

Two Factors in the Analysis of Cooperation in Evil

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Abstract. The purpose of this essay is to explain what the terms “formal cooperation” and “material cooperation” mean in the thought of St. Alphonsus Liguori, who is a pivotal figure in the Church’s tradition of reflection on cooperation and is often referenced when the distinction between formal and material cooperation in evil is discussed. The author explains why—and to some extent when—mainstream Catholic moralists who associate themselves with Alphonsus speak of some cooperation as formal and other cooperation as material. Specifically, he discusses two factors that are essential for the analysis of cooperation in evil—(1) the meaning of the term “formal” and (2) the role of “segments of intelligibility” in determining what is material rather than formal cooperation. *National Catholic Bioethics Quarterly* 13.4 (Winter 2013): 663–675.

Ever more frequently in the last couple of years and even in nonacademic publications, one comes across the terms “formal cooperation” and “material cooperation,” employed to explain why certain actions, such as paying for insurance that will give employees access to “reproductive services,” are either moral or immoral. The purpose of this essay is to explain what these terms mean in the thought of St. Alphonsus Liguori, who is certainly a pivotal figure in the Church’s tradition of

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reflection on such issues and who is often referenced when the distinction between formal and material cooperation in evil is discussed.

I will not be going into the more arcane details of this tradition, such as how to calculate the “distance” between an act of cooperation and the bad act cooperated in; nor will I be giving an answer to such questions as whether paying for insurance of the type just mentioned is moral or immoral—although I do try to provide frequent (and simpler) concrete examples to illustrate some of the more abstract language in which this subject is inevitably couched. My purpose rather is simply to explain why—and to some extent when—mainstream Catholic moralists who associate themselves with Alphonsus speak of some cooperation as formal and other cooperation as material.

In this regard, then, I shall be discussing two factors essential for the analysis of cooperation in evil. The first has to do with the formal/material distinction itself but especially with the meaning of the term “formal.” The second has to do with the role of what I call “segments of intelligibility” in determining what might count as merely material, rather than formal, cooperation.

Before beginning, though, I must make a couple of terminological stipulations. The first has to do with the expression traditionally used to identify this general field of enquiry: “cooperation in evil.” To avoid constant repetition, I sometimes speak simply of *cooperation*; it is to be understood that I am referring to cooperation in (or with) the *bad* acts of another person. The second has to do with this person who performs the bad acts. To avoid excessive circumlocution, I call him “the malefactor.” This makes him sound quite sinister, which the main agent in a case of cooperation sometimes—but not always—is; but the term is used here simply as a tag, so that it might be immediately apparent to which of a number of possible agents reference is being made.

The Meaning of “Formal”

The formal/material distinction can be traced back to Aristotle, who distinguished form and matter not only in his metaphysics, but even in his logic, where a syllogism is said to have a certain form, its matter being the propositions someone presumably puts *into* that form.¹ It is useful to recall this heritage, since it serves to remind us that even material cooperation—although it often concerns what someone brings about in the world physically—is significant morally because of what might even be called its “spiritual” character: its status as a human act, issuing, as a human act must do, from the human will. Even material cooperation, then, is in a sense formal.²

¹ See Aristotle’s *Physics* 2.3.195a18–19. The idea is much developed in the subsequent Aristotelian commentary tradition. See Jonathan Barnes, “Logical Form and Logical Matter,” in *Logica, mente e persona*, ed. A. Alberti (Florence, Italy: Olschki, 1990), 7–119; see also Kevin L. Flannery, *Ways into the Logic of Alexander of Aphrodisias*, *Philosophia Antiqua*, vol. 62 (Leiden, Netherlands: Brill, 1995), 109–145.

² Aquinas makes this point with respect to the object of an act at *Summa theologiae* (ST) I-II, q. 18, a. 2, ad 2.

Our first task, however, is to understand what the traditional teaching means not by “material” but rather by “formal” cooperation. This is an important task since, in a society in which Christians find themselves under more and more pressure to cooperate with activities they consider immoral, much depends on whether such cooperation is formal or not. There is one thing about which all who speak, or debate, about cooperation are agreed: that formal cooperation is always wrong. And so, if any type of cooperation is to be deemed morally acceptable, it must first be demonstrated that it does not amount to formal cooperation. All parties are also agreed that *some* instances of material cooperation are immoral; but if one can show that a certain type of cooperation is not formal, there is at least the possibility that it might fall among the types of material cooperation that are morally acceptable—or at least tolerable for a time. Because by vocation they participate in the compassion or mercy (“*misericordia*”) of Christ, Christian pastors are commendably prone to identifying instances of cooperation as merely material: they are understandably *disinclined* to burden the consciences of their sheep. They must always be careful, however, to ensure that what moves them is genuinely the mercy of Christ, which always emerges from the truth and can never contradict it.

