LYING AND PERJURY IN MEDIEVAL PRACTICAL THOUGHT

Emily Corran

UCL

Submitted for the degree of PhD in History

2015

I, Emily Corran, confirm that the work presented in this thesis is my own. Where information has been derived from other sources, I confirm that this has been indicated in the thesis.

**Lying and Perjury in Medieval Practical Thought**

**Abstract**

This is a study of medieval thought about dilemmas involving lying, justified concealment and broken promises. It argues that a distinctive way of thinking about the ethics of lying and perjury, which reasoned through cases of conscience and practical situations, first appeared in an academic context in late twelfth century scholasticism, most notably in the *Summa de Sacramentis et Animae Consiliis* of Peter the Chanter. It was a tradition which continued in pastoral writings of the thirteenth century, the practical moral questions addressed by theologians in universities in the second half of the thirteenth century, and in the *Summae de Casibus Conscientiae* of the late Middle Ages. These various genres all participated in a casuistical thought about lying and deception which centred on deciding the best course of action in non-ideal situations and offered responses that acknowledged the need to adjust one’s actions to a unique set of circumstances.

In the light of this discovery, the thesis investigates the origins of the casuistical concepts of equivocation and mental reservation. These teachings, which attracted satire in the Early Modern period, first appeared in late twelfth-century cases of conscience. It has been assumed that these ideas could only earn their keep by permitting Catholics to evade the morality of lying and perjury: the medieval tradition paints a different picture. In this period, equivocation and mental reservation were part of an effort to explain how to follow the rules in ambiguous and perplexing cases. Instead of talking around the rules, these concepts were developed in order to make the rules work in exceptional situations. In Chapter 6 I show that assumptions made about early modern casuistical thought do not work for its medieval equivalent.

A subsidiary argument will be that equivocation and mental reservation were not inherently academic ideas. I argue in chapter 1 that sustained thought about these questions was evinced in medieval vernacular literature quite independently from the scholastic tradition. Casuistical thought about lying and perjury existed at a deeper level in the culture.

**Acknowledgments**

I would like to thank and acknowledge the support of the Arts and Humanities Research Council and of UCL history department and graduate school.

I am particularly grateful to my supervisor, David d’Avray, for his support and advice, and for all of the time he took to look at transcriptions and discuss arguments.

I would like to acknowledge the extremely helpful comments and encouragement of my second supervisor, John Sabapathy.

In addition, I would like to thank Magdalena Bieniak for sharing her images of Stephen Langton questions and Nigel Palmer for his advice on translating medieval German.

**Contents**

|  |  |  |
| --- | --- | --- |
| Abbreviations |  | 6 |
| Editorial and Stylistic Conventions for Latin Texts |  | 7 |
| **Introduction** |  | 8 |
|  |  |  |
| **Chapter 1**: The Idea of Equivocation |  | 34 |
|  |  |  |
| **Chapter 2**: The Early Casuistry of Lying and Perjury - What Caused its Ferment. |  | 68 |
| **Chapter 3**: Moral Dilemmas: Peter the Chanter’s *Summa de Sacramentis et Animae Consiliis* |  | 94 |
| Texts |  | 133 |
| **Chapter 4**: Lying and Perjury in Confessors Manuals: Continuities in Casuistical Thought |  | 138 |
| Texts |  | 168 |
|  |  |  |
| **Chapter 5**: Theoretical Problems and Authoritative Voices: Pastoral Thought on Concealment in the Theology Faculties of the Late Thirteenth Century |  | 177 |
| Text |  | 197 |
|  |  |  |
| **Chapter 6**: Lying and Perjury outside the Pastoral Tradition |  | 200 |
| **Conclusion** |  | 227 |
| Bibliography of Manuscripts  Bibliography |  | 243  245 |

**Abbreviations**

|  |  |
| --- | --- |
| *AHDLMA*  *BHL*  *CCCM*  *CCSL* | Archives d’histoire doctrinale et littéraire du Moyen Âge  Bibliotheca Hagiographica Latina  Corpus Christianorum Continuo Medievalis  Corpus Christianorum Series Latina |
| *CSEL*  *MGH*  MS, MSS  *PL*  *Summa* | Corpus Scriptorum Ecclesiasticorum Latinorum  Monumenta Germaniae Historica  Manuscript, Manuscripts.  J.-P. Migne, Patrologia Latina  Peter the Chanter, *Summa de Sacramentis et Animae Consiliis,* ed. Jean-Albert Dugauquier, Analecta Medievalia Namurcensa 4, 7, 11, 16, 21, 5 vols. (Paris, 1954-1967). |
| *TRHS*  *VA* | Transactions of the Royal Historical Society  Peter the Chanter, *Verbum Adbreviatum: Textus Conflatus,* ed. Monique Boutry, CCCM196 (Turnhout, 2004). |
| X.1.2.3. | *Decretales Gregorii IX,* ed. Emil Friedberg in *Corpus Iuris Canonici,* 2 vols. (Graz, 1959), followed by number of book, title, and chapter. ( I only use this standard canon law abbreviation in brief notes to translations – more usually I give a full reference to the edition). |
|  |  |
|  |  |
|  |  |
|  |  |

Bible books according to abbreviations in the Geneva Bible.

**Editorial and Stylistic Conventions for Latin Texts**

I have benefitted from the excellent policy, enacted in particular by the French national and regional libraries, the Bayerische Staatsbibliothek and the Vatican library, to post digital copies of their manuscript collections online. This has made more manuscripts accessible to me than could have been the case for previous generations of research student and so I have only used a selection of those available to me. My rule of thumb has been to use only as many manuscripts as were necessary to achieve a comprehensible text, and in any case, never more than four. I have not attempted to make a comprehensive record of errors for each witness, or to draw any conclusions about relations between manuscripts. I follow the practice of Beryl Smalley, who chose a few convenient manuscripts as the basis for her transcriptions, and corrected them against each other. Transcriptions from the base manuscript are accurate and my edited extracts follow the orthography of this manuscript. Where the base errs, I have promoted the correct word to the text, and indicated the reading from the base manuscript in the apparatus. I have only included readings from additional manuscripts in the apparatus when they seem to offer a credible alternative reading.

I have added my own punctuation and capitalisation for ease of comprehension, and divided the longer texts into numbered sections with bracketed numbers, thus (1). Foliation and paragraph marks ‘¶’ in my transcriptions follow the base manuscript or early printed edition. I have used square brackets to indicate references to sources. Round brackets are only used for editorial interventions. I normalise ‘u’ to ‘v’ when used as a consonant in the manuscript. I have not normalised ‘i’ to ‘j’ where older editions would have done so. When choosing between a ‘t’ or ‘c’ before an ‘io’ (as in ‘narratio’) I follow the manuscript, when it is clear, or use whichever is more conventional. When quoting Latin text from printed editions, I have followed the stylistic conventions of the edition, although I have simplified the punctuation when using early printed books.

For the purposes of a PhD thesis, where words are at a premium, I have not included descriptions of the manuscripts I have used.

**Introduction**

This thesis concerns one type of thought about lying and perjury in the Middle Ages. In question are practical moral decisions, usually dilemmas where a protagonist must choose whether or not to lie or whether to break an oath in order to avoid a greater evil. This is applied thinking: it is not primarily about defining lies and perjuries or theorising why they are wrong, nor does it reflect on moral character or denounce the temptation to lie. It considers how to make decisions in circumstances that are less than perfect. In a classic dilemma, there appears to be sin involved whichever path one chooses, yet a course of action must be taken. The most well-known dilemma of this kind is a problem made famous by Augustine and Kant: a murderer arrives on your doorstep and asks after your friend who is hiding from him within. Should you lie to the murderer, or tell the truth at all costs? The choice is between saving your friend at the price of your own integrity, or sacrificing a life to principle. Medieval pastoral writers and theologians considered this famous dilemma alongside a series of more realistic and complex problems about lying, concealment and perjury. It led them, I shall argue, to consider the ethics of these questions from a novel perspective, in which circumstance, principle and expedience were brought together. They originated the casuistry of lying and perjury.

‘Casuistry’ is often used as a simple pejorative, a term for dishonest reasoning. The common perception is that if ethics are casuistical, they must be disingenuous. By this light, the history of casuistry of lying and perjury sounds like a pleonasm: it would indeed be a story of lies and equivocations *tout court*. In fact, the word has a technical sense: it means the application of moral rules to particular cases. The casuistry of lying and perjury is really a discussion whether one might lie or break an oath in certain exceptional circumstances. This kind of ethics is explicitly separate from universal principles and takes more notice of real-world complications than other parts of ethics. It is in this more neutral sense that the casuistry of lying and perjury is the subject of this study.

An example will show what I mean. It comes from an early thirteenth-century collection of *exempla* by the Bavarian Cistercian, Caesarius of Heisterbach. He told a number of short stories, all involving miracles or edifying actions, intended to help priests and monks engaged in their preaching and pastoral tasks. He recounts an occasion when a confessor was faced with a difficult choice regarding a deception and found an astute resolution to his moral quandary. The *exemplum* is told within a dialogue between the Cistercian narrator and a novice. I quote the whole discussion here; the details are pertinent.

Monk: According to what one of the priests of Saint Andrew’s told me, a certain citizen of Cologne, who did not much love his wife, often beat her. Provoked, she stole a large sum of money from him. Her husband accused her of the crime, and she vehemently denied it, and, fearing that he would catch her, she threw the money down the drain. Later, regretting her actions, she went to the dean, and revealed the theft and its cause to him in confession. I think he would have persuaded her to return the money to her husband, except that she had sworn an oath that she had not done it and, for fear of another beating, did not dare to admit to it. The dean replied to her, ‘If I can get hold of the money without him knowing, would you agree that it should be given to the poor?’ Since she said that she desired this above all, a few days later the dean spoke to the citizen: ‘Could you give me permission to clean your drain, on the understanding that if God provides anything for me there, I can keep it?’ The citizen knew that he was a holy man, and thinking that God must have revealed something to him, he gave his permission. The drain was cleaned and the money was found, and within a few days, the man of God had distributed it among the poor.

Novice: Someone minded to criticise could really lay into that dean.

Monk: Three considerations seem to exonerate him from sin. First, that the money in question belonged equally to the husband and wife. Secondly, that he was not permitted to reveal that he knew the money was lost, because he learnt of it in confession. Third, that he distributed the money to the poor. Most of all, the charity which motivated him to do this. For priests often permit women to steal from their greedy and unmerciful husbands, in order to give to those in need.[[1]](#footnote-1)

The casuistry is in the detail. A woman wishes to make amends for stealing money and lying about it, but is scared of what her husband’s reaction will be when he finds out. The dean is called on to tell her what she must do before he gives her absolution. Caesarius describes the kind of considerations that influence him. The woman was reacting against her husband’s abuse; she is now sorry for what she has done and she is willing in spirit to make amends – it is only fear of further violence that prevents her. He decides against insisting that she comes clean to her husband; instead, he finds a way for the wife to turn the sum she stole into a charitable donation; this was the restitution that confessors usually required from a thief when it was impossible to reimburse the actual victim. He tricks the husband into consenting to the gift, and permits her to put things right whilst keeping her husband in the dark.

Caesarius bookended his stories with a conversation between an elder Cistercian and a novice. The novice is unconvinced of the morality of the dean’s actions, and the monk agrees that what he did would normally be sinful. It is only special circumstances that exonerate him. Both legal stipulations, such as that the money technically does belong equally to the wife and the husband, and the sacramental requirement that the dean keep confidential the revelations made to him in confession, have some weight. Most significantly, there is the concern - the ‘charity’ - that motivated him to fall in with her deception. It is an exceptional solution to a unique set of circumstances; that is what makes his solution casuistical.

Surely the most striking aspect of the *exemplum* is the way in which it handles sin. The wife has stolen money and faces no reprisals, although she does make amends of a kind. More problematic is the toleration of deception: the woman has committed perjury to conceal her theft, and the dean apparently lets it pass. He allows her to continue to deceive her husband and even participates in the concealment by finding a way for the woman make amends without admitting the truth. Caesarius lists a number of justifications for these lies, but the *sine qua non* is the wife’s wellbeing; the first untruth was told out of fear, and keeping her mistake secret saves her from her husband’s violent reprisals. The dean was willing to take part in a deception for the sake of making a woman’s life easier and Caesarius applauds his decision.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

We have not been led to expect moral judgements of this sort from the Middle Ages.

The common expectation would be for something sterner and less tolerant in this period and from such an author – certainly something less qualified in its approach to moral rules. There are a number of reasons why a thinking person may expect a harsh view of lying in medieval culture, and a specialist could have even more grounds for assuming a medieval monk would take a more censorious view than this example suggests.

For one thing, when one thinks about it, disapproval of deception and oath-breaking is the norm in many cultures. Despite a general sense that there is lots of dishonesty about, disapproval of lying and perjury is a strong and instinctive convention in our own society. It is easy to think of political scandals involving lying and broken pledges in recent years: the Met’s use of undercover officers to survey activist groups, the ‘dodgy’ dossier that led to the Iraq war, MPs declaring false expenses, the Liberal Democrat leader Nick Clegg’s broken promise to abolish university tuition fees. The fact that there was a public outcry in each case suggests that we believe that politicians and officials have a basic duty to tell the truth and fulfil their promises. The general attitude is hardly new, if the political and satirical literature of previous generations is to be believed.[[2]](#footnote-2) An instinctive rejection of deception has been noticed in a number of different cultures, and with good reason. If the default setting were not one in which people habitually told the truth, and expected honest dealing from each other, everyday conversation, dealings and institutions could hardly function: Geoffrey Hosking has recently shown how circles of trust are a basic building block of all but a few exceptional and disastrous societies.[[3]](#footnote-3)

Moreover, Christian teaching seems to prohibit all dishonesty. The most familiar Bible texts of lying were sweeping condemnations: ‘do not bear false witness against your neighbour’ (Ex 20:16); ‘the mouth that lies slays the soul’ (Sap 1:11). There are famous positive exhortations to honesty in the New Testament: ‘Put away falsehood, speak the truth’ (Eph 4:25); ‘Let your words be yes, yes, no no’ (Mt 5:36). John described Jesus as the ‘way and the truth and the light’ (Io 14:6) and the devil as ‘the father of lies’ (Io 8:44). Augustine drew analogies between the perfect truth of God transmitted to the earth by the Holy Spirit and the truth of the human heart transmitted by the tongue; to consciously lie, in Augustine’s theology, would both subvert a divinely-instituted power of communication and contradict a characteristic that made humanity God-like.[[4]](#footnote-4) As Peter the Chanter, a twelfth-century moralist in Paris, said in his *Verbum Abbreviatum,* ‘If you are true and truthful, your words are like God’s, for God is Truth.’[[5]](#footnote-5)

The prevalence of this attitude towards language can be inferred from the popularity of writings on the sins of the tongue from the end of the twelfth century. [[6]](#footnote-6) It was a category of sins that was tacked on to virtue and vice manuals following the seven deadly sins, and included lying, perjury and a host of further sins linked with dishonesty: detraction, rumour, boasting and self-deprecation, slander, flattery, idle words. The concept of ‘sins of the tongue’ described these transgressions as a perversion of will, comparable to pride or gluttony. For Peraldus (the author of one of the most successful treatises on virtue and vice), the tongue was a physical organ likely to fall into sin without realising; just as the appetites must be kept in check, the only solution was to mount a vigilant guard against sinful speech. [[7]](#footnote-7) The monastic discipline of silence was frequently offered as a cure for dishonest talk.[[8]](#footnote-8) The book of Cistercian exempla recalls an Abbot who gained renown because ‘he never lied, never swore, never cursed any man nor, if it was not necessary, did he say anything to anyone.’[[9]](#footnote-9) Peter the Chanter described lying as a parallel vice to gluttony: once the habit for either of these sins is acquired, it is particularly difficult to give them up. Everyday we eat, and everyday we speak, and so just as bad habits are easy to acquire, they are no less difficult to unlearn.[[10]](#footnote-10) The concept of the sins of the tongue was widespread; it painted honesty and lying as a question of moral strength against temptation rather than a general rule that could be reasoned with. It is indicative of the idea’s broad appeal that it appeared in vernacular moral treatises, such as *Le Somme le Roi* before the end of the thirteenth century. The concept appears as a category of moral teaching in writings as diverse as chronicles[[11]](#footnote-11) and popular poetry.[[12]](#footnote-12) The popularity of the sins of the tongue indicates the prevalence of a certain view of lying. There was a default-setting on the question in the Middle Ages, just as now. By general consensus, lying was wrong and ‘honesty was the best policy’.

This is then the first and most important motive for my thesis. There was a common knee-jerk condemnation of lying and perjury. Simultaneously, there was a more unusual and qualified strain of thought, as in the Caesarius von Heisterbach *exemplum*.[[13]](#footnote-13) The mismatch warrants further investigation. How widespread were these pragmatic discussions and what was their history? What prompted their matter-of-fact tone? What did their authors intend by it, and how did they square those conversations with their more usual intolerance of lying and perjury? There is a puzzle here that, if solved, will tell us something about how medieval men and women thought about ethical questions.

An investigation of practical thought about lying will reveal a sustained effort by the thirteenth-century clergy to tackle everyday ethical problems. I shall identify a discrete genre of thought about lying and perjury intended particularly for confession. It started as part of the pastoral movement of the late twelfth century, and became a feature of the casuistical tradition, whose post-medieval phase is famous. This discipline addressed the kinds of moral problems that a confessor might actually encounter in the course of his ministry and sought to teach a particular brand of practical reasoning about lying. The discovery of this variety of ethical thought can provide a number of insights. By identifying the kinds of books and contexts in which this kind of discussion took place, we track its development and draw conclusions about their purpose. More mundanely, these discussions of lying offer a window into what actually went on in confession. Since these are discussions that took place between educated clergy addressing real-world problems, we can hope to see how academic ethics translated into practical advice for those involved in confession. We can get an idea at the same time of how people actually navigated the difficult moral situations they confronted.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Nevertheless, why study lying and perjury in particular? These were not the only questions to receive a pragmatic treatment from medieval moralists. I could have chosen any of a number of transgressions that were condemned in general but appeared as the subject of moral dilemmas in pastoral writings. For a number of reasons, though, lying and perjury make an especially telling case-study.

For one, philosophers have made lying and perjury a special instance for examining the place of means-ends reasoning in ethics. The tradition goes back as far as Cicero, who in his *De Officiis* recalled a famous dilemma in which the Roman hero, Regulus, virtuously held out against breaking his word to the Carthaginians.[[14]](#footnote-14) Cicero argued that Regulus acted not only honourably but also prudently: if he had broken his word, the apparent advantage of saving his own life would be undermined by his own dishonour and damage to the republic. The case of oath-breaking is a synopsis of the larger ethical argument about honour and benefit that stretches across the three books of the *De Officiis.* Cicero argues that in ethics, means and ends never conflict and ‘cheats never prosper’: whenever it might appear beneficial to act dishonourably, Cicero says, the impression is false, and the most prudent action is also the most virtuous. The importance of keeping promises, even when it seems advantageous to break one’s word, became a commonplace of princely virtue.[[15]](#footnote-15) When Machiavelli provocatively turned this morality on its head in *The Prince*, one of the Ciceronian themes he chose to foreground was precisely the question whether a prince should break his word. Machiavelli claimed just the opposite of Cicero’s conclusion in the *De Officiis* – that breaking one’s word may be immoral, but for a prince it could well be advantageous.[[16]](#footnote-16)

Augustine wrote two treatises on lying which address the wider question, whether one should break a moral principle in order to save someone’s life.[[17]](#footnote-17) The dilemma he used was the murderer at the door: it would go down as the *locus classicus* of means-ends reasoning in moral philosophy. Should you lie to a murderer and save the life of the other man, or refuse to break a commandment? The choice, as Augustine put it, involved weighing another person’s temporal life against the fate of one’s own eternal soul.[[18]](#footnote-18) His discussion became a source not just for later medieval thought about lying (which I will discuss in this thesis) but for more abstract theorising about how to weigh the competing claims of benefit in this world against the wellbeing of the immortal soul.[[19]](#footnote-19)

Kant also used lying to explain the nature of immoral action. He did so first in the *Groundwork for the Metaphysics of Morals,* where he used a lying promise as his example of breaking the categorical imperative. According to Kant, the concept of a justified false promise is a nonsense – you cannot consistently both participate in the institution of promising and undermine it by lying.[[20]](#footnote-20) Later and more famously in his *‘*On a Supposed Right to Lie from Philanthropy’, he argued against the right to tell a benevolent lie to the murderer at the door.[[21]](#footnote-21) The ethical theory itself was of course very different, but Kant’s use of these examples resembled that of Augustine and Cicero; all three tried to show that there could be no coherent argument in favour of benevolently breaking an ethical principle.

Kant’s rather unconvincing treatise ‘On a Supposed Right to Lie’ arose out of a quarrel with Benjamin Constant, in which the philosopher who in the long-term made a smaller mark seems to have come off the better.[[22]](#footnote-22) The casuistry of lying and perjury thus remains an open question, in which a larger disagreement over the kind of reasoning appropriate to ethical decisions is at stake. The modern Kantian philosopher, Christine Korsgaard has described how the question of the philanthropic lie highlights the practical failures of both of the main two modern schools of ethical theory.[[23]](#footnote-23) Utilitarians (her example is Sidgwick) seem to permit any lie that will bring about greater happiness; in consequence they are in danger of allowing too many lies and breeding chaos. Kantian ethics, on the other hand, has been accused of irresponsible rigorism, and so modern philosophers have sought either to defend Kant’s verdict on benevolent lies or to amend his argument to show how his theory might support an emergency lie.[[24]](#footnote-24) Lying has also provided ammunition to some contemporary philosophers who are sceptical about both utilitarianism and Kant. Alisdair Macintyre proposed that the best answer is to identify the general characteristics of a truthful person, and reason from there.[[25]](#footnote-25) Bernard Williams criticised the ‘glib moralism’ of philosophy that claim to provide moral rules that work in absolutely every case.[[26]](#footnote-26) He himself wrote a book on truth-telling, which proposed a different way of thinking about the problem. He argued first that truthfulness should be considered a value inherent to human existence – not an instrumental means – and that it contains more expansive concepts of ‘sincerity’ and ‘integrity’.[[27]](#footnote-27) He uses this criterion to explore the ramifications of modern liberal values and choices. This approach has in turn been accused of failing to provide any proper explanation why one should be truthful.[[28]](#footnote-28)

Lying and perjury have therefore continuously fuelled theoretical debate, and the issue remains problematic. More rides on the subject than would if it were only a parochial issue in applied ethics; there is a larger argument operating under the surface about the competing roles of expediency and principle in ethics and about the validity of different approaches to moral questions. My study does not deal with the philosophy directly, but by choosing to focus on lying and perjury, I will be able to get some insight into how the medieval authors dealt in practice with the deeper problems. Philosophers have attached certain issues to the question of lying and perjury; whether principles are undermined by exceptional cases, whether the worry about a long-term erosion of trust is a valid reason not to lie in emergencies, whether generalising ethical theories are sufficient for providing answers to dilemmas. This suggests a check-list of concerns we might look for in the medieval discussion, and by this means, we can get a sense of the broader attitudes of the medieval moralists. We can gauge, moreover, how medieval practical ethics compares to the ethics of other periods and philosophies and see which arguments, from a finite repertory of answers, medieval pastoral authors were willing to use, or tended to omit. It will thus be possible to get a sense of how distinct and how philosophically-informed these discussions were, whether the philosophical problems are relevant to them, and where they stand in a larger history of ethical thought.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

A study of lying and perjury will identify the origins of ideas that became prominent in early modern thought: this is the second reason for choosing the subject. An important theme in this thesis will be a group of concepts more usually associated with later casuistry: equivocation, mental reservation and conditional oaths. Equivocation was the idea that it was a morally acceptable alternative to lying to use ambiguous language; mental reservation and conditional oaths permitted the use of deceptive statements, if one added a silent conditional clause that made the whole statement true. These permissions have, since the sixteenth century, been especially associated with Jesuits. The intricacy and sophistication of doctrines on telling the truth are well documented, and have often been the cause for satire. Deceptive Jesuits were a stock figure from Renaissance drama and early-modern polemics: the porter in Macbeth mocked the ‘equivocator that could swear in both the scales against either scales’ and the plays of Ford and Middleton include a dissembling Jesuit in a black cloak.[[29]](#footnote-29) Pascal influentially poked fun at Jesuit doctrines of mental reservation and equivocation in his best-seller, *Lettres Provinciales.[[30]](#footnote-30)* The Jesuit conspirator in the gunpowder plot, Henry Garnet, notoriously wrote a treatise on how to equivocate.[[31]](#footnote-31) All this has made equivocation and mental reservation something of a joke – so closely are the concepts tied to the opprobriated order, that in English the word ‘Jesuitical’ can be applied to anything equivocating or dissembling. However, there is nothing that links equivocation and mental reservation inherently or solely to the Jesuits or to the religion of the Counter-Reformation.

Although the primary interest of this thesis is in the origins of the casuistry of lying that would eventually attract Pascal’s satire, an important subsidiary argument will be that equivocation was not an invention of the late medieval church: the idea had always been a part of Christian culture, Latin and vernacular alike. When the casuistry appeared in vernacular culture, it was in a form that was distinct from church teachings. The ideas about justifiable deception that later caused such outrage were only made part of the scholastic tradition in the late twelfth century, in quite separate circumstances from both the popular treatment and the post-Tridentine conversation. In charting how casuistic thought about lying and perjury arose, and under what circumstances it came to be developed, this thesis will add perspective to the early modern story. There have been a number of historians of the later Jesuit tradition of casuistry of equivocation; invariably they skate over the medieval contribution.[[32]](#footnote-32) Moreover, we shall see that many of the qualities imputed to equivocation and mental reservation in the later period did not appear in its conception. The ideas were not always so controversial, nor were they particularly associated with religious polarisation or with a culture of moral laxity, as its opponents claimed. They were not the preserve of ivory-tower theorising, but were grounded in medieval culture. As I shall discuss in chapter one, the polemics associated with equivocation have cast a long shadow over later scholarship on the subject; a neutral study of the medieval origins gives a rather different complexion to these contentious themes.

A third and final reason for choosing lying and perjury concerns the significance that equivocation, dissimulation and truth-telling have been accorded in early modern historiography and literature studies. In various different *longue durée* accounts of European culture, the ethics of sincerity has been taken to be symptomatic of wider cultural changes. The way in which people thought about telling the truth has been used in the historiography to take the developmental temperature of Western society in this period. Starting from a number of different perspectives, historians have argued that the moral attitudes to truth-telling exemplified the way individuals experienced power.

The most common story links the rise of practices of equivocation and dissimulation from the fifteenth century onwards to the development of modern mind-sets and institutions. Perhaps because the ability to lie is such an important part of a child’s psychological development, scholars of the Renaissance have associated the growth of learning and institutions from the fifteenth century with an increasingly complex attitude to the truth. Jean Cavaillé has studied the theme of dissimulation in seventeenth-century authors.[[33]](#footnote-33) He links a variety of dissimulations – equivocation, Nicodemism, *libertinage* and courtly feigning – to political features of the period. Cavaillé argues that religious inquisitions exerted pressure on those interrogated, who resorted to equivocation and mental reservation; opposition to heterodoxy led persecuted groups to disguise their faith, a practice dismissed as Nicodemism by Calvin. The rise of the state led to the idea of reason of state and political lies on one hand, and, on the other, the withdrawal of literary menand public servants like Montaigne into their mental *arrière-boutique*.[[34]](#footnote-34) Thus, he argues, secrecy, hidden meaning and deception were characteristic of the writings of this period. Few historians state the argument so bluntly, yet the frequency with which concepts relating to secrecy and pretence have appeared in early modern historiography implicitly associates a rise in dishonesty with growing sophistication. This has been called the period of self-fashioning: scholars identify a growing anxiety in renaissance society about the difference between truth and reality, following from the discovery of (depending on the context) Plato’s *Republic* with its emphasis on illusion and truth*,* Sextus Empiricus’s scepticism, or the rhetoric of *paradiastole,* in which good and bad were redefined into their opposites.[[35]](#footnote-35) The slipperiness of writers like Montaigne and Erasmus, who hid their true thoughts, the interest in appearance and shrewd pretence in courtly literature of the period, and Hobbes’s efforts to rise above the ambiguities of persuasive language have all been read as responses to the perception that truth and personal identity was mutable.[[36]](#footnote-36)

The underlying proposition made by these historians is that the invasive exercise of power and the rise of humanist learning led to a more sophisticated understanding of the truth. As church and state pushed to control what people were thinking, intellectuals turned to ever more shaded theories of justifiable concealment of the truth, and came to understand their public selves primarily as a means of disguising their true thoughts. The thought-world of the period abandoned the simple moralism of the medieval period, and adopted a more shaded, classicising understanding of deception.

This thesis argues that the casuistical way of thinking about lying and perjury dates back to the Middle Ages and beyond. It was latently there in popular culture from the early twelfth century and earlier. The first real academic casuist of lying and perjury was Peter the Chanter, a theologian in the Parisian schools in the late twelfth century. His interest in moral dilemmas on this subject was a response to intellectual and cultural changes in his period. I shall argue in chapter two that this line of thought was the result of both advances in penitential thought in the schools and a more widespread practice of confession. The agenda of pastoral reform had stimulated thought about guilt and awkward moral choices; the wider practice of confession meant that confessors were more likely to encounter parishioners involved in complex situations. Both new tendencies encouraged Peter the Chanter and his successors to re-examine applied ethical problems about lying and perjury, along with dilemmas on other moral issues. His turn to casuistry was a natural, if not inevitable, response to new pastoral challenges. This was the context in which ideas like equivocation and conditional oaths first emerged in the schools.

Much of what the early modern historians have assumed to be inherent to casuistic ideas about truth-telling does not appear in the medieval phase of the discussion. Historians of early modern ethics have assumed that equivocation and dissimulation were excuses for ignoring moral rules. Concealment of the truth has generally been read as a means by which people disobeyed the avowed moral order whilst avoiding open defiance. A double-standard is taken to be inherent in the conversation, whether among Nicodemites, equivocating Jesuits or Machiavellian ministers. The medieval casuistry of lying and perjury does not conform to this ideal-type: the pastoral interest in concealment of the truth in this period was an attempt to show how, in exceptional situations, conflicting moral principles should be accommodated, not how they might be evaded. Medieval casuists were not trying to rationalise their way out of the rules – indeed they had none of the motivations to do so that have been observed in later equivocators. Their interest in equivocation and perjury arose in a relatively dispassionate conversation about how best to enforce moral rules when the situation got complicated. Equivocation was not an idea that arose out of the abandonment of reform in favour of obscurantism, but as a result of reform, in the form of pragmatic discussion about how to deal with exceptional cases of conscience.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

If the practical ethical thought of medieval churchmen is now a relatively well-trodden territory in modern scholarship, it is thanks to the work of a succession of scholars going back to Maurice Powicke. His Ford lectures on Stephen Langton were pioneering in that he recognised the importance of practical theology in Langton and his master Peter the Chanter’s teaching, and showed how their religious ideas went on to influence both the articles of later Church councils and, in Langton’s case, Magna Carta.[[37]](#footnote-37) Powicke’s student, Beryl Smalley, went further with Langton’s Bible commentaries and, in her study of medieval exegesis, drew attention to a change of tone between the commentaries of the Victorines in the mid-twelfth century and the next generation of ‘masters of the Sacred Page’.[[38]](#footnote-38) She showed how this younger generation, including Peter the Chanter, Peter Comestor and Stephen Langton, studied the Bible not for religious contemplation, but in order to derive lessons that would equip their students for active ministry. The result was an emphasis on reading from the verses of the Bible moral lessons of contemporary relevance and themes for sermons.

That this inter-conciliar group set the agenda for the practical moral reforms of the thirteenth century had been intuited by Powicke;[[39]](#footnote-39) it was only fully researched and demonstrated in the late John W. Baldwin’s seminal book on Peter the Chanter and his circle.[[40]](#footnote-40) Baldwin used their Bible commentaries, theological questions and moral treatises to demonstrate the urgency and persistence of these theologians’ engagement in the public ethics of their day. Most of the book shows how Peter the Chanter’s circle viewed aspects of their society; by setting their comments alongside what we know of the period, Baldwin makes clear the degree to which these masters’ thought was grounded in reality. In the final chapter, he addresses the impact of Peter the Chanter’s enquiries, arguing that his agenda directly affected the legislation passed during the Lateran Council in 1215. *Masters, Princes and Merchants* brought Peter the Chanter to wider scholarly notice; it was this book, moreover, that reminded the scholarly public of Grabmann’s observation that ‘practical ethics’ was a distinctive category of scholastic thought in this period.[[41]](#footnote-41) *Masters, Princes and Merchants* has not been superseded; subsequent works have focused on narrower themes in late twelfth century and thirteenth century moral thought, delivering deeper insights within the narrative of Baldwin’s survey.[[42]](#footnote-42) Ian P. Wei and Elsa Marmursztejn could also be seen as successors to Baldwin. Like him, both discuss medieval practical ethics as such, but they focus on a different milieu, the late thirteenth century Paris theology faculty. Their methodology of juxtaposition is very similar to Baldwin’s, and like him, they draw attention to the feet-on-the-ground quality of the masters’ moral interventions.[[43]](#footnote-43)

A second kind of history of medieval applied ethics started with the work of Pierre Michaud-Quantin and Leonard Boyle, who investigated the popularisation of moral and sacramental theology in the thirteenth century. They both produced a catalogue of pastoral literature, but Boyle engaged in more sustained thought about the intentions and agendas of the authors and compilers of these works.[[44]](#footnote-44) He pointed out how important the development of new literary genres was for the diffusion of ideas: it was the appearance of new kinds of confessors’ manuals and pastoral guides in the late twelfth century that gave new energy to the agenda of reform.[[45]](#footnote-45) Others, including Boyle’s own students, have continued to investigate this kind of popularisation and have published editions of medieval confessors’ manuals.[[46]](#footnote-46) Rather than unpack the thought itself, this research is principally interested in the effort made in this period to roll out education in the church to priests, confessors and lay people – the ultimate aim was of course to equip a larger percentage with a chance of salvation. It is therefore as much a narrative about how the pastoral teachings of the inter-conciliar years were put into action as about the diffusion of an intellectual movement.

The two branches are complementary ways of describing the same family of sources; the John Baldwin, Beryl Smalley and Ian Wei ‘camp’ presents the main characteristics of the moral thought, whilst the Michaud-Quantin and Boyle ‘camp’ gives an account of the means by which this style of teaching reached a clerical and mendicant audience. This study combines these two lines of investigation. I follow in the footsteps of John Baldwin, in that, limiting myself to lying and perjury, I describe the thought of Peter the Chanter and of those who followed in the casuistical tradition. I do so particularly in chapter three. The thesis also builds on Boyle’s work, in that it studies how thought about lying and perjury spread from discussions among theology masters out to the lower clergy by means of confessors’ manuals, and back into the theology faculty via quodlibets. This comes in chapters four and five.

My research also follows a third tradition in medieval scholarship in that it makes an argument about the quality of thought. Some historians have sought to write not only a history of the content of scholastic thought, but also to define its method and aspirations. Martin Grabmann in his *Geschichte der scholastische Methode*, described the scholastic project as the use of reason in order to bring human knowledge closer to supernatural truth.[[47]](#footnote-47) He studied the early scholastic authors not so much for what they contributed to the substance of Christian philosophy but for the various ways in which they treated their sources and made inferences, in the pursuit of doctrinal knowledge. R.W. Southern’s *Scholastic Humanism* was in some degree its successor. Southerndid not only concentrate on method, although he took an interest in the means by which scholastics drew their conclusions. His primary subject was the aspiration that, he argued, drove scholasticism: to systematise and complete knowledge using human reason, and thus restore the level of human knowledge to what it had been before the fall. He seems to have agreed with Grabmann that scholastics used critical reasoning, especially applied to authoritative texts, as the means to this humanist endeavour. Riccardo Quinto evaluated these definitions and proposed a corrective intended to make the definition work for all the scholastic disciplines: what they had in common in his view was a certain way of reading the fundamental texts.[[48]](#footnote-48) He characterised this way of reading as objective (i.e. distinct from monastic-spiritual reading), scientific or analytic (in that it focused on the compatibility of single assertions), and as an approach in which a text was valued simply as a ‘carrier of truth’ (i.e. it was not an historically-informed or poetic reading).[[49]](#footnote-49) The most recent study of scholasticism as a method has been Alain Boureau’s three volumes on *Raison scolastique.* Boureau’s reading of medieval texts is deliberately subjective and avoids any narrative that flattens out the individuality and contingency of scholastic writings. His account does however tend to show scholastics reasoning outwards from a text, not, as in Grabmann and Southern, in order to rebuild human knowledge completely, but in a series of psychoanalytical explorations.[[50]](#footnote-50)

My project follows these investigations of method and intention, but centres on the single discipline of casuistry. It is something of a limiting case for the definition of scholastic method. Casuistry had the same underlying pastoral motivations that Southern noticed was at work behind the entire period’s theology. It was an enquiry based on disputation and used reason to resolve apparent contradictions in doctrine. It meets Quinto’s criteria of objectivity and analysis. Yet analysis of key texts and their contradictions was not the starting point. Casuists used authoritative texts, but these were not the object of interrogation – moral dilemmas were the subject of the enquiry. The situations themselves were sometimes taken from the Bible, a patristic source or a papal decretal, but could also be inspired by real penitential cases or imagination – the origin did not make any difference to the enquiry. Casuistry dealt with cases not as carriers of an unchanging truth, but as prompts to reason out contingent solutions to specific problems. It was thus a more empirical discipline than most others described as scholastic. In addition to setting out the content and diffusion of thought about lying, therefore, this thesis contributes an investigation of the method of an exceptional sub-discipline of scholasticism.

My argument is this: that the casuistry of lying and perjury was a unified discipline across a number of genres of writing in the thirteenth century; in moral-theological *summae* of the school of Peter the Chanter, in pastoral literature and in certain strands of later thirteenth-century theology. These authors had a way of treating the problem that shared a distinctive methodology and an underlying pastoral motivation; this affected the kind of ethical judgments they made. Previous discussions of medieval practical ethics have remarked a current of reforming intention and engagement with the world; I add that one manifestation of this agenda was the creation of specifically casuistical arguments. This study of lying and perjury will investigate the development and implications of a particular kind of moral reasoning.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

In the final part of this introduction, I shall give a fuller summary of my argument than what has gone just before. Before that, there is one further explanation to be made about concepts and terminology. I have said that the subject of this thesis is lying and perjury. This actually glosses over a number of moral problems. Lying always means a deliberate verbal deception, but perjury is more ambiguous; it can be a false assertion spoken under oath, a lying promise or vow, or the act of breaking one’s word, irrespective of the original intention.[[51]](#footnote-51) Under the title’s rubric, therefore, lurk a number of distinct moral issues. Although breaking a promise and swearing to a false statement can both be called perjury, and in fact were discussed under the same heading in the medieval treatises, the choices and motivations involved are rather different; one is about failing to honour an earlier obligation, the other deliberate deception by means of a falsehood. Therefore, I shall identify here three categories of moral concept which I will study in this thesis under the larger heading of lying and perjury. The medieval terminology largely coincides with this threefold distinction, but sometimes gets blurred.

The first category is deliberate verbal deception. This can either be in the form of a simple false statement (*mendacium*) or a falsehood spoken under oath (called either simply *periurium* or *periurium assertorium* to distinguish it from a false promise under oath). Medieval dilemmas about verbal deception enquire whether it is ever permissible to tell a lie or a perjury and whether the use of misleading language and equivocations are a permissible alternative to lying in an emergency. There are further questions about the extra sin involved in perjury, which must invoke God’s name in a falsehood. Second, there are questions about broken oaths and vows. In Latin this is also called perjury (*periurium promissorium* when it is explicitly distinguished from false assertions, although this can mean both lying promises and sincere promises that are later broken).[[52]](#footnote-52) The dilemmas under this heading concern the circumstances under which it is permitted to break one’s word, and the nature of the obligation implied in the words of an oath or vow. Again, there are queries about whether there is a special obligation to keep one’s word when under oath. Finally, there are problems about concealment and dissimulation (sometimes called *dissimulatio* in Latin, but there are cases where no technical word is used, or it is simply called a lie).[[53]](#footnote-53) These are cases where the moral decision turns not on whether actively to deceive, but whether to allow a misapprehension to continue, or whether to deliberately allow a person to remain ignorant of something that they would wish to know.

The distinction between these categories is not entirely rigid. Whether you think equivocation, for instance, is a question about falsehood or dissimulation must depend upon your moral attitude to ambiguous assertion. Some would claim that there is no distinction between dissimulation and lying in any case. Still, the stakes in each category are slightly different. Deliberate deception entails actively harming someone; the question is whether the harm is a necessary evil. Concealment does not have to involve actively spreading a falsehood, but it does raise questions about whether one has a positive duty to communicate the truth and whether people have a right to expect others to be open. Broken promises involve a mix of the necessary harm question and considerations about the formalism of adhering to an oath in the face of a substantive harm that will ensue from doing so. Conceivably one can make an oath in good faith, then find through a change in circumstances that the promise will harm all parties if carried through – the question is not about deception but ignoring a formal obligation. Nevertheless, all three categories have something in common: all three involve a transgression against what should in normal circumstances be immutable truths – whether this is an implicit fact, a false statement or a promise to do something. All three situations assume an explicit or implicit understanding between speaker and audience that the truth will be communicated or the promise kept, and a decision to break this convention. All involve failing to observe a verbal obligation for pragmatic reasons. There is, then, a family resemblance.[[54]](#footnote-54)

Therefore, my policy will be to treat these as identifiable strands of a single discussion. I will not give three separate accounts of how these problems developed in medieval pastoral literature, but treat them as parts of a single loose-knit debate. The concepts and solutions devised in each case have enough in common to be part of one intellectual history. Nevertheless, I will always make it clear which sort of dilemma is being discussed in any given instance, and identify what are the moral concerns in each case.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

So finally, we come to my central argument. In short, it is that the casuistry of lying and perjury entered the academic Western tradition at a certain moment. Peter the Chanter’s *Summa de Sacramentis et Animae Consiliis* was the breakthrough*.* Itwas the first work to put cases of conscience at the centre of a moral inquiry. By this, I mean that he did not elaborate on abstract ethical rules and concepts, but presented the reader with a series of concrete situations, such as a woman who must decide whether to reveal an adultery, or a hermit who must decide whether to break his vow in exceptional circumstances. He proposed specific solutions to these cases, which took into account a wide variety of circumstantial considerations. A number of the concepts associated with lying and perjury that the Chanter discussed followed from his case-by-case approach. His global intention was to provide a solution to real problems generated by confession and the dilemmas he discussed drew attention to situations where the normal rules appeared not to apply. The Chanter was aware that a priest must find a solution for such cases; the spiritual dangers were pressing, the problems were wide open as far as existing thought and legislation were concerned and an unsatisfactory answer was better than none. The *Summa* was written to meet a genuine pastoral need.

In the century following the *Summa,* the same cases of conscience were developed more fully in the pastoral tradition, with much the same intellectual agenda. There arose a coherent pastoral casuistry of lying and perjury which spanned several seemingly distinct genres and groups of authors. These were confessors’ manuals, theological quodlibets and ultimately the large *Summae de Casibus Conscientiae* of the late Middle Ages*.* Thus, the early-modern casuistry that was the cause of so many polemics follows in a direct line from the medieval pastoral tradition.

The thesis is bookended by two chapters on the significance of the casuistry of lying in wider medieval culture. It is all very well to identify a tradition of pastoral thought about lying and perjury: in order to gauge the importance and meaning of such a development, we need to get a sense of how this type of teaching slotted into its audience’s overall thought-world. I have two points to make: first, that thought about equivocation and oath-breaking is not inherently academic. The prominence of concepts like broken vows and equivocation in vernacular literature proves that the ideas were debated in the Middle Ages quite independently from the scholastic tradition. The only difference between everyday casuistry and academic casuistry of lying and perjury lay in the motivations that lay behind them. I shall show that popular casuistry involved idle (although intelligent) speculation about hypothetical situations, largely for entertainment. Pastoral casuistry, on the other hand, was developed with a real purpose and its conclusions would affect people’s lives. The higher stakes changed the significance. Second, that the academic thought was of specialised application for pastorally-minded clerics. In the final chapter, I look at a number of instances where medieval sources appear to use casuistry of deception and concealment for the kinds of reasons identified in the renaissance dissimulations, including *Realpolitik,* religious persecution and censorship. It will be seen that an explanation for casuistry of lying and perjury based on the self-interest of those who justified their broken oaths and equivocations is not convincing. A closer look at casuistry ‘in the real world’ cannot sufficiently explain away the avowed pastoral intentions of the Chanterian arguments.

All of this puts the *idées reçues* into an unfamiliar perspective: the medieval discussion of lying and perjury is at once similar enough to the ‘Jesuitical’ equivocations to be recognisably part of the same tradition, and different enough to make us reconsider what we thought we knew about the later tradition. As far as Pascal was concerned, equivocation and mental reservation were excuses to let people lie, and the Jesuits were rationalising their way out of moral standards. For Peter the Chanter and medieval moral writers, equivocation and dissimulation were not excuses for moral laxity: they were a response to practical problems that arose in the course of clerical ministry. It is an inescapable fact that, on occasion, it is not possible to keep one’s word or tell the truth without doing some harm. The experience of hearing confessions along with a current of applied penitential thought made this apparent to clerical intellectuals; their response was to develop a special branch of theology that could discuss compromise solutions and special measures. How should a cleric deal with a no-win situation, like that of the woman in Caesarius of Heisterbach’s story? How does he stay as faithful as possible to moral principles without ignoring the practical exigencies of the predicament? Peter the Chanter and the later medieval casuists proposed permitted concealment and equivocation as a solution to exactly this kind of problem. These were concepts that allowed theologians to render their moral teaching fit for the demands of real life.

**Chapter 1: The Idea of Equivocation**

The doctrine of equivocation and mental restriction is the principle that, whilst it is always sinful to tell an outright lie, in extreme cases, where a life or property is threatened, it is permitted to deceive a malevolent interlocutor. One can use words with double meaning, where the listener is expected to understand the false sense although the speaker intends a second, less obvious sense that is true. This is called an equivocation. Or, more controversially, one can use a mental reservation, in which the speaker adds a silent condition to what he or she says. The spoken words on their own would be false, but are true if understood with a silent condition. Linked to these two concepts was the idea that it is permitted, because of a foreseen circumstance or a conditional intention, to break a promise or vow. These doctrines became most famous in the Jesuit confessors’ manuals of the sixteenth and seventeenth century, but have their origins in medieval scholastic thought.[[55]](#footnote-55)

Influential polemicists from various camps have singled out these doctrines over the years as a means of attacking the Catholic establishment. The idea was lambasted in the seventeenth century by the Jansenists, who sought to discredit Jesuit confessors. Their criticisms proved so successful that they led indirectly to the banning of ‘pure’ mental reservation by Innocent XI in 1679.[[56]](#footnote-56) Even after the condemnation of this most controversial aspect of the doctrine (the part which said that a speaker could make a mental reservation where only the speaker could possibly guess the implicit condition), there remained a lively English Protestant tradition of anti-Catholic polemics focussing on equivocation. This had started as public attacks on the validity of oaths of allegiance from Catholics, particularly in the wake of the gunpowder plot.[[57]](#footnote-57) Even through the nineteenth century, Anglican polemicists, the Rev. Richard Paul Blakeney, George Maxwell and Frederick Meyrick for example, seized on the (elsewhere uncontroversial) teachings on equivocation, mental restriction and oath-breaking of Alfonso Maria de’ Liguori to impugn the Catholic church of permitting deception. It was in answer to these polemics that John Henry Newman devoted a section of his *Apologia Pro Vita Sua* to defending Catholic moral theology and Catholics in general from the accusation of deceitfulness.[[58]](#footnote-58)

A common thread through these writings was the charge that the doctrine is an intellectual perversion, a confection of academic reasoning, and the opposite of common sense morality. In his *Lettres Provinciales*, the bestselling and most famous vehicle of the Jansenist attack on the Society of Jesus, Pascal engages his reader with a comic dialogue between the Jesuit father on one hand, eager to share the ingenious doctrines of his scholarly brothers and incapable of making a statement without quoting from his hefty Spanish volumes of dubious moral theology, and the simple provincial Louis de Montalte on the other, who is continually amazed at the obvious bad faith of the opinions presented to him. In the ninth letter, the Jesuit quotes the moral theologian Escobar that ‘you can swear that you have not done something, which in fact you have done, understanding internally that you have not done it on a certain day, or before you were born, or silently understanding some other similar circumstance, without giving any indication in the words that are spoken out loud of this internal condition’. The provincial exclaims that that would be a lie and a perjury. Moreover, the Jesuit pursues, promises only are obligatory when one intends to bind oneself. All promises made without an oath or contract must implicitly mean ‘I will do it if I do not change my mind’, and so cannot be binding. If the simple provincial doubts this opinion, the Jesuit goes on, he can see that it is properly footnoted to no less an authority than Luis de Molina (a recent Jesuit scholastic and bugbear of the Jansenists).[[59]](#footnote-59) Pascal pushes his point in every aspect of this drama that the Jesuits are so caught up in disingenuous scholarly discourse that they have forgotten the teachings of the Bible and of Saint Augustine.

