

# 1

## *"The Angel Must Hang!": Inescapable Moral Wrongdoing in Melville's Billy Budd*

Moral conflict is an obvious fact of our experience. Everyone has faced situations in which it appears that some moral reasons support one course of action and other moral reasons support an incompatible course of action. In these situations we sometimes feel that we must choose "the lesser of two evils." Moral conflicts have occasioned a good deal of moral philosophy. Most concerns have been casuistical: They have focused on the questions "What is the correct resolution of these conflicts?" and "How is this resolution to be determined?" My concern is different. I want to consider whether or not there are moral conflicts in which, irrespective of the correct resolution, whatever the agent does he or she will do something that is, in some sense, morally wrong. Many philosophers maintain that in every moral conflict some course of action that is wholly free from wrongdoing is available to the agent (though it may be difficult, and perhaps in some cases virtually impossible, to know what this action is). In my view, these philosophers are mistaken. We may find ourselves in moral conflicts in which, through no fault of our own, we will do something morally wrong no matter what we do. In these situations we may choose the lesser of two evils and hence act for the best. But in acting for the best we still choose an evil, and in this sense we do something wrong. Moral wrongdoing may thus be inescapable. My aim in this book is to defend this position.

This introductory chapter is mainly devoted to an interpretation of Herman Melville's marvelous and disturbing story *Billy Budd*. Through this interpretation I hope to bring to life the philosophical issues that will concern me in the later chapters and to indicate in a preliminary way the nature of my position on these issues. My purpose here is not merely to provide a vivid and colorful introductory example. It is a fundamental part of my argument throughout the book that concrete moral considerations must play a central role in the justification of a position in moral philosophy. The defense of this methodology is the subject of the next chapter. For now I will simply point out that my reading of *Billy*

*Budd* will be representative of an important premise in my argument for inescapable moral wrongdoing.

In the first section I give a brief account of the idea of inescapable moral wrongdoing, and I distinguish it from another idea with which it might be confused. Then, in Section II, I begin my interpretation of *Billy Budd* by reviewing the controversy over its meaning and by proposing, as both the correct reading and an explanation of this controversy, that its central character, Captain Vere, should be understood as being in a situation in which moral wrongdoing is inescapable. This interpretation is then developed through a close analysis of the text in the next three sections. In the final section, I formulate some of the philosophical issues to be discussed in later chapters by reference to my reading of *Billy Budd*.

### I. The Idea of Inescapable Moral Wrongdoing

Discussion of the thesis that there are moral conflicts in which wrongdoing is inescapable has not been prominent in the history of Western moral philosophy, but most philosophers in this tradition have assumed that circumstances always make it possible to avoid moral wrongdoing. However, this assumption has not been universally shared by those outside philosophy. Writers of tragedy in particular, from the Greeks to Shakespeare to the present, may be read as exploring the variety of circumstances in which moral wrongdoing is inescapable.<sup>1</sup> Moreover, in recent years several philosophers in the Anglo-American tradition have argued that sometimes wrongdoing cannot be avoided. Their arguments have been received with considerable skepticism by philosophers of otherwise quite diverse moral perspectives, and a debate has ensued about their soundness.<sup>2</sup>

It is important to note at the outset that there has been a persistent equivocation within this debate. Usually it is said that what is at issue is whether or not there are "moral dilemmas," typically defined as situations in which an agent morally ought to (and can) take one course of action and morally ought to (and can) take another course of action, even though the agent cannot take both courses of action. But this definition conceals a significant ambiguity. For the debate about "moral dilemmas" has in fact concerned two distinct issues.

The first has to do with the possibility of irresolvable moral conflicts: Are there circumstances in which there is no moral reason for choosing between two conflicting actions, each of which is supported by some moral ground? I will maintain that the answer to this question is clearly "yes," since conflicting moral reasons are sometimes equal in weight or significance. For example, if a mother can save the life of one, but only one, of her two children, she has a moral reason to save each child, but she may well have no moral reason for saving one child rather than the other. Hence, if a moral dilemma is understood as a conflict between equally strong and hence nonoverridden moral reasons, then it is obvious that there are such dilemmas. Once this is established, a further question arises: Faced with such a conflict, what should a morally conscientious agent, who is trying to decide what to do, conclude about what, in the final

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analysis, she morally ought to do? I will argue that the answer to this question is, "I morally ought to save one child or the other (so far as deciding what to do is concerned, it does not matter morally which)," thereby leaving the choice as to which child is to be saved to be determined on some nonmoral ground, or else arbitrarily. It would be incoherent to say that the correct decision is to save one child and to save the other, knowing that it is not possible to save both. Hence, if a moral dilemma is understood as a situation in which correct conclusions of moral deliberation conflict, then there are no moral dilemmas.

Much of the debate about "moral dilemmas" has focused on questions pertaining to irresolvable moral conflicts.<sup>3</sup> In my view, no serious philosophical problems are raised by this issue, and apparent controversies about it are likely to be resolved once terminology is clarified. I will be concerned with this issue only insofar as it is necessary to establish the claims of the previous paragraph and to distinguish it from other more important topics.

Intermingled with the discussion of irresolvable moral conflicts, and sometimes confused with it, has been a debate about another issue that poses deep and difficult philosophical problems about the moral life. This issue concerns the truth of the thesis stated earlier: Are there moral conflicts in which an agent will do something morally wrong no matter what he or she does? My position is that there are such conflicts, and my primary aim in this book is to defend this position.

It is important to recognize that these two issues are independent of one another. First, from the fact that conflicting moral reasons are both nonoverridden it does not directly follow that moral wrongdoing cannot be avoided; for it might well be said, and often is, that in such a case the only actual moral obligation is to perform one action or the other, and that so long as this is done there is no wrongdoing whatsoever.<sup>4</sup> Hence, the recognition that there are conflicts between nonoverridden moral reasons requires some further consideration to establish that these are situations of inescapable moral wrongdoing. Second, those who maintain that there are moral conflicts in which wrongdoing is unavoidable have often claimed, correctly in my view, that this may be so even when the moral reason for one action clearly overrides the moral reason for the conflicting action.<sup>5</sup> In these cases, they claim, not only is there moral wrongdoing when acting against the overriding reason, there is also moral wrongdoing in some significant sense when acting in accordance with the overriding reason; so the agent will do something morally wrong no matter what. Hence, even if there were always a resolution of conflicting moral reasons, moral wrongdoing might still be inescapable. In sum, inescapable moral wrongdoing has nothing essentially to do with moral conflicts in which neither reason overrides the other.

I will give a more precise specification of various positions concerning these two issues in Chapters 3 and 5. Because they are often discussed together, however, it will sometimes be convenient to make references without regard for these distinctions. For this purpose, I will occasionally speak of such things as the "moral dilemmas" view, debate, literature, and the like (in each case with quotation marks around 'moral dilemmas') in order to refer to the issue of irresolvable moral conflicts, or the issue of inescapable moral wrongdoing, or both.<sup>6</sup>

The debate about inescapable wrongdoing might seem to be of minor importance, concerned with a few cases on the margin of moral philosophy and having no bearing on more fundamental matters. But once it is recognized that inescapable wrongdoing does not require irresolvable moral conflicts, it becomes clear that it is potentially a more pervasive phenomenon. Moreover, disagreements about the possibility of inescapable wrongdoing often reflect deep differences in the understanding of morality, with respect to both methodological and normative questions.