Because scholars and others who invoke the distinction between formal and material cooperation are invariably interested in casting their positions as traditional, they very often cite Alphonsus. There is good reason for this. Canonized in 1839 and declared a Doctor of the Church in 1871, Alphonsus is the most prominent and esteemed “dedicated” moral theologian in the history of the Church. Although St. Thomas Aquinas’s thought is more comprehensive and incisive than Alphonsus’s even in the field of ethics, the Church has so clearly associated herself with the moral theology of Alphonsus that successfully attributing an idea to him is a strong indication that the idea is doctrinally sound.

And so, especially in recent writings on cooperation, one often comes across the passage in which Alphonsus sets out the distinction as he understands it. (In what follows, I shall refer to this distinction as “the Central Distinction”; it appears in the second book of his most important theoretical work, his *Theologia moralis*.) Having first mentioned the way in which certain others before him had distinguished formal from material cooperation, Alphonsus writes, “But it is better, with [yet] others, to say that that cooperation is *formal* which contributes to the bad will of the other and cannot be without sin, but that cooperation is *material* which contributes only to the bad action of the other, beside the intention of the cooperator.”³ This certainly sounds as if Alphonsus were saying that one cooperates formally with a malefactor only when one shares his intention; otherwise, one cooperates only materially. Thus, a pro-life nurse who must participate in an abortion or lose her job would cooperate in the abortion only materially, since her intention would be only to keep

³ “Sed melius cum aliis dicendum, illam esse formalem quae concurrat ad malam voluntatem alterius, et nequit esse sine peccato; materialem vero illam, quae concurrat tantum ad malam actionem alterius, praeter intentionem cooperantis.” Alphonsus Maria de Liguori, *Theologia moralis*, ed. L. Gaudé (Rome: Typographia Vaticana, 1905–1912) (4 volumes), 2, § 63 (vol. 1, p. 357). All translations are mine.

her job. Some of those who would call the nurse's cooperation material would also say that it is "immediate material cooperation" and, for that reason, immoral. But they would also have placed the nurse's action into a category of actions that could be moral, depending on the nature of the actions and their closeness to the action of the malefactor.

This understanding—and use—of Alphonsus's Central Distinction is, however, incorrect, for it fails to appreciate the difference, presumed by Alphonsus, between the *will* of the malefactor and his intention. Alphonsus says that formal cooperation "contributes to the bad will [voluntas] of the other" and that the material cooperator does not share the same intention [intentio] with him (the malefactor). But this says nothing about whether formal cooperation necessarily involves sharing the intention of the malefactor. Indeed, in the very section of his *Theologia moralis* we have been considering, Alphonsus gives examples of formal cooperation in which the formal cooperator does not share in the other's intention. He speaks of a servant who writes or conveys amorous letters to his master's lover: even though the servant does these things out of "grave fear" that he will be punished, says Alphonsus, he cooperates formally.⁴ In a work whose short title is *Homo apostolicus* and which appeared a few years after his *Theologia moralis*, Alphonsus gives a couple of other examples, including that of someone who acts as a lookout for a thief or an assassin. Such cooperation, he says, is intrinsically evil and can never be licit, no matter what the reason for cooperating, be it even the threat of death.⁵

⁴ Alphonsus, *Theologia moralis*, 2, § 67 (vol. 1, p. 360). In § 67, the question is, "Whether it is licit for a servant, out of grave fear, to write or to convey amorous letters to the concubine of his master?" (An licet famulo, ob metum gravem, scribere vel deferre litteras amatorias concubinae domini?). Alphonsus, citing a number of other prominent moral theologians, says that "these [letters] are never licit, since they contribute formally to the sin of the master, fostering his illicit love" (... haec nunquam licere; quia formaliter concurrunt ad peccatum heri, fovendo turpem ejus amorem). It is not immediately apparent what is meant by "writing" amorous letters to the concubine, but in the first source that Alphonsus cites in this regard, the question is framed in the following manner: "Whether servants can licitly convey amorous letters to a concubine or write them upon the order of a master" (An servi licite possint deferre litteras amatorias concubinae aut eas iussu domini scribere). *Collegii Salmanticensis FF. Discalceatorum Beatae Mariae de Monte Carmeli primitivae observantiae cursus theologiae moralis*, vol. 5, tract. 21, cap. 8, n. 67. So the letters would seem to be composed by the servant and not just written out as dictated by the master. Besides the Salmanticenses, Alphonsus cites as agreeing with him Thomas Sánchez (d. 1610), Dominic Viva (d. 1726), Paul Laymann (d. 1635), Martin Bonacina (d. 1631), Thomas Tamburini (d. 1675), Claude Lacroix (d. 1714), and others. (Tamburini is sometimes associated with the condemned school of thought known as "laxism," although Alphonsus defends him.) A few sections earlier in *Theologia moralis*, Alphonsus appears also to recognize as formal cooperation no matter what the circumstances a servant's seeking out a concubine for his master and a person's fabricating idols. Alphonsus, *Theologia moralis*, 2, § 59 (vol. 1, p. 356).