Comparable accusations ran through Protestant polemics against equivocation in England; they claimed that equivocation was an innovation by modern theologians against the spirit of the Gospels and that it was a pretext for corrupt practices in the confessional box, particularly, the dissimulation of crimes. The Rev. Blakeney in his polemic *Saint Alphonsus Liguori*, emphasised that Liguori’s teaching allowed a confessor to swear that he has no knowledge of a sin revealed to him in the confessional, an accused defendant to deny crimes of which he is guilty if he thinks he is not justly interrogated, and an adulterous wife to swear her innocence equivocatingly to her husband. The polemicist concluded that Rome sanctioned perjury and adultery as a point of religion and that any denial of the doctrine of equivocation and mental restriction would itself be Roman dissimulation.[[60]](#footnote-60) In the next chapter he mocks Liguori’s teaching that promises and marriage vows need not be observed, whether one intended to fulfil it originally or not.[[61]](#footnote-61) He made a point of quoting in full Liguori’s own references to earlier casuists in an effort to emphasise the scholastic, institutional character of the doctrines.

Such polemicists were naturally more interested in turning their material to maximum sensation than in engaging with the motivations of the casuists. Discussions of equivocation in a more academic forum offer a less heated account of the rise of these doctrines; nevertheless, one aspect of these earlier polemics, the assumption that the concept of licit equivocation and mental restriction was an invention of the Catholic establishment, has passed into modern scholarship. Henry Charles Lea, influenced by protestant sympathies, echoed the nineteenth-century polemicists in assuming that the origin of mental reservation was the institution of the seal of confession.[[62]](#footnote-62) Henry Sidgwick assumed that the doctrine could only be the product of an authority-obsessed scholasticism in ‘double bondage to Aristotle and to the Church’.[[63]](#footnote-63) More recently Zagorin in his *Ways of Lying* situated the development of casuistry of concealment in the academic culture of the sixteenth and seventeenth centuries. ‘For such keen and subtle minds,’ he says, ‘the more difficult, bizarre, and extreme were the cases they analysed, the greater their satisfaction, since the better they could exercise their ingenuity.’[[64]](#footnote-64) Even the author who most explicitly defends mental restriction and equivocation, Johann P. Sommerville, does so on the grounds that these were philosophical theories attempting to form rational explanations for occasional licit deceptions.[[65]](#footnote-65) In so doing, he concedes that the concepts existed at a remove from popular culture and everyday morality.

In sum, although the early modern doctrines of equivocation, mental restriction and oath-breaking have received a fair amount of serious scholarly attention, an important aspect of the earlier polemics has proven hard to shed, namely, the idea that just equivocation is counter-intuitive and the sort of argument that only an academic, and more specifically a scholastic, could devise. Whilst there is no longer the suspicion that the doctrines were devised in order to facilitate corrupt institutions, the conviction persists that equivocation and mental restriction are contrived propositions and thus the preserve of lawyers and philosophers.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

This is a contention worth questioning. There is no obvious reason why we should assume that the idea of equivocation is so unnatural and there are several good reasons why we should take it seriously. For one, moral judgements are subjective. Just because equivocation seems to us ‘a desperately shifty attempt to rearrange the boundaries of what counts as a lie’,[[66]](#footnote-66) there is no reason to assume on that basis that the early modern and medieval advocates of the doctrine were acting in bad faith or against their true moral feelings. The wide variety of moral views that have existed in the world should caution us at least initially to give the doctrine the benefit of the doubt.

It is worth noting further that even in our own culture the idea of equivocation is not entirely alien. Even if we ignore the evasive language used in high-stakes legal contexts (Bill Clinton’s language about his relationship with Monica Lewinsky, controversial redefinitions of torture during the Iraq war), since these instances are questionable and restricted to the rich and powerful, smaller uses of evasive language are a recognisable feature of life. Kant (in one of the more grounded parts of his moral theory) brought up the casuistical question of an author who asks, ‘How do you like my work?’ and proposes that one could give an evasive answer by joking about the impropriety of such a question.[[67]](#footnote-67) He also pointed to modern cases of mental restriction (although he did not identify them as such) when people sign their letters with a polite formula such as ‘your obedient servant’, and servants are required to tell visitors that their employer is not at home, meaning that the householder is not at home to visitors.[[68]](#footnote-68) If this kind of half-truth is familiar to us, without having to refer to a theory of ethics, then we should reconsider whether the medieval theory of equivocation was purely a bookish invention.

In the Middle Ages, not only confessors and those involved in enforcing moral rules on the Christian faithful took an interest in what one should do when faced with a difficult situation. The theme of necessary concealment appears in saints’ lives, poetry, stories, and histories. Since these other genres are not explicitly normative in the way that a confessors’ manual is, and since they existed at a remove from the world of doctrinal debate, we may wish to consider whether equivocation is such an intellectual stretch as its later commentators suggest. It may be possible to situate the theory of equivocation at a deeper cultural level. In what follows, I offer a selective survey of thought about equivocation outside the academy. I will consider cases which deal with equivocation properly speaking, that is, the use of ambiguous language with intent to deceive, as well as cases which deal with the associated idea of justifiable oath-breaking. As we shall see, these ideas were popular, as much for their dramatic potential as for ethical reasons. This fact must nuance the way we understand the academic ethics of lying and breaking one’s word – equivocation turns out not to be as strange as its opponents have claimed.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

The idea of equivocation goes back in the Christian tradition to the formative writings of the fourth and fifth centuries. In the early church, beliefs about lying were very different from what they would become in the later Middle Ages. From the twelfth century on, the majority view (and this became almost unanimous after the mid-thirteenth century) was that lies are always morally wrong to some degree, whether or not the false words were uttered with a benevolent intention, or even in order to save a life.[[69]](#footnote-69) Thomas Aquinas, Peter Lombard, Gratian, and countless moral treatises agreed that language was instituted by God for rational humans alone so that they could communicate their thoughts.[[70]](#footnote-70) To voice deliberately deceitful words was a perversion of this faculty and inherently sinful. These theoretical views were remarkably stable throughout the Middle Ages, and were never directly contradicted even by the supposedly laxist Jesuits of the seventeenth century.

By far the most common attitude of early patristic writers, on the other hand, was a utilitarian one. If a lie could bring about a good result, then as far as the fathers were concerned, it was spoken above board. To name only a few examples, a story told in praise of Eusebius of Vercelli had the bishop pretending to be a heretic in order to snatch his son back from their clutches; Origen thought that it was better for a widow to be deceived into believing that marriage brings damnation in order to discourage her from remarriage, rather than tell her the truth and permit her to choose the less holy station. On the issue of breaking one’s word, Cassian was advised, when he was visiting the Egyptian ascetics, having promised to return to his monastery in Palestine, that, since his spiritual development would be hindered more by leaving the desert than by breaking his promise, he was justified in choosing the path of lesser harm – the elder monk offered a moral justification for breaking promises, arguing that that the good intention justifies the act.[[71]](#footnote-71) The turning point in Western Christian ethics of lying was Augustine and his two treatises *De Mendacio* and *Ad Consentium: Contra Mendacium*. For various polemical and theological reasons, Augustine insisted that lying was always wrong, no matter what mitigating factors may be brought to bear.[[72]](#footnote-72) His teaching proved by far the most influential patristic source on all subsequent Latin discussions of lying.

Given this earlier patristic culture which permitted deception, it is perhaps unsurprising that many saints’ lives that date from this period include scenes in which the saint deceives his persecutors. In the moral climate before Augustine, such stories presumably had no shock factor, and, as we have seen, the ability to make a prudential judgement was something that these early Christians made a point of praising. Strikingly, however, the early hagiographers drew a distinction between outright lies and equivocation; several stories have episodes in which a saint tells an equivocation rather than a falsehood.

When Athanasius was fleeing in a boat along the Nile, during his fourth exile under the emperor Julian, his persecutors caught up with him, and asked him and his disciples whether they had heard where Athanasius was. The saint replied that he had seen him in flight not far from there, and the soldiers set off at full speed in vain. Athanasius was able to return to Alexandria.[[73]](#footnote-73)

At one point in the life of Eustathius, the saint, formerly a Roman general called Placidas, has lost his wife to pirates, and (he believes) his two sons have been eaten by a lion and a wolf. He is living humbly and anonymously in a remote village. Two soldiers arrive, who have been sent by the emperor to find Eustathius and recruit him back to the Roman army. They ask him whether he knows a foreigner called Placidas with a wife and two sons. First he asks why they want to know, then says that he does not know such a man there since he is the only foreigner in these parts. Later as they eat dinner with him, the soldiers recognise him from a scar on his head, and force him to confess his real identity.[[74]](#footnote-74)

The common thread in these two stories is flight. Both saints are sought out by authorities. Both have good reason to wish to remain hidden. These episodes allow the protagonist to keep the moral high ground but also to outwit his adversaries. Within the plot of the saint’s life, these are warm-up episodes before a head-on and, in Eustathius’s case, fatal clash with a persecutor. In the Athanasius story, the equivocation is intended to entertain; the saint is playing with his adversary before the serious business of polemic gets into swing. In the case of Eustathius, the equivocation is a measure of the saint’s humiliation. He has lost his wife and children, his place in the world and even his identity; his claim not to know Placidas is in a deeper sense true.

In another story, Saint Lawrence was a deacon in the Roman church. Decius, the prefect of Rome, demanded that Lawrence hand over the wealth of the church. Lawrence asked for three days to gather the wealth, and in that time sought out the Christian poor and distributed all of the church’s wealth among them. Three days later, when Decius ordered him to give up the treasure, he presented the poor and said that these were the treasures of the church. The act led to Saint Lawrence’s martyrdom.[[75]](#footnote-75)

Saint Thomas the Apostle was sent to India as an architect for the king. The king’s agent gave him a large sum of money in return for building a palace. Saint Thomas distributed the money to the poor, and told the emperor when called to account that he had built a heavenly palace for the king.[[76]](#footnote-76)

These two equivocations introduce another element to the theme. The apparent deception of the emperor is a means to making a religious point. Both emperors are only interested in worldly riches, the stories say, but are unable to perceive the true value of Christian piety. Neither saint is explicitly in danger when he commits the deception; neither is faced with a moral dilemma, but instead chooses to misinterpret his instructions in order to evangelise. The saints outwit the emperor in a sense, but the point is not evasion but confrontation with a mystical truth. It is nevertheless important in these two stories as much as in the first two that the saint acts with moral integrity; he does not actually steal or misappropriate the emperor’s treasure nor does he contradict the words of his promise; he is as good as his word but in an unexpected sense.

These saints’ lives lived on particularly in the tradition of *legenda* and hagiographical writings, which were read out in monastic houses.[[77]](#footnote-77) The tradition dated back to the sixth, but flourished particularly during the ninth to thirteenth centuries.[[78]](#footnote-78) From the thirteenth century, the stories reached a wider audience via abbreviations and summaries of saints lives produced for preachers.[[79]](#footnote-79) Moreover, from the twelfth century, many of these stories were translated into the vernacular. In the late twelfth century, Simund de Freine, a canon at Hereford, wrote a *Life* of Saint George, which used holy deception as a plot device.[[80]](#footnote-80) The Emperor Dacian holds a council to deliberate measures to be taken against the Christians. George, a Cappadocian knight, declares his Christian faith and a series of tortures and diatribes ensues. In a climactic scene, George agrees to worship the pagan gods.[[81]](#footnote-81) Simund makes it clear that the promise was actually only a ruse and a clever publicity stunt:

He wanted the people to see that it is mad to worship the devil. He wanted it to be understood how the public were deceived. He brought many people with him – two thousand five hundred men. In order to gather a large crowd, he continued to promise by ruse and trickery that he wished to make the sacrifice.[[82]](#footnote-82)

The next day, George, instead of sacrificing to Apollo, forces the devil within the statue to show himself. The people are disgusted by his ugliness; George reproaches him before the demon is swallowed into the earth.[[83]](#footnote-83) As with Athanasius, the temporary deception is justified by the saint’s long-term achievement. By his ruse, George converts a crowd and tests the virtue of the characters he has converted earlier in the story. There have been many scenes in which George harangues the emperor on the Christian faith; there is no implication that the saint is concealing doctrine.

The French *Life* of Juliana employs a device of didactic equivocation similar to those in the stories of saints Lawrence and Thomas the Apostle. A prince courts Juliana, but she replies that she will not marry him ‘until you first become a chancellor in the service of our supreme king’.[[84]](#footnote-84) The prince leaves for Rome and has himself knighted and rewarded by the king. When he returns, Juliana’s father begins to prepare for a wedding, but she reveals that her only husband will be the heavenly king, Jesus Christ. Juliana’s initial words must only have been intended to show the disparity of understanding between herself and her suitor. He assumes that she meant the worldly king, whereas she can only perceive a mystical king and husband, quite separate from the pagan world around her.

In both cases, these episodes were taken directly from antique sources. Their transmission to the saints’ lives in French indicates that the idea of holy deception and word-play was accessible to a wider rangeof readers*.* A larger section of the membership of religious houses would have understood these vernacular stories, and they may have reached an audience of lay people.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

The morality of saints is not ambiguous. If these popular stories showed them using deceptions in order to confound their pagan persecutors, then there was no question but that their equivocations were holy. For the sake of defending the church, equivocation and, actually, other deceptions were permissible, even admirable, expedients. On a literary level, the inclusion of an equivocation story was a means of establishing a rapport between the saint and the reader; the audience could feel in on the joke at the expense of the slow-witted pagan.

Equivocation and broken oaths were a popular theme in secular literature no less than in hagiography. Authors engaged in similar moral dilemmas to those that appeared in saints’ lives, and showed their protagonists using deceptive words to sidestep confrontations with their opponents. Demonstrably, equivocal oaths had a special place in the consciousness of secular vernacular culture around the twelfth and thirteenth centuries, but here the moral status of deception was less obvious than in saints’ lives. Like hagiographers, the authors of secular romances and epic used the device of clever evasions to win the audience’s sympathy, but they were not always willing to provide unambiguous moral endorsement either to equivocation or oath-breaking. More explicitly than the earlier saints’ lives, they sometimes encouraged their reader to question the casuistry involved in the decision.

This is truest of the early thirteenth-century *chanson de geste,* *Ami et Amile*, which tells the story of two companions, identical in appearance and manners, who engage in an equivocating judicial oath. The narrative hinges around the problematic decision to deceive Charlemagne’s court. Very important is the contrast drawn between an equivocating oath, which seems to be met with approval, and an outright perjury, which is more problematic.

Ami and Amile are born and baptized at the same time, sharing the pope Ysoret as godfather. Although unrelated and brought up separately, they are similar in every way. After a series of missed connections, the companions are reunited and go together to Charlemagne’s court. They win the king’s esteem by their prowess in battle, but are envied by the guileful courtier Hardré. After an unsuccessful attempt to have the companions killed, Hardré gives his shrewish kinswoman Lubias as a wife to Ami and peace is temporarily restored. Ami has a son and leaves court for his estates at Blaye, warning Amile as he leaves to beware of Hardré and not to be tempted by Charles’ daughter Belissant. Belissant, however, disguises herself and steals into Amile’s bed. He sleeps with her, only realising too late who she is. Hardré, in the next room, hears them and denounces Amile to the king. Amile counters the accusation evasively: ‘Sire this is a grave charge. May a hundred curses fall on the face and nose of the man who accuses me, if he fails to prove its truth!’[[85]](#footnote-85) It is decided the matter should be decided by judicial duel. The queen offers herself and her children as hostages for Amile, and the combat is delayed seven months on Amile’s request. He is saved in the nick of time from swearing an oath to fight the duel, when the queen decides to trust him to return.[[86]](#footnote-86)

Amile rides out to find Ami. The companions meet in a meadow and agree to switch places. They exchange clothes. Amile goes to Blaye, where he feigns illness to avoid sleeping with Ami’s wife, and Ami sets out for Paris. At the duel Hardré grabs Ami by the hand and swears he found him in bed with Belissant. Ami swears on holy relics that he has never slept with her. They fight and on the second day Ami kills Hardré (to Belissant’s surprise since she thought Hardré was telling the truth). Charles immediately offers the victor his daughter as wife. Ami tries to make an excuse to go to Blaye first, but Charles, worried that Ami and Amile might plan a rebellion, insists that he go straight to Paris and pledge to contract the marriage. As Ami reluctantly makes the promise, an angel descends and reproaches Ami for consenting when he already has a wife; as punishment he will become a leper. The whole court travels to Blaye, and Ami and Amile manage to switch places again just before the marriage of Amile and Belissant. Ami tells his wife that his illness has gone and that they can sleep together again.

The later part of the story concerns the consequences of Ami’s perjury. He becomes a leper and lives in poverty outside his castle, persecuted by his malevolent wife. Eventually he travels to Amile, who recognises him with difficulty and cares for him. An angel reveals to Ami that he can be cured if Amile kills his own children and bathes his friend in their blood. Amile agrees and carries out the shocking act. Sure enough, Ami is miraculously healed. Amid the general rejoicing at Ami’s recovery, Amile confesses the means by which it was achieved. Belissant, the mother of Amile’s children, is the first to reach the boys’ room and finds her children miraculously restored to life. Ami and Amile go on pilgrimage to the Holy Land, and on the return journey meet their end.

The importance of the equivocation in this version of the story can be gauged by comparison with an earlier Latin prose rendering.[[87]](#footnote-87) All of the significant changes that have been made to the earlier account are designed to put extra pressure on the moral decision. In the older Latin version, Amile is not tricked into sleeping with Belissant – he does so voluntarily and then tells Ardericus (i.e. Hardré), who has become his new companion in Ami’s absence. Moreover, the Latin author does not go to such lengths to demonstrate what a bad type Ardericus is. The *chanson de geste* has an episode where Hardré first tries to persuade the emperor to send Ami and Amile away from court and then plots that they should be killed in battle. This establishes that Hardré is jealous of the pair and would do anything within his power to bring them misfortune. Thus, in the *chanson de geste* several mitigating factors have been introduced in favour of the deception of Charlemagne’s court. When Ami agrees to change places with Amile, the audience knows that Amile is only involuntarily guilty of the crime for which he stands accused.[[88]](#footnote-88) It has been made clear that Hardré is motivated by jealousy and would by fair means or foul rid the emperor’s court of the pair. Thus, unlike in the Latin prose version, it could plausibly be claimed in the *chanson de geste* that Ami has justice on his side as well as loyalty to Amile when he undertakes the deception.

The Latin author does not explicitly ascribe Ami’s leprosy to his sinful behaviour, although he does state that it is a punishment sent from God:

But God struck Ami, as he was living with his wife, with the disease of leprosy, so that he could not leave his bed, according to that which is written: God corrects, chastises and castigates every son whom he receives. [[89]](#footnote-89)

Moreover, for the Latin author, it is the falsehood in the judicial duel that counts. He has Ami regretting the choice at the moment he swears:

Alas for me, who so fraudulently desire the death of this count! For I know that if I kill him, I will stand guilty before the final judgement, but if he takes my life, evil will be spoken of me for ever.[[90]](#footnote-90)

The marriage promise, on the other hand, goes without comment.

The *chanson de geste* saves the monologue of self-censure for the marriage contract. After Ami has unsuccessfully tried to avoid the oath, he prays:

Counsel me, Father of all the world! I already have a wife, whom I took with the consent of my peers, and no knight in the world has one more beautiful. If I now take a second wife, God, what will become of me? I will swear in the name of my friend; I will do penance for it to the very end, and my wife will never know.[[91]](#footnote-91)

Ami tries once more to get away to Blaye before he swears, but the emperor objects. He then tries to swear equivocatingly:

The count said, ‘Then I will swear with trickery. – Since you wish it, I shall take my oath before your daughter. So help me God and the holy relics which are set out on this cloth, one month from today, if God grants me to live, she will be, by His command, taken in wedlock and married.’[[92]](#footnote-92)

This is too vague for Charlemagne, who insists that he swears that *he* will marry her, and so Ami swears unwillingly. Immediately the Angel comes down and chastises him, and explicitly says that Ami will be afflicted with leprosy because he pledged marriage.[[93]](#footnote-93)

In the *chanson de geste,* the false marriage oath presents a genuine dilemma. Having killed Hardré to clear his friend’s name, Ami can hardly reveal his true identity, nor can he avoid swearing the oath without betraying his friend. There is no good course of action in the circumstances. All of the dramatic interest turns on this moral ambiguity. Some critics have been reluctant to attach much weight to the casuistry in this passage.[[94]](#footnote-94) The tendency has been to read the leprosy as a punishment for both the equivocating judicial oath and the marriage pledge. This is to disregard the care with which the author has detailed the different stages of the heroes’ moral choices. Scrupulously, Ami and Amile try to limit the consequences of their one big deception; they mince their words to avoid outright perjury, take steps to make sure that neither sleeps with the other’s wife, Ami tries to duck the marriage vow, and when he does make the false vow, willingly accepts his penance. The text takes the morality of deception and equivocation seriously; it clearly does matter whether Ami tells an outright lie or prevaricates.

Nevertheless, it would be wrong to conclude from this reading that, for its thirteenth-century author, equivocation was to be encouraged whilst perjury was anathema. If Ami and Amile’s decision were uncontroversial or morally safe, the story would lose all its interest. The friends are faced with an impossible situation and make a very questionable moral decision; the author of the *chanson de geste* acknowledges this. He makes drama out of it, by incrementally escalating Ami’s transgressions as the story progresses. The false marriage oath is clearly a moment when Ami crosses a line, but he has been skirting close to it ever since he changed places with Amile.

In fact, the seriousness with which the author of *Ami et Amile* discusses the question of equivocation is unusual in *chansons de geste.* Other equivocation scenes use the device purely for entertainment. The relatively late thirteenth-century poem of Adenet le Roi, *Berte as grans piés*, for example, deals with the slightly different moral problems of broken vows and concealment, including some comic equivocation scenes.[[95]](#footnote-95) Adenet is inconsistent in the way he presents the morals of the case. His interest in vows and concealment proves to owe more to its dramatic potential than to the ethics involved.

Berte is a princess of Hungary who has been married to King Pepin. Her evil servant, Margiste, betrays her, substituting her daughter Aliste in the royal marriage bed and sending Berte to be killed in Le Mans. Berte escapes and passes a frightening night in the woods, at the end of which she vows that she will never reveal that she is married to the king, unless it is to protect her virginity. She is rescued and taken in by Simon and Constance, telling them that she is the daughter of a merchant. She stays with them for nine and a half years, but eventually Pepin discovers the servant’s crime, and word spreads that the real Berte was last seen in Le Mans nine years earlier. Simon and Constance ask Berte whether she is the queen, and she answers evasively. Eventually Pepin meets Berte while hunting and falls in love without recognising her. After a series of ruses and misunderstandings, they are reunited.

Superficially the story could be read as a testimony to the importance of keeping vows to the letter. Berte remains stubbornly anonymous rather than prove false to her promise. She uses misleading language to her guardians in order to keep her identity secret. In fact, Berte’s inconsistency reveals the vow as something of a McGuffin. Much of the plot hangs on Berte sticking to her vow against a series of temptations to break it, but Berte actually forgets some important aspects of it. The original vow was to keep her identity secret, to remain a virgin and to go from house to house begging.[[96]](#footnote-96) The latter resolution falls by the wayside, and when she finally meets Pepin and reveals her true identity, he only very implicitly threatens her virginity by asking to marry her. In the end, she tells the truth very willingly. The device of the vow keeps Berte out of the picture while her avaricious impersonator bankrupts the kingdom.

On the separate question of evasive language, moreover, Berte is not motivated by any desire to avoid falsehood; she has been lying to Simon and Constance throughout by telling them that she is a merchant’s daughter. The scene is included for the fun of appreciating Berte’s wit while Simon and Constance remain in the dark. She turns their inquiries back on them with her own questions laden with irony:

‘Simon’, she says, ‘sir, if I were the queen, why would I hide it? I would be a fool to do so. If it pleased God that it were true, I would be well pleased! You can rest assured that I would prefer that to staying in these woods. I would be mad if I were queen and hid the fact from you. There would be no sense in it if I banished myself here; I would be really stupid to lie to you about this.’[[97]](#footnote-97)

Adenet includes a series of scenes where either Pepin or Berte is in the dark, and the other practices a benevolent deception; in each case, it is the entertainment value rather than a moral question that drives the action.

Having expressed these doubts about the importance of moral dilemmas in this *chanson*, there is one point about equivocation that can be made. Woven into the narrative, there is an assumption that it is worse to break a vow or a promise than it is to tell a lie in normal circumstances. Berte’s lies to Simon and Constance are not picked out as a moral issue by Adenet, but he does draw attention to the piety with which Berte holds to her vow. This rule is born out in *Ami and Amile*; Amile is careful not to swear a false oath that he is innocent of sleeping with Belissant, or that he will return to fight the judicial duel himself, but he does lie to Lubias in private about why he must not sleep with her. Judicial oaths and vows are held to a higher standard.

Turning back to misleading language more generally, there are any number of famous equivocations and deceptions in romance, many associated with an adultery; Tristan and Isolde’s deceits in the Cornish court, Guinevere and Lancelot’s in the Arthurian, are some of the most famous episodes in the whole tradition. Equivocation is thus no less a feature of romance than *chanson de geste,* although the way in which moral dilemmas are presented in the two genres reflects their distinct interests. The equivocation in *Ami and Amile* is set up as a conflict between legal procedure, harnessed to the interests of a traitor, and loyalty to a companion; it is a drama about political relationships and the rules of play in Charlemagne’s court. In romance, on the other hand, dilemmas about deception often involve a heterosexual love relationship of ambiguous status. *Berte as grans pies* in fact stands between the genres. Although the first part of the poem treats the marriage between Berte and Pepin and its subversion in a manner typical of *chanson de geste* (Adenet foregrounds the desirable political links between Hungary and France following from Berte’s marriage, as well as the wide-ranging economic and diplomatic consequences of the servants’ fraud), the second half is more romantic. The story’s interest lies in the difference between appearance and reality; Berte appears to be a pretty maid, but is actually the queen, Pepin is thought to be no more than a promising suitor, but is in fact the king; the punch line is that they are already married to each other. The deceptions in the plot exploit the difference of perspective between Berte, Pepin, and Simon and Constance.

Typically in romance, episodes of deception play on the tension between ethics as they are publicly perceived, and the particular circumstances of the couple in love.[[98]](#footnote-98) This can be seen in the familiar Tristan legend. In Béroul’s *Tristan,* Yseut swears an equivocating oath to prove her innocence of adultery.[[99]](#footnote-99) In the famous episode, she has Tristan disguise himself as a leper and appear at the place where she is to swear the oath. He jokes with the members of the court as they arrive and carry them over the marsh. Yseut orders the ‘leper’ to carry her on his back. When she swears the oath, her words are that she has not had any man between her legs except for the leper who carried her over the ford and king Marc her husband.

Under normal circumstances, surely, this deception would be highly immoral, but Béroul gives some indications that the equivocation should be seen as a self-conscious moral decision. Tristan and Yseut’s adulterous relationship was in some sense involuntary because they unwittingly drank a love potion intended for Marc. This made them fall blindly in love for a period of three years, but, we are told, thereafter the potion ceased to have any effect. At that point they repent, cease the adultery, and ask a hermit in the woods for advice. He advises that they regain their position at court ‘by a good lie’.[[100]](#footnote-100) Tristan writes a letter to Marc claiming falsely that there was never an improper relationship, and offering to prove it by judicial duel. As expected, no one dares to take Tristan up on the offer, and Marc sends him abroad to serve another king. Marc’s barons continue to blame Yseut and she proposes to swear the oath. Béroul therefore makes the case that both the deceptive letter and the oath are acceptable special cases, where the benefit of reassuring Marc’s court outweighs the irregularity of the action. He suggests that it should be seen as a prudential decision.

In complete versions of the romance, moreover, there is a suggestion that Tristan really is more deserving of Yseut than Marc, and perhaps more worthy to be her husband. It is Tristan who shows knightly prowess in Ireland to win the bride, and who brings Yseut back to Cornwall. Tristan and Yseut are similar in character and age, and both are able to pull the wool over Marc’s eyes by quick thinking. It is certainly Béroul’s intention that the reader should see a special connection between Tristan and Yseut, and Béroul encourages (or tempts) us, in line with the tradition of courtly love,[[101]](#footnote-101) to treat the couple as a special case, for whom normal moral rules can be stretched.

Some critics have seen *Tristan* as a demonstration of new ethical teaching of the twelfth century,[[102]](#footnote-102) or as a metaphorical re-imagining of the dilemma of an ecclesiastic at a secular court. C. Stephen Jaeger compared the tension between Tristan’s private love affair and the public role at court in Gottfried von Strassburg’s romance with the dilemma of a cleric who must combine a religious vocation with worldly concerns.[[103]](#footnote-103) Both situations necessitate deception of those fixated on mundane things, and Stephen Jaeger likens the patterns of thought involved in Tristan’s evasions and ruses with John of Salisbury’s advice to the courtly ecclesiastic to dissimulate and lie for the common good.[[104]](#footnote-104) Indeed a whole literary tradition, including John of Salisbury, Herbert of Bosham and other biographers of Thomas Becket made a topos of the moral justification of the principled cleric who deceives the court in which he serves.[[105]](#footnote-105) That is one context in which Béroul’s and Gottfried of Strassburg’s portrayal of the wily hero could be seen (the argument rests on the assumption that Tristan’s relationship with Yseut is comparable to a religious vocation). It is perhaps worth also keeping in mind the wider literary context we have seen, that tends to assume that outright lies are justifiable in the name of prudence, but which takes perjuries and broken vows more seriously. The Tristan story certainly falls in with this morality.

Nevertheless, there are many factors which complicate the issue, and suggest that, actually, questions about lying as a moral problem were not at the forefront of Béroul’s mind. It seems worth asking whether Béroul seriously presents the final equivocation as a sober decision, or whether it is intended simply as a source of entertainment. In the earlier part of the romance, when Tristan and Yseut are still under the influence of the love potion, there are a series of deception scenes that cannot possibly be considered as morally legitimate. In one, Yseut swears equivocatingly, ‘may God flail me if any other man apart from the one who took my virginity ever was my lover’.[[106]](#footnote-106) At the time, Marc is hiding in a tree in order to try and catch the couple in their adultery. Tristan and Yseut have noticed him and so elaborately deny any love for each other in a simulated meeting. In another episode, when Yseut and Tristan are living exiled in the woods, they realise that Marc may come and find them, and so deliberately sleep fully clothed with Tristan’s sword between them. Marc spies on them and erroneously concludes that the couple are living chastely.

Béroul makes it clear in this part of the story that there is no moral case for the adultery; the couple visit the hermit whilst still engaged in their adulterous affair. Yseut offers her excuses:

Sir, by omnipotent God, [Tristan] only loves me and I only love him because of a potion that I drank and he drank of too. That was our sin! That is why the king banished us.[[107]](#footnote-107)

But the priest has no time for her, as long as she continues to sleep with Tristan; ‘Never mind that! May God who created the world grant you a true repentance!’[[108]](#footnote-108) If Béroul’s views coincide with those of the priest (and he gives no obvious cues to suspect that they do not) there is not much room to claim that the couple are acting in good conscience either when committing adultery or in using these earlier ruses.

In that section, Béroul is not expounding a treatise on the casuistry of deception; he is offering a series of comic episodes – entertaining because morally questionable - in which the gullible Marc is taken in, and in which Tristan and Yseut are forced to draw yet further on their ingenuity to avoid the traps he lays from them. By this light, these stories are no more ethical than the deceptions of Renard the Fox.[[109]](#footnote-109) The audience can appreciate the cleverness of Tristan and Yseut in their efforts to avoid detection, and so are invited to put any ethical problems they have with the situation to one side. Given that the ruses in the latter part of the story are so similar to the earlier ones, there is cause to doubt whether Yseut’s second equivocating oath and Tristan’s lies in his letters are really meant to be seen as justified moral deceptions, rather than clever sophistry. Béroul leaves the question very open. Gottfried von Strassburg does not; he ironically comments about Yseut’s equivocating oath with the leper:

Thus it was made manifest and confirmed to all the world that this almighty Christ is as easily twisted as a sleeve. However you approach him, he fits in and adapts as compliantly and obligingly as truly by rights he should. He is prepared to help every heart for honest deeds or fraud. Be it earnest or a game, He is just as you would have Him. This was amply revealed in the astute Queen. She was saved by her fraud and by the evil oath that she sent up to God, so that she could preserve her honour.[[110]](#footnote-110)

He more explicitly calls into question both the idea of a good equivocation and Isolde’s claim to moral justification.[[111]](#footnote-111)

Chrétien de Troyes was more ethically-minded than Béroul. In many aspects of his poems he explicitly and implicitly picked out themes from earlier romances and recast them in a more serious mould.[[112]](#footnote-112) He revisited the themes of deception of a cuckholded husband and the use of equivocation to clear a queen’s name, but made a more sustained effort to argue the case for a good lie.

In *Cligès*, Chrétien sets up a situation that mirrors Tristan and Yseut’s dilemma.[[113]](#footnote-113) The Greek prince Cligès has been sent to Saxony by his uncle Alis to negotiate the terms of a marriage between Alis and the princess Fénice. Cligès and Fénice fall in love, and eventually embark on an adulterous relationship, having elaborately deceived Alis. Chrétien acknowledges the parallel with Tristan, but signals early on that his story should be taken more seriously. Soon after she has fallen in love with Cligès and before she has met Alis, Fénice states her intention not to sleep with two men like Yseut did:

I would prefer to be dismembered than for the two of us to recall the love of Yseut and Tristan, of whom so many acts of folly are told that it would be shameful for me to recount them. I could not consent to the life that Yseut led. Her love disgraced her too far, since her body paid rents to two men, whilst her heart belonged entirely to one.[[114]](#footnote-114)

Chrétien’s whole approach to Cligès and Fénice’s love affair is a thought experiment, in which he asks under what circumstances, if any, an adulterous relationship like Tristan’s could be redeemed. He sets up a moral dilemma in which he removes all of the most troubling aspects of the Tristan legend, so that the bare questions of adultery and deception are brought into focus.

Béroul included some excuses for Tristan and Yseut’s actions, principally the potion that deprived them of free will. Chrétien’s version ramps up the extenuating circumstances. He makes much of the suitableness of Cligès and Fénice: he is the most handsome knight in court and she is the most beautiful woman (ll.2681-2746). They fall in love at first sight, and Chrétien includes several lyric sections on the unconscious reciprocation of their love. Further, he establishes early that Alis is a bad lot. While Alexander, the true Byzantine emperor is away at Arthur’s court, Alis usurps his throne, and refuses to withdraw when Alexander returns. Counselled against war, Alexander strikes up an agreement with his brother that Alexander will rule the empire in fact whilst Alis retains the title, on condition that Alis swears that he will never marry and that Cligès will inherit. Alexander dies soon after and Alis is advised to take a wife. He sends Cligès to Saxony to negotiate his marriage with Fénice. By rights, Alis should not be emperor at all and he certainly should not be perjuring his promise not to marry. The narrative makes it clear that, in a just world, it would be Cligès himself who would be party to the prestigious marriage. When Fénice first hears who Cligès is, she assumes that she will marry him, since everyone knows about Alis’s vow. There is an implication that she does not properly consent to marriage with Alis.

When Fénice realises that, loving Cligès, she will be married to Alis instead, she decides with her nurse that a deception of Alis and, indeed, of the world is the only possible way in which she can retain her moral integrity. Her nurse supplies a potion that will make Alis think he has slept with her, when in fact he was dreaming. In this way, her marriage with Alis will never be consummated. Fénice is eager to point out that this deception will both reduce the culpability of sleeping with another man and put right Alis’s own sinful behaviour.

When [Alis] has power over my body, if he does anything, even against my will, it would not be right that I accept another. But he cannot marry a woman without breaking his word, and so Cligès will have the empire after his death, if no one wrongs him.[[115]](#footnote-115)

Later, they agree on the rest of their plan. Fénice will drink a potion that will make her appear dead. She will be buried, then Cligés will take her to a secret tower where they can live together retired from the world. Nothing short of feigning Fénice’s death will do, since, if they simply run away together, everyone ‘throughout the world’ will think that they are like Tristan and Yseut. This is unacceptable to Fénice, even though the presumptions would be false.[[116]](#footnote-116) The simulated death of Fénice would mean that no one will ever think to speak ill of her. Thus, Chrétien has eliminated as far as possible all of the moral objections that could be levelled against Tristan and Yseut’s exploits – the lack of chastity, the corruption of a royal court, the constant risk of discovery and scandal – saving the central questions of the justification of deception and adultery, when the unconsummated marriage is in law but not in spirit. He poses the question to his reader whether Cligès and Fénice’s break with normal morality is justified, given the earlier injuries that Alis has inflicted on them and given their special bond of love.[[117]](#footnote-117)

The answer is hard to fathom. Certainly, Cligès and Fénice get their happy ending: after successfully following through with their plan, they live happily retired from the world for a year and two months. Eventually, a knight out hunting discovers them. They run away to Arthur’s court and raise an army to attack Alis. Luckily, Alis dies of grief when he fails to catch the couple and Cligès returns as emperor, with Fénice as his queen. Nevertheless, some details belie the apparent success of the feigned death. The couple do not ultimately avoid corrupting the court. Despite their precautions they are discovered in the end and their adultery becomes known. The final words of the romance notes that the eastern empress has since been kept secluded from the male sex, since all Byzantine emperors fear to be treated as Alis was. The couple’s actions have created a bad reputation not just for Fénice but for all Byzantine royal women.

In another troubling episode, after Fénice has drunk the potion, Alis brings in some clever doctors from Salerno. They realise that Fénice is not dead, and try to force her to show signs of life. Their ministrations closely resemble the persecutions of a martyr; they first tempt her with promises of support, then beat her, threaten her, lash her, and burn her with melted lead, and finally try to roast her, at which point they are discovered and thrown out by Fénice’s female servants.[[118]](#footnote-118) Chrétien explicitly describes Fénice’s sufferings as martyrdom.[[119]](#footnote-119) What are we to make of this episode? Is Chrétien comparing Fénice to a saint? Her goals and motivations are so different from those of a saint, being centred on earthly love. Is it meant to be a parody of martyrdom, implying that Fénice’s actions are a travesty of morality? Should we look on these sufferings as a penance, or a kind of purgatory before Fénice gets to live in an earthly paradise with her lover? It is very hard to say. The episode certainly is meant to unsettle, and it brings home the gruesomeness of pretending to die. The shock factor problematizes the neat moral calculations that led to it.

Chrétien also includes an equivocating oath scene in *Le* *Chevalier de la Charrette*. As in *Cligés*, the situation makes reference to the Tristan legend, specifically an episode where Tristan gets caught out in his adultery when he leaves blood from his wounds on Yseut’s bedclothes. In *Le* *Chevalier de la Charrette*, Lancelot similarly leaves bloodstains on the queen’s sheets.[[120]](#footnote-120) Keu, who also is wounded and has bled on his own sheets during the night, is wrongfully accused by Méléagant of sleeping with the queen. Like Yseut, she clears her name by swearing a misleading oath, saying that she did not offer her body to Keu and that she would never sleep with him. Keu is too wounded to fight a judicial duel himself, and so Lancelot fights on his behalf, swearing that Keu never committed such an act. Again Chrétien withholds any clear indication about the morality of this act; Arthur calls a halt to the duel before there is any conclusion. This matches the ambiguity of Guinevere and Lancelot’s relationship throughout the romance.[[121]](#footnote-121)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

These examples come from some of the most famous medieval poems. There is no need to stray far off the beaten track in order to find discussions of equivocation, oaths and concealment; the idea was popular and must have been very familiar for these authors’ audience. Far from being an academic invention, or an institutional fiction designed to avoid calling a lie by its name, the idea of equivocation was embedded in the culture. It was not only the fantastical world of narrative poetry that handled the question. The theme appeared in *Fabliaux* about more humdrum characters; in one by Guillaume le Normand, a merchant woman used a similar trick to that described in *Tristan* and *Cligès* to dupe a corrupt priest into thinking he was sleeping with her virgin daughter rather than the prostitute with whom he was in bed in fact.[[122]](#footnote-122) Equivocations and just deceptions also turn up as *exempla* in chronicles.[[123]](#footnote-123) A story was told about Philip Augustus, in which a man who has fraudulently claimed to have bought a vineyard, brought two paid witnesses to court. In order to get the witnesses to tell the truth, Philip asked one to say the Lord’s prayer under his breath, and told the other witness separately, ‘Your companion, by the arm of Saint James, told me the whole truth as it is in the *Pater Noster*. You should likewise quickly tell me the whole truth, as you love your life’. He thereby tricked the witness into admitting the truth, and all three were convicted.[[124]](#footnote-124) Another story taken from the Chronicle of Hainaut has the emperor Frederick Barbarossa judiciously misleading three princes of Germany who were engaged in electing the new emperor. He promises each prince in secret that if they would entrust the election to him alone, he would give them the crown. Later, when he has given securities by faith and oath, Frederick said that he was born of the blood of emperors and that he knew no one better to rule the Empire than himself. Those who were disappointed could not oppose the election by any means.[[125]](#footnote-125) Both stories are told as examples of kingly virtue; Solomonic justice is the lesson in the first case, and decisive action in the latter. Praise for both trickery in aid of a worthy cause, and in some cases equivocation, was not limited by genre or by theme.

The same deceptions which appear in *fabliaux* and romances feature in collections of *exempla* intended for sermons. The collection *Ci nous dit*, from around 1340, tells a story about Virgil the necromancer’s snake’s head in Rome. If anyone who put their hand between its jaws perjured themselves, it would bite off their hand. The *exemplum* says that a knight of Lombardy suspected that his wife was having an affair with the driver of his cart. To clear her name, the wife said she would swear on the snake’s head. On the way, the driver, on the wife’s request, feigned madness and kissed her in full view of everyone around. When she swore on the snake, the lady said, ‘By my troth, no man has known me, apart from my lord and a madman who kissed me on the road’. Because she spoke the truth, she kept her hand intact. The exemplum concludes that a good woman should be just as careful of their salvation as this malicious woman was careful of her reputation.[[126]](#footnote-126) The tale was intended to be included in a sermon, but clearly takes the theme from popular literature for entertainment value. Stories of this kind were thus available to be used for any number of rhetorical purposes; the fact that they turn up in quite similar versions across different types of work suggests they were a *captatio benevolentiae*, a familiar and pleasing trope that could be adapted to the case in hand.

The use of a ruse involves outwitting someone. As such, it makes for an attractive narrative episode: the reader can feel in on the joke at the expense of the duped character. It is thus inherently very entertaining to see a character in a story quick-wittedly mislead those around him, as Renard the Fox does or Tristan does at the expense of Marc.[[127]](#footnote-127) This observation does not nullify the moral significance of equivocation, but probably helps to explain its popularity. The amusingness of Athanasius’s equivocation is the likely reason why it was included in his life; the success of stories like Lancelot and Tristan must have something to do with the interesting ethics of adultery, but also with the ‘burlesque’ involved in the terrible lengths to which the heroes are driven in order to keep their love secret.[[128]](#footnote-128) Nevertheless, if equivocation did owe its place in medieval popular culture as much to the diversion it offered as to a moral position, then an unintended result of this was that the concept of equivocation was in the air – to be used by philosophers and theologians when they considered the morality of lying more rigorously.

All that said, it is also evident that some popular literature considered the morality of equivocation and deception quite seriously. The drama of *Ami et Amile* and of *Cligès* both rest on a casuistical problem, which is enigmatically treated and only partially resolved in the course of the narrative. The only reason why *Cligès* is not just a prudish version of *Tristan* is that it makes an effort to present adultery in a more ambiguous light than the more risqué *Tristan* story. The reader is challenged to approve the adultery, given the circumstances in which Cligès and Fénice find themselves. *Ami et Amile* is essentially a story about the troubling results of an ‘extreme friendship’,[[129]](#footnote-129) but the author draws out the moral uncertainty of the situation by distinguishing equivocation from outright perjury, and detailing the stages that lead Ami to agree first and less culpably, to equivocate, and then later to perjure himself.

There is no need to argue, as Payen did, that these themes of sinfulness and repentance are the result of the changing penitential doctrines of the twelfth and thirteenth centuries.[[130]](#footnote-130) In fact, presenting a vexed moral question and a central character troubled by guilt has been a theme of so many literary traditions in the world – think of the treatment of the casuistry of lying in the play *Philoctetes* or the moral dilemma that Aeneas faces when told to leave Dido and progress to Rome. The details of the dilemmas in *chansons de geste* and romances are rooted in the twelfth century (questions about the justice of using deceptions to get out of an unjust marriage or an accusation of adultery) but the basic interest in dilemmas concerning lying or broken promises is universal. Another chronologically sensitive explanation for the popularity of equivocal oaths is that it was a literary means of casting doubt on the truth of the ordeal, an institution that was discredited and dropped around the beginning of the thirteenth century.[[131]](#footnote-131) This argument is interesting, but should perhaps be nuanced: since most of the cases considered involve a character getting away with an equivocal oath, the doubt expressed must be over the vulnerability of ordeals to human abuse, rather than over their basic power to deliver a dependable judgment. There is no implication in these stories that it is inherently wrong to demand an ordeal; as such, any such ‘criticisms’ do not go nearly as far as clerical attacks against the procedures in this period.[[132]](#footnote-132) Moreover, whatever the merit of the argument, it does not in any way conflict with the observation that Chrétien and the author of *Ami et Amile*, use these stories to raise more general moral questions about the means and ends of deception.

We can note in passing that there is a reasonably consistent morality of equivocation and lying that appears in all of these literary texts that is distinct from church teaching. The rule seems to be that it is acceptable to lie prudentially in casual speech, but never when swearing an oath. However, an equivocating oath is more acceptable than a false one, at least in extreme circumstances. Berte, Amile, and Tristan all lie without second thoughts. Yseut, Ami and Lancelot engage in equivocating oaths when a life hangs in the balance and with mitigating factors. There are two conclusions to be drawn.

First, it has sometimes been claimed that equivocation is the result of a morality where lying is absolutely forbidden. Only someone who would never consider a judicious falsehood, it is claimed, would go to the trouble of formulating an equivocation.[[133]](#footnote-133) This is not the case: an Augustinian or Kantian prohibition of all falsehood is not the context for these cases of equivocation. The concept exists within a more complex and situational understanding of moral obligations to tell or swear the truth.

Second, we can be sure that there is little direct reflection of normative church doctrine in these texts. As noted above, theology and canon law almost universally stated in the twelfth century that lying is always sinful, and that equivocation was only for a few extreme circumstances (such as the famous murderer at door situation). Questions about breaking an oath or changing a vow were hedged by principles and procedure. The more permissive view of lying or breaking one’s word is therefore a perspective at a certain remove from the world of theology and scholasticism. It appears in these narrative poems; a similar point of view may also be reflected in the twelfth-century Latin court writings which called for benevolent deceits. John of Salisbury made the case most famously and extensively in his *Policraticus*, which argues for a benevolent, Judith-like lie at court in order to persuade the king to take the least harmful path. The popular persistence of a belief that it is less sinful to swear an equivocating oath than to commit perjury can be inferred by the fact that more orthodox commentators continued to condemn the practice into the fourteenth century. For example, in the story from Ralph of Coggeshall quoted above, the fraudulent prévôt goes with witnesses to the grave of a man who owned the vineyard he wants, and puts money in the dead man’s hands, saying ‘I give you this money for your vinyard’, then pays his witnesses to swear that they saw him exchange money for the property. The chronicler presents this episode as an unjust equivocation, in contrast with Philip Augustus’s good one. Bromyard condemns those who use equivocating oaths to fraudulently swear that their master owns a piece of land. Twelve paid witnesses, he says, swore that the land they were standing on belonged to their master, whereas they actually meant the soil they had put in their shoes belonged to him.[[134]](#footnote-134) Why focus on these fraudulent witnesses guilty of equivocating instead of simple perjurers, if there did not remain a feeling among some that equivocations of this kind were more acceptable than an outright false oath?

