

Engaging Thomist Interlocutors

STEVEN A. LONG

Ave Maria University

Ave Maria, FL

Introduction

THE FOLLOWING work is divided into a response to Fr. Lawrence Dewan on the question of defense, and a response chiefly to Kevin Keiser, but also implicitly to others holding cognate views,¹ regarding the relation between the species derived from the object, and that derived from the end, in the case of per se order between object and end. Because these arguments are not unrelated, it has seemed best to present them under the *ratio* of a response to intra-Thomist analyses.²

¹ E.g., Steven Jensen, in *The Good and Evil Actions: A Journey through St. Thomas Aquinas* (Washington, DC: The Catholic University of America Press, 2010).

² There is one Thomist interlocutor with whose observations I can now only partially engage. Fr. Kevin Flannery, in his penetrating and insightful review of my book, *The Teleological Grammar of the Moral Act* in *The Thomist* 72 (2008), argues regarding ST II-II, q. 64, a. 7 that “when at the beginning of that article Thomas speaks of an act’s receiving its species from what is intended and not what is per accidens, he is concerned with the way we determine the species of types of acts and not directly with the analysis of individual acts.” It has occurred to me that to this argument there is a general epistemic response, along the lines of St. Thomas’s analysis of essence considered as a whole, which implicitly and indistinctly includes the designation of matter, but does not include it explicitly and distinctly, such that it can be both predicated of the individual—“Socrates is a man”—and considered simply according to the absolute meaning of the nature—“man is a rational animal.” In short, from the vantage of Thomistic epistemology, it is possible that distinguishing “types” of acts too strongly from individual acts—and so distinguishing too strongly the way we determine the species of types of acts versus the way we analyze individual acts—may fail adequately to take stock of the nature of the act abstracted as a whole. Similarly, the species of a “type” of act is also implicitly and indistinctly the species of an individual act of that nature. However, this is but the nod of the head to one of several considerations—all of

It should be added, however, that the differences here entertained are among scholars none of whom could reasonably be presented as embracing the intentionalism that has recently come to the fore in many high profile moral questions, from prophylactic condom use, to craniotomy, to possible dismemberment of the fetus.³ The questions here pursued regard matters that scholars in the Thomistic tradition have differed about—as, for example, Vitoria and Cajetan hold different accounts of defense by private citizens. They are significant questions of moral importance. Thus the present work engages morally significant disputes that should not be confused with the differences dividing mainline Catholic moral philosophers and theologians from intentionalist theories. Accordingly it is with a certain measure of gratitude to those whose work is here engaged that the author of the present response turns from disputing the unfortunate implications of intentionalist error to more nuanced, interesting, and intriguing problems—and indeed, arguably mistakes—the consideration of which helps to reveal more profoundly the bracing intelligibility of the teaching of St. Thomas.

**A Reply to Fr. Lawrence Dewan on
St. Thomas Aquinas and private Defense,
or: A Defense of Choosing one's Defense**

Fr. Lawrence Dewan, O.P., has recently taken up the analysis of my treatment of the case of self-defense as articulated by St. Thomas Aquinas in

which promise to be fruitful in furthering inquiry into Thomas's thought—that will at some juncture require a more extensive and weighty consideration.

³ In a 24-page defense of St. Joseph's Hospital and Medical Center, in a case not all the facts of which have been made public—available on the web at www.commonwealmagazine.org/blog/wp-content/uploads/2010/12/St.-Josephs-Hospital-Analysis.pdf—Professor Lysaught argues that whether an act is such as by nature to terminate in the body of a fetus and dismember it is irrelevant to the moral evaluation of the act, provided that the fetus is dying and one intends simply to save whoever may be saved, in this case intending good to the mother. Since all the clinical facts are not available in this case, it is difficult to judge—it is not clear precisely what was done, nor whether Prof. Lysaught's descriptions obtain. She cites the thought of Rhonheimer and Grisez (e.g., see pp. 11–12) as supporting her account. Yet it is not yet clear to what degree she has applied their thought in a way that they would recognize; both of these thinkers *do* seem to this author to render “direct” and “indirect” as simple functions of what the agent intends rather than of the nature of the object of choice. In any case, the theory that “direct” and “indirect” are functions of intention, such that one may put aside the integral nature and per se effects of whatever act is chosen, seems by its nature to fall prey to intentionalism.

ST II–II, q. 64, a. 7.⁴ His analysis is conspicuous for highlighting the most formal elements articulated in St. Thomas’s account of human action. For this reason, it seems important to me to identify the points in his account where I believe that his reading departs from the text of Aquinas. I undertake this with proportionate trepidation, because Fr. Dewan has taught me a very great deal about the mind of Aquinas. Further, his argument articulates the pertinent points with a lucid clarity. Accordingly, and precisely for these reasons, it seems to me that there can be no better or clearer occasion to indicate, with respect to these points, the difficulties that I find. It also seems important to address these points precisely because, with respect to what may be done, it seems to me that almost invariably I would find myself in agreement with Fr. Dewan, and so with respect to our common conclusions it matters which analysis more realistically supports those conclusions. Further, although at Fr. Dewan’s hands certain implications would never be drawn from the principles he sets out, I am concerned that those implications nonetheless exist to be drawn, especially with respect to the seeming denial that the integral nature and *per se* effects of actions are always included in the object of the external act or what I have called “the object of the moral act.” Lastly, if I were to hold an account different from the one I do hold, Fr. Dewan’s would be first on my list, and given this degree of regard, I naturally wish all the more to indicate the reasons for my differences.

First Point

My first point of disagreement regards intention. Fr. Dewan notes Aquinas’s clear affirmation that one may intend the end without any determination of the means. In response Fr. Dewan rightly points out that, in the article in which St. Thomas affirms that one may intend the end without consideration of the means (i.e., in *ST* I–II, q. 12, a. 4, ad 3), the causal role of the end with respect to the deliberation and choice of means is prominent. Further, when we intend an end, clearly we do so as at least prospectively implying a consideration of means. Fr. Dewan puts it this way:

The intending will is the mover of the choosing will. Accordingly, we must expect that in the beginning the intention will aim at means which are still indeterminate. However, with the conclusion of its servant, deliberating reason, the intention is perfect, and intends the means which are the matter of choice. No wonder, then, that Thomas,

⁴ Lawrence Dewan, O.P., “St. Thomas, Steven Long, and Private Self-Defense,” *Nova et Vetera* 8 (2010): 191–205.

in presenting the difference between intention and choice, includes the willing of end and means in both, but in a different order. (195)

Yet an “indeterminate” consideration of means is not a consideration but at best mere *potentia*. One ought not confuse the datum that intention is the ground and cause of deliberation and choice, with the quite different proposition that therefore it is impossible to intend an end without thereby actually considering means; this latter proposition is simply contrary both to fact and to Thomas’s express text. To say that when one intends an end one also necessarily *indeterminately* intends means confuses the *potential* for intention to move one to actual deliberation and choice with the very *acts* of deliberation and choice. Intention is an *act of the mind*, and one that can exist prior to any consideration of means. To say “Oh no: there is an indeterminate consideration of means” is, it seems to me, equivalent to saying “Oh no: there is no consideration of means,” because consideration of means is precisely not indeterminate but determinate. To intend an end is potentially to consider means in regard to the end, but not necessarily actually to do so. Moreover, the term “intention” itself principally refers to the end, and only by extension does it pertain to the means.

Intention of the end is the very cause of the deliberation of the means and of choice. That it is the cause does not mean that it cannot be willed distinctly from the means: precisely because it is by nature prior to the means, it can be willed distinctly from the means. Intention is a mental act, and, precisely as mental act, it can occur apart from the mental acts known respectively as the deliberation of means or the choice of means. That intention of the end is the cause of these latter acts does not in the least alter the fact that it may occur separately from them, and that by *causal priority* the term chiefly pertains to the end. And in the primary sense of *intention* it does occur separate from them, for the primary sense is that which makes clear its priority vis-à-vis the means, which derive from it and *not* the other way around.

