici est bonum ordinabile ad opus, sub ratione veri.*”

<sup>59</sup> *Id.* at ad 1.

<sup>60</sup> S. T. 1-2, q. 90, a. 1, ad 2.

<sup>61</sup> *Id.* at q. 92, a. 2, c.

Of course, so far as grammar alone is concerned, the gerundive form can be employed to express an imperative. However, Aquinas explicitly distinguishes between an imperative and a precept expressed in gerundive form. The imperative not only provides rational direction for action, but it also contains motive force derived from an antecedent act of the will bearing upon the object of the action. The prescription expressed in gerundive form, on the contrary, merely offers rational direction without promoting the execution of the work to which reason directs.<sup>62</sup>

To recognize this distinction is not to deny that law can be expressed in imperative form. At the beginning of his treatise on law, Aquinas refers to his previous discussion of the imperative.<sup>63</sup> Human and divine law are in fact not merely prescriptive but also imperative, and when precepts of the law of nature were incorporated into the divine law they became imperatives whose violation is contrary to the divine will as well as to right reason.

Nevertheless, the first principle of practical reason hardly can be understood in the first instance as an imperative. As we have seen, it is a self-evident principle in which reason prescribes the first condition of its own practical office. On the one hand, the causality of God is not a principle evident to us. On the other hand, the operation of our own will is not a condition for the prescription of practical reason; the opposite rather is the case.

Aquinas's theological approach to natural law primarily presents it as a participation in the eternal law. This fact has helped to mislead many into supposing that natural law must be understood as a divine imperative. Of course, Aquinas holds that God's will is prior to the natural law, since the natural law is an aspect of human existence and man is a free creation of God. But Aquinas does not describe natural law as eternal law passively received in man; he describes it rather as a participation in the eternal law. This participation is necessary precisely insofar as man shares the grand office of providence in directing his own life and that of his fellows.<sup>64</sup> Every participation is really distinct from that in which it participates—a principle evidently applicable in this case, for the eternal law is God while the law of nature is a set of precepts.

From man's point of view, the principles of natural law are neither received from without nor posited by his own choice; they are naturally and necessarily known, and a knowledge of God is by no means a condition for forming self-evident principles, unless those principles happen to be ones that especially

<sup>62</sup> *Id.* at q. 17, a. 1.

<sup>63</sup> *Id.* at q. 90, a. 1, *sed contra*, ad 3; q. 91, a. 2, ad 2. But these references should not be given too much weight, since they refer to the article previously cited in which the distinction is made explicitly. Although arguments based on what the text does not say are dangerous, it is worth noticing that Aquinas does not define law as *an imperative for the common good*, as he easily could have done if that were his notion, but as *an ordinance of reason for the common good etc.* *Id.* at q. 90, a. 4, c.

<sup>64</sup> O'Donoghue (*op. cit. supra* note 21) tries to clarify this point, and does in fact help considerably toward the removal of misinterpretations. Still, his work is marked by a misunderstanding of practical reason, so that precept is equated with imperative (p. 95) and will is introduced in the explanation of the transition from theory to practice. (p. 101) FARRELL (*op. cit. supra* note 40), by a full and careful comparison of Aquinas's and Suarez's theories of natural law, clarifies the essential point very well, without suggesting that natural law is human legislation, as O'Donoghue seems to think.

concern God.<sup>65</sup> Moreover, Aquinas simply does not understand the eternal law itself as if it were an imposition of the divine will upon creation;<sup>66</sup> and even if he did understand it in this way, no such imposition would count for human judgment except in virtue of a practical principle to the effect that the divine will deserves to be followed. Without such a foundation God might *compel behavior* but he could never *direct human action*.