It is apparent from these literary and historical texts that equivocation is not inherently a product of ivory tower reflection; it was not invented by systematic thinkers, but grew out of a broader set of cultural practices and ideas. Moreover, casuistry, that is, the practice of mentally setting up moral dilemmas in order to calculate ethical rules and moral obligations, is not confined to the classroom. It is a theme within all of these genres to a greater or lesser extent, and is probably a problem of universal interest.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

There is thus nothing remarkable in the fact that academic casuists turned to the idea of equivocation when they considered the morality of lying, perjury and promises. In the theological *summae,* quodlibetical questions and penitential materials which appeared from the late twelfth century onwards, moral questions are often posed in similar dilemmas to those considered in the literary texts. If concealing information would save a life, are we permitted to equivocate? If an unjust questioner extorts an assertion under oath, how might one answer? Might women guilty of adultery conceal their crime on occasion? Equivocation was already a well-known answer to these problems, and so it is not surprising that authors made use of it. The arguments for equivocation did not only shine out of a hall of mirrors made of citations and references, but were conspicuous in a wider social atmosphere. Moreover, we can doubt whether the institution of the seal of confession motivated the doctrine of equivocation and mental restriction in the first place, given the early association of equivocation with flight and persecution, women, adultery and judicial process.

The ecclesiastical and scholastic casuistry of lying and perjury was distinct from the more popular versions not in substance, but in system. For the first time, there was an effort to provide a thorough account of all of the circumstances that might bear on the ethics of lying and oath-breaking. The aim was to develop principles that would allow a confessor to decide any practical moral problem that might arise, even when the circumstances were unprecedented and perplexing. The first authors to make the attempt to develop a comprehensive casuistry of lying were Peter the Chanter and his circle, the subject of the next two chapters.

**Chapter 2: The Early Casuistry of Lying and Perjury - What Caused its Ferment.**

Casuistical thought about lying is in one sense common to everyone. The kind of reasoning that decides when a moral rule should be stretched and which draws fine distinctions between a half-truth and a lie is practised in life almost universally, even trivially. The last chapter argued that without direct reference to scholasticism or even specifically Christian doctrine, medieval vernacular literature discussed questions about licit deception and broken vows, not particularly because of the influence of the church or penitential reforms, but simply because the topic is interesting. Within what is a limited range of possible moves, the popular authors anticipated may of the arguments that appeared in later more formal casuistry, most notably the ideas of just equivocation within mitigating circumstances.

Nevertheless, the academic discipline of casuistry and its progeny in the genre of pastoral writings differ from moral reasoning *tout court*. The academic discipline only emerged in the later twelfth century. At that time, theologians began to seek out those cases in which the universal principles appeared not to apply, and proposed pragmatic judgments. Their motivation was strictly pastoral. The cases they chose were not simply intriguing, as in the literary stories; they were always relevant to confession and penitence. They brought extra rigour to the discipline. Peter the Chanter and his circle homed in on categories of dilemma more systematically, and started to draw analogies between cases. They gave a thorough treatment to moral concepts relating to lying and perjury. The interest of the subject lay in that these were transgressions where principle so easily comes into conflict with practical benefit.

The third chapter will argue that Peter the Chanter’s *Summa de Sacramentis et Animae Consiliis* was the first great work of scholastic casuistry, and an influential addition to the history of moral thought about lying and perjury. It differed in its approach both from earlier twelfth-century works of moral theology and from the Chanter’s other writings, his Bible commentaries and his *Verbum Abbreviatum*. Still, the *Summa* did not spring out of a vacuum.

This chapter looks at the genres which prepared the way for the arrival of casuistry. It is a story in several stages: first Augustine, in the context of controversies over Christian doctrine, wrote a distinctive ethics of lying including certain cases of conscience. Second, in the twelfth century, new compilations of Christian theology of lying and perjury, including Abelard’s *Sic et Non* and Gratian’s *Decretum*, suggested more explicitly than their predecessors that the subject was still an open question. Further impetus towards casuistry was provided by canon lawyers, who discussed practical questions about mitigated guilt, and by the exegetes of the later twelfth century, who discussed the morality of Biblical characters in the literal sense. All of these factors contributed to create a ferment of practical thought about lying and perjury. I will argue that these were distinct currents in a larger tide of applied pastoral thought, which correlated with a growth of frequent and widespread confession among lay people. It was from this context that Peter the Chanter’s theological *Summa* on practical ethics emerged.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Moral dilemmas about lying and breaking one’s word had been part of Christian thought from the beginning. Universally, however, these dilemmas and cases of conscience were not the main event in any discussion; they appeared in service to a larger agenda.

The most influential patristic works on lying were Augustine’s two short treatises, *De Mendacio* and *Ad Consentium, Contra Mendacium*.[[135]](#footnote-135) These were composed, as was often the case with Augustine, to fulfil specific polemical objectives. Augustine apparently intended the *De Mendacio* to rectify a vulnerability he saw in the orthodox church’s morality *vis à vis* criticisms from Donatists and Manicheans. Other churchmen, as we saw in chapter one, had generally been very permissive of lies told with a good intention. More particularly, Jerome had argued in his commentary of Galatians 2:11-14 that Peter and Paul had engaged in a benevolent simulation in order to avoid scandalising the Jews.[[136]](#footnote-136) Augustine worried that the Church would appear slack to the Donatists, a North-African church that took a dim view of those who had nominally renounced Christianity during persecution. In their view, the orthodox Church seemed cravenly to permit a benevolent lie in order to avoid confrontation with the secular authorities. Augustine did not want to admit that the orthodox church was weak in this way. He also feared that any exegesis that acknowledged that the Bible sometimes misled or that it permitted a lie left the church vulnerable to Manichean claims that the Old Testament was fraudulent and bereft of authority. He therefore argued in *De Mendacio* that the Bible unambiguously and constantly taught that all lying was sinful. The *Contra Mendacium,* on the other hand, was addressed to Consentius, who had written to him to report that, in order to counter the threat of dissimulating Priscillianists, Christians were pretending to join the heretics hoping to find out their identities. Augustine replied to Consentius that such a deception could never be permitted.[[137]](#footnote-137) He said that it would undermine faith itself if Christians started to mix doctrine with lies, and repeated an argument from the *De Mendacio*, that it is nonsensical to argue that it is worth committing a sin to bring about a good result.[[138]](#footnote-138) In a famous sermon on perjury, Augustine addressed another problem arising from the literal reading of Biblical teaching; whether swearing oaths was permissible.[[139]](#footnote-139) Texts in Matthew and James seemed to forbid swearing all oaths in general,[[140]](#footnote-140) but, once again, holy figures in the Bible seem to swear,[[141]](#footnote-141) and oaths were a necessary part of the Roman administration. Augustine resolved the issue, saying that swearing to the truth was not a sin, but deliberately swearing a falsehood was always perjury.[[142]](#footnote-142) Moreover, there was an inherent danger of sin in even truthful oaths (since there is always the temptation to swear untruthfully), and so it is morally safer to avoid oaths altogether.[[143]](#footnote-143)

Moral dilemmas do feature in all these works, but Augustine’s motives in quoting them are really anti-casuistical. His main point in mentioning difficult and borderline cases is to demonstrate that unusual circumstances make no difference to the central morality; there are no special cases that can affect the central prohibition of lying. So, in the *De Mendacio*, he quotes the famous murderer at the door dilemma: if a murderer asks you to betray his victim’s hiding-place, should you tell a lie rather than betray an innocent man? Augustine replies with a story of his upright predecessor as Bishop of Hippo, Firmus, who in that situation replied to the murderer ‘I know where he is but will not tell you’, thereby telling the truth but protecting the fugitive.[[144]](#footnote-144) The case of conscience really earned its place in the treatise as a pretext to recount a case of an orthodox bishop standing firm against the pagans.

Augustine’s larger point is that it is simply unhelpful to think about lying in binary dilemmas. He thought that there was no situation in which there could genuinely be an exclusive choice between lying and another equally sinful path; those who try to devise such cases are missing the point. Thus, he raises the question of a sick man in his *Contra Mendacium*. In a hesitant passage, he admits that his resolution against lying would be challenged in the case of a sick man whose son has died. The old man would certainly die if confronted with the news, and if the person in question remained silent or tried to evade the question, the father would infer the truth.[[145]](#footnote-145) However, here again, Augustine finds a series of reasons against making a special case: God is so good he could not countenance any kind of falsity; small lies like this may multiply and add up to large lies later; it is irrational to prolong a temporal life at the expense of the eternal soul of the liar; anyone who teaches in favour of lying under special circumstances cannot expect to be believed in the future.[[146]](#footnote-146) Augustine was certainly not always so hostile to pragmatic arguments,[[147]](#footnote-147) but in the case of lying, he only quoted dilemmas in order to restate his uncompromising principles.

The exception to this was Augustine’s Bible commentaries, where a slightly different set of polemical imperatives drew him into a more instrumental morality. There is a series of Old Testament stories in which a patriarch tells a lie which meets with God’s approval, or at any rate, goes unpunished. When they entered Egypt, for example, Abraham told Sarah to lie that she was his sister so that Egyptians would not kill him (Gn 12:15), Jacob pretended to be Esau in order to win Isaac’s blessing of the firstborn (Gn 27) and Joseph falsely accused his brothers of being spies (Gn 42:16). The Manicheans cited these episodes, as well as the apparent endorsement of bigamy and adultery in the Pentateuch, as reasons to reject the authority of the Old Testament.[[148]](#footnote-148) Augustine replied in his *Contra Faustum* that these stories are told not as examples but as figurative prophecies of the Christian truth.[[149]](#footnote-149) However, he went on to say that, although the patriarch’s actions were figurative, for the purposes of countering Manichean attacks, he would show that their actions were not sinful even when understood literally.[[150]](#footnote-150) Thus, he argued that Abraham did not ask Sarah to lie to the Egyptians, but only to hide the truth: it was in fact a Jewish custom for relatives to be called brother and sister; in any case Sarah was his half-sister.[[151]](#footnote-151) Joseph did not lie when he accused his brothers; his words, ‘You are spies’, should be understood not as a false assertion but as a conditional threat, i.e. ‘If you do not return to Egypt with Benjamin, you will be punished as spies’.[[152]](#footnote-152) This is special pleading for cases of exceptional deception, and can more properly be called casuistry. Although Augustine repeated these excuses on several occasions, it could be suggested that he did not take the arguments too seriously, since he prefaced them by pointing out their redundancy. He did nevertheless always admit that concealing the truth is a different matter from lying, and that there was no obligation to tell, for example, a thief or a murderer the whole truth.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Augustine’s treatises on lying, his sermon on perjury and his casuistical Bible commentaries passed into the Latin theological syllabus. Later medieval compilers routinely included an Augustinian chapter on lying, often accompanied by a parallel chapter on perjury, in their compilations and theological works. The tradition was long-standing and included Isidore of Seville’s encyclopaedia, Carolingian pastoral scholarship, and the regularising compendia from the tenth century.[[153]](#footnote-153) The legacy was a stable Christian casuistry. Augustine had created a typology of lying, which divided the sin into pernicious lies intended to harm, jocose lies intended only to please, and officious lies, which harm no one and help someone.[[154]](#footnote-154) He further subdivided these categories according to the subjet of the lie; the worst kind of pernicious lie falsified Christian doctrine, followed by a lie which is intended to harm someone, and helps no one, and a lie which harms someone in order to help another. Of medium gravity are lies told for the pure pleasure of lying, and lies intended to please. Benevolent lies, the least sinful, he divided into lies intended to save material possessions, lies intended to save a life, and lies intended to save chastity.[[155]](#footnote-155) Augustine provided a typology of sinful oaths: intentional false oaths were always sinful, as was an incautious oath to a lesser degree. An unintentionally false oath was not inherently sinful.[[156]](#footnote-156) This framework differentiated the relative culpability of lying and perjury according to circumstance and the intentions with which they were told. He also bequeathed an interest in the moral choices of Bible characters who told untruths to his successors in exegesis. Carolingian and later exegetes often included an extract from Augustine or Gregory the Great which discussed the moral decisions made by Abraham, Isaac, Jacob, the Egyptian midwives and others.[[157]](#footnote-157)

Compilers like Ivo of Chartres and the authors of the *Gloss* to the Bible kept the tradition of casuistry alive, but by definition, they were not great innovators. In the twelfth century, in a number of different genres, authors began not only to collect more authoritative collections of Christian moral teaching, but also to subject the authorities to a more rigorous synthesis. It was this fashion for more analytical compilations that changed the parameters of the question and opened the way for a new casuistry. Peter Abelard’s *Sic et Non* and Gratian’s *Decretum* both demonstrate the way in which a new and more critical interest in patristic and legal scholarship led the way to closer consideration of practical moral problems.[[158]](#footnote-158)

Abelard has been credited as a great innovator in moral thought because his philosophy explicitly differentiated the morality of intending to carry out a bad action and the act itself. Actually, he was not the first theologian to be interested in the relation between intention and sin,[[159]](#footnote-159) but he was influential in encouraging later theologians to think more precisely about the relative roles of intention and action when sins are committed. Dilemmas are situations where a normally bad action is redeemed by good intention - one might expect that Abelard would take an interest; in fact however, his theoretical ethics includes very little consideration of practical cases. He did not explicitly admit in his theoretical philosophy that there could be circumstances in which people find themselves in moral doubt or where the dictates of conscience are unclear.[[160]](#footnote-160) His narrative works, on the other hand, did engage with complex situations, but circumvented the question how to make the right decision in a dilemma. He was more interested in the affective significance of a difficult moral choice than in the alternative practical options. For example, his *Planctus* on Jephtha’s daughter is relevant to our subject, being a poetic lament for the girl who is obliged to die following her father’s hasty vow to sacrifice the first person he saw. Abelard is not interested, as later theologians would be, in whether Jephtha ought to have broken his sinful vow and whether his daughter was required to comply with it; instead he simply praises her resolute martyrdom and mourns the tragic circumstances that led to her death.[[161]](#footnote-161) Abelard recognizes that his protagonists are forced to decide between undesirable alternatives – to that extent he gestures towards practical ethics – but he does not hold up their dilemma to more than emotional scrutiny.

However, Abelard did include questions of normative ethics in his *Sic et Non*, including, ‘Whether it is legitimate to have a concubine or not?’, ‘Whether it is permitted to kill or not?’, ‘That it is not permitted to lie for any reason and arguments against this’.[[162]](#footnote-162) Famously, the originality of the *Sic et Non* lay in its open-endedness. Abelard gathered a list of theological questions and patristic and Biblical texts which seemed to argue for and against. He left it to the student to use logic along with rhetorical and circumstantial considerations to explain the apparent discrepancy between authorities and to answer the question.[[163]](#footnote-163) Abelard drew on earlier compilations of patristic authorities, most notably Ivo of Chartres’s *Decretum*, but he sought out extra and disruptive authorities, which drew attention to problems in theology which his contemporaries had not fully appreciated.[[164]](#footnote-164) In his chapter on whether it is ever permitted to lie, he includes the famous Augustinian typology of lies and his distinction between lying and concealing the truth, that could be found in Ivo’s *Decretum,* but he added a contradictory text from Hilary:

Lying is often necessary, and sometimes falsity is useful, since we lie either to a murderer about a fugitive, or we falsify testimony for one in danger, or we deceive a patient about the problems in their cure. It is right according to the doctrine of the Apostle that our speech should be shrewdly composed.[[165]](#footnote-165)

The implication of Abelard’s methodology is that ethical rules are not self-evident and that patristics had not delivered unproblematic guidance on whether it is ever permitted to lie. Even if Abelard quoted Hilary’s teaching with the intention that his students would find a reason to reject it, he conceded that an effort of reasoning was necessary in order to establish the moral rules.

Properly speaking, the questions in the *Sic et Non* are not cases of conscience but efforts to establish a theoretical Christian teaching. Abelard was trying to harmonise conflicting texts to arrive at a definitive general principle; he was not directly concerned with practical advice nor in unusual circumstances. However, Abelard’s method contained the proposition that theological questions should be reopened for further investigation, and that many matters had not yet been decided. Another author with a more practical sensibility, Peter the Chanter, could pick up the format of the unresolved question, and bring it to bear on problems of moral perplexity.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Gratian’s *Decretum* was another of the new compendia of earlier authorities which edged closer towards a casuistry of lying and perjury. It was a law textbook, and so in its conception was intended to make legal canons and patristic teaching available for those making actual judgments. The central section is organised around exemplary scenarios, in which Gratian suggests a fictive case to be judged, divides it into a series of distinct points of law, and lists the relevant canons before delivering a solution. On the subject of perjury, Gratian presented the following case:

A certain bishop swore a falsehood that he thought was true. When his archdeacon learnt of this, he swore that he would not offer him obedience. The archdeacon was compelled by the bishop to show him the usual reverence; the bishop was accused of double perjury, both that he swore a falsehood and since he compelled the archdeacon to perjure himself.[[166]](#footnote-166)

Gratian divides the problem into its component parts, including questions on whether it is permitted to swear any oath, whether someone who swears a falsehood he believes to be true is a perjurer, whether an archdeacon can refuse obedience to a bishop, whether a wrongful oath to do so should be kept, and finally whether the bishop who compelled the archdeacon to break his oath was guilty of perjury on this count.

The second question, whether one who swears to a falsehood thinking it true is guilty of perjury, has the superficial hallmarks of a case of conscience: Gratian takes into account the circumstances of the bishop’s false oath and gives a verdict at the end of his discussion that he was innocent of perjury. However, the substance of Gratian’s analysis is much more general than the question would warrant.[[167]](#footnote-167) He starts by quoting a series of authorities attesting that only intentional falsehoods constitute a perjury, not including promises which are sworn in good faith and later broken (c. 1-3), but then opens out his discussion to the more general question whether all lies are equally sinful and quotes Augustine’s typology of lies (c. 5-18). He ends the section with a series of cases taken from the Bible, Abraham asking Sarah to conceal the truth on his account and Jacob impersonating Esau, concluding that these Biblical characters were not guilty of lying (c. 18-22). These two latter sections are not strictly relevant to the original question.

What we have, then, is a general chapter on the morality of lying and perjury, rather than a discussion exclusively devoted to judging a moral dilemma. Gratian’s methodology is in fact very close to that of Peter Abelard in the *Sic et Non,*[[168]](#footnote-168)and the whole question is a striking example of the integration of theological subject matter into what is nominally a legal text.[[169]](#footnote-169) Like Abelard, one of the later authors of the *Decretum* even included one contradictory authority on lying, which begged to be brought into concordance with the Augustinian teaching.[[170]](#footnote-170)

In his chapter on lying, therefore, Gratian did not treat casuistry as an end in itself: the fictive case is really just a peg on which to hang a general introduction to moral teaching on lies and false oaths. The *Causa* 22 on perjury (including also the fifth question which included material on deliberately ambiguous oaths) proved a great resource for later casuists of lying, since it stated the rules of perjury and lying so clearly, but, in this context, Gratian should not be called a casuist in the narrower sense.

However, in other sections of the *Decretum,* casuistry got more of a look in. In a pioneering study, Stephan Kuttner showed that special circumstances and their effects on the morality of particular decisions was a concern for Gratian and the late twelfth-century commentators on the *Decretum.*[[171]](#footnote-171)Since theDecretum is an inseparable mix of moral and sacramental theology and religious law, the first indications of a differentiation between legal and moral forums can be detected in the work. Kuttner showed that in his discussion of particular crimes, most notably, homicide, the striking of clerics and perjury, Gratian mentioned certain concepts connected with mitigated guilt and moral culpability distinct from legal proof, such as mental incapacity, ignorance, compulsion and necessity.[[172]](#footnote-172) The early commentators on the *Decretum* (most of whom wrote in the last decades of the twelfth century and the first decades of the thirteenth) gradually filled in these shadowy terms with meaning, often via close examination of cases of conscience and reference to Roman law. This was the scholarly environment in which many casuistical concepts were first developed.

For example, in his chapter on perplexity (that is, on situations where one must choose between two apparently sinful courses of action), Gratian quoted three cases of conscience borrowed from Gregory the Great’s *Moralia in Job*. [[173]](#footnote-173) 1) A man has promised his friend that he will keep a secret, but the secret turns out to be that the friend is committing adultery and is trying to kill the husband of his mistress. The man who swore the oath hesitates between revealing the crime, lest he participates in an adultery and murder, and remaining silent, lest he commit perjury. 2) A man leaves worldly life and submits himself to the will of a man ‘who has charge of him before God’ (i.e. for a medieval reader, he enters a monastery). The superior orders the subject to do what God forbids and to commit worldly actions. The subject must choose between the sin of disobedience and committing crimes against God. 3) A cleric has received a church office through simony and now recognises his guilt. Is he required to give the position up, or would it be a greater sin to abandon his flock? Gratian used the cases to demonstrate the principle that in cases of perplexity, one should choose the lesser evil, an idea he took from Gregory.[[174]](#footnote-174) Kuttner also drew attention to the connection the decretists saw between these explicit cases of perplexity (which themselves involve concepts such as broken promises and vows and the assuming of office under false pretences) and the most famous case of conscience about lying, the murderer at the door.[[175]](#footnote-175) When a murderer asks you to betray an innocent man, you must choose (the decretists thought) between betraying him, remaining silent and telling a lie. Given that remaining silent may well amount to the same thing as a betrayal, if the murderer is perceptive, does the situation amount to ‘perplexitas’, i.e. a necessary choice between two evil actions? The commentators argued the question, with some, like Johannes Faventius, saying that the venial sin of lying is the best choice in this matter, others, like Simon of Besignano, insisting with Augustine that silence could never be a mortal sin.[[176]](#footnote-176)

These passages on moral dilemmas cross the line into true casuistry of lying and perjury. Gratian, sketchily, and, his commentators, with increasing precision, took the raw material of concrete cases as the basis for nuancing their understanding of culpability in general. Their interest in cases of conscience coincided with the separation of public legal forum and private culpability in this period.[[177]](#footnote-177) Since penitential judgments were increasingly distinguished in this period from judicial rulings, the canonists were nudged towards thinking about considerations which could not always be of practical use in a law court. Penitential judgments were more precisely understood in this period to apply to what the penitent revealed in confession, rather than what could be ascertained in a process; thus it became more useful for canon lawyers to think seriously about questions of conscience, intention and mitigated guilt. I discuss the implications of changing penitential practices for casuistry in the final part of this chapter.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

No less than theology and canon law, Bible commentaries changed in form and style in the twelfth century. Beryl Smalley, in *The Study of the Bible in the Middle Ages*, demonstrated that whereas earlier medieval exegesis tended towards either uncritical compilation, abstract speculation or mystical reflection, exegetes from Hugh of Saint Victor onwards took a scholarly interest in the literal historical meaning of the Bible.[[178]](#footnote-178) This involved establishing the chronology and geography of Biblical events, as well as consulting Hebrew scholars about the meaning of obscure passages. What Smalley did not emphasise was an accompanying interest in the Bible characters as historical figures, and a desire to explain the motivations and intentions of patriarchs and prophets. There was a long tradition for including general theological questions in Bible commentaries. When the Victorines brought commentaries on the narrative books of the Bible back into fashion, many of these questions were centred on the ethical implications of events in the story. Were the Egyptian midwives who lied about Hebrew babies guilty of mortal or venial sin? Did Abraham lie when he said that he and his son would return from the mountain where he planned to sacrifice Isaac, or did he believe that his son would be resurrected? Such questions invite a balanced enquiry into both the circumstances of the event and the theological issues involved.

Exegesis was thus a further site for the new kind of casuistry; the stories of the patriarchs were, for a set of practically-minded theologians, an invitation to resolve cases of moral ambiguity. There is an analogy to be drawn between the genres of theology and canon law and the development of Bible commentaries in the twelfth century. Just as Abelard’s and Gratian’s more comprehensive compilations challenged an Augustinian monopoly of the conversation and suggested that there was more work to be done on the theology of lying, exegesis in the latter half of the twelfth century began to cast doubt on Augustine’s casuistical verdicts on Bible stories. As with Abelard and Gratian, it was not that they disagreed with Augustine in essentials, so much as that they were no longer willing to take him at his word. Commentators from Hugh of Saint Victor onwards started to raise objections to Augustine’s verdicts, and to apply the more recent conclusions of moral theology and canon law to these familiar cases of conscience. Some cases were treated as theological questions outside the commentary proper, but moral judgments were also incorporated into the literal exposition itself.

Hugh of Saint Victor, the first of the literalist Victorine exegetes, included original casuistry in his commentaries; he drew not on previous exegesis or on formal canon law to criticise Augustine’s comments, but simply on his own reading of the sources. As we have seen, Augustine excused Abraham and Sarah of lying when they told the Egyptians that she was his sister; Augustine explained that the patriarch was only hiding the truth and that Sarah was in fact Abraham’s half-sister. The comments from the *Contra Faustum* had been simply quoted in earlier Bible commentaries, including the *Gloss* to the Bible compiled by the monks at Laon.[[179]](#footnote-179) Hugh of Saint Victor raised a series of further speculations about Abraham’s motivations. He suggested that Abraham was hiding the truth for the benefit of the Egyptians; his words were justified because motivated by ‘utility, correction or rebuke’.[[180]](#footnote-180) Abraham may have been acting on God’s direct instruction, and so was the ‘relator of divine will and not his own.’[[181]](#footnote-181) Finally, he contradicted Augustine’s reading of the passage, and suggested that it was not a justified deception, but a culpable sin. He commented:

Or let us concede that Abraham did lie, as men do. It is no wonder, for he did not always tell the truth. Did not saint Peter lie in fear of death at the Passion of the Lord? But it should be known that instances of holy men falling from grace, when this happens with God's permission, are put before us to give us hope of getting to our feet again.[[182]](#footnote-182)

Hugh left the question of Abraham’s culpability open, but he had expanded the range of considerations that could be brought to bear when judging him. It opened the way to other exegetes suggesting further ideas about Abraham’s actions.

Peter the Chanter and his circle are known for the practical moral focus of their Bible commentaries. Grabmann named this group, including Peter of Poitiers, Peter Comestor and Stephen Langton, the ‘Biblical-moral school’ because of their practical pastoral interest and Smalley commented, ‘the masters are intending not to help the religious in his meditations, but to train the scholar for an active career.’[[183]](#footnote-183) She drew attention to the quantity of practical exhortation that the Chanter and Langton included in the spiritual reading. However, their penchant for casuistical questions, in distinction from homiletic exhortation, has not been remarked upon.[[184]](#footnote-184) These commentaries had a more scholarly side to their practical moral teaching, in which Bible stories were treated as problematic cases for the conclusions of modern theology. They continued to open out their commentaries to a freer kind of comment on ethical dilemmas as the Victorines had done, but they made a point of applying the latest academic concepts to the problem.

Peter the Chanter applied teaching he found in Peter Lombard’s *Sentences* and the *Decretum* to the story of Joseph. The Bible story has Joseph swear to what seems like a falsehood: his brothers have come to Egypt to escape the famine. When Joseph sees them and recognises them, he accuses them of being spies. The only way they can prove that their story is true, he says, is to fetch their youngest brother Benjamin and bring him to Egypt (Gn 42:9-14). The standard exegesis of the passage, again taken from Augustine, was that Joseph did not lie when he said ‘By the life of the Pharaoh, you are spies’, since he intended the words conditionally; they would be punished as spies, if they failed to prove their innocence.[[185]](#footnote-185) When Peter the Chanter considered the episode, he quoted Augustine’s commentary verbatim. Having conceded that Joseph did not speak a falsehood, the Chanter nevertheless expressed other doubts about whether he was right to have sworn.[[186]](#footnote-186) The Chanter goes on, ‘it also seems an indiscrete oath since the three companions of the oath are not held: he could have done this without an oath’.[[187]](#footnote-187) He is referring to a canonical text of Jerome, which taught that the three companions of an oath should be truth, judgement and justice; without these, there is no oath but perjury.[[188]](#footnote-188) Theologians interpreted Jerome to mean that oaths should be sworn only when necessary and for good reasons.[[189]](#footnote-189) Peter the Chanter was saying that Joseph’s oath may not have been a falsehood, but that it was unnecessary and therefore that he was guilty of perjury.

The brief comment signals Peter’s larger ambitions. He is using the tenets of moral theology to think again about the literal meaning of the Bible. The reverse is also true; he reappraised Joseph’s decisions, but also showed what the moral teachings meant in practice.

Similarly, Peter used the story of Joshua and the Gabaonites to apply theological arguments about conditional oaths to a concrete case (Ios 9). The story goes that Joshua was ordered by God to wage war on all of the tribes already living in the promised land. To escape destruction, the Gabaonites devised a ruse, in which they put food in old sacks and made their clothing appear as if they were at the end of a long journey. They went to Joshua and claimed to have travelled from Egypt to make an alliance. The Israelites swore an oath of peace with them. When the Israelites realised the deception, they kept the oath of peace but made the Gabaonites servants, despite calls for war from the common people. The *Gloss* to the Bible included a text from Augustine, which asks why the Israelites observed their oath of peace, since the Gabaonites had lied to them. Augustine answers that it was pleasing to God that they should suspend the usual rules in favour of mercy.[[190]](#footnote-190)

There are therefore several separate questions in the case. Did the Gabaonites actually tell a lie? Was the oath of peace valid? If not, ought the Israelites to have waged war on the Gabaonites, since this was what God had ordered? Peter gives a theologically-informed answer to each question.[[191]](#footnote-191) He points out that when the Gabaonites said, ‘We are your servants’, they hid the truth (i.e. what they said was true but in an equivocal sense) but when they qualified this, ‘from a very far country’, they told an outright lie.[[192]](#footnote-192) The implication is that it was relevant to the rest of the story’s casuistry that they not only equivocated but also lied. Peter explains that the oath of peace was not valid because the Israelites swore it with an implicit condition that was not met. The Israelites said to the Gabaonites ‘Perhaps you dwell in the land which falls to our lot, if so, we can make no league with you’ (Ios 9:7); the Israelites therefore swore the oath of peace with the implicit condition, ‘unless you are of the land which is owed to us’.[[193]](#footnote-193) The idea of oaths sworn with implicit conditions, which entail that the person swearing is released from their oath if the condition is not fulfilled, was an established jurisprudential explanation for the permission to break certain vows and oaths.[[194]](#footnote-194) Peter the Chanter referred to it quite frequently in his other works; for example, in his *Summa,* he describes a monk, who breaks his vow of obedience because the implicit condition is not met, ‘unless so doing would go against the orders of the pope’. He also describes a servant, who swears to serve a master, but leaves because of an unvoiced condition that he will serve ‘unless so doing leads me to break divine commands’.[[195]](#footnote-195) Peter applies the same principle in this case. Finally, he explains why the Israelites kept their oath of peace with the Gabaonites. Although the Israelites knew that the oath was not valid, they feared to harm the procedure of oath-taking. They struck a compromise between the oath and God’s command by keeping the peace but making the Gabaonites servants.[[196]](#footnote-196) The Chanter perhaps meant that Joshua did not want to appear to show disrespect to an oath, even though he knew it was not technically valid; the Chanter says in an earlier comment, that by Joshua’s pardoning of the Gabaonites, ‘the obligation of an oath is commended to us.’[[197]](#footnote-197) Peter shows both how theological rules apply to the Biblical case, but also how the rules can be bent in particular circumstances.

Stephen Langton, who wrote a generation later than Peter the Chanter, in the first decade of the thirteenth century, continued this device of treating Bible stories like contemporary cases of conscience. In his commentary on Abraham and Sarah’s deception of the Egyptians (Gn 12:13), he asked again whether Abraham was right to deceive the Egyptians, even if he did not technically tell them a falsehood (Abraham asked Sarah to tell the Egyptians that she was his sister, so that they would not kill him for being her husband). Langton thought that the circumstances under which Abraham spoke, a ‘public locution’ before the Egyptians, affected the ethics of the situation.[[198]](#footnote-198) He suggested that such a public speech should be held to the stricter rules of oaths. He quotes a canon of Isidore from the *Sentences*, which says that oaths should be understood not according to the meaning intended by the speaker, but the sense understood by the audience, as a precaution against fraud.[[199]](#footnote-199) Should Abraham’s words be judged by the meaning the Egyptians understood, and was he consequently guilty of falsehood? Langton compares Abraham with two other cases of holy deception – those of Saint Lawrence and Saint Thomas the Apostle. Both made ambiguous oaths, which were understood by their audience in a different way from that in which it was intended. Langton decides, in the end, that both the saints and Abraham, although speaking publicly, were not swearing an oath.[[200]](#footnote-200) They did not fall under the rule quoted from the *Decretum* and therefore, the equivocation was permissible.

A word can be said about the quality of Peter the Chanter and Stephen Langton’s ethical judgements in these Bible Commentaries. There is a significant change in the response to these Biblical deceptions between the patristic authorities quoted by the *Gloss* and the masters of the Sacred Page. For Augustine and many of his successors, the typical attitude towards the lies and deceptions of the Bible was first to prove that the patriarch or prophet in question did not lie. Having cleared him of that particular sin, Augustine was happy to acknowledge that he ‘hid the truth’ and argued that mitigating circumstances excused his actions. As I commented above, Bible exegesis contained Augustine’s most casuistical passages on lying and perjury. The masters were not so willing to draw a clear distinction between equivocation and lying. In each case, the exegete at least suggested that the protagonist should be held to a higher standard. Joseph perjured himself because he swore an unjust oath. Joshua was particularly praised for honouring his oath, even though he was not technically held to it. Langton suggested that Abraham’s equivocation should still be considered a falsehood, because it deceived the Egyptians in a ‘public locution’. The masters seem to have valued truthfulness above and beyond the accuracy that was sufficient for Augustine. Augustine’s polemical reading of the stories had ceded to a more wide-ranging discussion.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

These twelfth-century contributions sprang from a common source. Particular moral dilemmas about lying appeared in the twelfth century against a backdrop of larger transformations in penitential culture. The way scholars thought about the theology of sacraments and confession developed, and, in some parts of Europe, the way lay people confessed had begun to change too. The two trends were mutually reinforcing, and suggest an explanatory context for the new direction in ethical thought. As confession became more widespread, thought about confession became more precise and the church got a clearer notion of how, practically and sacramentally, it ought to deal with sinful behaviour; as a result, the need for casuistry became apparent initially to canonists, and subsequently to theologians like Peter the Chanter.

What we know about the changes in penitential culture from the early middle ages up to the twelfth century has developed considerably since Cyril Vogel’s influential description of the replacement of the Carolingian system of penitence by private confession in the twelfth-century. Vogel thought that the big difference between the earlier and the later period was a foregrounding of the individual.[[201]](#footnote-201) In the Carolingian period, the old penitential system was based around public penance – a public and ritualised affair – and a system of tariffed penances, in which a priest or bishop used lists of punishments to absolve sins in private. The style of confession that emerged in the twelfth century, according to Vogel, was always secret, and involved instructions to a priest to enquire into the circumstances of the penitent’s sin and to offer absolution and penance based on the level of contrition shown by the penitent. To Vogel, the old system seemed to rest on a formal and externalised understanding of sin, whereas the new form of penance placed emphasis on the internal state of the penitent, both in understanding the nature of the sin committed and in the process of repentance and absolution.[[202]](#footnote-202) Sarah Hamilton, Rob Meens and Maike de Jong have revised this picture. ‘Private penance’ was a catch-all term for all non-public penances, secret or otherwise, and the ritual of public penance actually persisted throughout the Middle Ages.[[203]](#footnote-203) The early tariffed penitentials had always made concessions based on individual internal dispositions, at any rate when they dealt with clerics. Penitentials from the Carolingian times expressed the aspiration that penitence should be sincere.[[204]](#footnote-204) Liturgically, contrition had always been an element of the ritual of penitence, even if the relative importance of contrition and external penances was not spelled out.[[205]](#footnote-205) Some penitentials were only used as a basis for punishments in synodal inquisitions, but others were certainly written with pastoral intentions.[[206]](#footnote-206) Thus, penitentials from before the eleventh century compared to later works say little about the internal disposition, but this may only reflect changes in style and not in underlying belief.

The real difference between tariffed penitentials and the manuals of the twelfth century was theological exactitude. Earlier penitential writings, broadly before the eleventh century, had (quite possibly intentionally) run together punishments meant to preserve social order and penitential measures intended to heal the sinner.[[207]](#footnote-207) As a result, the theory of the internal aspect of penitence remained underdeveloped and indistinct. Penitential writings in the new style, including the Pseudo-Augustinian *De Modo Confessendi* and Burchard of Worm’s *Corrector sive Medicus,* and later Abelard’s *Scito Te Ipsum* and Gratian’s penitential treatise, stated more explicitly than earlier penitentials what exactly was going on in confession. They spelt out the complementary roles and relative efficacy of contrition, penance and absolution in securing forgiveness for a penitent’s sins.[[208]](#footnote-208) A clearer theory emerged on the differing agencies of God, who alone could forgive sins, and the priest who acted as God’s minister, and distinguished the conceptual relationship between the intention of the sinner, their actual action and the circumstances.[[209]](#footnote-209) This resulted in a more satisfactory theological explanation how the unique sins of a single penitent could be apprehended by a priest and effectively absolved through formulaic penances or indulgences.[[210]](#footnote-210) The discussions took place against the backdrop of a wider investigation into the sacraments – what the sacraments had in common and which elements of any given sacrament were necessary to render it valid. These theoretical advances made other gaps in the argument appear: one of them was casuistry-sized.

Casuistry was not a prerequisite in these larger intellectual efforts, nor did instructions on how to hear a confession and the theology of penitence inherently entail a discussion of applied ethics. Abelard’s combination of sophisticated thought about the nature and theology of penance but lack of interest in casuistry is a case in point, as is the absence of casuistry in most of the early confessors’ manuals. Nevertheless, these discussions of penitence did cause scholars to enter neighbouring intellectual territory. Coming from different directions, both sacramental theology and casuistry raise questions about the precise location of sin - whether it is in the action or the intention or a mixture of the two. Both entail thought about which considerations might nuance a judgment of immoral actions. Both must consider issues such as culpable and non-culpable ignorance as a cause for sin or the ambiguity of intention, which could at one and the same time mean intention to commit a sinful action and intention to bring about a good result. One can see that cases of conscience, which search for exceptional circumstances, would be a useful tool for thinking through the theory of contrition and absolution. In like manner, if canonists and theologians grew more aware that there was ambiguity in the sacrament of confession and what it implied about guilt, they might well perceive the uncertainties inherent in moral choices.

Behind these developments, moreover, pastoral changes were going on at ground level that must have lent urgency to the intellectual problems. In Northern France and England, confession had become more frequent and widespread among lay people. Alexander Murray has suggested that the spread of confession occurred only in places where there were reforming churchmen who took equal inspiration from the schools and from monastic life.[[211]](#footnote-211) His evidence is that there was almost never a reference to lay confession before the twelfth century; thereafter there is positive evidence of lay people confessing only in a few areas where there were particularly pastorally-minded clergy, that is, Northern France and England.[[212]](#footnote-212) Nicholas Vincent has further argued that widespread confession among lay people was, in England, a result of the distribution of indulgences in return for pious donations in the twelfth century. When bishops and monastic houses awarded indulgences to those who engaged in pious works or visited relics, Parisian scholars began to complain of the theological inconsistencies that the situation raised. When indulgences proved unstoppable, the theologians stipulated that they be made acceptable by ensuring that those who received indulgences also confessed and showed contrition.[[213]](#footnote-213) Lay confession surged with the growing availability of indulgences. Penitential theology was thus pushed forward by episcopal enterprise in dispensing indulgences and confession.

Likewise, casuistry may have advanced as a corollary of this wave of indulgences and confession. Priests who heard confessions were more likely to confront the moral dilemmas of their flock, including questions about lying, perjury and vows. Such priests were more likely, therefore, to see such moral questions as pressing issues on which they ought to have an answer. Penitents were required to make restitution for their sins before they could be absolved – this meant that confessors had to recommend what recompense the penitent must make for any harm they had inflicted on others. The priests did not simply have to pass a judgment but also give specific instructions on what the penitent should do - in practical terms, a decision with much higher stakes. Moreover, the kind of morality that the Church endorsed was by nature favourable to casuistry. Many moral rules were accompanied by exceptions: a priest must keep confession secret, except for a few cases where revelation was deemed to help more than it harmed; marriage within the forbidden degree was generally not permitted, but could dispensed or dissimulated; vows and oaths should usually be kept, but in some circumstances could be broken. It was a morality full of adjustments and concessions, yet church authorities sought to regulate the exceptions consistently. Marriage within the forbidden was increasingly controlled by a coherent system of dispensations; vows could be commuted on occasion, but the rules on the subject were explicitly spelled out in canon law and theology.[[214]](#footnote-214) Priests and bishops were permitted to give an arbitrary penance, but there were elaborate rules about which sins must be referred up the hierarchy, and which could be dealt with at parish level. Priests who frequently heard confessions would quickly perceive the need for guidance not only in church legislation itself, but in how to apply the rules in particular cases. The rise of casuistry in pastorally-minded academic circles in such circumstances was not inevitable, but certainly, it was not surprising.

Admittedly, the connection between an increase in confession and these first instances of casuistry of lying and perjury is not easily perceived. Take the decretists for example. One could certainly suggest that their interest in dilemmas such as the murderer at the door or the man who has promised secrecy to an adulterer was motivated by their sense that these were the kind of quandary one might confront as an individual or as confessor. The principles they outlined had a degree of applicability by analogy. Yet, it is reasonable to feel that it was a scholarly, rather than a practical, interest that first provoked these conversations. They are framed as discussions of Gregory the Great’s teaching and the dilemmas themselves are well-known and timeless. The Bible commentaries can be more plausibly linked to real-life experience. The exegetes used problematic Bible stories as an excuse to try out recently-formulated practical teaching about lying and oaths. Explicitly they made comparisons between Biblical oaths and pledges made in their own law courts.[[215]](#footnote-215) Nevertheless, it would be a push to claim, only on the basis of the Bible commentaries, that this interest in the ethics of everyday speech resulted directly from a rise in lay confession.

Bible commentaries, canonical collections and commentaries are all rather specialised genres: they are ruled by strong conventions and have their own mode of expression and scholarly discourse. Theywere sensitive to larger changes in penitential culture, but the subject could only be discussed within the confines permitted by the form. Ultimately, these texts had to stay within their scholarly remit, to explain the legal and penitential canons of a law textbook, or to draw out the meaning of the Bible. Dilemmas were on the commentators’ radar, but they could only be brought into the discussion when relevant to the text in hand. Difficult cases from actual ministry may have been a popular recurrence in these genres; they could not be the primary concern.

On the other hand, Peter the Chanter’s *Summa de Sacramentis et Animae Consiliis*, the subject of the next chapter, was more directly associated with a rise in lay confession in the twelfth century. In the *Summa*, many of the features of the early casuistry reappear: like theoretical scholastic theologians, the Chanter opened ethical questions up for re-examination; he used cases of conscience to explore new aspects of sacramental and legal teaching and referred to concepts such as mitigated guilt and perplexity. But unlike the examples in this chapter, his casuistical teaching was inspired by dilemmas that could only arise in the practice of pastoral care. Instead of working through a scholarly text, or relying on patristic and Biblical teaching, the Chanter cited moral dilemmas about lying and perjury drawn from contemporary life, such as deceptions in marriages, broken vows and legal cases. The *Summa* was thus a response to the new reality of confession, which required priests to give moral advice and make difficult decisions of duty. What had previously been the preserve of lawyers resolving cases became, with Peter the Chanter, a moral concern of a theologian engaged in pastoral reform. He realised that he, as a Parisian reforming theologian, had reason to consider dilemmas on lying and perjury taken from canon law in the light of theological teaching on confession, guilt and theology.

**Chapter 3: Moral Dilemmas: Peter the Chanter’s *Summa de Sacramentis et Animae Consiliis***

The Bible commentaries of Peter the Chanter and his school, and the canonistic commentaries on Gratian’s *Decretum* show signs that there was change afoot in ethics. For the first time, these commentaries answered moral questions using a casuistical method. This consisted in selecting ambiguous cases of conscience and considering all of the motivations and circumstances that were pertinent to an individual’s decisions. In so doing they brought new complexity to the more theoretical statements of ethical rules.

Peter’s *Summa de Sacramentis et Animae Consiliis* employs the same method, this time writ large. The Chanter put practical moral problems at the centre of an academic enquiry. He drew on the casuistic problems about lying and perjury discussed by the decretists, but considerably expanded their range and variety. Instead of confining himself to Bible stories, as in his exegesis, the Chanter discussed the moral choices arising in his own society, thereby bringing the theology of lying and concealment down to the level of clerics and lay people. Thus, the *Summa* was the first work to realise the potential that casuistry offered for pastoral reform. In numerous questions, he looked at cases where the normal ethical and legal rules appeared to come into conflict, and offered confessors pragmatic and theologically-justifiable solutions. This had important implications for his ethics of lying and perjury. His way of thinking about problems of concealment, deception and oath-breaking was informed exclusively by exceptional cases – this led him to develop pragmatic new concepts.

This chapter will argue that Peter’s intensive interest in moral dilemmas was a departure in the history of ethics and marked him out as a casuist. His focus on the specific permeated the *Summa*. He discussed questions of lying, broken oaths, vows and licit deceptions, in which he was exclusively interested in exceptional cases and special circumstances. In the final section I will look at Peter’s reception among his immediate successors.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

What is most striking about the *Summa de Sacramentis et Animae Consiliis* is its focus on normal life. The *Summa* started off as a series of questions on the sacraments, with chapters on baptism, last rites and the Eucharist. The Chanter discussed abstract theological questions but also supplied answers to a series of practical problems: should those about to set off on a dangerous sea journey receive extreme unction as a precaution?[[216]](#footnote-216) Might consecrated church furniture be burnt to warm the poor?[[217]](#footnote-217) When the Chanter reached his chapters on confession and penitence, cases of conscience took centre stage. In his chapter on penitence, he presented a series of practical situations that a priest hearing confession might face. In the final part of the *Summa,* the Chanter stayed with the almost exclusive discussion of moral dilemmas, but widened his range to include the choices made by all parts of society. If a man has sworn to renounce his possessions, intending to join a monastery, will he satisfy his oath if he becomes a hermit?[[218]](#footnote-218) Should a courtier who has obtained the king’s favour by flattery pay back any gifts he received from him? [[219]](#footnote-219) May a bishop with secular jurisdiction send troops to a king whose war he knows to be unjust?[[220]](#footnote-220) The practicalities of realistic problems were what most interested the Chanter.

At every turn, the Chanter brought out the complexity of human choices: he was conscious of people’s susceptibility to make a well-intentioned bad choice, their vulnerability to temptation, their ability to anticipate other people’s reactions. Take the following two questions on breaking one’s word. The first could be the subject of a novel: an idealistic cleric is troubled by the care of his incomes, and makes a damaging mistake:

Say that a certain cleric is often scandalized on account of having to manage his incomes and God says ‘if thy hand scandalize thee, cut it off’ (Mt 18:8). He therefore swears before a priest, or some other, that he will give up all of his incomes, not however with the intention that he will enter a monastery, but so that without his incomes he can continue in the world. He renounces his incomes and rejects them all. Later he sees that he is no longer as useful in the world as he used to be: he has nothing with which he can relieve the poor; he has no horses for travelling to the poor, the infirm and those in prison, who should be consoled and visited; he physically cannot fulfil those works of mercy after which God will inquire at the day of judgment. Moreover, he sees that the incomes he previously had are now managed terribly and are entrusted to unworthy managers and spent on prostitutes and other such things. He wishes to be absolved from his oath so that he can return again to his incomes, so that he may better serve God than he does presently. It is asked whether the man to whom he earlier swore can absolve him from the oath?[[221]](#footnote-221)

A case involving a servant girl draws attention to the injustice of easy public judgement against a girl in danger of giving in to sexual temptation.

A girl committed her services to a certain widow for a year by plighted faith. There was there in the same house the young grandson of the widow, and no one else, and he began to solicit that girl insistently to have an affair with him. She, fearing that she would be won over, asks whether she would break her faith if she left the house, since the Apostle says ‘Flee fornication’ etc. (1 Cor 6:18), and this is a command. Therefore she should flee the young man, fornication and whoever has power to force her to fornicate. Therefore she should leave that house, since her mistress does not wish to correct her grandson, and he is constantly harassing the maid. Although she strongly resists him, at times she feels herself soften to the entreaties and assaults of that young man. What should she do, since her mistress does not want to absolve her from the faith given, and has also apprised and consulted her priest on the matter. The mistress has even requested that the priest excommunicate the girl if she leaves, saying, ‘My grandson is forcing nothing on her against her will.’ If she leaves, she seems to sin mortally by breaking her faith. If she remains she could lose her soul.[[222]](#footnote-222)

These are not just bare statements of the facts. The Chanter invites his students to imagine the subjects’ choices sympathetically. He seems to acknowledge that these people’s fallibility and their desire to retrieve themselves from their own should be factored in to any advice that is given.