Thus it seems to me that Fr. Dewan’s reading contradicts Thomas’s affirmation that the intention of the end is by nature prior to, and can exist separate from, any consideration of means. This teaching is not altered or diminished, but rather is enhanced, by the causal role of intention; this is precisely because there is more in cause than in effect, and the end is not derived from choice, but rather deliberation and choice are derived from the intention of the end. *It is altogether befitting with regard to the primacy of the end that it be susceptible of being intended apart from deliberation and choice, for it is the cause of these. Intention of the end can exist without deliberation and*

choice, but deliberation and choice can never be save as caused by intention of the end. As such, this sense of intention is the *primary* sense—because it is the cause of the rest—and this is how Thomas uses it: “Just as intention regards the end, choice regards the means.”⁵ Fr. Dewan argues:

The will is a self-mover. As willing the end, it moves itself to will the means. It is intention precisely inasmuch as the order to the means is introduced, no matter how indeterminately.

However, according to the *ipissima verba* of Thomas noted by Fr. Dewan himself (cf. 192), intention is precisely not intention “precisely inasmuch as the order to means is introduced”—because intention *qua* intention can exist prior to any determination of the means whatsoever *and as such it is still intention*. Were Fr. Dewan’s claim true, it would necessarily follow that intention as such *could not* exist prior to any determination of the means, which is contrary to St. Thomas’s express affirmation that it can. It is not an interpretation of Aquinas but rather the express language of Aquinas that logically contradicts the proposition that intention is intention precisely inasmuch as the order to the means is introduced, because intention of the end cannot be limited merely to this effect of intention: *there is more in cause than in effect*. Granted that intention is the cause of that consideration of means when it occurs, and that this is indeed proper and natural, it is also proper and natural that intention, which is *prior by nature*, can by nature exist apart from consideration of the means even while implying the need for such consideration. And indeed, *as there is more in cause than in effect* (and as the final cause is the noblest cause), it is hardly unintelligible that one may intend an end without having considered means. Nothing in this detracts from Fr. Dewan’s correct insistence that intention is ordered to deliberation and choice, which are causally derived from it, nor from the view that intention is an act of the will with respect to the end such as to imply the need for the determination of means. Intention is distinct from *voluntas* precisely in that the former implies the need for the determination of means, whereas the second is simply an absolute will for some end. But while intending an end means that we will have it by means of something else, it does not mean that that “something else” has been determined but only that intention requires the determination of means. It is *because* of the causal superiority of intention *both* that deliberation and choice *are* derived from it and that intention can exist prior to any determination or consideration of

⁵ ST I-II, q. 13, a. 4: “Respondeo dicendum quod, sicut intentio est finis, ita electio est eorum quae sunt ad finem.”

means. But precisely for this reason, the primary sense of intention regards the end.

Even if the end should be willed only simultaneously with the choice of means, so that from the beginning one wills to achieve this end *in this way*, that is, through this means, *nonetheless it is the end which is the cause of the motion*. Hence the intention of the end *simpliciter*, as causally superior to the rest which derives from it, is the primary sense of “intend”—whereas “choice” regards the means. In a secondary and extended sense, the means are “intended” inasmuch as one intends the end *through* the means. But the primary sense of intention simply concerns the end, and, speaking most formally, this is necessary because of the clear causal primacy of the end, which can indeed, as Thomas notes, be intended apart from any determination of means whatsoever. Again: *there is more in cause than in effect*.

Thomas makes this point again in *ST* I–II, q. 19, a. 7, resp.: “The intention precedes the act of the will causally, when we will something because we intend a certain end.”⁶ But whatever deliberation we undergo, we will to undergo owing to the intention of an end; and whatever choice we make, we make for the sake of an end. It is clear that intention precedes the act of the will with respect to deliberation and choice *causally*, and that it may do so even *temporally*: we will to deliberate and choose owing to our intending of an end, and we may intend the end even prior to any deliberation or choice whatsoever. This pertains to the causal primacy and precedence of the end, and it is precisely for this reason that the primary sense of intention is of the end *simpliciter*.⁷ Far from proceeding from a *denial* of the order of intention to deliberation and choice, it is precisely because this order *proceeds* from the causal primacy and fecundity of the intention of the end that the intention of the end can be found even apart from determination of the means.

But supposing someone should say: “You cannot simply intend the end once you choose the means.” Of course, the response is: If I am not simply intending the end, then there never will be any means, *and in some sense even whilst intending the end through the means, I am with a priority of*

⁶ “Praecedit quidem causaliter intentio voluntatem, quando aliquid volumus propter intentionem alicuius finis.”

⁷ It should also be clear that the intention of the end in question is the *finis operantis*, because what the agent seeks may be in some way defective, whereas the normative hierarchy of ends is *normative* and insusceptible of defect. Thus the hierarchy of ends, the *finis operantis*, and the teleological relation of the object to the *finis operantis* and further to the normative hierarchy of ends, all need to be properly understood.

nature and of causality intending the end simpliciter. But it is impossible to choose or to deliberate apart from an end. Hence the primary sense of intention is the intention of the end, whereas the means are spoken of as intended only by way of causal extension, but properly are said to be chosen.

Second Point

The second point of difference concerns the specific analysis of the case of lethal defense by a private party. On Fr. Dewan's analysis, one may never choose to kill. But yet he does wish to say that one may kill in self-defense, and that this may be conscious and premeditated. To my mind, St. Thomas teaches that the primary sense of intention is of the end *simpliciter*, owing to the causal priority and precedence of the intention of the end; and further, he teaches that in a secondary and derived sense one may speak of intention of the end through the means. This sense is "secondary" because intention of the end is primary in the sense of having necessary causal precedence—without it there will be no means—and indeed it may even temporally precede deliberation and choice. It is "derived" because the end is the *cause* of the deliberation and choice of means which flow from the causality of intention and thus are derived from it. Hence, the *per se* and principal sense of intention is of the end, *simpliciter*, from whose causal fecundity derive both deliberation and choice. Fr. Dewan, considering not the causal superiority of intention, but the perfection of the human act, considers *intention* in *ST* II–II, q. 64, a. 7 to be *of the end through the means* rather than simply of the end. For all the reasons thus far discussed, as far as I am privileged to follow his reasoning, I cannot follow him in this conclusion.

Given that any intending of the means is a *causal effect* of the intending of the end which is *by nature prior*, it seems to me far more intelligible to read Thomas as referring to the end *simpliciter* by his use in article 7 of question 64 of "intention." Further, the bulk of the article does, I believe, support such a reading. But quite apart from the further reading of the article, it is important to see how this view—namely, the view that by "intention" Thomas refers both to end and to means—affects Fr. Dewan's interpretation of *ST* II–II, q. 64., a. 7. The effect of this view is to require Fr. Dewan's conclusion that killing cannot be "intended"—that is, neither intended simply qua end nor chosen as means—because it cannot be included in our intention of the end through the means.

In *ST* II–II, q. 64, a. 7, Thomas makes clear that the effect of killing is *praeter intentionem*. So, if by *intention* we mean to designate *both* the object *and* the end, then, of course, killing can be neither end nor chosen means. Hence Fr. Dewan's conclusion: killing cannot morally be chosen by a

private person. Yet I have the impression that he does not wish to deny that one can do what any normal observer would call choosing to kill: for example, the felon's ax hand is about to descend on someone's daughter, and the mother or father has a magnum .45 handgun and aims for the head, to stop all neurological activity so that the ax hand will not descend. Or: a felon with an ax assails someone who has only one practical move to avoid being slain by the assailant—a lethal thrust with a pointed or edged object—and so chooses the lethal thrust under this *ratio* of defense. Rather than denying that this may be a good act, it seems to me that Fr. Dewan wishes to allow it as moral but to describe it in such a way that the will in no way moves toward the killing as a means. It must, he is saying, not be viewed as killing under a defensive *ratio*, but merely as *not sparing oneself in defense* even though the assailant may be killed. Hence a neutral defense somehow accidentally even if foreseeably kills, but the lethality is neither intended nor chosen. This is not an uncommon reading, but I believe it is deeply confused and indeed, taken as an account of some uncontrovertibly moral defensive killings, simply contrary to fact.

