

HOW FAITH PERFECTS PRUDENCE:
THOMAS AQUINAS ON THE WISDOM OF THE OLD LAW AND
THE GIFT OF COUNSEL

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While it is generally recognized that the *secunda secundae* of Thomas's *Summa* is structured around the three theological and four cardinal virtues, what is sometimes less well known is that Thomas, following a long tradition going back at least to St. Augustine, has a much broader moral vision, structuring his reflections, as Fr. Servais Pinckaers has pointed out, 'on the connection among the virtues, gifts, and Beatitudes, adding to them the fruits of the Holy Spirit.'¹

Since it is beyond the scope of the present paper to review this entire group of associations, I will focus for illustrative purposes on just one example: namely, how the Gift of Counsel helps perfect the virtue of prudence.²

Prudence, Deliberation, and the Gift of Counsel

In his series of articles on prudence in *STh* II-II, q. 52, Aquinas notes that the Gift of Counsel is essential since 'human reason is unable to grasp all the singular and contingent things which may occur.' Hence in 'the inquiries of counsel' (*in inquisitione consilii*), it is necessary that man 'be directed by God who comprehends all things.' And this is done through the Gift of Counsel, says Thomas, 'whereby man is directed as though counseled by God, just as, in human affairs, those who are unable to take counsel for themselves, seek counsel from those who are wiser.'³

¹ Servais Pinckaers, O.P., *The Sources of Christian Ethics*, tr. Sr. Mary Thomas Noble, O.P. (Washington, DC: Catholic University of America Press, 1995), pp. 154-155. For the best treatment of the intellectual background leading up to Thomas's discussion of the gifts of the Holy Spirit, see Odon Lottin, 'Les dons du Saint-Esprit du XIIe siècle à l'époque de saint Thomas d'Aquin,' in *Psychologie et morale aux XIIIe et XIIIe siècles*, vol. 3 (Gembloux, Belgium: J. Duculot, 1949), pp. 33-433.

² For Thomas's discussion of how the Gift of Counsel perfects the virtue of prudence, see *STh* II-II, q. 52.

³ *STh* II-II, q. 52 a. 1 ad 1.

Now strictly speaking, the Gift of Counsel is perfective of the virtue of *eubulia* or ‘deliberating well,’ which is connected to prudence as one of its ‘quasi-potential parts.’⁴ We tend to think of prudence in terms of ‘thinking over’ what to do. But for Thomas, the chief act of prudence is command (*praecipere*) — that is, actually making a decision and *doing* something, not merely reflecting endlessly on what to do.⁵ Thus ‘counsel is directed to command,’ says Thomas, ‘as to that which is principal,’ just as *eubulia* or deliberation is directed to prudence ‘as to a principal virtue, without which it would be no virtue at all.’⁶

Thus in what follows, I am going to take a bit of a short cut, as it were, and consider counsel as perfective of prudence, even though strictly speaking, it is perfective of *eubulia* or ‘deliberation,’ one of prudence’s ‘potential parts.’ Such matters of precision are not unimportant, but they are not our primary concern, which will involve how the Gift of Counsel can not only help us deliberate better, but also make better, more well-informed and more prudent judgments.

Counsel: Process and Content

My colleague Mary Catherine Sommers has shown in an exhaustive survey of the more than 2000 uses of the term *consilium* in Thomas’s corpus that *consilium* can refer either to the *process* of taking counsel or the *content* of the counsel, just as in English I can say ‘my mentor gave me counsel what to do’ (referring to the process) or ‘my mentor gave me *this* counsel what to do’ (referring to the content of the counsel).⁷

It’s worth noting in this regard that when one is receiving counsel, *docility* — that is, ‘teachability’ — is important. Will the person *heed* the advice? When one must recall counsel previously given, then *memory* is the relevant virtue. So too we can ask whether the person will *remember* the advice at the key moment when it is needed. If he can’t, the advice was pointless, since it didn’t succeed in directing the prudential act of command. This is why *docility* and *memory* are two of Thomas’s

⁴ Cf. *STh* II-II, q. 48 a. 1.

⁵ Cf. *STh* II-II, q. 48 a. 1.

⁶ *STh* II-II, q. 51 a. 2.

⁷ Cf. Mary Catherine Sommers, ‘*Consilium* as Act and Utterance in the Moral Teaching of Thomas Aquinas,’ in *Aquinas’ Sources: The Notre Dame Symposium* (South Bend, IN: St. Augustine’s Press), forthcoming.

‘quasi-integral parts’ of prudence: that is, ‘things which need to concur (*concurrere*) for the perfect act of virtue.’⁸

Now given these two dimensions of *consilium*, it is not uncommon to find scholars discussing the Gift of Counsel solely in terms of its *subjective* dimension (the process of giving counsel) rather than its *objective* dimension (the content of the counsel given). The reason for this singular attention to process rather than content is not merely that we’re philosophers and our predilection is to deliberate rather than decide. However true that might be, Thomas’s general description of the Gifts in *STh* I-II, q. 68, a. 3 certainly seems to support the belief that they are primarily, if not solely, *subjective* dispositions — dispositions, akin to the virtues, that render us especially docile to the Spirit’s inspiration — not *objective* statements.⁹ From this article alone, we know *that* the Spirit is supposed to be counseling us; we just don’t know *how* He does it or *what* the counsel might be.