In another case, a wife has had a child by an incestuous adultery, and passed it off as another man’s son.

A certain woman conceived a baby by her relation, and, in order to avoid opprobrium and infamy, she slept with another man so that she could attribute the baby to him. And when the baby was born, the second man accepted it as his own, and made arrangements for it to be reared. After some time, that woman left the man she deceived and married a certain man, that is a third, but the second man continued to rear the little one as his own. The woman repents. She asks what she should do with regards to the man whom she thus deceived with her lie? [[223]](#footnote-223)

Peter goes on to outline a range of moral issues; the inheritance the son would unjustly receive, the injury to the second man and his heirs, the sin inherent in the wife’s deception. Peter considers not just the fact that the wife has lied, but also her husband’s likely reaction to the truth. The revelation may mean that she can no longer provide for her baby, since she could not use her husband’s money to pay for it; there could be discord between the couple if she took the baby into her home and the husband might make the truth public and condemn her.[[224]](#footnote-224) The Chanter’s concern is not just about the wife making amends for her incest and deception; he is interested in finding a solution that will protect the baby in anticipation of the husband’s reaction to the news.

In a number of ways, these are similar moral problems to those we saw in literature and in the Bible narrative. In common with the *chansons de geste* and romances, Peter the Chanter’s development of these cases seems to be more about showing up the fundamental intractability of these problems than about setting up a cue for a neat solution. Just as Ami and Amile’s deception was presented as an exceptional decision in the light of the moral, if not procedural, injustice of Hardré’s accusation, or as Fénice and Cligès’s decision to deceive the world and commit adultery was an extraordinary solution to the problem of romantic love and an evil husband, the Chanter presented the choice to break an oath or to conceal an adultery as choices influenced by special circumstances difficult to pin down in simple formulae. The issues at play are real but unverifiable: a husband’s likely reaction to an adultery, a foolish assumption that led to a hasty oath to renounce an income, a servant-girl’s awareness of her own susceptibility to temptation. Not only do these cases grab the imagination in a way that must have been engaging to students, but there is a recognition that this kind of consideration is relevant. The Chanter seems to acknowledge that the undesirable results of taking the moral high-ground may swing a question in favour of the more lenient solution.

The difference between the *Summa* and the vernacular literary treatment of moral questions is in intention and purpose. Peter the Chanter’s cases arose out of confession. He took some of these cases from penitential debates among canon lawyers, others he invented and some drew on his own experience. They all pose a challenge to pastoral theology. They raise questions about guilt and intention and whether the usual rules about lying and perjury should be applied when they will have a counter-productive effect. John Baldwin rightly drew attention to those of the Chanter’s writings that proposed legislative reforms on subjects like capital punishment, ordeals and marriage. The cases of conscience in the *Summa* mostly fall into a different category of moral thought, in which the Chanter discussed how best to operate as a priest or penitent when a situation confounds the existing rules. The dilemmas predominantly show how moral principles might be interpreted pragmatically. The Chanter had something in common with vernacular writers, but he was more directly engaged with real decisions. He was closer in motivation and method to the decretists, but he came at the problem as a theologian: his way of considering the well-being of the parties to a dilemma was more holistic and less formulaic than that of a canon lawyer.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Cases of conscience were arguably Peter the Chanter’s most important contribution to the history of ethics.[[225]](#footnote-225) At the end of the twelfth century, his method was a real departure both from other compilations of moral questions and from his own earlier work. The originality of the *Summa* in this regardhas perhaps not been brought out in the past as much as it might.[[226]](#footnote-226) It is worth comparing it more closely both with the Chanter’s earlier moral treatise, the *Verbum Abbreviatum,* and with the teaching of other masters, in order to demonstrate exactly where the innovations of the *Summa* lie.

The *Verbum Abbreviatum* was Peter’s most popular work.[[227]](#footnote-227) It was written earlier in his career than the *Summa;* the *Verbum* was produced in its first form between 1187 and 1191, whereas the *Summa* was composed in several stages from 1191 up to the Chanter’s death in 1197.[[228]](#footnote-228) The *Verbum Abbreviatum* is a compendium of material for preachers organised by vices and virtues. In its introductory chapter, the Chanter explicitly called it a collection of established moral teachings.

We therefore collect for ourselves the more useful chapters, taken first from the body of sacred Scripture, second from the good writings of other authors. ‘For anything, whenever it is well said’, or ever is necessary to a theologian, ‘is mine’.[[229]](#footnote-229)

The *Verbum Abbreviatum* did not set out to push the limits of knowledge further, but to offer a summary of existing Christian and philosophical teachings on moral matters. The Chanter emphasised that his texts were not just meant to win an argument, but that they should be memorable and incite people to live better.[[230]](#footnote-230) He quoted classical authors alongside the Bible and patristics. The teachings were therefore homiletic and rhetorical. Thus, in the chapter on good silence, the Chanter quoted relevant Bible verses.[[231]](#footnote-231) He listed four broad reasons why one might virtuously remain silent. Finally, he set out which considerations should be taken into account when deciding whether to preach: ‘what, how often, what kind of talk, how much, when and to whom you speak’.[[232]](#footnote-232) It is not worth preaching to an incorrigible heretic; Biblical characters cautiously disguised their prophecies and discouraged preaching before an irredeemable audience. There is not much advice specific enough to be of practical use. If a prelate was in the position of deciding what to preach before a secular audience, he would have to identify the particular considerations himself. On the other hand, the passage has many of the qualities of a good sermon: it includes memorable maxims and images (‘do not cast pearls before swine’) schematic lists of ideas on a theme, and Biblical *exempla*.

The *Summa* more directly reproduced the Chanter’s programme of teaching in the Paris schools. He made it clear straight away that he was not concerned with rehearsing already established truths, but with exploring the peripheries of ethical teaching. He introduced the section on penitence stating that he would discuss questions ‘which are not so well known’ and that were not already included in the *Sentences*.[[233]](#footnote-233) In his chapter on simony, he made explicit the difference between the two works’ aims:

Thus our intention is to discuss simony, inquiring into some subtle cases on the matter. Elsewhere, we discussed the subject, but with a different aim, namely, of detesting its pestilence.[[234]](#footnote-234)

The other work is presumably the *Verbum Abbreviatum*, whichcomprised a thorough description of the different kinds of simony and, as the Chanter said, a number of patristic and biblical texts intended to inspire hatred of the crime.[[235]](#footnote-235) The chapter in the *Summa* included only a brief definition of simony and a list of sacraments that can be unjustly bought and sold. The bulk of the text consists of specific cases. Can a poor cleric who has no other source of income charge a fee for reading the psalter? If a man going to the schools takes a chaplain with him, can the chaplain charge a stipend for administering to his spiritual needs, in order to sustain himself, offer hospitality and give alms? Can he do so even if he has a private source of income?[[236]](#footnote-236) The Chanter quickly proceeds to cases at the borderlines of simony: is it simony to pay someone not to accept an office?[[237]](#footnote-237) Is it simony if one church pays another to settle a land dispute?[[238]](#footnote-238) On the subject of good silence, there are no aphorisms of the ‘do not cast pearls before swine’ variety but cases of conscience on clerics who must chose between denouncing a crime and protecting a criminal from the death penalty: if a thief has been caught with a monk’s horse and a judge asks the monk whether it is his, what should the monk reply? If he admits that it is his horse, the man will be hanged (and the monk will incur the state of irregularity) and if he denies it, the thief will go free.[[239]](#footnote-239) If a preacher knows that he is unworthy of his office and holds a position that could be occupied by a better candidate, but nevertheless does benefit his subjects by his prayer and preaching, does he sin mortally by remaining in office?[[240]](#footnote-240) This is a level of specificity and ambiguity not suggested in the *Verbum Abbreviatum.*

Both the *Summa* and the *Verbum Abbreviatum* are concerned with practical ethics, but one is meant for exhortation, the other for investigation. Where the *Verbum Abbreviatum* gives familiar advice on aspects of social life, the subject matter of the *Summa* is confined to the specific and demanding.Instrumental reasoning takes central stage and axiomatic moral teachings are hidden in the wings; the maxims may be quoted to advance an argument, but never as a simple reminder. The tone of the *Summa* is unabatedly scholarly. Hauréau commented on this distinction and complained of the clerical tone of the latter: in the *Verbum Abbreviatum,* the Chanter appears as ‘a ready and clever conversationalist, who always attempts a flash of wit, always quotes some secular poet to support what he says, more or less pertinently; in short a true man of letters, who tried hard to appear as such and succeeded.’ The author of the *Summa* on the other hand, was ‘a dry writer, in a hurry to give his verdict, who appears to have only read casuists and not to have learnt from them that it is possible to convey moral lessons with a little pleasantry.’[[241]](#footnote-241)

The *Summa* is not special merely for being a transmission of the Chanter’s speculative moral teaching; it is his prolific use of cases that sets him apart. Scholarly questions on penitence and moral theology survive from a number of twelfth-century masters, including those discussed in the last chapter, Abelard, Peter Lombard, Gratian along with a large number of others.[[242]](#footnote-242) All of these authors included questions on the morality of lying and perjury; they even included cases of conscience about lying. But a comparison between Peter the Chanter’s work and theirs reveals a deeper difference in approach. The distinction lies in the quantity of the moral dilemmas included and their role in the central argument. Where for other twelfth-century authors moral dilemmas were at most curiosities or limiting-cases, for the Chanter they were the main event.

Peter Abelard, for example, used cases for an entirely different reason. He included what would become a famous case of conscience in his *Scito te ipsum*. A judge is called to sentence an apparently guilty defendant, when by private knowledge he knows that the man is innocent - should he refuse to sentence an innocent man or follow due process and sentence him as if guilty?[[243]](#footnote-243) The question was revisited by Peter the Chanter and many other penitential authors, including Raymond of Penafort in his *Summa de Casibus*. However, whereas the Chanter and his successors treated the question as a dilemma of office (does the judge personally injure the falsely-accused man in sentencing him? Is he guilty of pronouncing a false sentence?),[[244]](#footnote-244) Abelard passes over these problems and instead used the case to demonstrate the difference between the perfection of divine justice and the fallibility of human judgements. He did acknowledge the undesirability of the situation, and even indicated that the sentencing was as much a question of pragmatism as principle. Punishments are as much determined by the impression they make on others as by the inherent guilt of the person convicted.[[245]](#footnote-245) However, he does not bring these considerations down to the level of an individual’s moral dilemma; he had no doubts that the judge, as an agent of public justice, should condemn the innocent man. As was seen earlier, his interests, although sophisticated on a philosophical level, were not really casuistical.

Peter Lombard’s *Sentences* on the face of it have more in common with Peter the Chanter’s *Summa de Sacramentis.* Not only did the Lombard include moral teaching in his third book, including chapters on lying and perjury, but his fourth book is a treatise on the sacraments. Just as the first part of Peter the Chanter’s *Summa* is a combination of abstract theology and questions about how the sacraments should be administered, the Lombard included some practical cases of conscience in his discussion. In his chapter on vows, the Lombard recounted the dilemma of a man who has left his first wife and, living in a distant land, marries a second woman. If he repents and wishes to separate from the second wife, but the Church refuses to acknowledge the first marriage and so forbids him from leaving, is the second woman his wife? Lombard answered that the second marriage is not a true one, and that the man is guilty of adultery. However, since the Church prevents him from returning to the first wife, he should be pardoned for returning the marriage debt to his second wife when she asks for it. [[246]](#footnote-246) The Lombard quoted the case in a true spirit of casuistry; he included it because it is a case where the normal rules must be adapted. Nevertheless, it is an isolated instance in what is essentially a theoretical treatment of marriage. Peter the Chanter, on the other hand, developed a whole series of questions on themes connected to this case, exploring the question whether a false marriage might be tolerated by the church: if a woman’s husband has been absent on pilgrimage for a long time and is presumed dead, and the woman marries a second man through a dissimulation (since there is insufficient evidence that he is dead for legal purposes), if the second husband is troubled by the knowledge of the first man, should he consider his marriage valid?[[247]](#footnote-247) He comments on the number of witnesses required to prove that a spouse has died on pilgrimage.[[248]](#footnote-248) What if a couple is married in the eyes of the church, knowing they are related but unable prove it; should they continue to live as if married, since the church will punish them if they separate?[[249]](#footnote-249) Where the Lombard intended to set out an overview of marriage theology, which happened to include one or two cases, pastoral trouble-shooting was the Chanter’s primary interest.

The most enthusiastic users of cases of conscience before Peter the Chanter were the canon lawyers who wrote commentaries on Gratian’s *Decretum;* as we saw in the last chapter,[[250]](#footnote-250)these commentaries represent the closest thing to a model for Peter the Chanter. The main difference is only that the canonists were interested above all in establishing the rules in an abstract formulation. Like those of Peter the Chanter, the cases of conscience they discussed were about penitential concerns; they were really trying to get at how one might judge the culpability of a penitent in the light of pertinent circumstances, and what the best course of action was in difficult situations. However, their approach had been formed in legal circles and their tendency was to reduce their findings into legal or quasi-legal formulations that could be applied across many cases.[[251]](#footnote-251) Although they were interested in the same problems with a similar agenda, the canonists did not explore casuistical cases as comprehensively or as exhaustively as the Chanter. Moreover, the number of cases of conscience in the *Decretum* is limited, and the decretists were restricted in how much they could say about them*.* Peter the Chanter’s *Summa,* on the other hand, was a much more amorphous and experimental work. As we shall see, it did not fall squarely into any recognisable genre. Because he was a research theologian, he could afford to be open-ended in his discussion of new scenarios.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

The Chanter’s partiality for dilemmas appears to have gradually intensified over the course of his career*.* The *Summa* survives in a number of different sections and *reportationes* (i.e. transcriptions of the Chanter’s teachings based on lecture notes) which suggest that it was edited and copied in several distinct stages; their development suggests an evolution in the Chanter’s teaching in favour of ever more wide-ranging and creative cases of conscience.

A first, more conventional part of the *Summa* discusses the theology of the sacraments, including baptism, confirmation, extreme unction, Eucharist, penitence, and a final section on excommunication.[[252]](#footnote-252) This part includes sacramental theology along with the cases of conscience and appears in a fairly stable form in all extant manuscripts of the *Summa.* It is comparable to other works of sacramental theology of the period.[[253]](#footnote-253) This first section is grammatically polished; the author consistently writes in the first person, except in the final chapter on excommunication, which is written in the third person.[[254]](#footnote-254) The second section comprises only cases of conscience and some more general moral teachings, with three large sections on simony, theft and usury and a host of shorter, more fragmentary chapters.[[255]](#footnote-255) A central set of questions appear in four of the manuscripts of the *Summa,* and many other questions appear in single manuscripts, or are shared in two manuscripts. The chapters in this section do not appear to follow on in any logical order and the first, impersonal and third person are used interchangeably. The printed text is principally the version that appears in the five manuscripts, with substantial additional material that survives only in a single manuscript in two appendices.

The editor of the modern edition of the *Summa* concluded that the first part was edited by Peter the Chanter into a finished version. This appears to have been copied in its completed form. The latter part of the *Summa* was circulated in various *reportationes*, with no single ‘authorised’ version.[[256]](#footnote-256) The transcribers sometimes made their own additions to the text, giving their own verdicts to cases of conscience, quoting other masters’ answers to the same problems, and on occasion disagreeing with the Chanter. [[257]](#footnote-257) They report the same problems in slightly different wording, and when a witness includes cases of conscience from more than one *reportatio*, the same dilemma can appear several times in the same manuscript.[[258]](#footnote-258)

This all indicates that Peter’s interest in cases of conscience gradually grew over the years. Since his sacramental theology was put into a finished version, this section probably represents the Chanter’s thought at a period appreciably earlier than when he died; he needed time to go back over his own notes and the *reportationes* of his lectures and polish them up. It seems likely that the second, less organised part of the *Summa* reflects the Chanter’s teachings in the final years of his life. He did not get around to editing these passages. Moreover, the order of the Chanter’s teachings can be inferred from his most faithful disciple, Robert of Courson, who wrote a moral *Summa* in which he quoted many of the Chanter’s cases of conscience. We know from Courson himself that he caught the tail end of Peter the Chanter’s teaching, just before he died.[[259]](#footnote-259) The large majority of the cases which Courson quotes come not from the first section of the *Summa,* nor even from those cases of conscience which appear in five manuscripts and were published in Dugauquier’s edition, but in the scattered *reportationes* which appear in only one or two manuscripts. It is likely but not certain that Robert used his own class notes to compose his *Summa*. This is not proof beyond reasonable doubt, therefore, but it is possible that the most diffuse *reportationes*, which appear in only single manuscripts, are notes from the master’s last teaching. The cases of conscience that appear in all three complete manuscripts of the *Summa*, and which are always copied along with the sacramental first section of the *Summa* may be a set of questions that were copied down at some earlier point.

The Chanter therefore first taught and edited a *Summa* on sacramental theology, of a similar kind to Hugh of Saint Victor’s *De Sacramentis* or Peter Lombard’s fourth book of *Sentences* (although even at this stage, cases of conscience were unusually prominent). Later, having taught on penitence, he broadened his syllabus to include general questions on crimes often included in canonistic penitential literature; he discussed questions on simony, striking a priest, homicide and theft.[[260]](#footnote-260) However he began increasingly to include questions that did not fall obviously into the traditional penitential categories, and which scribes collected haphazardly in chapters with general titles, such as ‘Questiones morales’ and ‘Casus conscientie’. Many of the most complicated, realistic and unclassifiable cases of conscience appear only in single *reportationes* in one witness, and presumably date from the Chanter’s most mature phase of teaching. His predilection for casuistry grew and deepened over time. By the end of his life, his cases had ballooned beyond the scope of any recognisable kind of penitential treatise or theological *Summa.* The cases of conscience addressed a wider range of pastoral problems than any previous work.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Casuistry was more than an attractive packaging for a familiar syllabus; the Chanter’s love of cases of conscience went to the heart of his ethics. All of his abstract reasoning started with the specific; like other scholastics, he was interested in establishing moral rules, but increasingly in the *Summa*, he only did so after interrogating a string of problematic cases. As a result, many of his ethical conclusions were about justifying an exception. When it came to his thought on lying and perjury, his arguments concerned exceptional permitted dissimulations or transgressions of one’s word.

The way in which cases of conscience defined Peter the Chanter’s whole method is exemplified in his discussion of dilemmas of concealment relating to the seal of confession. He treated the cases of conscience as thought experiments that could clarify the obligation to conceal crimes revealed to the priest during the sacrament. When the Chanter was writing at the end of the twelfth century, the idea of the seal of confession was established in general, but there was uncertainty among theologians and canonists as to its scope; could a confessor go to his bishop to ask for advice about what penitence to exact? Could he bring a court case against someone who had confessed to him?[[261]](#footnote-261)

The classic canon on the secrecy of confession came from Gregory the Great, that ‘the priest should guard above all that he does not mention the sins which were confessed to him to anyone, neither to those near to him, nor to those remote from him, neither on account of any scandal,’ and threatens a heavy penance on those who do break the seal.[[262]](#footnote-262) The Chanter posed a series of questions which probe what is actually meant by revealing a confession; does the obligation to conceal mean that the confessor must lie on occasion or is there a half-way house between revelation and duplicity? In the second part of the *Summa* on penitence, the Chanter asks a question about a priest who knows a man of good reputation’s crimes by confession; when another says to the priest ‘What an upright and good life that man leads!’ would the priest break the seal if he replied ‘Not everything that glitters is gold’? On one hand, if the priest remains silent, the other man might suspect some secret crime, since he knows that the priest willingly praises good men and would not want to commit himself to a lie. Nevertheless, says the Chanter, the priest should not actually lie. He suggests that the confessor should say that he will not discuss anyone who confesses to him, whether good or evil, so as to avoid indiscretion, but then worries that the confessor could run into problems if he has already commended others who have confessed to him in front of the same listener.[[263]](#footnote-263)

The Chanter established, in line with common opinion at the time, that discreet and well-intentioned sharing of a confession is a different matter from public revelation.[[264]](#footnote-264) A case taken from a single *reportatio* involves a man who has confessed to being a fugitive lay brother and apostate and announces his intention to marry. The priest privately tells the brother that he must not marry, but the man insists. The Chanter concedes that in such a case the priest should reveal the confession to the lay brother’s abbot or prior, since he could thus cause the man to return to his monastery, the best possible solution. The priest should nevertheless try to reveal the confession as little as possible: he should only name the man, not the fact that he made the confession, and he should do so cautiously so that it does not cause scandal. He should pretend to mention the lay brother as if by chance, saying that he has a certain man in his parish who is a good carpenter or an architect called Peter etc., as if he were ignorant of the truth, in order to remind the abbot of the man who used to be a lay brother in his monastery.[[265]](#footnote-265)

Canonists of the twelfth century had debated whether a priest could bring an accusation in court based on what he had heard in confession. Huguccio’s verdict (which would be generally accepted) was that the priest could only bring a case to court if he knew of the crimes by some other means in addition to the confession.[[266]](#footnote-266) The Chanter quoted advice similar to Huguccio’s (turning it into a dilemma),[[267]](#footnote-267) then built on these brief conclusions by devising a whole series of further questions about the confessor’s legal obligations towards penitents.

A priest could use a ruse under cover of legal procedure, so that both justice could be done and the seal kept intact. If someone stole from a priest, could the priest issue a general excommunication against ‘whoever committed this theft’? The Chanter thought that the priest should not take such an action on his own account, but a general excommunication could be useful if the theft was committed against someone else: the priest may know through confession who the thief was and that the same thief had repented of his crime, but was unable to return what was stolen. If the victim of the theft is calling for spiritual punishment of the thief, the declaration of the general excommunication would both appease their sense of justice and spare its target. The excommunication would not apply to the penitent (because he was absolved), but (we can infer) the victim of the crime would be satisfied that the thief had been punished.[[268]](#footnote-268) Peter also asked whether a judge can take advantage of his powers to punish a sinner whose crimes he knows of only through confession. If someone has confessed to many misdemeanours and later was arrested and convicted for a lighter crime before the same judge who heard his confessions, should the judge inflict a light sentence or absolve him, as if he did not know about the other crimes? This may give the man the audacity to sin more. Should the judge punish him more than he would do if he did not know about the other actions? This would break the seal of confession, since it may arouse people’s suspicions and in some measure defame him.[[269]](#footnote-269) The dilemma is unsolved, but the Chanter’s final formulation of the rules of confession is that ‘the confession should be revealed for no reason, either by manifest expression or any hint, where there is no danger to the soul’ (i.e. of the penitent).[[270]](#footnote-270) The only way to apply the principle in this dilemma would be to weigh the relative danger to the criminal’s soul against the probability of defamation.

The overarching method is Socratic and resembles that of modern philosophers. He initially states a working version of the moral rule: ‘those things that are revealed to us through confession should not be exposed to others, no one doubts, either by an expression of words, nor by any hint.’[[271]](#footnote-271) He subjects the principle to a series of test cases and in the light of these trials, restates the rule in a corrected form: ‘Only on account of the greatest necessity should confession be revealed, either by an expression of words or by some hint, and then only in such a way that no one is harmed.’[[272]](#footnote-272) In each cluster of cases, he gradually increases the difficulty, until he arrives at a situation where a verdict is impossible, and two opposing duties come into balance.

Dissimulation, the just continuation of a *de facto* deception, is an important theme in the *Summa*. It is another line of thought about the morality of concealment. Peter’s discussion centres on justifying exceptional pragmatic choices to allow a deception to stand; once again, his conceptual horizons are sculpted by the prompts of particular cases. The concept therefore falls in directly with the Chanter’s overarching pastoral enquiry in the *Summa*:it is all about forming coherent principles by which a priest can navigate difficult situations in which the usual rules fail to give useful guidance.

In marriage cases, ‘dissimulation’ was a solution for certain complicated situations not susceptible to legal resolution.[[273]](#footnote-273) In an example from a decretal of Alexander III, quoted by Peter the Chanter, an adolescent injured his wife on the first night of their marriage, so that she could no longer sleep with anyone. Alexander III instructed the bishop of Amiens to ‘dissimulate’ the marriage and allowed the adolescent to marry another woman, on the grounds that he was not capable of continence and it was better that he should live with one woman as if she were his wife than that he should sin with many. It was a dissimulation rather than an annulment because the marriage was legally valid although unconsummated. Jean Dauvillier described the dissimulation:

This is a negative action, whose effect is to remove the juridical obligation of law, whilst in its place keeping the moral consequence of the law. Moral blame is implicitly cast on the young man, who is incapable of continence. A lesser evil is permitted, which is to break the tie of the first marriage, in anticipation that it would be impossible to make him obey a command of authority; this is done with the intention of avoiding a scandal.[[274]](#footnote-274)

The legal claim of the first marriage is overlooked - in other contexts it is called a ‘deception of the church’ - so that the case can be judged by purely casuistical arguments. Within that framework, the least evil path is for the young man to remarry.

There are several complicated marriage cases which fell within this category in the *Summa*. In one, a couple were related, but were advised by the bishop that they should not go to court. The bishop allowed a ‘dissimulation of the church’, in which they lived as if separated, but were legally still married. The woman remarried and had children with another man, who was related to her more closely than the first husband. He asked educated men whether this second marriage was legally valid. The author of this *reportatio* quoted a ruling of Alexander III; since the second marriage was longstanding, the man could carry on living as if it were valid. This scribe even advises that a safer option would be to obtain a dispensation for the second marriage. If the husband sleeps with his wife in the interim, says the student, he should be pardoned, since the authority of the Church judges that there was no marriage between his wife and her first husband. The Chanter is reported not to have agreed with this rather confused solution.[[275]](#footnote-275)

Dissimulation of marriages should be understood in the context of complicated rules of consanguinity and annulments. It allowed couples to live as if they had a dispensation to marry, or as if their marriage had been annulled, without forcing the church authority to concede that there was legal grounds for such a procedure. It was one legal device among others, applicable in a very specific set of circumstances. Alexander III used dissimulation in his marriage decretals quite frequently.[[276]](#footnote-276) However, when marriage law was simplified by Innocent III in the early thirteenth century, and a rational dispensation system was developed, the need to dissimulate marriages or divorces decreased.[[277]](#footnote-277) When Raymond of Penafort compiled the *Liber Extra*, he excised almost all references to dissimulation of marriage.[[278]](#footnote-278) The term largely fell into disuse until it was revived in the sixteenth century.[[279]](#footnote-279) For a legislating pope like Innocent III, therefore, the solution to the inconsistencies in marriage legislation was solvable through new legislation. Peter the Chanter was operating in a world shortly before these reforms, simply as a school-master: his discussion in the *Summa* is concerned with how to make the best of the ineffective rules of the time.

The idea of using the dissimulation of a legal requirement in order to allow a more pragmatic solution had a much broader application, both in Peter the Chanter’s thought and in the *longue durée* of casuistry. The concept of dissimulation appears in chapters on excommunication, in cases where it is better for a community that some minor excommunications are overlooked.[[280]](#footnote-280) In the case of incest quoted at the start of this chapter, a woman conceived a child and quickly slept with another man in order to pass the baby off as his. This second, although he was poor, accepted the child and fed him at great personal expense. She married a third man, who did not know that she was paying something for the feeding of the baby.[[281]](#footnote-281) The Chanter asks whether she sinned in burdening the poor man with feeding another man’s son. Is she required to hand him over to the real father, since the real father is a first son and heir, and has no other children of his own? In a second *reportatio* of the same dilemma, the issue of deception is emphasised more clearly: what should she do for the one whom she deceives with her lie?[[282]](#footnote-282) If she reveals the truth, the child may be deprived of sustenance, since the mother could no longer use her husband’s wealth to sustain him. It may be that no one will want to care for the child, and so he will be neglected by everyone concerned, and could even die. On the other hand, the mother would continue to fraudulently deceive her first husband, and impoverish him. She would be guilty of theft, since she would take another’s possessions for her child.[[283]](#footnote-283) Neither of the *reportationes* give a solution, but the Chanter leaves open the possibility that this is a case where the true state of affairs should be dissimulated, in order to allow the wife to chose the course of lesser evil and allow the deception to continue.

That was certainly the solution favoured by subsequent canon law, in which tolerating an existing evil was regarded as a different matter from committing a new crime. Innocent III judged a similar and, at the time, very famous case, in which a woman had introduced another man’s baby into her present marriage, passing it off as her husband’s.[[284]](#footnote-284) Legally, she had injured her husband and his heirs, and so would normally have been obliged to admit to the fraud and make amends before the priest would absolve her. Innocent ruled that she should be allowed to continue the deception without making restitution (i.e. paying back any financial damage she had incurred) and nevertheless be absolved. This was taken by canonists to be a pragmatic decision about the danger threatening the woman, who might not be believed or whose husband might reject and attack her if he found out the truth.[[285]](#footnote-285) The understanding was that the woman was still morally required to reveal her lie and make amends, but, since the formal requirement was removed, she was free to decide that in the circumstances it would be less sinful to protect herself and the baby.

There is a case in the *Summa* in which the Chanter more positively allows a deception to stand. A knight had a daughter who ran off with a licentious man. After a long time, a woman arrived in the town who looked just like the daughter. She heard that the knight and his family believed her to be the lost daughter and so she pretended that this was the case. Since the knight could not marry her off, he established a convent with some of his land and she became a nun. The Chanter asks whether she was required to reveal the fraud to the convent and her supposed father. He is reported to reply that the nun was not obliged to tell them, if she confessed to the bishop, who could give her a dispensation.[[286]](#footnote-286) The rationale must once more be that keeping up the deception was the lesser evil.

These dilemmas are envisaged in a penitential setting. The initial deception has already been committed in each case, and the pertinent decision is whether to allow a false situation to continue. Peter set these cases clearly apart from decisions to deceive actively, and in particular, to mislead a court. In a story recounted in one report of the *Summa,* we hear that Peter was consulted by a man who was accused of homicide. All of the other men accused underwent the water ordeal and were cleared. There were strong presumptions against this man, however, and he sought the Chanter’s advice whether to undergo the trial. He confessed that he was guilty, and asked whether he should perjure himself. The Chanter advised him not to commit perjury but to refuse the trial and submit himself to judgement.[[287]](#footnote-287) In consequence, the man was executed. Peter’s severity is actually surprising, since he devoted so much casuistry to showing that clerics must not be involved in handing over a suspect to the death sentence.[[288]](#footnote-288)

In another case, an abbot has secretly been entrusted with money by a friend, with instructions on how to distribute it among the poor. The abbot does as instructed, but after the man’s death, his heirs sue the abbot to return the money. The abbot cannot prove that the money was given to him to distribute, nor that this is what he did. He is faced with a choice between claiming that the money was not entrusted to him, in which case he would lie, or conceding that the money was entrusted to him, which, since he is unable to prove it was legitimately spent, may result in the church having to pay out a large sum. Moreover, he has firmly promised his friend that he would keep the gift of money secret, and so perhaps should not feel compelled to respond to questioning at all. What if he is threatened with excommunication if he remains silent about the money? The verdict is that, if the abbot is of great reputation, he must stand by his oath to his friend, but he must not tell a lie to protect his monastery from paying the heirs. If he is forced to bear witness in court, he must resign his position and substitute another in his place.[[289]](#footnote-289) In all of these cases the message is clear: there are no practical benefits for which it is worth committing perjury. It is better to die or to suffer an unjust heavy payment than to tell a court a falsehood.

The Chanter’s cases on dissimulation are linked by a method of casuistical argument rather than their subject matter. The decision to suppress a legal or quasi-legal requirement in order to clear the field for a more utilitarian solution, applies to quite a wide range of subjects (but emphatically not every case). The Chanter was beginning to develop a set of arguments for a genreof permitted deceptions. Together these cases show a coherent way in which a confessor or priest could make pastoral rules work in seemingly intractable cases.

One final area in which casuistry drove Peter’s teaching was his discussions of perjury and broken vows. In particular, he developed a set of arguments which were the beginnings of a doctrine of mental restriction. Rather like certain twentieth-century philosophers,[[290]](#footnote-290) he pointed out that there are implicit conditions and communications that accompany the words that are spoken out loud. They are generally understood as self-evident; say, if you promise to go on a pilgrimage, you implicitly mean, ‘provided I am alive and well enough’. If you pledge your word with such an implicit condition, when the condition is not met, you do not perjure yourself in breaking your word. The Chanter used this argument in a series of cases to justify breaking an oath or vow.[[291]](#footnote-291)

In a case very similar to one found in Gratian’s *Decretum,*[[292]](#footnote-292) a man has vowed to enter a monastery, but finds that the general mode of life there is immoral. The Chanter says that if the man swore his vow understanding an implicit condition that he would only enter the monastery in order to further his spiritual life, then he is not required to fulfil his vow and stay (since staying would spiritually harm him). Implicitly, this would mean that if he swore simply to enter the monastery, he would have to stay. Nevertheless, even if he is allowed to leave the immoral house, it would still be better if he entered another monastery instead.[[293]](#footnote-293)

The rule works equally for lay people. The following case was discussed at the start of this chapter, concerning a young woman who has promised to work as a servant for a certain widow for a year. In the same house, there is a grandson of the widow, who quickly starts to urge the young woman to have an affair with him. She, feeling herself softening to his persuasions against her will, asks the widow to free her from her obligation, but her mistress refuses either to release her or to correct her grandson. Is she in fact held to her promise? The Chanter replies that her oath to serve the widow for a year should be understood to have been made with the implicit condition ‘I will serve you unless it goes against divine commandments’. Therefore, the young woman who leaves her position in the house, in compliance with the commandment, ‘flee fornication’, does not falsify her oath.[[294]](#footnote-294)

Interestingly for the history of gender, the Chanter includes a parallel case of a male servant who has made a similar oath and (like Leporello for Don Giovanni) is forced by his master to solicit married women for liaisons. The servant objects morally to his task but fears a savage beating if he disobeys; the Chanter allows him to break his oath and leave just like the servant girl.[[295]](#footnote-295) It would seem that the Chanter thought that these moral rules applied equally to men and women, but felt that it was worth spelling this out.

Peter also acknowledged that the particular intention with which an oath was sworn subtly altered the kind of obligation it entailed. Two brothers were secular canons in the same church. The younger had his own fields and vineyards, and was excessive concerned with their cultivation. The elder reproached him so much that the younger swore to his brother that he would sell them and that he would pay no attention to farming. Later, the elder brother cancelled the oath and the younger returned to farming. Was he guilty of perjury? It depends on the intention with which the younger brother swore. If he swore to give up farming *tout court*, the subject of the oath was morally neutral, and so his brother could absolve him. However, if the brother meant that he would give up farming because of devotion, or so that he would have more time to pray, even if this was only mentally and not verbally expressed, he would be held to keep the oath. [[296]](#footnote-296) The obligation implicit in such an oath concerns holy matters, and so there is an obligation to God, for which there can be no human dispensation.

Like the sacraments, the theology of vows and oaths had come under close theological scrutiny in the course of the twelfth century.[[297]](#footnote-297) More specific rules led to new anomalies and exceptional cases. Peter the Chanter’s interest in all these cases was to reconcile the theological thought about the kind of obligation entailed by different kinds of vows with the desire to allow the most charitable outcome. The Chanter’s reasoning was as follows: some oaths must be broken not because the words of the oath themselves are unjust or invalid, but because the circumstances surrounding the oath make it untenable. The argument of implicit conditions offers a formula to explain why it is not perjury to break your word in those circumstances. The private intention of the one swearing has a bearing on the oath’s scope and validity; where circumstance makes the fulfilling of an oath contradict the original intention, the obligation must end. Therein lies the possibility for a theory of hidden alternative meanings and justified dissimulating promises. For the Chanter, this was just another case in which he was looking for the best way to implement pastoral rules in awkward cases; it led him to start a train of thought that would eventually lead to mental-reservation and permitted deception.

Peter the Chanter’s conclusions are inseparable from his method. It was only by making moral rules run the gauntlet of tricky cases that he could perceive the need for concepts such as dissimulation. The way in which he uses cases of conscience to come to conclusions varies within the *Summa.* The cases are explained with differing levels of coherence, largely depending on the *reportatio* in question and the part of the *Summa* in which the cases appear. Nevertheless, there is a common underlying method; to look for cases which appear to undermine the usual rules of truthful speech, and propose solutions that represent the best interpretation of the available rules. The ideas which resulted could only be conceived with special cases in mind. Dissimulation was an unusual overlooking of normal rules to allow a practical solution to an impossible situation. The rules about oaths and vows sworn with implicit conditions were provoked by a category of problematic cases that lacked a legal solution. With Peter the Chanter, casuistry had become an academic discipline, distinct from all earlier penitential writings.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

As is perhaps inevitable in such an experimental work, there is a degree of ambiguity about the application of the *Summa*. The global relevance of Peter’s teachings for the theology of penitence and priests hearing confession is evident, but it is not clear to whom, or at what level of abstraction, exactly he was pitching his ideas. He acknowledged a notional division between practical moral knowledge that would help people to live their lives and scholarship only relevant to experts, but he was never clear as to which category his own work belonged. Sometimes he signalled that a certain question was of purely academic interest, using the formula, ‘the scholastic question should be posed here…’.[[298]](#footnote-298) Sometimes he seemed to indicate that his conclusions are serviceable for real life: ‘He asks this not because of the curiosity of civil law, but because of a desire to avoid sin.’[[299]](#footnote-299) Some cases would be inaccessible to all but fellow intellectuals; one considers a cleric who fell madly in love with a woman, and swore to do whatever she ordered him without condition. She ordered him to enter a monastery. The practical question of what the cleric ought to do is quickly settled: he conceded straight away that it would be best if the cleric did enter a monastery. The Chanter is really interested in whether the cleric was obliged to do so because of his oath and whether the woman could absolve him of the obligation. The argument concerned the cleric’s and the woman’s intentions; the Chanter presumes that he only made this promise in the hope of winning sexual favours, an unworthy aim and therefore not a valid reason to keep his oath. Whether the woman can absolve the vow depends on whether she ordered him for his own good, to protect his chastity, or meant to hurt him, in the expectation that he would break his oath.[[300]](#footnote-300) We can see a common sense judgment operating in this conversation about the basic sincerity of the instruction and the oath, and an instinct that a serious oath should be kept, in contrast to an oath or command given flippantly. However, the Chanter dresses the case up in technical language and formulae – he is making it fit within the rubrics of canon law. His writings have a scholarly finish.

However, on occasion, the Chanter could claim a deep separation between those who ponder questions in schools and those who solve practical problems in the real world. Only those who embrace doubt are compared to mariners who see into the depths of God’s wonders:

Those who go down to the sea in ships with the Lord see wonders in the deep, since God’s wonders are in many waters, which waters submerge us. We descend into the world’s torrent, to the doubts which it brings us, since the distance between the speaker in the schools and the orator in the public square, this same distance lies between those ruminating advanced scholastic questions and those who are obliged to answer requests about particular matters.[[301]](#footnote-301)

The overwhelming emphasis of the *Summa* is on practical advice for the humble confessor. So many of his dilemmas concern the advice a parish priest, a canon, an abbot or bishop should dispense to his flock. He offers practical advice to mothers and servants, as well as knights and merchants.

Peter was certainly outlining a method of thinking that could be spread abroad, but the *Summa* is not presented in an accessible form. It does not differentiate between purely theoretical distinctions and useful clarifications for the cure of souls; the links between cases and their conclusions are often left implicit. It was this lack of clarity as to the audience of casuistry that was perhaps most problematic about the *Summa.* It is difficult to grasp the overarching lessons that would please a theologian, or to pick out practical guidelines from among the ‘scholastic’ questions. It is a true example of the blurring of disciplinary and generic boundaries characteristic of this period.[[302]](#footnote-302) Various of the Chanter’s disciples adapted his cases of conscience into more accessible and recognizable genres. Some turned casuistry to practical use, by including the Chanter’s teaching in confessor’s manuals, others sought to integrate his teaching into a more tractable theological *Summa.*

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Robert of Courson was certainly the most faithful of the adaptors of the Chanter’s casuistical method.[[303]](#footnote-303) He composed a *Summa* around1208-1213, in which he gathered cases, organised them under headings, and incorporated a certain amount of material from the *Sentences,* to produce something that looked much more like a comprehensive reference work than the Chanter’s offering.

Courson harnessed the cases of conscience more securely to the relevant written authorities. He had chapters on vows, oaths and lying, in which he gathered together relevant cases from the Chanter’s teaching, and more explicitly than the Chanter, stated what rule the case in question demonstrated. Whereas in his chapter on the seal of confession, the Chanter had presented a series of cases, which methodically and probingly tested every aspect of the accepted rule, Courson generally used cases demonstratively; he stated a rule, quoted a case or two, then moved on to the next topic. In his chapter on conditional vows, he ran through the categories of conditional vow (a vow made between friends ‘I’ll enter a monastery if you do’, vows to complete a pious act if God grants your request) and a list of occasions on which the pope could commute a vow.[[304]](#footnote-304) The cases in these chapters work more as examples rather than as thought experiments.

The most creative aspect of his adaptation were his chapters ‘De Penitentia’, ‘De Scandalo’ and ‘De Perplexitate’, which all discussed cases linked not by theme but by the kind of moral reasoning involved. ‘De Penitentia’ is framed as advice for priests in choosing the correct penance. The practical application for priests engaged in cure of souls is more rigorously and consistently emphasized here than it ever was in the Chanter’s *Summa.* Robert picks out a series of cases from the Chanter in which there is a particularly difficult decision about what restitution and satisfaction to ask of a penitent before absolving them. Several are cases of broken oaths or just dissimulation that the Chanter discussed. He quotes the case of a monk whose monastery lives on the proceeds of money-lending, robbery and simony.[[305]](#footnote-305) Whereas the Chanter treated the case as one of personal conscience, Courson addresses it as a dilemma for the bishop or cardinal to whom the monk confesses. Should he advise him to stay in the monastery? In that case the monk will transgress God’s injunction against theft. If the confessor advises him to leave, he should tell him to transfer to a more honest cloister or hermitage, but what if there are none free from this sin in the region? What if the confessor hands the monk over to the advice of his abbot? The abbot, himself implicated, might try to kill the whistle-blower, or at any rate excommunicate him.

The case of the woman who exchanges a baby and passes it off as her husband’s son appears in this section. The key penitential problem in this case is that the illegitimate baby deprives his true heirs of their property. By the time Robert was writing, a famous penitential case very similar to this had passed through Innocent III’s courts. He quotes that version rather than the Chanter’s; in this one, the baby is stated to have been either produced by adultery or the wife passed off another woman’s offspring as her own.[[306]](#footnote-306) The overriding problem for Courson is what restitution the confessor should require from the mother. He concedes that the adultery should be kept secret, but suggests a series of stratagems by which the priest can ensure that some kind of restitution is made, without exposing the crime. The woman should go to her bishop (or cardinal or even the pope) with her own priest, and together they should tell the illegitimate son the truth and encourage him to go on a long pilgrimage or enter a monastery, leaving the inheritance intact. The illegitimate son should be sworn to silence to avoid scandal and he should pay for everything that has already been expended on his behalf as far as he is able (the priest or bishop should secretly pay it to the two heirs). If the mother cannot persuade the son to go through with all this, she should repent and mourn and pay any money she has from her dowry anonymously to the true heirs.[[307]](#footnote-307)

Courson’s interest in penitence and the duties of the priest translates into much harsher verdicts against cases of dissimulation: he quotes the Chanter’s case of the convent founded for a woman masquerading as a rich man’s long-lost daughter. Whereas the Chanter had found reasons to argue that the convent should stay open, Courson lists the many ways in which the repentant fraud should ensure that everything is restored to the true heirs.[[308]](#footnote-308) Again, the wife of a thief or moneylender should leave her husband, only visiting him to fulfill the marriage debt, if even an incalculable fraction of his income comes from illegitimate sources.[[309]](#footnote-309) Instead of using cases to settle open ethical questions, Courson uses them to demonstrate the kind of creative thinking a confessor might deploy in finding ways to exact an appropriate penance from the penitent. Unlike the Chanter, he separates off specifically ‘penitential’ cases and signposts the kind of practical lesson that can be learnt from them.

A similar sign-posting can be detected in his chapters on scandal and perplexity, which are in many ways an essay on casuistry *per se*. Scandal was a term in canon law which meant any action that caused danger to the faith.[[310]](#footnote-310) The chapter on scandal is a series of cases in which there is a choice between revealing information that may lead others into sin or suppressing what was traditionally called ‘a truth of life, doctrine or justice’.[[311]](#footnote-311) There are cases on whether a preacher should declare truths that will offend the audience, and whether a judge should give a verdict on a foreign poor man’s case and risk angering many local rich men, or instead delay his case to avoid scandal and possibly his own death.[[312]](#footnote-312) The subject matter includes topics as diverse as usury, pastoral care, advocates, the eating of meat;[[313]](#footnote-313) all the dilemmas ask whether a priest should take a moral liberty in order to avoid a risk of sin to the wider public. The chapter on perplexity, on the other hand, gathers a series of cases under the maxim that in apparently impossible cases, one should always choose the lesser evil.[[314]](#footnote-314) Courson lists a series of cases in which sin seems unavoidable; he includes cases such as whether an abbot should pay back a debt to a heretic, whether a legate should obey a papal order to excommunicate local barons for their involvement in a war, when he knows that the war has become just, and some of the dilemmas concerning the revelation of confession.[[315]](#footnote-315)

These could be called meta-ethical chapters because they are concerned not so much with the actual judgement in each case, but in discussing a method for how one might pick out the right path. Courson made explicit what was not stated by the Chanter, that there is a rational method for making difficult moral choices. By using guiding principles such as ‘choose the lesser evil’ and ‘avoid scandal except where it impedes the truth of life’, Courson attempted to generalise from a tangle of specifics.

No one assimilated Peter the Chanter’s cases of conscience on such a scale as Courson. He reproduced a large number of the Chanter’s cases on lying and perjury, but restructured them for ease of use. He differentiated cases on lying and perjury proper from cases about penitence. He separated cases on lying that were suitable for showing how to reason through perplexity or judge scandal into the relevant chapters. It was this exposition that ensured the inclusion of cases of conscience in other early thirteenth century works of theology. As a general rule, masters of this period did not take interest in cases of conscience for their own sake, but they did latch on to the concepts of scandal and perplexity. Because earlier authors like Robert of Courson had included some cases of lying and broken promises in these chapters, the later authors also continued to engage in some thought on this subject. Geoffrey of Poitiers wrote his *Summa* around 1215, as a general theological reference work.[[316]](#footnote-316) His chapter ‘De Perplexitate’ paraphrases Robert of Courson’s.[[317]](#footnote-317) His chapter on scandal combines cases of conscience taken from Robert of Courson and Stephen Langton.[[318]](#footnote-318) Langton himself wrote questions on perplexity including cases of conscience borrowed from Peter the Chanter.[[319]](#footnote-319) For example, he includes cases such as whether a priest should only feign to consecrate the Eucharist, if he remembers at last minute that he is in mortal sin. However, he only quotes from Peter the Chanter in order to pose theoretical questions. He mentions the Jews who said that Christ should be crucified – would they be guilty of sin if they failed to crucify him, since they believed him to be a criminal? His point is an abstract one about the implications of false understanding for sinful action.[[320]](#footnote-320) This is characteristic of Stephen Langton, who in his academic activities showed more interest in theorising than in applied practical solutions.[[321]](#footnote-321) Peter’s influence continued to be felt in a limited way among the next generation of scholars: William of Auxerre included chapters on scandal and perplexity including several of Peter the Chanter’s lying and perjury dilemmas in his *Summa Aurea* (1215-1229);[[322]](#footnote-322) William of Auvergne used similar situations in a chapter of his *De Virtutibus* on justice (c.1228)*.*[[323]](#footnote-323) More than any other of Peter the Chanter’s immediate successors, William of Auvergne adopted, in this one chapter, the Chanter’s casuistical method of inquiry, solving a series of cases, taken straight from the *Summa de Sacramentis et Animae Consiliis*, in order to arrive at an overall account of what is meant by ‘rendering God his due’.[[324]](#footnote-324) However, the underlying motivation is for theological clarity rather than practical application of moral rules.

Thus the direct successors of Peter the Chanter writing in theology faculties did not treat cases of conscience as an all-embracing procedure as he had done. (Robert of Courson is the exception.) The convention quickly established was to contain the moral dilemmas in a couple of chapters on scandal and perplexity. What was lost in scope was gained in accessibility: managing the subject matter in this way meant that Peter’s unconventional approach could be integrated into traditional teaching based on the *Sentences.* Nevertheless, much of what Peter had originally intended to achieve with his *Summa* was lost – the practical advice for confessors was left to one side, cases of conscience were deployed in a more abstract conversation.