I will discuss these differences in due course. For now it is important to observe that those who have defended the idea of inescapable moral wrongdoing have commonly emphasized the epistemic value of concrete moral experiences, while those who have opposed this idea have usually relied on more abstract, a priori considerations. In my view, both of these approaches are important, but neither should be given an absolute priority. This is, of course, a controversial methodological stance, and my defense of it must await the next chapter. I mention it here because, in the face of the strong propensity among philosophers in favor of the general and the abstract, I believe proponents of inescapable moral wrongdoing have been correct to emphasize the fundamental importance of our intuitive responses to particular moral conflicts. This is why I think it is appropriate and indeed essential to begin with a detailed consideration of a specific moral conflict.

There are several reasons for focusing on the conflict in *Billy Budd*. Unlike the simple examples ordinarily invoked in philosophy, *Billy Budd* offers us a detailed, intricate, and emotionally engaging narrative that closely approximates the particularity and affectivity of moral conflicts in real life. On the other hand, unlike most examples that might be drawn from someone's actual life, *Billy Budd* is public: It is equally accessible to us all, and it is quite well known. Moreover, though in some respects it approximates actual moral conflicts, as a work of fiction it allows us the luxury of leisurely reflection and critical distance not always available in the circumstances of our everyday lives.<sup>7</sup> Finally, Melville is an author who is especially sensitive to the depth and complexity of the moral life, and the controversy among critics of *Billy Budd* is particularly pertinent to the issue of moral conflicts. None of this is to deny that works of literature have limitations as points of reference in philosophical writing. For example, they typically lack the conceptual clarity required by such writing. Still, keeping in mind that my discussion of *Billy Budd* is only one phase of my overall argument, it is a useful place to begin.

## II. The Controversy about *Billy Budd*

*Billy Budd* was Melville's last work. It was left more or less completed at his death in 1891 but was not published until 1924. What is fascinating about *Billy Budd* is not only the story itself, but the extraordinary diversity of responses it has elicited from its readers. For a preliminary understanding of these responses, it will suffice to state briefly the central events of the story. A young sailor on

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board a naval ship in time of war is falsely accused of plotting mutiny by an evil officer. In order to test this accusation, the ship's captain compels the sailor to face his accuser and respond. But the innocent sailor is afflicted with a speech impediment, activated in times of stress, and he cannot speak. In frustration, he strikes the accusing officer, who drops dead to the deck. The captain orders an immediate trial of the sailor for this insubordinate act. Before the court the captain grants that the sailor was falsely accused, and he acknowledges that justice and compassion compel leniency. But he argues that the court's higher obligation is to enforce the law, which requires execution, and that no mitigation of this penalty can be allowed in view of the fact that the navy has recently suffered two mutiny attempts. The court reluctantly agrees, and the following morning the sailor is hanged.

Two contrary traditions of interpretation of *Billy Budd* have developed. The dispute between them centers primarily on the moral evaluation of the captain, Edward Fairfax Vere, and his role in the trial and execution of the young sailor, Billy Budd. For some, Vere was a hero who did what was morally, albeit tragically, necessary, while for others he was simply an authoritarian ruler lacking compassion and a sense of justice. For example, for Lewis Mumford, Vere was "a man of superior order,"<sup>8</sup> while for Lawrence Thompson, the captain was "a sinner and a criminal."<sup>9</sup> Over sixty years of interpretation, punctuated by the publication of a definitive text,<sup>10</sup> has done nothing to abate this controversy.<sup>11</sup>

It has been suggested that *Billy Budd* as Melville left it lacks a fully unified vision,<sup>12</sup> and also that its critics simply read their own ideological biases into it.<sup>13</sup> There is some truth in both claims: Melville died before he finished revising the story, and it has been something of a litmus test of its readers' political outlooks. Still, I believe there is a more fundamental explanation of this controversy. We should read Melville as being interested first and foremost in encouraging our reflection on the complex moral nature of Vere's situation, and as being concerned with inviting us to evaluate Vere's response to that situation only in light of this complexity. His situation, I will argue, was morally tragic in this sense: Whatever he did, in the wake of Billy's killing of the officer, he would have committed a serious moral wrong. Because moral wrongdoing was inescapable for Vere, it has been possible for some readers to see his chosen course of action as wrong and for others to see any other course of action as wrong. There is a sense in which both sides are correct. On the other hand, there is also a sense in which they are both mistaken, insofar as they share the assumption that there must have been some course of action open to Vere that was morally unproblematic—wholly and without qualification *the* right thing to do. In this way, the conflicting responses may be explained.

My reading of *Billy Budd* also offers a partial reconciliation of the two critical traditions. The first group of readers were right to stress the tragic dimensions of the story. Raymond Short, for example, accurately saw that "no matter what course of action is taken, not either, but both, good and evil will issue forth."<sup>14</sup> But from the fact that Vere would have done wrong no matter what, it does not follow that any course of action would have been morally as good or as bad as any other. Inescapable moral wrongdoing does not mean the moral reasons sup-

porting each alternative are equally strong. Nor does it follow that what Vere actually did was morally best. Hence, it is compatible with my reading of Vere's situation as tragic to reject the early interpreters' claim that Vere was a moral hero. *Billy Budd* may still be read as a testament of resistance rather than acceptance. In this respect, Karl Zink was right to claim that, though Billy accepted the necessity of his execution, "we are mistaken if we assume that Melville himself accepted it."<sup>15</sup> Though we ought to sympathize with Vere insofar as he was in a tragic situation, we ought also to be critical of how he chose to respond to this situation. Thus, there is merit in some of the reproofs of Vere by readers of the second tradition. Yet I do not see Vere as wholly evil, as some have argued. To be driven to this extreme is to miss what is, in the words of the narrator, "a moral dilemma involving aught of the tragic" (p. 105). It was this dilemma, I maintain, that Melville was chiefly concerned to explore.

### III. The Trial of Billy Budd

Essential to any understanding of *Billy Budd* is the fact that it took place against a background of rebellion motivated by a sense of justice against the authority of tradition and law. The scene was the HMS *Bellipotent*, a man-of-war on duty with the Mediterranean fleet of the English navy, during the war with revolutionary France, in the summer of 1797. The previous spring had been the occasion of "The Great Mutiny," an insurrection of English sailors at the Nore, preceded by a smaller revolt at Spithead. "Reasonable discontent growing out of practical grievances in the fleet," the narrator tells us, "had been ignited into irrational combustion as by live cinders blown across the Channel from France in flames" (p. 54). Both outbreaks had been suppressed, but with only partial redress of the wrongs that had inspired them, and "it was not unreasonable to apprehend some return of trouble" (p. 59). Among the crew of the *Bellipotent* were some who had participated in the recent rebellions and some who had been brought into service by impressment—one practice untouched by these rebellions, and untouchable, in that the navy could not be maintained without it. Included in the ranks of the impressed was Billy Budd, taken only recently from a merchant ship, the *Rights-of-Man*, named after Thomas Paine's response to Edmund Burke's indictment of the French Revolution.