Third Point

Here we come to the third problem I have with Fr. Dewan's reading. I do not see how it can be said that the killing in such acts as are described above—and which can be replicated with illustrations of lethal private acts that the courts of St. Thomas's day would have held as legal acts of defense—can rightly be said not to be chosen insofar as it is the lethality of the act that constitutes the chosen means of defense. To be sure, there are "defenses" from which lethality follows only quasi-accidentally. But there are defenses in which the very nature of the defensive act is knowably lethal and where it is precisely the *lethality* of the act that enables the act *to be* defensive. (Fr. Dewan's example of cutting the rope bridge at least approximates this but does not seem to be the strongest illustration [205].)⁸ To say

⁸ I say "approximates" because it is not as strong an illustration as those defenses which are made by *essentially* lethal acts. Is the cutting of the rope bridge essentially or necessarily lethal? Might not the assailant hold onto the bridge and climb back up the other side? Or fall, and catch a branch rather than plummet to his death? The defense would still be made. But if a defense needs to be made by a lethal sword thrust to the jugular, or by firing a large caliber round into the cranium, the defense is made through an essentially lethal act. Nor is this merely a function of technology, as the instance of the sword thrust indicates; perhaps there is but one chance to avert being killed with the ax, and that is to lunge through the heart or jugular of the opponent with one's sword before the motion of the assailing blow can be completed. Such a defense, for instance, is clearly by its nature and per se ordering a specifically lethal defense.

the contrary is to say that the will of the defender does not move toward the lethality of an act under the motion toward *defense* when the defense can be made only through a lethal act. It is also to suggest that lethal acts do not naturally tend to suppress assault by suppressing the assailant. I believe this strains credulity and is contrary to fact. It might remain to say that where innocent assailed persons cannot protect themselves or those in their care without deliberately choosing to use lethal means, they must instead be willing to die at the hands of attackers. But I see no ground in question 64, article 7 for supposing that St. Thomas thought in this way. In fact, the *sed contra* of that article suggests otherwise:

It is written (Exodus 22:2): "If a thief be found breaking into a house or undermining it, and be wounded so as to die; he that slew him shall not be guilty of blood." Now it is much more lawful to defend one's life than one's house. Therefore neither is a man guilty of murder if he kill another in defense of his own life.⁹

Of course, one might also note that in his general approval of "lawful slaying" Thomas knew the practice of the courts of his day that permitted the deliberate choice of lethal defense where no other means were proportionate to the end of defense.

Ought one to say that the mother or father must, to be moral, observe the decapitation of their child rather than shoot for the head of the felon attempting to lower the ax? Insofar as this is not Fr. Dewan's position, he seemingly has on his account of the nature of intention, only two options: either the lethal act is *chosen* as such (in which case according to his interpretation of "intention" in article 7, it is *intended* and so *wrongful*); or the lethal act is *not chosen at all*.

If, then, on Fr. Dewan's account one wishes to affirm that such defenses are licit, it seems that one must say, contrary to the evidence, that defenses that occur precisely by way of lethal means are such that the agent does not choose to kill as part of a defensive *ratio*. But, *sed contra*, the one who chooses a lethal stroke because otherwise the game is up is choosing to kill in defense. Not even every defense from which a death predictably follows is one that has been made by essentially lethal means (for these may be accidentally lethal in such a way that the agent need not have had certain reason to think of them as necessarily lethal). But some defenses require the choice of an essentially lethal means. To say the

⁹ "Sed contra est quod Exod. XXII dicitur, si effringens fur domum sive suffodiens fuerit inventus, et, accepto vulnere, mortuus fuerit, percussor non erit reus sanguinis. Sed multo magis licitum est defendere propriam vitam quam propriam domum. Ergo etiam si aliquis occidat aliquem pro defensione vitae suae, non erit reus homicidii."

contrary—that when such means are employed in defense they are not chosen—is, to my mind, a simple re-description of the act which could risk certain of the implications of intentionalism to which Fr. Dewan’s analysis is on the whole opposed.

Why, for instance, ought not the HIV spouses using condoms to say: We do not *intend* to contracept, but only to protect a spouse from viral contamination without sparing the material occurrence of contraception? Just as one might say: We do not *intend* to kill, but only to defend ourselves without sparing the material occurrence of killing? But, *sed contra*: the integral nature of the act and its per se effects are included in the object. The undifferentiated use of the secondary and derived sense of intention will prove a poor compensation for failing to affirm that the integral nature and per se effects of action are always included in the object of the act. The spouses using condoms to avoid transmission of HIV are contracepting; and those choosing to kill in defense are committing a defensive homicide. Killing as such is not a sin, *murder* is a sin; and killing in justified defense is not murder. Similarly, the married woman who uses a contraceptive to regulate her cycle, and also in a distinct act pursues marital relations with her husband, is not said to be contracepting precisely because the medical treatment was chosen without reference to any conjugal act, whereas contraception always involves the intention or choice of a venereal act. This distance of this from the AIDS case is conspicuous: for the spouses who contracept in order to avoid transmitting AIDS, choose to use the condom precisely with respect to the intention of a particular venereal act.

It seems to me that for St. Thomas, the *matter of the act*—its integral nature and per se effects—are *always* included in the object of the moral act. Hence, some defensive acts are *defensive homicides*, and some of these homicides are purely accidental, and some are actually *chosen* under the ratio of *defense*. These defenses do not happen without choice: that is certainly in the order of fact. And it is also, I believe, incontrovertible that some defenses can be made only through lethal means. Since these lethal means do not apply themselves to act, they must be *chosen*. The *ratio* of the choice is defense, but the lethal act is chosen. This *does not mean* that it is *intended*, but then the principal and primary and underived sense of “intention” concerns the end as such, and only by causal extension does “intention” pertain to the means. Fr. Dewan writes in a note:

Long, at page 52, note 8, introduces the views of Vitoria, who contends that one can “will to kill” [*licet velle occidere*] since the “willing” so described is choice, not intention; I see no room in Thomas’s presenta-

tion for such a “will to kill” on the part of the private self-defender. Of course, one can use the harquebus if it is the only life-saving means one has, and one wills, chooses, to do so. (202, note 33)

But the “use” of the harquebus, about which he admits that one “wills, chooses, to do so,” is a use with a nature and with per se effects. For example, let us hypothesize that only a firing of the harquebus directly to the head is such as to terminate a deadly assault. Now, to choose this is to choose to kill; the only question is *under what ratio*. Since killing tends to suppress the assault by suppressing the assailant, and since the act is chosen under that defensive *ratio* and not as a function of simple intention of the death of the person as an end sought independently from the purpose of defense, it is a licit act to choose it. Fr. Dewan wants to say that the killing is physically but not morally present. I would say that the killing is physically and morally present, but purely as a *defensive* homicide, precisely *qua defensive*. It is a serious moral choice to make a lethal defense, and I do not see how the choice of the essentially lethal means precisely *qua* means can be removed from the object of the act in the case when it is chosen precisely under the *ratio* of its proportion to defense.

This is consistent with the answer Thomas gives to the morally significant question that indicates the subject of article 7 of question 64 of the *secunda secundae* of the *Summa theologiae*. That question is: “Whether it is licit to kill a man in self-defense,” and the answer is “yes.” The question is morally significant: that is, *the killing is chosen* (if the killing were accidental, neither deliberated nor voluntary, *the question would not be morally significant*). Hence the subject of the question is not: “whether it is licit to kill a man in self-defense *by accident*”—which would deprive the question of any moral significance or *gravitas*. Rather, the issue concerns *choice*, and his answer is every bit as significant: yes. The question is about *morally significant imputable conduct* and Thomas *answers the question*.

Only the firm belief that double effect must name a departure from Thomas’s customary mode of analysis of moral action can, it seems to me, account for the failure to see that *both* the question asked *and* the answer given are incompatible with the standard views of double effect. This standard view requires that one construction—and, in my view, the less reasonable construction—of what Thomas means by “intention” be used, so as to generate problematic implications. But the more obvious observation is: in just lethal defense, the private party can never intend—in the *primary* sense of *intend*, that is, the intention of the end—to kill. But in justified defense, when the only or assuredly most reasonable defense requires the choice of a lethal act, that lethal act may justly be chosen

under the ratio of defense. For when the act is chosen under the *ratio* of defense, because the act tends by its nature to suppress the assault through suppressing the assailant, and because no lesser quantum of force can achieve the defensive purpose, the most formal, defining, and containing species is derived from the end, which is defense.

