THE BACKGROUND TO THOMAS AQUINAS'S
SUMMA THEOLOGIAE 2-2.64.7
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Thomas Aquinas's Summa theologiae 2-2.64.7 has sometimes been interpreted as if intention were its overriding consideration. In the second sentence of the article's body, Thomas says that moral acts "take their species according to that which is intended," and this has been regarded as the article's controlling idea, giving rise to theories—including some versions of the principle of double effect—that assign moral responsibility solely, or primarily, to that which is intended. The present essay attempts to show, to the contrary, that, although surely intention plays an important role in ST 2-2.64.7, what drives the argument of the article is not so much the concept of intention as simply the fact that Thomas must treat one more in a series of related issues—which he does by considering a number of ideas and cases that were part of the intellectual and legal tradition of his day.

In other words and more particularly, ST 2-2.64.7 is one of eight articles in a question devoted to the liceity of killing: the other articles ask, for instance, whether one can licitly kill animals, whether a private person might kill a sinner, or whether a cleric might do so. In article seven, in order to answer the question whether it is licit to kill another in self-defense, Thomas's first instinct—and methodology—calls for a consideration of what the recognized authorities have to say.¹ In treating this issue, he certainly does make use of his theory of human action, set out more than 150 questions earlier; by no means, however, does he now introduce a principle he somehow overlooked in that earlier presentation. He is simply considering, in its proper order, another issue together with the associated tradition, making use of principles proper to his action theory. And so the best way to read ST 2-2.64.7 is as an explanation, which makes use of principles contained in that theory, of how to reconcile relevant ideas and cases, rather than as the presentation of a new and significant piece of Thomas's action theory, from which he elicits examples which "as it happens" are also found in the traditional sources.

Sections I and II of the following essay consider some ideas that Thomas found in Augustine of Hippo. Section III relates these ideas to some things that Thomas says earlier in the Summa theologiae and in Quaestiones disputatae de veritate about intention. Section IV presents a legal case that stands in the background of the body of ST 2-2.64.7. Finally, section V looks at that body, indicating how the things discussed in the previous sections come into its argument.

I. The Augustine-Publicola exchange

The first objection of ST 2-2.64.7 quotes a remark by Augustine in a letter addressed to a certain Publicola, of whom little is known other than the fact that he wrote a letter to Augustine in not-very-classical Latin, to which Augustine responded somewhere between the years 396 and 399. Most of Publicola's letter has to do with relations with non-Christians, such as whether a Christian ought to honor an oath made by a "barbarian" [barbarus]; but a couple of sections rise above such issues and ask questions that pertains to ethics itself (that is, to barbarians and Romans alike). In one such section (section 12), Publicola asks:

¹Determining what is just or unjust is the task of prudence, which, as Thomas notes in ST 2-2.49.3, is "all about [consistit circa] particular matters of action." "Thus it is that, in those things that pertain to prudence, a man has the greatest need of being taught by another—and especially by elders who have acquired a sound understanding regarding the ends in practical matters" ["Unde in his quae ad prudentiam pertinent maxime indiget homo ab alio erudiri, et praecipue ex senibus, qui sanum intellectum adepti sunt circa fines operabilium"] [ST 2-2.49.3c].
If a Christian realizes that he will be killed by a barbarian or a Roman, ought the Christian to kill them lest he be killed by them—or is it permitted, without killing them, to repulse them or fight them off, for it is said: "Do not resist evil"?²

There are a number of obscurities in this brief passage, which are important for understanding Augustine's response. The first has to do with the phrase translated here, "ought [debet] the Christian to kill them...". A few lines later, Publicola uses a similar expression in asking whether a Christian "ought [debet] to bathe" in waters where sacrifice is made to pagan idols. It is clear in both places that the question is not whether one is obliged to do these things but whether it is permissible, as when in colloquial English one might ask "whether he ought to be doing those things."

The second obscurity has to do with the second part of the query, that is, whether it is "permitted, without killing them, to repulse them or fight them off, for it is said: 'Do not resist evil.'" At first one reads this as if it were suggesting a second, more acceptable alternative—as if someone were asking, "Is it permissible to kill the assailant or must I limit myself to resisting him?" But that cannot be the idea since the passage quoted from scripture (Matthew 5.39) itself speaks of—and apparently rejects—resisting evil. So, the pair of questions asked by Publicola is: 1) whether one can kill an assailant (whether barbarian or Roman), and 2) whether one can even put up a fight.

Augustine's response is as follows:

(1) Regarding the killing of men lest someone be killed by them, the suggestion that it is licit does not sit well with me, unless perhaps the person is a soldier or obliged by virtue of a public function, so that he would not do this on his own behalf [pro se] but for others [pro alis] or for the city [pro civitate] in which he finds himself, having acquired the proper authority, if it accords with his person. (2) Those, however, who are deterred [repelluntur] by way of some forewarning [terrore] lest they do some ill—for them it perhaps does some good. (3) As for the saying that we ought not to resist evil, this is said as a caution—lest vindication, which feeds the soul upon another's evil deed, delight us—and not in order that we might neglect to correct others.³

In the first sentence here (which is the only part of the quotation that appears in ST 2-2.64.7 obj. 1), Augustine says very little about private self-defense: most of it is about killing done by a duly appointed authority or functionary (what we might call "public killing"), of which he approves.⁴ He does not say explicitly whether such killing is necessarily killing while under

²"Si christianus videat se a barbaro vel Romano velle interfici, debet eos ipse christianus interficere, ne ab illis interficiatur: vel si licet sine interficiotione eos repellere vel impugnare, quia dictum est: Non resistere malo?" [Augustine, S. Aureli Augustini, Hipponiensis Episcopi, Epistulae, in Corpus Scriptorum Ecclesiasticorum Latinorum, Vol.34, ed. Alois Goldbacher (Prague / Vienna / Leipzig: Tempsky / Tempsky / Freytag, 1895), 127 (epist. 46)]. According to Gordon Messing, the construction velle interfici is a circumlocution for the future tense. He references "the Rumanian periphrastic future" [Gordon M. Messing, "L'époque mérovingienne: essai de synthèse de philologie et d'histoire by Henry François Muller," review of, Language 23 (1947): 297]. One manuscript, instead of "vel si licet" has "vel scilicet," which may be preferable.

³"De occidendis hominibus ne ab eis quisque occidatur, non mihi placet consilium; nisi forte sit miles, aut publica functione teneatur, ut non pro se hoc faciat, sed pro aliiis, vel pro civitate, ubi etiam ipse est, accepta legitima potestate, si eius congruit personae. Qui vero repelluntur aliquo terrore ne male faciant, etiam ipsis aliquid fortasse praestatur. Hinc autem dictum est, non resistamus malo, ne nos vindicta delectet, quae alieno malo animum pascit; non ut correctionem hominum negligamus" [Augustine, S. Aureli Augustini, Hipponiensis Episcopi, Epistulae, 135 (epist. 47)]. The numbers have been introduced; they do not appear in any printed editions.

attack or whether it might be (or might also be) performed independently of such circumstances; but, since the one person is a soldier and the other is said to be "obliged" [te negaretur] to kill (that is, he fulfills his duty by killing), it is apparent that Augustine is allowing non-defensive killing by such persons. It is also significant that Augustine uses the preposition 'pro' (plus the ablative) in his explanation of what these persons do. As we shall see below, Thomas associates that construction as used by Augustine with intention.