⁵ "Material cooperation is commonly admitted by the learned to be licit when there is present a just cause. Let it be understood here that one thing is *formal* cooperation, which comes about when one directly cooperates in a sin (as in him who fornicates), or else when it flows into the bad will of one's neighbor who wills to sin, as would be serving as a lookout

This understanding of the distinction between intention and the will (or the voluntary) is set out by Aquinas and shared by the large majority of moralists who contributed to the Church's teaching at least up until the Second Vatican Council. When analyzing a particular human act, the most distant point in the "scenario" under consideration is called the agent's intention: what he intends.⁶ Thus, when someone takes medicine in order to achieve health, health is that which is intended, although taking the medicine also issues from the will: it is done voluntarily in order to reach the end intended. On the other hand, if we shift the focus of our analysis slightly so that the scenario under consideration is now "going to the pharmacy in order to buy that medicine," "buying the medicine" becomes the agent's intention, and "going to the pharmacy" is voluntary, with respect to that intention.⁷ While considering one

[‘watching the back’] for an assassin so that he might steal or kill more securely: to write amorous letters for an adulterer or to convey gifts to a concubine; to accept gifts from him who would undermine your integrity. These and similar acts of cooperation are intrinsically evil, for by them a hand is given to one's neighbor in committing a sin—or, at least, the bad will of the latter is fostered—and so for no reason, not even that of death, can they be dismissed as not mortal sin. Quite another thing is *material* cooperation, which is when an action is indifferent and one's neighbor can make use of it without sin but out of his malice he makes ill use of it in order to sin, as when one borrows money from another who refuses to give it without interest: to serve wine to him who ill uses it to get drunk; to give keys to one who uses them in order to steal.” (Cooperatio materialis communiter admittitur uti licita a DD. cum iusta adest causa. Sciatur hic quod alia est cooperatio *formalis*, quae evenit cum directe cooperatur ad peccatum [ut est in eo, qui fornicatur]: aut cum influit in pravam voluntatem proximi volentis peccare, ut esset servare terga latroni, aut sicario, ut securius furetur, aut occidat: scribere litteras amatorias vice concubinariii aut afferre dona concubinae: accipere dona ab eo, qui tuae honestati insidiatur. Hae et his similes cooperationes sunt intrinsece malae, quia ipsis datur ansa proximo ad peccatum exequendum, aut saltem istius prava voluntas fovetur, ideoque nulla ex causa, ne mortis quidem, excusari possunt a mortali. Alia vero est cooperatio materialis, quae est cum actio est indifferens, et proximus potest ea uti sine peccato, sed ille sua malitia ea abutitur ad peccandum, ut esset mutuari pecuniam ab aliquo, qui eam non vult dare sine faenore: ministrare vinum ei, qui eo abutitur ad ebrietatem; dare claves illi, qui eis utitur ad furandum.) Alphonsus, *Homo apostolicus instructus in sua vocatione ad audiendas confessiones, sive praxis et instructio confessoriorum* (Mechlin, Belgium: H. Dessain, 1867–1868) (3 volumes), tract. 4, punct. 5, § 31 (vol. 1, pp. 120–121).

⁶ See *ST* I-II, q. 12, a. 1.

⁷ See *ST* I-II, q. 12, a. 2, corpus: “Intention regards the end as a terminus of the movement of the will. Now a terminus of movement may be taken in two ways. First, the very last terminus, where the movement comes to a stop; this is the terminus of the whole movement. Secondly, some point midway, which is the beginning of one part of the movement, and the end or terminus of the other. Thus in the movement from A to C through B, C is the last terminus, while B is a terminus, but not the last. And intention can be both. Consequently though intention is always of the end, it need not be always of the last end.” (Intentio respicit finem secundum quod est terminus motus voluntatis. In motu autem potest accipi terminus dupliciter, uno modo, ipse terminus ultimus, in quo quiescit, qui est terminus totius motus; alio modo, aliquod medium, quod est principium unius partis motus, et finis vel terminus alterius. Sicut in motu quo itur de a in c per b, c est terminus ultimus, b autem est terminus, sed non ultimus. Et utriusque potest esse intentio. Unde etsi semper sit finis, non tamen oportet quod semper sit ultimi finis.)

