

PROPORTIONALISM AND A TEXT OF THE YOUNG AQUINAS: QUODLIBETUM IX, Q. 7, A. 2.

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AT THE HEART of the proportionalist system of moral evaluation lies a distinction between “pre-moral” and “moral” specifications of humanly realized good and evil.¹ It is this distinction that leads to the fundamental claim of this system, namely that a singular action performed by a moral agent cannot be considered to be evil intrinsically on account of the structure of the exterior act alone, for the moral evaluation of an action can only be had after an assessment of the ends for which, and the circumstances in which, the agent acts. And these latter are, by definition, outside what would otherwise be considered the “essence” of the exterior act’s structure. Given this, while a traditional moralist might condemn a particular kind of act, such as homosexual activity, because of its structurally inherent disorder, the proportionalist might equally allow for that same act, acknowledging all the while its inherent disorder, provided that the end for which the agent acts, and the circumstances in which he acts, are such as to yield a good that is greater than the acknowledged evil is evil. Nor would this be to embrace a doctrine of performing a moral evil in order to achieve some moral good, because the disorder in the act just mentioned is “pre-moral,” since it is not yet being viewed in the total context of the agent, who finds himself in particular circumstances, and with particular, often quite laudable, goals.

Although no standard logic has appeared by which proportionalists universally establish and defend this distinction between pre-moral and moral evil—also called “ontic” and “ontological” evil—there has

¹ Because proportionalism, or moderate teleology, is a recent method of ethical decision making, there are few standard sources on its nature or its proponents. A list of its more well-known proponents is given by Richard A. McCormick, “Moral Theology: 1940–1989,” *TS* 50 (1989) 3–24, at 10. A number of the proponents listed there have papers in a volume of studies dedicated to McCormick: *Moral Theology: Challenges for the Future*, ed. Charles E. Curran (Mahwah, N.J.: Paulist, 1990). For a general overview of proportionalism and its intellectual origins, together with a bibliography of the seminal articles and other sources, see Bernard Hoese, *Proportionalism: The American Debate and Its European Roots*, (Washington: Georgetown Univ., 1987). One could add to this John A. Gallagher’s *Time Past, Time Future: An Historical Study of Catholic Moral Theology*, (Mahwah, N.J.: Paulist, 1990), although his stated intention is not to present and explain proportionalism, to which he is an adherent.

been general acceptance by them of the claim of some of its adherents that the distinction is traditional, and in fact is to be found in the writings of Thomas Aquinas.² Others deny this claim, especially with regard to the teaching of Aquinas, and hold rather that proportionalism is truly an innovation, an innovation with its roots more in phenomenology and subjectivism than in the moderate realism of a theologian like Aquinas.³ Not that fidelity to the teaching of Aquinas is really the issue here, of course. All the various approaches to Catholic moral theology, including Thomistic and proportionalist, must be evaluated in terms of the veracity of their first principles, the internal coherence of the use of those first principles in the system, and their fidelity to the collected moral wisdom of the Church—though this last

² For writings in which this claim is made, see John G. Milhaven, "Moral Absolutes and Thomas Aquinas," in *Absolutes in Moral Theology?*, ed. Charles E. Curran (Washington: Corpus, 1968) 154–85; John F. Dedek, "Moral Absolutes in the Predecessors of St. Thomas," *TS* 38 (1977) 654–80; "Intrinsically Evil Acts: A Historical Study of the Mind of St. Thomas," *Thomist* 43 (1979) 385–413; "Premarital Sex: The Theological Argument from Peter Lombard to Durand," *TS* 41 (1980) 643–67; "Intrinsically Evil Acts: The Emergence of a Doctrine," *Recherches de Théologie ancienne et médiévale* 43 (1983) 191–226; further Louis Janssens, "Ontic Evil and Moral Evil," in *Readings in Moral Theology 1: Moral Norms and Catholic Tradition*, ed. Charles E. Curran and Richard A. McCormick (New York: Paulist, 1979) 40–93; "Norms and Priorities in a Love Ethic," *Louvain Studies* 6 (1977) 207–38; "St. Thomas and the Question of Proportionality" *Louvain Studies* 9 (1982) 26–46; "A Moral Understanding of Some Arguments of Saint Thomas," *Ephemerides Theologicae Lovanienses* 63 (1987) 354–60. While discussing the third article of Janssens just cited, McCormick is explicit in his conviction that such studies show "that it is utterly clear . . . how traditional is the notion of proportionality"; see Richard A. McCormick, "Notes on Moral Theology: 1983," *TS* 45 (1984) 80–138, at 92; also McCormick's "Moral Theology since Vatican II: Clarity or Chaos," *Cross Currents* 29 (1979) 15–27, at 21.

³ This latter claim is made explicitly by Benedict M. Ashley, *Theologies of the Body: Humanist and Christian* (Braintree: Pope John XXIII Center, 1985) 367–70, and in B. M. Ashley and K. D. O'Rourke, *Health Care Ethics: A Theological Analysis*, 3d ed. (St. Louis: Catholic Health Association, 1989) 166–69. See also Patrick Lee, "The Permanence of the Ten Commandments: St. Thomas and His Modern Commentators," *TS* 42 (1981) 422–43; Jean Porter, "Moral Rules and Moral Actions: A Comparison of Aquinas and Modern Moral Theology," *Journal of Religious Ethics* 17 (1989) 123–49; Germain Grisez, *The Way of the Lord Jesus* (Chicago: Franciscan Herald, 1983) 1.141–71; Théo G. Belmans, "Saint Thomas et la notion de 'moindre mal moral'," *Revue thomiste* 83 (1983) 40–57; Servais Pinckaers, *Ce qu'on ne peut jamais faire: La question des actes intrinsèquement mauvais: Histoire et discussion*, (Fribourg: Éditions Universitaires Fribourg, 1986); Brian Mullady, *The Meaning of the Term 'Moral' in St. Thomas Aquinas* (Vatican City: Libreria Editrice Vaticana, 1986); John Finnis, *Moral Absolutes: Tradition, Revision and Truth* (Washington, D.C.: Catholic Univ. of America, 1991); William E. May, "Aquinas and Janssens on the Moral Meaning of Human Acts," *The Thomist* 48 (1984) 566–606. On pages 596–99 of this last article May deals with the text I shall be considering here, but he unfortunately does not deal with it contextually, or in its entirety, which is, I argue, how it should be treated.

point obviously requires careful qualification. Still, finding grounds for new developments in moral theology in the thought of someone like Aquinas can be very important, given the general respect he has been accorded both by theologians and by officials in the Church.