Nor is any operation of our own will presupposed by the first principles of practical reason. Of course we do make judgments concerning means in accordance with the orientation of our intention toward the end. But our willing of ends requires knowledge of them, and the directive knowledge *prior to* the natural movements of our will is precisely the basic principles of practical reason. At any rate this is Aquinas's theory. He maintains that there is no willing without prior apprehension.<sup>67</sup> Moreover, the basic principle of desire, natural inclination in the appetitive part of the soul, is consequent upon prior apprehension, natural knowledge.<sup>68</sup> For the will, this natural knowledge is nothing else than the first principles of practical reason.<sup>69</sup> The precepts of natural law, at least the first principle of practical reason, must be antecedent to all acts of our will. There is nothing surprising about this conclusion so long as we understand law as intelligence ordering (directing) human action toward an end rather than as a superior ordering (commanding) a subject's performance.

The theory of law is permanently in danger of falling into the illusion that practical knowledge is merely theoretical knowledge plus force of will. This is exactly the mistake Suarez makes when he explains natural law as the natural goodness or badness of actions plus preceptive divine law.<sup>70</sup>

The way to avoid these difficulties is to understand that practical reason really does not know in the same way that theoretical reason knows. For practical

<sup>65</sup> The point has been much debated despite the clarity of Aquinas's position that natural law principles are self-evident; Stevens, *op. cit. supra* note 8, at 201, n. 23, provides some bibliography.

<sup>66</sup> Eternal law is "the exemplar of divine wisdom, as directing all actions and movements" of created things in their progress toward their end. S. T. 1-2, q. 93, a. 1, c. Those who misunderstand Aquinas's theory often seem to assume, as if it were obvious, that law is a transient action of an efficient cause physically moving passive objects; for Aquinas, law always belongs to reason, is never considered an efficient cause, and cannot possibly terminate in motion. By their motion and rest, moved objects participate in the perfection of agents, but a caused order participates in the exemplar of its perfection by form and the consequences of form — consequences such as inclination, reason, and the precepts of practical reason. See FARRELL, *op. cit. supra* note 40, at ch. 4, esp. pp. 98-103.

<sup>67</sup> S. T. 1, q. 82, a. 4, ad 3.

<sup>68</sup> SUPER LIBROS SENTENTIARUM PETRI LOMBARDI bk. 4, d. 33, q. 1, a. 1, ad 9.

<sup>69</sup> *Id.* at bk. 2, d. 39, q. 2, a. 2, ad 2.

<sup>70</sup> DE LEGIBUS, II, 7; FARRELL, *op. cit. supra* note 40, at 147-155. Even excellent recent interpreters of Aquinas tend to compensate for the speculative character they attribute to the first principle of practical reason by introducing an act of our will as a factor in our assent to it. Lottin, for example, balances his notion that we first assent to the primary principle as to a theoretical truth with the notion that we finally assent to it with a consent of the will. Only free acceptance makes the precept fully operative. (*Op. cit. supra* note 56, at 24.) Even so accurate a commentator as Stevens introduces the inclination of the will as a ground for the prescriptive force of the first principle. (*Op. cit. supra* note 8, at 202-203: "The intellect manifests this truth formally, and commands it as true, for its own goodness is seen to consist in a conformity to the natural object and inclination of the will.")

reason, to know is to prescribe. This is why I insisted so strongly that the first practical principle is not a theoretical truth. Once its real character as a precept is seen, there is less temptation to bolster the practical principle with will, and so to transform it into an imperative, in order to make it relevant to practice. Indeed, the addition of will to theoretical knowledge cannot make it practical. This point is precisely what Hume saw when he denied the possibility of deriving *ought* from *is*.