such scenario, Aquinas actually associates the act that terminates in the end with form and that which is done for that end with matter—which is very likely the source of our distinction between formal and material cooperation.⁸

Now consider the following situation. A senior doctor performs abortions because he believes that doing so promotes the equal rights of women. He could be involved in other more “prestigious” and better-paying procedures such as heart or brain surgery, but he has chosen, for this ideological reason, to make abortions a significant part of his practice. So his intention in willingly performing a particular abortion is to promote the equal rights of women. Suppose, on the other hand, that a junior doctor is required to assist him in this abortion, performing actions that only make sense as finishing in the death of the fetus. He might be required, for instance, to help guide the instrument, with which the senior doctor will kill the fetus, toward the fetus. He has moral objections to abortions but knows too that he will lose his job if he does not assist the senior doctor in this way. His intention, therefore, is quite different from that of the doctor—and yet he cooperates formally in the abortion. As Alphonsus puts it in the Central Distinction, the junior doctor “contributes to the bad will” of the senior doctor even though he does not have the same intention as he does. The “bad will” of the senior doctor is present not just in his intention of promoting women’s rights but also in the abortion he performs voluntarily—and it is that with which the junior doctor cooperates formally.

But how, someone might ask, can this be called *formal* cooperation if, within the Thomistic tradition presumed by Alphonsus, form is associated with intention—and the intentions of the two doctors are quite different? The example already used of going to the pharmacy with the intention of buying medicine (which one then takes with the intention of achieving health) is, in effect, the answer to the question. Any stage in the extended analysis of an action, with the exception of the very first stage, can be considered what the agent intends in doing something else. As I have said, it is simply a matter of shifting the focus of analysis. The senior doctor performed the abortion with the intention of promoting women’s rights, but he also entered the operating room with the intention of performing an abortion. And so, when the junior doctor helps guide the instrument that will kill the fetus, he is cooperating with *an* intention of the senior doctor, even though, in the original description of the scene, the senior doctor willed to perform the abortion with the intention of promoting women’s rights. Alphonsus’s only concern in all of this is whether the act of the cooperator “enters into” some willed (or intended) act that is immoral; if it does, the act amounts to formal cooperation.

How Alphonsus thinks about such matters becomes more clear if one considers the Latin phrase “concurrit ad,” which in the Central Distinction I have translated “contributes to”: “That cooperation is formal which contributes to the bad will of the other . . . but that cooperation is material which contributes only to the bad action of the other.” That translation is perfectly accurate; but to understand the distinction that Alphonsus is making, it is helpful to attend to the literal meaning of “concurrit

⁸ See *ST* I-II, q. 18, a. 6.

ad”—“runs (in a cooperative way) up to [something]”⁹—for in so doing it becomes apparent that the difference between formal and material cooperation depends on the type of thing toward which a particular piece of behavior goes. The action of a formal cooperator runs up to the bad *will* of a malefactor; the action of a material cooperator runs up to his bad *action*.

Since formal cooperation runs up to a will, it runs up to that of which it can be an integral part *as* that other act is intended. Material cooperation, on the other hand, runs up to another, distinct action. With material cooperation, there is a sort of “intelligible barrier” between the cooperation and the intention of the act cooperated in; with formal cooperation, on the other hand, the intention of the cooperator enters right into the intention of the malefactor. Both types of cooperation concern actions linked to actions (the action of a cooperator linked to the action of a malefactor), but since formal cooperation runs up to the will of the malefactor’s bad action, the cooperator’s action is united internally with that action. The point of the formal cooperator’s action is the same as the point of the malefactor’s action, informed as the latter is by a bad will.

This interpretation of Alphonsus’s remarks on formal cooperation is confirmed by an expression he uses in his *Homo apostolicus*, where he says that formal cooperation “flows into the bad will of one’s neighbor who wills to sin.”¹⁰ Again, the idea is that the cooperator’s action enters into the very intelligibility of what the malefactor does. The same does not happen with material cooperation, the intelligibility of which remains distinct from—although connected to—that of the malefactor’s action.

So it is important always to bear in mind that the point of the action with which the formal cooperator cooperates is not necessarily the same as the malefactor’s intention—at least as specified within a particular scenario. At issue is the *action* that the malefactor performs, which falls under his will as well as under his intention, although it is distinct from his intention. The formal cooperator cooperates specifically with the *will* of the malefactor. The junior doctor may not share the senior doctor’s intention, but he does contribute to the will embodied in the action that the senior doctor performs—and “to which” the junior doctor’s own action runs as to a completing terminus. When the junior doctor guides the instrument that kills the fetus, his action gets its sense—its form—from the fetus’s being killed, which is what the senior doctor does with another intention. The act of cooperating runs up to and *into* what little sense there is in the senior doctor’s act of killing the fetus. If the fetus is not killed, neither the junior nor the senior doctor’s act achieves what it is “essentially”—an act aimed at killing that fetus.