The situation is akin in many ways to the lack of specificity one sometimes finds in discussions of the natural law in which we find very little indication of what the natural law actually commands. Some people seem to prefer it that way. It leaves the natural law nicely open-ended to do whatever one judges ‘good’ and avoid whatever one doesn’t like. We’ll have more to say about the natural law and its specific content below.

But for our present purposes we might profitably compare Thomas’s generalized description of the Gifts as habits akin to the virtues in q. 68 a. 3 of the *prima secundae* with his later, more specified discussion of the Gift of Counsel in q. 52 a. 1 of the *secunda secundae*, where he describes the Gift of Counsel in terms of the ‘research of reason’ (*inquisitionem rationis*). The Gifts, says Thomas, are ‘dispositions whereby the soul is rendered amenable to the motion of the Holy Ghost,’ repeating his description from *STh* I-II, q. 68 a. 3. But God ‘moves everything according to the mode of the thing moved,’ and ‘it is proper to the rational creature to be moved through the research of reason (*inquisitionem rationis*).’ It is this research of reason — or perhaps

⁸ *STh* II-II, q. 48 a. 1 and q. 49 aa. 1 and 3. Although I am mentioning docility and memory here only in passing, these quasi-integral parts of prudence are also essential for perfecting prudence.

⁹ See esp. *STh* I-II, q. 68 a. 3: ‘Therefore the gifts of the Holy Ghost are habits whereby man is perfected to obey readily the Holy Ghost.’

better, ‘inquiry’ (*inquisitionem*) of reason — which is what Thomas calls ‘counsel.’

Now if we were tempted to think of the Gift of Counsel as a kind of instantaneous insight God implants in our minds, Thomas’s use of the word *inquisitionem* here suggests something quite different. Indeed there is more evidence earlier in the article when Thomas compares corporeal things, ‘which God moves through both time and space,’ with spiritual creatures, ‘which God moves through time but not through space.’¹⁰ Had this little comment passed us by without notice we might not have understood the import of what he is saying: namely, that counsel happens *over time* during the inquiries of reason, not instantly.

And as we have seen above, the Gift of Counsel is necessitated because human reason is unable to grasp all the singular and contingent things which may occur, with the result that ‘the thoughts of mortal men are fearful, and our counsels uncertain’ (Wis 9, 14). Each of us has had only so many experiences in the small space of our lives, so we will sometimes (perhaps often) need to be guided by the wisdom of God ‘who knows all things.

But how are we supposed to get this counsel? We know its *source*: the Holy Spirit. What’s not clear is its mode of delivery. There is the *disposition* to be moved by the Spirit: this is clearly infused. But what about the actual *counsel*?

In the case of *human* counsel by those who are wiser than we, we know that they *talk* to us or write words that we can *read*. But how in the case of *divine* counsel does counsel come to us? Are certain thoughts simply beamed into our heads at the critical moment?

This sort of direct divine inspiration is certainly possible. We know that God *can* directly inspire people in this way. He does so with the prophets and the other biblical writers. But the way Thomas discusses the process — as an *inquisitio* that takes places over time — and from other clues in the *Summa* which we’ll examine in a moment, this sort of direct inspiration is not, I would suggest, the primary means Thomas has in mind.

¹⁰ *STh* II-II, q. 68 a. 3.

As Mary Catherine Sommers has pointed out in her article, the word *consilium* as used by Thomas suggests not a process of ‘solitary deliberation,’ but something more identifiably oral and social in character. ‘What one hears in Aquinas,’ argues Prof. Sommers, is the language of the Psalms, the Wisdom literature and of the epistles, works (some of which he commented on) which did not issue from a culture of privacy, like our own, but which hummed with proverbs and admonitions, with the voices of experience and common sense. Any one ‘taking counsel’ was likely to be confronted with a ‘cloud of witnesses’ which he would have to distinguish according to their merits.¹¹

Prof. Sommers suggests there might also be in Aquinas’s understanding of *consilium* an echo of his own culture in which the phrase *auxilium et consilium* (‘aid and counsel’) referred to the two main duties a vassal owed his lord. This image — of a lord listening to the counsel of his vassals who, because of their collective wisdom and more extensive experience of the realities beyond the castle walls, allows him to make more prudent judgments — is in our human situation reversed: it is the Lord who because of his divine wisdom and his knowledge of all reality gives ‘aid and counsel’ (*auxilium et consilium*) to us, and in this way treats us as though *we* were kings.

But the question still remains: how is this ‘aid and counsel’ imparted? Evidence of what Thomas has in mind can be found, I suggest, in the prologue to q. 90 of the *prima secundae*, where Thomas announced his project for the remaining questions as involving a consideration of the ‘extrinsic principle’ moving us to the good, which is God, Who, says Thomas ‘both *instructs us by means of His law* (a form of counsel, as we’ll see) and *assists us by means of His grace*’ (something which involves *auxilium*, as those who have read Thomas’s questions on grace will know).¹²

Those who have read this final section of the *prima secundae* will also know that these two principles of human action, law and grace, intersect, as it were, in *STh* I-II, qq. 106-108, the questions on the New

¹¹ Cf. again M. C. Sommers, ‘*Consilium*’.

¹² Cf. *STh* I-II, q. 90 prol. (emphasis mine). For Thomas’s discussion of divine *auxilium*, see esp. *STh* I-II, q. 111 a. 2. For an excellent discussion of these passages, see Joseph Wawrykow, *God’s Grace and Human Action: ‘Merit’ in the Theology of Thomas Aquinas* (Notre Dame: University of Notre Dame Press, 1996).