In an interesting passage in an article attacking what he mistakenly considered to be Aquinas's theory of natural law, Kai Nielsen discussed this point at some length.<sup>71</sup> He begins by arguing that normative statements cannot be derived from statements of fact, not even from a set of factual statements which comprise a true metaphysical theory of reality. He points out that from "God wills x," one cannot derive "x is obligatory," without assuming the non-factual statement: "What God wills is obligatory." He proceeds to criticize what he takes to be a confusion in Thomism between fact and value, a merging of disparate categories which Nielsen considers unintelligible. But over and above this objection, he insists that normative discourse, insofar as it is practical, simply cannot be derived from a mere consideration of facts. In this part of the argument, Nielsen clearly recognizes the distinction between theoretical and practical reason on which I have been insisting. He concludes his argument by maintaining that the factor which differentiates practical discourse is the presence of decision within it.

To such criticism it is no answer to argue that empiricism makes an unnatural cleavage between facts and values.<sup>72</sup> I have tried above to explain how Aquinas understands *tendency toward good* and *orientation toward end* as a dimension of all action. If every active principle acts on account of an end, then at a certain time in spring from the weather and our knowledge of nature we can conclude that the roses ought to be blooming soon. Similarly, from the truth of the premises and the validity of the reasoning we can say that the conclusion ought to be true. And from the unique properties of the material and the peculiar engineering requirements we can deduce that titanium ought to be useful in the construction of supersonic aircraft. But to get moral principles from metaphysics, it is not from the *is* of nature to the *ought* of nature that one must go. This illation is intelligible to anyone except a positivist, but it is of no help in explaining the origin of moral judgments. Moreover, it is no solution to argue that one can derive the "ought" of moral judgment from the "is" of ethical evaluation: "This act is virtuous; therefore, it ought to be done." Not even Hume could object to such a deduction. Precisely the point at issue is this, that from the agreement of actions with human nature or with a decree of the divine will, one cannot derive the prescriptive sentence: "They ought to be done."

<sup>71</sup> *Op. cit.* *supra* note 11, at 63-68.

<sup>72</sup> Vernon Bourke, *Natural Law, Thomism — and Professor Nielsen*, 5 NATURAL LAW FORUM 118-119 (1960), in part has recourse to this kind of argument in his response to Nielsen. Although Bourke is right in noticing that Nielsen's difficulties partly arise from his positivism, I think Bourke is mistaken in supposing that a more adequate metaphysics could bridge the gap between theory and practice.

Aquinas knew this, and his theory of natural law takes it for granted. *Good is to be done and pursued, and evil is to be avoided*, together with the other self-evident principles of natural law, are not derived from any statements of fact. They are principles. They are not derived from any statements at all. They are not derived from prior principles. They are underivable.

The intellect is not theoretical by nature and practical only by education. To be practical is natural to human reason. Reason is doing its own work when it prescribes just as when it affirms or denies. The basic precepts of natural law are no less part of the mind's original equipment than are the evident principles of theoretical knowledge. *Ought* requires no special act legitimatizing it; *ought* rules its own domain by its own authority, an authority legitimate as that of any *is*. Of course, one cannot form these principles if he has no grasp upon what is involved in them, and such understanding presupposes experience. However, one does not derive these principles from experience or from any previous understanding. Aquinas's position is not: we conclude that certain kinds of acts should be done because they would satisfy our inclinations or fulfill divine commands. His position is: we are capable of thinking for ourselves in the practical domain because we naturally form a set of principles that make possible all of our actions. Practical principles do not become practical, although they do become more significant for us, if we believe that God wills them. Nonprescriptive statements believed to express the divine will also gain added meaning for the believer but do not thereby become practical. For instance, that the universe is huge is given added meaning for one who believes in creation, but it does not on that account become a matter of obligation for him, since it remains a theoretical truth.

Of course, I must disagree with Nielsen's position that decision makes discourse practical. This view implies that human action ultimately is irrational, and it is at odds with the distinction between theoretical and practical reason. If practical reason were simply a conditional theoretical judgment together with verification of the antecedent by an act of appetite, then this position could be defended, but the first act of appetite would lack any rational principle.<sup>73</sup> However, the primary principle of practical reason is by no means hypothetical. It directs that good is to be done and pursued, and it allows no alternative within the field of action.<sup>74</sup> In fact, the practical acceptance of the antecedent of any conditional formulation directing toward action is itself an action that presupposes the direction of practical reason toward the good and the end. The prescription "Happiness should be pursued" is presupposed by the acceptance of the antecedent "If you wish to be happy," when this motive is proposed as a rational ground of moral action.