As for private self-defense, Augustine excludes it—although he does so rather tentatively ("the suggestion...does not sit well with me" [non mihi placet consilium]). What exactly is he excluding for the non-authorized person? Obviously, that which is not excluded for the authorized person: non-defensive killing. But why the hesitation? I would suggest that the reason is that Augustine realizes that there is more to say about two things. First, about whether the authority to kill on behalf of the public might be bestowed upon anyone, including even clerics. One notices that at the end of the sentence at issue, he goes out of his way to say that the authority granted must be in accordance with the potential recipient's person ("si eius congruit personae"). Secondly, he realizes that there is more to say about private self-defense (i.e., killing done by private person while under attack). A close examination, therefore, of the first sentence reveals—or, at least, suggests—that Augustine has not excluded such self-defense.

In the second sentence—which Thomas does not quote in ST 2-2.64.7 obj. 1 but certainly knew—Augustine explains how the killing treated in the first sentence can be understood as done "for the city" [pro civitate]: it can serve as a deterrence or "forewarning" to those who might consider performing similar criminal acts. The Latin word he uses, "terror," which comes over into English intact, has an extremely negative connotation in today's world; but it is clear that Augustine holds that terror—that which causes fear—can be used to good purpose, that is, when it serves as a deterrent to other criminal acts.

The third sentence has to do with Publicola's query regarding Matthew 3.39. Augustine reassures him that the verse is only about taking pleasure in vengeance. Consistent with Publicola's original query, Augustine is not speaking in this sentence about killing but about resistance that stops short of killing. He cautions against the possible concupiscence that might come of vengeance—although, he insists, preventing evil by means of fraternal correction is not only permissible but to be recommended.

II. The Augustine-Evodius exchange in De libero arbitrio

In the second objection in ST 2-2.64.7, Thomas again quotes Augustine, this time his De libero arbitrio, book one, written some years before the letter to Publicola, that is, during the years 387 and 388. The objection is conceived, of course, as a problem for the thesis in favor of which Thomas will go on argue in the body of the article, that it is licit (sometimes) for someone to kill while defending himself. It notes that in the work just mentioned Augustine writes: "How in view of divine providence are they free from sin who, for these things which one ought to

5By the expression "non-defensive killing" I mean killing that is brought about not while under attack.
6See below, notes 9, 17, 22, and 25.
7I must admit, however, that I can find no place in his works where Augustine discusses this issue explicitly. The issue is mentioned in Thomas's ST 2-2.64.7. Objection 3 quotes part of letter of Pope Nicholas I in which he says that he will not grant to clerics "any license to kill any man in whatever manner." (The letter is quoted at Aemilius Ludovicus Richter and Aemilius Friedberg, edd, Decretum Magistri Gratiani, vol. 1 of Corpus Iuris Canonici [Leipzig: B. Tauchnitz, 1879], col. 179.) It argues that moral precepts apply not just to clerics but to non-clerics [laici] as well. In his response, Thomas points out that Nicholas's letter has to do with moral precepts as well and that Thomas separates guilt [culpa] from sacramental irregularity: if the cleric has killed while defending himself, says Thomas, there is no sin, but even still the cleric incurs an irregularity. See St 1-2.20.5 ad 4 where Thomas separates guilt [culpa] from sacramental irregularity. See also below the letter of Innocent III that found its way into Gregory IX's Decretals.
8Books two and three were written between 391 and 395.
despise, are defiled by human bloodshed?" The objection goes on then to explain that "these things which one ought to despise" are, according to the argument of De libero arbitrio, those things that might be taken away from someone unwillingly, such as life in the body, as opposed to those things that cannot, such as one's own virtue.

In order to understand the words, "How in view of divine providence are they free from sin," etc., one must read them within their proper context. The first thing to bear in mind is that De libero arbitrio is a dialogue between two characters: Evodius and Augustine. The historical Evodius (of Uzalis) was a slightly younger colleague of Augustine's; in De libero arbitrio, he is portrayed as a thoughtful man, whose ideas with respect to the issues discussed are not yet settled. Especially in the first book of De libero arbitrio, the character Augustine is portrayed as his intellectual superior; he interrogates Evodius in dialectical fashion, occasionally eliciting from him acknowledgement of his own ignorance. The words quoted in ST 2-2.64.7 obj. 2 are spoken by Evodius, although, as we shall see, Augustine (the character) indicates a certain degree of assent to what Evodius says in the larger passage within which the words quoted by Thomas are contained. The key question, however, is: to what exactly does Augustine assent? To answer this question, it is necessary to consider the yet-larger context: what has transpired in the dialogue prior to Evodius's remark.

The most important chapters for present purposes are the fourth and fifth (of the first book). In the fourth, Augustine in effect argues that evil desire does not fully explain the immorality of murder. Near the beginning of the chapter, the two interlocutors agree that the following is an instance of culpable murder: "someone, not because of the desire to acquire something but fearing lest something evil befall him, kills a man." The formulation is Augustine's (i.e., that character's). Although Evodius agrees that the act is immoral, he maintains also that the man who kills in order to live free from fear does so because he is dominated by desire. Augustine agrees to this but points out that the desire to live free from fear can hardly be called evil and that it is possible, therefore, for an act that both of them agree is evil to be performed not because one is dominated by evil desire. Although the point is not made explicit, it is apparent that Augustine (the character and the author) understands that ethics has as much to do with the objective structure of moral acts as with the subjective state of their agents.
Just as important as the remarks about desire, however, is the nature of the act that the two agree (at least initially) is immoral: someone's killing another because he fears a possible evil at the other's hands. At this point in the dialogue, it is not absolutely clear whether self-defense occurring while a person is being attacked would be included within the type of act that the two are agreed is immoral. But Augustine soon makes it apparent that that is not the sort of act that he (in any case) has in mind but rather one in which a person kills another in order to avoid some evil that he believes will otherwise occur in the future. Augustine uses the example of a slave who kills his master "from whom he was fearing grave tortures." Even this, however, cannot be understood in an unqualified way since he and Evodius also agree here that, when "a soldier kills an enemy or a judge or his minister kills a malefactor," that is not immoral. A soldier is sent out in order to kill enemies and neither the judge nor his minister is under attack by the malefactor they execute; and yet both Evodius and Augustine accept—not insignificantly, without argumentation—that none of these acts is immoral. And so the act that clearly the character Augustine holds is immoral is the act of a private person who in some sense plans the death of another.