⁹ The words in parentheses—“in a cooperative way”—represent the prefix *con-*. Since in the present context “running up to” is invariably attributed to a cooperator (that is, his “running up to” is said to cooperate in some way with the malefactor), in what follows I drop those words, speaking more simply of running up to something.

¹⁰ “Influit in pravam voluntatem proximi volentis peccare.” Formal cooperation is here not just a matter of *influencing* the will of the malefactor but of helping it to be the case that his will comes about by way of his bad act. The fuller text is quoted above, in note 5. We find a similar expression in *Theologia moralis*, 3, § 571; see below, note 15.

Material Cooperation and Segments of Intelligibility

Let us turn our attention now more directly to material cooperation. Material cooperation does not at its point or terminus become part of the malefactor's action, as it would if it were formal cooperation. As Alphonsus puts it in the Central Distinction, material cooperation "contributes only to the bad action of the other," not to his bad will. In other words, the act of material cooperation, qua act, does not enter *into* the bad act of the malefactor formally, finding its point there; it has, rather, a point and sense of its own. The willed act of the malefactor is one thing; the act of the material cooperator is another.

Alphonsus's most extensive explanation of how (or when) this occurs comes in another section of his *Theologia moralis*.¹¹ In the pertinent passage, the question is whether a person is required to pay restitution to the victim of a robbery if he has cooperated in the act of theft by such acts as holding a ladder for the thief, giving him keys or other instruments for opening a strongbox, making copies of keys, or breaking open gates. His answer is that, no, the cooperator need not pay restitution, provided that he does not share the intention of the malefactor. He cannot, for instance, be a member of a team of thieves who just happens to have been assigned by the team a task sufficiently separated from the actual taking of the other's goods to otherwise qualify as material cooperation. He must also, says Alphonsus, fear the infliction of an evil "of a superior order" should he not cooperate.¹² But, given that these conditions are in place, a cooperator is not obliged to pay restitution for having (for instance) held a ladder or opened a strongbox, since such acts are, writes Alphonsus, "truly indifferent, for, depending on the end toward which they go, they could be either licit or illicit."¹³

Addressing the cooperator in the second person, Alphonsus explains why such cooperation cannot be considered formal. My translation of his explanation employs some rather awkward English. I translate "concurrit ad," for instance, as "run up to" in order to bring out the point made above about the formal cooperator's act entering into the voluntary character of the malefactor's exterior act, whereas material cooperation stops short of that. Alphonsus, therefore, argues as follows: "Nor is

¹¹ Alphonsus, *Theologia moralis*, 3, § 571 (vol. 2, p. 67). In this passage, Alphonsus refers back to the passage we first considered, that is, the passage in which he defines material and formal cooperation: *Theologia moralis*, 2, § 63 (vol. 1, p. 357). In that passage, Alphonsus makes a forward reference to the passage now under consideration.

¹² Such an evil would be "superior" to the evil of someone's losing his goods. As Alphonsus explains, in the case of theft, such an evil would include death, mutilation, or grave infamy, but not loss of possessions. Alphonsus, *Theologia moralis*, 3, § 571 (vol. 2, p. 67). See also Alphonsus, *Homo apostolicus*, tract. 4, punct. 5, § 32 (vol. 1, pp. 121–122).

¹³ "Ratio, quia omnes praefatae actiones, tam primi quam secundi generis, sunt revera indifferentes: cum, juxta finem quo fiunt, vel licitae vel illicitae esse possint." Alphonsus, *Theologia moralis*, 3 § 571 (vol. 2, p. 67ab). The reference here to two groups of acts ("tam primi quam secundi generis") is to the types of acts listed at the beginning of the "first position" (prima sententia) (p. 66ab).

it true that, in this case [the case of material cooperation], you formally run up to the sin of theft, for this would be the case if you positively brought your influence into his bad will.¹⁴ When, however, you contribute only those actions that the thief afterwards ill uses in order to inflict damage, your action will not be the cause of the damage but only the malice of the thief will be.”¹⁵

In other words, an action that has its own point independently of the point of the malefactor’s act (independently, that is, of the formal aspect of that act) and which the malefactor “afterwards” uses—such an act is not formal but material cooperation. Although Alphonsus says here that the malefactor’s abuse of “your” act occurs “afterwards,” his point has to do not with the temporal order of the different acts but rather with the relative independence of the “intelligibilities” of such acts. The servant holds the ladder, and afterward the thief takes the goods, but the servant might also stay with the ladder while his master is burgling the house and hold it again as he leaves.¹⁶ This too would be a case of material cooperation. The key idea is that the type of action that the servant performs in material cooperation does not depend on thievery: the two acts have separate intelligibilities.