The small contribution I hope to make in this article arises from a concern that I have had for some time regarding the reading of Aquinas's texts in relation to the proportionalist methodology. I am concerned that all the parties involved in the discussion are not reading the texts with the appropriate care. Thomas is not here to speak on his own behalf. All that we have today is his massive and varied literary legacy, a legacy produced over some twenty-two years of writing, that took place in differing contexts, for different purposes, with greater or lesser access to important sources, and so on. And it goes without saying that Thomas could change his mind on some particular issue over time. Yet it seems to me that the parties involved in the discussion of Thomas's relationship to proportionalism do not concern themselves with such considerations, and rather read the corpus of Thomas's writings as though one text in it is able to illuminate another text simply because the same Thomas was author of both. In essence this was the method employed by the manualists, such as Gredt or Merkelbach, who would juxtapose without comment texts that could have been separated by as much as twenty years in Thomas's life, and could have been written with very different goals in mind. In light of significant advances in historical theology and medieval studies, as well as historical studies of the dynamism of Thomas's thought in particular, such approaches can no longer be justified. A certain justice demands that in turning to Thomas's texts we pay constant attention to the doctrinal and literary contexts in which the texts are found, as well as to Thomas's own pedagogical intent, the received opinions and authorities on an issue, the examples he uses, and so on.

With all of this in mind I would like to examine with care a single, early text of Thomas's that has been brought to bear in the consideration of whether he held the distinction between what is called "pre-moral" and "moral" evil. The text, an article from Thomas's ninth quodlibet, has been cited, particularly and repeatedly by Louis Janssens,⁴ as a locus in which Thomas makes this crucial distinction.⁵ This calls for a close reading of that text.

⁴ See Janssens's articles referred to above, note 2. I shall deal exclusively with his treatment below, since he appears to be the original source of this interpretation of that text.

⁵ The text is a short passage from the *responsio* to Thomas's *Quodlibetum* 9, q. 7, a. 2. See *S. Thomae Aquinatis Quaestiones Quodlibetales*, 9th ed., ed. R. Spiazzi (Turin: Marietti, 1956) 192-94, at 193b: "Sunt vero quaedam actiones quae absolute consider-

HISTORY, GENRE, AND INTENTION OF THE TEXT

While we are fortunate to have reasonably secure chronological information about most of Thomas's works, particularly larger works such as his *Scriptum* on the Lombard's *Sentences*, the *Summa contra gentiles* and *Summa theologiae*, as well as his ordinary *Quaestiones disputatae*, such is not the case with regard to his quodlibetal questions.⁶ We know that they circulated as a group of eleven distinct "questions" from at least 1275, and as a group of twelve after 1304.⁷ But the internal chronology of the twelve questions is all muddled. As near as we can tell, the quodlibetal questions 1–6 and the very sketchy question 12 date from Thomas's second tenure as a master at the University of Paris, from January 1269 to April 1272. Questions 7–11 belong to Thomas's first tenure at Paris, from June 1256 to the end of 1259. Thus our specific quodlibetal article, from the ninth quodlibet, dates from 1258, or, to be more specific, from the Lenten quodlibetal series of that year.⁸

The literary genre of the quodlibet is well known. Although structured somewhat like the ordinary disputed question, with objected difficulties, the use of received authorities, a *responsio* and answers to the objected difficulties, the quodlibetal question differed markedly

ate, deformitatem vel inordinationem quamdam important, quae tamen aliquibus circumstantiis advenientibus bonae efficiuntur . . ." All further references to this text will be taken from this edition, and will be given according to standard form.

⁶ On the dating of Thomas's works, see James A. Weisheipl, *Friar Thomas d'Aquino: His Life, Thought, and Work*, 2d ed. with corrigenda and addenda (Washington: Catholic Univ. of America, 1983) 355–405, and the appropriate changes at 465–87. For the sake of simplicity I have followed Weisheipl throughout. For a shorter, more recent biography of Thomas's life, see Simon Tugwell's "Introduction," in *Albert and Thomas: Selected Writings*, trans. Simon Tugwell (Mahwah, N.J.: Paulist, 1988) 201–67.

⁷ For the Parisian bookseller's taxation lists from 1275 and 1304 in which Thomas's quodlibets are mentioned, see *Chartularium Universitatis Parisiensis*, ed. H. Denifle and A. Chatelain (Paris: Delalain, 1889–1891), vol. 1, no. 530, p. 646 (A.D. 1275): "Hec sunt scripta fratris Thome de Aquino . . . item, questiones de quolibet, xiiii pecias, vii denarii"; and vol. 2, no. 642, p. 108 (A.D. 1304): ". . . Item, in toto quolibet fratris Thome, xxiiii pecias, xviii denarii." For more on the production and sale of books in the Middle Ages, see the collection of studies in *La Production du livre universitaire au moyen âge: Exemplar et pecia*, ed. L. J. Bataillon, B. G. Guyot and R. H. Rouse (Paris: Centre National de la Recherche Scientifique, 1988), particularly the study of R. H. Rouse and M. A. Rouse, "The Book Trade at the University of Paris, ca. 1250–ca. 1300" (*ibid.* 41–113).

