

Problem (b): *The Logic of Moral Judgment*

By the expression "moral judgment" in this paper I refer to the concrete practical judgment of the moral value of a prospective object of choice—that is, a judgment made by one who is deliberating concerning the moral quality of some action which he himself might do. For reasons which will appear later, I do not equate "moral judgment" and "judgment of conscience." Although judgments of conscience which are concrete and prospective are included among moral judgments, I shall argue that judgments of conscience are not the only, nor even the most perfect, moral judgments.<sup>1</sup>

Now, as logicians we are concerned with modes of predicating, not with reality. Modes of predicating are measures which determine and limit the truth of propositions by conditioning the way in which subject and predicate are conjoined. While much has been done to clarify the modes of predicating in theoretical knowledge, relatively little has been done to define and solve the many parallel problems for strictly practical knowledge.<sup>2</sup>

However, I am concerned with only one problem in this vast field. In the logic of theoretical knowledge, we can distinguish with Aristotle between knowledge of the fact (*scientia quia*) and knowledge of the reasoned fact (*scientia propter quid*). The same truth might be known in both ways, but in the former way it is merely known as true, while in the latter way it is known as a truth explained or accounted for—known with perfect scientific knowledge.<sup>3</sup> The logical basis of the distinction is in the character of the premises and the manner in which they are known. A truth is conditioned by that mode of predicating which makes it a reasoned fact if and only if the premises are appropriate to the conclusion, and for this condition to be fulfilled the premises must be "true, primary, immediate, better known than and prior to the conclusion, which is further re-

<sup>1</sup> Vernon J. Bourke, *Ethics* (New York: The Macmillan Co., 1951), ch. 6. provides a sound treatment of conscience; the texts at the end of the chapter and bibliography listed there give a good introduction to St. Thomas' view and the problems which have arisen in interpreting it. The position I am taking in this paper has most in common with that of Th. Deman, O.P., *La prudence*, in Saint Thomas d'Aquin, *Somme théologique*, 2a-2ae, Questions 47-56, 2nd ed. (Paris, Tournai, Rome: Desclée & Cie., 1949), pp. 478-523 (section V of appendix II: "Prudence et conscience").

<sup>2</sup> The emphasis is on "relatively." *Ibid.*, ch. 7, is an introduction to efforts by Thomists to work out some of the logical problems of moral judgment. Much recent and contemporary British and American ethical theory or metaethics also is concerned with these problems; Richard B. Brandt, *Ethical Theory: the Problems of Normative and Critical Ethics* (Englewood Cliffs, N. J.: Prentice-Hall, Inc., 1959), provides a useful introduction with excellent bibliographies; chs. 3, 10, and 18, with their bibliographies, are especially relevant to the problems considered in this paper.

<sup>3</sup> *Post. anal.*, I, 13; St. Thomas, lect. xxiii.

lated to them as effect to cause."<sup>4</sup> If some of these conditions are not fulfilled, there may be a demonstrated conclusion, but it will not be known in the most perfect way.

Now, the problem I will treat is analogous to this problem of knowledge of the reasoned fact, for I am concerned with that measure of predication in the moral judgment which derives from the character of the premises and the manner in which they are known. In the case of moral judgment, we do not seek the conditions of demonstration and scientific knowledge, however, for the end of practical reasoning is not knowledge but right action. Thus, just as the ideal of theoretical reasoning is the demonstrative process which inevitably leads to a knowledge of necessary truth and which also contains within itself the expression of the precise cause of the fact known through it, so the ideal of practical reasoning is a process which cannot but lead to right action and which also contains within itself the expression of the motive by which the action chosen through it is rightly done.

All this, however, is very abstract and difficult to follow, as every purely logical analysis must be. To focus attention for the inquiry to follow, let me propose the somewhat more concrete problem from which I actually began my investigation, and then we can proceed together along the path that it took.