By situating the story in this specific political context, Melville clearly intended to raise questions about the basis of political authority as well as the grounds for revolt against it. But he did not mean for his readers to approach the story with unqualified support for either the French or the English. Rather, the setting established a milieu in which the legitimacy of tradition and law, as represented by the English and the English navy, were confronted with the threat of revolt under the banner of human rights, as exemplified by the French and the mutineers. Both sides of this confrontation, I will suggest, merit a mixture of respect and apprehension.

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But his need to respond to Billy's deadly but nonmalevolent act brought him face to face with the moral grounds of his own legal authority and compelled him to consider whether he himself might have reasons to rebel against that authority. We are told that Vere was a man of established convictions who felt that these "would abide in him essentially unmodified." They were "as a dike against those invading waters of novel opinion" (p. 62). In particular, Vere opposed the ideas of the French Revolution on the ground that they were "insusceptible of embodiment in lasting institutions, but at war with the peace of the world and the true welfare of mankind" (p. 63). Against these ideas, Vere once declared that for mankind "forms, measured forms, are everything" (p. 128). Still, charged with responsibility for Billy's fate, it might be expected that Vere would have had occasion to modify if not abandon these convictions—or at least consider doing so. For there was another side to Vere: As Billy struggled to make verbal rejoinder to Claggart, the accusing officer, Vere "laying a soothing hand on his shoulder" urged him to take his time in "words so fatherly in tone" (p. 99). It is true that once Billy struck and killed Claggart, "the father in him . . . was replaced by the military disciplinarian" (p. 100). But the repression of Vere's fatherly aspect does not diminish the fact that elements of the larger political conflict were personified in his own character.

For the full disclosure of that character, we need to consider Vere's words and actions before, during, and after Billy's trial.<sup>16</sup> As soon as the surgeon confirmed that Claggart was indeed dead, Vere ordered an immediate "drumhead court." Though the surgeon and other officers thought the case should be referred to the admiral, "in a way dictated by usage" (p. 101), Vere justified his action on the ground that the *Bellipotent* was presently away from the fleet and the claim that "unless quick action was taken on it, the deed . . . would tend to awaken any slumbering embers of the Nore among the crew." This "sense of the urgency of the case," we are told, "overruled in Captain Vere every other consideration," so "he was glad it would not be at variance with usage" to call a drumhead court (p. 104).<sup>17</sup> Vere also decided "in view of all the circumstances" to hold the trial in secret, and for this he was again criticized by some of the officers as well as by the narrator (p. 103).

In this decision to order an immediate and secret trial, there is an early indication of the significance of Vere's passion for order. True, there were two recent mutiny attempts, so it was surely reasonable for Vere to take them into account. But he did not believe Claggart's accusation, and he had no reason to suspect an incipient rebellion aboard the *Bellipotent*. The weight Vere gave to the danger of mutiny thus suggests a man for whom the maintenance of order was an overwhelming concern. The military disciplinarian in him had indeed replaced the father. On the other hand, Billy probably would not have fared any better in either a public trial or a trial before the admiral.

The drumhead court consisted of three officers, selected by Vere, together with Vere himself acting as witness and coadjudicator. From the interrogation of Vere and Billy, the court correctly accepted as truth that Billy bore no malice against Claggart, that Claggart falsely accused Billy of plotting a mutiny, that

Billy struck and killed Claggart, that he would not have struck him if he could have spoken, and that by striking him he did not mean to kill him. It was evident to the court that Billy's character was such that he was incapable of guilty intent either with respect to mutiny or murder. This young sailor, adolescent in appearance, was exceptional for his simplicity and innocence. Of limited intelligence and experience, he was incapable of any form of double-meaning, be it satire or shrewdness. This "child-man" lacked any "intuitive knowledge of the bad" (p. 86). Upon his impressment, he raised no objection, was nearly cheerful about it. Billy was, in fact, "little more than a sort of upright barbarian, much such perhaps as Adam presumably might have been ere the urbane Serpent wriggled himself into his company" (p. 52).

There was perplexity in the court about *why* Claggart had falsely accused Billy. What we know from previous narration, but the court could only suspect, is this: Though outwardly a respectable sort—sober and intelligent, patriotic and deferential to authority, of high social and moral character, without vices—Claggart was in fact "the direct reverse of a saint" (p. 74). He suffered from "a depravity according to nature" (p. 75), an inborn evil mania activated only on occasion by the presence of some particular object of attention. Yet, when possessed by this malevolent obsession, he was capable of executing the most rational of means to achieve its end, and so might appear as one especially subject to reason. The specific object of Claggart's obsession was, of course, Billy. His "significant personal beauty," together with his simplicity and innocence, had inspired in Claggart both envy and antipathy of the deepest and most passionate sort (pp. 77-78). It was this that led him to plot against Billy, the culmination of which was his false accusation of mutiny.

Of these details the court was unaware. But it knew enough to recognize that an officer with evil intentions had falsely accused the innocent Billy of mutiny and that it was on account of this extreme provocation coupled with an inability to speak that Billy struck out, expressing frustration and indignation but no intention to kill. Hence the court knew the essentials of the relevant facts pertaining to Claggart and Billy.<sup>18</sup>

#### IV. A Tragic Choice

Once the interrogations ended, Vere perceived the three officers of the court to be in a state of "troubled hesitancy," and with this in mind he addressed them as to the proper verdict (pp. 109-13). In this allocution Vere shows intellectual awareness, if not full emotional appreciation, of the fact that the court faces a deep and painful moral conflict. He begins by granting that there are moral grounds for treating Billy with leniency. In support of this conclusion, he refers to "moral scruple," "compassion," "natural justice," "the heart," and "the private conscience." Natural justice in particular compels consideration of more than "the prisoner's overt act" (p. 110). It requires scrutiny of intention and motive, and it is beyond question that Billy "proposed neither mutiny nor homicide" (p.

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111). In Vere's mind, there is no doubt that Billy is "innocent before God" (p. 110), that "at the Last Assizes" he shall be acquitted (p. 111).

There is little reason to dispute the moral validity of these considerations. Billy was practically a child, he had been impressed into the navy, he was the object of an evil plot by an officer, he acted under extreme provocation, and he had no intention to kill. Justice and compassion both speak against the penalty of death, even if there are some actions for which death is a just punishment. It does not follow from this that these circumstances favor complete exoneration. After all, Billy did strike and kill a man. The alternative to hanging Billy is thus a set of possibilities ranging from exoneration to some substantial penalty short of death, though I will refer to these with the term 'leniency' as if they were a single alternative. There are then clear and compelling moral reasons for supposing that the officers have a responsibility to Billy to exercise some form of leniency.

On the other hand, Vere continues, according to martial law, if a man "in wartime at sea . . . strikes his superior in grade . . . apart from its effect the blow itself is . . . a capital crime" (p. 111). None of the officers denies that this is the law, and the narrator confirms that Billy's act, "navally regarded, constituted the most heinous of military crimes" (p. 103). So far as martial law is concerned, the only relevant fact of the case is that Billy struck Claggart. Billy's "intent or non-intent is nothing to the purpose." Vere acknowledges that martial law is imperfect in this respect. It "resembles in spirit the thing from which it derives—War." As "war looks but to the frontage, the appearance," so too does martial law (p. 112). Nevertheless, Vere argues, the members of the court, "as the King's officers," have an allegiance to the King and hence an obligation to enforce martial law: "Our vowed responsibility is in this: That however pitilessly that law may operate in any instances, we nevertheless adhere to it and administer it" (pp. 110–11). The narrator again confirms the point: As "a loyal sea commander," Vere "was not authorized to determine the matter" on the basis of "the essential right and wrong involved" (p. 103).