The case of private self-defense while being attacked does come into play in the fifth chapter, which Augustine begins by asking Evodius whether an "onrushing foe or stealthy assassin might, for the sake of one's life, one's liberty, or one's chastity, be killed without any passion." Evodius, who cannot let go of the idea that the essence of sin lies somehow in passion, says that he simply cannot understand how someone who takes up the sword "for those things of which they can be deprived unwillingly" can be free from passion. On the other hand, if they are not things of which one can be deprived unwillingly, why fight? Since this is to suggest that one ought not to defend oneself even when attacked, Augustine, adopting a tone of stunned disbelief, responds:

So the law is not just which gives to a traveller the power to kill a highwayman lest he be killed by him or to any man or woman to kill, if possible, a violently onrushing rapist before being raped? For a soldier is even ordered by law to kill an enemy and, if he declines to effect this bloodshed [caede], a penalty is levied by the emperor. Are

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admoneatur, aut occultis modis in mentem veniat, velle non potest. Discernenda igitur sunt genera visorum, quorum unum est quod proficitur a voluntate suadentis, quale illud est diaboli, cui homo consentiendo peccavit; alterum a subiacentibus rebus vel intentioni animi, vel sensibus corporis [De libero arbitrio 3.25.75].

15"Evodius: 'If 'homicide' is to kill a man, it can sometimes occur without sin. For a soldier who kills an enemy and a judge (or his minister) who kills a malefactor—or someone unwilling but imprudent from whom perhaps a missile escapes his control—do not appear to me to sin when they kill a man.' Augustine: 'I agree; but they are not usually called murderers. Tell me, therefore, whether he who kills his master, from whom he was fearing grave tortures, you would include among those who so kill someone but do not merit be called murderers?' Evodius: 'I see that this case is quite different from those, for they were acting according to the laws—or, at least, not contrary to the laws; the crime, however, of this other no law approves' [Ev. 'Si homicidium est hominem occidere, potest accidere alicuius sine peccato: nam et miles hostem, et iudex vel minister eius nocentem, et cui forte invito atque imprudenti telum manu fugit, non mihi videntur peccare, cum hominem occidunt.' Au. 'Assentior: sed homicidae isti appellari non solent. Responde itaque, utrum illum qui dominum occidit, a quo sibi metuebat cruciatus graves, in eorum numero habendum existimes, qui sic hominem occidunt, ut ne homicidarum quidem nomine digni sint?'] [De libero arbitrio 1.4.9].

16"Prius enim mihi disuciendum videtur utrum vel hostis irruens, vel insidiator scariatus, sive pro vita, sive pro libertate, sive pro pudicitia, sine ualla interficiatur libidine' [De libero arbitrio 1.5.11]. What I have called "private self-defense while being attacked" would include self-defense effected while a "stealthy assassin" (such as a highwayman) is approaching.

17"Quomodo possum arbitrari carere istos libidinem, qui pro his rebus digladiantur, quas possunt amittere inviti...?" [De libero arbitrio 1.5.11]. Notice that here he uses the same phrase—"pro his rebus"—that is used in ST 2-2.64.7 obj.2 and is declared crucial by Thomas in ST 2-2.64.7 ad 1-2.
we to be so bold as to say that these laws are unjust—or, indeed, null and void? For it seems to me that a law which is not just is no law at all.\textsuperscript{18} The latter remark—that "a law which is not just is no law at all"—will become one of Augustine's most famous, attracting the special ire of legal positivists.\textsuperscript{19}

It is apparent—also to Evodius—that Augustine does not believe that the relevant law should be declared null, and so he waffles. Law, he suggests, is always imperfect, but it does the best that it can: "... law is indulgent with respect to minor misdeeds, lest greater ones be committed."\textsuperscript{20} And, in any case, even if a law is imperfect—whether in itself or because the legislator is imperfect—it can be discharged without passion. Straying a bit from the logic of his own argument (which is supposedly about those who defend their own lives, liberty or chastity), he notes that "one can obey without passion that law which, in the interest of defending citizens, orders that a hostile force be repelled by the same force."\textsuperscript{21} But then he comes back to those who kill while defending themselves:

But I do not see how those men, by virtue of a blameless law, can be blameless, for the law does not compel them to kill but leaves it in their power. They are free not to kill anyone for those things of which they can be unwillingly deprived and which, for that reason, they ought not to love.\textsuperscript{22}

Evodius concludes this part of his discourse with a remark regarding the assailants mentioned earlier by Augustine (that is, those who attack private persons): "And so I do not blame the law, which permits such individuals to be killed, but in what way I might defend those who kill, I cannot discover."\textsuperscript{23} This elicits from Augustine the weary remark: "Much less can I discover why you are seeking a defense for men whom no law regards as guilty."\textsuperscript{24} He clearly does not believe that those who simply defend themselves go against any law.

At this point, however, Evodius makes a remark that attracts Augustine's interest; the second sentence of the remark is the piece quoted by Thomas in \textit{ST} 2-2.64.7 obj. 2. In reply to Augustine's suggestion that those who simply defend themselves break no law, Evodius says the following:

None of the laws, perhaps, that are manifest and read by men—for I do not know whether they might not be constrained by some other more forceful and most secret law, given that there is nothing that is not governed by divine providence. For how in view of it [divine providence] are they free from sin, who for these things which one ought to despise, are defiled by human bloodshed? So, it appears to me both that that law which is written in order to rule people rightly permits these things and that divine

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  \item \textsuperscript{18} "Non ergo lex iusta est, quae dat potestatem vel viatoruti latronem, ne ab eo ipse occidatur, occidat; vel cuipiam viro aut feminae ut violenter sibi stupratorem irruentem ante illatum stuprum, si possit, interimat. Nam militi etiam iubetur lege, ut hostem necet: a qua caede si temperaverit, ab imperatore poenas luit. Num istas leges inustas, vel potius nullas dicere audebimus? Nam mihi lex esse non videtur, quae iusta non fuerit" [\textit{De libero arbitrio} 1.5.11].
  \item \textsuperscript{19} See Kevin L. Flannery, \textit{Acts Amid Precepts: The Aristotelian logical structure of Thomas Aquinas's moral theory} (Washington, D.C. / Edinburgh: Catholic University of America Press / T & T Clark, 2001), 188.
  \item \textsuperscript{20} "Legem quidem satis video esse munitam contra huiuscemodi accusationem, quae in eo populo quem regit, minoribus malefactis ne maiora committerentur, dedit licentiam" [\textit{De libero arbitrio} 1.5.12].
  \item \textsuperscript{21} "Potest ergo illi legi quae tuendorum civium causa vim hostilem eadem vi repelli iubet, sine libidine obtenerari..." [\textit{De libero arbitrio} 1.5.12]. As we shall see, the language used here—in particular, "vim hostilem eadem vi repelli"—reappears in the body of \textit{ST} 2-2.64.
  \item \textsuperscript{22} "Sed illi homines lege inculpata, quomodo inculpati queant esse, non video: non enim lex eos cogit occidere, sed relinquit in potestate. Liberum eis itaque est neminem necare pro his rebus quas inviti possunt amittere, et ob hoc amare non debent" [\textit{De libero arbitrio} 1.5.12].
  \item \textsuperscript{23} Quapropter legem quidem non reprehendo, quae tales permittit interfici; sed quo pacto istos defendam qui interficiunt, non invento" [\textit{De libero arbitrio} 1.5.12].
  \item \textsuperscript{24} "Multo minus ego invenire possum, cur hominibus defensionem quaeras, quos reos nulla lex tenet" [\textit{De libero arbitrio} 1.5.13].
\end{itemize}
providence punishes them. The former takes on the task of punishing those things that are required in order to establish peace among ignorant men and as many such things as can be governed by man. But those other offenses have appropriate punishments from which, it seems to me, only wisdom can give freedom.25