Alphonsus offers what he regards as a compelling proof that actions of the type listed—holding a ladder, opening a strongbox, and such—are *indifferent* actions (and therefore at least possibly instances of material cooperation). Unless we say, for instance, that breaking into a strongbox in order to hand over its contents to a thief is an indifferent act, if a thief forces you to open your *own* strongbox and hand over its contents, you would be cooperating formally—that is, immorally—in theft. “Who, however, of sound mind,” he asks, “would be so audacious as to assert that?”¹⁷

¹⁴ See the remarks made just above about formal cooperation flowing into the will of the malefactor; see also the passage quoted in note 5.

¹⁵ “Nec verum est, quod formaliter tunc concurris ad peccatum furis: nam hoc esset, si positive tu influeres in ejus malam voluntatem; quando autem tantum actiones illas praestas quibus fur postea abutetur ad damnum inferendum, non erit quidem causa damni actio tua, sed sola malitia furis (juxta quae fusius diximus *de Carit.* lib. II n. 63, v. *Sed melius*.)” Alphonsus, *Theologia moralis*, 3 § 571 (vol. 2, p. 67b). The latter refers back to the passage where Alphonsus defines material and formal cooperation.

¹⁶ In the passage where Alphonsus speaks about the act of holding a ladder for a thief, he speaks also of the act of carrying away stolen goods (*Theologia moralis*, 3, § 571 [vol. 2, p. 66b]), so the temporal order is not key here.

¹⁷ “Nam alias, si fur te cogeret ad arcam tuam confringendam, ut tradas ei pecuniam ibi contentam, non posses sine peccato hoc facere, quia formaliter cooperareris ad illius peccatum. Sed hoc quis sanae mentis asserere audebit?” Alphonsus, *Theologia moralis*, 3, § 571 (vol. 2, p. 67b). See the similar remarks in Alphonsus, *Homo apostolicus*, tract. 10, punct. 2, § 57 (vol. 1, p. 303), where Alphonsus uses the example of handing over to a thief the keys to one’s own house. One notes that the example of breaking into a strongbox is not placed by Alphonsus into the first group of instances of material cooperation; that is, it is not listed among the types of acts that come closest to formal cooperation, such as “breaking through gates” and “setting a house on fire.” Alphonsus, *Theologia moralis*, 3, § 571 (vol. 2, p. 66b) (see, just above, note 13). And yet he uses the strongbox example to argue that both genera (i.e., also the genus that is not so close) involve indifferent acts.

But as convincing a proof as this might at first appear, it rather undermines Alphonsus's own understanding of formal cooperation as set out in the Central Distinction. For there, as we have seen, he uses as examples of formal cooperation a servant's writing amorous letters to his master's lover and a person's acting as a lookout as someone else commits a crime.¹⁸ A servant, however, could without sinning compose love letters as part of a novel he is writing, and a person might serve as a lookout lest evil men see that he and a colleague are shifting their *own* goods to a safer location.¹⁹ In any case, Aquinas—whose action theory is more thoroughly worked out than Alphonsus's—would certainly not call breaking into a strongbox an indifferent act, whether the strongbox is your own or someone else's. Indeed, Aquinas uses as an example of an act that is good “ex genere”—that is to say, good at the most basic level possible in ethics—“using a thing one's own” (*uti re sua*). The “dark flip side” of this same act is “using a thing not one's own” (*uti re aliena*). Neither act is indifferent, for the moral species comes from the object: that which one uses. It makes no difference whether the end of the use is good or bad: the fact that that which you use is yours rather than another's (or vice versa) is in itself morally significant.²⁰

¹⁸ Alphonsus also clearly maintains that acts of formal cooperation are not indifferent: in the Central Distinction, he says that “it is better, with others, to say that that cooperation is *formal* which contributes to the bad will of the other and cannot be without sin.”

¹⁹ One of the standard examples of the time was the manufacture of pagan idols (also mentioned by Alphonsus as, it seems, a case of formal cooperation: *Theologia moralis*, 2, § 59 [vol. 1, p. 356]). Jerome Noldin points out that such an object *could* be used as an ornament in a park. Hieronymus [Jerome] Noldin, “Über die Mitwirkung zur Sünde des Nebenmenschen,” *Zeitschrift für katholische theologie* 3 (1879): 510. See also Nicola Cretoni, “Nota (I), pagina 159, § 249,” in *Compendium theologiae moralis*, by Jean-Pierre Gury, ed. Nicola Cretoni (1895), 572–573; and Eduard Stephinsky, “Über den Begriff der materiellen und formellen Mitwirkung zum Bösen,” *Der Katholik* 56.2 (1876 II): 346–347.