<sup>73</sup> Bourke does not call Nielsen to task on this point, and in fact (*id.* at 117) even seems to concur in considering practical reason hypothetical apart from an act of will, but Bourke places the will act in God rather than in our own decision as Nielsen does.

<sup>74</sup> The mere fact of decision, or the mere fact of feeling one of the sentiments invoked by Hume, is no more a basis for "ought" than is any other "is." Hume misses his own point — that "ought" *cannot* be derived — and Nielsen follows his master. If some practical principle is hypothetical because there is an alternative to it, only a practical principle (and ultimately a nonhypothetical practical principle) can foreclose the rational alternative.

But while I disagree with Nielsen's positive position on this point, I think that his essential criticism is altogether effective against the position he is attacking. If one supposes that principles of natural law are formed by examining kinds of action in comparison with human nature and noting their agreement or disagreement, then one must respond to the objection that it is impossible to derive normative judgments from metaphysical speculations. The invocation of a metaphysics of divine causality and providence at this point is no help, since such a metaphysics also consists exclusively of theoretical truths from which reason can derive no practical consequences. Of course, if man can know that God will punish him if he does not act in approved ways, then it does follow that an effective threat can be deduced from the facts. But no such threat, whether coming from God or society or nature, is prescriptive unless one applies to it the precept that horrible consequences should be avoided. I do not deny that the naked threat might become effective on behavior without reference to any practical principle. A threat can be effective by circumventing choice and moving to nonrational impulse. Such a derivation, however, is not at all concerned with the "ought"; it moves from beginning to end within the realm of "is."

## V

The mistaken interpretation of Aquinas's theory of natural law considers the first principle to be a major premise from which all the particular precepts of practical reason are deduced. "Do good," together with "Such an action is good," leads deductively to "Do that action." If the first principle actually did function in this manner, all other precepts would be conclusions derived from it. As we have seen, however, Aquinas maintains that there are many self-evident principles included in natural law.

It would be easy to miss the significance of the nonderivability of the many basic precepts by denying altogether the place of deduction in the development of natural law. Aquinas holds that reason can derive more definite prescriptions from the basic general precepts.<sup>75</sup>

Consequently, that Aquinas does not consider the first principle of the natural law to be a premise from which the rest of it is deduced must have a special

<sup>75</sup> S. T. 1-2, q. 91, a. 3, c.; q. 94, a. 4, c. However, a horror of deduction and a tendency to confuse the process of rational derivation with the whole method of geometry has led some Thomists — notably, Maritain — to deny that in the natural law there are rationally deduced conclusions. *MAN AND THE STATE* 91. Maritain points out that Aquinas uses the word "quasi" in referring to the prescriptive conclusions derived from common practical principles. He does not notice that Aquinas uses "quasi" in referring to the principles themselves; they are "in ratione naturali quasi per se nota." (S. T., 1-2, q. 100, a. 3, c. "Quasi" need not carry the connotation of *fiction* which it has in our usage; it is appropriate in the theory of natural law where a vocabulary primarily developed for the discussion of theoretical knowledge is being adapted to the knowledge of practical reason.) Maritain attributes our knowledge of definite prescriptions of natural law to a nonconceptual, nonrational knowledge by inclination or connaturality. (*Op. cit.* at 90-92. NAUS, *op. cit. supra* note 18, at 142-150, provides a compact and accurate treatment of the true sense of "knowledge by connaturality" in Aquinas; however, he unfortunately concludes his discussion by suggesting that the alternative to such knowledge is theoretical.) In fact, Aquinas does not mention inclinations in connection with the derived precepts, which are the ones Maritain wants to explain. Rather, Aquinas relates the

significance. Why, exactly, does Aquinas treat this principle as a *basis* for the law and yet maintain that there are many self-evident principles corresponding to the various aspects of man's complex nature? What difference would it make if these principles were viewed as so many conclusions derived from the conjunction of the premises "The human good is to be sought" and "Such and such an action will promote the human good" — premises not objectionable on the ground that they lead to the derivation of imperatives that was criticized above?