Law, a *law* which is *grace*, the grace of the Holy Spirit, by which ‘charity is spread abroad in our hearts.’¹³

The manner in which God *instructs our intellects*, however, is, as Thomas says, ‘by means of His law.’ Thus with regard to the Gift of Counsel, I will be suggesting in what follows that one important way God shows us how the general principles of morality can be prudently applied to ‘singular and contingent things’ is by means of the revealed Law of the Old Testament.

Approaching the Gift of Counsel from the perspective of Thomas’s extended discussion of the Old Law allows us to reconcile earlier, Jewish, more biblically-based notions of the Gift of Counsel with later, more ‘Hellenistic’ conception of the Gifts as ‘habits’ akin to the virtues.¹⁴

My underlying assumption is that faith is a form of *knowing*; and in accord with the general principle that grace does not destroy nature but perfects it, the light of faith does not abolish the natural light of our intellect, but perfects it.¹⁵ So too the Gift of Counsel does not abolish the prudential judgments of our *practical* intellect, but perfects them.¹⁶

Counsel and the Mosaic Law

In the Old Testament book of Baruch, the prophet chastises the people, warning them: ‘Hear, O Israel, the commandments of life: listen, and know prudence... You have forsaken the fountain of wisdom! (Baruch 3, 9.12) There is, of course, a long and noble Jewish tradition of associating *wisdom* and *prudence* with the commandments of God conveyed in the Mosaic Law. One can find the connection made

¹³ *STh* I-II, q. 106 a. 1.

¹⁴ For an interesting overview of the issue, see Servais Pinckaers, ‘The Confrontation between Gospel Preaching, Jewish Justice, and Greek Wisdom,’ in *The Sources of Christian Ethics*, pp. 110-133. On the related question of whether the cardinal virtues are really ‘biblical,’ see Benedict M. Ashley, O.P., *Living the Truth in Love: A Biblical Introduction to Moral Theology* (New York: Alba House, 1996), pp. 34-38.

¹⁵ The admonition about grace not destroying nature but perfecting it shows up many places in Aquinas’s works, but perhaps nowhere more famously than in *STh* I, q. 1 a. 8, on whether *sacra doctrina* makes use of arguments. On faith as a light of the intellect, see also *STh* II-II, q. 1 aa. 1-5.

¹⁶ For an interesting discussion of how faith perfects prudence, see Ashley, pp. 89-117.

repeatedly throughout the Old Testament. To take but one example, in Prv 8 we find the admonition:

I wisdom (*sapientia*) dwell in counsel (*consilio*), and am present in learned thoughts. The fear of the Lord (*timor Domini*) hateth evil: I hate arrogance, and pride, and every wicked way, and a mouth with a double tongue. Counsel (*consilium*) and equity is mine, prudence (*prudencia*) is mine, strength (*fortitudo*) is mine.

By me kings reign, and lawgivers decree just things (*iusta*). By me princes rule, and the mighty decree justice (*iustitiam*). (Prov 8, 12-16)

So too it is in the book of the prophet Isaiah where we find the classic list of the seven Gifts of the Holy Spirit: *sapientia, intellectus, consilium, fortitudo, scientia, pietas, and timor Domini*.¹⁷ When Christians talk about these ‘gifts,’ therefore, they shouldn’t forget that the original context of this passage falls within the tradition of the Torah and the Jewish legal tradition.

Understanding the original Old Testament context is especially important, I would argue, because there has been an unfortunate tendency among some Christians of failing to appreciate the importance and lasting value that ought to be accorded to the Mosaic Law. While this disaffection rarely includes the Ten Commandments — although some Christian moralists and biblical scholars seem to have trouble even with these¹⁸ —

¹⁷ The biblical source for the classical list of the ‘Gifts of the Holy Spirit’ is Isaiah 11, 1-2, which is translated in the English Standard Version as: ‘There shall come forth a shoot from the stump of Jesse, and a branch from his roots shall bear fruit. And the Spirit of the LORD shall rest upon him, the Spirit of wisdom and understanding, the Spirit of counsel and might, the Spirit of knowledge and the fear of the LORD. And his delight shall be in the fear of the LORD.’

These were sometimes taken to be the characteristics of the coming Messiah. Christians later took them to refer to Christ, and by extension, to faithful Christians. The English Standard Version quoted above follows the Hebrew by repeating the last characteristic, ‘the fear of the Lord,’ twice. The Greek Septuagint used by early Christians translated the penultimate line as ‘a spirit of knowledge and godliness’ (πνεῦμα γνώσεως καὶ εὐσεβείας) and the last line as ‘the spirit of the fear of God’ (πνεῦμα φόβου θεοῦ). When Latin versions appeared, the penultimate line was translated as *spiritus scientiae et pietatis* and the last line as *spiritus timoris Domini*, from whence Thomas and the rest of the Latin tradition derived the gifts of ‘piety’ (for the first) and ‘fear of the Lord’ (for the second.)

¹⁸ Cf., for example, the comments by Old Testament scholar David Clines, ‘The Decalogue. The Scholarly Tradition Critiqued,’ in *The Decalogue and its Cultural Influence*, ed. Dominik Markl, S.J. (Sheffield, UK: Sheffield Phoenix Press, 2013):

the discomfort afflicts many more Christians when it comes to the abundant ceremonial and judicial precepts of the Old Law, even though orthodox Christianity has always held that these laws were imparted to the Jewish People by God Himself, and even though Christ states in the Sermon on the Mount that He did not come ‘to abolish the law and the prophets, but to fulfill them’ (cf. Mt 5, 17).