A more fruitful reception for Peter the Chanter’s cases of conscience was in early English manuals for priests.[[325]](#footnote-325) Thomas Chobham and John of Kent precociously wrote manuals for parish priests hearing confessions, which were intended to present the latest school learning in a form useful for those involved in the cure of souls. Both included significant passages of casuistry; how much depended on the academic aspirations of the work. Thomas Chobham denies in the prologue to his *Summa Confessorum* any concern with cerebral matters: ‘We will leave to one side the subtleties and theoretical questions to be spoken about penitence and will more carefully pursue instead the duties and practical considerations which are necessary for priests to hear confessions and to enjoin penances.’[[326]](#footnote-326) Nevertheless, he found space for a number of ambiguous cases in his *Summa.* He gave lying and oaths a full treatment, including discussion of Biblical instances of lying and perjury, and Augustine’s murderer at the door case.[[327]](#footnote-327) In his chapter on sins connected to adultery, he included the Chanter’s cases about a wife who tried to claim the right to remarry after her husband entered a monastery at the end of his life, instances of dissimulated marriages, and the famous case of the woman who smuggles a son conceived by adultery into her marriage.[[328]](#footnote-328) He also includes a Chanterian case about a nun’s right to dissimulate the fact she is not virgin.[[329]](#footnote-329) Although Chobham’s real interest was not in undecided matters, but in summarising established and necessary guidelines, he clearly had absorbed the Chanter’s belief in the importance of ambiguous cases in penitential teaching.

More academic is John of Kent’s *Summa de Poenitentia.*[[330]](#footnote-330) He wrote a little later than the other authors discussed here, between 1212 and 1220. He explicitly signals that his *Summa* will include more challenging material from the canon law schools as well as theology. His prologue states that:

The compilation of the following work principally aims at explaining and solving difficult questions that involve a definite danger to souls and which occur frequently in the penitential forum. It overflows sometimes like a river, however, and by accident, so that it touches on matters that will perhaps seem to be less appropriate for penitential examination.[[331]](#footnote-331)

His penitential is a hybrid between a list of penitential canons, in the style of Bartholomew of Exeter, and casuistical treatise. He both lists the categories of sin, and distinguishes the mortal and venial varieties, then moves on to more complicated and ambiguous cases, often drawn from the Chanter. Relevant for us is his run through of cases on perjury and vows.[[332]](#footnote-332) He includes the categories of oaths usually discussed in a penitential: oaths extorted by fear, negligent oaths, oaths which prevent the swearer from attaining a holier state. At the end of the section he includes more difficult cases, such as the dilemma, which was discussed by the Chanter as well as decretists, of a monk who changes from the Cistercian to the Victorine order, and his arguments about implicit mental conditions in oaths and vows.[[333]](#footnote-333) The intention seems to be to provide penitential guidance for those in practical ministry, with the added feature of difficult cases. The codex in which the most complete version of the work survives is a portable compendium of practical pastoral material, including Simon of Hinton’s *Summa Iuniorum*, Richard of Wetheringset’s *Summa* and Grosseteste’s constitutions.[[334]](#footnote-334) Although he was by his own admission concerned with subtleties, John of Kent was one of the first to include cases of conscience in a practical confessors’ manual. The manuscript evidence implies that his readers reckoned it would be useful in the field. Casuistry was turned in this early period to practical purposes in confession.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

The early reception of Peter the Chanter’s cases was indicative of what was to come. In the *Summa* of Geoffrey of Poitiers and the *Quaestiones* of Stephen Langton, much of what was most striking about the Chanter’s cases faded from view. Gone was the invention and novelistic detail of the *Summa*; gone was the theologian’s calling to solve the ambiguities that arose in pastoral care. By virtue of exclusively quoting the Chanter’s dilemmas in the chapters, ‘De Perplexitate’ and ‘De Scandalo’, the theologians reduced casuistry to the explanation of relatively abstract points about public harm versus private benefit, and the theoretical standing of a binary choice between two sins. A few cases of lying and oath-breaking continued to feature, but it was not casuistry, in the sense of the resolution practical dilemmas with the understanding that the lessons would be of immediate use in the cure of souls.

Nevertheless, even these works did preserve a number of Peter’s big innovations. By continuing to include a few cases of conscience on lying and perjury, the next generation of theologians acknowledged that some situations pose a conundrum to which the usual rules offer no obvious solution. Although the masters disagreed whether ‘perplexity’ and ‘the lesser of two evils’ were accurate terms to use of these awkward decisions,[[335]](#footnote-335) they all agreed with Peter that there could be situations in which one must choose between two actions that would normally be sinful. They agreed, moreover, that there could be an academic enquiry into how to choose the right course; they accepted in principle that one might pragmatically permit a deception to continue and understand implicit conditions in oaths. Aspects of the Chanter’s casuistry had entered the mentality of the theology faculty, even if his overall method was not imitated.

The early confessors’ manuals kept closest to Peter’s agenda. The two manuals cited here were early examples of a genre that was about to burgeon. Thomas Chobham and John of Kent set out to present basic penitential and sacramental theology in a digestible form, but both authors evidently judged that it would benefit confessors to be exposed to a number of difficult cases about deception and oath-breaking. Like the Chanter they saw these cases as a skill that must be learnt for effective pastoral care. Over the following half-century, it would be confessors’ manuals that most actively took up the casuistical method of thinking about lying.

**Texts**

**Peter the Chanter *Summa de Sacramentis et Animae Consiliis***

1. Revealing Confessions.

Paris, Bibliothèque Nationale MS Lat. 3477, f. 100vb.

Aliquis sacerdos per confessionem cuiusdam parrochiani sui scit ipsum esse conversum fugitivum et apostatam. Ille nichilominus in publico vult contrahere. Dicit ei sacerdos in occulto, ‘Meo ministerio non uxoraberis’. Ille nichilominus instat. Querit sacerdos utrum liceat ei revelare hoc quod novit per confessionem illius conversi abbati suo vel priori ut ita impediatur ab illo peccato et revocetur ad salutem. Dicit magister quod non videtur ei dicendam nisi hominis (ms. nominis) confessionem quam non comitatur (ms. comutatur) penitentia. Unde siquis confiteretur ei quod occisurus esset hominem, nichilominus prodit eum talibus qui possent prodesse et non obesse. Preterea ideo confitetur quis sacerdoti, ut sacerdos apponat medicinam. Sed quam salubriorem medicinam potest huic apponere quam si faciat eum redire ad habitum suum et religionem suam? Caute tamen hoc faciat sacerdos ne scandalum oriatur. Et quasi ex incidenti faciat mentionem de illo converso, ut dicat se habere quemdam parochianum vel bonum fabrum, si fabrum est, vel architectum nomine Petrum vel a. vel b. ut ita quasi ignarus veritatis. Reducat abbati ad memoriam, illum fuisse conversum in monasterio eius.

¶ Magister Robertus de Camera quotiens audiebat confessiones, dixit confitentibus, ‘Videte que michi dixeritis quia si celanda sunt, celabo, si non, non celabo.’

2. A fraudulent nun.

Paris, Bibliothèque Nationale MS Lat. 14521, f. 157va-b.

Item quidam habebat filiam que fugit cum aliquo lascivo. Post multum temporis venit quedam alia simillima illi fugitive in villam illam. Putat miles et tota familia illam esse filiam militis. Illa hoc audito simulat se esse filiam illius et nomen eius transformat. Miles ille, quia non posset honeste collocare in matrimonio, in monasterio cum aliqua parte sue terre collocat. Illa consensit; fit monacha. Modo querit utrum teneatur revelare fictionem illam monialibus et patri putativo? Et si comperat miles illam non fuisse filiam suam, utrum possit terram suam revocare? Dicit magister quod ipsa debuit consulere episcopum et si episcopus dispensaret cum ea, non teneretur illam fictionem revelare. Ad secundam questionem dicit, quod ille miles terram illam nullo modo posset revocare, quia simpliciter dedit eam monasterio sine conditione omni quia in tali contractu conditio esse non potuit, nisi simoniaca. Quod si ipse talem conditionem fatetur, repetere (f.157vb) non potest. Preterea monasterium eque deceptum est ut miles, et magis deciperetur, si miles posset revocare predium, et monasterium cogetur alere illam simulatricem quia expellere eam non potest, ex quo eam semel recepit.’

3. An Abbot falsely accused of theft.

London, British Library Harley MS 3596, fol. 140va.

De facto contigit quod quidam vir religiosus, abbas, secreto recipit pecuniam cuiusdam ami(f. 140vb)ci sui de mandato ipsius distribuendam et rogatus est ab amico illo ut secreto et occulte hoc haberet. Post distributam pauperibus pecuniam, et mortem illius amici, heredes illius amici repetunt ab abbate illo pecuniam. Querit abbas quid faciat cum non possit probare pecuniam illam sibi datam ad distribuendum, nec sic fuisse distributam. Si negaret sibi fuisse pecuniam commissam, mentiretur, et ita peccaret mortaliter, cum sit perfectus. Si confiteatur se recepisse pecuniam et non probet se ad distribuendum recepisse, vel non se distribuisse, condempnabitur ad restituendum, quod cedit in magnum ecclesie detrimentum.

Item si tacere voluerit, nec mentiri nec verum dicere, compellitur per iudicem in iudicio respondere. Alioquin tanquam contumax condempnaretur. Preterea si heredes, qui repetunt multa flagrarent malicia, irruerent in bona monasterii et incenderent et dirriperent ea.

Contra. Cum secreto fuerit ei commissa pecunia et hoc secretum haberi voluerit, et rogaverit, et abbas hoc etiam firmiter promiserit, quare super hoc respondere compellitur? Nonne hoc licitum fuit facere, et promittere utique. Ergo in hoc obtemperandum est voluntati pecuniam committentis. Ergo non est cogendus abbas ad responsionem.

Item numquid illud iuris erit si ab initio fuerit abbati credita pecunia. Et postea ei fuit secreto iniunctum ut, cum eam posset solvere, distribueret eam pauperibus.

Item, numquid pauperes qui talem receperunt pecuniam salva consciencia ipsam retinere poterunt, cum alius non possit probare ad hoc sibi commissam fuisse pecuniam, ut sic distribueretur?

Item, si forte abbas non impetitur, quia non habetur suspectus de accepta pecunia, sed ad preces heredum episcopus excommunicat quicumque [sic] non revelaverit se habere vel habuisse de bonis defuncti, numquid timore illius excommunicacionis debebit abbas revelare sibi pecuniam commissam? Quid in hiis faciet abbas perplexus inter restaurationis dampnum et mentiendi peccatum?

Hoc autem proponit non propter curiositatem iuris civilis, set propter sollicitudinem evitandi peccati. In hac scrupulositate consuleret quod si abbas magni esset nominis in omnibus staretur eius sacramento, ne et ipse mentiretur negando se habuisse pecuniam ut ecclesiam suam servaret indempnem. Sed quid si talem non habeat iudicem quod hoc approbet sed velit sibi fidem secundum formam iuris? Deponat se ipsum et alius substituatur.

4. A cleric’s oath to a woman he loves.

Paris, Bibliothèque Nationale MS Lat. 14521, f. 153vb-154ra.

Quidam clericus insano amore correptus iuravit cuidam domine quod faceret quod ipsa preciperet sine omni conditione ab altera parte apposita. Ipsa statim precepit ei quod fieret monachus. Modo queritur utrum deberat obedire precepto. Quod videtur quia licitum iuravit, et licitum ei precipitur, ergo implere debet. Item ex culpa sua venit in hanc obligationem; ergo absolvi non potest. Preterea dubitatur utrum ipsa possit revocare preceptum, cum non fuerit conditio in iuramento apposita de revocatione precepti, vel forte mentaliter ab ipsa intellecta. Preterea videtur (f.154ra) quod possit valere ad discussionem questionis, si consideretur quo animo illa preceperit ei hoc preceptum: utrum intuitu scilicet castitatis eius, et tunc magis videtur quod deberat adimplere iuramentum, vel animo constringendi eum, et emungendi aliquid ab eo semper quando vellet occasione illius precepti, et tunc minus videtur quod deberat obedire ei. Preterea ille clericus nihil intelligitur promisisse in iuramento nisi quod ipse faceret pro consequenda voluptate in carne illius vilis. Ergo si precipiat ei ad quam ipse faceret pro deliciis scilicet suis, non tenetur adimplere.

**Robert of Courson**

5.On Scandal: *Summa,* Lib. XXV, Ch. 4, 7.

Paris, Bibliothèque Nationale MS Lat. 14542, ff. 87rb-87va (P), collated with London, British Library Royal MS 9 E XIV, ff. 27vb-28ra (L), and Paris, Bibliothèque Nationale MS Lat. 3259, ff. 107vb-108vb (B).

Item tu, in prelatione vel in cathedra constitutus[[336]](#footnote-336) doctoris, legis vel predicas, et tu scis quod[[337]](#footnote-337) si ita legas vel predices[[338]](#footnote-338) ut veritas doctrine exigit, auditores offenduntur. Ibi melius est[[339]](#footnote-339) ut scandalum oriatur, quam veritas doctrine tue relinquatur. Item tu constitutus iudex in causa plures scandalizas sententiando iuste. Ibi melius est[[340]](#footnote-340) ut scandalum oriatur quam veritas[[341]](#footnote-341) iustitie relinquatur, et quod[[342]](#footnote-342) ita sit probatur auctoritate illa Evangelii[[343]](#footnote-343) ubi dixerunt discipuli ad Iesum,[[344]](#footnote-344) ‘‘Nonne scis quod audito[[345]](#footnote-345) hoc verbo Pharisei scandalizati sunt?’ Et respondit Dominus ‘Siniti illos:[[346]](#footnote-346) Ceci sunt et duces cecorum’,[[347]](#footnote-347) quasi diceret relinquendi sunt potius cum scandalo suo[[348]](#footnote-348) quam veritas[[349]](#footnote-349) predicta[[350]](#footnote-350) relinquatur.

…

(f.87va) Item aliquis pauper a remotis partibus venit huc ante te auditurus sententiam pro eo[[351]](#footnote-351) contra multos divites[[352]](#footnote-352) indigenas, qui statim interficient[[353]](#footnote-353) te si incontinenti[[354]](#footnote-354) sententies. Quero hic utrum,[[355]](#footnote-355) tu iudex debeas procelare sententiam in dispendium pauperis, cum iam perveneris[[356]](#footnote-356) ad diffinitivum calculum? Quasi perplexus es.[[357]](#footnote-357) Nam si sententias[[358]](#footnote-358) scandalum multis et tibi mortem paras,[[359]](#footnote-359) si differs scandalizas pauperem, et cum eo iniuste agis. Solutio. Dicimus quod nullatenus[[360]](#footnote-360) debes accipere personam in iudicio et[[361]](#footnote-361) relinquere veritatem iustitie[[362]](#footnote-362) pro periculo mortis sed statim sententiare debes, precipue[[363]](#footnote-363) ubi iuste dilationem ferre[[364]](#footnote-364) non potes. Sicut Iohannes Baptista non distulit vera dicere sub[[365]](#footnote-365) discrimine mortis ubi ait, ‘Non licet tibi habere uxorem fratris tui’.[[366]](#footnote-366)

**Chapter 4: Lying and Perjury in Confessors’ Manuals: Continuities in Casuistical Thought**

During the inter-conciliar period of 1179-1215, dilemmas about lying and perjury appeared primarily in theological *summae*; in the century that followed, they were more often found in books for confessors. Where Peter the Chanter and Robert Courson gathered problems into academic treatises that were closely related to their school teaching, penitential authors wrote more explicitly for those engaged in everyday pastoral tasks. These were treatises that provided a confessor with the knowledge he needed, some confined to listing the appropriate penances for the various sins, some giving a procedure for how to hear confession, and others combining these two themes along with sacramental and moral theology in summary.[[367]](#footnote-367) Especially as the thirteenth century wore on, these guides increasingly relayed academic teaching from the schools to those engaged in cure of souls. The site of the most important enquiries into the ethics of lying, concealment and oath-breaking thus transferred from academic theological questions to these more functional books.

It is instructive to notice what stayed the same and what changed. Many of the most distinctive aspects of the earlier teaching persisted. In common with the late twelfth-century masters, the authors of confessors’ manuals sought out awkward problems about concealment and oaths, particularly those that involved a clash of opposing principles and to which there was no ideal answer. They continued to be interested in how circumstance altered a problem’s complexion and weighed up considerations of principle and expediency. Several of the themes which Peter the Chanter had developed, such as dissimulation and implicit conditions in oaths, reappear as the subject of dilemmas in confessors’ manuals. Most of all, the underlying pastoral purpose of the casuistry of lying and perjury continued. Like the inter-conciliar theologians, confessors’ manuals sought to show how to make the general intentions of pastoral reform work in difficult circumstances. This continuity of thought is the subject of the first half of this chapter.

The confessors’ manuals contrasted from the earlier casuists in their relationship with canon law. The Chanter and Courson had, of course, been influenced by canonists; many of the dilemmas they discussed were first posed in the *Decretum*. However, confessors’ manuals were even more closely related to legal writings. Many of the authors of these manuals were canon lawyers themselves. Raymond of Penafort produced both the *Liber Extra*, the official collection of papal decretals, and the influential *Summa de Casibus;* William of Rennes was a canon lawyer who wrote a commentary on the *Summa de Casibus,* and Hostiensis’s influential chapter on penitence appeared in his canon law compendium, the *Summa Aurea.* The genre of penitential literature had always been linked to canon law, but in the mid-thirteenth century, it became more common for confessors’ guides to quote long passages of canonistic commentary in their works. The historian of confessional literature in this period, Pierre Michaud-Quantin, described the mid-thirteenth century confessors’ manuals as ‘traités de morale juridisée’.[[368]](#footnote-368)

In the second half of the chapter, I will discuss the effects of this engagement with canon law on the way in which pastoral authors thought about the ethics of oath- and vow-breaking. Influence from canon law undoubtedly changed the pastoral literature. Nevertheless, I will argue that the degree of influence varied according to subject. Penitential thought about oaths became legalistic but lying and concealment more generally continued to be treated in a manner that was distinct from that of law. The two genres were not simply elided as Michaud-Quantin thought.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

It was in the early confessors’ manuals of the mid-thirteenth century that the most famous ideas in the casuistry of lying and perjury first emerged – the doctrines of equivocation and mental reservation, for example, and the breaking of oaths sworn under secretly conditional formulations.[[369]](#footnote-369) Raymond of Penafort’s *Summa de Casibus* and Hostiensis’s chapter ‘De Penitentiis et Remissionibus’ in his *Summa Aurea* were early proponents. Thanks to its later reputation, equivocation has been taken to be paradigmatic of the tendency of casuistry to corrupt moral principles; interestingly, the medieval discussions illustrate not so much transformation or a whittling away at moral rules, but the stability of casuistical thought over time. A continuation of the same approach to moral problems is detectable over the thirteenth century; it started with Robert Courson and included Penafort and Hostiensis.

In moral philosophy, equivocation has become a *locus classicus* of intellectual evasion. Consider the dilemma of the murderer at the door. A friend hides in your house in order to escape a murderer. When the killer knocks and demands that you tell him where he is, should you lie to him? This is a problem about weighing principles against their foreseeable harmful effects. Kant and Augustine famously opted in favour of principle, arguing that the man in question could never be justified in telling a lie, irrespective of what may follow from the decision.[[370]](#footnote-370) Other modern philosophers have argued that it is more important to achieve the least harmful result, by telling a white lie to the murderer to send him on his way.[[371]](#footnote-371) Casuists, on the other hand, argued in favour of equivocation: the man should not lie but instead should mislead the murderer by using an evasive formulation, such as saying that ‘he is not here’, whilst pointing discretely up his sleeve, meaning that the man is not hiding in his clothing.[[372]](#footnote-372) This ploy has been mocked both by polemicists against the Jesuits like Pascal and Blakeney, as well as by modern philosophers – their criticism being that the casuists tried to dodge the issue. An equivocation may not be a lie in a literal sense, but in effect and intention, it is deceitful.[[373]](#footnote-373) The casuists appear to be re-describing their concepts so that they can permit a lie without admitting as much.

Early thought on equivocation reveals a different perspective on the dilemma. It was not a desire to circumvent a ban on lying that led early casuists to discuss equivocation, but a series of concerns taken straight from the school of Peter the Chanter. Equivocation appears in medieval ethics as part of a circumstantial and open-ended ethical discussion. The medieval theorists were not worried that the murderer case might disprove the rule against lying; instead they sought to demonstrate how one might reconcile conflicting ethical duties to tell the truth and to protect the murderer’s victim in a range of different circumstances. A comparison of Robert Courson’s discussion of the dilemma and those in later confessors’ manuals will bring out their similarity.

Robert Courson foregrounded the complexity of the problem and took a permissive view of speaking falsehoods; it is likely that his opinion was close to that of the Chanter.[[374]](#footnote-374) Initially he quotes Augustine’s judgment that a perfect man (i.e. for Courson, a cleric or a monk) can remain silent before the murderer, and thereby avoid both betraying the victim and lying.[[375]](#footnote-375) Against the simplicity of this answer, Courson suggests a number of reasons why even silence might prove to be sinful. For one, the silence itself may betray where the victim is, and if the cleric foresees this, he would act against his conscience.[[376]](#footnote-376) It is possible that the one being sought is known to be a terrible criminal who would go straight to hell if he died, but would likely repent if he survived; in that case, there would not only be a life at stake, but also a soul. How, Courson asks, could a cleric recoil from a venial sin like lying, if there is a chance of saving an eternal life? For another thing, the murderer might put pressure on the man, saying ‘Answer me or I’ll kill you!’ The cleric would have to choose between being silent and allowing himself to be killed, betraying the victim to his death, or lying.[[377]](#footnote-377) In such circumstances lying would be the best action, since the lie would be informed by charity.

Courson concludes that a person should only be said to be lying if he speaks ‘against what his conscience tells him to say’.[[378]](#footnote-378) Therefore, a jocose lie (i.e. a falsehood told purely for comic or ironic effect) or a lie beneficial to another do not strictly count as lies. In consequence, whether or not to lie to the murderer must be a question of conscience:

But concerning the man who is asked about the one to be killed, whether he is perfect or imperfect, I say that he must follow his conscience, as long he is discreet. For example, he should consider all the circumstances, and whether he can only free the one to be killed by a false assertion; if this is the case, I recommend that he speak a falsehood rather than permit the man to be killed. And he is not said to lie on this account according to the theologian, since he does not speak against his conscience.[[379]](#footnote-379)

He is not saying that any lie to stop an evil act is praiseworthy, but that it is up to the individual to judge whether a lie is the only way to stop the murderer. Only that person can decide what is necessary to stop the bad outcome. Courson gives the problem a lengthy treatment, including other examples of lies that were good in the circumstances, and ruling out a justified perjury.

In common with many other cases of conscience, Courson emphasises that the normal rules do not deliver a clear answer here: the best course of action can only be decided by discretion. This is also true of later penitential discussions. They all offer equivocations and mental restrictions as one of a range of possible solutions to the difficult situation.

Raymond of Penafort wrote a first draft of his *Summa de Casibus* while at Saint Catharina’s convent in Barcelona between 1225-1227, but revised the work in 1235-6 to include material from his recently published collection of decretals of Gregory IX.[[380]](#footnote-380) He based much of his *Summa* on difficult cases of conscience*.* His discussion of the murderer at the door case appears in the chapter on lying. Raymond was steeped in the same tradition of canon lawyers that wrote the commentaries on the *Decretum* on which the Chanter and Courson drew; it is not surprising therefore that Penafort’s treatment of the dilemma is similar to that of Robert of Courson.

Like Courson, Penafort acknowledges Augustine’s view of the dilemma, that a lie should never be permitted.[[381]](#footnote-381) He also respectfully disagrees, and leaves it to the individual to decide whether he should lie in the circumstances. He draws up a hierarchy of options:

I believe, providing no one can offer a better judgement, that the procedure should be thus: first he should be silent, as Augustine says. If it seems to him that his silence runs the danger of leading the interrogator to believe that he has admitted that (the man being sought) is in his house, if he can, he should change the subject, pretending to ask him about some other detail or something similar. [Argument in *Decretum* Dist. 43 c. 2]. Or he should reply with an equivocation, such as, ‘He is not here’ that is, ‘He does not eat here’ (the verb ‘est’ can mean either ‘he is’ or ‘he eats’) or something similar. Infinite examples occur to us here, of which we will name a few. (Raymond lists examples of equivocation taken from Bible stories) Or simply say that he should deny it, and assert that the man is not there. For if his conscience tells him that he should say this, then he will not speak against his conscience, but rather follow it, and by no means will he commit a sin. Nor does Augustine contradict these views in any way, since he will not lie here, that is, he will not ‘go against his mind’.[[382]](#footnote-382)

In substance, Raymond’s answer to the dilemma is the same as Robert of Courson’s. The only difference is that Raymond spells out what judgments are open to the man being questioned. He suggests equivocation as a middle point in a sliding scale of verbal evasions that could be used against the murderer – it would be better to remain silent, if it is possible to do so and also hide the truth. If an equivocation is not going to work, the man interrogated can tell a falsehood without sin.

Hostiensis’s discussion of the dilemma appears in the chapter ‘De Penitentiis et Remissionibus’ of his *Summa Aurea*, a lengthy compendium of canon law from around 1253.[[383]](#footnote-383) Although not strictly a confessors’ manual, the work deserves an honorary place in the genre both because it covers much of the same material as a manual for confessors and for the frequency with which authors of later *Summae Confessorum* quoted him. He wrote on the murderer at the door with the same aims as Raymond of Penafort.

Hostiensis quotes Raymond’s answer to the dilemma very closely, only replacing the Biblical examples of equivocation in Raymond’s *Summa* with a series of suggested equivocations. He repeats Augustine’s prohibition on lying and Raymond’s solution more or less word for word, up to the suggestion that he say ‘Non est hic’ with double meaning. Hostiensis then offers the following alternatives.

You say that I could respond thus, ‘If you are looking for him, run as fast as you can that way’, in such a way that I would show him another path from the one the fugitive took, or another place from the one he is hiding in, and I would tell him that unless he ran fast, perhaps he would not catch him up, nor even find him. Or thus, ‘Brother, many enter and leave this house whom I neither see nor know. If he were here, then you or anyone else could see him as well as I could.’ If he really insists in his questioning, and these words are not enough to convince him, and my house is roomy, I will be able to say, ‘God knows, I don’t know where he is’, that is, I should mean, in which corner of the house he is hiding, and if I am able to detain him with these words or similar ones, so that no danger threatens, it will be well.

Otherwise, I will be able to say to him, ‘I know him and I shall show him to you straight away, but I can’t do it right now, unless first I send for someone’, and I could then send for the bishop, or for the local lord, who would save him, or if it is the local lord who is asking after him, or it is feared that he would kill him, finally I must make sure of my conscience to deny him, and say ‘It’s a long time since I saw him’, and I could understand the word ‘a long time’ however I like. Or I could simply say, having made sure of my conscience, ‘He is not here’, that is in the very place where I am standing, or even if I deny him simply, I will not sin, having made sure of my conscience, nor would I speak a lie, which is nothing other than going against the mind, and since I do not intend to deceive him, for according to Augustine, a lie is nothing but a false signification of the voice with the intention to deceive.[[384]](#footnote-384)

Hostiensis clearly derived some enjoyment from these ruses; there is the same sense of fun as we saw in the evasion scenes in saints’ lives. He offers both equivocations (eg. ‘If you are looking for him, run as fast as you can that way’) and what would later be known as mental restrictions (eg. ‘He is not here’ mentally adding the qualification, ‘in the very place where I am standing’). In common with later casuists and later critics of casuistry, he concedes that a mental reservation is more morally ambiguous than an equivocation. Nevertheless, the underlying spirit is no different from Courson’s and Penafort’s. He keeps Penafort’s structure, offering a set of increasingly misleading locutions. He concurs that it would be best to remain silent if possible, and that if an outright lie proves necessary, it would not be a sin, so long as the subject acted in good conscience.

It is clear from all this that the doctrines of equivocation and mental reservation did not arise out of a pedantic mentality. Neither Raymond of Penafort nor Hostiensis sought a way to get around the rules or to justify a lie without admitting the fact. Both were willing, in common with Robert of Courson and actually a number of earlier decretists, to concede that an outright falsehood may prove necessary against a murderer, and also that, in other circumstances, the only acceptable moral action would be to remain entirely silent. The dilemma is posed as a hypothetical case and their judgement is offered as illustration; the equivocation dilemma was meant to encourage confessors and penitents to use their judgement in a unique set of circumstances.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

In the murderer case, Penafort and Hostiensis engaged in a similar kind of ethics to that which Peter the Chanter had pioneered. Like Robert of Courson, the penitential authors did not decree a single rigid answer to the dilemma, but described how circumstance and pragmatic considerations should influence a choice from a range of possible actions. Another continuity between the confessors’ manuals and the practical theology of the twelfth century was teaching on dissimulation. On this subject again, the pastoral authors kept all the most distinctive features of the earlier period.

Comparing thirteenth-century literature of penitence with Peter the Chanter’s *Summa* must beg the question whether the later authors had actually read the Chanter or any of his students, and the honest answer is that it is very hard to know. Raymond of Penafort and his successors do not quote the Chanter or Robert of Courson explicitly. Penafort does on the other hand quote decretists as well as the *Liber Extra* itself: Vicentius Hispanis, Huguccio, Johannes Teutonicus, Laurentius Hispanus, Roffredus and Tancred.[[385]](#footnote-385) Nevertheless, there are occasions when Raymond quotes dilemmas and their solutions in language very similar to that of Robert of Courson. The murderer at the door case above is one instance. Another is the case of the adulterous wife who substitutes an illegitimate son as her husband’s heir; Raymond’s answer, which appeared in a stripped back form in the *Liber Extra,* is very close to Robert of Courson’s.[[386]](#footnote-386) Without extensive further research, it is difficult to say confidently whether Raymond did use Courson, whether they had a common source, or knew Courson’s work through an intermediary. It is clear though, that Raymond inhabited the same academic tradition and breathed the same intellectual air as the earlier author. All of the subsequent authors mentioned in this chapter tended to quote Raymond as their source for the dilemmas. It is through him that the path of influence, if there was one, led.

In the last chapter we saw that in twelfth-century marriage law, some marriages were ‘dissimulated’, that is, for casuistical reasons, the church acted as if they did not exist even though they were formally valid. In Peter the Chanter’s writings there were other cases similar to dissimulation of marriage, in which a legal or formal obligation was overlooked in order to permit a more equitable decision. The Chanter’s cases in this genre included the dissimulation of a baby’s true parentage in a case of adultery, the dissimulation of a nun’s identity, who has fraudulently convinced an elderly knight that she is his daughter, and the dissimulation of excommunications that would be harmful if acknowledged.[[387]](#footnote-387)

In later thirteenth-century confessors’ manuals, although the procedure of dissimulation of marriage had dropped out of use, other types of dissimulation still appeared, including dissimulation of impediments to marriage, of excommunication and of the necessity to make restitution before absolution. Certain features of Chanterian casuistry are prominent in these cases; the Chanter had been non-committal about who exactly he was advising and did not distinguish much between conversations aimed at establishing ethical principles and those dispensing practical advice. He considered external law, internal intention and pragmatic expediency as part and parcel of a single moral problem. The same could often be said about cases of dissimulation in confessors’ manuals. This is intriguing, since, avowedly, confessors’ manuals were supposed to be devoted to showing priests how to determine a penance.[[388]](#footnote-388) Instead, these cases dispense advice and abstract analysis as well as a judgment. Although many cases of dissimulation first arose as petitions to the pope for a legal decision, the confessors’ manuals do not treat these cases simply as exemplary verdicts, but as an excuse for deeper discussion.

Two dilemmas featuring dissimulation are found in Raymond of Penafort’s *Summa de Casibus* in the chapter on scandal and perplexity. Both concern the public actions of a prelate, rather than the penitential judgments of his confessor. What if a multitude is in a state of sin; should the bishop excommunicate them all, if they refuse to be corrected?[[389]](#footnote-389) Raymond recommends that, if they know they are in error but refuse to desist, he dissimulate their sins in order to avoid a schism. He should send written threats and try to win back the greater, wiser and more spiritual among the sinners, by whose authority he can more gently break up the multitude. If, on the other hand, they refuse to acknowledge that they are sinning, and defend their actions, then the bishop should treat them more severely, since they are comparable to heretics.[[390]](#footnote-390) The first case in the next section on perplexity is about a priest who is consecrating the host. When he reaches the words, ‘This is my body’ he remembers that he has committed a mortal sin. He must choose whether to continue, knowing that in doing so he is committing a further mortal sin, whether to feign to consecrate the mass, thereby seemingly trying to trick God and deceive the congregation, or whether to stop short, and cause scandal.[[391]](#footnote-391) Both cases are really problems of counsel for holders of ecclesiastical office. The second case is based on a judgement of Innocent III in the *Liber Extra*, where a priest finding himself in this situation actually did feign to consecrate the mass in order to avoid scandalising the congregation.[[392]](#footnote-392) Innocent condemned the man’s decision without giving any clear indication what he should have done; Raymond filled this gap.

The first case demonstrates how to judge the correct penitential verdict in exceptional, public circumstances. This is a discretionary judgement but outside normal procedures.[[393]](#footnote-393) The focus is on how most surely to win back a crowd rather than how to determine absolute culpability; this practical requirement is reflected in the permissiveness of the answer. In the second, Raymond does not mention the confession or penitence the priest should observe if he makes the wrong decision, but he does discuss the overarching principles relevant to the case, such as whether to refrain from an action because of the danger of scandal and how to detect the lesser evil in cases of perplexity. In this respect, then, he continues in the same intellectual tradition and pastoral focus of the Paris masters. Notwithstanding Raymond’s citation of the recently-published *Decretals of Gregory IX*, we can note that Peter the Chanter did discuss both cases himself.

If we look to William of Rennes, who is famous for writing agloss to Raymond’s *Summa*, we can find advisory cases concerning lay people, both men and women. In his *Apparatus* to the *Summa de Casibus*, and again in a separate casuistical treatise,[[394]](#footnote-394) William included cases on the same Chanterian theme of permitted dissimulation.[[395]](#footnote-395) If a wife hears rumours that her marriage is not legitimate, is she morally obliged to inquire into the truth, or can she dissimulate the report (i.e. act as if she had not heard of the impediment)?[[396]](#footnote-396) William replies that there is no clear answer to the problem. The rumours must lead the spouse to have either a firm and judicious opinion that the marriage is invalid, or a slight and unreliable one.[[397]](#footnote-397) In the first case, she must inquire into the truth, but in the second, William says that she ‘is not unambiguously obliged either to believe or disbelieve her spouse or the priest’ (who are understood to be telling her different stories). She must make a judgement based on whether she knows or believes her husband to have a motive against her and whether she thinks that he spoke only out of consideration for God and the truth.[[398]](#footnote-398) She should consider the motivation and zeal of the priest and the people from whom he says he heard the rumour. It is possible that she could sin in not believing a rumour when it is credible, but equally, she could err in believing a rumour that should be disregarded.[[399]](#footnote-399) If a husband knows of an impediment but cannot prove it, whether he reveals the fact to his wife must depend on whether he thinks she is likely to follow his advice, and even if she does believe him, William leaves the decision whether to sleep with each other entirely to the couple.[[400]](#footnote-400) Like Raymond therefore, William leaves considerable autonomy to the person caught in the dilemma. He is not interested in the penance that should be enjoined, but in outlining the considerations that should inform their choice of action and the advice that a confessor should dispense.

William included in his *Apparatus* many other cases of dissimulation which became some of the most famous cases of equivocation*.* A woman is forced by her husband to swear an oath that she is innocent of adultery. If she did commit adultery, but admitting to it would cause scandal to her husband, she must try to avoid swearing the oath. If out of fear she swears ‘using words with a double meaning, which are true in one sense, which she understands, perhaps she would not sin when preventing her husband’s malice by this precaution’.[[401]](#footnote-401) A confessor who is illegally required to answer questions about crimes confessed to him in court can dissimulate, speaking ‘sophisticatedly’.[[402]](#footnote-402)

The ordering principle here is charity. William and Raymond’s prime concern is that the deserving person in each case is not hard done by. They are willing to adapt and interpret the usual rules to deliver a permission that helps the well-meaning person at the centre of the dilemma. The dilemma is more than the sum of the conflicting rules. The welfare of the person involved is pre-eminent; compliance with regulation is only a negotiable part of the compromise.

All of these dilemmas can be understood as ‘consilia animae’, the moral guidance that was connected with confession, but distinct from the judgment of sin and the securing of absolution. Moral counsel in confession was in one sense inherent to the whole sacrament, which was instituted for the spiritual healing of the penitent, but from the thirteenth century onwards, authors on confession increasingly referred to counsel as a duty of the confessor that was distinct from penitence and absolution.[[403]](#footnote-403) Counsel is perceptible as a separate kind of moral thought from judgement in these works yet it is still an important component of casuistry. Like Peter, both authors are willing to advise in favour of dissimulation when circumstances permit and when it would bring about the least evil outcome. Both are happy to permit a deception to continue in exceptional circumstance, in the name of better provision of pastoral care. Their solutions in these cases are not encumbered with a formal procedure or much institutional intervention – they are simply interested in the autonomous decisions that a priest or prelate no less than husband or wife must make in fulfilment of their roles.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

So much for similarities; what about the differences? The prominence of canon law is the aspect of the casuistry of the confessors’ manuals that diverged most obviously from the theology of the late twelfth century. Of course, Peter the Chanter and Robert of Courson had used legal concepts, not least dissimulation and implicit clauses in oaths, and had considered dilemmas that had first been mooted by decretists, but they did not quote legal sources at length. Confessors’ manuals, on the other hand, reproduced long passages from the handbooks of canon law. Not only did Raymond of Penafort and William of Rennes refer frequently to papal decretals and the glosses of decretists, but later authors, such as John of Freiburg, William of Pagula and Astesanus de Asti lifted long passages of their manuals from Hostiensis’s *Summa Aurea.* Whole chapters of purported ethical teaching could be no more than a word for word citation of a canonistic author on the external crimes.

The influence of law on confessors’ manuals reflected the historic proximity of canon law and penance. Although private confession, which had only become widespread from the late twelfth century, was explicitly distinct from external law, the two processes shared a good deal in terms of aims, procedure and subject matter.[[404]](#footnote-404) Both were at bottom means of dealing with transgression.[[405]](#footnote-405) The ritual of confession called on the priest to impose an arbitrary penitence; he was thus required to inquire into all the circumstances of sin and to decide an appropriate punishment on this basis.[[406]](#footnote-406) The obvious analogy for such a process was a judge in a public law case; and in fact the same theories of discretionary judgement were applied to both roles in jurisprudence.[[407]](#footnote-407) Canonists described the confessor as ‘a judge of the penitential forum’.[[408]](#footnote-408) Given that canon law and penitence had been elided in the past, and given their shared interest in transgression, manuals for confession and compendia of canon law had always shared much of the same subject matter. In the thirteenth century, exposition of perjury, restitution and vows were thus very often simply copied from canon law into advice for confessors. The morality of these sins and their legal status were closely associated in the minds of confessors.

What was the significance of all this for the history of ethical thought on lying and perjury? It certainly meant a change in the way in which ethical teaching was presented in confessors’ manuals. Michaud-Quantin believed that these developments signalled a deeper elision of law and morality in the minds of the authors of confessors’ manuals in this period. In what remains of this chapter, I shall look at the extent of this change and how we should understand it.

The transformation of the casuistical material took place in several respects. The first was a tendency to quote moral cases as a list of legalistic rules. Anthropologists have defined legal thought, in distinction from simple morality or custom, as an institutionalized mode of thinking that imposes uniform and explicit rules, uses categories which permit dichotomous judgments, and has an ultimate emphasis on conformity rather than motive and intention.[[409]](#footnote-409) Peter the Chanter’s morality did not fall in with this model. His discussions were not always designed to result in a simple yes or no; think for example of his questions on revealing confession. The Chanter posed cases on oaths crowded with details of intention, unverifiable internal states and future contingencies – for example, his case of a servant who swore to serve her mistress for a year, or the cleric who swore to do whatever his mistress ordered. When the later confessors’ manuals discussed implicit conditions in oaths, their treatment was little more than a restatement of the legalities, and fell squarely within the ideal-type of legalism. The chapter on implicit conditions of oaths in confessors’ manuals almost always presented them in a list of approved implicit conditions copied from the chapter on oaths in Hostiensis’s *Summa Aurea.* To give an idea, here is the first part of the list as John of Freiburg quotes it:

‘Which conditions should implicitly be understood in an oath? I reply according to Hostiensis (he gives the reference). It should be said that in every oath these conditions are silently understood: that I will do this only if it pleases God. Again, only if it pleases the pope, since his authority appears to be exempt [as in *Decretum* C.25 q.1 d.p.c.].

¶ Again only if the matter stays the same, as is clear in the case where a sane man deposits his sword, then asks for it back in a furious state, I am not obliged to return it to him, even if I swore to do so [*Decretum* C.22 q.2 c.14, also Raymond, §18 in his *Summa*, and Innocent in his gloss on X.2.24.25].

¶ Again, as long as you keep your faith. For one who has broken faith, should not have his faith kept, and if you do not do what you promised me, I am not held to my end of the bargain. [X.2.24.2 and X.2.24.13. See also Raymond and Innocent.]

¶ Again, if I swear to pay you on a certain date, on the understanding that you will first make a loan to me, only if the money is paid (to me) [*Codex* 4.30.16]

¶ Again, if I swear to give you a dowry, it is implicitly understood, only if the marriage goes ahead [*Digest* 23.3.49]. [[410]](#footnote-410)

The list goes on, and each case cites a decretal to demonstrate the rule.

The principles behind the ethical teaching remain the same; it is the form in which they are presented that has changed. All of Peter’s cases fit within one of the clauses in this list. The case of the servant girl who was excused from her oath to serve a widow, because she must ‘flee fornication’ can be subsumed under the implicit condition ‘if it pleases God’. The Chanter considered a true case of a dean who swore to do whatever the Pope ordered him, in order to lift a sentence of excommunication. The pope ordered him to become a hermit in a cave, which the dean did and died there; Peter left the question open whether he was obliged to fulfil his oath, given that the command was so much harsher than the dean deserved or could have expected.[[411]](#footnote-411) The same implicit condition appears in Hostiensis’s list: ‘Again, if I swear to abide by your orders because of an offense against you or to your property, it is understood to mean, unless you order something excessive, unjust, illicit, impossible or dishonest, since these should not be obeyed.’[[412]](#footnote-412) The concepts are the same, but the manner of treatment has altered. Peter the Chanter’s cases of conscience combined considerations of law and sentiment. He listed the susceptibilities and character of the servant girl alongside her legal obligations, with the implication that both carried weight in the moral discussion. Here, there is only room for the requirements of law. A rounded ethical picture has ceded place to universally-applicable rules.

When the confessors’ manuals did include dilemmas on this subject, they were generally the same ones that appeared in law textbooks. These tended to be taken from legal cases, rather than situations from the forum of conscience, and to be resolved as questions of jurisprudence. They dealt with legal obligation and moral rectitude as one synonymous question, and used principles taken from legal commentary literature. John of Freiburg posed a series of questions about impossibility. One standard implicit condition in promissory oaths, that an oath need only be fulfilled if it is possible for the one who promised to do so,[[413]](#footnote-413) raised problems about irresponsible obligations. John of Freiburg quotes rulings from the decretals of Gregory IX, and a case discussed in Raymond of Penafort’s *Summa*;[[414]](#footnote-414) a debtor swears that he will pay what he owes on a certain day. What if he does not believe that he will be able to pay by then, or he does think he will be able to pay, but unreasonably, since he has no good grounds on which to base the judgement - can he plead the clause of impossibility? Raymond and John of Freiburg rule that he would commit perjury in both instances, since he was either untruthful or indiscreet in his judgement. Only a debtor who truly and responsibly believes himself able to pay can be excused from perjury when he finds himself unexpectedly unable to pay. These are the kinds of distinctions and definitions that worked in law courts as well as in the moral forum. John also quotes a dilemma from Hostiensis, where a person has sworn to take some hostages, but has nothing with which to feed them.[[415]](#footnote-415) Should he fulfil his oath? John and Hostiensis say that if the man did not intend to pay for the food when he swore to take the hostages, he is still obliged to accept them, and must produce food by his own labours, or even beg door to door. If the man thought he would buy food at the time he swore the oath, but has since become unable, Hostiensis and John decide that the moral obligation depends on the status of the man who swore. If he is poor, and would not feel ashamed to beg for food, then he must do so, but if the man is noble, then a legal decision should be made in his favour. John of Freiburg again quotes the legal resolution as a sufficient moral answer too – the two arenas are not differentiated.

In the late fifteenth century, a case of conscience appeared in several confessors’ manuals, which raised questions about perjury and implicit conditions in instructions. The *Summa Angelica*, an extremely successful *Summa de Casibus Conscientiae*, completed between 1470 and 1485, quotes the case of a bishop who ordered an absent cleric to return before a certain day under threat of excommunication.[[416]](#footnote-416) The cleric had been licensed by the bishop to study, and had sworn to a creditor that he would not leave the university town before he had paid his debts. Is the cleric obliged to keep his oath or obey the order of the prelate? The casuist is sure that the bishop’s order overrides the creditor’s claim, but thinks there is some ambiguity about how the bishop’s order should be understood. Since the bishop himself ordered the cleric to go and study, can he be understood to have implicitly consented to the debt and the oath that went with it? Angelo agrees that if the debt was necessary for the cleric’s studies, then the bishop must have implicitly consented to it, and so the cleric must fulfil the oath before returning. On the other hand, if the loan was spent on pleasure-seeking, then the cleric should return straight home. The discussion is exclusively interested in external compliance with a set of positive rules for determining the validity of oaths. There is no mention of the bishop or the students’ deeper motives or intentions or of pragmatic considerations about what will bring about the most charitable result. The assumption appears to be that the legal and moral problems are coterminous.

Finally, there was a large disparity in the number of words penitential authors devoted to sins that were also crimes in law, and sins which were not illegal. It is noticeable that in all confessors’ manuals the chapter on oaths and perjury is longer than the chapter on lying. In Raymond’s *Summa de Casibus,* the chapter on lying includes a discussion of Augustine’s definition and typology of lying, followed by two questions; whether it is permitted to lie to the murderer at the door, and whether the Egyptian midwives sinned in lying to Pharaoh. The chapter on oaths, on the other hand, has a long series of cases, mostly taken from the *Decretum.* Is an oath sworn on false gods valid? Is an oath sworn out of fear binding? Does someone who is forced to swear a false oath by his lord commit perjury? If you hear another swear falsehoods and do nothing, are you culpable? Is a judge who knows that an accused is innocent obliged to find him guilty if due process seems to require it? There are eleven cases of conscience in all. In later confessors’ manuals, as more material from Hostiensis’s *Summa* was quoted as well as discussions from the glosses on the *Decretals*, the chapters on oaths and perjury got significantly longer. The chapter on lying, on the other hand, expanded at a much slower rate; a smaller quantity of theological material was sometimes included in some confessors’ manuals, although this tended to discuss the same largely Biblical cases that had always been included.[[417]](#footnote-417) These chapters never included much material from canon law.

It could be concluded that medieval casuists were more interested in those sins that were susceptible to rulings in a judicial setting. It seems that they did not see any dimension to the morality of oaths beyond restating the legal requirements. Should we put it down to the pastoral authors’ legal background and lack of imagination? There are a number of more interesting reasons that could be offered for the growing influence from canon law in confessors’ manuals.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

For one, the more legalistic tone may have been dictated by the changing ways in which pastoral teaching was used. Increasingly, the type of manual in which this sort of list was included was a reference work which aimed to provide a complete guide to the sacramental theology and moral teaching that was required by an expert confessor.[[418]](#footnote-418) Many, especially from the fourteenth century on, were reference books copied into small codices and intended to be taken on the road.[[419]](#footnote-419) Economy of words was important; such manuals were written to provide a quick answer rather than lengthy discussion. Dilemmas were rationed.

Another explanation for the change in character concerns the sources available to medieval compilers. From the end of the thirteenth century, confessors’ manuals, became increasingly encyclopaedic.[[420]](#footnote-420) Explicitly, they sought to provide an answer to every moral problem that could be looked up.[[421]](#footnote-421) If the author of a confessors’ manual was looking for additional material with which to make his manual more thorough than its predecessors, an obvious place to look was law. Canonists provided a host of individual cases and practical decisions supported by the authority of papal decree, or at least the opinions of reputable canonists. There was a mass of casuistical material available from canon law about oaths and perjury. Lying, specifically, lying when not under oath, was not a crime, and so was not discussed as a distinct problem in canon law. There simply was not as much material to cite in a confessors’ manual.