Lottin proposed a theory of the relationship between the primary principle and the self-evident principles founded on it. The basic principle is not related to the others as a premise, an efficient cause, but as a form which differentiates itself in its application to the different matters directed by practical reason. Reason transforms itself into this first principle, so that the first principle must be understood simply as the imposition of rational direction upon action.<sup>76</sup> Lottin's way of stating the matter is attractive, and he has been followed by others. Sertillanges, for example, apparently was influenced by Lottin when he remarked that the *good* in the formulations of the first principle is "a pure form, as Kant would say."<sup>77</sup> Stevens also seems to have come under the influence, as when he states, "The first judgment, it may be noted, is first not as a first, explicit psychologically perceived judgment, but as the basic form of all practical judgments."<sup>78</sup>

I think it would be a mistake, however, to suppose that the first principle is formal in a way that would separate it from and contrast it with the content of knowledge. Aquinas assumes no a priori forms of practical reason. The first principle of practical reason is itself formed through reflexive judgment; this precept is an object of the intellect's act. To hold otherwise is to deny the analogy Aquinas maintains between this principle and the first principle of theoretical reason, for the latter is clearly a content of knowledge.

It is difficult to think about principles. We tend to substitute the more familiar application for the less familiar principle in itself. Usually we do not need to think principles by themselves; we call them to mind only to put them to work. Principles that serve as premises are formed with some self-consciousness. Because such principles are not equally applicable to all contents of experience, even though they can be falsified by none, we can at least imagine them not to be true. Practical principles, other than the first one, always can be rejected in practice, although it is unreasonable to do so. We easily form the mistaken generalization that all explicit judgments actually formed by us must meet such conditions. Hence it is understandable that the denial of the status of premise to the first practical principle should lead to the supposition that it is a pure form — a denial to it of any status as an object of self-conscious knowledge. However, to deny the one status is not to suppose the other, for premises and

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basic precepts to the inclinations and, as we have seen, he does this in a way which does not confuse inclination and knowledge or detract from the conceptual status or intelligible objectivity of the self-evident principles of practical reason.

<sup>76</sup> LOTTIN, *op. cit. supra* note 3, at 79.

<sup>77</sup> SERTILLANGES, *op. cit. supra* note 50, at 109.

<sup>78</sup> Stevens, *op. cit. supra* note 8, at 200.

a priori forms do not exhaust the modes of principles of rational knowledge. The first principle may not be known with genetic priority, as a premise, but it is still first known. It enters our practical knowledge explicitly if not distinctly, and it has the status of a self-evident principle of reason just as truly as do the precepts enjoining self-preservation and other natural goods. The fact that the mind cannot but form the primary precept and cannot think practically except in accordance with it does not mean that the precept exercises its control covertly. But it requires something extraordinary, such as philosophic reflection, to make us bring into the focus of distinct attention the principles of which we are conscious whenever we think.