And yet, the undeniable fact remains for many Christians that asking them whether they’d ever ventured into the strange and forbidding territory that makes up the vast reaches of Leviticus, Numbers, and Deuteronomy would be like asking them whether they’d ever spent time in a museum of ancient Semitic artifacts of the late Bronze Age.

The Old Law as Instruction

This lack of interest in the Old Law was not shared by Thomas Aquinas and his contemporaries, however. Quite the contrary, Thomas employs his longest questions in the *Summa of Theology* defending, at great length, the reasonableness of the ceremonial and judicial precepts of the Old Law. Noted French Dominican scholar Marie-Dominique Chenu once remarked on the surprise even seasoned Thomists experience upon discovering that the three articles in the *Summa* defending the ceremonial precepts of the Old Law fill over forty-nine columns in the Leonine, while many articles dealing with the most difficult and pressing metaphysical issues rarely fill more than one.¹⁹

Indeed, if one were to examine other medieval *summae* of the period, one would find in them precisely the same thing one finds in the latter part of the *prima secundae* of Thomas’s *Summa*: a short introductory essay laying out the distinctions and definitions of the various types of law serving as a preface to a much longer series of articles on the Old Law.²⁰

‘No one wants to claim that the laws of the Book of the Covenant are timeless laws of universal applicability. On what grounds, then, are such claims made for the Decalogue, when it is so plainly time-conditioned, with its manifestations of patriarchy, its casual sexism, its class discriminations, and its illiberal dragooning of all members of its society into a uniform set of religious beliefs and practices?’

¹⁹ Cf. M.-D. Chenu, O.P., ‘Le théologie de la loi ancienne selon saint Thomas,’ *Revue Thomiste* 61 (1961): 486.

²⁰ For a good overview, see Beryl Smalley, ‘William of Auvergne, John of La Rochelle and St Thomas Aquinas on the Old Law’, in *St Thomas Aquinas (1274-*

There are a number of possible reasons for this increased interest and emphasis on the Old Law: an increased concern in the thirteenth century for the literal or plain meaning of the Scriptures;²¹ the influence of Maimonides, who argued on Aristotelian principles that God, who is the most reasonable Lawgiver, must have provided the Jewish people with the most reasonable laws;²² and of course the intellectual challenges to a biblically-based ethics presented by the reception of Aristotle's *Ethics*.²³ These, however, are all merely *external* causes, and what we want to identify is the role the questions on the Old Law played in Thomas's overall theological project that made them so important.

We begin our search in the prologue to the questions on the Law, in Q. 90 of the *prima secundae*, where Thomas announces his project for the remaining questions as involving a consideration of the extrinsic principle moving us to the good, which is God, Who both *instructs us by means of His law* and *assists us by means of His grace*.²⁴

Moreover if we read the *whole* of the final section of the *primae secundae* on law and grace — not stopping, as is customary, after Question 97 — we discover that, according to Thomas, the moral precepts of the Old Law constitute a divinely authorized revelation of the

1974): *Commemorative Studies* (Toronto: Pontifical Institute of Mediaeval Studies, 1974), vol. 2, 1-71.

²¹ The classic treatment of the topic remains: Beryl Smalley, *The Study of the Bible in the Middle Ages* (Oxford: Oxford University Press, 1941); reprinted most recently by University of Notre Dame Press, 1989.

²² See esp. Moses Maimonides, *Guide for the Perplexed*, part III, chaps. 31–54. For Maimonides' influence on these early thirteen-century treatises on the law, see Smalley, 'William of Auvergne', esp. pp. 30-31, 33-34, 36, 43, 52, 60, and 62.

²³ The story of the 'Aristotelian invasion' and its various influences on medieval Christian thought is well told in David Knowles, *The Evolution of Medieval Thought* (New York: Vintage Books, 1964), esp. chs. 15 and 18. For another good treatment, see the essay by Georg Wieland on 'The Reception and Interpretation of Aristotle's *Ethics*' in Norman Kretzmann *et al.* (eds.), *The Cambridge History of Later Medieval Philosophy: From the Rediscovery of Aristotle to the Disintegration of Scholasticism, 1100–1600* (Cambridge: Cambridge University Press, 1982), 657-672. See also the general comments in my article 'Thomas Aquinas on the Ten Commandments and the Natural Law,' in *The Decalogue and its Cultural Influence*, ed. Dominik Markl, S.J. (Sheffield, UK: Sheffield Phoenix Press, 2013), 148-168.