In other words, according to Evodius, wisdom, which transcends "temporal law" (which is what Augustine calls human law), preserves certain men from committing those acts, such as acts of private self-defense, which temporal law is incapable of preventing among the less enlightened.26 Augustine's reaction is positive but careful and complex:

I praise and approve of this, your distinction: although it is inchoate and less than perfect, still it is marked by faith and suggestive of things sublime. For it appears to you that that law which is adopted for the governing of cities concedes many things and leaves them unpunished—things that are avenged, however, by divine providence, and rightly so. Nor certainly is it the case that, just because it does not do everything, the things that it does do are to be despised.27

Augustine clearly likes the idea that there is a law higher than temporal law: the "eternal law" that punishes things that it is not feasible for temporal law to punish.28 And he does not reject outright what Evodius says about human bloodshed. On the other hand, he does not withdraw his earlier strong endorsement of temporal law, provided that it is just. What temporal law accomplishes, he insists, is not "to be despised." Indeed, he holds that all justice—and, in particular, the justice of the temporal law—is derived from eternal law.29

25"Nulla fortasse, sed earum legum quae apparent, et ab hominibus leguntur: nam nescio utrum non aliqua vehementiore ac secretissima lege teneantur, si nihil rerum est quod non administrat divina providentia. Quomodo enim apud eam sunt isti peccato liberi, qui pro his rebus quas contemni oportet, humana caede polluti sint? Videtur ergo mihi et legem istam, quae populo regendo scribitur, recte ista permettere, et divinam providentiam vindicare. Ea enim vindicanda sibi haec assumit, quae satis sint conciliandae paci hominibus imperitis, et quanta possunt per hominem regi. Illae vero culpae alias poenas aptas habent, a quibus sola mihi videtur posse liberare sapientia." [De libero arbitrio 1.5.13]. Again, note the phrase "pro his rebus" (here emphasized).

26Augustine draws a distinction between temporal and eternal law at De libero arbitrio 1.6.14-15.

27"Laudo et probo istam, quamvis inchoatam minusque perfectam, tamen fidentem et sublimia quaedam petentem distinctionem tuam. Videtur enim tibi lex ista, quae regendis civitatibus furtur, multa concedere atque impunita reliquere, quae per divinam tamen providentiam vindicantur; et recte. Neque enim quia non omnia facit, ideo quae facit improbanda sunt" [De libero arbitrio 1.5.13].

28So also does Thomas like this idea: see ST 1-2.96.2, where he argues that it does not belong to human law to correct every vice. In the sed contra of this article, Thomas quotes the words that come immediately after the words quoted in ST 2-2.64.7 obj. 2 about those who are "defiled by human bloodshed"; that is, Thomas quotes Evodius's remark that "So, it appears to me both that that law which is written in order to rule people rightly permits these things and that divine providence punishes them" [De libero arbitrio 1.5.13]. (The sentence, as quoted by Thomas, is slightly different, but the differences are inconsequential.) Also the character Augustine speaks of the things that the temporal law does not regulate: "Sin is not punished when these things [i.e., things of which one can be deprived unwillingly] are loved but when through dishonesty they are taken away by others" [Non autem ulciscitur humana caede polluti sunt? Videtur enim tibi lex ista, quae per divinam tamen providentiam vindicantur; et recte. Neque enim quia non omnia facit, ideo quae facit improbanda sunt" [De libero arbitrio 1.5.13].

29You must hold, says Augustine to Evodius, that "those who are subservient to temporal law cannot be free from the eternal law, from which, as we said, all things that are just, or are justly modified, are derived" [eos qui temporali legi serviente, non esse posse ab aeterna libera; unde omnia quae iusta sunt, iusteque variantur, exprimi diximus] [De libero arbitrio 1.15.31]. Augustine in fact holds that one cannot unwillingly be deprived of wisdom, which is equivalent to the eternal law. "Now nobody is secure in those goods which he can lose against his will. Nobody, however, loses truth, and especially wisdom, against his will, for it is not possible for anyone to be physically separated from it, but that which is called separation from truth and wisdom is a perverse will by which inferior things are delighted in. No one, however, wills anything unwillingly" [Nemo autem secures est in ipsis quae potest invitum amittere. Veritatem autem atque sapientiam nemo amittit invitum: non enim locis separari ab ea quisquam potest; sed ea quae dicitur a veritate atque sapientia separatio, perversa voluntas est, qua inferiora diliguntur. Nemo autem vult aliquid nolens] [De libero arbitrio 2.14. 37].
This brings us back finally to the "key question" asked above: In reacting (generally) positively to Evodius's remark, to what does Augustine assent? Important for answering this question is his endorsement of temporal law. What does he understand as being included in (presumably just) temporal law? Clearly, the permissibility of both the killing done by a soldier and that done by a private individual, when, for instance, a highwayman or rapist attacks and the individual defends himself—for it is with respect to these types of killing that the character Augustine asks whether we are "to be so bold as to say that these laws are unjust." Excluded, however, from the temporal law is killing in order to prevent some future ill being done to one, as when the slave kills his master "from whom he was fearing grave tortures." He and Evodius at one are agreed on this point; indeed, they would probably agree that such killing is contrary to the eternal law.

III. Intention according to Thomas's action theory

It will be useful at this point to relate the Augustinian ideas just presented to what Thomas says about intention in his action theory. A good way into this issue is to consider his responses to some of the objections in ST 2-2.64.7.

Thomas responds to objections 1 and 2 with a single response. It runs as follows: Regarding the first objection, the authority of Augustine is to be understood as applying to that case in which someone intends to kill a man in order to free himself from death. It is with respect to this case also that the authority, introduced from De libero arbitrio, is understood. There significantly it is said, "for [pro] these things," by which is designated intention. And with this the response to the second objection is obvious.

As mentioned above, according to Thomas, when Augustine employs the expression 'for x' [pro, plus the ablative], as in "for these things," he is signalling intention, even when (as here) they are put into the mouth of Evodius, who is not at all clear in his own mind what type of killing is immoral.

It is notable that in this response Thomas does not speak of Augustine but rather of Augustine's authority. Given that in De libero arbitrio the words in question are given to Evodius, Thomas's claim to Augustine's authority may seem implausible at first; but, when the bit quoted in ST 2-2.64.7 ad 1/2 is understood within the larger context of De libero arbitrio itself, it makes good sense. As we have just seen, immediately after Evodius's remark, Augustine (the character) expresses a certain amount of agreement with him. When one considers the array of types of acts that Augustine has already considered and his judgments in their regard, there is one that Augustine would say is "not free from sin": that is, private self-defense that is in some sense planned. Such acts are done for [pro] certain things.

According to Thomas, however, the planning involved in immoral killing, even according to Augustine, need not be as deliberate as that of the slave who kills his master because he was fearing grave tortures: all that is required is that the agent perform the killing for [pro] something, that is, that (in Thomas's language) the agent intend to kill. And, of course, it is important always to bear in mind that it is not the fact that there is an intention to kill that per se makes such an act immoral. A soldier or a public official can intend to kill and not sin at all, provided that their killing is not for [pro] themselves but for the city. And a private citizen, even if he intends to kill for the city, acts contrary to both the temporal and the eternal law.