If, at gunpoint, the felon lowers the ax, and the defending mother or father then holds the felon for the police, there clearly is no independent desire to kill the felon (as contrasted with, say, taking the felon out to the flower garden, noting that he has discommoded one's evening seriously, and observing that he will *like* resting amidst the *begonias*). Or, to take the example extant from Thomas's day, if a felon armed with an ax, when his opponent's blade begins to cut a mortal wound, instantly surrenders, and the defender then halts what would clearly have been the lethal blow, clearly the defender does not *intend* the man's death. The private party can choose a lethal act under the *ratio* of defense inasmuch as that quantum of force is required by the end of defense. If, however, that quantum of force clearly is not required for defense, then the extra quantum of force clearly is being chosen *not* under the *ratio* of defense but as somehow desired in its own right as an end, which the private citizen may not justly do. Similarly, it once was the case that the contraceptive pill was the best way for a woman to regularize her cycle—she could, after all, use the pill without any intention or choice of any venereal act whatsoever, and so no contraceptive act would occur. But *if* she chose to use the pill for the sake of contraception, the fact that it *could* have been chosen under the *ratio* of regularizing her cycle would not be materially relevant.

Thus I no longer view double effect as a special schema, but rather as a special sort of problem, and one addressed by Thomas deploying the same typical mode of analysis that he deploys everywhere. The common tendency to treat the secondary and derived sense of "intention" as the principal sense, seems in part an effort to compensate for failure to realize that the integral nature of the act and its per se effects are always included in the object of the act. Hence "intention" comes to be used in an undifferentiated way of end and means, *whereas it is principally, most formally, and with causal primacy and precedence, used of the end simpliciter, and is only in a secondary, derived, and analogical sense used of the means.* But—equally important—the means must be choiceworthy; further, the integral nature and per se effects of the act are always included at least materially in the object of the act, which is not reducible merely to what makes the act appetible to the agent. The hylemorphism of the object, the teleology of the object to the *finis operantis*, and the normative order of ends in relation to which we may judge that what someone intends or

chooses is morally defective or good, provide the context for Thomas's account of good and evil in human actions.

Fourth Point

I also differ with Fr. Dewan regarding the understanding of the nature of the soldier's intention as opposed to that of the private citizen. As he puts it:

I come, then, to the view that in self-defense the act of the private and the public agent can be physically the same, resulting in the particular case in the death of the attacker. However, there are two different morally good acts. The private agent intends as an end his own survival, and the external act of force is the one necessary to effect that result. (The killing is incidental, belonging to the physical act as such.) The public agent, performing the same physical act, intends the killing of the attacker in order to save his own life, in the interest of the common good (his exterior act, as a moral act, is formally a killing).

But in certain just defenses, the killing is *not* merely part of the physical act, but rather is itself *discriminated* and *chosen* as the *means* of defense. The illustration of the defense of the child by means of a deliberately chosen lethal stroke or shot is to this point. That the end for the sake of which it is chosen is good is important; but it, itself, must also be choiceworthy. Now, in a justified defense, it is, because it is per se ordained to the end whose species is defensive. But to say it is not chosen—as though the magnum .45 is aimed at the head of the assailant, and the shot fired, *without deliberate choice* that is made *precisely* because only killing *in this way* will disrupt the falling of the hand wielding the ax that is about to fall on the child—seems not even a factually correct depiction. Yet the view that a parent ought not act in this manner to defend the child when no other act is reasonably possible is simply false. Likewise, the intention of the public agent is not necessarily *defensive* in the manner portrayed in Fr. Dewan's comments, although of course in the article we are discussing Thomas is taking up the right of public agents to intend to kill when acting in defense. But the *ratio* for this right of public agents regards the order to the common good, according to which the state acts not in a purely defensive capacity but also in a punitive capacity. In legal orders throughout history, “dead or alive” has been a formal legal charge; and military units undertake search and destroy missions, not “search and defend” missions. The public agent can justly kill as *an end* of retributive state action, and hence killing in defense can, for the public agent, be just retribution (whereas the private citizen cannot intend the killing under the *ratio* of public retributive penalty but solely as defensive). Both Augustine and Aquinas depict war as

essentially punitive. This depiction is in contrast to the erroneous formulation of the United Nations. Likewise it is not intrinsically immoral for law enforcement agents to execute judgments of a nature different than is common within our legal system. For example, one such judgment is illustrated in those earlier regimes that would order the suppression of bandits either by arresting or by killing them. So, while I concur with Fr. Dewan that the public agent's act is formally a killing, I would not frame this purely defensively even in the case where the public agent is performing an act of defense. And while I concur that private killing in self-defense may at times be accidental, it is not always so, and when it is deliberately chosen precisely because only an act of a lethal nature suffices for the end of defense, the relation of the object of the act to the end is *per se*, and in that case the most defining, formal, containing species is derived from the end. Because in this case the end is defensive, it follows that the act will be a defensive homicide.

Fifth Point

Fr. Dewan argues that “the private person has no right to kill” (202). But normally such a locution would mean “should not deliberately and voluntarily perform the act of killing.” This is not what Fr. Dewan means, because he excludes the integral nature and *per se* effects of the act from the object. Hence, following Cajetan, he can accept the description of the killing as merely “following from” making a defense, as though it arrived serendipitously on the scene without any *deliberate choice* of lethal means on the part of the defending agent. But in just and deliberately lethal defense it is not merely from the intention of defense (as of an *end*) that lethality derives, since many defenses do not require lethal means and so these are *not chosen* by those seeking to achieve a defense. Rather, the lethality derives from the judgment that in the given case, only lethal means are adequate to the end of defense, and since these means will suppress the assault by suppressing the assailant, and no other means are adequate to defense, the defender chooses to commit a defensive homicide (and indeed, in the given example, the species of the act is that of just defense).¹⁰ What is being occluded is that in the article in question Thomas uses the strong and primary sense of intention and not the secondary sense: one may not independently seek someone's death as an end, but one may choose to kill under the *ratio* of defense. Further, the means are chosen after deliberation and in relation to the end sought. What sense can it make to say that they are not deliberated and chosen when clearly they are?

¹⁰ We are hypothesizing a just defense, but there are other kinds. A felon might seek to defend himself against apprehension by the police, which would be a sin of strife.

As for the private person having no right to kill: manifestly, if one may voluntarily and deliberately kill in defense without this being unjust, there indeed is a right to kill in just defense. If this right is denied, then, in the view thus proffered, does a private citizen have a “right” to impede any motion whatsoever? After all, on precisely the same analysis, the private citizen, not being a public authority, has no such right to impede the free actions of others. The man about to murder another has not yet been judged by a court, and the private citizen is not a policeman. Indeed, in a certain sense the private citizen has no formalized “right to impede the free motions of fellow citizens.” Thus he may not even justly choose to trip the man about to murder a child. But this seems to be a somewhat positivistic use of “right,” as though any just claim to retard or resist evil acts were equivalent with the claiming of essentially judicial or public authority. If “right” means “just claim” then there is a “right” to kill in justified defense, as there is a “right” to impede murderous motions by others. If “right” means something other than “just claim,” then it isn’t morally pertinent to the simple question: Can a private party justly choose to kill someone under the *ratio* of defense when only the discrimination and use of lethal means is sufficient to stop the unjust assault? That law officers and even courts may need to judge such events does not obscure the fact that whether they are just or not is not merely a function of positive law.

Even in a positivistic sense, most legal orders in the history of Western civilization (and indeed, the world) have accepted that a private citizen may, when no other means is sufficient to the purpose of a just defense, choose to employ a lethal means precisely *qua* lethal. Police reports are filled with precisely such language. No private citizen has the right to *execute*, to seek the death of another as an *end*; but to choose a lethal means under the *ratio* of just defense may be licit. One must ask: Does, or does not, the one who “physically” kills for defense in Fr. Dewan’s analysis actually choose to deploy a lethal means? If so, and we exclude it from the moral object, one may be concerned lest this establish a ground in every case for dropping the integral nature and per se effects of the act from the moral object.