²⁴ *STh* I-II, q. 90 prol. (emphasis mine).

fundamental principles of the natural law, a revelation that had become necessary because of the obscuring effects of the fall on our intellects.²⁵

Note I said *the moral precepts* of the Old Law just now. There are also *ceremonial* and *judicial* precepts in the Old Law, but we'll return to them shortly.²⁶

Thomas and the Three Grades of Moral Precept

So what can the questions on the moral precepts of the Old Law teach us about the natural law? As every judgment of speculative reason proceeds from the natural knowledge of first principles, says Thomas, so every judgment of practical reason proceeds 'from certain naturally known principles.'²⁷ These principles of practical rationality are what Thomas calls 'the first and common precepts of the natural law' which are 'self-evident' (*per se nota*) to human reason. And although there has been much debate among modern scholars about what these primary, self-evident precepts of the natural law might be, Thomas says clearly of the two great commandments to love God and love your neighbor as yourself that 'these two precepts are the first and common precepts of the natural law (*prima et communia praecepta legis naturae*), which are self-evident to human reason (*per se nota rationi humanae*), either through nature or through faith' (*vel per naturam vel per fidem*).²⁸

After decades of controversy over the primary precepts of the natural law, the key to understanding them was right there all the time in Aquinas's discussion of the Old Law; that is, if we hadn't noticed all the places in the New Testament where Jesus describes these as the two *most important* commandments and says that 'on these two depend the whole of the Law and the Prophets.'²⁹

²⁵ See esp. *STh* I-II, q. 98 a. 5. For more, see my article, 'What the Old Law Reveals about the Natural Law According to Thomas Aquinas,' *The Thomist*, vol. 75, n. 1 (January 2011): 95-139. Also Matthew Levering, *Biblical Natural Law* (Oxford: Oxford University Press, 2008), esp. ch. 4; *Christ's Fulfillment of Torah and Temple* (Notre Dame, Ind.: University of Notre Dame Press, 2002), esp. ch. 1; and 'God and Natural Law,' *Modern Theology* 22 (2008): 151-77.

²⁶ *STh* I-II, q. 99 a. 4.

²⁷ *STh* I-II, q. 100 a. 1.

²⁸ See, for example, *STh* I-II, q. 100 a. 3 ad 1.

²⁹ Cf. for example Mt 22, Mk 12, Lk 10, Rom 13, Gal 5.

But there is also a second grade of precept in the Old Law, derived from the first and primary precepts and related to them, says Thomas, ‘as conclusions to common principles.’ They still concern matters so evident that ‘at once, after very little consideration, one is able to approve or disapprove of them by means of these common first principles.’³⁰ These are relatively simple moral judgments, insists Thomas, of which everyone, even the uneducated, is capable, and they are summarized in the ten commandments of the Decalogue — commandments which we have now come to understand, with Thomas’s help, not as arbitrary restrictions on our freedom, but as the necessary prerequisites and expressions of the love of God and our neighbor.

There is, finally, a third grade of moral precept. Just as the commandments of the Decalogue are related to the two primary commandments as ‘conclusions to principles,’ so in turn, the commandments of the Decalogue are related to this third grade of moral precept, says Thomas, as ‘principles to conclusions.’ These moral judgments require not a ‘slight consideration,’ as do the precepts of the Decalogue, but ‘much consideration’ of the various circumstances. Not all can do this carefully, says Thomas, ‘but only those who are wise.’³¹

As an example: ‘To the fourth commandment, prescribing the honor due to parents,’ says Thomas, ‘is added the precept in Lv 19, 32 about respect for one’s elders: ‘You shall stand up before the gray head and honor the elderly.’³² Children may understand instinctively, if only for their own self-preservation, that they should honor their own parents, but what about the parents of others?

We might help clarify the matter by asking people to consider how they would want a stranger to treat *their* grandmother or grandfather — with special consideration and respect, one would hope. And yet, given the distance between the principle ‘Honor your father and mother’ and the concrete circumstance involving this particular elderly man or woman, such respect usually must be taught, as Thomas tells us, ‘the wiser teaching the less wise.’

There are scores of such pieces of wisdom in the Old Testament — things not as readily apparent to everyone as the Ten Commandments,

³⁰ *STh* I-II, q. 100 a. 1.

³¹ *STh* I-II, q. 100 a. 1.

³² *STh* I-II, q. 100 a. 1.

but which are important nonetheless. Besides the precept above bidding respect for one's elders, Thomas lists the following additional examples:

To the fifth commandment, which forbids murder, is added the prohibition of hatred and of any kind of violence inflicted on our neighbor, according to Lev 19, 16: 'Thou shalt not stand against the blood of thy neighbor': likewise the prohibition against hating one's brother (Lev 19, 17): 'Thou shalt not hate thy brother in thy heart.' To the sixth commandment which forbids adultery, is added the prohibition about whoredom, according to Dt 23, 17: 'There shall be no whore among the daughters of Israel, nor whoremonger among the sons of Israel'; and the prohibition against unnatural sins, according to Lev 28, 22. 23: 'Thou shalt not lie with mankind . . . thou shalt not copulate with any beast.' To the seventh commandment which prohibits theft, is added the precept forbidding usury, according to Dt 23, 19: 'Thou shalt not lend to thy brother money to usury'; and the prohibition against fraud, according to Dt 25, 13: 'Thou shalt not have diverse weights in thy bag'; and universally all prohibitions relating to speculations and larceny. To the eighth commandment, forbidding false testimony, is added the prohibition against false judgment, according to Ex 23, 2: 'Neither shalt thou yield in judgment, to the opinion of the majority, to stray from the truth'; and the prohibition against lying (Ex 23, 7): 'Thou shalt fly lying,' and the prohibition against detraction, according to Lev 19, 16: 'Thou shalt not be a detractor, nor a whisperer among the people.'³³

Consider how much better our common lives together might be if we heeded the commandment against gossip and detraction? And would politicians be wiser if they heeded the call not to 'yield in judgment to the opinion of the majority, to stray from the truth'? And would it make a difference in the way we viewed those specific commandments against detraction and against giving in to the opinion of the majority if we understood them, as Thomas does, as specific forms of lying? If we did, we might understand the wisdom of Baruch when he proclaims: 'Hear, O Israel, the commandments of life, listen, and know *prudence!*' (Baruch 3, 9).