⁸ For more on the dating of Thomas's quodlibetal questions, see Weisheipl, *Friar Thomas* 367–68. See also I. T. Eschmann's "A Catalogue of St. Thomas's Works," in E. Gilson's *The Christian Philosophy of St. Thomas Aquinas*, trans. L. K. Shook (New York: Random House, 1956) 381–430, at 392–93.

from the disputed question in two respects. First, the quodlibetal question was held by a regent master and his bachelor, with the bachelor fielding the various difficulties put to him by the audience on one day, and the master providing a general *determinatio* on the next day. In short, the quodlibetal question was an exercise for both student and teacher. Second, and what is most distinctive of the quodlibetal question, the master and the bachelor holding the quodlibetal disputation were not free to set the topic for discussion. This was set by those in attendance. Hence the Master General of Dominicans, Humbert of Romans, described the whole affair as questions “de quolibet ad voluntatem cuiuslibet”—a discussion about whatever, set by whomever.⁹ This characteristic of the quodlibetal question meant that, as one might expect, the questions asked of those holding the disputation often had to do with topics ranging from theological and ecclesiastical issues of the day (“Is the emanation of the Word the rationale for the emanation of creatures?” or “Can the Pope really resign?” as Celestine V had in 1294), to the practical (“Is a cemetery still blessed when unblest soil gets added to it over time?”), to even the condemnatory (“Are the Masters of theology to be held sinful on account of the ignorance of priests?”).¹⁰ The master who held a quodlibetal question knew going in that he was opening both himself and his bachelor up to some tough, pointed questioning, but there is no real reason to present the genre of quodlibetal questions as a kind of “rite of passage” for masters, who gladly left the experience behind when they had tried it just once.¹¹ In fact, theologians such as Henry of Ghent and Godfrey of Fontaines made the quodlibet their primary medium of writing. Nonetheless, by putting himself and his bachelor at the mercy of the audi-

⁹ See Humbertus de Romanis, *Instructiones de officiis ordinis*, cap. 12, in *Beati Humberti de romanis opera de vita regulari*, ed. J. J. Bertier (Rome, 1889) 2.260. The magisterial work on quodlibetal questions ramins that of Palemon Glorieux, *La Littérature quodlibétique de 1260 à 1320*, vol. 1. (Kain: Le Saulchoir, 1925), vol. 2 (Paris: J. Vrin, 1935). See also his “L’enseignement au moyen âge: Techniques et méthodes en usage à la Faculté de Théologie de Paris au XIIIe siècle,” *Archives d’histoire doctrinale et littéraire du moyen âge* 43 (1968) 65–186. On Thomas’s quodlibetal questions in particular see I.-A. Destrez, “Les disputes quodlibétiques de saint Thomas d’après la tradition manuscrite,” in *Mélanges Thomistes* (Kain: Le Saulchoir, 1923) 49–108; Vincente Beltran de Heredia, “Estudios criticos sobre los Quodlibetos de S. Tomás,” *Ciencia Tomista* 29 (1924) 371–86; Weisheipl, *Friar Thomas* 124–28; and especially the very fine article of L. E. Boyle, “The Quodlibets of St. Thomas and Pastoral Care,” *Thomist* 38 (1974) 232–56.

¹⁰ For these and other questions, see Boyle, “The Quodlibets of St. Thomas” 240–42.

¹¹ The late M.-D. Chenu leaves this impression in *Towards Understanding St. Thomas*, trans. A.-M. Landry and D. Hughes (Chicago: Regnery, 1964) 92–93.

ence, the master holding a quodlibet was sure to be asked questions designed to get his particular opinion on matters of currency, and, sometimes, matters that touched that particular master directly.

An obvious result of the spontaneous circumstance of the quodlibetal question is that there is no real, internal order to the questions that one would be able to use in interpreting their content. It is true that the master would collect together the written material taken down at the actual disputation and prepare it for publication, thus producing an *ordinatio*. But the result could never be accurately termed a "treatise" of any sort. And while Thomas himself tried to arrange his quodlibets into some general order—broadly along the lines of *de deo*, *de angelo*, and then the catchall *de homine*—each individual question remains steadfastly "ad hoc" in character.¹²

All the foregoing considerations must be brought to bear upon our particular text, *Quodlibetum IX*, q. 7, a. 2. The topic of discussion here is the moral status of "pluralism," the having of more than one benefice without having care for souls: "Is it a mortal sin to have many prebends with no care for souls without dispensation?" The question is one of such peculiarity that there is no formal parallel to it in the rest of Thomas's writings, something quite unusual. The question was asked of him once towards the beginning of his career, and he never asked it of himself thereafter.¹³ This is not to suggest that the text has no value for those who are interested in Thomas's thought. But it is to suggest that particularity of the text, coupled with its being a product of the young Aquinas, make it difficult even at the outset to expect it to be a foundational text in an evaluation of the substance of Thomas's total moral theory.

THE TEXT

The complexity of Thomas's response to the query of the article urges us to give it careful consideration. The question "Is it a mortal sin to

¹² The only internal reference on Thomas's part to another article in a quodlibet that I have found is in *Quodlibetum III*, q. 5, a. 4, *in corp.*, on the oath to enter religious life. Thomas refers there to a general principle of moral evaluation outlined in article 1 of the same quodlibet. The topic of question 5 is the entrance into religious life, a topic of much controversy in 1270, given the attacks on the mendicant orders by Gérard d'Abbeville. At this same time Thomas was in fact writing his *De perfectione spiritualis vitae*, a defense of the existence and practice of the mendicant orders. See Weisheipl, *Friar Thomas* 266–68.