Finally, the unjust assailant, even if morally innocent, is not performatively innocent. In just defense there is no necessary judgment about the assailant’s culpability, but only about his threat. Perhaps the felon who threatens to decapitate one’s child with an ax has a brain tumor and isn’t culpable for his actions. One does not judge him guilty and worthy of death, nor does one execute him. One judges him both to be threatening one’s child and to need to be stopped, and in the given example one

chooses the only means—a lethal means that destroys his nervous system and kills him—that can prevent the ax hand from descending (unless he surrenders). To say that the lethal act is never in just defense *chosen* is counterfactual. Some lethal acts are accidental to defense, even when they are foreseeable effects.¹¹ But some lethal acts constitute the very chosen nature of the defense. To say that these are not defensive because they are lethal is false; and to say that because they are defensive they are not chosen seems equally false. They are defensive homicides, and if the defense itself is justified, then—where the lethal act is chosen under the *ratio* of defense and does not constitute more force than required for defense—they are justified defensive homicides.

Conclusion in RE: Defense

Intentionalist distortions of double effect often are defended by the claim that when it comes to self-defense, the Catholic tradition does what dissenters from the Magisterium of the Church do with respect to contraception et alia. But in the case of defense, Thomas very clearly says that the private citizen may not *intend* killing—which seems to me clearly a function of the strong primary sense of the *intention of the end*—but that it is licit for the private citizen to choose lethal means, to kill, in defense. This is true unless it be said that St. Thomas deliberately asked and answered a morally otiose question, for to ask *whether it is licit to kill a man in defense* is to ask about voluntary and deliberate conduct and choice if it is to ask about morally significant conduct. If the sense of *killing* in the question is, as it were, submoral or merely physical, the question becomes tantamount to asking *whether it is licit to kill in defense by acci-*

¹¹ For instance, there are equivocal acts that might be expected to cause death, but which would not certainly do so, and if one of these were the sole means proportioned to defense, then the agent could not be said to have made his defense through an essentially lethal means. But there are such means, and if and insofar as they are deliberately employed because none other is proportioned to defense, then clearly a lethal defense is chosen precisely because of the proportion of the lethality to defense. The sense in which lethality “follows from” defense may be the sense in which “means” follow from “ends.” In the case in which only an essentially lethal act is adequately defensive, the choice of lethal means is defensive. Of course, if there are other means available, then the fact that the added quantum of force is unnecessary for defense suggests that it has been chosen for another reason which is not defensive. Likewise, it does not make a contraceptive act less contraceptive merely because contraceptives may be chosen for the sake of regularizing a woman’s cycle: if she chooses it in relation to a given venereal act, it is chosen *qua* contraceptive. But a woman can choose to use the contraceptive pill simply to regularize a cycle, and without intending or choosing any venereal act whatsoever, in which case it clearly is not contraceptive.

dent, which is no longer to inquire about morally significant conduct. Of course there is a distinct morally significant question that may be raised about conduct neither chosen nor intended, namely, whether the agent may be remotely guilty of irresponsibility because the non-chosen, non-intended acts might have been anticipated (as an habitual drunk may anticipate that when he is drunk he becomes violent). Nonetheless morally significant conduct is chosen or intended (and the question of responsibility for unintended and unchosen acts is a question about prior intention and choice: should one either intend or choose to drink, given that one knows one is thereby liable to become violent?).

The growth industry of double effect re-description of acts cannot rightly plant its flag in the *Summa theologiae*. Of course, on this conclusion I am in concurrence with Fr. Dewan, although the susceptibility of other premises to this problem divides us. It astounds me the degree to which, with different analyses, we seem for the most part to end with the same deed to be done (the murderer crossing the rope bridge of Fr. Dewan's example can take no succour from his account, something not true of certain aberrantly pacifistic putative interpretations of St. Thomas). But I believe that the description of that pertinent deed, is, in the case of justified defense, indeed at times *defensive homicide* or *killing under the ratio of defense*. Yet were I able to think the hylemorphic nature of the object of the moral act, or the teleological order of object to end, to be less formally essential to Thomas's moral account, I would rather prefer to renounce defense than differ with Fr. Dewan. On this score I can only take comfort from Aristotle, who felt the need to criticize even his beloved teacher Plato. Although the critic in this case is not in the same league, the criticized—Fr. Dewan—is, and so by extrinsic attribution the likeness of the two cases may be sustained.

A Fresh Look at Keiser's View of Moral Teleology

In his essay "The Moral Act: A Fresh Look,"¹² Kevin Keiser, responding in a substantive note to my work,¹³ argues that I have fundamentally misunderstood Aquinas. He objects to my noting the teaching of Aquinas in *Summa theologiae, prima secundae*, question 18, article 7, that in cases wherein the object of the moral act is per se ordered to the end, the species derived from the end is most containing, most formal, and most defining, with respect to the species derived from the object. To quote Keiser:

This is speech that fails to signify. To be both the most containing and the most defining at the same time is to be both the most general and the

¹² Kevin F. Keiser, "The Moral Act: A Fresh Look," *The Thomist* 74 (2010): 237–82.

¹³ Keiser, "The Moral Act," 277–78, n. 160.

most specific at the same time. And to be the specific difference and not be the most defining is to be the most defining and not the most defining. Man is not most defined by the genus of “animal” that contains him, but by the “rational” that is his specific difference. It would be absurd to answer the question, “What most defines man?” with the response, “His animality.” The specific difference is that which signifies how a thing is what it is.¹⁴

Keiser continues to note:

It is possible that Long is incautious about the meaning of “specific difference” or “defining.” See *Teleological Grammar*, 51, 84, where he replaces the term “specific difference” with “accidental specification,” even though *accident* is precisely distinguished against *specific difference* among the predicables.¹⁵

Both of these claims, however, clearly fail to advert to Thomas’s express teaching in question 18, article 7, of the *prima secundae* inasmuch as it bears directly upon the nature of the claims themselves; both also fail to give an account of the text that does not condemn the text precisely along with the condemnation of the reading that I have offered of it.

First, as to the issue of genus and species. Certainly it is true that normally the specific difference is thought of as most formal and actualizing vis-à-vis the genus, that is to say, as representing a further quantum of actuality vis-à-vis the genus understood analogically as potency. And so *one ought* to be puzzled by Thomas’s insistence that, *in cases of per se order of object and end*, the species derived from the end *contains* the species derived from the object, in a quasi-generic manner, while being *more formal* than the species derived from the object (even though the latter is, as it were, a specific difference with respect to it). Normally, that which is formal is viewed as most defining, and as the specific difference derives from the form, we think of the specific difference as “most formal” and most actualizing. Thomas does not deny any of this here. But he does re-direct the intelligence, in a way that he often does with respect to the difference between understanding natural moral order and understanding the nature of substances.

In one such redirection of the intelligence, by way of prologue and comparison Thomas famously holds that a circumstance can introduce a

¹⁴ Keiser, “The Moral Act,” 277, n. 160. This seems to be one of Steven Jensen’s criticisms as well—see his argument on pp. 268–69 of his *Good and Evil Actions: A Journey through St. Thomas Aquinas* (Washington, DC: The Catholic University of America Press, 2010); one notes particularly the illustration of “rational” and “animal” on p. 269.

¹⁵ Keiser, “The Moral Act,” 278.

new object into a moral act.¹⁶ But the object is formal vis-à-vis the moral act. How then can a mere *circumstance*—which is as it were, *qua* circumstance, *accidental*—introduce a new object into the act? Certainly in the physical order, a new circumstance does not change species—a cow is a cow is a cow, irrespective of its circumstances. And, morally, the object is formal. Yet morally, a circumstance can introduce a new object, because the object is *what the act is about in relation to reason*, and by way of the circumstance's direct effect on what the act is about in relation to reason, it can change the objective nature of the act. When a circumstance becomes the principal condition of the object of an act, it specifies the act. For example, a man plans a prison break from a POW camp in which the safety of all depends on his ability to run as usual, as he is a very fast sprinter; but he sprains his ankle the night before the escape. What was a reasonable act of attempting to escape has become something wholly unreasonable by way of the injury which exposes all to inordinate risk. The act changes in its species from reasonable act of attempting to escape, to knowingly suicidal act of attempting to escape, because of a circumstance. And of course, *morally speaking*, the “circumstance” is thus somewhat more than a mere circumstance. Yet Thomas does not deny that “circumstance” is normally distinguished from the essential formality of the object of the moral act. This is a classic illustration of the redirecting of the intelligence to see how the apparatus of analogical distinctions regarding genus, form, act, potency, circumstance, necessity, essence, etc., plays out differently vis-à-vis moral analysis than one might superficially expect it to do.