The question from which I began was this: Are moral judgments that are concerned with matters of strict justice clearer and more certain than those concerned with matters pertaining to the other virtues? It would seem that they are. If I judge that I ought to keep my promise to the Chairman to limit this paper to a half-hour, this judgment seems much clearer and more certain than a judgment concerned with a matter, say, of temperance—for example, that I should stop at two drinks rather than go on to have a third at the banquet we shall attend this evening. I do not say that one is a more serious matter than the other, nor that I am more likely to conform to the one than to the other. What I suggest is that *prima facie* the judgment about promise-keeping seems more definite and more certain than the other. For in the matter of the promise, I cannot find any lee-way; the clock ticks away and it marks precisely my fulfillment or non-fulfillment of my promise. But in the matter of the drinks, I can reflect on my condition and my feelings, and what I can reasonably imbibe has to be estimated.

Nor is the reason for the distinction far to seek. The mean of justice is not only a mean of reason but also a real mean; I have received a certain publicly and precisely definable trust in return for a similarly definable fulfillment, and if I do not fulfill by keeping my promise I shall have faulted on my *quid* for the Chairman's *quo*. But in the matter of the drinks, the mean of temperance is at stake, and this is only a mean of reason; moderation here is relative to me and my particular condition. Hence, if I fault on the mean here, while I shall either become immoder-

<sup>4</sup> *Ibid.*, 2 (71b19-25); St. Thomas, lect. iv.

ately drunk or remain unsociably sober, a precise standard for measuring these conditions is not publicly accessible.<sup>5</sup>

Now all this seemed clear and simple enough until I began investigating the question of the character of the premises and the manner of knowing them.

First there was the question as to whether there really are premises in every case. Do all moral judgments follow as conclusions from a reasoning process?

When I began to face this question, I realized I would not be able both to keep my promise to the Chairman and to give anything like a definitive treatment of the enigmas into which I had stumbled. Nor could I begin to discuss the real questions if I attempted to limit my analysis to the sources—principally Aristotle's *Ethics* and the works of St. Thomas—on which I was relying for inspiration. Hence what follows is a sketch, rather than a treatise, and while I do not suppose that what I shall say is novel, I do not claim it to be history of philosophy either. I hope that you will judge it on its philosophic merits for its relevance to the *problem* under consideration.

Having entered this disclaimer, let me now return to the last question: Do all moral judgments follow as conclusions from a reasoning process? Now, leaving aside the question of what precisely is the form of the reasoning process, I think the answer is that they do, and that this can be proved in at least two ways.<sup>6</sup>

First, moral action is a means directed intelligently to an end. Hence, it requires that we know what is the end and what the means and their relation. This involves more than one judgment, for it is a knowledge of effects and causes as such; and such knowledge requires reasoning. Second, choice is not of an isolated action, but of including an action within or excluding it from one's life. But to consider this complex one must know both terms and their relation to one another, and such a synthesis requires reasoning.

Of course, many moral judgments may seem evident without reasoning because their premises are very well known and the reasoning very easy. Thus, it seemed evident to the Chairman and to me that I should stop at a half-hour, because we both knew I promised to do so; moreover, since you now know this fact it must seem evident to you. And none of us needs to mention the major premise, that promises should be kept, for all of us generally assume it without question.

If the moral judgment is admitted to be the conclusion of a reasoning process, however, new difficulties beset us, since the number of premises included in such a reasoning process is variable. For the purposes of this sketch, I shall assume what I think would be the conclusion of a detailed analysis.

I think that the moral judgment itself always can be reduced to the form: *x is to be done*, or *x is not to be done*, where "x" stands for any

<sup>5</sup> Cf. *In II Eth.*, lect. vi-vii; *De virt.*, art. 6, c.; *In III De anima*, lect. xvi; *Sum. theol.*, I-II, qu. 64, art. 2, c.; II-II, qu. 58, art. 10, c.

<sup>6</sup> Cf. *De malo*, qu. 3, art. 9, ad 7; *De ver.*, qu. 24, art. 2, c.

prospective object of choice, and where the word "done" denotes both the act of choice and the external action.<sup>7</sup>

Let us examine the minor premise which would lead to this conclusion. In the simplest case, the minor will have a value for "x" as its subject, and as its predicate will have some characterization of the prospective object of choice sufficient to place it under a maxim that objects having that character are to be done. For example: Stopping at the end of a half-hour is to be done, because this is promise-keeping, and promise-keeping is to be done.