It might be thought that Vere's argument, based on the officers's allegiance to the king, carries no moral weight at all since the regime of the king and its laws are corrupt. There is no question that they are corrupt in some respects; indeed they are portrayed as such (p. 58). In my view, however, we miss the import of the story if we conclude from this that there is no moral conflict. The deeper point to which Melville is calling our attention is that every government is morally imperfect to some extent and that any system of laws will occasionally produce unjust results. Such are the effects of human finitude and fallibility. Yet those charged with administration of the law must be required to enforce it irrespective of whether or not they approve of its results. Without this requirement there would be no government of law at all. And there is a powerful reason to value such a government. In the words given Thomas More in Robert Bolt's *A Man For All Seasons*, "the law is a causeway upon which, so long as he keeps to it, a citizen may walk safely."<sup>19</sup> Since for there to be such a causeway government officials must be required to enforce the law and not

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their own private conscience, any such official may confront situations in which he or she believes, perhaps rightly, that enforcement, though required, is unjust. Vere and the officers of the court are representative of such a person. The fact that they have a responsibility to the state to enforce the law is thus a genuine moral consideration.

We are thus given reason to think that Vere and the court will commit a serious moral wrong no matter what they do: If they execute the undeserving Billy, they will violate their responsibility to him to exercise leniency, a responsibility rooted in their sense of justice and compassion, but if they show him leniency, they will violate their responsibility to the state to enforce the law. At this point Vere makes a crucial move: He argues that their responsibility to enforce the law preempts all other moral considerations. He says to his officers that "in receiving our commissions we in the most important regards ceased to be natural free agents" (p. 110). Were Billy to be condemned by martial law, "for that law and the rigor of it, we are not responsible" (pp. 110-11). In reference to his earlier observations, Vere says, though "the exceptional in the matter moves the hearts within you . . . let not warm hearts betray heads that should be cool." Finally, he asks rhetorically, leaving no doubt as to the correct response, "tell me whether or not, occupying the position we do, private conscience should not yield to that imperial one formulated in the code under which alone we officially proceed?" (p. 111).

Several issues are raised by these claims. Before discussing them, we need to consider the final step in Vere's argument. One of the officers asks if it would be possible to "convict and yet mitigate the penalty" (p. 112). To this Vere responds, "were that clearly lawful for us under the circumstances, consider the consequences of such clemency." This does not directly acknowledge that clemency would be lawful. Yet if it were not lawful, it would seem that that would be the end of the matter. The fact that Vere goes on to object to clemency on consequentialist grounds suggests that perhaps it would be lawful. In any case, the consequences cited by Vere are these. To the crew, with their "native sense" and inability to "comprehend and discriminate," Billy's deed "will be plain homicide committed in a flagrant act of mutiny" (p. 112). They will wonder why the penalty for that was not imposed, and this will lead them to revert to the recent mutiny attempts. In particular, they will think that we are "afraid of practicing a lawful rigor singularly demanded at this juncture, lest it should provoke new troubles. What shame to us such a conjecture on their part, and how deadly to discipline" (p. 113). In sum, clemency cannot be allowed on the ground that in these exceptional circumstances it would render the command of the ship liable to disobedience if not outright mutiny.

Though such utilitarian reasoning is controversial among philosophers, I believe Melville intended for us to recognize in Vere's argument a valid though problematic moral stance. It was valid insofar as it was legitimate for Vere to consider as morally relevant the consequences of their disposition of Billy's case with regard to the maintenance of order on the ship. This does not mean that the value of these consequences is the only morally relevant factor, nor does it mean that it overrides all other morally relevant factors. But we are surely

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encouraged to enter into Vere's perspective to the point of seeing that the preservation of order on the ship, and ultimately in the English state, was a valid moral consideration for Vere to bring to the court's deliberations.

Vere's argument was morally problematic, however, insofar as it made Billy's execution depend on grounds quite extraneous to the moral quality of his act. That this act did not warrant execution, from the standpoint of justice and compassion, Vere has already acknowledged, and he appears to do so again here when he speaks of "so heavy a compulsion" that is laid upon the court and says, "I feel as you do for this unfortunate boy" (p. 113). The intuitive wrongness of punishing the undeserving because it will have the best overall consequences has, of course, been the bane of utilitarians everywhere. But Melville's point was not simply to weigh in for the deontologist's cause. To the contrary, he meant to force us to confront the fact that evil means may be necessary to achieve good ends, in particular that it may sometimes be necessary to harm the undeserving in order to acquire and maintain political power, even political power committed to serving the public good. Hence, though utilitarian reasoning may be legitimate, when good ends do justify evil means, the means are still evil—something that utilitarians by and large have denied.

At the same time, Melville did not intend to deny that there may be occasions when the evil means are so evil that they must be resisted, even if this means harming the public good. To this extent deontologists are correct; for we are surely meant to at least wonder whether the trial of Billy was such an occasion. Still, refraining from evil means may also be morally problematic, especially for those charged with the responsibility to protect the public good, for refusal to take the necessary means may entail the sacrifice of a great good for others to which one has morally committed oneself. This is itself a form of evil—something which deontologists by and large have denied.

In view of the politically charged readings of this story, it is important to recognize that, though the means-ends issue is a sharp point of contention between utilitarians and deontologists, it is not an issue that per se divides the conservative and revolutionary political ideologies in contention in *Billy Budd*. In addition to Vere's willingness to execute the undeserving Billy in defense of conservative England, and more generally the repressive measures employed by England in establishing and maintaining its colonial empire, we need to consider the role of *la Terreur* in the French Revolution as a means of achieving a society based on *la Déclaration des droits de l'homme et du citoyen* (or, to take a more recent example, Trotsky's claim that "killing old men, old women, and children" is justified when it is the only means of achieving the goal of the socialist revolution).<sup>20</sup> There is, of course, significant disagreement about what ends are politically desirable, and there are those on both the left and the right who maintain that some means are absolutely impermissible in politics. But I take Melville to be making a point that transcends these controversies: that sometimes the good of a political regime, however understood, may be achieved and maintained only by evil means, and that when this occurs, whatever choice is made, whether to use evil means or to sacrifice the general good, there will be moral wrongdoing.<sup>21</sup> In this respect we are encouraged, not to take sides in the

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dispute between England and France, but to reflect on the moral ambiguities inherent in political rule in a very imperfect world.<sup>22</sup>

### V. An Assessment of Vere

I have argued that the situation of Vere and the court regarding Billy Budd was such that they would commit moral wrongdoing no matter what. Either they must execute the undeserving Billy and violate their responsibility to him to show leniency or they must show such leniency and transgress their responsibility to the state to enforce the law as well as to maintain order on the ship. That their situation was a moral tragedy in this sense I take to be the import of Melville's careful articulation of the serious but conflicting moral responsibilities they faced. But this interpretation does not prevent us, or Melville, from being critical of the decision they made. Though moral wrongdoing was inescapable, it is a further question whether their decision to execute Billy was morally the best choice. There are grounds in the text for thinking it was not.