The case is similar in the present instant with respect to specific difference and genus. With respect to the nature of form and specific difference, Thomas does not deny that the specific difference represents a greater quantum of act vis-à-vis the genus, which is viewed materially. Nor does he deny that the species derived from the object adds a further difference—which as formal is a further actuation—to the species derived from the end, which accordingly is like a genus. There remains therefore a sense in which the difference is to the genus as act to potency, and this pertains to the species derived from the object vis-à-vis the species derived from the end. Yet this is insufficiently illuminative of the actual character of human action, because considered wholly apart from the nature of *finality*, which is the crucial consideration in the case of action. Here is what he does have to say about this:

¹⁶ Cf. *ST* I-II, q. 18, a. 10, resp. & ad 1–3.

Difference is compared to genus as form to matter, inasmuch as it actualizes the genus. On the other hand, the genus is considered as more formal than the species, inasmuch as it is something more absolute and less contracted. Wherefore also the parts of a definition are reduced to the genus of formal cause, as is stated in Phys. ii, 3. And in this sense the genus is the formal cause of the species; and so much the more formal, as it is more universal.¹⁷

The genus is *more formal* than the species, inasmuch as it is more absolute and less contracted—it is not limited merely to any particular specific modality. Further, we say that the *parts* of a definition are reduced to the genus of formal cause, such that *in this sense* (“et secundum hoc”) “the genus is the formal cause of the species; and so much the more formal as it is the more universal.” *Parts of a definition are reduced to the genus of formal cause*, and each of these parts is as it were *saturated* with the formality in question. Now, in moral order, in the case wherein the object is per se ordained to the end, the *most formal* (this is expressly St. Thomas’s designation) species, which is also the *most containing* (as Thomas puts it in his *respondeo*, “Unde una istarum specierum continebitur sub altera,” and he makes quite clear that it is the species derived from the object that is contained by the species derived by the end), is derived from the end.

So, one notes Thomas teaching that since the species derived from the object is to the species derived from the end as the parts of definition are to the genus of formal cause, the species derived from the end is most formal, containing, and (this last is my term) defining. Keiser apparently draws the line at “defining” while accepting “most formal”—but the genus of formal cause is precisely “most defining” and Thomas expressly makes the point comparing the species derived from the end with the formality of the genus of formal cause “into which the parts of a definition are reduced.” Even that which represents the added act, formality, perfection in the object-species, in the case of per se order of object toward the end exists solely as required by and for the sake of the end: like the fitting of the glove to the hand, in the instance of per se order, the object is entirely subordinate to and for the sake of the end.

¹⁷ ST I–II, q. 18, a. 7, ad 3: “Ad tertium dicendum quod differentia comparatur ad genus ut forma ad materiam, inquantum facit esse genus in actu. Sed etiam genus consideratur ut formalius specie, secundum quod est absolutius, et minus contractum. Unde et partes definitionis reducuntur ad genus causae formalis, ut dicitur in libro Physic. Et secundum hoc, genus est causa formalis speciei, et tanto erit formalius, quanto communius.” All Latin passages are derived from the *Corpus Thomisticum*, *S. Thomae de Aquino opera omnia*, made available online by the University of Navarre (www.unav.es/filosofia/alarcon/amicis/ctopera.html#OM).

All the parts of the definition are reduced to the genus of formal cause, as the species derived from the object is—in the case of per se order of object to end—reduced to the species derived from the end (because any other species is merely a particular modality of the species derived from the end). Indeed, in this sense the genus is the formal cause of the species.

Thus, unless Keiser wishes to argue with Thomas that the genus of formal cause is indeed not formal, and that the parts of definition are not precisely reduced to the genus of the formal cause, or that the formal cause as saturating all the parts of the definition is not precisely “most defining,” everything he comments on with regard to my express position pertains directly and unequivocally to the teaching of Aquinas. Keiser’s criticism also lacks sufficient reference to these words of Aquinas directly holding that the species derived from the end in cases of per se order between object and end is most containing and most *formal*.

But as noted briefly above, there is a further crucial point that is wholly omitted from Keiser’s account and that is necessary to explain Thomas’s teaching in *ST* I–II, q. 18, a. 7. *Insofar as object is per se ordered toward end, the supremacy of the end is precisely what is reflected even in the further determination of the species derived from the object, for the added quantum of perfection, determinacy, and act reflected in that species is wholly for the sake of the end and is contained within the most formal species derived from it, as reflecting the optimal path of the agent to the end.* In the case of per se order, everything that constitutes the added determinacy and act of the species derived from the object vis-à-vis the species derived from the end, *exists for the sake of the end and as interiorly ordered to it and proceeding from its intention.*¹⁸ Thus, as with the case of circumstance, it is not that Thomas denies that there is a further perfection of act in the object vis-à-vis the end; rather, it is that that very further perfection of act is wholly a per se function of the order toward the end.

Keiser’s example of the soul and the matter in the human composite is unhelpful here, because “animal” as genus vis-à-vis “reason” as difference does not suffice to indicate the type of causality that *the end* exerts vis-à-vis *the object* when the object is essentially ordered to it. The likeness is more confined; that is, just as “reason” is the difference in regard

¹⁸ For example, that a homicide be *justly defensive* will be the most important aspect of the act: it could be simply murderous. Yet that the defense be lethal adds, by way of gravity in its object-species, a further actual character to the act. *Of course, the due or integral matter and per se effects of the act are always included in the object.* Cases of per se order in which it seems that what is provided by the object-species is morally decisive will turn out, I believe, to be either instances in which what is taken as the end-species is in fact too indeterminate to count as a moral species, or cases in which there is not genuinely per se order (because in per se order the very essence of the object wholly serves and is explained by the end).

to the genus “animal,” so the species derived from the object represents a further determination precisely with respect to the species derived from the end. But, the remotion of the example of matter and soul from final causality is what makes it to be of very marginal aid or importance for the question at hand with respect to action (and, of course, this also is accordingly a remotion not simply from intention but from choice). By contrast, in the case of per se order of object to end, the causality of the end is maximal: the further determination and actuality of the species derived from the object by comparison with the species derived from the end *is chosen* and *exists* only owing to the end, and it is *contained within* the *most formal* species derived from the end, to which it is reduced as *the parts of the definition are reduced to the genus of formal cause*.

To take what is thus far an unhelpful illustration of body and soul and make it helpful, one should consider the difference between body/soul and end-species/object-species. If the difference of reason vis-à-vis the matter of the human composite were “chosen” solely because it represented the optimal way of moving toward the good of the body, then we would have the cognate comparison with the object-species chosen solely because it represents the optimal way of moving toward the end and the species derived from it (the end-species is like a genus compared to the object-species which is like a difference). *Of course, this comparison does not hold, because the body is for the soul, not the soul for the body. But who would be foolish enough to suggest that the end is for the object, and not the object for the end, in the case of per se order of object and end?* It follows that for the purpose of illustrating the relation of object-species to end-species the comparison of the relation of body and soul is unhelpful, because the relation of final cause to efficiency in human action is *sui generis*.

Admitting that there *is* an added quantum of perfection in the difference from the object, one’s attitude toward this datum alters in realizing with St. Thomas that, in the per se case, everything represented by that added quantum of perfection is wholly and essentially ordained to the end—the end-species in this case, as Thomas says quite clearly (although Keiser does not quote him), is more formal, and so much the more formal as the more universal. Why more formal? Why more universal? More formal because the form most of all accounts for the character of the thing whose form it is, and when object is per se ordered toward end, the end most of all accounts for the character of the object (that is why the act is chosen). More universal because a variety of possible distinct objects might be per se ordained to the end, one of which is for various reasons better suited to the end than the others—so that the difference of the object-species in such a case can be, in a sense, and in relation to

the end *simpliciter*, accidental. More universal also, because as the noblest cause the end is most comprehensively and universally perfective.