Now consider this minor and notice that it is in this judgment—that the prospective object of choice is of a certain moral character—that the measurement by the mean of virtue actually occurs. For what does one know in knowing the moral character of a proposed act but that this act would or would not measure up to a moral standard? In the example, what is it to know that this is promise-keeping except that this action will embody the real equality of *quid pro quo* which is the mean of justice? Or, again, what is it to know that two drinks will be just right except that for me such imbibing falls between the limits of immoderately drunk and unsocially sober?

But, then, another question arises. If the minor premise has the function of expressing the measurement of a potential object of choice and action by the mean of virtue, how do we make such a judgment?

Well, in any case we shall have had to learn a good many relevant points by experience or instruction. We must know about time and its effects on actions involving time, in the one case, or we must know about alcohol and its effects on us in various conditions, in the other. Otherwise, we would not understand the subject of the judgment—that is, we would not know what the prospective object of choice was all about.

But we must also understand the predicate of the minor premise—"promise-keeping" or "moderate drinking"—and we must be able properly to apply predicate to subject.<sup>8</sup> Now, the manner of application may be twofold. For we may know by good instruction what kinds of actions are, as a matter of fact, promise-keeping ones and what kinds are not. And the same is true for moderate drinking. In this case we depend upon the fact that we have learned the meaning of these words just as we have the meaning of many non-ethical words with complex designata—words such as "home run" or "novel." The concrete elements which enter into the complex standard image—or *experimentum*—by which we recognize instances of any of these are indeed difficult to formulate precisely, and

<sup>7</sup> The formula is designed to allow ambiguity in "is to be," which expresses the *ought* or *may* of conscience which remains distinct from choice (cf. *De ver.*, qu. 16, art. 1, ad 15; qu. 17, art. 1, ad 4; *In II Sent.*, d. 24, qu. 3, art. 3, c., ad 4, and ad 5) and also expresses the *should and will* of prudence in its chief act, precepting (*praecipere*), which is fully practical in the sense that it includes appetite (cf. *Sum. theol.*, II-II, qu. 47, art. 8, c.).

<sup>8</sup> The minor is an *applicatio particularis rationis*. Cf. *In IV Sent.*, d. 50, qu. 1, art. 3, ad 3; *De ver.*, qu. 10, art. 5; *Sum. theol.*, II-II, qu. 49, art. 2, ad 1.

each of them admits of borderline cases which defy definite classification. In the case of terms having moral significance we may be assisted by the efforts of moral theorists who have tried to describe with precision the elements involved in the *experimentum*, and even provided fictitious, quasi-concrete cases so that by studying them we can make more accurate recognitions. Writers of baseball handbooks and critics have attempted to provide similar analyses of the empirical criteria for the uses of the words "home run" and "novel" respectively.

However, if one has virtuous character, there is another way, which is both more direct and more accurate, for determining the moral quality of the prospective object of choice. Once you know what is involved in it, you can characterize it as fair or as moderate directly, merely by consulting, as we say, your sense of fairness, or your sense of moderation. The virtuous man judges of what pertains to the virtues by affective connaturality—that is, by comparing the prospective object with his own inclination.<sup>9</sup>

Now, on the face of it this notion might seem dangerous and some of you may feel uncomfortable with it. Let me point out first of all that I am not suggesting that a moral sense replaces moral judgment or eliminates the need for moral principles.<sup>10</sup> The point rather is that you, by means of your virtuous character, can know the minor premise of the syllogism which leads to moral judgment as a conclusion, but leads to it only given a major premise—for example, what is fair, or what is moderate, is to be done.

Furthermore, consulting my inclination will be a sure means of making a false judgment if my inclination is in fact not directed to good by virtue. If I am inclined to be selfish, I shall feel that a balance weighted in my favor is fair, and the required weight to my side will be directly proportionate to my selfishness. If I am inclined to intemperance, three, not two, drinks will seem to me moderate, or four, or five, or six—in fact, if I am quite intemperate I shall be incapable of applying the notion of immoderate drunkenness to any number I might feel like having.

On the other hand, suppose that you try to avoid as best you can this dangerous means of knowing. What then? Put yourself in my place, and then suppose a maniac were to rise in the middle of the room now, to interrupt you by saying that he was fully prepared to blow us all up as soon as you had finished. Would you then proceed with confidence in virtue to drag out the paper until someone could slip away and bring the authorities? Or would you hunt around in the back of your mind, trying desper-

<sup>9</sup> Cf. *Sum theol.*, I, qu. 1, art. 6, ad 3; II-II, qu. 60, art. 1, c.; *In III Eth.*, lect. x; *In Rom.*, xii, lect. i; *In Heb.*, v, lect. ii.