It also is a mistake to suppose that the primary principle is equivalent to the precept, *Reason should be followed*, as Lottin seems to suggest. For Aquinas, right reason is reason judging in accordance with the whole of the natural law. Reason does not regulate action by itself, as if the mere ability to reason were a norm. Rather, it regulates action precisely by applying the principles of natural law.<sup>79</sup> Only one among the natural inclinations of man is that based on his rational nature to act according to rational direction. Like other inclinations, this one is represented by a specific self-evident precept of the natural law, a kind of methodological norm of human action.<sup>80</sup> As a particular norm, the injunction to follow reason has specific consequences for right action. One of these is that differences between practical judgments must have an intelligible basis — the requirement that provides the principle for the generalization argument and for Kantian ethics. However, the direction of action by reason, which this principle enjoins, is not the sole human good. It is not equivalent, for example, to self-preservation, and it is as much a mistake to identify one particular precept as another with the first principle of practical reason. In order to equate the requirement of rationality with the first principle of practical reason one would have to equate the value of moral action with human good absolutely. That is what Kant does, and he is only being consistent when he reduces the status of end in his system to a motive extrinsic to morality except insofar as it is identical with the motivation of duty or respect for the law.

As I explained above, the primary principle is imposed by reason simply because as an active principle reason must direct according to the essential condition for any active principle — it must direct toward an end. In issuing this basic prescription, reason assumes its practical function; and by this assumption reason gains a point of view for dealing with experience, a point of view that leads all its further acts in the same line to be preceptive rather than merely speculative. The first practical principle is like a basic tool which is inseparable from the job in which the tool is used; it is the implement for making all the other tools to be used on the job, but none of them is equivalent to it, and so the basic tool permeates all the work done in that job.<sup>81</sup>

<sup>79</sup> S. T. 1-2, q. 91, a. 3, ad 2; q. 95, a. 2, c.; *SUPER LIBROS SENTENTIARUM PETRI LOM-BARDI* bk. 2, d. 42, q. 2, a. 5.

<sup>80</sup> S. T. 1-2, q. 94, a. 4, c.

<sup>81</sup> See *QUAESTIO DISPUTATA DE ANIMA*, a. 5, for the notion of first principles as instruments which the agent intellect employs in making what follows actually intelligible.



Because Aquinas explicitly compares the primary principle of practical reason with the principle of contradiction, it should help us to understand the significance of the relationship between the first principle and other evident principles in practical reason if we ask what importance attaches to the fact that theoretical knowledge is not deduced from the principle of contradiction, which is only the first among many self-evident principles of theoretical knowledge.

The principle of contradiction could serve as a common premise of theoretical knowledge only if being were the basic essential characteristic of beings, if being were *what* beings are — that is, if being were a definite kind of thing. Otherwise (and in truth), to know that something is a being, and so subsumable under being, presupposes the knowledge which that subsumption applies to it.<sup>82</sup> The principle of contradiction expresses the definiteness of things, but to be definite is not to be anything. To be definite is a condition of being anything, and this condition is fulfilled by whatever a thing happens to be. The principle of contradiction does not exclude from our thoughts interesting and otherwise intelligible things; it grounds the possibility of thinking in reference to anything at all. But the principle of contradiction can have its liberalizing effect on thought only if we do not mistakenly identify being with a certain kind of being — the move which would establish the first principle as a deductive premise.

Something similar holds with regard to the first practical principle. Of course, “good” in the primary precept is not a transcendental expression denoting all things. Nevertheless, it is like a transcendental in its reference to all human goods, for the pursuit of no one of them is the unique condition for human operation, just as no particular essence is the unique condition for being. The first practical principle does not limit the possibilities of human action; by determining that action will be for an end this principle makes it possible.

None of the inclinations which ground specific precepts of the natural law, not even the precept that action should be reasonable, is a necessary condition for all human action. If the “good” of the first principle denoted precisely the object of any single inclination, then the object of another inclination either would not be a human good at all or it would qualify as a human good only insofar as it was subordinate to the object of the one favored inclination. Philosophers have constructed their systems of ethics weighted in favor of one or another good precisely for this reason. Yet the first principle of practical reason does provide a basic requirement for action merely by prescribing that it be intentional, and it is in the light of this requirement that the objects of all the inclinations are understood as human goods and established as objectives for rational pursuit.