With respect to Keiser's admonition about caution regarding specific difference and the object-species: this species is not accidental to the particular act, but it is accidental in the sense noted above. That is, there may be several distinct objects each of which could essentially tend toward the end, such that any one could serve. Thus, it is accidental to a trip as such that it be by car, but it is obviously not accidental to a car trip that it be by car, nor is it accidental that "by car" be essentially a mode of travel. Accordingly Keiser's criticism misses the mark, since I do not claim that the specific difference of action vis-à-vis intention of the end is, in the per se case, accidental to the action but rather that it *may be accidental to the intention of the end simpliciter*. Man is per se an animal; but man is not per se every animal, nor is every being that is per se an animal a man. Many distinct objects may tend per se toward a certain end, and thus in a certain respect be accidental in relation to it (thus whether an animal is a deer or a muskrat is accidental to animality as such, without suggesting that the deer or muskrat is not essentially an animal). Of course, where the nature of the perseity involved is such that only one object can, by the very nature of the end sought, serve—the strongest sense of perseity—this point made about object and intention will not apply. But it will apply when the perseity in question is that of several objects each such as potentially to tend essentially toward the end.¹⁹

In any case, though the object adds a quantum of act, and of determinacy, to the intention of the end—it is more formal with respect to superadding a further quantum of perfection—this added perfection is wholly and essentially what it is owing to the causality of the end. Whatever the object is, when it is per se ordered to the end (1) its additional perfection vis-à-vis the end is *essentially ordered to the end*; (2) in its totality it is a motion toward the end; and (3) the object-species is contained in the more formal species derived from the end. Hence the end to which it is ordered along with the species that derives from it is, *adequately considered, most fundamental*. The end as such contains more perfection than the means to the end,

¹⁹ There are, by the nature of the case, only two ways in which the relation of perseity may obtain. Because the object and the end are so related, the relation must proceed either from the nature of the end, in the case that the end by its very nature requires a certain object (which object nonetheless could be intended for the sake of a different end—that the intention of "a" essentially require and imply "b" does not mean that "b" can be willed only for "a"); or it may proceed from the object insofar as the object tends toward the end by nature (even though other potential objects might do so as well).

for otherwise we would seek the means rather than the end. When the object is per se ordained to the end, this primacy of the end is naturally decisive precisely because the object is ordered to the end per se.²⁰

Thus it is owing to the causality and nobility of the end that every essential feature of such an object is determined and chosen: this is what per se order means, that the object is naturally ordained to the end. The intention of the end is most formal with respect to action. The fear of teachings that seek to make further and even accidental orderings to ends trump per se natural order should not move one to confuse object and end, or to fall into confusion with respect to the essentially nobler causality of the end in relation to which the object of the moral act exists.

Finally, with respect to Keiser's claim that:

In other words, no matter what, the definition of the act done is set by the exterior act's object. In this, the doctrine of *STh* I–II, q. 18, a. 7 is

²⁰ Jensen makes the interesting and argumentatively stronger point (*Good and Evil Actions*, 269 and note 39) deriving from *ST* II–II, q. 110, a. 1, quoting St. Thomas, “Id enim quod praeter intentionem est, per accidens est; unde non potest esse specifica differentia.” But no one ever doubted that one use of “intentionem” regards not only object as well as end, but indeed any partial *motio* with respect to the end. But the principal sense is causal, namely, the sense in which owing to the intention of the end the means are chosen. In a secondary sense, but one essential to the individual act as such, the end is intended through the means; and in the widest sense, with respect to the individual act, any partial motion toward the end can be said to be “intended” as when I say that since I intend to walk across the room I therefore intend to walk one half the distance, and one quarter, and one eighth, and so forth. It is of course context that tells us what sense is being used, and with respect to *ST* II–II, q. 64, a. 7, on defense (which Jensen is addressing), the chief indicator of context is that the question is: “Is it lawful to kill a man in self-defense?” and St. Thomas's answer is it is not unlawful—“non habet rationem illiciti.” Since it is a morally significant question, and is not the question: “Is it lawful to kill a man in self-defense *by accident*” the context makes quite clear that the sense of “intention” in that article concerns *the end simpliciter* as noblest cause and the very *raison d'être* for the means (the intention of defense is most defining). *There is more in cause than in effect* and so it is fitting to consider intention of the end in this way before considering it in the secondary terms of the intention either of the end *through* the means or intention of the whole act (either of which readings, however, of “intention” in q. 64, a. 7 cannot make sense of Thomas's answer to the question asked by the article without rendering the act no longer to be morally significant; while both of these secondary senses of intention also presuppose the reality and indeed the understanding of the prior and formal causality of the end which is the principal object of intention). But Jensen's comment should draw one's attention to the different senses of “intention” and the need to take account of these in the systematic reading of Thomas's teaching.

no different from St. Thomas's doctrine elsewhere: the exterior act as chosen, that is, the proximate end, sets the species (cf. *STh* II–II, q. 11, a. 1, ad 2, which apparently refers back to I–II, q. 18, a. 7; cf. also the numerous texts cited in n. 169 below; and Jensen's treatment in "A Long Discussion," 634–36). This Long denies, saying the exact opposite. (278, note 160)

Here one can say only that Keiser needs to distinguish object and end. He refers to the exterior act's object, but he seemingly confuses this with the exterior act's *end*, and it is the *end* of the exterior act that determines the species. Thomas expressly says *the end*, not *the object*. The conflation of the two is an error. Indeed, in the case of theft and adultery, mentioned expressly in *ST* II–II, q. 11, a. 1, ad 2, it is precisely because adultery is *not* per se ordered to theft that we seek the species of the physical act from the *end* of adultery rather than of theft. That is because the lustful motions in question in the act are per se ordained to adultery. St. Thomas is quite clear: in the very article cited by Keiser (*ST* II–II, q. 11, a. 1, ad 2), he speaks of *end*.

With respect to the end of the exterior act determining the species, Keiser writes, "This Long denies, saying the exact opposite." But what I say the "exact opposite" to is the hoary error of supposing *either* that the *object* of the per se act—what the act is about relative to reason—is *identical with the end* even in the simplest instance; or saying that the object "sets" the end rather than that the object is precisely chosen *with essential reference and owing to the intention of the end, which is the nobler cause*. The object of the exterior act is *what the act is about relative to reason* and while this is judged *in relation to the end*, it is *not identical with the end* nor does it "set" the end, as though first we chose objects and only subsequently, derivatively, or secondarily concerned ourselves with ends. To the contrary, the end is first in intention, and the contrary view is Alice in Wonderland, people choosing objects and then intending ends subsequently. *Objects do not set ends, but rather when the object is per se ordained to the end, the agent chooses the object in relation to and for the sake of the end*. When there is per accidens order, then one is confronted with distinct acts each with its own per se order, one further and accidentally ordered to the other. It is not material simplicity, but unification of species deriving from per se order to the end, which constitutes a formally simple as contrasted with a formally complex act. In the case of per se order, the external act is *chosen* owing to the *end*, not the other way around. The strongest possible regard for "proximate end" is accordingly found in those who understand the difference between per se and per accidens order, and who understand that human action is founded upon the case of per se order.

Were one act not more ordered to one effect than another, rational human action would be impossible: it is solely per se teleological order that renders the simplest instance of human action, and the very reality of the object of a moral act, possible. But the moral act is constituted in relation to the end, and it is the very cause for one's consideration and choice of act and object.²¹ Keiser's claim that my account loses what he calls "proximate end" accordingly misses the mark, because my account