What the Judicial Precepts Can Teach Us

So much, then, for the *moral* precepts of the Old Law; what about the *ceremonial* and *judicial* precepts? These precepts, although further

³³ *STh* I-II, q. 100 a. 11.

removed from the first and common principles to love God and neighbor and the second-level commandments of the Decalogue, also instruct us, but in a different way.

Some things [says Thomas] are derived from the general principles of the natural law, by way of conclusions (*per modum conclusionum*); e.g. that ‘one must not kill’ may be derived as a conclusion from the principle that ‘one should do harm to no man’: while others are derived therefrom by way of determination (*per modum determinationis*); e.g. the law of nature has it that the evil-doer should be punished; but that he be punished in this or that way, is a *determination* of the law of nature.³⁴

By studying the moral precepts of the Old Law, we learn important lessons about the fundamental principles of the natural law. By studying the ceremonial and judicial precepts we can learn important lessons about how to *apply* these fundamental principles to particular circumstances, since Christians and Jews alike believe that the ‘determinations’ of the Old Law were made under the inspiration of God Himself.³⁵

Recall that prudence is the virtue that allows us to apply the general moral principles to particular cases.³⁶ Thus the *prudent* person must understand not only the general principles of moral action — which can be learned, as we have seen, from the moral precepts of the Old Law — he or she also needs to learn how those general principles can be *determined* or *applied* to particular circumstances.

Now as with any legal code, the Old Law could not possibly cover *every conceivable case or possible application* of the general principles of the natural law. Laws, as St. Thomas points out, are made for the general case, not the individual or particular.³⁷ But what the particular precepts of the Old Law *can* do is to provide enough examples that, studied diligently, they can help us to develop our faculty of prudential moral judgment.

³⁴ *STh* I-II, q. 95 a. 2.

³⁵ *STh* I-II, q. 99 a. 4.

³⁶ See *STh* II-II, q. 47 a. 3, esp. ad 1.

³⁷ Cf. esp. *STh* I-II, q. 96 a. 1.

If our goal as prudent human legislators is to make wise ‘determinations’ of the natural law to fit particular historical and cultural circumstances,³⁸ consider what might we learn from studying the work of the Master Lawgiver, especially if we are being tutored by a master exegete such as Thomas Aquinas, whose particular genius is showing how the ‘determinations’ of the Old Law can be seen in relation to the fundamental principles of the natural law. What Thomas offers in the questions on the Old Law, therefore, I would suggest, is a master’s guide to the Old Law: God’s inspired textbook of prudence.

Now although Thomas gives literally dozens of examples in the *Summa* of the wisdom that can be gained from the ceremonial and judicial precepts (a project that takes up, as I mentioned, column after column in the Leonine), for the sake of time, allow me to focus attention on just three illustrative examples, all of them taken from the questions on the judicial precepts rather than the ceremonial.

Example 1: The Best Sort of Government

Our first example is taken from [*STh* I-II] q. 105 a.1, ‘whether the Old Law enjoined fitting precepts concerning rulers.’ If as Prv 8 insists, ‘By Wisdom, kings reign and lawgivers establish justice,’ then what sort of wisdom and counsel does the Old Law offer when it comes to a just government? The best form of government, claims Thomas, is ‘mixed,’ being partly kingdom, since there is one at the head of all; partly aristocracy, in so far as several persons are set in authority; and partly democracy, i.e. government by the people, in so far as the rulers can be chosen from the people, and the people may choose their rulers.

Indeed such was the form of government, notes Thomas, that God established for the Jewish People in the Old Law.

For Moses and his successors governed the people in such a way that each of them was ruler over all; so that there was a kind of kingdom.

³⁸ We must distinguish between what I am calling ‘particular historical and cultural circumstances’ and the particular moral decisions made by individuals in concrete situations. Prudent legislation must be directed to the general case and the common good. Individuals must choose the prudent course of action *in this case*. To take a simple example, prudent legislation might dictate a certain speed limit on a particular road given the current capacities of automobiles and usual weather conditions on that road; and yet an individual driver might, in a particular circumstance, decide he or she should drive faster than that posted speed limit to avoid a dangerous situation.

Moreover, seventy-two men were chosen, who were elders in virtue ... so there was an element of aristocracy. But it was a democratic government in so far as the rulers were chosen from all the people ... and, again, in so far as they were chosen by the people.... Consequently it is evident that the ordering of the rulers was well provided for by the Law.³⁹

Note that the counsel the Old Law provides here is *in accord with* reason: in part at least, with the arguments set forth in Aristotle's *Politics*, although in favoring 'monarchy' in the way he does, Thomas goes beyond Aristotle's 'mixed' oligarchical and democratic polity.⁴⁰ Thus although there may be cases in which prudence instructed by the revealed law, receiving its 'counsel,' as it were, *goes beyond* the limits of natural reason alone, often it will tell us what we could and should know by reason alone but which, if God did not reveal it, would be known only by a few, with much admixture of error, and after a long duration of time.