First, we are given reason to question Vere's consequentialist argument. Though Vere thought it was obvious that the crew would be incapable of seeing Billy as anything but a murderer and mutineer, we learn later that it "instinctively felt that Billy was a sort of man as incapable of mutiny as of wilful murder" (p. 131). Moreover, despite the previous mutiny attempts, Vere had no specific reason to think *his* crew was contemplating a mutiny. It may have been more Vere's passion for order than a disinterested estimate of probable consequences that led to his conclusion. His argument is clearly weakened to the extent that he exaggerated the danger of mutiny, and Billy's death was not reasonably required as a means of maintaining order on the ship.

Vere's primary argument, however, is that the members of the court, as the king's officers, have a moral responsibility to enforce martial law, which requires execution, and that this responsibility overrides the moral considerations that compel leniency. This conclusion does not immediately follow from the argument presented earlier that government officials have a moral responsibility to enforce the law irrespective of their personal moral judgments. That argument gives Vere and the court a powerful moral reason to simply apply the law and not consult their own consciences—a reason that ordinarily would override other considerations. But it is compatible with this argument to hold that there are situations in which it is morally best to override the responsibility to enforce the law. These situations would have to be exceptional cases, but this does not mean they are impossible. Even as a people may in certain circumstances be morally compelled to overthrow its government, in violation of the moral responsibility to obey the law, so an administrator of the law may on some occasions be morally required to refuse to enforce the law despite the moral responsibility to do so. In these acts of rebellion and civil disobedience, moral responsibilities to obey or enforce the law need not be rejected as no longer valid. They may be acknowledged and yet violated in the name of a higher moral judgment. So the possibility is open to Vere and the officers to transcend

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their "station and its duties," and to act, in F. H. Bradley's words, on "claims beyond what the world expects of us, a will for good beyond what we see to be realized anywhere."<sup>23</sup>

Many have argued that this is what Vere ought to have done. Though I will not repeat their arguments here—they depend largely on giving considerable weight to the innocence of Billy's character and the gross injustice of the situation in which he was placed—there is some merit in what they have said.<sup>24</sup> But it is important to emphasize that Melville did not make it obvious that this was the case. For Vere to have followed this course would have been to take an extraordinary and perhaps even heroic step. It would have meant not only acknowledging a fundamental flaw (or at any rate, limitation) in his moral universe, but, more practically, might have resulted in his having to resign his position as well as being regarded as a traitor. For Vere, in whom there is no better example of Bradley's conception of a moral self being defined through fulfillment of its "station and its duties," this would have been a step of monumental proportion. Hence, it is more accurate to say that Vere failed to take a morally courageous action than that he made a straightforward moral error.

In any case, Melville was more concerned with encouraging reflection on the nature of moral tragedy than he was with prompting judgments about what Vere should have done.<sup>25</sup> This suggests that there is a further, and perhaps more important, perspective from which we may evaluate Vere's response to Billy's act. Irrespective of his decision, to what extent did Vere recognize that his situation was one in which moral wrongdoing was inescapable? Did he feel as a person should feel in the face of such a situation? If no matter what he did he would violate a responsibility either to Billy or to the state, if in this sense he would unavoidably do something morally wrong, then regardless of his choice it would be appropriate for him to feel some form of moral distress about his action, some anguish about transgressing his responsibility to Billy or to the state as the case may be, even if in fact he acted for the best. What, then, did Vere feel?

The captain never had any doubt about what in the final analysis ought to be done. As soon as the surgeon declared Claggart dead, Vere exclaimed, "Struck dead by an angel of God! Yet the angel must hang!" (p. 101). He expressed this with such agitation that the surgeon wondered if he had become unhinged. But with these words, and this manner of expression, Vere was simply betraying the painful recognition of the moral complexity of his situation. During the trial itself Vere clearly acknowledged the presence of conflicting moral responsibilities. Still, in his argument that the court had an overriding responsibility to enforce the law, Vere drew away from the implications of this acknowledgment by disavowing any responsibility for their decision to execute Billy. By becoming officers, he said, we "ceased to be natural free agents," and for this reason "we are not responsible" for the law and "the rigor of it" (pp. 110–111). The force of this claim is that, since they had declared their loyalty to the king, they were no longer free and responsible agents: *They* were not executing Billy at all, *the king's law* was doing that. Because they were not really acting, we may also suppose they were not the ones who were violating the conflicting moral responsibility Vere had earlier recognized. This is perhaps why, though Vere spoke of com-

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passion in these deliberations, it may be questioned whether he really spoke compassionately. In any case, Vere's position here is a manifest piece of deception. No declaration of loyalty, freely and accountably given, can eliminate an agent's responsibility for acts justified by that loyalty. Even if Vere's decision were correct, his way of defending his position was deeply flawed.

It is nonetheless possible that this argument was more a piece of rhetoric aimed at persuading the reluctant officers to make what Vere believed was the correct decision than it was an expression of his true feelings about the moral complexity of the case. Though Vere was not one to express his innermost emotions, it is important that, in describing Vere's visit to Billy to report the verdict, the narrator conjectures:

Captain Vere in end may have developed the passion sometimes latent under an exterior stoical or indifferent. He was old enough to have been Billy's father. The austere devotee of military duty, letting himself melt back into what remains primeval in our formalized humanity, may in end have caught Billy to his heart, even as Abraham may have caught young Isaac on the brink of resolutely offering him up in obedience to the exacting behest (p. 115).

The reference to Abraham and Isaac is surely significant, not only as a reminder of the tragic conflict confronting Vere, but as an indication of the conflicting elements in his own moral nature. Perhaps the father in Vere was not, after all, completely repressed. A short time afterward, lying on his deathbed, Vere was heard to utter the words, "Billy Budd, Billy Budd," yet we are told that "these were not the accents of remorse" (p. 129). Vere did not feel remorse in the sense of feeling that he had made the wrong decision. Yet, by murmuring these words at this fateful moment, he was perhaps expressing his anguish that in doing what he confidently believed was morally best he nevertheless did something morally wrong. In the end, we are left to speculate about Vere's true state of mind. Melville's most fundamental intention in recounting this tale may have been to prompt our reflection on the proper affective response to a situation in which moral wrongdoing is inescapable.

## VI. A Prospectus of Philosophical Issues

Most philosophers believe that moral wrongdoing may always be avoided. Though this position obviously does not entail an interpretation of *Billy Budd*, it does entail a view about the moral situation of Vere as Melville presented it. It requires these philosophers to maintain that there was some course of action open to Vere, in the aftermath of Billy's killing of Claggart, that would not in any way have involved moral wrongdoing. Many literary critics of *Billy Budd* appear to have shared this assumption. This view is compatible with differences of opinion both as to what the captain ought to have done and as to why it would have been free of wrongdoing. In the case of the critics, these differences have been substantial. These disagreements aside, it is a direct implication of the view of these philosophers and critics that, if Melville intended Vere to be in a

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I will now put the interpretation of Melville aside and focus attention on the philosophical questions involved in the claim that Vere would have done something morally wrong no matter what as well as the counterclaim that there was something he could have done which would have involved no moral wrongdoing. In this way I will introduce some of the main philosophical issues that will concern me throughout the book.