30See above, note 18.
31See above, note 15.
32"Ad primum ergo dicendum quod auctoritas Augustini intelligenda est in eo casu quo quis intendit occidere hominem ut seipsum a morte liberet. In quo etiam casu intelligitur auctoritas inducta ex libro De libero arbitrio. Unde signanter dicitur, pro his rebus, in quo designatur intentio. Et per hoc patet responsio ad secundum" [ST 2-2.64.7 ad 1/2].
33See above, notes 6, 9, 17, 22, and 25.
In order to get clear in our minds how Thomas in *ST* 2-2.64.7 conceives of intention, let us consider now a passage that belong to Thomas's action theory proper. In *ST* 1-2.12.1 ad 4, he says that "intention is an act of the will with respect to an end"—although he immediately acknowledges that an act of the will might be with respect to an end in various ways, only one of which pertains to intention. The act of the will that is intention is that act which considers the end as the terminus of something that is ordered toward it. We are not said to intend health simply because we will it but because we will to arrive at it through something else.  

Thus, when a person is attacked by a potential killer and defends himself, killing the other person, that killing is not intended since, although, of course, there is a killing involved, missing is this step in which something is intentionally done for [pro] the conservation of one's life, as is the case when the slave sets out to kill his master, at the hands of whom he fears future tortures.

Someone might want to object that, in *ST* 1-2.12.1 ad 4 (just quoted), Thomas speaks of intention of the end and not of that through which one arrives at the end; but there is another passage in which Thomas explains that intention, since it is a "tending" and so has extension, takes in both the end and that which is for the end. The passage is *Quaestiones disputatae de veritate* 22.13. There (as in *ST* 1-2.12.1) he is concerned to show that intention is an act of the will, although, since determining upon a way to get to the end is a work of the intellect, the will as involved in intention has "left in it the impression of reason." He continues:

> Since it is proper to reason to put things in order and to compare them, whenever there appears in an act of the will some comparison or ordering, such an act will be of the will not absolutely but in connection with reason. It is in this way that to intend is an act of the will, since to intend appears to be nothing other than, from that which someone wills, to tend toward something else as toward an end. And thus to intend differs from to will in this: that to will tends toward an end absolutely; but to intend speaks of [dicit] an order towards an end, according as the end is that toward which are ordered the things that go toward the end.

The advantage of this passage for present purposes is that, while acknowledging, as in *ST* 1-2.12.1 ad 4, that one who intends does intend the end (as to be arrived at "through something else"), it also acknowledges that intending encompasses the tending of the will—as receptive of an impression from reason—towards that which is for the end: "to intend appears to be nothing other than, from that which someone wills, to tend toward something else as toward an end."  

In a passage in the commentary on Peter Lombard's *Sentences*, Thomas speaks similarly of the way in which the role of reason in intention changes the way in which the will is conceived of as bearing upon the end. In the passage, he acknowledges that, although we can speak of a good wherever we find an end, "nonetheless, it is found in a special way in those things [which

34 Ad quartum dicendum quod intentio est actus voluntatis respectu finis. Sed voluptas respicit finem tripliciter. ... Tertio modo consideratur finis secundum quod est terminus alicuius quod in ipsum ordinatur, et sic intentio respicit finem. Non enim solum ex hoc intende dicimir sanitatem, quia volumus eam, sed quia volumus ad eam per aliquid aliud pervenire" [*ST* 1-2.12.1 ad 4].

35 Alium vero actum habet, qui competit ei secundum id quod ex impressione rationis relinquitur in voluntate. Cum enim proprium rationis sit ordinare et conferre, quandocumque in actu voluntatis apparat aliqua collatio vel ordinatio, talis actus erit voluntatis non absolute, sed in ordine ad rationem: et hoc modo intende est actus voluntatis; cum intende nihil aliud esse videatur quam ex eo quod quis vult, in aliud tendere sicut in finem. Et ita intende in hoc differit a velle, quod velle tendit in finem absolute; sed intende dicuit ordinem in finem, secundum quod finis est in quem ordinantur ea quae sunt ad finem" [*Quaestiones disputatae de veritate* 22.13c].

36 See also *ST* 1-2.12.4 and 13.1. In the first, Thomas argues that (understood in a certain way) the intention of the end is the same act as the willing of that which is for the end; in the second, he talks about the way in which, when a means to an end is chosen, reason leaves an impression upon the activity of the will.
are able to choose means] that posit an end for themselves and know the intention of their end.

That last phrase—"know the intention of their end"—is striking. A rational animal can know not just the end but the fact that something tends toward it: that is, its being the end point of a piece of reasoning—an ordering by reason—that encompasses also that which is ordered toward that end.

How is it then that the killing in self-defense permitted by Augustine as part of the temporal and the eternal law is not intended? At least part of the explanation is that fighting to conserve one's life and the conservation of one's life, such as might involve a killing, are of a piece. There is no room here for a deliberate step that leads—intentionally—to killing. That Thomas conceives of things in this way is apparent in his answer to the fourth objection in ST 2-2.64.7. That objection argues that it is not permissible to commit fornication or adultery for the conservation of one's life; but homicide [homicidium] is a more serious sin than fornication or adultery; therefore, it is not permissible to kill another in order to conserve one's life. Thomas replies that "an act of fornication or adultery is not ordered toward the conservation of one's life from necessity, as is an act from which sometimes there follows a killing [homicidium]."

To take the first example, that is, committing fornication in order to conserve one's life, there are certainly other ways in which this might be effected. In this sense, it is similar to the slave's killing his master so that he might avoid future tortures: that result might be obtained in a different manner—in particular, by going through the appropriate public authority. There is no necessary connection between killing the master and living free from that fear. But when a person is attacked and needs to fight in order to conserve his life, that act "speaks" not of an intended step of killing that goes toward that end but only of the end, as achieved by fighting to conserve one's life. (Below we shall continue to explore this idea of a necessary connection between certain actions and the conservation of one's life.)

IV. Innocent III on the case of a priest

It is important, however, not to forget what was said at the beginning of this essay, that is, that what Thomas says in ST 2-2.64.7 about intention is not the seed of a theory, spontaneously introduced there and capable of generating more elaborate speculations about the moral character of human acts. Intention is simply a factor—albeit an important factor—in the various truths regarding self-defense presented to Thomas by the moral tradition within which he found himself. Consideration of a legal case that stands in the background of Thomas's analysis helps us to see this even more clearly.

In the body of ST 2-2.64.7, Thomas says that, if a self-defender "should repel a force moderately, the defense will be lawful, for, according to law, 'it is licit to repel force by force, provided it is with the moderation of blameless self-protection.'" The phrases "to repel force by force" [vim vi repellere] and "with the moderation of blameless self-protection" [cum

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37 "...et ideo quamvis inveniatur in omnibus in quibus est finis, tamen specialius invenitur in illis quae finem sibi praestitunt, et intentionem finis cognoscunt..." [in Sent. 2.27.1.2 ad 2]. Choice, of course, is of that which is for an end [ST 1-2.13.3].