¹³ As it happens, almost all the questions touching upon benefices and prebends in Thomas's literary corpus are found in the quodlibets. See, e.g., *Questiones quodlibetales* 1, q. 7, a. 1; 4, q. 8, a. 4; 4, q. 12, a. 1; 6, q. 5, a. 3; 8 q. 6, a. 3; and our own 9, q. 7, a. 2. A mention of prebends is made in *In IV Sententiarum*, d. 15, q. 2, a. 1, qua 1, arg 3 and ad 3, in *S. Thomae Aquinatis Opera Omnia*, ed. R. Buser (Stuttgart: Frommann-Holzboog, 1980) 1.506–7.

have many prebends with no care for souls without dispensation?" raises at least three distinct points of discussion: the assessment of mortal sin, the nature and purpose of prebends, and the possibility of dispensation from then-current ecclesiastical law. Thomas's response to the question bears each of these three items in mind.

The question opens with five objected difficulties, two taken from canon law, two from received authorities, as well as a stand-alone argument. The possible assessment of mortal sin is present throughout, and in fact explicitly serves as the major premise in the first and second objected difficulties: "Quicumque enim facit contra statutum concilii peccat mortaliter."¹⁴ Both objected difficulties then induce texts from two councils to the effect that the holding of many benefices is not allowed, thus yielding a conclusion of mortal sinfulness.¹⁵ The third difficulty cleverly adapts a text from Chrysostom to the effect that, since the Levite priest did not hold both Bethlehem and Jerusalem, and since Christians are held to greater perfection than their Hebrew forebearers, then neither should the Christian priest hold two churches.¹⁶ And the fourth difficulty adduces the authority of Bernard, who gives an outright condemnation of the practice of pluralism.¹⁷ The fifth difficulty, finally, claims that anyone who risks mortal sin, sins mortally, and this is just what a *prebendatus* does when he has duties to more than one church, since his obligations to each church may come into conflict.

There are two arguments *sed contra*, the first from the practice of the Church, and the second from analogy. The first argument denies the claim of risking mortal sin in the case of pluralism, because the Church would not tolerate anything that verges on the peril of the community. But the Church in fact allows for pluralism with respect to benefices, so there seems to be no necessity of incurring mortal sin. The second argument *sed contra* claims that since one can have both a patrimony and a benefice, which differ from one another quite significantly, then it would seem possible to have more than one benefice, since they are more like one another. It bears stressing that these two arguments are not a formal part of Thomas's own response to this question, but they nonetheless can contain attitudes that are present

¹⁴ *Quodlibetum* 9, q. 7, a. 2, arg. 1.

¹⁵ *Ibid.*, args. 1 and 2. Both texts are found in the *Corpus iuris canonici*, Decretum, D. 70, c. 2 (arg. 1) and Decretum, C. 21, q. 1, c. 1 (arg. 2) in *Corpus iuris canonici*, vol. 1, ed. E. Friedberg (Leipzig: Bernhard Tauchnitz, 1879) cols. 257 and 852.

¹⁶ *Quodlibetum* 9, q. 7, a. 2, arg. 3. I have not been able to find the quotation *verbatim* in Chrysostom, but see his discussion of the Levite priesthood in his *Adversus iudeos oratio VIII*, PG 48.922.

¹⁷ *Ibid.*, arg. 4. I have not been able to find this authority in Bernard of Clairvaux. One doubts that Thomas had in mind Bernard of Pavia, the twelfth-century canonist.

in his response. And in fact Thomas's response does express an attitude found in at least the first argument *sed contra*, which cites the *de facto* practice of the Church, despite whatever may be said *de iure* on this question.

Thomas's lengthy and detailed *responsio* begins with a warning about the sensitivity of this question, a sensitivity brought about by the interjection of mortal sinfulness into the case of pluralism. In cases where the truth of the matter is not clear, the assertion of mortal sinfulness is very dangerous. The reason for this is that, on the one hand, thinking that something is not mortally sinful when it is does not excuse one from sin altogether, and that, on the other hand, thinking that something is mortally sinful when in fact it is not nonetheless binds the conscience to mortal sin if it is performed anyway. Again, the assessment of mortal sin is especially dangerous when the truth of the matter is ambiguous. And that is precisely the case in this question.¹⁸ The present discussion is further complicated because, since the question at hand depends upon divine law, natural law, and positive law, it pertains to both theologians and canonists, who differ among each other and from one another.¹⁹ The three types of law that Thomas lists, and upon which this question depends, form the structure for the rest of his *responsio*. He will first try to see whether divine law has anything to say on this issue, then natural law, and, finally, positive law.

As it happens, he does not find much in divine law that supports either side of this issue, since there is nothing stated explicitly in Sacred Scripture. And the fashioning of arguments based upon certain scriptural passages does not demonstrate the truth of the matter clearly.²⁰ He accordingly turns to measure the plurality of benefices against natural law, and here there is much more to say.

But before giving an assessment of the plurality of benefices as mea-

¹⁸ *Ibid.*, *in corp.*: "Respondeo. Dicendum quod omnis questio in qua de mortali peccato quaeritur, nisi expresse veritas habeatur, periculose determinatur; quia error quo non creditur esse peccatum mortale, quod est peccatum mortale, conscientiam non excusat a toto, licet forte a tanto. Error vero quo creditur esse mortale quod non est mortale, ex conscientia ligat ad peccatum mortale. Praecipue autem periculosum est, ubi veritas ambigua est; quod in hac questione accidit." See *Quodlibetum* 8, q. 6, a. 3, *ed. cit.*, p. 171, for a discussion on moral tutorism that uses the very question of pluralism as the test case.

¹⁹ *Ibid.*: "Cum enim haec questio ad theologos pertineat, inquantum dependet ex iure divino vel iure naturali; et ad iuristas, inquantum dependet ex iure positivo; inveniuntur in ea theologi theologis et iuristae iuristis contrarie sentire."