Those philosophers who maintain that wrongdoing can always be avoided have not meant to deny that, at some level, moral reasons can conflict. They would probably grant that Vere had moral reasons both for and against executing Billy. What they have meant to deny is that moral conflict can in any meaningful sense survive the process of moral deliberation. I will argue that there is one respect in which these philosophers are correct: It would have been incoherent for Vere to determine, as the conclusion of moral deliberation about what, all things considered, he morally ought to do, that he both ought to execute Billy and ought not to execute him. To reach such a deliberative conclusion would be tantamount to deciding to perform incompatible actions, and this would clearly be irrational. Nonetheless, some proponents of the idea of inescapable wrongdoing have appeared to commit themselves to the idea that correct conclusions of moral deliberation may conflict, and much of the criticism of inescapable wrongdoing has gained plausibility by being directed against this latter idea. But I reject this idea *tout à fait*.

I have maintained that the moral reasons for showing Billy leniency were more compelling than the moral reasons for executing him, and thus that the correct conclusion of moral deliberation for Vere was to do the former. It is theoretically possible that the conflicting moral reasons here were equal in moral significance and hence were such that neither overrode the other. Even if this were the case, however, the correct deliberative conclusion for Vere would have been "Either I ought to execute him *or* I ought to show him leniency," leaving the decision as to which to do to be determined on the basis of nonmoral reasons or else arbitrarily. The correct conclusion would not have been "I ought to execute him *and* I ought to show him leniency." Or so I will argue.

Though conflicting moral reasons may be equal in weight, I see no ground for supposing they can be incomparable, meaning they are not equal and yet neither outweighs the other. It is sometimes held that the idea of inescapable moral wrongdoing involves the claim that conflicting moral reasons are incomparable. This makes it appear that legitimate criticism of incomparability also undermines my position. But I will argue that unavoidable moral wrongdoing does not require incomparability. Hence, objections to the latter are not objections to the former.

Once these clarifications are made, there remains a substantial issue about inescapable moral wrongdoing. My view is that, whatever Vere did, there is a sense in which he would have done something morally wrong. If I am right that the correct deliberative conclusion for Vere was that he ought to show Billy leniency, then there is an obvious sense in which he would have been wrong to

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execute him. But I am also claiming that he would have done something wrong *in some sense* if he had shown him leniency. Hence, he would have done something wrong no matter what. Most moral philosophers, though they might allow that Vere had conflicting moral reasons, would nonetheless reject this position. In their view, not only may correct conclusions of moral deliberation never conflict, so long as Vere acted on the correct conclusion he would have done nothing wrong *in any sense*.

The difference between these two positions may be understood as follows. On my view, the captain had both a moral responsibility to the king (and his country) to uphold the law and the order of the state, and a moral responsibility to Billy to be just and compassionate. Though deliberation can determine that one of these responsibilities is more compelling than the other, meaning that that responsibility is the one to be acted on, it does not thereby eliminate altogether the fact that there is another, conflicting responsibility. These different responsibilities are not unlimited in the sense of requiring any action at all for their respective beneficiaries. But each of them is fundamental, meaning that its moral demand does not simply disappear every time a more compelling moral consideration comes into conflict with it. A responsibility overridden in deliberation about what to do remains a responsibility. Hence, whatever Vere did, he would have failed to fulfill one of these responsibilities, and in this respect he would have done something morally wrong no matter what.

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In opposition to this, the view that wrongdoing may always be avoided is committed to something like the following position. In a given situation, there is only one actual moral responsibility, and that is to do what moral deliberation determines in the final analysis ought to be done. Hence, the conclusion that Vere morally ought to take a particular course of action completely eliminates the validity of those moral reasons favoring incompatible courses of action. If the correct conclusion was that Vere ought to execute Billy, then it is simply not the case that in this situation there was a moral responsibility rooted in justice and compassion to be lenient. It only appeared that there was such a responsibility, and because deliberation established that this appearance was false, there is no sense at all in which it was wrong to execute Billy. Or, if the correct conclusion was that Vere ought to show Billy leniency, then it is not actually the case that in this circumstance there was a moral responsibility to enforce the law requiring execution. Once again, it only appeared that there was such a responsibility, and because deliberation showed that this appearance was false, there is not any respect at all in which it was wrong to show Billy leniency.

Between these two positions there is a fundamental difference in the understanding of morality. I will now give a brief indication of the way in which I will defend the claim that moral wrongdoing is sometimes inescapable. Many of the philosophers who have defended this claim have based their argument, at least in part, on an appeal to a specific emotional response to moral conflicts. They have claimed that in certain conflicts persons would or should feel regret, remorse, or perhaps guilt no matter what is done. There has been considerable debate about the precise nature of this feeling. Though this will require discussion later, for now I will simply state that the argument requires that it be some

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form of feeling extending from disquiet to anguish that involves a recognition that one has committed some moral transgression; for the argument goes on to claim that the best way to account for these feelings is to suppose that in these situations moral wrongdoing is inescapable.

I will refer to this line of reasoning (and variations on it) as "the phenomenological argument."<sup>26</sup> In my view, there is a fundamental insight in this argument: Our affective moral responses can be a source of moral understanding. But previous statements of the argument have been inadequate, both because they have not been sufficiently self-conscious methodologically and because they have been improperly formulated and developed. One of my principal aims is to remedy these deficiencies. My main suggestion is that the argument be understood as relying on a methodology I call "reflective intuitionism," a position I develop by making modifications in John Rawls's idea of reflective equilibrium. In brief, reflective intuitionism states that we begin with prima facie credible but fallible moral intuitions, and that we seek the best overall explanation of these intuitions. The best explanation may require us to reject some of our initial intuitions as unwarranted. In any case, whatever beliefs are required by the best explanation are justified.

The phenomenological argument as I will defend it begins with the claim that we have intuitions to the effect that there are moral conflicts in which it would be appropriate to feel some form of moral distress no matter what was done (what I will refer to as inescapable feelings of moral distress). For example, it would be appropriate for Vere to feel moral anguish whether he executed Billy or not. It is in order to ascertain our intuitions about these feelings that I believe it is necessary to reflect carefully on the particularities of moral conflicts such as that confronting Vere in *Billy Budd*. The fact that we have these intuitions, however, is not sufficient to establish that moral wrongdoing is inescapable. No direct inference of this kind would be valid. The method of reflective intuitionism requires an additional premise: that the best explanation of these intuitions is that moral wrongdoing is inescapable. Only from our intuitions about inescapable moral distress and this thesis about the best explanation of them may it be concluded that wrongdoing is sometimes inescapable.

This brief outline does not do justice to the complexities of my defense of the phenomenological argument. There are many difficult issues that need to be considered. The method of reflective intuitionism must be articulated and argued. The claim that we have prima facie credible intuitions about inescapable feelings of moral distress must be established. And the thesis that these intuitions are best explained by supposing that moral wrongdoing is sometimes inescapable must be shown. In my view, it is the last of these that requires the most attention, and I want to bring this introductory chapter to a close by saying more about it.