38 Ad quatum dictum quod actus fornicationis vel adulterii non ordinatur ad conservationem propriae vitae ex necessitate, sicut actus ex quo quandoque sequitur homicidium" ST 2-2.64.7 ad 4]. In ST 1-2.18.7, he says similarly that the exterior act might be related to the end of the will—the end of the interior act—in two ways: "one way, as per se ordered to [that end], as 'to fight well' is per se ordered to victory; and, another way, 'per accidens,' as 'receiving something belonging to another' is per accidens ordered to giving alms."

39 There are a number of issues that present themselves at this point, such as the fact that in the Augustine's or in Thomas's time slaves could not bring their cases before the public authorities. It might be best, therefore, in a less historical context, not to use Augustine's example and to speak simply of a private person who intentionally kills in order to prevent future unjust treatment. The intractability of the problem of the slave who fears maltreatment is a consequence of the unjust character of slavery.
would not have appeared in the edition of the Decretals. The canon in question contains a missive, sent by Pope Innocent III in the early thirteenth century to an abbot in Germany, in which he identifies the various factors and principles the latter should bear in mind in determining whether, in a particular case, a priest should be considered a killer [homicida] and, therefore, barred from celebrating the sacraments. Much of the missive has to do with the celebration of the sacraments, although it also raises issues that apply more generally—that is, also to non-clerics—regarding justified self-defense.

Addressing the abbot in the second person—the opening word (and title) of the canon is "Significasti"—Innocent first recalls briefly what he has heard from the abbot. He recounts, that is, that, when a certain malefactor [maleficus], having entered a church, proceeded to carry away the Eucharist as well as altar ornaments and liturgical books, a priest and canon regular named Laurentius, struck the aforesaid son of iniquity with a hoe [fossorio] he had grabbed. But whether such a blow was mortal both you and he [that is, the abbot and the priest] are entirely ignorant: the parishioners of the church, seeing the man carrying off the ornaments of the church, having grabbed swords and clubs, killed him instantly on that very spot.

In the missive, Innocent goes on to mention a couple of other, related canons, which would not have appeared in the edition of the Decretals from which Thomas was reading. He

40 Aemilius Ludovicus Richter and Aemilius Friedberg, edd, Decretalium Collectiones, vol. 2 of Corpus Iuris Canonici (Leipzig: B. Tauchnitz, 1881), Decretal. Gregor. 9.5.12.18 (col.800–801). On the more distant origins of these phrases, see Stephan Kuttner, Kanonistische Schuldlehre von Gratian bis auf die Dekretalen Gregors IX: Systematisch auf Grund der handschriftlichen Quellen dargestellt, Studi e Testi (64) (Città del Vaticano: Biblioteca Apostolica Vaticana, 1935), 336–43. The two phrases ("vim vi repellere" and "cum moderamine inculpatae tutelae") have different origins. It is possible but unlikely that Thomas just happened to join the two phases that Innocent III joins in his letter. There can be no doubt that Thomas knew the Decretals (where the letter is found). They were compiled by his religious superior Raymond of Peñafort. He wrote an expositio of the first two decretals [Thomas Aquinas, Expositio super primam et secundam Decretalem ad archidiaconum Tudertinum, vol. 40, part E of Opera Omnia (Rome: Commissio Leonina, 1968)]. In ST 2-2.64.7, he makes reference to the "iura" ("nam secundum iura, vim vi repellere licet cum moderamine inculpatae tutelae"); in the quodlibital questions, he uses the term "iura" in referring to Gregory IX's Decretals: "Quidam vero dicunt, per hanc consuetudinem antiqua iura non abrogari, eo quod quaedam decretalis ait: 'multa per patientiam tolerantur: quae si in iudicium fuerint deducta, iustitia cogente cassarentur'" [Thomas Aquinas, "Quaestiones de quolibet," in Opera Omnia, vol. 25.1 (Rome/Paris: Commissio Leonina/Les Éditions du CERF, 1996), 9.7.2c]. The reference is to Richter and Friedberg, Decretalium Collectiones, 3.5.18 (col.471).

41 In another context, the word 'homicida' might be translated 'murderer,' but in the context of medieval law that translation would be incorrect. Gregory IX's Decretals, for instance, speak of "homicidium casuale" (Richter and Friedberg, Decretalium Collectiones, col.796); it would not do to translate this (for instance) 'accidental murder' rather than 'accidental killing.' Similarly, a priest who has possibly become too aggressive in a fight with a thief might be suspended from priestly faculties and considered a killer; but he is not considered a murderer.

42...praefatum iniquitatis filium fossorio arrepto percussit. Sed, si ad mortem fuit ictus huiusmodi, tu et ipse penitus ignoratis; quem parochiani ecclesiae videntes ornamenta ecclesiae asportantem, arreptis gladiis et fustibus in eodem loco protinus occiderunt." 43 One concerns cases in which "four or five or more men" get into fight with one man and he is wounded by them. In such an event, according to the canon, anyone who has struck a blow is to be considered a killer. Another canon concerns a priest who strikes a deacon who is on horseback; the deacon falls from the horse and dies, his skull crushed. According to the canon, says the Pope, if ("quod si") the blow was not a mortal blow, a penance should be imposed upon the priest, who has acted incautiously ["incaute"]; that is, he should be suspended for a time from the celebration of Mass. "But if the deacon has truly been killed by any such blow of the priest, in this case, for no reason is he to be permitted to minister as a priest, even if he had no intention [voluntatem] of killing." The section of Innocent's letter describing these cases ("Praefatus vero Laurentius...non habuit occidendi") is included in the most authoritative edition of the Decretals, although the editor (Aemilius Friedberg) indicates that they did not appear in Raymond of Peñafort's original. See Richter and Friedberg, Decretalium Collectiones, col.xlv-xlvi. The
then returns to the case at hand with the following (rather labyrinthine) analysis:

(1) In the present case, we believe that it needs to be ascertained (a) whether it is possible to verify that the aforesaid priest did not inflict a mortal blow but that rather, if the wounds of the others had not followed, the person struck would hardly have died and (b) whether the one who struck had not the intention [voluntatem] of killing, nor by his design, counsel, or mandate did the others proceed against him.

(2) And indeed if the matter is such that perhaps with investigation it is possible to show that, according to the judgment of experienced doctors, such a blow would not be lethal ([that is to say,] if it appears certain that the blow struck by him was so slight and so light and to that part of the body in which, if someone is struck lightly, he normally does not die), since, among other things, this priest is to be believed—who has not been accused or denounced by anyone but, concerned for his own salvation, of his own volition seeks salutary counsel—he can, after a penance imposed for caution's sake, minister in the priestly office, favor being most especially appropriate since he is a canon regular and can without any scandal celebrate the priestly office.

(3) But if it is not possible to determine from whose stroke the one struck died, because of this doubt the priest ought to be regarded as a killer [homicida] (although perhaps he is not a killer) and must abstain from the priestly office, for in this case to cease would be safer than rashly to celebrate—for this reason: that, for the one, no, but for the other, great danger is to be feared.