²⁰ *Ibid.*: "In iure namque divino non invenitur determinata expresse, cum in sacra scriptura expressa mentio de ea non fiat, quamvis ad eam argumenta ex aliquibus auctoritatibus scripturae forte adduci possint, quae tamen non lucide veritatem ostendunt."

sured against natural law, Thomas claims that we must first examine the differences that exist among human acts. He proceeds to give a list and explanation of three types of human acts, touching only ever so briefly upon a fourth.²¹ There is one class of acts, Thomas says, in which each of the acts has a deformity inseparably linked to it. Such acts are fornication, adultery, and the like. These acts, he says, can in no way be done well. Having many prebends is not to be counted among these sort of acts, however, because that would mean that in no case could there be a dispensation, and no one says that.²²

There are other acts that are of themselves indifferent with respect to good and evil, such as lifting a twig up from the ground, or some such action. And it might seem that on this score having many prebends is similar, say, to having many apples. Of itself, it would be indifferent.²³ But Thomas will have none of this reasoning, because to his mind the having of many prebends contains in itself many disorders. First and foremost, given that prebends are ordered as stipends for those who serve God in various churches, it is not possible for one who possesses more than one prebend to serve more than one church. And with one person installed in the place of many, the result is a weakening of the worship of God.²⁴ There are at least two other disorders. First, in some instances the will of those who left the resources is being defrauded, since their intention was that there be a certain number of those serving God at that particular church. Second, there is also inequality, since while one individual has many benefices, others will not be able to have even one. One could easily think of other such difficulties.²⁵ It is clear to Thomas that the having of many benefices cannot be counted among the indifferent actions he spoke of

²¹ Ibid.: "Determinando vero eam secundum ius naturale, sic videtur ad praesens de ea dicendum: quod actionum humanarum multiplex est differentia . . ."

²² Ibid.: "Quaedam enim sunt quae habent deformitatem inseparabiliter annexam, ut fornicatio, adulterium, et alia huiusmodi, quae nullo modo bene fieri possunt. De numero talium non est habere plures praebendas; alias in nullo casu dispensationem recipere posset: quod nullus dicit." Note that Thomas is referring here to the common opinion and practice of his day.

²³ Ibid.: "Quaedam vero sunt actiones quae de se indifferentes sunt ad bonum vel malum, ut levare festucam de terra, vel aliquid huiusmodi; inter quarum numerum quidam computant habere plures praebendas, dicentes: ita licitum est habere plures praebendas, sicut habere plura poma."

²⁴ Ibid.: "Sed hoc non videtur esse verum, cum hoc quod est habere plures praebendas, plurimas in se inordinationes contineat; utpote quia non est possibile aliquem in pluribus ecclesiis deservire, in quibus est praebendatus: cum praebendae videantur esse ordinatae quasi quaedam stipendia Deo ibidem ministrantium. Sequitur etiam diminutio cultus divini, dum unus loco plurimum instituitur."

²⁵ Ibid.: "Sequitur etiam in aliquibus defraudatio voluntatum testatorum, qui ad hoc

earlier. Still less could it be counted among actions held to be good in themselves, such as giving alms, he says, perhaps intending the irony, and obliquely and only this once referring to the class of intrinsically good actions.²⁶

Given that the having of many benefices cannot be numbered among acts judged always bad according to natural law, such that dispensation is impossible, nor among acts that the same natural law judges to be morally indifferent, and still less among acts held always to be good, Thomas turns to a remaining possibility: acts that have an inherent disorder about them that can nonetheless be made good by removing the disorder. There are some acts, he points out, that, taken without qualification, carry with them a certain deformity or disorder, but that can be made into good acts on account of some advenient circumstances. Killing or striking a man has a certain disorder about it, but if it is added that the man is an evildoer or a delinquent, then killing him because of justice, or striking him for the sake of discipline, will not be counted as a sin, but rather as something virtuous. It is among this class of acts, Thomas thinks, that the having of many benefices is to be numbered.²⁷

aliqua bona ecclesiis contulerunt, ut certus numerus Deo deservientium ibi esset. Sequitur etiam inaequalitas; dum unus pluribus beneficiis abundat, et alius nec unum habere potest; et multa alia huiusmodi, quae de facili patent."

²⁶ Ibid.: "Unde non potest contineri inter indifferentes actiones; et multo minus inter eas quae sunt secundum se bonae, ut dare eleemosynam, et huiusmodi."

²⁷ Ibid.: "Sunt vero quaedam actiones quae absolute considerate, deformitatem vel inordinationem quamdam important, quae tamen aliquibus circumstantiis advenientibus bonae efficiuntur, sicut occidere hominem vel percutere, in se deformitatem quamdam importat, sed si addatur, occidere malefactorum propter iustitiam, vel percutere delinquentem causa disciplinae, non erit peccatum, sed virtuosum. In numero harum actionum videtur esse habere plures praebendas." Louis Janssens, in his "Saint Thomas Aquinas and the Question of Proportionality" 39, and in his "Norms and Priorities in a Love Ethic" 232 (cited above in note 2), surprisingly translates Thomas's phrase "deformitatem vel inordinationem quamdam important" as "involve some *important* deformity or disorder" or "involves a *serious* disorder" (emphases mine). Such translations are incorrect, and leave the impression that for Thomas an act that is and remains seriously defective can be done licitly, which is not at all what he is saying here. I shall deal with this in more detail below. Also, veteran readers of Thomas's writings know that his use of the compound pronoun *quidam*, *quaedam*, and *quoddam* often signals a diminution or qualification of the noun it modifies. He regularly uses that compound pronoun in conjunction with positive adjectives when speaking of the attributes of God, so that the two words together function like a "mental genuflection." In the present instance, the phrase "deformitatem vel inordinationem quamdam important" means "carry a *certain* deformity or disorder," and the use of the word "certain" serves to distance the disorder mentioned here from the inseparable disorder mentioned earlier in Thomas's response (the text of which is given above, note 22). But in no way does the pronoun "quamdam" function here as a synonym for the adjectives "serious" or "important."