²⁰ In Aquinas, see *ST* I-II, q. 18, a. 2, corpus, and *De malo* q. 2, a. 4, ad 5, q. 2, a. 6, corpus, and q. 2, a. 7, corpus. In the penultimate passage (*De malo* q. 2, a. 6, corpus), Aquinas says that “to use a thing not one's own adds something pertinent to reason and so constitutes the species of a moral act” (*uti re aliena addit aliquid ad rationem pertinens, unde constituit speciem actus moralis*). He clearly has in mind the use of something that has some importance for its owner. As he says at *ST* II-II, q. 66, a. 6, ad 3, “that which is minimal, reason apprehends as practically nothing [*quasi nihil*], and so in things that are minimal a man does not regard himself as suffering injury and he who accepts [such a thing] can presume that this is not contrary to the will of him to whom the thing belongs.” (See also *ST* II-II, q. 66, a. 7, ad 2, and q. 186, a. 5, ad 4.) Thus it is no telling objection to Aquinas's position (i.e., that an object's belonging or not belonging to oneself makes the act of using it not indifferent) the fact that in *ST* I-II, q. 18, a. 8, corpus, he calls “picking up straw from the ground” indifferent, even though the straw might belong to someone else and so (supposedly for that reason) not be indifferent. As pointed out by Stephen Brock, the situation would change, however, were the piece of straw “a ‘special’ piece of straw, for instance, one that had been in the manger at Bethlehem and was now an object of veneration.” Stephen L. Brock, “*Veritatis splendor* § 78, St. Thomas, and (Not Merely) Physical Objects of Moral Acts,” *Nova et Vetera* (English) 6 (2008): 60 note 127.

There is, however, a more reliable method of identifying instances of material cooperation than the inevitably arbitrary method of searching out supposedly indifferent acts. This method looks rather to what we might call “segments of intelligibility”: lines of action, that is, that do not, as in formal cooperation, co-opt as their own the ends of other acts but have ends (or objects) of their own. (Such “lines of intelligibility” are our second factor.)

This approach is not at all incompatible with other things that Alphonsus says—other, that is, than his unfortunate remarks about indifferent acts. As we have just seen, at one point he suggests that an indication that an act amounts only to material cooperation would be that the malefactor uses it “afterwards” to effect what he wants to effect. In fact, the basic idea here *is* that such an act is a segment of intelligibility forming a complete unit in its own right, which the malefactor uses as a unit to the detriment of his victim. As Alphonsus puts it, in such a case “your action will not be the cause of the damage but only the malice of the thief will be.” Your action will not be the cause of the damage in the sense that your action is used as a distinct unit by the malefactor; it is his malice that connects your independent act to the evil he effects. Your action does not flow into the bad will of the malefactor; what bad will there is in this complex of actions belongs to the malefactor and only in a secondary (accidental) sense to you as cooperator.²¹

This approach—that is, analysis in terms of segments of intelligibility—is also compatible with another idea that is at least in the background of Alphonsus’s own thought. In the tradition within which he was writing, mentioned constantly is the situation of a servant who is forced to cooperate with his master in committing some sin—not infrequently the sin of adultery or fornication. At this point it is useful to recall that Alphonsus’s *Theologia moralis* is actually a commentary on another work: Hermann Busembaum’s seventeenth-century *Medulla theologiae moralis*, from which Alphonsus quotes regularly throughout the *Theologia moralis*. And so, in the opening words of Alphonsus’s section containing the Central Distinction, what we read are actually the words of Busembaum, which are quite correctly regarded as representing the tradition. And what Busembaum says is this: “Servants are excused from sin if, *on account of their status as servants*, they contribute certain acts of submission, which, without suffering great inconvenience, they could not refuse: as when, for example, they dress their master, or saddle his horse, or accompany him to a brothel, or bear gifts to a prostitute [etc.]”²² The reason for introducing this factor—i.e., that the cooperators in question act “on account of their status as servants”—is that the actions they perform are things that they would do anyway in

²¹ Of course, if your cooperation is not compelled but rather “eager and willing,” then there is more bad will within the complex than only the malefactor’s bad will. Also, the fact that the bad will is all on the malefactor’s side does not entail that your material cooperation is licit. If, for instance, your cooperation amounts to what the classical moralists call immediate material cooperation, it is virtually certain that it is illicit.