A third consideration is the distinction that the authors of penitential literature implicitly made between external crimes and sins that only concern the internal forum. Crimes such as perjury, but also, homicide, theft and simony, are immoral in and of themselves (because God has commanded against them, they act against charity etc.) but also because they are illegal. Sometimes, with these criminal sins, the inherent moral obligation gets detached from the legal requirement. To quote a famous case of conscience mentioned above, when a judge knows by private knowledge that the defendant is innocent, but the evidence brought in court by unimpeachable witnesses is enough to convict him, he is caught between these two categories of moral obligation. If this were not a legal judgement, the clear requirement would be to avoid killing an innocent man, but as it is, a conflicting obligation to follow due process creates the moral dilemma. The medieval casuists answered the problem in different ways, sometimes allowing the judge to ignore procedure, sometimes advising him to work within it, but they all acknowledged that the morality of personal integrity and morality that requires us to obey the law both had a claim.[[422]](#footnote-422) The judge may decide to ignore the law in this case, but he needs to know what the law is, in order to make the decision. He may need to consider the exact wording of the law, in order to judge whether there is a way he can prevent an unjust sentence within the letter of the law. In a case of simple lying, on the other hand, legality does not come into it; as we saw in the murderer at the door case, all that is in question is whether it is necessary to lie to prevent the murder.

When the authors of confessors’ manuals and penitential literature compiled their moral guidance, there was naturally much more material to convey when they wrote about sins with legal implications. With regard to oaths and perjury, a priest and his flock would need to know the basic morality (i.e. that perjury is wrong because it invokes God’s name in a falsehood), but also the fact that the sin is against the law. It would be of interest to the priest to know that when certain promissory oaths are not fulfilled, it is not a legal infraction, as long as the defendant can prove one of a series of agreed justifications. He would need to know those cases where a penitent can be absolved for a perjury which is nevertheless presumed in external law courts, and what the words in an oath are understood to mean in the public forum, whatever the penitent might have meant by them in his heart. By nature, canon law was a fixed number of rules, generally positive rulings, which were equally applicable to everyone and which imposed a moral obligation regardless of whether the rule itself had any moral substance. Everyone needed to know about the law when making a moral decision, even if the law, in a given case, was purely formal or procedural and was not ethically motivated.

Dilemmas about lying only tend to involve more binary balancing of the transgression involved in telling a falsehood against the evils ensuing from not telling the lie. The number of considerations that might influence such a decision are as countless as the number of situations that could arise; they only involve unregulated internal intention and circumstantial variation. It would be pointless to try to list them all. All that the casuist could offer on this subject was an exemplary problem, to show the kind of reasoning a confessor or penitent should employ; the rest must be left to the individual. Cases of conscience about lying therefore could not be encyclopaedic, only illustrative and exemplary. These cases were fundamentally different from legal precedents.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

There is much in the penitential literature itself to suggest that its authors thought of legal cases and cases of conscience in rather different ways. Moral cases demonstrated a way of thinking, whereas legal cases tended to explain the finer points of a rule. Moral judgement was an art to be learnt rather than knowledge to be imbibed. On the one hand, manuals such as John of Freiburg’s *Summa Confessorum*, and Astesanus of Asti’s *Summa de Casibus* were intended to digest all of the moral knowledge available and so quoted cases thoroughly and systematically. On the other, many penitential writings explicitly did not aspire to include everything, but still included a few cases of conscience. Hostiensis, in his chapter ‘De Penitentiis et Remissionibus’in the *Summa Aurea,* briefly ran through the questions the confessor should ask the penitent about the seven principle vices, starting with pride, then discussed the morality of lying, including the usual Augustinian material, the murderer at the door and a discussion of the Egyptian midwives.[[423]](#footnote-423) At the end of this section he concluded:

You also ask about all the other vices, which, if we tried to write about them in the following section, it would get too wordy. But these will suffice for the instruction of any simple priests, without the corroboration of those matters that we deliberately omitted from the above paragraph [under §] for reasons of brevity, along with what was noted above, and that which follows below. And everything that has been said can be proved with law.[[424]](#footnote-424)

He adds one final case of conscience concerning what a wife should do if her husband confesses to her after their marriage that he has slept with her sister (an impediment to marriage) before proceeding to a more general set of instructions about inquiry into the circumstances of sin.

The implication of this comment is that, in the moral forum, it is enough to cite a few cases of conscience on lying and marriage to give the idea of the kind of questions a confessor should ask and how he should formulate his advice. It is not necessary to explain every possible sin, nor is it necessary to give full list of legal authorities. Simple priests only need to be given an indication of the kind of discretion they should practice.

William of Pagula wrote an extremely popular guide for parish priests, called the *Oculus Sacerdotum.*[[425]](#footnote-425) In the first part of the work he includes practical information for the enjoining of penances and absolution. He gives a list of penitential canons, a catalogue of censures, and a guide to which excommunications must be absolved by a bishop, and which a parish priest can deal with himself. After this systematic relaying of the rules of penitence, he includes a few cases of conscience under the title ‘Varied and dangerous cases occurring in confession’. These are included not in an attempt to provide for every eventuality, but again, by way of illustration of the kind of judgment a priest should be prepared to make in difficult cases. It is a relatively short series of cases, mostly brief questions on marriage contracts. At the head of the list, and discussed at considerably more length than the others is the same case of the woman who had a child in adultery then passed it off as her husband’s son that we saw in Robert of Courson and Raymond of Penafort’s *Summae*. William of Pagula quotes the expanded version of the case of conscience that appeared in Penafort’s *Summa* and includes some material from Hostiensis’s chapter on penitence in the *Summa Aurea*.[[426]](#footnote-426)

Like Raymond he advises that the woman should take counsel both with her parish priest and her bishop, and that together they should make a prudential decision whether to reveal the secret to her husband and her son.[[427]](#footnote-427) The difficulty in this case is in weighing up the possible dangers of revealing the adultery, against the undesirability of suppressing the truth.[[428]](#footnote-428) William quotes Raymond’s advice that the priest seek additional counsel from a bishop, and then quotes a series of further considerations taken from Hostiensis. Does the woman have the means to prove her adultery, and does she think that no evil consequences would follow from the revelation? In that case she might prove the sin in public and make a proper satisfaction. Some say that the woman may reveal the deed to her husband if there is no threat of danger, since some women rule over their husbands and others commit adultery even with their husbands’ knowledge, and their husbands do not dare to speak of it to anyone. Sometimes, the husband even tolerates his wife sleeping with another man, when he cannot make his wife pregnant himself, and brings up any children resulting from the adultery as his own. In such a case, the priest can advise her to reveal the matter to her husband. If on the other hand, she does not dare to reveal the adultery, or she does tell her son and he refuses to remove himself, the wife should make satisfaction out of her own money as far as possible and regret that she cannot do more, but she can still be absolved for the sin.[[429]](#footnote-429)

Where the dilemmas about oath-breaking were only interested in delivering a legal judgment, this case takes a wider range of issues into consideration. It allows that the woman’s underlying motives may change the morality of her actions. It makes a difference whether she conceals the truth out of fear of reprisal, expectation that her husband will not believe her, or simple self-interest. The kind of harm inflicted on the husband depends on whether he might be expected to consent to the adultery and treat the illegitimate son as his heir. William of Pagula acknowledges that there can be no decisive single verdict to such a case.

The case is significant as much for its context as for its content. The *Oculus Sacerdotum* was a manual intended for normal parish priests that summarised, in the three parts of the work, the essentials of the penitential canons, basic theology to be preached to laypeople and the sacraments. Why bother to include such a specialised case of conscience that, although not incredible, was unlikely to arise in many parishes? Such an inclusion must be intended as a teaching device. The parish priest could learn from this case, first, that sometimes he must help his parishioner to maintain a deception on compassionate grounds. He would learn that his role in such a case would be to ask and advise the penitent, possibly alongside his bishop, about the circumstances of the deception and that on the basis of the woman’s judgement, he should seek the best route to restitution and absolution. The place of the dilemma in the *Oculus*, one of a few isolated cases of conscience, must mean that William of Pagula intended to impart broader teachings about moral reasoning, and not just an isolated substantive judgment. The casuistry of dissimulation works here as a stand-in for ethical deliberation in confession in general.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

The ethics of lying and perjury in confessors’ manuals thus continued to have many of the features of the *summae* of Peter the Chanter and Robert of Courson. They used cases of conscience to probe at open ethical questions and were as much interested in the method of ethical deliberation as the substance of ethical judgements. Many of the same dilemmas from the earlier *summae* were recycled in the confessors’ manuals. Although the new manuals borrowed more extensively from canon law than their forerunners, the core thought remained consistent, as did its pastoral motivation.

The direction in which the casuistry of lying and perjury developed in confessors’ manuals does not then represent, despite first appearances, a simple replacement of morality with law. Certainly, the authors of confessors’ manuals thought legal rulings on oaths and perjury were relevant to their subject and quoted canonistic sources liberally. Some casuistic discussions, such as that concerning implicit conditions in oaths, mirrored the parallel passages of canon law. However, cases of conscience were not simply offered as catalogues or codes of moral judgments. They combined a counselling function with the determination of penance and absolution; explicitly, many cases were only presented as examples of the kind of moral quandary a confessor may encounter, and casuistry was conceived of as a skill rather than a specialised body of knowledge. Many *Summae de Casibus* claimed to offer a complete guide to moral questions, but that meant that they offered all relevant ethical and legal canons; not that they aspired to list all possible circumstantial judgments, as some historians of casuistry have implied.

The origins of the Jesuit doctrines of equivocation and mental reservation were in cases of conscience. Much less than an attempt to water down moral principle, mental restriction and equivocation were introduced into academic ethics in the spirit of taking stock of all possible options in a moral dilemma and choosing the correct path in the circumstances. In much the same way as the authors of *Ami et Amile* and *Tristan* had done, the early casuists presented equivocation as a debatable, even if ultimately justifiable, option only appropriate for emergencies. The ethics of lying and perjury through many of these discussions were built on a premise of circumstantial variability and pragmatic judgment. It was an ethics with its eye firmly fixed on making principles meaningful in the real world.

**Texts**

1. The Murderer at the Door.

Robert of Courson*, Summa,* Book XXVIII, c. 4-6.

Paris, Bibliothèque Nationale MS Lat. 14524, ff. 99rb-100rb (P) collated against London, British Library Royal MS 9 E XIV, f. 53ra-b (L) and Paris, Bibliothèque Nationale MS Lat. 3259, f.131ra ff. (B).

(1) (Ch.4) […] Item dicitur ab Augustino supra ut ergo[[430]](#footnote-430) mendacium sit, necesse est ut falsitas subsit contra conscientiam, quasi diceret, non est mendacium in aliquo nisi loquatur contra conscientiam. Ergo quicumque[[431]](#footnote-431) (f.99va) secundum[[432]](#footnote-432) conscientiam, id est, sicut[[433]](#footnote-433) conscientia dictat ei, loquitur, non mentitur. Sed iste sapiens apud quem queritur occidendus aliquis, non loquitur contra conscientiam, cum dicit apparitori querenti illum, ‘Ille non est hic sed in ecclesia’,[[434]](#footnote-434) quia conscientia et discretio eius sic monent. Ergo qui sic loquitur non mentitur, ergo licite; etiam si[[435]](#footnote-435) perfectus est,[[436]](#footnote-436) potest apparitori[[437]](#footnote-437) dicere falsum, dummodo non loquitur contra conscientiam. Contra: quod premissumest ab Augustino supra, scilicet hoc[[438]](#footnote-438) licet perfectis, etsi non falsum dicere, verum tacere, ut si quis non vult ad mortem hominem prodere,[[439]](#footnote-439) verum taceat.[[440]](#footnote-440) Ecce hic dicitur[[441]](#footnote-441) quod tacenda est veritas in tali articulo. Contra quod dictat consciencia perfecto, scilicet, quod non est tacendum ubi ex taciturnitate datur occasio querendi occidendum. Ergo cum sciat pro certo taciturnitatem suam esse causam mortis alicuius qui possit liberari modico verbo illius, sequi debet conscientiam suam,[[442]](#footnote-442) quia quicquid[[443]](#footnote-443) fit contra conscientiam edificat ad Gehennam. (2) Item iste[[444]](#footnote-444) perfectus scit quod si in tali loco taceat veritatem vel eam indicet, interficietur statim aliquis facinerosissimus[[445]](#footnote-445) qui queritur, quem scit futurum vere penitentem et optimum si evadat, sit ita, et si hic[[446]](#footnote-446) moriatur statim[[447]](#footnote-447) descendet ad inferos, nonne consultius est ei dicere falsum, unde non peccet nisi venialiter, quam perdere vel non salvare animam alterius cum possit? Si autem dicat quod potius tacendum est ei?

(3) Contra: Apparitor perstabit acrius dicens ei,[[448]](#footnote-448) ‘Estne[[449]](#footnote-449) ille maleficus hic[[450]](#footnote-450) intus? Responde mihi vel interficiam te!’ Oportet ergo quod vel[[451]](#footnote-451) neget quod est verum, vel taceat et moriatur, vel verum fateatur? Constat quod si verum dicat vel taceat, se permittit occidi, vel alium facit occidi,[[452]](#footnote-452) relinquitur ergo ut verum neget et falsum dicat, quia per assertionem veritatis ibi[[453]](#footnote-453) demeretur, ergo per negationem eius meretur in tali casu. Vel aliter, esto quod dicat, ‘Ille non est apud me’, hic[[454]](#footnote-454) opus agit iste ex caritate et pia intentione, scilicet, ut salvet suum proximum. Ergo in hoc meretur, ergo ex illo nec venialiter nec mortaliter peccat. (4) Sic ergo videtur quod aliquod opus, quod est mendacium in aliquo (f.99vb) casu, sit meritorium: ex quo procedit obiectio, qua queritur utrum perfectus vel imperfectus in tali casu debeat iurare sic esse ut asserit ad liberationem illius qui queritur occidendus, si aliter eum liberare non potest. Quod si est incurrit periurium scienter, quia ita accipiendum est iuramentum sicut ille intelligit cui iuratur,[[455]](#footnote-455) at ille apparitor cui[[456]](#footnote-456) fit illud iuramentum intelligit furem non esse ibi quod iurans sacramento confirmat cum sciat hoc esse falsum. Ergo cum sic peieret mortaliter peccat propter ipsum[[457]](#footnote-457) salvandum. Solutio: Ad intelligentiam predictorum, nota[[458]](#footnote-458) quod sicut dicitur ab Augustino, mendacium dicitur non a falsitate[[459]](#footnote-459) dicti, sed dicentis. Verbi gratia, quando quis loquitur contra id quod conscientia[[460]](#footnote-460) dictat ei dicendum, sive illud sit verum, sive falsum, dummodo intendat fallere, ille mentitur. Et tali tantum mendacio convenit predicta[[461]](#footnote-461) mendacii descriptio quia non convenit iocoso mendacio, vel illi quod fit causa benignitatis vel commodi alicuius preter omnem deceptionem.[[462]](#footnote-462)

(5) Item mendacium dicitur quandoque quis[[463]](#footnote-463) loquitur contra id quod est in mente, non dico contra id quod sentit mens, sed contra id quod est[[464]](#footnote-464) verum. Verbi gratia, cum sciat aliquid[[465]](#footnote-465) esse verum et dicat contrarium, et hoc est inpropria acceptio in hac facultate, et secundum hoc idem est mendacium quod falsum dialeticum, et secundum hoc mentiri equivoce accipitur,[[466]](#footnote-466) scilicet pro loqui contra id quod recta conscientia[[467]](#footnote-467) dictat esse[[468]](#footnote-468) dicendum, et pro dicere falsum. Qui primo modo mentitur ad hoc ut fallat,[[469]](#footnote-469) mortaliter peccat, sed non quicumque secundo modo mentitur[[470]](#footnote-470) peccat mortaliter,[[471]](#footnote-471) immo si causa ioci dicat falsum, vel ut prosit alii non ut fallat, tantum venialiter peccat. Et cum falsum nichil sit,[[472]](#footnote-472) quicumque omittit[[473]](#footnote-473) verum quod est et transit ad falsum dicendum ad[[474]](#footnote-474) id quod non est. De illo autem apud quem queritur occidendus, sive sit perfectus sive imperfectus, dico quod sequi debet conscientiam suam, dummodo sit discreta. Verbi gratia, ipse debet considerare omnes circunstantias[[475]](#footnote-475) et utrum possit liberare occidendum sola (f.100ra) falsi assertione, quod si est, laudo ut dicat falsum prius quam permittat illum occidi. Et non propter hoc dicetur mentiri secundum theologum, quia non loquitur contra conscientiam. Et hec fuit opinio magistri Odonis[[476]](#footnote-476) dicentis quod[[477]](#footnote-477) centies prius diceret falsum quam per taciturnitatem vel alio modo daret occasionem occidendi aliquem quem posset liberare. Nec est inconveniens concedere[[478]](#footnote-478) aliquem debere dicere falsum, et, secundum illam acceptionem, mentiri ad hoc ut salvet vitam alicuius.[[479]](#footnote-479) Sed inconveniens esset dicere aliquem mentiri in alia[[480]](#footnote-480) significatione quia nec perfectus nec imperfectus in predicto articulo loquitur contra conscientiam, dicendo hoc falsum, ‘Ille non est hic’ immo dicere hoc est cum conscientia ipsius.

(6) (Ch.5) Sed quomodo[[481]](#footnote-481) solvemus Augustinum dicentem quod perfectis non convenit mentiri, nec etiam pro servanda vita alicuius temporali, ne dum alienam vitam servant propriam perdant? Ad hoc dicimus quod facienda est vis in hoc quod dicit pro temporali vita, quia non licet perfectis[[482]](#footnote-482) pro servando corpore alicuius vel pro[[483]](#footnote-483) vita temporali mentiri, id est, dicere falsum, eo modo quo ostendimus supra, id est, ire contra discretam conscientiam. Sed mentiri vel dicere falsum, id est, dicere aliud quam quod est in mente, quod tamen dictat conscientia faciendum,[[484]](#footnote-484) potest esse meritorium perfecto et potest tale falsum modica[[485]](#footnote-485) confirmatione asserere, sicut, ‘Pro certo dico vobis illum quem queritis non esse hic.’ Sed non laudarem ei quod hoc iuramento confirmaret, quia sollemnitas iuramenti posset dare occasionem pessimi scandali, et facere alios pronos et faciles ad iurandum. Hoc autem quod prediximus multis exemplis possumus roborare:

(7) Quidam plenus spiritu sancto Lauduni,[[486]](#footnote-486) cum duceretur coram eo latro qui eum spoliaverat et quereretur ab eo utrum esset ille latro qui furatus erat sua, non respondit primo,[[487]](#footnote-487) set tacuit. Quod videntes apparitores illi, statim volebant maleficum illum suspendere, sed vir sanctus statim hoc viso mentiens dixit, ‘Non est[[488]](#footnote-488) ille qui me spoliavit, nam turpissimus fuit ille, et iste est pulcher et procerus.’ Item scolares magistri Anselmi menti(f.100rb)ti sunt matri sue tribus diebus, post obitum magistri, illum non obiisse,[[489]](#footnote-489) ne ipsa subito simul dolore moreretur, dicentes ipsum ad archiepiscopum fuisse profectum. Item quidam miles insanus discurrens per campaniam armatus omnes quos superare potuit interficiebat, nisi ei hominium[[490]](#footnote-490) facerent. Unde plures mentiti sunt ei ut aufugerent.[[491]](#footnote-491)

(8) (Ch 6) Item obicitur adhuc de predicto articulo: sit quod ille qui queritur apud te perfectum occidendus sit iniustissimus[[492]](#footnote-492) et ille vult eum interficere secundum leges et meritorie potest eum interficere, quid dices tu clericus ei?[[493]](#footnote-493) An indicabis eum?[[494]](#footnote-494) Certe non, nisi esses laicus sciens illum debere iuste mori. Quero ergo an mentieris ut illum liberes, cum forte amplior vita eius sit ei in detrimentum? Solutio: Propter te, scilicet, ne fias causa homicidii, mentiri debes in tali casu.[[495]](#footnote-495)

2. Rumours of an impediment to a marriage.

William of Rennes, *Questiones Summe de Casibus Raymundi de Penafort.*

Paris, Bibliothèque Nationale Lat. 16421,f. 161ra-b (P), corrected against Strasbourg, Bibliothèque Nationale et Universitaire MS 151, f. 24ra-b (S).

(1) Alter coniugum propter[[496]](#footnote-496) rumores quos audivit,[[497]](#footnote-497) suspicatur quod non sit in legitimo matrimonio. Queritur an debeat inquirere veritatem an dissimulare? Item queritur an debeat super hoc credere compari suo per quem contractum fuit impedimentum aut sacerdoti, qui dicit ei secreto[[498]](#footnote-498) in consilio anime. Item[[499]](#footnote-499) an propter hoc teneatur[[500]](#footnote-500) vel[[501]](#footnote-501) non reddere vel non[[502]](#footnote-502) exigere? (2) Respondeo: aut propter rumores quos audit habet probabilem opinionem et discretam, aut levem et temerariam. In primo casu debet inquirere veritatem et donec sibi constiterit de veritate, exigere non debet, etsi reddere teneatur. (3) ¶ In secundo idem nisi ad consilium prelati vel alicuius discreti deponat huius erroneam conscienciam. Ad secundam respondimus quod non compari suo nec sacerdoti simpliciter credere tenetur nec discredere,[[503]](#footnote-503) sed, circumstantiis personarum et negocii pensatis, potest concipere probabilem opinionem vel non, puta, secundam quod scit vel credit quod maritus movetur vel non movetur contra eam,[[504]](#footnote-504) nec dicit hoc nisi propter Deum et veritatem, etiam secundum quod scit vel credit de motu et zelo sacerdotis et secundum personas a quibus dicit se hoc audivisse et quomodo. Et bene potest peccare non credendo ubi probabiliter[[505]](#footnote-505) credendum est, sicut et potest errare credendo ubi credendum non est.[[506]](#footnote-506) (4) Verumptamen indiscrete agit sacerdos, licet (f.161rb) sciat impedimentum quod generat ei scrupulum consciencie, super hiis que probari non possunt, nisi forte coniugatus huius impedimentum ab aliis audivisset et, ut magis certificaretur a sacerdote, veritatem inquireret, paratus discreto eius consilio obedire. (5) Sed nec coniugatus qui habet probabilem opinionem de impedimento quod tamen probari non potest, debet absolute compari suo illud revelare, nisi credat quod velit in hac parte discreto consilio obedire, in quo autem casu, coniugatus habens conscienciam scrupulosam super matrimonio, teneatur reddere vel non reddere, exigere vel non exigere debitum? [Satis expressum est: *Extra*, ‘De Sententiis Excommunicationis’, ‘Inquisitioni’].[[507]](#footnote-507)

3. A woman who has had a child through an adultery

William of Pagula, a case of conscience from the *Oculus Sacerdotum.*

Base MS: London, British Library Royal MS 8 B XV, ff. 37v-38r (B); Corrected against: London, British Library Royal MS 6 E I, f. 19rb-vb (R); London, British Library Egerton MS 655, f.19rb-va (E); and London, British Library Royal MS 8 C II, f. 76rb-vb (C).

Casus diversi et periculosi in confessione contingentes

(1) Si uxor alicuius viri quia non potest prolem habere timens quod possessio viri ad alios devolveretur, succum quarundam herbarum potavit et sic venter eius intumuit et gravidam se ostendens[[508]](#footnote-508) partum supponit alienum, vel ex[[509]](#footnote-509) alio viro adulterando partum concepit et peperit, ipsa non audet facinus illud revelare marito nec alteri sed tantum sacerdoti. Sacerdos discretus debet imponere illi[[510]](#footnote-510) mulieri penitentiam et ei iniungere satisfactionem competentem. [*Extra*, ‘De Penitentiis et Remissionibus’ c. ‘Officii’.][[511]](#footnote-511)

(2) Competens est satisfactio quod illa mulier debet tantum dare[[512]](#footnote-512) de suis bonis propriis illis qui essent heredituri hereditatem viri sui abintestato, vel si vir non habuit aliquos consanguineos quibus hereditas sua esset ventura, tunc dare debet mulier tam de bonis suis pauperibus quantum valet ipsa hereditas. Sed si mulier non habet tot bona et habet sufficientes probationes ad probanda[[513]](#footnote-513) huius fraudem per ipsam comissam, debet illas probationes adducere,[[514]](#footnote-514) nisi esset inde grave[[515]](#footnote-515) malum[[516]](#footnote-516) obventurum[[517]](#footnote-517). Nam cum in hoc casu ex una parte sit dampnum rerum tantum, puta si taceat, et ex alia parte sit periculum animarum et corporum, puta si probationes tales inducit,[[518]](#footnote-518) inter hec duo mala eliget quod minus est, scilicet, tacere cum dampno rerum.

(3) Sed obici potest; utilius est scandalum nasci quam quod veritas relinquatur. Sed respondeo[[519]](#footnote-519) quod in hac taciturnitate non perit[[520]](#footnote-520) veritas iusticie quia non pertinet ad hanc mulierem iudicare quia iudex non est, sed tamen accusatrix vel denunciatrix.[[521]](#footnote-521) Auctoritas autem predicta loquitur quod ille ad quem pertinet ex officio dicere veritatem et facere iusticiam ut sunt iudices et testes; illi propter nullum scandalum dimittent[[522]](#footnote-522) quin secundum iusticiam iudicent et veritatem dicant. Si autem nullas habeat probationes tunc silere debet.[[523]](#footnote-523) [*Extra*, ‘De Penitentiis et Remissionibus’, c. ‘Officii’, in glossa Innocenti.]

(4) Vel dic quod mulier debet laborare quibuscumque modis potest ut legitimi heredes non fraudentur hereditate patrimonia.[[524]](#footnote-524) Caute tamen revelare debet[[525]](#footnote-525) hoc simpliciter marito vel ipsi spurio vel supposito non expedit absolute loquendo tamen, quia inde provenirent guerre, forte homicidia et adulteria et huiusmodi, tam[[526]](#footnote-526) quia maritus tunc forte dimitteret eam et non valentes forte continere utique adulteraretur et multa alia pericula possent[[527]](#footnote-527) inde orire, tam[[528]](#footnote-528) quia forte non crederent sibi ex altera parte, sed quia penitentia non est ei deneganda [Extra., ‘De Penitentiis et Remissionibus’ c. ‘Officii’.]

(5) Ita uxor procedat et revelet in penitentia factum illud suo sacerdoti parochiali, ut[[529]](#footnote-529) de licencia eius alii magis perito revelet,[[530]](#footnote-530) et postea cum ipso, vel sine ipso si vult, revelet episcopo suo in penitentia et tunc episcopus vel sacerdos si tante discretionis vel maturitatis[[531]](#footnote-531) sit, vel quod tutius[[532]](#footnote-532) est, ambo simul inquirant diligenter et caute si spurius vel suppositus sit homo spiritualis et timens Deum. (f. 38r) Quo invento,[[533]](#footnote-533) vocent eum in secreto, vel coram muliere prout melius videbitur expedire, recepto prius sacramento ab ipso quod non calumpniose procedat et etiam ab illo quod factum secretum teneat. Poterunt eum consulere exposito sibi facto quod ingrediatur religionem vel transferat se ad longinquam regionem, ut sic nichil percipiat de bonis hereditatariis.[[534]](#footnote-534)

(6) Et dicunt quidam quod ipsa mulier potest illud factum revelare marito si non timet[[535]](#footnote-535) periculum sicut sunt alique mulieres que dominantur viris[[536]](#footnote-536) et alique etiam scientibus viris adulterantur nec inde audent viri aliquid eis loqui. Aliquando etiam sustinent[[537]](#footnote-537) quod ab aliis viris cognoscantur quando per eos non possent uxores impregnari et sic filios ab alio etiam[[538]](#footnote-538) susceptos tanquam suos nutriunt. In tali casu potest sacerdos tute consulere quod revelet marito et ex quo vir consentit, absoluta est mulier quo ad restitutionem quia concessum est marito disponere de suo licite sicut placet sibi. Si vero supposito vel spurio seu marito non audet revelare pro periculo seu etiam facto sibi revelato secundum predictam formam non vult acquiescere concilio,[[539]](#footnote-539) iniungatur mulier[[540]](#footnote-540) quod, de rebus suis quas habet vel in futurum habere poterit, satisfaciat iuxta posse, dolens semper de peccato quia non potest satisfacere et proponens firmiter in animo[[541]](#footnote-541) quod satisfaciat quam cito poterit et habet.

(7) Satisfactio debet fieri per iudicem penitentialem,[[542]](#footnote-542) vel aliam personam religiosam secrete et caute. Potest[[543]](#footnote-543) uti hiis verbis, ‘Quidam persone tenentur[[544]](#footnote-544) tibi etiam in hoc[[545]](#footnote-545) et ideo mittitur[[546]](#footnote-546) tibi’,[[547]](#footnote-547) et sic erit mulier in bono statu secundum Raymundum §’Mulier’.[[548]](#footnote-548)

**Chapter Five: Theoretical Problems and Authoritative Voices: Pastoral Thought on Concealment in the Theology Faculties of the Late Thirteenth Century.**

It was in the theology faculty that practical thought about lying first became an academic pursuit. Lawyers had discussed cases earlier in the century, but not until Peter the Chanter were the problems addressed with tenacity. *Stricto sensu*, casuistical problems of the sort discussed in thirteenth-century pastoral writing fell between the theological and legal. Cases of conscience were often first proposed and resolved by canonists; as a set of rules designed to make people act well, casuistry naturally fell within the parameters of Christian law. At the same time, the subject of the judgments was private conscience rather than public status; a sacrament was involved, and under the surface there was complex thinking about intention and sin. There was always a theological angle to the issue. The developed casuistry of the fifteenth century could claim an equal genealogy in canon law and theology.

Yet in the first half of the thirteenth century, the most important questions on lying and its related topics were written by canonists and authors of pastoral manuals. We saw that theologians like Geoffrey of Poitiers, Stephen Langton, William of Auxerre and William of Auvergne did include a few cases on the subject in their theological questions, but they did not attack the problem with the practical focus of a Robert of Courson or a Peter the Chanter. On the other hand, new papal legislation gave verdicts on many of these problems, canonists commented on them, and were in turn quoted by Raymond of Penafort and William of Rennes, who treated the subject more pronouncedly in the *Summa de Casibus* and its *Apparatus.* Given that practical thought about deception began in theology and was prominent there in the late Middle Ages, this relative dry patch is rather surprising. There is no obvious reason why theology masters should have lost interest in moral cases; it was probably more down to circumstance than design. The subject matter on which the masters chose to write was bound up with the formalisation of the theology syllabus into lectures on the *Sentences* and disputed questions on abstract topics. There was initially no regular place for practical ethics in the annual cycle of teaching, and so it was not until the later thirteenth century that we again find evidence of theologians taking extended interest in practical dilemmas.

The period when applied ethics of lying and perjury reappeared as a regular fixture in theology began in the 1250s and lasted into the fourteenth century. The rise of *quaestiones de quolibet* was important in this change. Itwas an event that took place in Advent and Lent, in which the audience was invited to pose any question for debate. On a first day, arguments were proposed for and against, on a second occasion, the regent master gave a resolution.[[549]](#footnote-549) Dilemmas about lying proved popular; the quodlibets re-established a place for live discussion of practical ethics within the academic institution. At the same time, a number of theologians also began to include lengthier treatments of lying and perjury in their regular teaching.

The contribution of theology in this period would in due course add weight and depth to casuistry as a discipline. In this chapter, I shall show how the masters returned to the pastoral interests of their predecessors. They revived problems on lying and oath-breaking in the theology faculty and thereby included practical problems in the same forum as systematic theology and theoretical ecclesiology. On occasion theologians also brought greater academic and speculative depth to familiar dilemmas taken from the *Decretum* and pastoral manuals. More significantly, they treated problems that had previously been the preserve of law and pastoral writing as problems that should be addressed by a theology master. These new qualities played an important role in the formation of casuistry’s identity as a discipline.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Casuistical quodlibets were in constant dialogue with the confessors’ manuals. The questions on lying and perjury in quodlibets often overlapped with those addressed in Raymond’s *Summa* and William of Rennes’s *Apparatus*. (Was a woman accused of adultery obliged to confess the truth under oath?[[550]](#footnote-550) Could a confessor deny knowledge of crimes confessed to him, or a cleric who has promised to keep a secret?)[[551]](#footnote-551) Other questions were particularly relevant to members of the theology faculty (whether a master should speak against the bishop’s ruling, if he believes what he says is true?),[[552]](#footnote-552) or addressed common problems that arose in everyday life (Whether those who cause their lord to lose what is owed to him when assessing their goods for taxation must make restitution before being absolved?).[[553]](#footnote-553)

It is a puzzle that many of the theologian’s responses to questions on dishonesty did no more than reprise the teaching in confessors’ manuals. In a collection of moral quodlibets donated by Nicolas of Bar to the Sorbonne, a series of familiar questions about lying and perjury were answered conventionally by a number of theology doctors.[[554]](#footnote-554) Raymond Guilha answered the problem of the murderer at the door, concluding that it would always be a sin to lie to a murderer, but that an equivocation would not count as a lie.[[555]](#footnote-555) Johannes de Murro determined on the wife who has a child in adultery and brings it up as her husband’s first son, with the same solution as Raymond of Penafort.[[556]](#footnote-556) In other collections, Adenulf of Anagni and Bernard of Trilla both responded on the obligation to speak the truth under oath.[[557]](#footnote-557) Servais of Mont-Saint Éloi was asked a question on marriage dissimulation that William of Rennes discussed in his *Apparatus*:if in secret a man contracts an engagement with a woman with future promises, and later sleeps with her, then publicly marries another woman and claims that he did not sleep with the first woman with the intention of marrying her, may he remain in the second marriage? Servais simply quotes the same gloss to the decretal that William of Rennes had relied on.[[558]](#footnote-558) Thomas Aquinas quoted traditional views in his quodlibets on whether a woman can deny her adultery under oath, and whether lying by word or action implies greater sin.[[559]](#footnote-559)

Why bother to accept the question if there was nothing to add? Why take a copy of such a derivative text? It partially comes down to the nature of the event. When such cases appear in a collection of all of the quodlibets of a certain master, a degree of unevenness is to be expected. The master answering *quaestiones de quolibet* could not control the subjects that would be under discussion.[[560]](#footnote-560) Not all questions raised would be equally scintillating, and the respondent would have better answers for some questions than others. Certainly, he would have to answer some questions on which he had no original views.

Moreover, originality was not always the priority; sometimes only reassurance was needed. Academic consensus may have been reached on certain casuistical questions, but the issues continued to trouble the questioners. Clerics and mendicants would repeatedly encounter issues of conscience when exercising cure of souls; such questions were continually relevant in a way that an academic problem ceased to be once resolution (or exhaustion) had been achieved. What was required from the masters was not a distinctive philosophical position, but simply advice. In his third quodlibet, Henry of Ghent was asked whether it is a sin to lie out of humility.[[561]](#footnote-561) He was on well-trodden territory, since the question appeared in the *Decretum* and the *Sentences* and was the subject of Aristotelian discussions of *ironia*, the vice of claiming to be less than one is.[[562]](#footnote-562) Certainly, the correct academic answer was provided by Augustine, that a lie told out of humility is always sinful, but Henry identified the practical worry that lay behind the question. Penitential authorities seem to urge the penitent to err on the side of caution when reciting their sins so that they should confess actions which may not actually be sinful as if they were transgressions.[[563]](#footnote-563) Is someone who does so in danger of sinning through humility? Henry said that there is no sin in repenting for doubtful actions as if they were sins; it would be more sinful not to repent where there is a possibility that the action was culpable. In this case they would not be saying assertively that they have sinned, but speaking out of fear.[[564]](#footnote-564)

Similarly, Berthaud of Saint Denis responded to a question about fraternal correction and dissimulation of sin with what sounds like advice based on personal experience. He was asked whether it is sinful to dissimulate instead of carrying out fraternal correction because of scandal.[[565]](#footnote-565) Berthaud gave essentially the same advice as William of Rennes had done in his *Apparatus*: if a prelate and those below him fail to correct their brothers for reasons of negligence, it is culpable, but if they omit or hide the correction for prudential reasons, it is not a sin.[[566]](#footnote-566) However, with a well-chosen quotation of Augustine, Berthaud fleshes out the recommendation. He warns that a prelate might be afraid that his reproaches will be met with the anger; he may fear that the subject he corrects will either abuse him to his face or complain behind his back.[[567]](#footnote-567) The prelate should dismiss all such fears: as Augustine says, anyone who justly corrects another person, then takes offense when his correction is met with complaint, should themselves be rebuked.[[568]](#footnote-568) We should not seek out arguments, but sometimes they arise, due to actions of charity or in order to test charity.[[569]](#footnote-569) Moreover, it often happens that the person being corrected is initially upset and disputes the criticism, but when he considers the matter again quietly, realises his own error and changes his actions.[[570]](#footnote-570) Berthaud, still quoting Augustine, goes on to describe those cases where a prelate may overlook his subject’s sins; when the time is not opportune, if he believes it will make the subject worse, or in order to instruct others.[[571]](#footnote-571)

The response borders on Polonius-like banality. If Berthaud thought that his audience needed to hear such admonitions, it was not because another master might contradict him, but in order to strengthen his students’ resolve to fulfil their offices conscientiously. He names and seeks to banish the anxieties to which a priest might fall prey. His moral advice can helpfully be seen in the context of a culture that arose in the late thirteenth century of consulting theologians, especially in the university of Paris, as experts in matters of spiritual jurisdiction and pastoral care.[[572]](#footnote-572) The fact that Berthaud was a master in theology, and chancellor from 1288, meant that his view had the weight of authority. The collection of moral quodlibets by theology masters to the Sorbonne by Nicholas of Bar contains a good deal of similarly platitudinous moral teaching. It is an open question whether it was initially copied for the commissioner’s personal use or with the intention that it would be donated to the Sorbonne.[[573]](#footnote-573) In any case, the collection may have offered substantially the same teaching to that which any competent priest could have given, but the reader could know that the manuals’ teachings were endorsed by the latest scholarship and the future leaders of the church.

The most significant feature of these responses was not their content but their provenance. When problems from confessors’ manuals were addressed as quodlibets by the masters of the theology faculty, they acquired some status. The *quaestiones de quolibet* were an opportunity to grill the theology faculty on whatever problems seemed pressing: the most heated academic controversies of the day were thrashed out on these occasions – the most speculative propositions and the most divisive legislation came under discussion.[[574]](#footnote-574) Cases about deception were included in this mix and so gained importance by association. Casuistry of lying became the kind of matter which merited expert opinions from the theology masters; the problems were not only treated as basic guidance for priests, but as problems worthy of an academic mind.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

A famous case of conscience only reinforces this impression. We saw in chapter three that Abelard discussed the situation of a judge who hears sufficient evidence to convict a defendant, whom he knows to be innocent through personal knowledge.[[575]](#footnote-575) The case was a commonplace among decretists and canonists from the twelfth century on.[[576]](#footnote-576) In their hands, the problem was used to work out the role of a judge: was his ultimate duty to give an objectively truthful judgment as far as he was able or to follow an accountable procedure, not susceptible to later appeals?[[577]](#footnote-577) They had explored ramifications such as the differing gravity of miscarriage of justice in criminal and civil cases and the possibility of equitable judgments by officials at different levels of the hierarchy.[[578]](#footnote-578)

The question appeared frequently as a quodlibetical question in the later thirteenth century. Strikingly, most masters kept their discussion of the problem firmly within the parameters already delineated by the jurists. They did not, as a general rule, try to advance a distinctively ‘theological’ answer, but discussed the case in much the same terms as their colleagues in the law faculty had done. Yet, to judge by quotation in later confessors’ manuals, the theology masters’ opinions were valued by penitential authors. They frequently quoted the masters and clearly felt it was worth hearing the same verdict from both a jurist’s and a theologian’s mouth.

Henry of Ghent was the exception. His quodlibet from 1277 approached the problem in a way that differed from that of Raymond of Penafort and the jurists. For these, the dilemma was a toss up between the judge’s duty to sentence according to the evidence, and his moral obligation to the truth. Public duty usually won.[[579]](#footnote-579) Henry of Ghent recast the problem as a simple question of charity. He made all the moves one might expect of a theology master taking on a problem from law: he pushed pastoral concerns to the fore and demoted considerations of legal procedure; he brought in broader philosophical concepts of the common good that he had developed elsewhere in his work.

The precise question he was asked was, ‘whether a prince can licitly hold a man’s goods when public justice has ruled that he has a right to them, because of the imposition of a crime, of which [the prince] knows him to be innocent in truth?’[[580]](#footnote-580) Henry first made a distinction between divine and human law. Divine law here seems to include natural law and divine commandments – all moral rules that apply unconditionally.[[581]](#footnote-581) Human law is publicly instituted for the rule of people (what other theologians of this period called positive law).[[582]](#footnote-582) According to Henry, although a prince is required to comply with all the absolute mandates of just public law, he can relinquish powers that are permitted to him but not required. If such a power turns out to work against divine law in a certain case, he should not exercise it.[[583]](#footnote-583) Henry concludes that the law concedes the prince the power to impose a fine on a criminal, but it does not actually oblige him to do so.

This all means that the prince must treat the question of sentencing as a simple case of conscience in which he must choose the most charitable course. This implies obeying the rule of scandal, which says that he must avoid leading others into sin, unless it compromises ‘a truth of life, justice or doctrine’.[[584]](#footnote-584) Henry of Ghent says that the prince must weigh the harm of causing scandal among the ignorant and infirm against the injury he would do to the innocent defendant.[[585]](#footnote-585) If sparing the defendant would expose the public to a damaging example of a criminal escaping punishment, then the prince must go through with the legal punishment.[[586]](#footnote-586) Nevertheless, divine law does not permit the prince to keep the defendant’s money for his own use. He must either secretly restore it or, if it is impossible for him do so without scandal (and Henry doubts the likelihood of this), he should keep the money for a time and return it to the defendant or his heirs later.[[587]](#footnote-587) Finally, Henry states that if the people by some means get to know of his intention to return the fine, and would be scandalised unless he changed his mind, then he should allow the scandal to arise rather than relinquish ‘a truth of life’.[[588]](#footnote-588)

This answer is original. Whether or not the judge is conforming to procedure is much less important than who would be harmed by his actions. Henry’s thought is underpinned by a theoretical concern to which he returned repeatedly over his career. There had been a long-running debate among the theology masters around the question whether an individual should sacrifice his or her private well-being for the sake of the common good.[[589]](#footnote-589) Thomas Aquinas, for example, had explained that it is good to die in defence of one’s city because the private good is a subordinate part of the common good. He used a metaphor of the body to explain this: the soldier is like a hand used to block injury to the whole body, of which the hand is itself a part.[[590]](#footnote-590) Henry of Ghent reacted against this subjection of the individual to the whole and always argued the priority of individual benefit. For example, he argued that a soldier dying for his city actually benefits himself as well as the city – it was unacceptable in Henry’s view to say that he was sacrificing himself for the city.[[591]](#footnote-591) In this question, Henry also denies that harm should be done to an innocent individual on the grounds of pragmatic public benefit. He denies that a false sentence should be inflicted for the sake of scandal and finds a series of ways in which to make the judge’s actions both compliant with the common good and substantially just. Henry’s philosophical theories about an order of charity determine his response; it is the approach of a theology master and not a lawyer.

As I said, Henry of Ghent was unusual; more commonly, theology masters discussed the problem in terms which remained much closer to the established debate among jurists. Richard of Mediavilla, for example, in his quodlibet of 1287, confined his discussion to legal considerations and came to the more usual conclusion in favour of falsehood according to due procedure. He was asked, ‘whether a judge sins mortally, who knowingly sentences against the truth that he knows with certainty in his conscience, not as a judge, but only as a single person, perhaps because he alone saw the crime?’[[592]](#footnote-592) The first paragraphs of his response are devoted to citing canons proving the judges’ obligation to sentence according to procedure in all cases.[[593]](#footnote-593)

When he turns to give an explanation for these rules, he keeps to the questions raised by the lawyers. He does quote a principle from Aristotle’s *Nicomachean Ethics,* but the sentiment is one that canon and civil law had always espoused, that is, that the common good is greater than any individual good.[[594]](#footnote-594) The arguments he advances are all taken from civil law. First, he cites the problem that a judge sentencing according to private conscience would open the way for the innocent to be falsely convicted, since corrupt judges would take advantage of the licence.[[595]](#footnote-595) Should a judge refer the case to his superior, who has the authority to deliver an equitable judgment, rather than deliver a false sentence himself? The idea went back to Huguccio.[[596]](#footnote-596) Richard finds an objection to this course of action in an observation from secular courts: like a count who defers his case once or twice to the king, he would run the risk of seeming to acknowledge the superior’s right to judge all matters that came to his court.[[597]](#footnote-597) Richard even alludes to a famous principle from Roman Law; a judge with no superior but God (i.e. the emperor or the pope) must appear to rule according to the laws lest the public be scandalised.[[598]](#footnote-598) Mediavilla may allude to legal principles in a vaguer fashion than a lawyer would and throw in the odd reference to Aristotle; at bottom, there is no aspect of this discussion that does not have a clear precedent in the writings of the civilians and decretists.

Jean de Pouilly is similar; he answered the question during his second quodlibet in 1308 and again stuck to the lines of argument already rehearsed by jurists.[[599]](#footnote-599) He focused on the judge’s role as arbiter between the opposing parties. He quotes a line from Aristotle’s *Ethics*, stating that a sentence only has binding force if it is passed according to the law.[[600]](#footnote-600) An individual’s order would have no coercive force. Therefore he concludes, the judge would not act against his conscience in any sense if he passed a sentence according to the evidence brought to court, even if he did know as a private person that it was unjust.[[601]](#footnote-601)

Richard of Mediavilla’s quodlibet on the judge became particularly well-known. It appeared very frequently in the confessors’ manuals that popularised the teachings of theology and canon law.[[602]](#footnote-602) The theology master’s medieval audience clearly did not think that his responses to this type of juristic question were redundant; nevertheless, what the texts offered was not original insight but an opinion framed in well-established terms. As far as this subject of procedure and falsehood went, then, opinions in quodlibets must have been valued for the fact that the theology master had said it. Theology masters had asserted by that time the reputation for being both public intellectuals and sources of spiritual counsel in their day.[[603]](#footnote-603) They shed their glitter on the pastoral compilations.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

The upshot was that in the later Middle Ages, theological thought about lying proved very influential on the wider casuistical tradition.[[604]](#footnote-604) In the fourteenth century, the number of dedicated collections of cases of conscience increased, as well as other genres of confessors’ manual; universally, they quoted teaching from the great theologians of the late thirteenth century. Theological and canonical opinions were juxtaposed in these books, and this was true too in the case of the practical ethics of lying. However, the degree and manner in which confessors’ manuals drew on theology varied between authors and depended on the precise genre of the work in question.