Thomas now applies this class of acts to the particular case of the having of many prebends. He grants outright that the having of many benefices has some disorders, but he thinks that other circumstances can obtain such that the previous deformities or disorders are completely driven out (*totaliter evacuantur*).²⁸ Such a circumstance would be if there is a need in many churches for the help of a particular priest, and that he would be of service to a church just as much absent as someone else might be by being present. There might be other such circumstances.²⁹ Thus, with these conditions added to the situation, and with proper intention, there will be no sin in having many benefices, even if there is no dispensation, so long as we concern ourselves with what natural law has to say on this matter. And the reason for this last claim is that dispensation pertains to positive law, not to natural law.³⁰ However, if someone should have many benefices with the intention that he be richer, so that in turn he can live more sumptuously, and so that he might become a bishop more easily on account of his being allied to a church by prebends, then, Thomas says, the aforementioned deformities are not taken away, but actually increased, because even the having of one benefice with such an intention would be illicit. And this should be said on the basis of natural law alone, with no mention of positive law.³¹

Turning to apply the question of pluralism to positive law, Thomas asserts that on the one hand pluralism was definitely prohibited by ancient positive laws and that, on the other hand, custom runs counter to the prohibition, with the result that some consider those ancient laws to be abrogated.³² But others say rather that custom does not

²⁸ Ibid.: "Quamvis enim aliquas inordinationes contineat; tamen aliae circumstantiae possunt supervenire ita honestantes actum, quod praedictae inordinationes totaliter evacuantur." I shall deal below with the precise importance of the phrase "totaliter evacuantur."

²⁹ Ibid.: "... utputa si sit necessitas in pluribus Ecclesiis eius obsequio, et possit plus servire Ecclesiae vel tantundem absens quam alius praesens, et si qua alia sunt huiusmodi."

³⁰ Ibid.: "Et tunc, istis conditionibus supervenientibus, cum recta intentione, non erit peccatum, etiam nulla dispensatione interveniente, si consideretur tantum ius naturale: quia dispensatio ad ius naturale non pertinet, sed solum ad positivum."

³¹ Ibid.: "Si vero aliquis hac intentione plura beneficia habeat, ut sit ditior, ut lautius vivat, et ut facilius ad Episcopatum perveniat in aliqua Ecclesiarum ubi est praebendatus, non tolluntur praedictae deformitates, sed augentur: quia cum tali intentione et unum beneficium habere, quod nullam inordinationem importat, esset illicitum: Et sic quidem esset dicendum secundum ius naturale, etiam nullo iure positivo superveniente."

³² Ibid.: "Nunc autem certum est per antiqua iura hoc esse prohibitum. Patet etiam huic prohibitioni consuetudinem esse contrariam, per quam quidam dicunt illa iura esse abrogata."

abrogate the ancient laws, but that the custom is tolerated.³³ That dispute, says Thomas, is something to be left to the jurists, but he adds a reminder that, as concerns this present question, natural law cannot be abrogated by contrary custom, such custom being irrational. But he also adds that it seems likely to him that positive laws could be abrogated through contrary custom, especially if those who imitate the contrary practice have the power to change the positive law, and intend by the discrepancy of their actions in fact to change the ancient, positive laws.³⁴

With all of this said, Thomas turns to give his determination of this question. If the ancient laws, which in fact forbid the practice of pluralism, remain in all their strength, then even despite contrary custom it is clear that no one may have many benefices without a dispensation, even if the advenient circumstances are present that would have legitimized pluralism in accordance with natural law.³⁵ But if the ancient laws have been abrogated through contrary custom, then it is licit to have many benefices even without a dispensation, so long as those circumstances are present that Thomas had presented. But without those circumstances, pluralism is not legitimate, however much a dispensation might be at hand.³⁶ And the reason for this last claim is that human dispensation does not allay the bond of natural law, but only the bond of positive law, which is established by man and can be dispensed by man.³⁷

Thomas's response to this question ends here, and he does not turn to answer the five difficulties given at the outset of the article, since he

³³ *Ibid.*: "Quidam vero dicunt, per hanc consuetudinem antiqua iura non abrogari, eo quod quaedam Decretalis ait: 'Multa per patientiam tolerantur: quae si in iudicium fuerint deducta, iustitia cogente cassarentur.'"

³⁴ *Ibid.*: "Et haec controversia iuristis est relinquenda; quamvis hoc videatur esse probabile, quod quantum ad hoc quod iura illa antiqua continent, ius naturale abrogari non possit per contrariam consuetudinem, utpote irrationalem. Quantum autem ad hoc quod solum de iure positivo continent, possunt esse abrogata; praecipue si simulantes hanc contrariam consuetudinem, in quorum potestate est ius positivum mutare, intendunt per talem dissimulationem antiqua iura mutare."

³⁵ *Ibid.*: "Si ergo antiqua iura, quae hoc prohibent, in suo robore maneant, contraria consuetudine non obstante, certum est non posse aliquem plures praebendas habere absque dispensatione, etiam illis circumstantiis supervenientibus quae secundum considerationem iuris naturalis actum poterant honestare."

³⁶ *Ibid.*: "Si autem antiquae iura sunt per consuetudinem abrogata, tunc praedictis circumstantiis supervenientibus, etiam sine dispensatione licitum est plures praebendas habere; sine quibus circumstantiis licitum non est, quantumcumque dispensatio interveniat."