²² “Excusantur a peccato famuli, si ratione sui famulatus praestent quaedam obsequia, quae sine gravi suo incommodo negare non possint: ut v.g. vestiant dominum, sternant equum, comitentur ad lupanar, meretrici deferant munera.” Alphonsus, *Theologia moralis*, 2 § 63 (vol. 1, p. 356b). The emphasis in the translation is mine.

their capacity as servants. In another situation, the actions would make sense—have intelligibility—as complete units finishing in good ends, even though in the present situation they are part of a complex that leads to no good. As *acts*, these acts of cooperation do not depend on the ends found in the bad acts willed by their masters. Saddling a horse, for instance, has its own object (the horse, saddled) independently of any act of adultery or fornication.

This same sort of analysis is found in Aquinas, who in fact takes the basic idea from Aristotle.²³ An especially striking instance of its use is found in the *Summa theologiae*—not coincidentally in the words immediately preceding the article traditionally associated with the principle of double effect (*ST* II-II, q. 64, a. 7). In the article in question, Aquinas asks whether it is ever licit to kill the innocent. The third objection argues that it can be licit, since occasionally someone is constrained (“cogitur”) by the very order of justice to kill an innocent person. In his response, Aquinas acknowledges that a judge, for instance, who is obliged by law to issue judgments based on the evidence presented in court, might be constrained by the testimony of false witnesses to condemn to death a person he knows privately to be innocent. The judge, he says, must be extra diligent in questioning the false witnesses so that, if possible, he might expose their unreliability and thereby free the innocent person. If he is not successful in this, he must, if possible, remand the case to a superior. “But,” he says finally, “if even this is not possible, [the judge] does not sin in issuing a sentence consistent with the evidence, because it is not he who kills the innocent but those who assert that he is not innocent.”²⁴ These false witnesses do so, of course, illicitly.

This would be a case of cooperation, since the judge’s actions are obviously part of the complex of actions that leads to the death of an innocent man; but it would also (according to Aquinas) be a case of material cooperation that is licit, since the judge’s action of signing the death warrant, by virtue of its intelligibility, is isolated from the actions of the malefactors: the false witnesses. Provided he does everything possible to save the innocent man, his act has the independent intelligibility given to it by the law (which is presumed good law). Like the servant who saddles a horse for his master (who is on his way to a brothel), the judge can claim in all truth simply to be doing his job.

This example ought probably to be considered an extreme, outside-limit-setting example, more useful in theory than in practice, since it is hard even to imagine that,

²³ See Kevin L. Flannery, *Acts Amid Precepts: The Aristotelian Logical Structure of Thomas Aquinas’s Moral Theory* (Washington, DC: Catholic University of America Press; Edinburgh: T & T Clark, 2001), 177–183.

²⁴ “Si autem nec hoc potest, non peccat secundum allegata sententiam ferens, quia non ipse occidit innocentem, sed illi qui eum asserunt nocentem.” *ST* II-II, q. 64, a. 6, ad 3. See also *ST* II-II, q. 67, a. 2, corpus, where Aquinas says that, “in judging, a judge must be informed not according to that which he knows as a private person but according to that which becomes known to him as a public person” (et ideo informari debet in iudicando non secundum id quod ipse novit tanquam privata persona, sed secundum id quod sibi innotescit tanquam personae publicae).

knowing the truth, a judge could not bring out in court incongruous elements in the testimony of false witnesses or that he could not find some way of recusing himself if unsuccessful even in this.²⁵ What the example shows, however, is that, depending on their character as acts, certain acts of cooperation can be separated off from the acts of malefactors. We might consider again the operating room where an abortion is being performed. The malefactor here is, of course, the abortionist: the senior doctor. We have already shown that the junior doctor who helps to guide the abortionist's instrument toward the fetus cooperates formally, since his action has its proper end in the abortionist's evil action. But consider an anesthesiologist who works in the same operating room, day in and day out, averting pain for patients, most of whom are there for genuinely medical reasons. In the complex of actions that lead to the abortion, this person's actions need not be considered formal cooperation, since the act of administering anesthetics has its proper end: the averting of patients' pain.

At this point, a whole raft of secondary questions present themselves, such as whether the cooperation of the anesthesiologist just mentioned is licit or not, whether he is obliged to begin seeking out other employment, whether he is more obliged to do this than a nurse who works in the same operating room, and so on. And there are other, more abstract questions, such as how one calculates the relative "distance" between various acts of material cooperation and the act of the malefactor (or malefactors). These are not questions that I can address here. I hope, however, that I have fulfilled the twofold purpose specified at the beginning of this essay: to give an account of the Catholic tradition's distinction between formal and material cooperation and to indicate the role of segments of intelligibility in determining what is material rather than formal cooperation.

²⁵ For a good treatment of related issues in the context of contemporary jurisprudence, see John H. Garvey and Amy V. Coney, "Catholic Judges in Capital Cases," *Marquette Law Review* 81 (1998): 303–350.