<sup>10</sup> Yves R. Simon, "Introduction to the Study of Practical Wisdom," *The New Scholasticism*, XXXV (January, 1961), p. 27, seems to assert the contrary, for he supposes that the judgment by affective connaturality is the ultimate practical judgment, while I take it to be a minor premise, immediate from the side of the predicate, but perhaps even in this case mediated on the side of its subject, and in any case within a rational context. Although I disagree with this and other points, my thinking was influenced by this article, and it will repay careful study.

ately to find some sub-distinction which would permit you to do the reasonable thing? Or would you simply disregard the promise, with a feeling of moral failure? This last alternative is not so innocent as it seems, for if one becomes convinced that he cannot be reasonable and moral at the same time, he may give up on either aspiration or on both.

Now if the minor premise is reached by the first means of knowing, moral theory and description, its predicate will not have a content precisely the same as it will if it is based upon affective connaturality. "Promise-keeping" and "moderate drinking" in either case are morally significant terms. As such, the one includes the notion of fairness or justice and the other the notion of temperance. For the man of virtue, however, these are not in his experience merely as descriptions, for they contain his own self as he is acquainted with himself rightly inclined to values.

Now, there may be various types of major premise in the moral syllogism, but for the sake of simplicity let us again assume what I think would be the result of detailed analysis. The major required by the minor and conclusion I have described will be a principle to the effect that what is just is to be done and what is unjust is not to be done, or what is moderate is to be done and what is immoderate is not to be done, and so on for each of the virtues.

Such principles are evident to anyone, regardless of his character; the vicious man manages to ignore them, the virtuous man lives according to them, the man who is neither virtuous nor vicious takes them into consideration.<sup>11</sup> But if these principles are evident to all, they do not have precisely the same significance for all. Of course, the experience and reasoning which entered into the formation of the notions signified by their terms varied tremendously. Different men, and especially men of diverse cultures and conditions of human nature, vary considerably in their speculative grasp upon what are goods in themselves, and such diversity affects the significance they are able to give first practical principles which direct men to objective values in an objective order.<sup>12</sup>

But apart from that, the subject of such a principle is the middle term of the moral syllogism, and if the term in the minor premise has a content somewhat different for the virtuous man than it has for one who is not virtuous, also the subject even of an evident moral principle will have a somewhat different content. It will not be lacking the standard elements, to be sure, but it will reflect a variable degree of insight into and appreciation of the virtue; although evidently true for all, it will be clearer as well as richer in meaning for the man of virtue.

<sup>11</sup>Cf. *De malo*, qu. 3, art. 9, ad 7.

<sup>12</sup>Natural law expresses the good and the end; cf. *Sum. theol.*, I-II, qu. 94, art. 2, c. Charles Fay, "Human Evolution: a Challenge to Thomistic Ethics," *International Journal of Philosophy*, II, 1 (February, 1962), pp. 50-80, presents a position in many ways in agreement with these remarks. I had not read his article when my paper was already completed; however, although I would not entirely subscribe to his view, it does illustrate what I had in mind.

Hence, because of his more penetrating insight he will need fewer subsidiary principles or maxims, and will be relatively free from reliance upon the detailed considerations of moral theory. Kinds of action which can be proved in moral theory to be of a certain character will appear to him by induction to be of that kind. Since he knows by concrete moral judgments what actions he finds to be right or wrong, he can generalize to actions of such a kind, and know them to be right or wrong with certitude, but often without being able to give a theoretical justification of his position. Still, not only has he premises, he even has appropriate premises, but only for the moral judgment. Such a man is wise, but his wisdom concerns what is to be done; it is strictly moral wisdom—*prudentia*.<sup>13</sup>