³⁷ *Ibid.*: "... eo quod dispensatio humana non aufert ligamen iuris naturalis, sed solum ligamen iuris positivi, quod per hominem statuitur, et per hominem dispensari potest."

thinks his *responsio* gives adequate material from which answers could easily be fashioned.³⁸ But it is important in bringing this section to a close to emphasize that the complexity of his answer arises because of the many possible items of discussion embedded in the original question: mortal sin, prebends, law, and dispensation. This text is a particular response to a particular question, and not a part of a planned treatise on the moral life, a treatise that would obviously be of greater help in assessing the substance of Thomas's moral teaching.

INTERPRETATION

The principal difficulty in the interpretation of this quodlibetal article centers upon Thomas's mention of the class of acts that he considers to have a certain deformity with them, a deformity that can nonetheless be put away by advenient circumstances, for this claim can sound similar to what proportionalism terms "ontic" or "premoral" evil. It is this part of Thomas's response with which Janssens is most concerned, and upon which he bases his claim that Thomas holds, if only in germ, the distinction upon which the theory of moderate teleology or proportionalism is based. In his "Norms and Priorities in a Love Ethic," Janssens mistranslates the text from Thomas's quodlibet, as I have already mentioned,³⁹ and then says the following: "It is obvious that in this text Thomas speaks of the material content of an action (*actiones absolute considerate*) independently of its real circumstances, that the disorder to which he points is not moral wrongness (which could never be counterbalanced) but what we would call a premoral disvalue."⁴⁰ Thomas's description of these acts, then,⁴¹ in Janssens's hands, could be particularized in a way that sounds very much like a proportionalist's presentation of a typical conflict situation, say, the case of aborting the fetus in order to spare the life of the mother. Take the following: "the killing of an unborn child, absolutely speaking, has a certain disorder about it, but if it be added that the woman bearing the child will die unless an abortion is performed, then the

³⁸ Ibid.: "Et ex his de facili potest patere responsio ad obiecta."

³⁹ See above, note 27.

⁴⁰ Louis Janssens, "Norms and Priorities in a Love Ethic" 232. See also his "A Moral Understanding of Some Arguments of Saint Thomas" 356, where he asks what sort of deformity Thomas has in mind with respect to this class of acts, and responds: "It seems to me that the best answer to this question is given by the increasing number of moral theologians who affirm that killing or mutilating a person and other actions of that kind cause premoral disvalues."

⁴¹ The text from the *responsio* of the quodlibet, again, is: "Sunt vero quaedam actiones quae absolute considerate, deformitatem vel inordinationem quamdam important, quae tamen aliquibus circumstantiis advenientibus bonae efficiuntur . . ."

whole act would become good on account of these advenient circumstances." The parallel between this scenario and Thomas's more formal presentation may seem to be almost perfect, but upon closer inspection I am forced to say that it is not, and that Janssens's influential interpretation of this text is quite incorrect.

In assessing what Thomas means here by his formulation of this class of acts it is natural that we look both to the examples and application that Thomas himself provides. Janssens looked only glancingly at Thomas's examples, and not at his application, which would have been very helpful. When Thomas speaks of the class of acts that carry with them a certain deformity or disorder, but that can be made into good acts on account of some advenient circumstances, Janssens takes this to mean that for Thomas the act-made-good still possesses that "certain disorder" from beginning to end,⁴² and an examination of Thomas's example of killing and his application to the case of pluralism show that such a reading misses the mark. The reason I say this is that when Thomas exemplifies his formal principle with the case of killing an evildoer, and when he applies the principle to the case of having many benefices, it is clear that the advenient circumstances do not just "surround" the object of the act, but rather enter *into* the particular object of the act in a disassociable way for that particular object.⁴³ When Thomas speaks of the killing of man as having a deformity about it, he is simply saying that, taken without qualification, absolutely, killing a man is wrong because, taken without qualification, men are not evildoers or delinquents such as to deserve what justly befalls evildoers or delinquents. But the characterization of a man as an evildoer or delinquent is not a circumstance that is just "on the scene," but is rather a presentation of what that man *is*, and accordingly what the man *deserves*. And this is why Thomas presents the killing of an evildoer as an act done because of justice: "*occidere malefactorem propter iustitiam*" (my emphasis); the man receives what is

⁴² This is why Janssens is led, I think, to speak in terms of the "whole action," as he does in "Norms and Priorities in a Love Ethic" 232. But note that Janssens is again adding adjectives in his translation, because Thomas nowhere speaks of a "*tota actio*" or an "*actio in toto*" (see Thomas's text, cited above in note 27).

⁴³ Note that Thomas's wording here also implies a closer linkage between the circumstance and the object of the proposed action, because he terms the circumstances that rectify an action as "*advenientes*" or "*supervenientes*," which suggests that the circumstances "arrive at" or "come from above to" the object of the action. Also, note that Thomas later substitutes the term "*conditio*" for the term "*circumstantia*," which is significant, since "*conditio*" means something like the word "*status*," "*standing*" or "*establishment*," which would have to pertain to the object of the act. See the *corpus* of the text: "*Et tunc, istis conditionibus supervenientibus . . .*"

due to him because of what he has done, which accordingly makes him what he is.

Also, when Thomas turns to apply his formulation to the case at hand, the having of many benefices, he refers again to the possibility of supervenient circumstances that can make an otherwise bad act to be good, but he adds something that Janssens ignores altogether: the claim that, because of these supervenient circumstances, the "aforementioned disorders are totally wiped out" ("tamen aliae circumstantiae possunt supervenire ita honestantes actum, quod praedictae inordinationes *totaliter evacuantur*"). If, on Janssens's reading, the aforementioned disorders or deformities that Thomas presents were instances of ontic or premoral evil, then Thomas would here be saying that the supervenient circumstances remove even these instances of ontic or moral evil. On Janssens's reading, then, he would be saying that killing a man is no longer even an instance of ontic or premoral evil, something that no proportionalist, Janssens included, maintains.