Example 2: Taking Fruit from a Neighbor's Vineyard

How about more rudimentary issues, like our everyday dealings with one another? Does the Law have any wisdom to offer here? Well, in q. 105 a. 2, Thomas responds to the objection that 'the judicial precepts were not suitably framed as regards the relations of one man with another' because in Dt 23, 24 the law allows that 'If you go into your neighbor's vineyard, you may eat your fill of grapes, as many as you wish, but you shall not put any in your bag.' But 'men cannot live together in peace,' according to the objection, 'if one man takes what belongs to another.' Hence the law 'did not make suitable provisions for man's peace.'⁴¹

In his reply, Thomas begins with the fundamental principle of the law, noting, as the Apostle Paul says (Rom 13, 8), 'he that loves his neighbor hath fulfilled the Law': because, to wit, all the precepts of the Law, chiefly those concerning our neighbor, seem to aim at the end that men should love one another.' From this basic principle, he moves to the particular circumstance at issue, arguing: 'Now it is an effect of love that men give their own goods to others...' Hence the purpose of this particular law, says Thomas, was to accustom men to give of their own to others readily, and a man does not give easily to others if he will not suffer another man to take some little thing from him without any great injury

³⁹ *STh* I-II, q. 105 a. 1.

⁴⁰ Cf. Aristotle, *Politics*, bks III and IV, esp. IV. 7-8.

⁴¹ *STh* I-II, q. 105 a. 2 obj. 1.

to him. And so the Law laid down that it should be lawful for a man, on entering his neighbor's vineyard, to eat of the fruit there: but not to carry any away, lest this should lead to the infliction of a grievous harm, and cause a disturbance of the peace: for among well-behaved people, the taking of a little does not disturb the peace; in fact, it rather strengthens friendship and accustoms men to give things to one another.⁴²

The intended result of the law, therefore, was to help instill in men the virtue of *liberality*, or what we more commonly call 'generosity.'

Thus instead of reifying property ownership as an end unto itself and taking the precept against stealing as a categorical imperative the goal of which is simply the protection of personal property, Thomas sees the particular precept about sharing one's goods in relation to its ultimate goal, which is that men should love one other and share the gifts God has given them. Doesn't this counsel reflect a certain divine *wisdom* — the wisdom we would expect from Christ who gave himself selflessly to us even though we were sinners? And wouldn't learning to apply this general rule-of-thumb regularly help us develop the virtue of generosity — a generosity informed by the soul-expanding prudence and charity of Christ rather than the self-interested, protect-your-own skin caution we often associate with the word 'prudence.' As historian Philip Hallie has suggested:

If all we do for our children is pound into their heads reasons for protecting their own hides, their second nature will be as wide as the confines of their own self-seeking skins. One's life is usually about as wide as one's love. But if we make the often-impractical great virtues [like compassion and generosity] part of their lives, their second nature will be as wide as their love.⁴³

Example 3: The Workman is Due His Wages

One last example, if I may. It involves the wisdom contained in Lv 19, 13, which says: 'You shall not oppress your neighbor or rob him,' and then adds: 'The wages of a hired worker shall not remain with you all night until the morning.' Note the connection here between theft and not paying the worker his wages.

⁴² *STh* I-II, q. 105 a. 2 ad 1.

⁴³ Philip Hallie, *In the Eye of the Hurricane: Tales of Good and Evil, Help and Harm* (New York: Harper Collins, 1997), 40.

The objection to this precept in Thomas's *Summa* suggests that, 'Just as a workman offers his work for hire, so do men rent houses and so forth. But there is no need for the tenant to pay his rent as soon as he takes a house.'⁴⁴ Therefore, it seems unnecessarily 'harsh' to insist that workmen be paid immediately.

In his reply, Thomas shifts the focus from the supposed 'harshness' of the burden on the *employer* to where it properly belongs: to the needs of the *worker*. In two marvelously concise sentences, he brings the issue into proper focus: 'Workmen who offer their labor for hire,' he points out, 'are poor men who toil for their daily bread: and therefore the Law commanded wisely that they should be paid at once, lest they should lack food. But they who offer other commodities for hire, are wont to be rich: nor are they in such need of their price in order to gain a livelihood: and consequently the comparison [between renting and paying wages] does not hold.'⁴⁵

Aaron Feuerstein and the Wisdom of the Torah

Such examples could be multiplied by the dozens. But allow me a brief story, if I may, by way of conclusion. About the time I was first reading these questions in the *Summa* on precepts such as the one in Lv 19, 13 about paying the workman his wages, I was privileged to hear an elderly Jewish man named Aaron Feuerstein deliver an address to a graduating class of business students. Aaron Feuerstein was the President and CEO of Malden Mills Industries, the maker of, among other things, Polartec fleece, and he had gained notoriety several years earlier when, one week before his 70th birthday, on a frigid December night, a fire struck Malden Mills destroying three out of ten of the factory's century-old buildings.

Aaron Feuerstein could have walked away from his business at that moment with an insurance settlement 300 million dollars richer, which is what many of his workers feared he might do. They were certain major lay-offs were coming since there were no longer places for most of the workers to work. Instead, that night, gazing at the smoldering ruins, he turned to his business manager and declared: We must keep all our workers on salary for at least 90 days and health benefits for at least 180 days. His business manager insisted this was impossible and would ruin

⁴⁴ *STh* I-II, q. 105 a. 2 obj. 6.