²¹ One notes again that Jensen supposes that if an end per se requires a certain act, then every instance of that act tends to that end. But this is no more true than it would be to say that the proposition "man is per se an animal" means that man is every animal. Since per se relation between object and end must have a foundation, that foundation can rest principally either in the nature of the end as requiring an act, but without any implication the object might not be sought under a different *ratio*: thus heart surgery requires opening the chest cavity of the patient, but one may open the chest cavity of the patient for many reasons—yet nonetheless, if one intends heart surgery, one must open the chest cavity of the patient and when one does so pursuant to the intention of the surgery the act is not mutilation but medical surgery. Or: an act may be such that it tends by its very nature toward a particular end (but there may be several acts that do so). Hence Jensen, in his "The Role of Teleology in Moral Species," *Review of Metaphysics* 63 (2009): 3–27, writes: "Long suggests that cutting open a chest is per se ordered to cardiac health, since it is necessary in some instances of bypass surgery. Unfortunately, the same act, it would seem, is per se ordered to the Aztec priest pulling out the heart of his victim. According to Aquinas, however, a single action has only one natural per se order." Jensen thinks in this way because he bifurcates the intentional and the natural, whereas moral thought requires a hylemorphic understanding of their relation. In any case, the Aztec is not pursuing the end of surgery. Jensen should tell us: In heart surgery, is the opening of the chest cavity merely mutilation, or is it medical? And if medical, *why* is it medical? The answer: It is medical, and it is so because the end sought per se requires opening the chest cavity if the patient is not, contra the intended purpose of the medical surgery, to die as a result of the operation. What is genuinely amazing is that Jensen cites in note 18 of his essay, directly after the passage cited above, Thomas's teaching that man cannot have more than one last end, as justifying the view that a thing cannot have more than one per se effect. But this is like saying that contraceptive pills cannot tend both to regulate the cycle of a woman and to contracept. Action begins with the agent's intention of the end, to which the object is ordained either essentially—because the nature of the end requires it, or alternately because the object simply tends of its nature toward that end—or accidentally. The hierarchy of ends can be known without express advertence to action's relation to reason. But if we are to make sense of what an agent is doing, to consider action from the vantage point of the acting person, then the relation to reason is essential, and that is to consider what the agent seeks as end (which may be deprived vis-à-vis the hierarchy of ends) and the rational proportion and relation of the act chosen to the end: all, granted, in the light of the normative hierarchy of ends, which enables us to make judgments about the reasonability of intentions and choices.

holds that the basic “unit of currency” of human action is the instance of per se *order of object to end* which is the strongest possible stress upon “end.” Still it is correct that my account does not *begin* with a treatment of the object, but that is because human action doesn’t begin there either; it begins with the intention of the end, to which action is either per se or per accidens ordained.

St. Thomas teaches in *ST* I–II, q. 18, a. 4, ad 2 that the exterior act bears a proportion to the end, even though the end is extrinsic. Now, St. Thomas is not holding that the act bears a proportion *to itself*, nor that the act is extrinsic *to itself*: the act is proportioned to *the end* which is *extrinsic*. Nor is he suggesting that the proportion to the end is what determines the end: we seek an act proportionate to the end because and insofar as we seek the end. As St. Thomas makes clear in *ST* I–II, q. 18, a. 2, ad 2:

The object is not the matter “of which” (a thing is made), but the matter “about which” (something is done); and stands in relation to the act as its form, as it were, through giving it its species.²²

In every case, what the act is about relative to reason is chosen in relation to some end: the relation to reason is an oblique reference to the proportion the object bears to the end. But this proportion to the end—which is the ratio of the act’s appetibility to the agent—although very close to, and unthinkable apart from, reference to the end, is not itself the end.²³ It is not as though one sought the end merely so that one could pursue it through the object concerned; rather, one chooses the object precisely because one seeks the end and the object offers the most reasonable or best way of doing so, for the sake of *achieving the end*.

Hence, to repeat: *even what is most distinguishable about the object and the species derived from it—that which most constitutes its added quantum of perfection, actuality, determinacy vis-à-vis the species derived from the end—is in the case of per se order wholly and essentially for the sake of the end. It follows that the species derived from the end is accordingly most formal.* Keiser dislikes “most defining” but, frankly, since the very added perfection of the object-species vis-à-vis the end-species is, in the case of per se order, *chosen by the agent because of its essential order to the end*, the object-species does resolve

²² “Ad secundum dicendum quod obiectum non est materia ex qua, sed materia circa quam, et habet quodammodo rationem formae, inquantum dat speciem.”

²³ Nor is it even the whole object, since the object is not only the *ratio* of the appetibility of the act to the agent, but also necessarily includes the integral matter and per se effects of the act performed.

into the end-species as the parts of the definition resolve into the genus of formal cause. From the materially sparsest act whose object is per se ordered to the end, to the materially most complex act in which multiple objects are per se ordered to one end whose unified species contains them all (even though these objects *could* be pursued separately, as one might anesthetize simply for pain, or anesthetize for pain in the context of aiding surgery), it is the unification of species owing to per se order to the end that is most decisive.²⁴ A materially complex act may be formally simple owing to unification of species derivative from per se teleological order; whereas, a formally complex act includes disjunct species which are not unified because not per se ordained to one end whose *ratio* shelters them all.

Like many authors who are preoccupied with the analysis of the human act, Keiser treats the supremacy of the intention of the end as an afterthought—perhaps for fear of proportionalists, who equate per accidens further orderings with per se order of object and end.²⁵ Likewise, he fails to see in *Summa theologiae* I–II, question 18, article 7, that, in the case of per se order, everything that constitutes the added determinacy and actuality of the species derived from the object vis-à-vis the species derived from the end, exists for the sake of the end both as interiorly ordered to the end (proceeding from its intention) and as reflecting the optimal path of the agent to the end. Hence in the case of per se order of object and end, the intention of the end is most formal precisely in the

²⁴ I would reference my essay “Natural Law, the Moral Object, and *Humanae Vitae*” (in the volume *Ressourcement Thomism: Sacred Doctrine, the Sacraments, and the Moral Life*, ed. Reinhard Hüter and Matthew Levering [Washington, DC: The Catholic University of America Press, 2010], 285–311, for an account of the character of “simple” action, understood not atomically, in terms of material sparseness of object, but in terms of the unification of species derivative from the end owing to per se teleological order.

²⁵ Of course, one cause for this is the erroneous view that per se order pertains only to complex acts. The per se is always prior to the per accidens, and rational action would not be possible were not one act more ordered to one effect than another. Any per accidens ordering must finally reduce to some per se ordering—as we say that the ordering of adultery or theft one to another is accidental, but understand that there is per se ordering of the object in each case to each end: that which is done in an act of adultery is not what is done with an act of theft, and this comparison is possible precisely because of per se order in each case, without which one could not reach Thomas’s judgment (if the order in each case were purely accidental, then why not include each under the other?—yet that is preposterous). Regarding per se order places *the noblest cause*, the end, in conspicuous regard, which is appropriate because in action—and *permeatingly* in cases of per se order of object and end—the end is most formal.

articulation of the object *for the sake of the end*. The illustration of the genus “animal” and the difference “rational” is beside the point, because where object is per se ordained to end, it is chosen precisely because of its optimality for the end. Thus, though the object-species is as a difference adding determinacy, act, perfection, to the end-species as genus, *everything in the object-species exists and is articulated solely for the sake of the end*. Whereas the soul (difference) does not exist for the animal (genus) but the other way around, and it is pure absurdity to suggest that the *end-species* (genus) exists for the sake of the *object-species* (difference). Once one understands that in per se order of object and end, it is precisely the further determination of act that is wholly ordained to the end, one can see clearly that the species derived from the end is most formal, containing, and defining (somewhat as the nature of the lock and keyhole define the nature of the appropriate key). Indeed, the object cannot be understood as per se ordained to the end *apart from reference to the end*; whereas the end may be intended prior to any actual determination of means whatsoever.²⁶ It is in essential relation to the causality of the end that the species of the object per se ordained to it is intelligible.

In sum, insofar as object is per se ordered toward end, the supremacy of the end is precisely what is reflected even in the further determination of the species derived from the object, for the added quantum of perfection, determinacy, and act reflected in that species is wholly for the sake of the end and is contained within the most formal species derived from it, as reflecting the optimal path of the agent to the end. When object is per se ordained to end, the object-species is—in its superadded actual determinacy vis-à-vis the quasi-generic character of the end-species—yet caused by the end, *essentially* for the sake of the end, and so *defined by the end as a motion is defined by its terminus* (it cannot be known without essential relation to the end, whereas the end can be intended prior to any actual determination of means whatsoever—cf. note 11 above).

The loss of natural teleology has caused theorists to flee from proportionalism by a certain forgetfulness of the primacy and formality of the end, and to compensate for this loss by treating the object of the external act as though it were in the simplest case simply identical with the end; but it is not. The noblest cause, the final end, is too central for it to be lost sight of for long in moral theology and philosophy: Hence those concerned with the nature of human action may, despite the permeation of their subject matter by this truth, eventually learn it. N V

²⁶ Cf. *ST* I–II, q. 12, a. 4, ad 3; see also *ST* I–II, q. 12, a. 1; *ST* I–II, q. 12, a. 3.