The fact is that the "certain deformity" (*quaedam deformitas*) that Thomas mentions at the outset constitutes for him a *moral* deformity that would be present in an act if supervenient circumstances did not enter into the object of an act so as to change its moral specification.⁴⁴ When Thomas applies his general formulation of this class of acts to the particular case of the plurality of benefices, and again Janssens does not mention this, the supervenient circumstance that he hypothesizes is, in fact, a modification *in* the particular church or churches that would be the subjects of a pluralist priest, much as the modification of "a man" to "an evildoing man" is located *in* the man subject to execution done at the bidding of justice. Thomas suggests the pos-

⁴⁴ In his "Norms and Priorities in a Love Ethic" 232, Janssens claims that Thomas is not speaking here of moral deformity: "It is obvious that in this text Thomas speaks of the material content of an action (*actiones absolute considerate*) independently of its real circumstances, that the disorder to which he points is not moral wrongness (which could never be counterbalanced) but what we would call a premoral disvalue." Here again I think it would have been useful to keep the whole text in mind. Thomas does not modify the word "disorder" with the adjective "moral" here because the whole discussion of human acts concerns moral rectitude and deformity. In his "St. Thomas and the Question of Proportionality" 39, Janssens thinks that Thomas's presentation of acts that have an inseparable deformity about them is actually a discussion of *moral* deformity, and in this he is of course correct. Yet Thomas does not feel compelled there to speak of "moral deformity." He just says "deformity," since the whole discussion—because of the threat of mortal sin—is about human acts, and hence moral or immoral acts. Thomas simply says there without adjectival modification: "Quaedam enim [actiones humanae] sunt quae habent *deformitatem* inseparabiliter annexam, ut fornicatio, adulterium, et alia huiusmodi, quae nullo modo bene fieri possunt." Janssens is, I am afraid, forcing the text, and what he says is obvious about the disputed text is actually an addition on his part.

sible situation where there is need *in* many churches for the care of a particular priest, such that that same priest, though absent, can be of greater service to those particular churches than another priest might be even when present. In short, the advenient circumstance that Thomas continually has in mind throughout all of this is not a circumstance pertaining to, say, an ulterior intention of the moral agent. He mentions that later, and then only as something of an afterthought concerning the way in which an improper intention could vitiate an act otherwise good. It is rather a circumstance of an object which, while not part of the object's definition, is such as to enter into the object's moral specification because it becomes disassociable from that particular object. Man is not, by definition, a murderer, but the individual man who murders *becomes* a murderer. As such, the appellation of "deserving of punishment by death" pertains inextricably to that man, while not pertaining to others, because of that added condition, that modified status or standing. Similarly, parishes are not by definition such as to need the particular talents and guidance of a particular priest, but financial ruin, say, in a particular parish could require the administrative talents of a particular priest who is otherwise engaged elsewhere. And here again it is important to stress that the advenient circumstance is one that enters into the description of a particular parish. Parishes are ill served by absent priests, but a particular parish, because of needs located in it, might be well served by a particular priest who is actually never there, on the assumption that that priest is looking to that parish's particular needs even though absent.

Thomas does not make here the distinction between premoral and moral evil, so central to moderate teleology. It is true that he speaks of acts that, taken absolutely, are morally disordered, but he adds the extremely important qualification that the disorder can be entirely wiped out by advenient circumstances, circumstances that, it turns out, modify significantly the object of the action. The distinction Thomas makes between killing a man and killing an evildoing man is morally significant because the difference between innocence and guilt is morally significant. The moral deformity in killing an innocent man evaporates if that man changes from being innocent to being guilty of a capital crime, because the condition upon which the moral deformity would follow is now entirely absent.

For us to use the distinction Thomas makes here in a way that preserves his intent, and for us to apply it to the conflict case of aborting a fetus to save the mother's life, would require us to say that the intended death of the fetus is justified because a change somehow occurred in the fetus whereby it went from being innocent to being deserving of death, and this does not make sense. The proportionalist

who would counsel such sad medical action does so with the conviction that the termination of the fetus's life is and remains a premoral evil from beginning to end—the fetus has done nothing deserving of death. But the action is justified according to moderate teleology because the premoral goods of the mother's life, her obligations to her other children, etc., outweigh the premoral evil of killing an innocent fetus. The Thomas of this quodlibetal article would say on the contrary that, unless advenient circumstances change the fetus from being innocent to deserving of death, the moral deformity or disorder will remain, because the change must be found in the object of the proposed action.

CONCLUSION

For me, part of the difficulty in assessing the proportionalist system of moral evaluation lies in the fact that it employs notions and terminology from a myriad of vastly differing sources, sources ranging from moderate realists like Aristotle and Aquinas to phenomenologists like Scheler. This is not to suggest, of course, that unified and exciting systems of thought cannot be indebted to many different traditions. Thomas's own system is so indebted. But at the same time it is important to see whether, and in what way, the claims of debt are true, especially today, when clarity and reasonable certitude in Catholic moral theology is at a premium. If moderate teleology is indebted to Aquinas, among others, then it is important to see just how it is indebted, in order that a precise dialogue may take place among the participants in the discussion concerning the possibility of concrete, exceptionless moral norms, norms with which Thomas is so often associated.

My goal has been to examine an important text in the discussion of proportionalism's debt to Aquinas. The text itself is very tightly woven into the fabric of medieval theology, and accordingly calls for careful reading. In the context of Thomas's own writing it is unsystematic, unique, and youthful. One might say that the distinction Thomas makes does not help to answer the problem at hand in the article, or that it leaves us with more questions than answers. One can even say that Thomas puts it badly. But one cannot say, I honestly think, that the young Aquinas holds here the distinction between premoral and moral evil, a distinction upon which moderate teleology depends.