(4) If, however, in some manner it comes to light that this priest, struck first by that church defiler, immediately [mox] then struck him in return on the head with the hoe [ligone], although every law and every statute permits one to repel force by force, since, however, that ought to come about with the moderation of blameless self-protection, not in order to take revenge but in order to repulse injury, it does not seem that the same priest is entirely absolved from the penalty due to killing, both by reason of the instrument with which he struck—which, since it is heavy, does not usually inflict a light injury—and by reason of the part of the body in which he was struck, where with a slight blow one is usually injured lethally.44

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first canon comes out of the Council of Vermerias (see Richter and Friedberg, Decretum Magistri Gratiani, col.965); the other originates with Pope Nicholas I (see Richter and Friedberg, Decretum Magistri Gratiani, col.194–95.) 44“Nos in praemisso casu credimus distinguishendum, utrum constare possit, quod praefatus sacerdos non inflixit percussionem letalem, de qua videlicet, si aliorum non fuissent vulnera subsecuta, percussus minime interisset, et si percussor voluntatem non habuerit occidendi, neque ipsius studio, consilio vel mandato processerint alii contra illum. Et quidem, si hoc ita se habet, quod forsann ex eo posset ostendi, si certa apparuisset percussio ab eodem inflicta tam modica et tam levis, in ea parte corporis, in qua quis de levi percuti non solet ad mortem, ut peritorum iudicio medicorum talis percussio assereretur non fuisse letalis, quem de ceteris credendum sit ipsi sacerdoti, qui non accusatur vel denunciatur ab aliquo, sed per se ipsum, de sua salute solicitus, consilium appetit salutare, post poenitentiam ad cautelam inunquant in sacerdotali poterit officio ministrare, maxime religiosis accedente favore, quam sit canonicus regularis, et sine omni scandalo possit sacerdotale officium celebrare. Quodsi discerni non possit, ex cuius ictu percussus interiit: in hoc dubio tanquam homicida debet haberi sacerdos, etsi forte homicida non sit, a sacerdotali officio abstinere debet, quam in hoc casu cessare sit tutius quam temere celebrare, pro eo, quod in altero nullum, in reliquo vero magnum periculum timeatrum. ... Si vero, quemadmodum perhibetur, sacerdos iste prius ab illo percussus sacrilego, mox eum cum ligone in capite repercussit, quamvis vin vi repellere omnes leges et omnia iura permittant; quia tamen id debet fieri cum moderamine inculpatae tutelae, non ad sumendam vindictam, sed ad injuriam propulsandam: non videtur idem sacerdos a poena homicidii penitus excusari, tum ratione instrumenti, cum quo ipse percussit, quod, quam grave sit, non solet levem plagam inferre, tum ratione partis, in qua fuit ille percussus, in qua de modico ictu quis letaliter solet laedi ...” [Richter and Friedberg, Decretalium Collectiones, Decretal. Gregor. IX. 5.12.18 (col.800–801)]. (Words in italics did not appear in Raymond of Peñaforf's original; see Richter and Friedberg, Decretalium Collectiones, col.xlv. I have translated them since they make no difference to the sense of the passage and they do allow it to be read more easily.)
I have divided the quoted section of the canon into four major sections: (1) through and (4). Although the letter's terminology does not correspond precisely to what we find in Thomas, it is made clear in (1)—and particularly in (1)(b)—that the issue is what the priest intended. The issue is not precisely whether or not the priest intended to kill. Innocent is careful in (1)(b) to say that it needs to be ascertained whether the priest "had not the intention of killing." The reason for this is that physical evidence of a heavy blow to a vital part of the body (i.e., to the head) would be compatible either with an intention to kill or with an intention to seriously injure informed by strong emotion (anger or the desire for revenge). But if the physical evidence reveals a light blow not to the head, that would indicate that the priest had not the intention of killing. (The presumption is that, had his intention been to kill, he would have struck harder and have avoided a vital part, in particular, the head.)

Sections (2), (3), and (4) each propose different hypotheticals having to do with the priest's intention. Section (2) supposes that it is possible to verify that the blow that killed the malefactor was inflicted by the priest but that it was so slight as to indicate that the priest did not intend to kill. Section (3) supposes that it is not possible to determine who struck the blow and therefore whether or not the priest intended to kill. Section (4) supposes that the priest's intention was not good, that is, that he either intended to kill or intended to "take revenge" in a manner that constituted manslaughter. In either case, as Thomas puts it, the priest would not be "entirely absolved from the penalty due to killing." It is also clear that under this hypothetical the priest was attacked and so acted in self-defense—it is stated that he, "struck first by that church defiler, immediately then struck him in return"—but that, even still, his intention was not good: he either intended to kill or to do something that would put the other's life seriously at risk.

It is interesting—and important for the interpretation of ST 2-2.64.7—that the determination of the priest's intention depends upon physical criteria. If—as this third hypothetical (described in (4)) would have it—the blow was to the head, this itself indicates that the priest's intention was not well ordered. It is presupposed in the entire canon that the instrument in question was a hoe; but, if the blow was to the head, "where with a slight blow one is usually injured lethally," then the agent (the priest) intended either to kill or to have revenge (or something of the sort). Intention, therefore, according to this canon, is not simply a matter of thinking of a particular pretext and then proceeding to act. Given the likely consequence of such an act of self-defense—that is, that the other, at the least, be seriously injured—it is not possible to perform such an act and not intend grave harm.

V. The argument of ST 2-2.64.7

So, there are quite a number of factors for Thomas to sort out in the body of ST 2-2.64.7. Here is a fairly literal translation of that body, with numbered sentences for easy reference:

(1) Nothing prohibits there being two effects of a single act, only one of which is intended, the other being beside the intention. (2) Moral acts, however, take their species with respect to what is intended, not from what is beside the intention, since this is per accidens, as is made clear.

45 The word used is 'will' [voluntas] and not 'intention' [intentio], but the context makes it clear that at issue is the priest's intention. Intention (as we have seen) is an act of the will: ST 1-2.12.1.

46 The canon, as it appears in the Friedberg edition contains an interesting conclusion, which Thomas would not have read (at least, in the Decretals). It reads: "... especially since, according to the popular proverb, it is said that, 'Who strikes first, strikes by touching; who strikes second, strikes while suffering' [...] maxime quum secundum vulgare proverbium asseratur, quod, qui ferit primo, ferit tangendo, qui ferit secundo, ferit dolendo]. Analyses of such situations appear as early as Aristotle: see Eudemian Ethics 2.8.1225a14–19 (see also Kevin L. Flannery, Action and Character according to Aristotle: The logic of the moral life [Washington, D.C.: Catholic University of America Press, 2013], 95–97). The canon concludes with Innocent's judgment regarding the priest that, "all things considered, it seems that it would be best for him, with humility, to abstain from exercising the priestly office [Unde, pensatis omnibus, ei creditur expedire, ut cum humilitate abstineat a sacerdotali officio exsequendo]."
(3) So, from the act of someone who defends himself there can follow a double effect: one, the conservation of one’s own life; the other, killing of the aggressor. (4) Such an act, therefore, in so far as what is intended is the conservation of one’s own life, does not have the character of the illicit, for it is natural to whatever thing to conserve itself in being as far as possible.