At one end of the spectrum is Astesanus de Asti, who made available substantial quantities of theology in its complete form to a relatively specialised audience. His *Summa,* completed around 1317is a weighty combination of canon and civil law and theology, organised according to the Ten Commandments, vices and virtues, types of contracts and sacraments.[[605]](#footnote-605) The treatise may have been intended as a Franciscan version of John of Freiburg’s *Summa Confessorum*.[[606]](#footnote-606) In many ways, though, it is a considerably more ambitious project. Astesanus made a point of seeking out the most recent theological teaching on all aspects of pastoral care and copied his sources almost word-for-word. He included almost the entire text of Mediavilla’s quodlibet on the judge.[[607]](#footnote-607)

He also included the most up-to-date interventions in a long-running debate on the seal of confession and concealment. Thomas Aquinas and Richard of Mediavilla had argued that a confessor could licitly deny all knowledge of crimes he had heard of in confession because he heard the confession ‘as God’, and was asked about the crimes ‘as a man’.[[608]](#footnote-608) This division of personas has a mystical element: Richard of Mediavilla had compared the priest’s speech in confession to an angel speaking on behalf of God to Moses, and stated that the priest would actually lie if he admitted that he did know about the sins.[[609]](#footnote-609) Reacting against this, Duns Scotus wrote a theology of the seal of confession grounded in instrumental reasoning: in practice, priests can and do refer to the crimes confessed under the seal when they seek advice on penitential matters from a superior. The seal exists not because of a supernatural division of personas, but in order to preserve the charity and good faith of the institution.[[610]](#footnote-610) The priest knows about the crimes in his own persona, but does not admit to them because he promised not to divulge the secret and so that penitents continue to feel safe in confessing to him. Astesanus de Asti quoted the full text of Duns Scotus’s extensive and by no means traditional theology in his *Summa.*[[611]](#footnote-611)

The Franciscan’s intention in conveying this material must have been to make available the latest and most interesting theology to expert confessors. This is not ‘moral theology for dummies’, but ‘the advanced Franciscan sourcebook’. As such, Astesanus’s manual was relatively successful; subsequent authors of confessors’ manuals quoted him amply, there are many surviving manuscripts, and several editions were made in the fifteenth century. Nevertheless, no one wrote an adaptation or supplement to the work, suggesting that they saw the *Astesana* as a reference work, but not a practical textbook for those in the field.[[612]](#footnote-612)

An example from the other end of the spectrum is Ranulph Higden’s *Speculum Curatorum,* an English guide for parish priests from 1340, with a more quotidian purview than the *Summa Astesanus*.[[613]](#footnote-613) For the most part, Higden confines himself to quoting the law concerning the revelation of confession as it appears in legal sources, mostly Hostiensis’s *Summa Aurea* and Innocent IV’s *Apparatus.*[[614]](#footnote-614) However, he does turn to Aquinas to clarify which parts of a confession fall essentially under the seal and which do so only indirectly.[[615]](#footnote-615) Higden uses theology where it offers clear guidance on a practical decision. He treats Thomas as another authoritative verdict among his legal sources. The engagement with theology is more modest, but practical guides for parish priests like this could be expected to reach a wider and more varied audience than the *Summa Astesanus.*

Throughout the later Middle Ages, this division according to genre continued. Pastoral literature meant for everyday use quoted theological arguments about lying more briefly. Thus, Antoninus of Florence’s *Confessionale* ‘Defecerunt’, from around 1440,[[616]](#footnote-616) tended to choose only one theological opinion on the relevant topics. For example, he quoted only Peter de Palude’s and Thomas Aquinas’s instructions on the seal of confession.[[617]](#footnote-617) More elaborate collections of cases pointed out which dilemmas had led to disagreement and tried to report the range of trustworthy theological answers on offer. The *Summa Summarum* quotes Aquinas and Innocent IV’s *Apparatus* against understanding fraudulent oaths according to the intention of the one swearingalongside opposing cases from William of Rennes, Astesanus, and Richard of Mediavilla, which decide in favour of equivocation.[[618]](#footnote-618) The *Summa Angelica* reports a disagreement between Aquinas and Bonaventure over the dilemma of a priest who remembers half-way through saying mass that he is in a state of mortal sin: Aquinas believed that it would be safer to abandon the mass, whereas Bonaventure thought that the priest should carry on to avoid scandal. Angelo agreed with Bonaventure and supplemented his view with some precedents from the *Liber Extra* suggesting that a priest in mortal sin can even begin a mass from the beginning, if he would cause scandal by refusing to do so.[[619]](#footnote-619) The *Summa Rosella* includes the dilemma whether a priest was permitted to reveal the sins confessed to him, if he referred to them in general terms and concealed the identity of the sinner. It quoted the judgment of the canonist Panormitanus that a priest was not permitted to reveal sins even in general, but counters it, stating that Duns Scotus, and ‘the common view of the doctors disagree.[[620]](#footnote-620) The purpose of the manual in these cases was to give a sense of the range of significant opinions available on an undecided problem and some indications of a possible solution.

The authors of confessors’ manuals aimed to balance intellectual rigour with intelligibility – these were résumésof the scholarship on open questions. Theological writings were a class of reliable opinion and a distinct source of teaching from canon and civil law, of equal value although not necessarily substantially different. The ability to quote theology alongside law gave the genre of casuistry its identity: it had a claim to offer an academic discussion of conscience that was distinct from both parent disciplines.

This had implications not so much for the substance of thought about lying but its significance. With scholarly confessors’ manuals, the same scholastic ethics, with its case-of-conscience features, had found a more permanent and widely diffused venue than the theology faculty could offer on its own.[[621]](#footnote-621) The *quaestiones de quolibet* had been genuinely pastoral in content and intention, but responses on lying and suppression of truth had been given in the first instance *viva voce* to an audience of students, masters and a few self-selecting outsiders, and later in written form to a tight-knit scholarly community.[[622]](#footnote-622) Most *Sentences* commentaries had a relatively small diffusion. Collections of cases of conscience in the late middle ages, on the other hand, were comparatively easy to read and refer to, they were written with a wider audience in mind and explicitly one that was involved in care of souls. Casuistical thought about lying got the benefit of the opinions and authority of the big names of theology in the late thirteenth century, but the genre’s audience was not limited to purely academic circles. It became part of a growing discipline dedicated to cure of souls and practical ministry. Practical teachings on lying gained importance as part of an increasingly substantial and influential penitential tradition.

A word should be said about the kind of thought that theology masters brought to casuistry. I commented in the introduction that casuistry is exceptional among medieval academic disciplines because it seeks to resolve a contradiction in a situation rather than a disagreement between or within texts. It therefore falls partly inside but also partly outside Riccardo Quinto’s ideal-type of scholasticism as a specific analytical way of reading texts as a means of accessing the truth. In Peter the Chanter’s cases of conscience, the reference to texts was minimal: he was thinking primarily about practical circumstances that could affect a moral judgment. The cases in this chapter are more closely tied to texts. Richard of Mediavilla and Jean de Pouilly’s determinations on the judge turn on weighing up the formulations of Roman and canon law against each other. Berthaud of Saint Denis devoted much of his response on fraternal correction to extended quotation from Augustine. Reconciling the propositions of contradictory texts also operates beneath the surface of Henry of Ghent’s quodlibet on the prince: he is using the case to test his conclusions about the Augustinian order of love. We can conclude that in the masters’ hands, cases of conscience were in part ‘normalised’ into the abstracted analysis of texts that Quinto considered to be the essential feature of scholastic disciplines. Certainly, we have also seen that in the later medieval confessors’ manuals, contrary opinions and propositions taken from theologians and legal writings were more prominent than ever. Many chapters in these manuals read like traditional scholastic questions, with the opinions and authoritative texts on any given question listed at the start, followed by a judgment by the author.

The texture of casuistical thought therefore altered in the hands of the theology masters just as it had altered when it transferred from the inter-conciliar theologians into pastoral manuals. Thought about oaths gained a legal finish in pastoral manuals. The casuistry of lying and concealment took on a more ‘scholastic’ – that is, analytical-textual - quality in the theology faculty. With theologians, the motivation for discussing moral cases became more ambiguous than it had been in pastoral manuals; their responses wavered between practical advice for empirical situations and the interpretation of texts in the pursuit of knowledge for its own sake. In consequence, some of the quodlibets and questions discussed in this chapter would more naturally fall under the modern discipline of normative ethics (i.e. the establishment of moral rules) rather than casuistry per se. Jean de Pouilly’s case on the judge is more concerned with defending the principle of due process than in adjusting rules for circumstance. Still, other dilemmas do seem to have an eye to actual situations, and explicitly acknowledge the importance of empirical detail in moral decisions. Henry of Ghent’s question on lies of humility and Berthaud of Saint Quantin’s on fraternal correction make most sense if they are taken as advice to clerics on how to weigh up real decisions. They have more interest as pragmatic than as speculative problems.

Perhaps the best conclusion to draw from all this is that a kernel of the casuistical method used by Peter the Chanter and Robert of Courson was encased in the paraphernalia of conventional scholastic questions: texts and discussions of the contradictions within and between them, and in some cases, attempts to get a definitive answer exclusively by resolving the linguistic discrepancies. There was still thought interspersed in these questions about the facts of a situation and contradictions of circumstance; the theologians did still take an interest in the interpretation of the rules with a view to a charitable solution. With this combination of practical situations and scholarly opinions and texts, casuistry of lying and perjury became the stable tradition that would last well into the seventeenth century and beyond.

The casuistry had, by the mid-fourteenth century, reached a stable method and format, but did not for that cease to develop. It has not been possible in this PhD to connect the medieval thought up to that of the Renaissance, and it is not entirely clear how thought about lying developed in the casuistry of the later Middle Ages. Even from a superficial reading of the fifteenth century *Summae* that I have cited in this chapter, it is clear that they have much in common with their medieval predecessors, but they do also differ on some key points, and not always in the direction of laxism. Several, for example, are more permissive of mental reservations, but at the same time forbid a judge from convicting an innocent defendant against his conscience. I have only scratched the surface of this later florescence of practical thought on lying: I cannot yet properly explain the changes to which I have gestured here, nor have I read enough to get a sense of larger trends. Further research in this area will no doubt prove rewarding.

**Text**

1.Berthaud of Saint-Denis, Quodlibet I, q. 8.

‘Utrum aliquis propter scandalum dissimulans a correptione fraterna peccet dissimulando?’

Paris, Bibliothèque Nationale MS Lat. 14726, f. 174rb.

(1) ¶Ad .VIIIam. questionem sic arguitur quod aliquis dissimulans a correptione fraterna propter scandalum peccet, quia utilius scandalum nascitur quam ut veritas relinquatur. [Extra. *De Regulis* *Iuris* ‘Qui scandalizaverit’][[623]](#footnote-623) et est verbum Bede in quadam omelia scilicet ‘Qui dissimulat a correptione fraterna propter scandalum, dimitat veritatem propter scandalum quoque peccat.’[[624]](#footnote-624) (2) ¶ Sed contra: Mattheum 18 ‘de homini illi per quem scandalum venit’[[625]](#footnote-625) et Augustinus in epistula ad Publicelani ‘Absit ut ea que propter bonum facimus nobis imputatur,’[[626]](#footnote-626) [et habetur 13 q.4, ‘De occidendis’.][[627]](#footnote-627) (3) ¶ Respondeo: questio illa potest intelligi tam de correptione auctoritativa que solis prelatis incumbit[[628]](#footnote-628) quam de correptione sociali, etiam fraterna, que cuilibet convenit. Et de utraque dico secundum Augustinum quod a correptione malorum potest aliquis et male et bene dissimulare. ¶ Male enim dissimulat aliquis a correptione malorum in triplici[[629]](#footnote-629) casu secundum Augustinum. (4) ¶ Primo quia laboris piget. Si enim prelatus fugiat laborem et piger sit, sed ex hac causa dissimulat a correptione, quia non vult laborare, peccat quia ad hoc est episcopus ut superintendat et laboret. [xix, de. i. c. 19. (sic.) Et viii q.i ‘Qui episcopatum’.][[630]](#footnote-630) (5) ¶ Secundo quia verecundatur os eorum offendere. Si enim prelatus dimittat correptionem malorum quia timet ora eorum ne, scilicet, respondeant turpia vel ne dicant[[631]](#footnote-631) malum de eo vel etiam quia timet offendi ab ore eorum, dico quod prelatus peccat. Dicit enim Augustinus in epistula ad Felicitatem quod si aliquis corripiat aliquem sed ille qui corripitur insultet corripienti, si corripiens inde offenditur, non fuit dignus quod corriperet sed qui corriperetur et ideo si ille qui corripitur ad tempus offenditur omnino propter hoc debet (f.174va) dimitti correptio, quia sicut Augustinus subdit in eadem epistula, quem ad tempus talis offendatur ‘tamen postea cum per se consideraverit, revertitur et quod percipit dictum ex veritate amplectitur’ et hec sunt verba eius in illa epistula. ‘Dissentiones nunquam[[632]](#footnote-632) debent amari sed aliquando tamen aut a caritate nascuntur aut caritatem probant. Quis[[633]](#footnote-633) enim facile invenitur qui velit reprehendi et ubi est ille sapiens de quo dictum est ‘corripe sapientem et amabit te’. (6) Nunquid tamen ideo non debemus reprehendere et corripere fratrem, ne securus tendat in mortem. Solet enim fieri et frequenter accidit ut ad horam contristetur cum reprehenditur, et resistat et contendat, et cum postea consideret secum in silentio, ubi nemo est nisi Deus, et ipse non[[634]](#footnote-634) timet displicere hominibus quia corripitur sed timet displicere Deo, quia non corrigitur, et deinceps non faciat illud in quo reprehensus est, et quantum odit peccatum suum tantum diligit fratrem quem sensit hostem peccati sui. (7) ¶ Si autem de illo nunc est de quo dictum est corripe stultum et adiciet ut oderit te non de caritate illius dissensio nascitur. Sed tamen caritatem reprehensoris sui exercet[[635]](#footnote-635) et probat quia non ei[[636]](#footnote-636) reprehenditur odium sed dilectio, que cogit reprehendere non perturbata perdurat etiam cum ille qui reprehensus est odit. (8) ¶ Si autem ille qui corripit reddere vult malum pro malo ei qui corripienti indignatur, non facit dignus qui corriperet sed dignus plane qui etiam ipse corriperetur.’[[637]](#footnote-637) (9) ¶ Tertio male dissimulat aliquis a correptione fraterna quia timet eorum inimicitias ne sibi nequeat quo ad temporalia. Si enim propter metum temporalium amittendorum dissimulat aliquis, peccat. 11 q.3 ‘Quisquis’,[[638]](#footnote-638) ubi dicitur ‘quisquis metu cuiuslibet peccatis veritatem occultat, iram Dei super se provocat, quia magis timet hominem quam Deum. Uterque reus est, et qui veritatem celat et qui mendacium dicit quia ille prodesse non vult et ille nocere desiderat.’

(10) ¶ E contrario autem bene dissimulat aliquis a correptione in triplici[[639]](#footnote-639) casu, secundum Augustinum : primo modo, quia tempus oportunus queritur. Est enim‘tempus tacendi et tempus loquendi’*.* Ecclesiastice 3o.[[640]](#footnote-640) quia ne deteriores fiant timetur. Si enim aliquis probabiliter presumit quia ille quem vult corripere ex sua correptione deterior fit, bene et licite potest a correptione dissimulare. Exemplum optimum ad hoc de Abigail et Nabal, i Reges xxv. ‘Erat Nabal ebrius nimis et non indicavit ei Abigail verbum pusillum vel grande usque in mane’etc. [[641]](#footnote-641) (11) ¶ Secundo quia, ne impediant alios erudiendos, avertantque a bono faciendo probabiliter dubitatur, sicut multi, quando corripiuntur, provocant alios ad male faciendum, ut non videantur soli (f.174vb) in maleficio de quo corriguntur.[[642]](#footnote-642) (12) ¶ In hiis ergo tribus casibus dissimulare a correptione[[643]](#footnote-643) ‘non videtur esse’, ut dicit Augustinus, ‘occasio cupiditatis sed consilium caritatis’.[[644]](#footnote-644) ¶ Hos autem male modos et bene dissimulandi a correptione invenies ab Augustino 1 de Civitate Dei c.9. ¶ Quod igitur prelati a correptione dissimulent patet ex dictis secundum quod etiam illi qui prelati non sunt predictis modis male et bene a correptione dissimulent, patet per Augustinum in capitulo predicto subdentes. (13) ¶ Nec ideo tamen ab huiusmodi culpa penitus alienus est qui licet prepositus non sit, in eis tamen quibus vite huius necessitate coniungitur multa monenda vel arguenda novit. (14) ¶ Quod ergo queris an aliquis dissimulans a correptione propter scandalum patet quod non nisi interveniant cause male dissimulandi. (15) ¶ Quod oponitur dic quod propter nullum scandalum veritas doctrine dimittenda est, eo tempore quo fit pro nullo enim scandalo debet quis docere falsitatem. Veritatem tamen que nullo modo relinquenda est potest quis tacere et ad tempus suspendere ex certis causis, ut visum est. Aliud est autem veritatem relinquere aliud vero tacere. Veritatem enim relinquit qui contrarium veritatis asserit. Veritatem autem tacens ex causa eam non relinquit nec peccat quis in hoc ut Augustinus docet contra mendacium.[[645]](#footnote-645)

**Chapter 6: Lying and Perjury outside the Pastoral Tradition**

Three arguments that have run through this thesis should be kept in mind in this last chapter. It is in their light that I pose my final questions about the motivation for casuistry of lying. First, academic casuistry and the popular morality of lying in the Middle Ages were similar but distinct. Equivocation appears in both vernacular poetry and confessors’ manuals and the thought processes were substantially the same; any difference between the two registers lay in the purpose of the thought. In vernacular literature, dilemmas had been a plot device and a point of conversation, whereas in clerical hands they became a branch of pastoral reform and a response to real problems. Casuistry is a sophisticated style of ethical reasoning, but it responds to real problems and is most effective if its conclusions ‘feel right’. Academic debate never diverged too far from the natural casuistry that was built into the culture at a deeper level.

Second, formal theories of equivocation, oath-breaking and dissimulation emerged in the Catholic tradition at a specific time and place. Theology masters first thought to write down cases of conscience because of other intellectual changes in the period. The separation of ministry for private sins in confession and external crimes in law fuelled a demand for confession and opened up the mental space for moral cases; no less important was the taste for subjecting theological questions to open-ended scrutiny evinced by Abelard, the decretists, the Lombard and Bible commentators. The case-of-conscience methodology was pioneered by Peter the Chanter and put to use in other genres, including confessors’ manuals, quodlibets and the late medieval *Summae de Casibus Conscientiae*.

Finally, across these academic genres, thought about lying and perjury was unified. The common form was a focus on unyielding moral dilemmas. The same problems kept reappearing; among the most common were the dilemmas of the man confronted by a murderer at the door, the judge who must choose between sentencing according to the truth and due process and the married woman who must choose whether to conceal that a child was the result of an adultery. There was a method in common for resolving these questions and those like it. Academic thought about lying and perjury was coherent and well defined.

What is the significance of all this? Having established that a distinct line of thought grew over the twelfth and thirteenth centuries, it does not go without saying that we know who were the true beneficiaries of this thought, or what motivated its development. How were the ideas received, who were its main beneficiaries, and was there a hidden agenda to the thinking? In this final chapter, I ask what it meant for medieval society to have this current of casuistical thought available to it.

Many who have studied equivocation and dissimulation have suspected that, whatever its intellectual merits, the casuistry was really motivated by self-justification. The envisaged beneficiaries of a theory of justified deception include corrupt nobles aided by Jesuit confessors, obscurantist or over-sophisticated intelligentsia, and (both) religious sects and their persecutors.[[646]](#footnote-646) In this last chapter, I shall look at these three groups, and ask what difference, if any, academic arguments for concealment and perjury made to them. In short, *cui bono*? First, I look at nobles, and by way of case-study, the morality of two French kings on the subject of oaths –Louis IX and Philip the Fair. We will see that the spread of casuistry possibly made a difference, but that it is not convincing to cast the kings as the passive beneficiaries of permissive advice of conscience. The second case concerns the arguments used by intellectuals in favour of concealing ideas. In the Renaissance, men of letters engaged with the idea of dissimulation in a context of censorship and ideological conflict. Did something similar happen in the Middle Ages? My case study will be masters in the Paris theology faculty discussing the morality of teaching. A number of philosophical articles and papal decrees were banned from discussion in the schools, the most famous example being the condemnations by the bishop of Paris in 1277. This provoked discussion in the theology faculty about the morality of refusing to teach doctrine. I ask whether they were using casuistry in order to justify their own need to dissimulate? Finally, I shall look at the use of equivocation which later made it notorious, namely, using casuistry to deceive on matters of private faith and religion. My example is inquisitors, who encountered the prevarications of heretics, and in the late Middle Ages used casuistical arguments to justify using equivocation themselves. The striking point in this example is the relatively late date at which formal arguments for equivocation appeared in this context. As we saw in the first chapter, it is perfectly possible to equivocate and use sophisticated oaths without recourse to the academic tradition. Therefore in this chapter I will ask whether, in particular, the pastoral tradition of casuistry made a difference to the moral formulations of the period.

The ‘*cui bono?’* in all three cases does not yield any simple explanations or smoking guns. It is certainly not possible to trace a coherent line of self-interested motivation among from those who used academic arguments to records of broken oaths and equivocation. The appearance of casuistry is significant in most of these cases in a circumscribed way; usually it suggests the acknowledgement of penitential jurisdiction – a realisation that the casuistry had provided teaching that was relevant – but not a change in what the protagonists believed to be permitted.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

One of Pascal’s main accusations against the Jesuits was that casuistry made it too easy. A confessor could always find a way to reassure his aristocratic patron that his worldly behaviour was acceptable. In the case of equivocation and perjury, he said, casuistry furnished men of the world with permission to deceive and break their word at will. Given the immediate popularity of his satire, Pascal’s allegations must have resonated with his readers’ perception of Jesuit confessors. Was it a pattern that was replicated in the Middle Ages? It would be impossible to attempt anything like a full investigation here, not least because the private consciences of kings and nobles, difficult to fathom in any period, are rarely to be accessed through medieval records and chronicles. For the purpose of this chapter, though, I have looked at two French kings whose moral choices were the subject of particularly intensive commentary. The sources are such that it is not possible to find decisive evidence either for or against either one of them being interested in casuistry of oath-breaking. However, it is possible to get some insight into Louis IX’s and Philip the Fair’s moral outlooks, and, I shall suggest, they do not reconcile easily with the idea of casuistry existing purely in order to enable the sins of the powerful.

Louis IX was the only medieval king to combine a lifetime of hands-on rule with sainthood.[[647]](#footnote-647) His piety informed his attitude to oaths and perjury. Joinville said of him that ‘the holy king loved truth so much, that even to the Saracens and infidels, although they were his enemies, he would never break his word in anything he had promised them’.[[648]](#footnote-648) His account of Louis on crusade includes several episodes in which Louis refuses to take an oath, because he is worried about the danger of blasphemy, or when he urges his subjects not to break their oaths to Saracens.[[649]](#footnote-649) Joinville told of an occasion back home, in which Louis rejected the quibbling of his lawyers, and chose to keep his promises. Renaut de Trie, a regional lord, presented letters that he claimed Louis had issued to the countess of Boulogne, granting land to her descendants. The letters were invalidated by a damaged seal, but Louis honoured them because the seal looked sufficiently similar to his own seal to permit of doubt.[[650]](#footnote-650) The moral is that the model king kept his promises above and beyond the legal necessities.

There is however, one story in which, at first sight, it appears that Louis IX consented to using a ruse to evade an oath. The king wanted the Templars to lend him money in order to free the Latin crusaders from the Saracens; as far as Joinville was concerned, this was an unimpeachable justification. There is a veneer of casuistry about the story, since the crusaders exploit a technicality to permit the unusual action. However, on closer inspection we can see that it was legal reasoning that prompted the fiction, and that Louis’s moral sensibilities were rather simpler.

The episode took place in 1250 during the seventh crusade, when Louis had negotiated his army’s release from his Egyptian captors.[[651]](#footnote-651) The king found that he was thirty thousand *livres* short of his agreed ransom, and so, on Joinville’s suggestion, asked the commander and marshal of the Temple to lend him the difference. The commander replied that the Templars could not hand over any money to the king because the Templars had sworn an oath never to deliver money to anyone except to the person who had entrusted it to them.[[652]](#footnote-652) There were heated words, and eventually the marshal made a suggestion. The Templars could not advance any money without breaking their oath, but he suggested that, if his conscience agreed, the king could order the seneschal to take the money by force, and compensate the theft at a later date.[[653]](#footnote-653) The king agreed, and so Joinville went through the formality of threatening the Templars’ treasurer with an axe with the marshal as witness, and in turn the treasurer handed over the gold.[[654]](#footnote-654) The king and the marshal of the Templars were taking advantage of the principle that it is permitted to break an oath if faced with immediate violence. There was a casuistical and canonical conversation about what constituted duress, which tended to conclude that one must actually be physically threatened in order to count as being violently coerced.[[655]](#footnote-655)

This could certainly be called casuistical if we use the word in its more common sense of specious reasoning, yet whether it is academic moral reasoning in the stricter sense is less certain. The evidence in the story tends to a no. The commander and marshal of the Templars may have been more worried that they would lay themselves open to legal actions if they handed over the money to Louis than about the morality of the case. Having a witness who could testify that they were violently forced to pay would have protected them from being sued. One may well doubt the strength of such an obviously concocted case, but Joinville possibly intended the story as a joke at the expense of the military order and its craven insistence on the legal formalities. Joinville, on the other hand, who negotiated the transaction on the king’s behalf, certainly was in no doubts about the moral justification for taking the money. He tells this story as a demonstration of his own and Louis’s commitment to honouring their oath to pay the Egyptians the agreed ransom. Yet, the thinking of Louis and Joinville seems not to have been particularly casuistical: it was not the fact that he ‘coerced’ the Templars to break their oath that made the action acceptable in Joinville’s eyes. By his own admission, he and the king initially wanted the Templars simply to break their oaths and hand over the money. Louis and Joinville were even angry with the Templars for refusing. It seems that Louis was willing to bend a moral principle in an emergency, but was not fussy about the academic legitimation. He was aware of the casuistical arguments on offer, since he consented to the ruse with the Templars, but he did not see the need to apply it to his own morality. His thinking was on a simpler level.

Joinville and Louis IX seem to have taken a mildly dim view of the ruse in this case. They did not object to participating in the fiction, but hardly thought it was necessary, and the Templars come out looking a little ridiculous. On the other hand, the religious (although not terribly bookish) monarch seems to have had no second thoughts about the morality of prudentially ignoring an oath for the sake of the crusade. He did not turn to a theory of permitted oath-breaking in order to justify his actions. Joinville makes some acknowledgement in the story that one might use casuistry to break an oath, but does not give much indication that he seriously bought into the idea. This kind of sophistication did not sit well with Joinville’s moral outlook.

In Philip the Fair, on the other hand, it is easier to detect a complicated attitude to questions of conscience. He was scrupulous in his desire for a good penitential standing, but, being loathe to stop transgressing absolutely, was generally willing to bend a rule.[[656]](#footnote-656) He confessed to a number of negligences on his deathbed. He certainly was fully aware of the intricacies of penitential theology, and sought out personalised dispensations and indulgences directly from the pope.

Philip is famous for a number of controversial public prosecutions. Under the influence of his ministers, he instigated the trial of the Templars, and a posthumous prosecution of Boniface VIII. Both cases were false, and Philip’s ministers must have known that their evidence was fabricated.[[657]](#footnote-657) Whether Philip himself thought so is more difficult to ascertain.[[658]](#footnote-658) The language used around these undertakings was not in the realm of compromise and casuistry. In a private memorandum, Nogaret encouraged Philip to press on with an accusation that Boniface was a heretic, using the rhetoric of unconditional adherence to the truth.[[659]](#footnote-659) He declared, ‘Christ is the truth, and whoever denies truth denies Christ, and whoever draws back from the truth draws back from Christ’: if Philip drew back from prosecuting Boniface, he would be abandoning the truth.[[660]](#footnote-660) He showed no interest in this case or others in arguments based on casuistry or *Realpolitik,* despite their applicability to his case. He used the argument most likely to be effective on Philip the Fair, namely simple moral righteousness on an issue of public scandal.

When it came to Philip’s day-to-day business, however, there was more wiggle room within Philip’s difficult and sometimes contradictory morality. As Elizabeth Brown points out, he provided in his will to pay back any who had been harmed by his hunting, but his remorse did not stretch so far as to give up the sport.[[661]](#footnote-661) He conscientiously ended war taxes after the end of the conflict in question, but left some of these cancellations to be enacted by the executors of his will, and did not always make restitution.[[662]](#footnote-662) When it came to oaths, we see an interesting combination of neglect and moral bargaining. Philip made a general oath to carry out the bequests of his wife Jeanne of Champagne and Navarre as executor of her will. This commitment he later ignored; he acknowledged on his deathbed that he had not carried out his wife’s testamentary dispositions or relinquished her lands to his sons.[[663]](#footnote-663) Philip did use her wealth to make pious bequests, which mentioned her by name, but they were his foundations not hers.[[664]](#footnote-664) Some oaths he did adhere to. His wife requested him, subsequent to his general sworn obligation, to make an additional oath that he would acquit her of household expenses (the money that the monarchy had paid for the upkeep of her household).[[665]](#footnote-665) It appears that this commitment he did fulfil.

What can we infer of Philip’s attitude to these oaths? Of course, his decisions are understandable simply in psychological terms. It is more troublesome to carry through an onerous and multifaceted commitment than to write off a single debt. However, there is also a hint of casuistry. Philip could, up until his deathbed, have justified his failure to carry out his wife’s will on the grounds that, although he was not carrying out her bequests, he was spending equivalent money on pious causes, or that he was using his sons’ incomes for the good of the state. These oaths were open to commutation, especially when weighed against a greater good. The specificity of his oath on household expenses was not so amenable to fudging; the directness of the commitment to his wife and the absence of a pious duty to the church made the oath an unequivocal commitment to her household alone. Philip might have felt his obligation to be binding in this case. That is only a speculative interpretation; Philip did express regret on his deathbed for those testamentary oaths he did break. More globally we can notice that his attitude to such matters was niggling. As Elizabeth Brown describes him, he was frequently wavering and regretting his earlier actions. For those of his faults that he did acknowledge, he sought to get a fail-safe penitential resolution. Although we cannot know for sure what went on in his conscience, fulfilment of his oaths may have fallen in with this general pattern.

We can perhaps detect from these two cases a different attitude depending on the kind of situation involved. In the case of Louis IX’s ransom and Philip the Fair’s process against Boniface, the king was involved in a grand undertaking nominally for spiritual health of himself and his people. Such unusual and potentially damaging endeavours as crusading and prosecuting a pope could only be justified if seen in the light of a urgent moral necessity. It was not the place for subtlety. There was more room for stretching principles in the less sensational chapters of Philip the Fair’s reign; in matters such as oaths to fulfil a testamentary bequest, Philip could admit his own transgressions.

On the basis of these royal lives, there are slim pickings for a narrative about clerical casuistry massaging the consciences of those engaged in *Realpolitik*. The impulse to break oaths, and at the same time remain holy, feature in both accounts of French kings, yet there is minimal reference to casuistry. In Louis IX’s case, the prudential decision is conveyed in informal terms; in Philip the Fair’s it seems that he broke his oaths then later repented, not that he sought to justify the actions. We can recall another story of a French king, Philip Augustus, that I cited in the first chapter, in which the king equivocates in order to trick a lying witness into confession. This is casuistry, but it draws on narrative traditions outside theological writings: the story reminds us that it is perfectly possible to engage in equivocation and mental reservations without reference to the church.[[666]](#footnote-666) In sum, the psychology of moral justification is complicated, as is the way in which noble lay people internalised the teachings of the church. There is little evidence one way or another for the impact of academic casuistry on Philip the Fair and Saint Louis and what evidence we do have tends to negate the idea that kings sought out casuistry in order to justify a worldly life. In the stories I have discussed, the two kings seem to have made sense of their broken oaths through different rationalisations from the arguments of casuistical oath-breaking. I would suggest, on this basis, that the penitential requirements of powerful laypeople do not provide a substantial enough explanation on their own for the development of pastoral thought about perjury and oath-breaking.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Another narrative about the rise of dissimulation in the Early Modern period sees it as a response to censorship and oppression. As institutions gained power, the argument goes, they tried to police thought as well as action, and intellectuals began to defend themselves with obscurantism and rhetorical dissimulation.[[667]](#footnote-667)At first glance there seems to be scope for such a narrative in the Middle Ages. In the thirteenth century, there were a number of attempts on the part of prelates to control the disputes of university masters; this created a motive for teachers to avoid certain philosophical positions and possibly to conceal some of their true opinions. Moreover, a strikingly large number of quodlibets from the period discuss the ethics of refusing to teach a doctrinal truth, and the university masters’ interest in the subject can certainly be ascribed to the recent legislation by the bishop of Paris and other local prelates. Yet, what is more difficult to determine is whether their ethical views about dissimulation were actually much affected by the prohibitions.[[668]](#footnote-668) Did university masters argue in favour of concealing doctrine because of the ecclesiastical censures?

Theologians were certainly not slow to accuse each other of insincerity and concealment; in fact, the assertion that a master was deliberately obscuring doctrine was not rare. John Peckham, when asked ‘whether a rash teacher who teaches a damaging doctrine must make restitution,’[[669]](#footnote-669) seized the opportunity to call attention to the misleading doctrines of his rivals. Those who claim that teaching is a greater state of perfection than religious life – Peckham was thinking of Thomas Aquinas – are guilty of using amphibologism (i.e. equivocation) to convey a falsehood. Perfection can mean acquired perfection or exercised perfection, the religious have more of the former, preachers the second. Those who teach that preaching is simply better are deliberately playing with words. Henry of Ghent accused his Franciscan colleagues of deliberately interpreting their papal privilege against its express intention (and thereby took a swipe at his mendicant rivals for their interpretation of Martin IV’s privilege on confession).[[670]](#footnote-670) Peter John Olivi accused his opponents in the Franciscan poverty debate of fraudulently twisting the meaning of the vow.[[671]](#footnote-671) In fact, there were many such exchanges between masters in the grip of a quarrel.[[672]](#footnote-672) Everyone knew that it was wrong to obscure doctrine for evil reasons, and many appeared to think their colleagues were capable of it.

It seems that there was also a growing fear among responsible ecclesiastics that disputation might not always lead smoothly to a clear solution. It had become apparent that contentious papal privileges had generated fruitless argument. A council of masters in Paris in December 1286 forbade masters from answering a ‘provocative question’ (*quaestio litigiosa*) and Godfrey of Fontaines ascribed the decision to a desire to stem the tide of argument about mendicant confession.[[673]](#footnote-673) A fear of theological error following from irresponsible use of philosophical texts motivated a number of condemnations of doctrine. Most notably, the bishop of Paris, Étienne Tempier banned a series of philosophical propositions in 1271 and more extensively in 1277, with an automatic excommunication for those who taught them.[[674]](#footnote-674) There were condemnations in Oxford in 1277, 1280 and 1282-3, London in 1286, in Paris in 1314 and 1316-7.[[675]](#footnote-675)

These events had different practical and moral implications for the theology masters, depending on which side they found themselves in institutional and doctrinal disputes. Some masters were stung because they chose to continue to discuss a matter they had been warned off: Jean de Pouilly’s teachings on the mendicant privilege were condemned at Avignon in 1321; theology masters had been told to stop discussing the privilege in 1290 by the then papal legate Benedict Gaetani.[[676]](#footnote-676) Others, like Peckham and Olivi, accused their rivals of deliberately using superfluous and misleading arguments in the face of authoritative pronouncements to the contrary. Still others were asked questions on condemned articles or forbidden legislation, and so had to choose whether to perpetuate stale quarrels, and whether to defy a prohibition.[[677]](#footnote-677) Henry of Ghent recounted a situation where the papal legate positively told him to teach a contentious doctrine (the plurality of forms) without publicly condemning the opposing view, and on which Henry of Ghent himself was unsure.[[678]](#footnote-678) Luca Bianchi has described the hostile atmosphere of censure and self-censure that followed the 1277 condemnations, in which many masters refused to answer sensitive questions.[[679]](#footnote-679) Given this range of experiences and agendas, one might expect a number of different perspectives on the ethics of teaching a contentious doctrine and the question of disguising one’s true views. Quodlibets asked whether a master should respond to litigious question, whether he was morally obliged to teach the whole truth, or whether he could refuse to teach a truth which he knew to be beneficial.[[680]](#footnote-680) However, a detailed look at the cases shows that the masters were not tempted to advocate either widespread concealment or defiantly free speech. They universally argued the same moderate set of teachings taken from the casuistical tradition on scandal and passing over harmful truths in silence. [[681]](#footnote-681)

The consensus about the ethical duties of a theology master turned on weighing the possible benefit of a lesson against any likely harm it could cause. Richard of Mediavilla’s quodlibet in 1287 was typical.[[682]](#footnote-682) A master was guilty of mortal sin if he refused to answer a question with a bearing on true faith and morals, especially if he thought that he could avert spiritual danger by answering the question. He only sinned venially if he refused a question that could be beneficial to his audience, but which had no bearing on faith. He acted well if he refused to answer a question that would cause no benefit to faith if he answered it, but probably would cause argument, scandal and bad judgments.[[683]](#footnote-683) Such a solution could offend no one. It affirmed the theology masters’ vocation for explaining unclear questions of faith yet conceded that it may be permissible to refuse a question on occasion. It admitted the social nature of the judgment: if teaching on a matter would only lead people into further sin, then it was permissible to suppress the truth. The answer thus allowed for pragmatic obedience to condemnations and prohibitions on given articles. Which questions exactly should be refused was left diplomatically undetermined; it was up to the individual to judge which topics were more harmful than beneficial.

This opinion was echoed on all sides of the various disputes. Henry of Ghent, for example, had been vocally in favour of the theology masters’ right to dispute the mendicant privilege. He was one of the theologians who formulated the 219 condemned articles in 1277.[[684]](#footnote-684) When he was asked in 1286 whether a master sins mortally if in public he does not answer a question to which he knows the answer, he followed the same casuistical precedents.[[685]](#footnote-685) He prefaced his response with an exhortation on the moral character of a master. A teacher must only assume his office in order to help the ignorant (*propter imperitos*).[[686]](#footnote-686) The only way he can do so is by explaining the truth that he knows.[[687]](#footnote-687) He describes in detail the sin which is involved in teaching falsehood, or in failing to explain difficult matters of faith to the people.[[688]](#footnote-688) However, when he comes to the decision whether to teach a truth that my harm those listening, he is no less pragmatic than Mediavilla: as with the dilemma of the murderer at the door, one must be willing to hide the truth, in order to save a soul.[[689]](#footnote-689)

When Henry was later asked, either in Advent 1291 or Lent 1292, ‘whether the power of prelates should be disputed by masters’, the question was even more topical.[[690]](#footnote-690) The year before, the cardinal Benedict Gaetani had rebuked the Parisian masters for doing just this; the university masters had criticised Martin IV’s privilege which allowed Franciscans to hear confessions without seeking permission of the local bishop. Gaetani responded astringently that masters had no right to criticise the Privilege, and denied that the masters had any role in deciding matters of doctrine or church government.[[691]](#footnote-691) Henry of Ghent himself had been prominent among the masters who had wished to amend the legislation; it was his feathers that were rumpled by Gaetani’s rudeness. He is reported to have complained at the contradiction that masters who disputed the Word of God should not be permitted to discuss the pope. Gaetani reportedly suspended Henry from teaching (although clearly he was teaching again the following year).[[692]](#footnote-692) This is the background to his qudolibetical question in 1291/2. It is a work of rhetoric meant as self-justification against his opponents. Yet, all that is controversial in the question lies in what it implies, not what it actually says about the moral dilemma. Once again, he argues for a prudent, subtle approach to disputing difficult questions and concealing harmful truths.

Henry starts by establishing his own *bona fides.* Those who dispute the power of prelates with a view to diminishing their jurisdiction are completely in the wrong: they are like those philosophers who tried to reduce God and Christ’s power with their Averroistic arguments.[[693]](#footnote-693) The comparison is self-interested: Henry of Ghent had himself been among the group of theologians under Étienne Tempier who had drawn up the list of condemned Averroistic doctrines in 1277. Henry is therefore reminding those present that he has in the past been a defender of the bishop’s power over errant philosophers. No one could accuse him of arguing doctrine merely for the sake of pride or secular curiosity.

Those who dispute prelates’ power simply to know better what the powers are and in order to judge when it is right to obey, on the other hand, are entirely licit and beneficial.[[694]](#footnote-694) He does not mean that matters that have been agreed by universal councils should be dragged back into doubt: rather, prelates should be happy for those matters to be disputed that need it, since they will know exactly which powers they can exercise and which they should not. Subjects will know when they should obey their prelates, and when they ought rather disobey.[[695]](#footnote-695) He quotes Bernard of Clairvaux and the Gospel of Matthew to show that subjects must judge when to obey their superiors.[[696]](#footnote-696) Henry concludes that if a prelate is seen to discourage disputation of any of his powers, the validity of that power will be held suspect: he compares such a prelate to Mohammed who, aware of his own doctrine’s shakiness, banned his followers from disputing his law.[[697]](#footnote-697) All this contrives to make a prelate who denies the masters’ right to dispute church legislation (as Benedict Gaetani had seemed to do) look petty and insecure.

Henry certainly criticises prelates who try to control discussion of the truth; the response was an apology for the free intellectual activity of university masters. However, what Henry concretely says about the moral dilemma whether to always reveal the truth does not venture into any unexpected territory. His argument boiled down is that a master should not dispute powers if his intentions are evil, but he should do so if he means to serve the church, and foresees that his comments will be useful. Henry makes the conventional provisos: if a question has reached the point where further disputation is unhelpful, masters should withhold their comments: this is the case for Nicolas III’s constitution on the Franciscan rule.[[698]](#footnote-698) There is no advantage to be gained from disputing a truth that no-one doubts: the Talmud, for example, was only produced when Jewish law was placed in doubt through the influence of Christianity and philosophy.[[699]](#footnote-699) It is not the moral teaching itself but its application in a particular case that is the source of controversy. Henry objected to Benedict Gaetani telling the masters what they should and should not dispute, but his view on dissimulation was nuanced: he neither argued for bringing out the truth at all costs, nor denied that dissimulation, even a prelate’s ban on disputing forbidden articles, could sometimes be advisable.

Godfrey of Fontaines had different allegiances from Henry of Ghent. He appears largely to have supported masters who gave opinions on the mendicant privilege. He praised those who chose to give an opinion in spite of the ruling by Paris masters against further disputation; those who refused to answer on the question, he said, ‘may be excused to some extent’.[[700]](#footnote-700) More significantly, he disapproved of the bishop of Paris’s condemnations of 1277. Later in life, he would criticize them as an impediment to students’ progress, a cause of scandal among those studying and an obstruction of good doctrine.[[701]](#footnote-701) In his seventh quodlibet in 1290, Godfrey answered a question whether a theology master should teach an article of doctrine which he believes to be true, if the same article has been condemned by the local bishop.[[702]](#footnote-702) More than Henry of Ghent or Richard of Mediavilla, Godfrey’s personal circumstances led him to consider defying authority more concretely, and we can detect a current of disapproval against the bishop.

It is clear from the outset that Godfrey was talking exclusively about Étienne’s condemnations. He conceded initially that a master should avoid publicly affirming the condemned articles, but remain silent about both the false doctrine approved by the bishop and the condemned true doctrine.[[703]](#footnote-703) However, when Godfrey went on to criticize the bishop who passed such legislation, his audience knew to whom he was referring. If a bishop publicly excommunicates anyone who professes a condemned opinion that is actually true, or which can be asserted as true by a probable opinion, his condemnation would be mistaken.[[704]](#footnote-704) It is not for an individual to disobey the condemnation, it is true – that would break the bond of obedience – but he must urge the prelate to revoke his decision.[[705]](#footnote-705) If the question is one necessary to salvation, on the other hand, and the master knows that he is right and the condemnation wrong, he must disobey the bishop openly. The sting in the tail is when Godfrey finally asserts that even if the master only believes himself to be right, but is actually mistaken, he must still teach what he thinks despite the excommunication.[[706]](#footnote-706) It is more important to follow one’s own conscience (even an erroneous one) than to hold back out of fear of punishment.

Despite the belligerent asides, however, the casuistical judgments remain the same. Godfrey concludes, like the others, that it is a question of balancing ultimate harm to those listening against the advantage of teaching. An inconsequent truth should not be endorsed at the expense of the order of the church and a teaching necessary to salvation should be included whatever the consequences. These masters disagreed bitterly over theological doctrines to which the moral dilemma referred; they took up intransigent opposing stances on the mendicants’ privileges, the Franciscan vow and Thomistic propositions. Yet they were in accord when it came to the moral dilemma; they agreed that it was a pragmatic decision, and concurred on which circumstances were pertinent. Their use of casuistry was straight-forward.

Moral arguments about concealing doctrine were a feature of several of the big controversies that would affect the Paris theology faculty in the late thirteenth century. Masters did not advocate dissimulation as a response to censures on philosophical positions, nor did they argue for telling the truth at all costs. On the contrary, these responses say remarkably little. This was the most commonplace part of the controversy, thrown in among the more controversial arguments for ballast. The casuistry itself was not affected by the prohibitions or mutual blame, only individual opinions and particular decisions. Some masters did defend their choice to conceal articles of philosophy, or to remain silent about legislation with which they did not agree, but they did not develop the casuistry for the purpose. The moral reasoning was already well-established in its own right; it advised masters on how to make their decisions as individuals in remarkably neutral terms, whilst the larger intellectual quarrels and institutional conflicts played out.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Of my three case studies, manuals for inquisitors engage most directly with arguments for deliberate deception. Early manuals described heretics equivocating in order to resist interrogation; from a later date, the manuals began to advise inquisitors to deceive suspects in order to assist their proceedings. Given the history of the doctrine of equivocation and religious conflict during the Reformation, one might expect a mirror image in the medieval inquisition against heretics – that is that the dynamics of interrogation about faith would spur both sides to use strategies of deception. Again, an initial impression of casuistry in action gives way on closer inspection to a negative picture. Openly and unambiguously, inquisitors’ manuals discussed misleading language, equivocation and mental reservation. Yet, despite similarity of subject matter and neighbourhood of genre, it proves difficult to establish how closely inquisitors grounded their ideas in the emerging pastoral thought about equivocation. It is striking that unambiguously casuistical arguments for deception only appear in the genre very late in the fourteenth century.

Inquisitors were alive to the danger of being deceived by heretics; the idea of a heretic master, ignorant in book-learning yet adept in sophisms, in the thirteenth century became a cliché.[[707]](#footnote-707) A manual from the late thirteenth century, *De Inquisitione Hereticorum* by Pseudo-David of Augsburg, dramatizes a Waldensian’s tireless evasion of questions during interrogation. When he is told that he is accused of heresy,

He replies, his eyes raised to heaven most faithfully, ‘Sir you know that I am innocent of this and have no other faith but the true Christian faith.’ I say: ‘You are speaking of your faith, since you consider our faith to be false and heretical, but I ask you whether you ever professed or held another faith from that which the people and church of Rome believes to be the true faith?’ He replies: ‘I believe in that faith that the church holds.’ I say: ‘You mean that you believe your errors to be the holy church, and you believe in that.’ He replies, ‘I believe in the true faith that the Roman church believes, and which you yourself openly preach.’ I say, ‘Perhaps you have some members of your sect in Rome, and call them the Roman church, and you hold their faith. I, when I preach say many different things, and maybe I sometimes say something in which we seem to agree, such as that there is one God. Thus you believe some of what I preach, and nevertheless you could still be a heretic, if you do not believe other things necessary to the faith.[[708]](#footnote-708)

And it goes on. Bernard Gui copied these passages closely in his manual for confessors of 1317.[[709]](#footnote-709) I would not be the first to remark on the similarity of the Waldensians’ equivocations and mental reservations to those advocated in Raymond of Penafort’s *Summa*.[[710]](#footnote-710)

*De Inquisitione Hereticorum* also advises the inquisitor to deceive the heretics in his charge. If the heretic proves reluctant to confess, he suggests that two faithful and prudent men should speak to the suspect and promise that he will escape the death penalty if he confesses. They should pretend to think that he is more innocent than he is, asking him only whether he believed in other heretics or heard them preaching certain doctrines, since if they ask directly whether he believes these doctrines, he will think they are trying to catch him out and refuse to respond.[[711]](#footnote-711) ‘Guileful wolves,’ Pseudo-David concludes, ‘are themselves to be caught with subtle guile.’[[712]](#footnote-712)

Nicholas Eymerich, the author of the *Directorium Inquisitorum* in 1376, went much further.[[713]](#footnote-713) In a chapter entitled ‘Ten Precautions to Arm the Inquisitor against the Sophistry and Deceptions of Heretics’, Eymerich names a series of strategies by which an inquisitor can secure a confession.[[714]](#footnote-714) The inquisitor should promise heretics ‘mercy’ if he confesses. It is not a lie, he says, since ‘everything he does to convert the heretic is merciful and penitence is mercy and a remedy.’[[715]](#footnote-715) The inquisitor could also pretend that he is about to leave the town, saying to the heretic,

‘I sympathise with you and wish that you would tell me the truth, so that I can finish with you and your case, and that you would not remain in this way in prison, since you are delicate and could easily get ill – I have to leave you and go where my duty takes me, and I don’t know when I’ll return.’[[716]](#footnote-716)

He hopes by this means to erode the heretic’s resistance more quickly.