⁴⁵ *STh* I-II, q. 105 a. 2 ad 6.

them. The decision would eventually cost Mr. Feuerstein 25 million dollars of his own money and, for a time, his CEO position at the company he built. But it would also eventually put him on the covers of *Forbes* and *Business Week* as a paradigm of ‘business ethics.’⁴⁶

‘People are always asking me,’ said Mr. Feuerstein to these eager young business students, ‘where I learned my ethics. To which I always reply: I learned my ethics at the knee of my father, listening to him read the Torah.’ He then told the story of how his grandfather had paid the workers in cash at the end of each day before going home. Aaron’s father thought this practice was too cumbersome, but when he objected, Aaron’s grandfather told him the Torah commanded it. And sure enough, when Aaron’s father asked his rabbi, the rabbi directed him to the passage in Lv 19, 13.⁴⁷

⁴⁶ For a biography of Aaron Feuerstein in a major business textbook, see Marianne M. Jennings, *Business: Its Legal, Ethical, and Global Environment*, 10th edition (Stamford, Conn.: Cengage Learning, 2015), 700-701.

⁴⁷ Aaron Feuerstein told this story about the importance of the Torah in his formation repeatedly. See, for example, the interview he gave in 2005 to *More Than Money* [at <http://www.morethanmoney.org/articles.php?article=314>]:

‘Feuerstein: If you treat the worker right, the company will be a better company. The same goes for the environment and the community.

Interviewer: How did you come to that belief?

Feuerstein: I grew up with it.... I recall how my father reported that when he was 14 years old, he went to work for his father, who had founded our company at the turn of the century. My father noticed that, at the end of each workday, my grandfather was going around with envelopes of money and paying each of his workers for the day’s wages. My father told my grandfather, ‘That’s a cumbersome way to do things; it’s not the way to do it. You should keep the records of the taxes, benefits, hours, and wages, and at the end of the week, pay the worker in arrears.’

My grandfather said, ‘Oh no, that’s against the Torah.’ I was seven years old when I heard this, and every day after public school, I had Hebrew religious instruction, where I was taught by my maternal grandfather. The next day I said to him, ‘Is it possible that the Torah says you can’t pay at the end of the week? You’ve got to pay during the week?’ He said, ‘Oh yes, your paternal grandfather is correct.’ Then he opened the book of Leviticus and showed me where it said, ‘You are not permitted to oppress the working man. He’s poor and needy, and you have to pay him his wages each day. And you cannot let the sun set on those wages, because he’s a poor man and those wages, psychologically, mean everything to him. And you don’t want this poor man to cry out unto God and you will have sinned.’ Later on, when I was older, I committed that to memory. I thought it was really fabulous.

Interviewer: Do you pay workers every day?

Feuerstein: Oh no, we got over that! But the spirit is there—we try and treat the worker fairly and as an equal, not as a pair of hands.’

Aaron Feuerstein did not continue to pay his workers in cash at the end of each day as his grandfather had, but the lesson he clearly learned, both from his grandfather and from the Torah, was that the workman is due his wages. He was, as Thomas Aquinas says, both ‘instructed by God’s Law’ and I would suggest (although there’s no way of knowing this for sure), ‘assisted by God’s grace’: *instructed by God’s Law* because he allowed his prudence to be formed by God’s gifts of wisdom and counsel; *assisted by God’s grace* because his disposition of readiness to be guided by God’s Law was itself a gift of the Spirit — the Spirit by whom, as St. Paul tells us, ‘God’s love is spread abroad in our hearts’ (cf. Rom 5, 5).⁴⁸

It is for these reasons I have proposed his story as illustrating the two sides of the Gift of Counsel: both the *internal* disposition of openness and docility, which made him ‘teachable’ and hence able to conform himself to the Spirit’s inspired word, and the *external means by which* the Spirit delivered this counsel in the precepts of the Old Law.⁴⁹ From his story and from the moral theology of St. Thomas, we should learn both the importance of the internal disposition that makes us teachable, but also of the wisdom we can still gain from the Old Law, even the more particular determinations of the law, especially if we learn to view them, as St. Thomas did, as applications of the fundamental commandments to love God and neighbor and not merely as the cultural detritus left behind by a dead society from the late Bronze Age.

⁴⁸ I was aware of the theological complexities involved when I chose the story of a Jewish man to exemplify the Gift of Counsel. My example would appear senseless to anyone who holds that the gifts of God’s grace require *explicit* faith in Christ. Since Mr. Feuerstein clearly did not possess this *explicit* faith in Christ, the objection might be made that he could not possibly have been the recipient of any of the Gifts of the Holy Spirit. Although I agree that all God’s graces and gifts are won *by* Jesus Christ and are intrinsically connected *to* Christ’s sacrificial death on the cross, I take it my example shows that I do not agree that God’s grace and gifts are restricted to those with *explicit* faith in Christ in the way specified by the objection.

⁴⁹ Epilogue: Readers interested in Mr. Feuerstein’s story may discover that his company, like many others, continued to have its troubles and went in and out of bankruptcy in subsequent years. I do not wish to be mistaken for claiming that following the wisdom of the Scriptures and the Gift of Counsel offered there would be either easy or make one better off financially. Following up on these issues would, however, require a broader discussion of the difference between the kind of reasonable ‘prudence’ that would look at the devastation of such a fire and choose to walk away with 300 million dollars to do with as one pleases and the kind of ‘prudence’ entailed in believing that God has called you to devote yourself to the well-being of your workers — a discussion clearly beyond the scope of the present paper.