The heart of my explanation is an account of moral responsibilities. According to this account, an agent's moral responsibilities are based on a recognition of the intrinsic and unique value of the particular persons (or social entities) with whom the agent has, in various ways, established some connection. Hence, an agent's responsibilities are ultimately responsibilities to specific persons. The

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nature of these responsibilities is defined primarily by the agent's relationship with those persons to whom he or she is responsible and is not simply a function of the outcome of the agent's moral deliberations about what ought to be done in a given situation. For this reason, responsibilities to persons may conflict. When they do, the fact that deliberation of necessity directs the agent to fulfill his or her responsibility to at most one person does not mean that the responsibility to the other person has in this situation been eliminated. There will thus be occasions of conflicting moral responsibilities when, whatever the agent does, he or she will fail to fulfill at least one of these responsibilities. It is with respect to moral wrongdoing in the sense of not fulfilling a moral responsibility so defined that I believe moral wrongdoing is sometimes inescapable.

To return to *Billy Budd*, I argued that Vere had a moral responsibility to Billy to show leniency and a moral responsibility to the king to enforce the law and maintain order on the ship. Since these responsibilities conflicted, Vere could fulfill only one of them. Even if Vere had done what was morally for the best, he would still have failed to fulfill one of these responsibilities. I suggested that in this situation Vere's more compelling responsibility was to Billy. But this does not show that in this situation Vere had no responsibility to the king to enforce the law. That responsibility persisted, and even had Vere acted as he ought, he would nonetheless have done something wrong by violating this responsibility to the king. Likewise, if Vere had been correct in his decision to enforce the law, the responsibility to Billy would have remained and it would have been wrong to transgress it. Hence, moral wrongdoing was inescapable for Vere.

Those who reject this conclusion offer different explanations of inescapable feelings of moral distress. I will argue that these explanations are inadequate, in part because they do not give a good account of our moral feelings, but also because they have an unacceptable understanding of moral responsibilities. A principal though generally unstated reason why opponents of inescapable moral wrongdoing have resisted this idea is that they believe that our ultimate moral responsibility is not to specific persons at all, but to something that in comparison with concrete persons is an abstraction. On these accounts, to the extent that responsibilities regarding specific persons are recognized, they are thought of as secondary phenomena that are completely defined by the outcomes of moral deliberation in such a way that, properly understood, they never conflict. It is surprising how many otherwise diverse moral theories maintain this kind of position.

The most obvious example is utilitarianism. The utilitarian maintains that our ultimate moral responsibility is to maximize the sum of goodness in, as Mill puts it, "all mankind" and even "the whole sentient creation."<sup>27</sup> On the basis of this responsibility there may arise, in particular circumstances, secondary responsibilities to promote the well-being of particular persons. But these responsibilities are not so much responsibilities to specific persons as they are responsibilities with respect to these persons. Moreover, they are completely contingent on, and entirely defined by, the responsibility to maximize the sum of goodness in the world. They have, so to speak, no life of their own, and correctly understood they will never conflict. So long as an agent performs that action which maximizes the sum of goodness in the world, every actual moral

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It is, of course, a common critique of utilitarianism that, in Rawls's oft-quoted words, it "does not take seriously the distinction between persons."<sup>28</sup> But other theories, including deontological theories, are also disposed to view moral responsibilities to specific persons as a secondary and contingent phenomenon. For example, though it might be thought that Kant, with his emphasis on respecting persons as ends in themselves, would be immune to this objection, he is quite clear that our ultimate moral responsibility is not to persons as such, but to the moral law. "Duty is the necessity of an action," Kant says, "executed from respect for law."<sup>29</sup> And, he says, "the only object of respect is the law. . . . All respect for a person is only respect for the law (of righteousness, etc.) of which the person provides an example."<sup>30</sup> It follows that, so long as we respect the moral law (and Kant insisted that the moral law cannot give rise to conflicting duties),<sup>31</sup> we will have fulfilled all our moral responsibilities and will not have done anything morally wrong.

My point is not that the methods of deliberation associated with utilitarian and Kantian moral theories are entirely wrong. It is compatible with what I am saying that one or both is partially correct in its account of how we should decide which action ought to be done. Rather, what is at issue is a conception of the object of moral responsibility assumed by these theories. They share the claim that our ultimate responsibility is not to particular persons as such, but to some abstraction such as "the whole sentient creation" or "the moral law."<sup>32</sup> In this respect, these theories improperly displace persons as direct objects of moral concern and thereby estrange us from the true nature of our lives as moral agents. Our lives are constituted by relationships with specific persons to whom we have moral responsibilities. By transforming these responsibilities into contingent and secondary manifestations of our responsibility to whatever abstraction is favored by the theory and by declaring our responsibility to this abstraction to be the only genuine responsibility we have, these theories distort our relationships with other persons.

It is thus not surprising that utilitarians and Kantians have been at the forefront of those who have rejected the idea of inescapable moral wrongdoing.<sup>33</sup> For we can best make sense of this idea, I believe, by supposing that our moral responsibilities are ultimately responsibilities to specific persons and that when these responsibilities conflict, the fact that deliberation, of necessity, directs us to fulfill our responsibility to at most one of these persons does not mean that our responsibility to the other has in this circumstance been abolished. Since in our everyday lives we do understand our relationships and responsibilities in this way, it seems to us appropriate for an agent faced with conflicting responsibilities to feel moral distress no matter which course of action is taken. It is a reflection of the alienating character of the aforementioned theories that they are compelled to deny the appropriateness of these feelings and thereby promote a distortion in the nature of our moral lives.

A related indication of the estrangement engendered by these theories is the fact that they are committed to a reading of *Billy Budd* that eviscerates its tragic

character. These theories entail that in this situation Vere's ultimate moral responsibility was not to either the king or Billy, and that his only contingent responsibility was to but one of these persons. Either Vere had no responsibility to the king to enforce the law or he had no responsibility to Billy to be just and compassionate through a show of leniency. Hence, so long as Vere correctly determined what was and was not his actual moral responsibility in this circumstance and acted in accordance with this conclusion, he would have done no wrong. He would have fulfilled his responsibility to that abstraction, whatever it might be, to which he as a moral agent owed his only true allegiance.

I have tried to show that this is an intuitively implausible reading of *Billy Budd*. For it fails to capture what is most compelling and disturbing in this tragic tale: that because he would have failed to fulfill his moral responsibility either to Billy or to the king, the captain would have done wrong no matter what. My aim in the remainder of this book is to give a philosophical defense of the position presupposed in this reading, that there are occasions in the lives of us all when we will do something morally wrong no matter what we do.