It seems to me, therefore, that the answer to our question about moral judgments concerning matters of strict justice depends upon a distinction. Regardless of the virtue involved, the object to be judged may be more or less complicated and the case may be more or less immediately determinable by means of general moral principles. If these things are equal, a judgment based on moral theory and description will be clearer and more certain in matters pertaining to strict justice than in matters pertaining to the other virtues, for the reality of the mean of justice is a great aid not only to accuracy of description but also to the use of the description for classifying a prospective object of choice.<sup>14</sup>

However, such a method of moral judgment is inherently imperfect for three reasons. First, the real mean sometimes may not be a mean of reason, although it is so generally. Thus, many maxims which depend upon the objectivity of the mean of justice are subject to exceptions, such as I suggested previously with respect to promise-keeping in the presence of maniacs or such as is suggested in the classic case of returning a deposit of weapons to someone who plans to use it for an unjust attack.<sup>15</sup> Second, this method is imperfect because it does not permit a definite judgment by application of maxims in all cases—there remain the doubtful cases which lead to perplexed consciences. Third, even in those cases in which the maxim does not admit of exception and the case is so simple that it falls under its maxim directly, still the conclusion of a moral syllogism of

<sup>13</sup> The morally wise man has universal knowledge too, but his specialty is the concrete application; cf. *Sum. theol.*, II-II, qu. 47, art. 3, c.; art. 15, c.; qu. 49, art. 2, ad 1; *In VI Eth.*, lect. ix. Particularly valuable for the distinction between *prudentia* in Aristotle and St. Thomas is: Charles J. O'Neil, *Imprudence in St. Thomas* (The Aquinas Lecture, 1955) (Milwaukee: Marquette University Press, 1955).

<sup>14</sup> R. Garrigou-Lagrange, O.P., "Du caractère métaphysique de la théologie morale de saint Thomas," *Revue Thomiste*, XXX (1925), pp. 341-355, both suggests the relation between the truth of the practical intellect and affective knowledge and prudence, which I am pursuing, and the relation between the certitude of obligation in matters of strict justice and the reality of the mean, but he does not make the distinction I am making, and concludes from the latter point that the use of probabilities is illicit in matters of strict justice (pp. 352-354).

<sup>15</sup> Cf. *Sum. theol.*, I-II, qu. 94, art. 4, c.; art. 5, c. and ad 2; II-II, qu. 51, art. 4, c.; qu. 120 (all); *De malo*, qu. 2, art. 4, ad 13; *In V Eth.*, lect. xvi.

this kind is merely cognitive; there is no pre-commitment to its acceptance. Thus, it is expressed in the forms: *x ought to be done*, or *x may be done*, or *x ought not to be done*. In other words, reasoning according to moral theory and description can only lead to a judgment of conscience, which expresses as well as one can, apart from and even against inclination, what the moral value of a prospective object of choice would be.

From these points, we may return to our initial problem: to clarify the mode of predicating for moral judgment, which leads to the fulfillment of practical knowledge, on the analogy of the mode of predicating which conditions perfect knowledge of speculative truth—that is, demonstration of the reasoned fact. The ideal of practical reasoning will be the reasoning of a man having moral wisdom, for in every case, regardless of the matter or the type of mean, his reasoning is perfect in the very respects in which conscientious reasoning is not.<sup>16</sup>

Now this is not to say that the man having moral wisdom is not aided by the objectivity of the mean of justice in ordinary cases, since the real mean makes it easy in most cases to discern immediately what the prospective object of choice is, and the maxims can be used to direct attention as he measures the object against his inclination. In this case, the common virtue of good judgment is sufficient to insure the certitude of the minor premise of the moral syllogism—he would see what is at stake here as an ordinary case of promise-keeping, and would feel it to be just without ado. But if the prospective object of choice cannot be rightly defined in this way, the morally wise man will appeal to higher principles—he defines the case as one affecting the common good in a serious way, or impinging on his obligation to obey divine commands—and so he sees as just and to be done the withholding of a deposit or, as in Abraham's case, the slaughter of a son. Such a problem requires the virtue of good judgment in extraordinary matters, for the virtuous man's moral inclinations are divided against themselves, and he must distinguish the higher inclination of good will from the lower inclination of morally rectified emotion.