(5) It is possible, however, for some act proceeding from a good intention to be rendered illicit, if it is not proportionate to the end. (6) So, if someone in defending his own life uses more force than is called for, the act will be illicit. (7) If, however, he should repel a force moderately, the defense will be lawful, for, according to law, it is licit "to repel force by force," provided it is "with the moderation of blameless self-protection." (8) Nor is it necessary for salvation that a man omit an act of moderate self-protection so as to avoid the killing of another, since a man is obliged to take more care of one’s own life than of the life of another.

(9) But because it is illicit to kill a man, unless by public authority for the common good, as was made clear above [ST 2-2.64.3], it is illicit for a man to intend to kill a man in order to defend himself, except for one who has public authority, who, intending to kill a man in self-defense, refers this to the public good, as is apparent in the case of the soldier fighting against foes and of the minister of a judge fighting against a thief—although even these sin if they are moved by a private desire.

A useful way of approaching this passage is to begin at the end, that is, with sentence (9). There it becomes clear that a killing can be intended and yet perfectly moral. In this sense, then, intention is clearly not the driving factor in Thomas's exposition of his position on self-defense. Like Augustine in De libero arbitrio, Thomas never really argues for the idea that someone—that is, someone with the proper authority—can morally intend to kill: he simply asserts it, while making an oblique reference to the authority of Augustine. He also says in (9) that the person so killing "refers this to the public good." One is reminded of what Augustine says in his letter to Publicola about fighting not on one's "own behalf" [pro se] but "for others" [pro aliis]. Of course, neither is this idea the driving factor in Thomas's exposition: a private person cannot intend to kill even if he does "for others."

Thomas also considers at the very end of (9) the case of authorized persons who kill but who are "moved by a private desire." It is fairly apparent that such persons do still act in self-defense, for Thomas speaks first in (9) of those who intend "to kill a man in self-defense" and then says that "even these sin if they are moved by a private desire." Such persons would have,
therefore, at least two intentions.\textsuperscript{50} Recalling what Thomas says about intention's not being simply willing but willing to arrive at some point "through something else" and also his way of including that "something else" within the intention,\textsuperscript{51} they would intend to kill in order to conserve their life (the killing also being referred to the public good) and they would intend to satisfy a private desire (e.g., for vengeance) by means of that same killing. In either case, there would be some degree of "planning" such as was present in the example in\textit{De libero arbitrio} of the slave who kills in order to avoid tortures by his master, although we now know that—at least according to Thomas's interpretation—the planning need amount to no more than the adoption of distinct way of arriving at the end intended. Since the end is intended, so also is the way of arriving at it.

The "planning" involved in legitimate public self-defense makes it intentional; it does not make it immoral. A comparable thing can be said about private lethal (or likely lethal) vindication: strictly speaking, what makes it immoral is not the fact that it is intentional but the fact that it is private. There is nothing inherently evil in having a desire for vengeance,\textsuperscript{52} just as (according to both Evodius and Augustine) there is nothing inherently evil in the desire to live free from fear. The problem is that achieving either of these ends might—and, indeed, ought—to be effected under the proper authority. If justice calls for lethal vengeance or preventative violence, private citizens ought not to seek it on their own: one ought not to take justice into one's own hands. To do so is to go against both the temporal and the eternal law.

We are now better equipped to understand the earlier parts of\textit{ST} 2-2.64.7c and their connections with the passages from Augustine and the\textit{Decretals} cited by Thomas. The main point of (1) and (2) is that self-defense is self-defense if what is done, is done\textit{pro}—Augustine would say, ‘pro’—the conservation of one's life, as opposed to being done for the taking of the other's life. Here it is the end that is said to be intended and to specify the act, although the act so specified is understood to be the act as connected to the way adopted for getting to it: moderate means of self-protection, as mentioned in (7). Again, identifying in this way the species of the acts has no immediate bearing upon whether the acts are moral or not. It is natural, says Thomas in (4), "to whatever thing to conserve itself in being as far as possible"; but it is also in accordance with natural law—not to mention temporal and the eternal law—for public authorities intentionally to kill certain malefactors.

In (3) and (4), Thomas in effect says that only if the private agent's intention is the conservation of his life is his act moral (only thus does it "not have the character of the illicit"); if the intention is to kill the aggressor, it is immoral. The question that immediately arises is, What is it that prevents his intention from being to kill the aggressor? The answer is implicit in (2), where he speaks of that which is "beside the intention" as per accidents; but the significance of this remark only becomes clear in Thomas's remark in\textit{ST} 2-2.64.7 ad 4 (considered above) that "an act from which sometimes there follows a killing" is ordered "from necessity" to the conservation of one's life. Although there is intention here—the intention to resist and so to conserve one's life—there is no "planning" to perform such an act in order to kill. The necessary connection between the act and the conservation of life allows this to be the case. And so, that the agent might intend simply to conserve his own life does not depend simply upon the direction in which he "points" his intention: it depends on the fact that certain acts are ordered from necessity to the conservation of one's life.

This indeed is the difference between private self-defense and private vengeance. There\textit{is} the required necessary connection between an act of private self-defense "from which sometimes there follows a killing" and "the conservation of one's life" [\textit{ST} 2-2.64.7 ad 4]; there is

\textsuperscript{50}See \textit{ST} 1-2.12.2 about whether someone can have two intentions simultaneously.

\textsuperscript{51}See above, at notes 34 and 35.

\textsuperscript{52}See \textit{ST} 2-2.108.1-2, 158.1; see also\textit{Sent.} 3.1.1.2 ad 4: "...a man ought not to punish as one vindicating himself but as one vindicating God, if this is his role by virtue of his office" [...homo non debet punire quasi se vindicans, sed quasi Deum vindicans, si hoc ex officio habet].
no such connection between a lethal (or likely lethal) act and private vengeance. In the latter case, bringing about the desired end can—and, indeed, ought—to wait upon the proper authority. This type of situation—the presence of another and preferable option—is incompatible with the presence of a necessary connection that allows there to be legitimate acts of private self-defense. Such a connection does not make intending to kill an attacker impossible, for the self-defender might also intend to kill the attacker in order to have revenge. As Thomas says in (5), it is possible "for some act proceeding from a good intention to be rendered illicit, if it is not proportionate to the end." This occurs, says Thomas in (6), when someone uses "more force than is called for." It is at this point—that is, in (7)—that he cites Innocent III's letter as it appears in the Decretals of Gregory IX. But, in the absence of such an additional intention, the "default" position is that the self-defender does not intend to kill but only to conserve his own life. To reject this possibility—to say, that is, that a person must "omit an act of moderate self-protection so as to avoid the killing of another" (8)—would be to reject universally recognized laws. "Are we to be so bold," asks Augustine in De libero arbitrio, "as to say that these laws are unjust—or, indeed, null and void?" Thomas too would say no.

VI. Conclusion

To conclude then very briefly, the concept of intention, as developed earlier in the Summa theologiae, plays an important role in ST 2-2.64.7; more basic, however, for the position set out in that article is the legal and intellectual tradition within which Thomas Aquinas was working.

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53 See above, note 18.