### Notes

1. This reading of the Greek tragedians is developed in Nussbaum 1986. I discuss a concept of tragedy in chapter 9.
2. Some of the contributions to this debate have been collected in *Moral Dilemmas* (Gowans 1987).
3. For example, this is the main concern in Sinnott-Armstrong 1988.
4. Even Sinnott-Armstrong, who defends the thesis that there are conflicts among nonoverridden moral reasons, declines to describe such conflicts as situations in which wrongdoing is inescapable (see Sinnott-Armstrong 1988, p. 20). I discuss his understanding of "moral dilemmas" in chapter 3, sec. V.
5. For example, see Marcus 1980, pp. 130-33; Nussbaum 1986, p. 27; Phillips and Mounce 1970, pp. 100-101; Stocker 1990, p. 28; Walzer 1973, pp. 169-72; and Williams 1973a, pp. 172-75.
6. These expressions may be understood as having, as an approximate denotative definition, the views and debates in the essays collected in my aforementioned anthology and in other works that discuss these essays.
7. For some recent defenses of the value of reflection on literature in moral philosophy, see DePaul 1988; Nussbaum 1990; and Putnam 1979. For criticism of some uses of literary examples in moral philosophy, see O'Neill 1986.
8. Mumford 1929, p. 354.
9. Thompson 1952, p. 400.
10. Melville 1962. All references are to this edition (in parentheses).
11. For surveys of the literature on *Billy Budd*, see Melville 1962, pp. 24-27; Melville 1975, pp. xi-xiv; Milder 1989; and Sealts 1986, pp. 421-24. A bibliography accompanies each of these surveys. *Billy Budd* also attracted the attention of two prominent philosophers in the early sixties, with equally diverse results. For Hannah Arendt, the story endorses the thesis that compassion, being incapable of "argumentative speech," is irrelevant to political life (Arendt 1963, pp. 81-82). Thus Arendt sees Vere as a man of virtue, and this "virtue—which perhaps is less than goodness but still alone is capable of embod-

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iment in lasting institutions'—must prevail at the expense of the good man" (p. 79). On the other hand, for Peter Winch, Vere was faced with "two conflicting sets of equally moral demands" (Winch 1965, p. 205). In resolving this conflict, Winch declares that he himself would "have found it morally impossible to condemn" Billy, but he denies that it is a logical consequence of his judgment, as proponents of the universalizability thesis maintain, that "Vere acted wrongly" (p. 208). It is not inconsistent, Winch argues, to say, about the same situation, that it would be wrong for me to hang Billy and that it would be right for Vere to do so. Finally, for an interpretation by a philosopher that relates to my own, see the very brief discussion of *Billy Budd* in Mallock 1967, pp. 176–78.

12. See Brodtkorb 1967.

13. See Melville 1975, pp. xiii–xiv and xlii–xliii.

14. Short 1946, p. xxxii.

15. Zink 1952, p. 134.

16. It has been pointed out that in several respects Vere's procedures and substantive arguments in the trial were in violation of the military law that actually governed the English navy in 1797 (see Ives 1962; Melville 1962, pp. 175–83 (notes on leaves 233, 245, 273 and 284); and Weisberg 1982, pp. 19–34). On the basis of this historical analysis, Vere has been criticized for disobeying the law (for example, by Ives and Weisberg). But I doubt that Melville expected his readers would be historians of military law. Moreover, the articles of war that governed the navy did state that striking an officer for any reason was punishable by death. Thus, according to actual law, Billy was subject to the death penalty, even though in the story the procedures of actual law were not correctly followed. It is true that at one point Vere appealed to "the Mutiny Act" (p. 112), which in fact applied to the army and not the navy. Hence, measured against actual law, it was extraordinary and outrageous for Vere to invoke the Mutiny Act. Yet neither the narrator nor any officer questioned this, though they did question Vere on several other points. I conclude that, within the universe of the story, the Mutiny Act did apply, and more generally, that the correctness of Vere's understanding and application of the law are to be doubted only insofar as there are grounds *within* the story for doing so (cf. Posner 1988, pp. 134–35 and 155–66, and Sealts 1986, pp. 418–19).

17. The perception of the danger of mutiny may explain the apparent contradiction in the appeal to "usage" by Vere and the surgeon: For Vere the situation is an extraordinary one, hence the relevant "usage" may differ from that of ordinary circumstances.

18. There is one possible exception to this. In an earlier phase of his plotting, Claggart had arranged for a sailor to approach Billy with a vague but sinister proposal, one perhaps intimating mutiny. This Billy flatly refused, though it never occurred to him to report the matter, as duty required. During the trial Billy was asked if he had any reason to suspect an incipient mutiny, and his answer was that he did not. Had the court become aware of this incident, it would have obtained further insight into the extent of Claggart's scheming, but it would also have seen another example of Billy's capacity to violate martial law, however innocent his intent. But on both these points the court already had some understanding.

19. Bolt 1962, p. 89.

20. Trotsky 1973, p. 36.

21. For a defense of a similar view of politics, see Walzer 1973, whose position I discuss in chapter 9.

22. There is an interesting passage by Melville that is relevant to this point. The passage was once thought to have been intended as a preface to the entire story (and was published as such), but it has been established that in fact Melville wrote it as part of Ch. 19 (just after Billy's killing of Claggart) and later deleted it from the text altogether (see

Melville

Melville 1962, pp. 9–10, 18–19, and 25). Because Melville discarded the passage, it would be a mistake to put much weight on it. But because there is no question that Melville did write it, it does have some relevance to his state of mind. About the French Revolution, the passage declares that it “involved rectification of the Old World’s hereditary wrongs” but that “this was bloodily effected” and “straightway the Revolution itself became a wrongdoer.” Nonetheless, the outcome of it all has “for some thinkers apparently” been “a political advance.” About the mutinies at Spithead and the Nore, the passage claims that “something caught from the Revolutionary Spirit . . . emboldened the man-of-war’s men to rise against real abuses, longstanding ones,” and yet this involved “inordinate and aggressive demands.” Still, “the Great Mutiny, though by Englishmen naturally deemed monstrous at the time, doubtless gave the first latent prompting to most important reforms in the British navy” (Melville 1956, p. 198). In both cases, I take the point to be the intertwinement of good and evil in the political workings of the world, in particular, the way in which worthy political ends are achieved through the instrument of evil means.

23. Bradley 1927, p. 220.

24. Though there are some fundamental disagreements between us, I nonetheless recommend the critiques of Vere in Adler 1976 and Zink 1952.

25. It is worth keeping in mind the narrator’s remark at the end of the trial scene: “Forty years after a battle it is easy for a noncombatant to reason about how it ought to have been fought. It is another thing personally and under fire to have to direct the fighting while involved in the obscuring smoke of it. Much so with respect to other emergencies involving considerations both practical and moral, and when it is imperative promptly to act” (p. 114).

26. I am borrowing this expression from Santurri, who uses it to refer to some forms this argument (1987, pp. 47–60).

27. Mill 1957, ch. 2, par. 10.

28. Rawls 1971, p. 27.

29. Kant 1959, p. 16.

30. *Ibid.*, p. 18.

31. See Kant 1971, p. 23.

32. This phenomenon may also be exemplified in some theistic moral theories which maintain that our only ultimate moral responsibility is to God. On this view, our responsibility to God may give rise to secondary responsibilities regarding particular persons, but these responsibilities are entirely contingent upon and defined by what God requires of us. Hence, so long as we do what God requires—and it is often assumed that God’s requirements, properly understood, do not conflict—we will have met every moral responsibility, and we will have done nothing wrong. In this connection, see Geach 1969, p. 128 and Santurri 1987. For a contrary view, see Niebuhr 1935 and Quinn 1989.

33. For an example of each, see Hare 1981, chs. 2 and 3, and Donagan 1984. I discuss these and other utilitarian and Kantian positions in chapters 7 and 8.

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