Again, the moral reasoning of the morally wise man can lead to a definite judgment in every case. The impossibility in some cases of directly reaching such a judgment by merely conscientious reasoning arises from the impossibility of forming descriptions which are all-discriminating and absolutely fool-proof. The method of the virtuous man is fool-proof, for moral wisdom is the most essential human wisdom, and without it a man is in the most proper sense a fool. The man having moral wisdom can always know the minor premise of his syllogism with certitude, for the truth of practical reason depends on conformity with right inclination, and he

<sup>16</sup> This moral judgment which is not a judgment of conscience is, I think, what St. Thomas calls "praecipere" (note 7, *supra*); cf. also *Sum. theol.*, I-II, qu. 57, art. 6. c. and ad 2; II-II, qu. 51, art. 2, c.; *In III Sent.*, d. 33, qu. 3. art. 1. qu'la 3. c. Dom Odon Lottin, *Morale fondamentale* (Tournai: Desclée & Cie., 1954), pp. 438-461, deals with the problem both in respect to the *praecipere* of moral wisdom, and in respect to the relations between moral wisdom and conscience, citing many texts of St. Thomas, and also reviewing some of the interpretations.

can test such conformity by direct confrontation. The answer, then, will never be that the prospective object of choice neither falls under any positive nor negative maxim, nor will it be that it falls under two or more maxims leading to incompatible conclusions, for everything either conforms with right inclination or not.

Finally, the conclusion of the morally wise man is known from appropriate premises in the sense that his reasoning contains within itself the motive by which the action chosen through it is rectified, because it is modified by right inclination, and right inclination is inclination fixed on the good which is the end. In other words, the conclusion of the direct moral reasoning of the morally wise man is not purely cognitive; for him there is a pre-commitment to acceptance, since the vital minor premise is known by its agreement with his own rectified inclination, and the major premise is the principle of his way of life. Such moral judgment is an application of the moral standard, right reason, but it is not a judgment of conscience, since for the man of virtuous character what is to be done is the same as what he wills to do, not only in the universal but also in the concrete.

If this position is sound, I think it casts some light on several interesting problems, and I shall now indicate some of these implications.

First, I think that this line of analysis might clarify to a great extent the question of the relation between moral wisdom and conscience.<sup>17</sup> Generally it is assumed that conscience is involved in all moral judgments. The question then is asked: How do the intellectual acts which are directed by moral wisdom, with their special characteristics, fit in with classic descriptions of the judgment of conscience and the manner in which it is formed? I am suggesting that conscience is an act of reason functioning without moral wisdom, while moral wisdom accomplishes perfectly what conscientious reasoning attempts. One may say that the conclusion of the wise moral reasoning process also is a judgment of conscience, but I do not believe—and the introspection of you, who are virtuous, will bear this out, I think—that virtuous reason comes to a merely cognitive conclusion. In those matters to which virtue is sufficient, don't you know what is to be done, and don't you do it, without ever thinking what you ought, or ought not, or may do?

Second, the problem of the relationship between a moral theory involving casuistry and one emphasizing the virtues may be soluble if the suggested analysis can be worked out in full detail. Both theories would seem to be indispensable, for we must still acquire the natural virtues, and even the virtuous man has not perfect virtue without defect. On the other hand, a treatise according to the virtues should control, since it is they which concretely set the standard of moral judgment; it is to them, not to non-moral or pre-moral nature, that right conscience conforms and from which erring or doubtful conscience falls short. As with all educational endeavors, the function of such moral theory is to lead man to the place where he

<sup>17</sup> Cf. notes 1 and 16 *supra*. Also: D. Leo Thiry, O.S.B., *Speculativum-Practicum secundum S. Thomam: quomodo se habent in actu humano* (Romae: S.A.L.E.R. Herder, 1939), pp. 64-67, reviews some theories on this problem and concludes that St. Thomas' synthesis is imperfect.

can do better without the crutch. But an advisor cannot make judgments by affective connaturality for him whom he counsels; and even if he could make such judgments, he could not communicate their grounds sufficiently; an advisor must have and use a detailed theory.

Finally, at least one aspect of the distinction between legal judgments and moral judgments may be clarified. Legal judgments, although they concern actions which have moral significance and although they are moral actions for the one who makes them, are not in a full sense moral judgments upon the action to which they refer. Legal judgments must be made according to explicit maxims and descriptions definite enough to indicate their application, they cannot be made in the way that the most perfect moral judgments are made.

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