The gap between the first principle of practical reason and the other basic principles, indicated by the fact that they too are self-evident, also has significant consequences for the acts of the will which follow the basic principles of practical reason. The will necessarily tends to a single ultimate end, but it does not necessarily tend to any definite good as an ultimate end. We may say that the will

<sup>82</sup> GERARD SMITH, S.J., & LOTTIE H. KENDZIERSKI, 1 *THE PHILOSOPHY OF BEING: METAPHYSICS 2-8* (New York, 1961), make the most of such dialectic in order to show the transcendence of being over essence.

naturally desires happiness, but this is simply to say that man cannot but desire the attainment of that good, whatever it may be, for which he is acting as an ultimate end.<sup>83</sup> The desire for happiness is simply the first principle of practical reason directing human action from within the will informed by reason.

Because the specific last end is not determined for him by nature, man is able to make the basic commitment which orients his entire life. The human will naturally is nondetermined precisely to the extent that the precept that good be pursued transcends reason's direction to any of the particular goods that are possible objectives of human action.<sup>84</sup> Yet man's ability to choose the ultimate concrete end for which he shall act does not arise from any absurdity in human nature and its situation. This ability has its immediate basis in the multiplicity of ends among various syntheses of which man can choose, together with the ability of human reason to think in terms of end as such. The latter ability is evidenced in the first principle of practical reason, and it is the same ability which grounds the ability to choose. Man's ability to choose his ultimate end has its metaphysical ground in the spiritual nature of man himself, on the one hand, and in the transcendent aspect that every end, as a participation in divine goodness, necessarily includes, on the other.

Hence the *good* of the primary principle has a certain transcendence, or at least the possibility of transcendence, in relation to the objects of all the inclinations, which are the goods whose pursuit is prescribed by the other self-evident principles. Only by virtue of this transcendence is it possible that the end proposed by Christian faith, heavenly beatitude, which is supernatural to man, should become an objective of genuine human action — that is, of action under the guidance of practical reason. If the first principle of practical reason restricted human good to the goods proportionate to nature, then a supernatural end for human action would be excluded. The relation of man to such an end could be established only by a leap into the transrational where human action would be impossible and where faith would replace natural law rather than supplement it. A first principle of practical reason that prescribes only the basic condition necessary for human action establishes an order of such flexibility that it can include not only the goods to which man is disposed by nature but even the good to which human nature is capable of being raised only by the aid of divine grace.

Thus the status Aquinas attributes to the first principle of practical reason is not without significance. This principle is not an imperative demanding morally good action, and imperatives — or even definite prescriptions — cannot be derived from it by deduction. Precisely because the first principle does not specify the direction of human action, it is not a premise in practical reasoning; other principles are required to determine direction. At the same time, the

<sup>83</sup> That the basic precepts of practical reason lead to the natural acts of the will is clear: SUPER LIBROS SENTENTIARUM PETRI LOMBARDI bk. 2, d. 39, q. 2, a. 2, ad 2. See also Van Overbeke, *loc. cit. supra* note 3. JOSEPH BUCKLEY, S.M., MAN'S LAST END 164-210 (St. Louis and London, 1950), shows that there is no natural determinate last end for man.

<sup>84</sup> G. P. Klubertanz, S.J., *The Root of Freedom in St. Thomas's Later Works*, 42 GREGORIANUM 709-716 (1961), examines how Aquinas relates reason and freedom. It is this "later" resolution that I am supposing here.

transcendence of the primary precept over all definite goods allows the conjunction of reason with freedom. On this open ground man can accept faith without surrendering his rationality. This situation reveals the lowliness and the grandeur of human nature. Man's lowliness is shown by the very weakness of reason's first principle; by itself this precept cannot guide action, and the instigation of natural inclination and the inspiration of faith are needed to develop an adequate law for human life. Man's grandeur is shown by the transcendence of this same principle; it evokes man's possibilities without restricting them, thus permitting man to determine by his own choice whether he shall live for the good itself or for some particular good.

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