Were the inquisitors or the heretics deploying the casuistry of lying? The accusation that Waldenses and Béguins used equivocations against the inquisitors is difficult to connect directly with a casuistical tradition.[[717]](#footnote-717) There are no direct references to the manuals for confessors, and the inquisitor’s point is that the heretics were departing from Christian ethics when they equivocated, not that they fell in with it. It would be strange for inquisitors to choose to use their own theories of ethical permission to reproach the methods of the heretics. Although overstated, the specificity of the accusation rather suggests that the inquisitors were talking from personal observation. The manuals acknowledge that certain groups were more prone to equivocate, and that this followed from their distinct cultures.[[718]](#footnote-718) There was a tendency among inquisitors to characterise the Waldensians in particular as rival preachers and cunning deceivers of the people, the opposite of honest teachers of true Christian doctrine.[[719]](#footnote-719) Several manuals also comment that Waldensians were remarkable for their pious reluctance to lie or swear oaths;[[720]](#footnote-720) it was for this reason that they turned to elaborate verbal evasions. The accusation is broadly believable; the suspects under question were members of persecuted religious minorities. It was under similar circumstances that Catholics and Calvinists resorted to mental reservation and equivocation in the sixteenth century, and Priscillianists justified lying in the fourth. For all that they are problematic sources,[[721]](#footnote-721) inquisitors’ interrogation records do hold evidence of heretics using evasive language.[[722]](#footnote-722)

If we turn to the advice that the inquisitor should deceive suspects, the influence from casuistry remained for a long time very doubtful. It is true that theological and canon law authors had stated explicitly that it is permissible to use silent conditions when talking to heretics, but this does not map well onto the inquisitors’ manuals’ advice.[[723]](#footnote-723) The *De Inquisitione Hereticorum* advises deceptions, but they are not precisely equivocations or mental restrictions. The author’s only advice was (falsely) to promise suspects that they would escape death if they confess, and to pretend to believe in the suspect’s relative innocence. The language is fairly removed from that of the theological texts. Further, the tone of the whole work is pragmatic rather than self-justificatory. These interrogation methods are presented as effective means learnt from experience – Pseudo-David does not explicitly acknowledge that the inquisitors’ actions are morally questionable. It seems perfectly possible that the author advocated deception without particularly referring to a doctrine of licit deception of heretics.

It was only much later that Nicholas Eymerich did acknowledge the relevance of casuistry, in the second half of the fourteenth century. He spelt out that it would be an equivocation to promise a suspect ‘mercy’ if he confesses, since the inquisitor would mean penitence, and the heretic would understand remission of earthly punishments.[[724]](#footnote-724) He also compares the inquisitor who forces a confession by feigning to leave the town to Jesus, who ‘pretended to go on further’ on the Road to Emmaus (Lk 24:28).[[725]](#footnote-725) The story would be familiar to its readers as a commonplace of discussions of Biblical equivocation; the usual exegesis stated that Jesus pretended that he would go on further, when his companions on the road to Emmaus stopped at the inn, in order to enlighten the two disciples through a momentary deception.[[726]](#footnote-726) Eymerich suggested by the allusion that the inquisitor likewise deceived the suspects for their own spiritual good. There is also some acknowledgement that misleading suspects is morally unusual; he excuses the use of such ruses on the grounds that they elicit confessions without recourse to torture.[[727]](#footnote-727) In effect, he is advocating the lesser evil.

Eymerich was aware of the casuistry, but it would be too much to talk of influence. The deceptions he mentions appeared without his moralising comments in the earlier confessors’ manuals; Eymerich was not prompted by theology to suggest the use of equivocations, he justified a practice *post facto.* His references to casuistry are also relatively slight – he does not give it the full case-of-conscience treatment. The sixteenth-century editor of Eymerich’s *Directorium*, Francesco Peña, supplied just that, adding cases of conscience justifying deception of prisoners and false promises of mercy.[[728]](#footnote-728) By that time, casuistry was ingrained enough in clerical culture that Peña felt its omission in the medieval text.

Inquisitors’ manuals engage with the concepts of equivocation and mental reservation more openly than most other medieval sources. The situation envisaged, the deception of a heretic, was well established in previous casuistical literature. Manuals for inquisitors could even be seen as a sub-genre within the larger field of penitential writings; inquisitors’ aims were closely allied to those of a confessor. There was demonstrably a growing engagement with casuistry in this genre, which reached its zenith in the far-away sixteenth century; it perhaps went with growing self-consciousness on the part of inquisitors that theirs was an established penitential role.[[729]](#footnote-729) Yet it is difficult to find positive evidence that inquisitors discussed equivocation *because* of the casuistical tradition. Eymerich and Pseudo-David of Augsburg would certainly have been aware of casuistical teaching on lying, but they could have written their advice without particular reference to it. Because academic casuistry mirrors the kind of pragmatic moral decisions inevitable in life, it is dangerous to ascribe all justifications of deception to scholastic arguments.

It was an inherent feature of equivocation that the concept could be used to reclassify a lie as a permitted verbal evasion. Nicholas Eymerich’s *Directorium* suggests that this potential was in fact exploited for real deceptions during the Middle Ages. To that extent, the medieval teaching was identifiable with the Early Modern version that attracted such outspoken criticism. Yet we might ask, is that all? Nicholas Eymerich appears to have written the first properly casuistical inquisitors’ manual, and he wrote in the late fourteenth century. This was a hundred years or more after the arguments had first been developed in well-regarded pastoral literature. The potential for using casuistry as an excuse for deception in this light seems to have been rather under-realised.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

In contrast to the equivocations in the first chapter, here I have discussed cases of conscience that could not have taken place completely in ignorance of the academic tradition. Admittedly, examples where the pastoral teachings on lying and perjury had a clear impact are few and far between. If the evidence has proved reticent, this only follows from the nature of the subject; the case-of-conscience methodology was designed for private confession. Arguments about when to equivocate, when to pass over harmful knowledge in silence or when to break one’s word were made with a view to offering confidential counsel that would never be spoken of or written down. Even if the thought was well-known and taken to heart, the form in which advice was transmitted from priest to penitent would not make it into historical record. Moreover, the strategies involved – equivocation and concealment and broken words – only work if they take place *sotto voce*; it would be self-defeating to own up to them.

Nevertheless, the examples discussed here do provide a perspective from the outside looking in. We have had some indications as to what various people thought about the casuistry of lying and perjury and where the tradition stood in relation to the other parts of their intellectual life. On a separate note, the examples offer independent confirmation of some points which pastoral writings on lying and perjury led us to suspect.

*Cui bono?* The answer is not simple. In all three cases, it is at least possible that the protagonist had their conscience eased by casuistry, although the evidence is never strong. Given what we know about Philip the Fair’s personality, at most we can speculate that casuistry of oath-breaking was available to him, and relevant to a certain category of his decisions. As I said, it could have cut him some slack when he worried about his failure to fulfil his oaths, especially his role as sworn executor of his wife’s will. Theology masters used casuistical arguments when thinking about the morality of disputing problematic articles of philosophy and legislation. Certainly Henry of Ghent or Godfrey of Fontaines were capable of deploying the arguments in such a way that their own decisions appeared, if only by implication, to be justified. By their own accounts, they managed to suggest that they had always played the noble role. Finally, Eymerich did use arguments in favour of equivocation in order to justify deceiving heretics. He explicitly made it clear that pastoral teaching in favour of equivocation applied in the case of the inquisitor. There is an inherent potential in casuistry to be used to justify a doubtful moral position, and, with the caveat about Philip the Fair, on whose casuistry we can only speculate, this possibility was realised in these cases.

Nevertheless, this did not mean that the people in question simply availed themselves of a *carte blanche* to bend the rules to suit themselves. Philip the Fair’s moral thinking was certainly, by the best accounts, self-serving on occasion; yet he did acknowledge his own failure to keep his oaths: He was prone to remorse and self-justification on different occasions, which would suggest that his casuistic thinking was not flimsy, even if it was flexible. The theology masters’ use of casuistry always steered clear of explicit commentary on individual choices. They were always willing to concede that there could be circumstances where it was necessary to pass over a teaching in silence for the sake of avoiding scandal, or speak out in the face of an episcopal prohibition, depending on the circumstances. They deliberately steered clear of extreme or divisive moral positions. Eymerich moreover was not the first inquisitor to advocate deception, but the first to use casuistry of deception, and he wrote at the end of the fourteenth century. There is no causal relationship to be established between inquisition and the development of casuistry. The evidence from outside the pastoral tradition is therefore slight - and the conclusion that I have drawn only impressionistic - but it tends to negate any explanation of the emergence of casuistry simply as the result of self-justifying redefinition of the rules.

**Conclusion**

It is worth remembering that in the Middle Ages as now, the tendency was to think that dishonesty and deception were simply wrong and to assume that anyone who lied was not to be trusted. Guillaume Perault, the author of the most popular *Summa* of vices and virtues, summed it up: through his imitation, a lying man is the son of the devil.[[730]](#footnote-730) In his sermons *ad status*, Jacques de Vitry compared lying clerics and false novices to wolves preying on sheep and birds of prey who catch their food by playing dead.[[731]](#footnote-731) Caesarius von Heisterbach included exempla in his *Dialogus Miraculorum* in which the devil takes the form of a man in order to deceive a young girl and tempt her into transgression.[[732]](#footnote-732) Lies were the stock actions of the corrupt.

Lying and perjury were part of the basic armoury for more general excoriation. They were a commonplace in clerical and courtly satire. Walter of Châtillon’s twelfth century verse for example, exclaimed, as part of an exhaustive condemnation of his times, that ‘Falsehood speaks the truth, and the Truth is telling lies, everyone mistreats the law, and legally resorts to crime.’[[733]](#footnote-733) John of Salisbury lamented a corrupt court beset by flatterers who ‘entreat with iniquitous and deceitful words’, calling their deceptions a ‘cancerous affliction’.[[734]](#footnote-734) The name of perjurer could be much less a comment on a misdemeanour than a judgment of overall character. Gerald of Wales famously did not like the Welsh; in his description of their national character in the *Descriptio Kambriae*, he declared the Welsh to be crafty, quarrelsome, and also perjurers: ‘oaths are nothing to them, nor good faith nor reverence for the truth’. He compares them unfavourably with other nations which treat oaths as inviolable.[[735]](#footnote-735) The association between deception and bad character was axiomatic, even automatic.

This was not just a feature of clerical writings. The first chapter of this thesis explored the occasions where vernacular stories give a casuistical account of deception, but here too we are dealing with exceptional situations. In literature, permitted deceptions went against the usual morality and the more common reference to lying was to the actions of traitors and trouble-makers. Ganelon, the evil counsellor whose lies exposed Roland and Oliver to the attacks of the Saracens, was surely the most famous deceiver in vernacular literature. There are any number of *chansons de geste* and romances where a treacherous companion intervenes between a lord and his wife with a lie. In *Guillaume de Dole* and *Doon de la Roche,* a companion calumniates the hero’s wife by fabricating evidence of an adultery.[[736]](#footnote-736) In the provençal *chanson de geste*, *Daurel et Beton*, the lord Bevis’s companion Guy first promises to protect Bevis’s wife and child if he should die, then kills Bevis, disguising the murder as a hunting accident. He goes on to marry Bevis’s wife and uses a series of ruses to try to seize and kill her son Beton.[[737]](#footnote-737) Needless to say, these false counsellors are all condemned to meet with their just deserts. In romance, the hero and heroine may sometimes engage in deception, but this does not preclude the vilification of usurper kings like Alis, who broke his word to Cligés’s father, or the piqued lady who falsely accuses an innocent knight of making advances on her, as in *La Chastelaine de Vergi* or Marie de France’s *Lanval*.[[738]](#footnote-738) Such figures are liars because they are evil, as much as the reverse.

The depth of these moral convictions is evident from the number of exempla explicitly saying that lying is both evil and practically harmful. This is sometimes told in providential terms: Jacopo da Varazze described a merchant who sleepwalked to his death, after he first equivocated then broke an oath made to Saint Nicholas to repay a debt.[[739]](#footnote-739) Others are more naturalistic; Caesarius von Heisterbach told a story of two merchants who were persuaded by their confessor to do business without ever lying or committing perjury for one year. Initially they protested that they would not be able to do any business without perjury, and sure enough, when the year was over, they had not sold anything, since they could not swear an oath on their deals. However, they agreed to try one more year without perjury; people began to flock to them rather than their dishonest rivals and they became richer than they had ever been. The story ends with the merchants thanking their confessor for his sound advice.[[740]](#footnote-740)

Many stories show the deceiver deceived. Walter Map, in the late twelfth century, recounted how the monks of Byland persuaded a layman to dupe a knight, whose castle they coveted, by posing as a stranger asking for hospitality. The stranger was admitted to the castle, and in the middle of the night, he opened the door to the monks, who killed the knight and most of his household. In a later court trial, the knight’s widow accused the layman, who admitted that the monks had persuaded him into the deception by claiming that they could absolve all his sins, and that they could pardon his false words in advance. For his gullibility he failed the water ordeal and was hanged.[[741]](#footnote-741) Dante told a similar story in one of the most dramatic cantos of the *Inferno*, in which the Franciscan friar and former war hero Guido da Montefeltro was persuaded by Boniface VIII to give him advice on how to win the fort of Palestrina from the Colonna.[[742]](#footnote-742) Guido advised Boniface to make a false pact with his enemies.[[743]](#footnote-743) When the friar dies, he finds that it is he who was taken in by a falsehood: Boniface had assured the friar that he could absolve him in advance for breaking his Franciscan vow, and so Guido had never bothered to confess it. Saint Francis makes to take him up to heaven, but a triumphant devil pulls him down to hell and the circle of false counsellors. The point in all these cases is the same: lying is not only morally wrong; it does not pay off in the end. Such stories may have been meant only to discourage those tempted to lie for unworthy reasons, but incidentally they do also discourage practical reasoning about lying per se. Truthfulness featured in these contexts as an unconditional value.[[744]](#footnote-744)

These examples draw attention to the extraordinary character of the casuistry of lying. Arguments in favour of deception go against our natural instincts; it is difficult to take them seriously. The not unnatural suspicion is that anyone who argues in favour of ‘economy with the truth’ is arguing disingenuously.[[745]](#footnote-745) Making a case for moral deception, concealment or oath-breaking entails claiming, without admitting it to the person deceived, to be a special case, above the universal rules. Augustine succinctly expressed his distrust for any such person in a sentence that was well-known in the Middle Ages: ‘Whoever thinks that there could be any kind of lie that is not a sin, deceives himself terribly in judging that he can honestly deceive others.’[[746]](#footnote-746)

There was, then, a mental barrier against thinking explicitly about whether to tell a conscientious lie. There had to be a special reason to engage in casuistry that could override the habitual assumption. In the case of literature, this was narrative interest. A good story consists of an extraordinary combination of people and circumstances. Stories about a hero or heroine who decides to equivocate and deceive, such as *Ami et Amile, Tristan* or *Cligès,* describe sympathetic and apparently admirable characters who are called on to do something questionable. The equivocal oath narrative offers a great opportunity for a hero or heroine who is both superior to his or her surroundings and, excitingly, implicated in serious transgression. The ratio of these two aspects varied by case: we saw that the acknowledgement of moral danger was not so prominent in the *fabliaux* or the story of *Berte as grans piés* as it was in *Cligès* and *Ami et Amile.* Nevertheless, in many of these stories, it is precisely the ethical complexity of the deception that makes the story compelling.

Among the twelfth- and thirteenth-century pastoral writers, on the other hand, the motive for a casuistry of lying and perjury was of a practical nature. It was the need to resolve anomalies that arose when administering pastoral care. From the eleventh century, it became increasingly possible to offer pastoral care ‘by the book’.[[747]](#footnote-747) A movement set in motion by the Gregorian reforms sought to regularise canon law into a uniform corpus that would be enforceable and effective.[[748]](#footnote-748) Starting with Burchard of Worms’s *Corrector sive Medicus,* new confessors’ manuals became available which offered step-by-step instruction on how to hear confession and deliver a tailor-made penance.[[749]](#footnote-749) Clear and rational guidelines were put in place to determine, for example, when and how lay people should receive the sacraments, whom they might marry, and whether they had grounds to get an annulment, how they should conduct their financial and military life, how institutions should treat individuals, and conversely, the individual’s duty of obedience.[[750]](#footnote-750) Only after the norms had been stated could the problem of ambiguous cases come into view. The need for reliable guidance must have been felt more acutely as the number of priests and confessors regularly hearing confession increased. This provided the push towards circumstantial reasoning about lying and perjury in academic circles. In time the thought spread more widely.

The demand for a widespread institution (that is, an agreed practice) for solving moral cases is nicely illustrated in a Dominican chronicle from Alsace written in the late thirteenth century.[[751]](#footnote-751) The anonymous chronicler describes his region as it was in the year 1200, including differences in buildings and farming, technology and professions, as well as religious orders.[[752]](#footnote-752) Relevant to us are his comments on the moral differences between his own time and a century earlier. Partly, he simply remarks that moral standards had improved: in the year 1200, he says, many priests had concubines – the simple folk thought it better for a priest to have his own wife than to sleep with everyone else’s – and the bishop of Basel had twenty children at his death.[[753]](#footnote-753) The Benedictine monks observed their offices, but were slack in wearing the correct clothing and in constitutions and lifestyle.[[754]](#footnote-754) Many abbots and clerics were in debt to poor men, and did not think it a sin.[[755]](#footnote-755) Knights wasted all their time on hunting, fishing, tournaments, throwing javelins and sex. They thought nothing of sleeping with a servant girl.[[756]](#footnote-756) More interestingly, the chronicler notes that in this earlier time, the will and the means to pastoral reform were on the way, but slow to materialise. Study in Paris was thriving,[[757]](#footnote-757) but the priests in Alsace were not learned: few could afford law books, and if one did buy them for himself, he found them too prolix to read. Dominican brothers in Basel sent their cases to Paris to be determined.[[758]](#footnote-758) Many priests had little education, and so were not able to offer good advice.[[759]](#footnote-759) There were not enough priests in any case.[[760]](#footnote-760) Heretics abounded, although the Dominicans were working to wipe them out.[[761]](#footnote-761) The chronicler describes the rise of mendicant scholarship in the first half of the thirteenth century. Of particular significance to us is his mention of Raymond of Penafort’s achievements: a compilation of the decretals of Gregory IX, and ‘the small *summa* that was necessary to confessors and priests: anyone who was familiar with this book could prudently and worthily respond to many cases.’[[762]](#footnote-762)

Since the Dominican is describing how things were different in the past, we can take it that he thought that priests and mendicants in Alsace were better equipped to give advice and conduct legal cases in his own time; and that the scholarship, which was already going on elsewhere in the year 1200, had, at least in part, reached his own province. This picture fills in the background of the urge towards casuistry. By the year 1200, the centres of ecclesiastical learning had established coherent moral teachings and those in the provinces were beginning to become aware of it. Mendicants in particular (naturally the author favours his own order) were working to offer better pastoral care, but the general standard of learning remained low. When the author looks back on the abilities of his predecessors, he picks out that priests were unable to offer counsel; the appearance of Raymond’s *Summa* was a significant remedy for this problem. It is the combination of awareness of stricter rules, and an obligation to advise on how they should be applied that created the need for casuistry. The chronicler suggests that these two developments had not yet taken place in Alsace in 1200, but that it had filtered through by the end of the century, and, incidentally, that the effort to provide better counsel correlated with a general improvement in morals. (We can speculate that the causation went both ways.)

It was Peter the Chanter who first sought to answer the need for ethical advice on difficult cases in an extended and systematic study. Developing a prototype taken from canon law, he taught a series of lectures designed to deliver clear guidance on how to square general principle with individual conscience on occasions when these two did not coincide. This was not a development ‘waiting to happen’; nothing obliged the scholarly milieu to engage in the specificities of cases of conscience; it was perfectly possible for penitential authors to advise on arbitrary penance in general terms. The Chanter simply had the right temperament for casuistry and found himself in a conducive time and place.

Whereas Peter the Chanter was an individual who saw an intellectual gap and filled it, his style of reasoning took on more lasting significance when it was adapted into more specialised pastoral forms. Confessors’ manuals began to include cases like those of the late twelfth-century theologians and decretists. Consequently, arguments about equivocation and conditional oaths acquired a regular place in the manuals that were being rolled out to clergy and mendicants lower down the ladder. Importantly, these manuals did not simply report that equivocation and dissimulation was acceptable: they encouraged their readers to weigh circumstances and moral options when faced with a dilemma. They took not just a teaching but a procedure for thinking from their predecessors. Theology masters, on the other hand, made the same style of ethical reasoning about lying and perjury part of their own regular curriculum. As we saw, the manner in which casuistry of lying and oaths was discussed in these different genres varied. The treatment of oaths in confessors’ manuals became almost indistinguishable from parallel chapters in legal manuals, whilst chapters on lying remained more theological. Late thirteenth-century theology gave the cases of conscience a more ‘scholastic’ format, that is, they became more closely tied to texts. Nevertheless, the underlying thought remained substantially constant as it spread in the new genres.

As a result of the contribution of late thirteenth-century theology masters, ethical dilemmas about whether to equivocate and dissimulate or the validity of oaths acquired the status of academic inquiries that, like the more well-known debates, on church and state, say, or conciliar power, drew equally on theology and canon law. Intellectual procedures, such as weighing temporal harm against danger to souls and giving composite responses to dilemmas that left room for circumstantial adjustment became yet more entrenched in the pastoral mindset. The casuistry of lying and perjury had originally been a tentative and stop-gap response to anomalies in morality and legislation; by the fourteenth century it was an established part of the institution of cure of souls. The pastoral motive for thinking instrumentally about lying persisted, and so equivocation and moral dilemmas took root in the expanding field of advice for confessors.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

On the basis of the medieval tradition, we can reassess assumptions about equivocation and the casuistry of oaths that arose later. First, there is the idea that equivocation and dissimulation only existed in order to erode the moral imperative against deceit. We can recall Pascal’s criticisms here, without reiterating them. Protestant critics in particular emphasised that equivocation and dissimulation in the Catholic tradition were craven contrivances: they permitted confessors to hide crimes from the state, and let adulterous wives off the hook.[[763]](#footnote-763) The medieval cases in this study suggest several corrections to this picture. For one, we have seen that confessors always cited rational grounds for permitting deception, and made the licence contingent on a series of requirements. Peter the Chanter cited the case of a servant who promised to serve his master, saying that he was permitted to break his word when the master ordered the servant, with threats of violence, to solicit married women on his behalf.[[764]](#footnote-764) A harsher moralist could have told the servant to buck up: he should refuse to follow his master’s order to sin, keep his promise in other respects, and endure any beating that ensued.[[765]](#footnote-765) The Chanter justified his verdict on the grounds that fleeing the temptation to help a master fornicate is a valid part of the command to ‘flee fornication’. His interpretation of the rules took into account the fallibility of his penitent; thereby he sought to make principles feasible. I could cite again the case of the woman who has had a baby as a result of adultery and is permitted to keep her secret from her husband. A rigorist might accuse the medieval confessors of removing a deterrent to licentious sexual behaviour. However, the permission was not given in a discursive vacuum. William of Pagula, following a long tradition of pastoral authors and canonists, cited a number of conditions: the woman is only allowed to conceal her adultery if a revelation would put her in danger of cruelty, or would cause further sin in the form of fresh adulteries by both husband and wife.[[766]](#footnote-766) If the woman has grounds to think that her husband would believe her and would not publicly shame her for her transgression, she is required to tell him. The woman is in any case required to do what she can to make restitution to the true heirs who have been harmed by her son.

This is a point about the distinction between motivation and legitimation.[[767]](#footnote-767) Confessors who did in fact slacken the rules for penitents in cases like this may or may not have had all of the motivations which their opponents imputed to them, that is, a desire to win the penitent’s favour and a casual attitude to moral rules. However, in order to state the principle of permission to deceive in a manual of pastoral care, it was necessary to present consistent moral grounds for doing so. Penitential authors were at pains to show that a permission to deceive, break an oath or conceal in some cases was only acceptable because it was the most moral solution in the circumstances.

It follows logically that penitential authors did not find excuses to break any and every vow or promise, nor did they justify all kinds of deception. The flip side of permitting a deception or broken oath on specific rational grounds is the obligation to deny the morality of lies and perjuries that do not meet the criteria. This is particularly apparent in the cases of Peter the Chanter. A confessor who knows the secret crimes of his flock may be permitted, for the sake of avoiding scandal, to dissimulate his knowledge of penitents’ mortal sin; however, in the case of a lay brother who has fled his monastery and wishes to get married, the priest must not separate his personas as man and confessor. Instead, he must contrive to alert the lay brother’s abbot without letting on that he came across his knowledge in confession.[[768]](#footnote-768) The Chanter breaks the rule of the seal of confession presumably because he feels that the lay-brother’s intended marriage is sufficiently sinful to warrant special measures. The cleric who vows to give up his incomes, in the hope that it will make him a better pastor, finds that he was mistaken, but is not permitted to go back on the promise.[[769]](#footnote-769) It was a vow made to God and therefore non-negotiable. It is still possible for the cleric to be a good pastor in a basic sense; the exception that says an oath can be broken if it causes the swearer to sin has not been met. This stringency largely persisted in later authors. The obligation to break the seal of confession in certain exceptional cases was stated in later confessors’ manuals – even the simpler ones. Theology masters who answered questions on whether to conceal doctrine all agreed both that there were certain circumstances in which it would be better to conceal the answers to provocative questions, but also, that there were circumstances in which a master must teach true doctrine, even against ecclesiastical prohibitions.

These cases of lying and oath-breaking were attempts to apply the rules meaningfully in an awkward situation, rather than rationalisations of transgression. In all of the medieval cases we have discussed, there has been a reason why a deception or broken commitment was the best option in that case. Medieval casuists did not deny that the deception was still regrettable – they merely thought it the least evil action in a particular situation. This was the rationale behind the expansive idea of dissimulation: it was a procedure that waived the legal consequence but not the moral responsibility for a choice of the lesser evil. Equivocation and dissimulation arose out of a tradition that acknowledged the existence of complex occasions, in which various ethical concerns came into conflict and there was no ideal course of action. This is conceptually quite distinct from the caricature of a penitence that colluded in shirking the rules.

The medieval tradition further challenges the assumption in Early Modern historiography that increased power in religious and secular institutions and new literary sophistication in the Renaissance led to a more sophisticated attitude to truth and sincerity. Clearly, changing institutions did play a role in the rise of thought about lying and perjury, but we have seen that it was one specific institution, the literature of penitence, that made the difference. The drive to theories of equivocation and mental reservation came not from those who sought a resort from interrogation, or who wished to hide their thoughts, but from pastoral manuals offering universal guidance on how to give counsel. In any case, equivocation and misleading oaths were not ideas that had to be ‘invented’: they simply existed in the public consciousness.

It is also worth saying explicitly that the medieval pastoral manuals, although indifferent to literary style and precedent, were interested in many of the ideas that underpinned Renaissance treatments of dissimulation, deception and the self. The ambiguous moral space between actively deceiving and encouraging a misapprehension, which Erasmus and Ariosto so effectively exploited,[[770]](#footnote-770) is the subject of precise discussion, for example, in Bible commentary on Abraham’s deception of Sarah, or on the obligation of a fraudulent office-holder to resign. Acknowledgement of the differing rules about unequivocal language in contracts and testimony and in everyday language anticipated the arguments of rhetoricians like Hobbes and the modern philosophers of language.[[771]](#footnote-771) A sophisticated understanding of multiple perspectives, social trust and mutual obligation, we can see, is not contingent on any specific literary discoveries or institutional configurations. The literary examples from chapter one show that complex discussions about deception and perjury need not spring from engagement with the ancients or a specialised legal discourse. The medieval academic tradition tells us specifically what pastorally-minded scholars were trying to do in this period and its implications for a wider public. It does not say anything about the deeper sophistication of people’s social interactions in a given period.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

The final observation to emerge from this study has been that casuistical thought about lying and perjury was distinct from moral philosophy. The medieval authors we have studied considered lying in order to help people make real decisions; moral philosophy, on the other hand, does so in order to crystallise theoretical disagreements. Cases of lying and perjury have been a battleground in several ongoing conflicts in philosophy: on the competing roles of expediency and principle in ethics, the universality of moral norms and, most recently, the usefulness of ethical theory in general. Many of these problems, which are overriding for the moral philosophers, were of minor interest, if any, to the medieval pastoral writers. Augustine and Kant used the murderer at the door scenario to argue that the rule against lying must apply in every case if it was to stand at all. As we have seen, this concern counted for very little among the medieval casuists. They all acknowledged the importance of Augustine’s teaching, and agreed in theory that lying was morally wrong. Yet, for the majority, the principle was not endangered by permitting an untruth in an emergency. As Robert of Courson said, an individual should not be considered guilty of lying if his conscience tells him that there was no other way to save a life.[[772]](#footnote-772) If there was any contradiction between this view and the blanket prohibition of lies voiced at the head of his chapter, Robert was not troubled by it, and neither were the canonists and pastoral authors who followed him.

Similarly, the idea, expressed most famously by Kant, that permission to break a single promise would undermine the basis for trusting anyone’s word, is not a concern expressed by the medieval authors. There were certainly discussions about lying in which individual benefit was staked against the common good, and short-term advantage against the cumulative effects of frequent deceptions. Many of these discussions arose in cases about personal justice and the dangers of scandal. In casuistry, however, these themes were discussed in grittier detail than the contours of a philosophical argument could permit. When considering a judge who must choose whether to sentence according to private knowledge or falsely in compliance with due process, casuists asked whether a single false sentence should be tolerated to permit the long-term validity of legal judgments. Their answer took into account empirical observations about the procedural alternatives and the general public’s likely reactions. The famous case of the mother of an illegitimate baby raised the possibility that the short-term good of admitting the truth to one’s spouse may in the end tempt him to greater sin: again it is the facts of the situation that determine the case, and not simply a point of principle. The aim in these discussions was not to prove universal moral propositions, but to offer guidelines on how to respond coherently to variable circumstances.

Medieval casuists reasoned sideways from case to case, when deciding questions of lying, instead of up towards a maxim. Consequently, the modern interest in lying as a test case for the usefulness of theory does not apply. Theologians discussed virtue, *habitus* and will in the universities, but casuistical cases existed at a remove from all this, since their primary purpose was to find a defensible solution. Casuists provided teaching in academic books, but their style of thought bears more similarity to that of a modern hospital ethics board or family judge than to university debates.[[773]](#footnote-773) Since ethics board, family judge and casuist are aware of the need of a workable and timely, rather than a definitive, answer to individual dilemmas, all of their intellectual energy is directed towards producing an answer with only as much theorising as serves the purpose. Another parallel for casuistry in the modern world might be public reports on ethical policy. Jonathan Wolff, a modern philosopher who has served in public ethics committees, gives an illuminating account of how academic ethics must be adapted and reined in for this purpose. Developing a logical philosophical position is not an end in itself when dealing with public policy, he comments: ethics in this context,

‘is, in my view, more like the science of medicine than physics. Theoretical and technical knowledge is important, but there is no reason in advance to think that it can all be stated in terms of clear, simple principles, or made to fit into a single complete coherent framework, or that every problem can be solved with a complex algorithm.’[[774]](#footnote-774)

The parallels with medieval casuistry are striking.

This distinction between casuistry and mainstream philosophy corresponds with casuistry’s exceptionality as a scholastic discipline. Part of the reason why scholastic theology is still of interest to philosophers today is that their method of analysing texts for logical contradictions was particularly well adapted to making arguments that are difficult to disprove. Casuistry exceptionally was not about texts and their contradictions, but about situations and foreseeable outcomes. Unlike most other scholastic disciplines, it seems not to have been susceptible to abstraction into purely theoretical concerns. It kept a degree of real-world applicability.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

My final task is to draw attention to the questions that it has not been possible to answer in this thesis and to suggest a direction for future research. My findings on thought about lying and perjury have drawn attention to the importance of practical moral reasoning in the Middle Ages. The chief breakthrough in this thesis was to identify the origins of the distinctive Early Modern casuistry of lying and perjury in Peter the Chanter and his circle. This opens up many questions about the history of casuistry in the Middle Ages more generally. Do the characteristics of thought about lying apply to other sins? Different sins have their own dynamic in terms of Biblical and patristic tradition, and their place in social practice. Augustine discussed killing, for example, with much more nuance than he ever conceded to lying. Inherently, the act is more susceptible to being clothed in procedural legitimation –in a just war or an execution, for example. Social attitudes to killing had a complex relation with the views of the church in the Middle Ages. Did all of these considerations entail a rather different casuistical treatment from lying? Restitution, perplexity and scandal have been frequent incidental themes in this thesis: they merit study in their own right as distinctively casuistical formulations.

Moreover, it has not been possible in this thesis to take the story of casuistry through to the height of its influence in the sixteenth and seventeenth century. If this project has established that there was a continuous line of thought extending from Peter the Chanter up to the large *Summae de Casibus Conscientiae* of the sixteenth century, much of the story still remains to be told. By the end of the thirteenth century, priests were provisioned with a number of adequate guides on cases; at the end of the fifteenth, casuistry was both a subject of speculative enquiry by the challenging late scholastic theologians (with debates on natural law and human innovation that would pave the way to probabilism) and a part of popular learning, the subject of vernacular sermons and printed books. How did this change come about, when and where? Was there a fundamental change in ethical attitudes between the medieval theologians and the Jesuit confessors who drew so much criticism from their opponents? Did the rise of popular piety and, later, the Reformation have an impact on the way Catholic casuistry was pursued? There is clearly much about casuistry that remains to be investigated. A future study would trace its history from its origins in the twelfth century up to its establishment in the post-Tridentine church.

**Bibliography of Manuscripts**

Avranches

Bibliothèque Municipale MS 121

Cambridge

Corpus Christi College MS 30

St. John’s College MS C.7 (57)

University Library MS Mm-1-20

London

British Library Egerton MS 655

British Library Harley MS 1004

British Library Harley MS 3596

British Library Royal MS 2 C VIII

British Library Royal MS 6 E I

British Library Royal MS 8 B XV

British Library Royal MS 8 C II

British Library Royal MS 9 A XIV

British Library Royal MS 9 E XIV

Munich

Bayerische Staatsbibliothek Clm. 14006

Oxford

Balliol College MS 23

Merton College MS 107

Paris

Bibliothèque Nationale MS Lat. 3259

Bibliothèque Nationale MS Lat. 3260

Bibliothèque Nationale MS Lat. 3477

Bibliothèque Nationale MS Lat. 3892

Bibliothèque Nationale MS Lat. 14521

Bibliothèque Nationale MS Lat. 14524

Bibliothèque Nationale MS Lat. 14542

Bibliothèque Nationale MS Lat. 14726

Bibliothèque Nationale MS Lat. 14899

Bibliothèque Nationale MS Lat. 15350

Bibliothèque Nationale MS Lat. 15372

Bibliothèque Nationale MS Lat. 15850

Bibliothèque Nationale MS Lat. 16405

Bibliothèque Nationale MS Lat. 16421

Reims

Bibliothèque Municipale MS 551

Bibliothèque Municipale MS 554

Troyes

Bibliothèque Municipale, MS 1710

Strasbourg

Bibliothèque Nationale et Universitaire MS 151

Vatican

Bibliotheca Vaticana MS Borgh. 156

Bibliotheca Vaticana MS Borgh. 361

**Bibliography**

**Ancient and Medieval Sources**

*Acta Sanctorum*, 67 vols. (repr. Brussels 1902-1970).

Adenet le Roi, *Berte as grans piés,* ed. Albert Henry (Geneva, 1982).

Adenulphus de Anagni, *Quodlibet I,* Paris, Bibliothèque Nationale MS Lat. 14899.

Alain of Lille, *Liber Poenitentialis,* ed. Jean Longère, Analecta Mediaevalia Namurcensa 17-18, 2 vols. (Louvain and Lille, 1965).

*Ami et Amile,* ed. Peter F. Dembowski (Paris, 1969).

-trans. Samuel N. Rosenberg and Samuel Danon, 2nd edn. (Ann Arbor MI., 1996).

*Amis e Amiloun,* ed. Eugen Kölbing,in *Amis and Amiloun: Zugleich mit der altfranzösischen Quelle* (Heilbronn, 1884).

Ambrose of Milan, *De Officiis,* ed. and trans. Ivor J. Davidson, 2 vols. (Oxford, 2001).

Andrew of Saint Victor, *In Iosue,* Cambridge, Corpus Christi College MS 30.

Angelo de Carletti de Chivasso, *Summa de Casibus Conscientiae* (Lyon, 1512).

Antoninus of Florence, *Confessionale* ‘Defecerunt’ (Paris, 1516).

Astesanus de Asti, *Summa* *de Casibus* (Cologne, 1479).

- Paris, Bibliothèque Nationale, MS Lat. 3254.

Augustine, *Contra Faustum*, ed. Iosephus Zycha, *CSEL* 25 (Vienna, 1891).

- *De Mendacio*, ed. Josephus Zycha, *CSEL* 41 (Vienna, 1900).

*- Ad Consentium: Contra Mendacium*, ed. Josephus Zycha, *CSEL* 41 (Vienna, 1900).

*- De Libero Arbitrio Libri Tres*, ed. William M. Green, *CSEL* 74 (Vienna, 1956).

*- De Civitate Dei*, ed. B. Dombart and A. Kalb, *CCSL* 47-48, 2 vols. (Turnhout, 1955).

*- Quaestionum in Heptateuchum Libri VII*, ed. J. Zycha, *CCSL* 28.2 (Vienna, 1895).

- *Sermones*, *PL* 38, cols. 023-1484.

- *Epistolae 1-55,* ed. Kl.D. Daur, *CCSL* 31 (Turnhout, 2004).

- *Epistolae 185-270,* ed. Al. Goldbacher, *CSEL* 57 (Vienna, 1911),

Baptista Trovamala de Salis, *Summa Rosella* (Paris, 1515).

Bartholomew of Exeter, *Liber poenitentialis,* in Adrian Morey (ed.), *Bartholomew of Exeter, Bishop and Canonist: A Study in the Twelfth Century* (Cambridge, 1937).

Bernard Gui, *Practica Officii Inquisitionis Heretice Pravitatis,* in G. Mollat (ed. and trans. into French), *Manuel de l’inquisiteur,* 2 vols. (Paris, 1926).

Bernardus de Trilla, *Quodlibet I,* Vatican Borgh. MS 156.

Béroul, *Le Roman de Tristan,* in Daniel Lacroix and Philippe Walter (eds.), *Tristan et Iseut: Les poems français, la saga norroise* (Paris, 1989, repr. 2006).

Berthaud of Saint Denis, *Quodlibet I*, Paris, Bibliothèque Nationale MS Lat. 14726.

*Biblia Latina cum Glossa Ordinaria*, ed. Rusch, 4 vols. (Strasburg, 1480-81, repr. Turnhout, 1992).

Caesarius von Heisterbach, *Dialogus Miraculorum,* ed. Horst Schneider with German trans. Nikolaus Nösges and Horst Schneider, 5 vols. (Turnhout, 2009).

*La Chasteleine de Vergi* ed. Gaston Raynaud and Lucien Foulet (Paris, 1972).

Chrétien de Troyes, *Cligès,* ed. Charles Méla and Olivier Collet in *Chrétien de Troyes: Romans* (Paris, 1994), pp. 285-494.

- *Le Chevalier de la Charette,* ed. Charles Méla in *Chrétien de Troyes: Romans*, pp. 495-704.

Cicero, *De Officiis,* ed. and trans. M.T. Griffin and E.M. Atkins (Cambridge, 1991, repr. 2009).

*Ci nous dit: Recueil d’exemples moraux,* ed. Gérard Blangez, 2 vols. (Paris, 1979).

*Collectio Exemplorum Cisterciensis,* ed. Jacques Berlioz and Marie Anne Polo de Beaulieu (Turnhout, 2012).

Dante, *Inferno,* ed. and trans. Robin Kirkpatrick (Penguin Classics, 2006).

*Daurel et Beton*. *Chanson de geste provençal,* ed. Paul Meyer (Paris, 1880).

*Decretales Gregorii IX,* in Emil Friedberg (ed.), *Corpus Iuris Canonici*, 2 vols. (Leipzig, 1879-81 repr. 1959) vol. ii.

*Decretum Gratiani*, in Emil Friedberg (ed.), *Corpus Iuris Canonici*, 2 vols. (Leipzig, 1879-81, repr. 1959), vol. i.

*De Rebus Alsaticis Ineuntis Saeculi XIII,* ed. Philippus Jaffé, *MGH Scriptores* 17 (Hannover, 1861), pp. 232-237.

*Doon de la Roche*: *Chanson de geste,* ed. Paul Meyer (Paris, 1921).

*Ethica Nicomachea, translatio Roberti Grosseteste Lincolniensis sive ‘Liber Ethicorum’ A. Recensio Pura,* ed. Renatus Antonius Gautier (Leiden and Brussels, 1972).

Étienne de Bourbon, *Tractatus de Diversis Materiis Praedicabilibus,* in A. Lecoy de la Marche (ed.), *Anecdotes historiques, légendes et apologues tirés du receuil inédit d’Étienne de Bourbon, Dominicain du XIIIe siècle* (Paris, 1877).

Geoffrey of Poitiers, *Summa,* Avranches, Bibliothèque Municipale MS 121.

Gerard of Abbeville, *Quodlibeta,* Paris, Bibliothèque Nationale MS Lat. 16405.

Gerald of Wales, *Descriptio Kambriae,* ed. James F. Dimock, Rolls Series 21.vi (London, 1868).

Gilbert of Mons, *Chronicon,* in *La Chronique de Gislebert de Mons,* ed. Léon Vanderkindere (Brussels, 1904).

- trans. Laura Napran, in *Gilbert of Mons: Chronicle of Hainaut* (Woodbridge, 2005).

*Glossa Ordinaria* to *Decretales* *Gregorii IX,* in *Corpus Juris Canonici Emendatum et Notis Illustratum*, 3 parts in 4 vols. (Rome, 1582).

Godfrey of Fontaines, *Les Quatre premiers quodlibets,* eds. M. de Wulf and A. Pelzer (Louvain, 1904).

- *Les Quodlibets cinq, six et sept,* eds. M. de Wulf and J. Hoffmans (Louvain, 1914).

- *Les Quodlibets onze , douze, treize et quatorze,* ed. J. Hoffmans (Louvain, 1932).

Gottfried von Strassbourg, *Tristan und Isold,* eds. Walter Haug and Manfred Günter Scholz, 2 vols. (Berlin, 2011).

-trans. A.T. Hatto, 2nd edn. (Penguin, Harmondsworth, Middlesex, 1967 repr. 1975).

Gregory the Great, *Epistolae, PL* 77 cols. 441-1328.

Guilelmus Peraldus, *Summae Virtutum ac Vitiorum*, 2 vols. bound together (Antwerp, 1587)*.*

Guillaume le Normand, *Le Prestre et Alison,* in Willem Noomen (ed.), *Nouveau receuil complet des fabliaux (NRCF),* 20 vols. (Van Gorcum, Assen, 1994), vol. viii, pp. 183-206.

Henricus de Gandavo, *Quodlibeta* (Paris, 1518).

- Oxford, Merton College MS 107.

*- Quodlibet* II, ed. R. Wielockx, *Henrici de Gandavo Opera Omnia* VI (Leuven, 1983).

- *Quodlibet X,* ed. R. Macken, *Henrici de Gandavo Opera* *Omnia* XIV (Leiden, 1981).

*- Quodlibet XII,* ed. J. Decorte, *Henrici de Gandavo Opera* *Omnia* XVI (Leiden 1987).

- *Quodlibet XV*, eds. Girard Etzkorn and G.A. Wilson, *Henrici de Gandavo Opera Omnia* XX (Leuven, 2007).

Henricus de Segusio (Hostiensis), *Summa Aurea,* (Venice, 1574).

- Munich, Bayerische Staatsbibliothek Clm. 14006.

Hervaeus Natalis, *Quodlibeta* (Venice, 1513, repr. Ridgewood, N.J., 1966).

Hilary, *Tractatus super Psalmos,* *PL* 9, cols. 231-908.

Hrabanus Maurus, *Commentarium in Genesim Libri Quattuor, PL* 107 cols. 443-670.

- *De Virtutibus et Vitiis et Peccatorum Satisfactione*, *PL* 112, cols. 1335-1398.

Hugh of Saint Victor, *In Scripturam Sacram, PL* 175, cols. 93-114.

Huguccio, *Summa in Decretalium,* Paris, Bibliothèque Nationale MS Lat. 3892.

Iacobus de Vitriaco, *Sermones Vulgares vel ad Status (Prologus I-XXXVI)* ed. Jean Longère, *CCCM* 225 (Turnhout, 2013).

Iacopo da Varazze, *Legenda Aurea,* ed. Giovanni Paolo Maggioni, 2 vols. (Tavarnuzze, 1998).

Iohannes de Murro: See Nicholas of Bar.

Iohannes Duns Scotus, *Ordinatio: Liber Quartus* in P. Barnaba (ed.), *Opera Omnia,* 21 vols. (Vatican, 1950-2013), vols. xi-xiv.

Isidore of Seville, *Sententiae Libri Tres*, *PL* 83, cols. 537-738.

Ivo of Chartres, *Decretum,* *PL* 161, cols. 47-1022.

Jean de Pouilly, *Quodlibeta*, Paris, Bibliothèque Nationale MS Lat. 15372.

Jean Renart, *Le Roman de la Rose ou de Guillaume de Dole,* ed. Félix Lecoy (Paris, 1962).

Jerome, *In Hieremiam Prophetam Libri Sex, CSEL* 59 (Vienna, 1913, repr. New York 1961).

John Bromyard, *Summa Predicantium* (Venice, 1586).

John of Freiburg *Summa Confessorum (*Lyon, 1518).

- Reims, Bibliothèque Municipal MS 551 and Paris, Biblothèque Nationale MS Lat. 3260.

John of Kent, *Summa de Penitentia,* London, British Library Royal MS 9 A XIV ff. 203v-232v.

John Peckham, *Quodlibeta Quatuor*, eds. Girard J. Etzkorn and Ferdinandus Delorme, O.F.M., Bibliotheca Franciscana Scholastica Medii Aevi 25 (Quaracchi, Grottaferrata, 1989).

John of Salisbury, *Policraticus,* ed. K.S.B. Keats–Rohan (Turnholt, 1993).

- ed. andtrans. Cary J. Nederman (Cambridge 1990, repr. 2000).

*- Entheticus Maior,* ed. Jan van Laarhoven, 3 vols. (Leiden etc., 1987).

Joinville, *Vie de Saint Louis,* ed. Jacques Monfrin (Paris, 1998).

- translated Henry G. Bohm, *Chronicles of the Crusades* (London, 2004).

Marie de France, *Les Lais de Marie de France,* ed. Jeanne Lods (Paris, 1959).

Niccolò Machiavelli, *The Prince,* trans. George Bull (Penguin, Harmondsworth, 1961, repr. 1964)

Nicholas of Bar, *Compilation of Quodlibeta from the Paris Theology Faculty*, Paris, Bibliothèque Nationale MS Lat. 15850.

Nicholas Eymerich, *Directorium Inquisitorum* (Rome, 1578).

Peter Abelard, *Sic et Non,* eds. Blanche B. Boyer and Richard McKeon (Chicago and London, 1976-1977).

-Prologue trans. A.J. Minnis and A.B. Scott, in *Medieval Literary Theory and Criticism c.1100-c.1375. The Commentary Tradition* (Oxford, 1988 revised edn. 1991), pp. 87-100.

*- Scito Te Ipsum,* in D. Luscombe (ed.), *Peter Abelard’s Ethics* (Oxford, 1971).

- *Planctus Virginum Israel super Filia Iepte Galadite,* in Juanita Feros Ruys, *The Repentant Abelard: Family, Gender and Ethics in Peter Abelard’s* Carmen ad Astralabium *and* Planctus (New York, 2014), pp. 245-294.

Peter the Chanter, *In Genesim*, London, British Library MS Royal 2 C VIII.

*- In Iosue,* Oxford, Balliol College MS 23.

- *Verbum Adbreviatum: Textus Conflatus,* ed. Monique Boutry, *CCCM* 196 (Turnhout, 2004).

*- Summa de Sacramentis et Animae Consiliis,* ed. Jean-Albert Dugauquier, Analecta Mediaevalia Namurcensia 4, 7, 11, 16, 21, 5 vols. (Paris, 1954-1967).

- Unedited passages in London, British Library Harley MS 3596, Paris, Bibliothèque Nationale MS Lat. 3477, Paris, Bibliothèque Nationale MS Lat 14521.

Petrus Lombardus, *Sententiae in IV Libris Distinctae,* ed. Collegium S. Bonaventurae ad Claras Aquas, Spicilegium Bonaventurianum 4-5, 2 vols. (Grottaferrata, Rome, 1971-1981).

Pseudo-David of Augsburg, *De Inquisitione Hereticorum* in W. Preger (ed.), *Der Tractat des David von Augsburg über die Waldesier* (Munich, 1878).

*Quinque Compilationes Antiquae*, ed. E. Friedburg (Graz, 1956).

Ralph of Coggeshall, *Chronicon Anglicanum,* Rolls Series 66(London, 1875).

Ranulph Higden, *Speculum Curatorum*, Cambridge, University Library MS Mm-1-20; London, British Library Harley MS 1004.

*- Speculum Curatorum: A Mirror for Curates*, ed. and trans. Eugene Crook and Margaret Jennings, Dallas Medieval Texts and Translations 13.1 (Paris, 2012).

Raymond of Penafort, *Summa de Poenitentia et Matrimonio cum Glossis Ioannis de Friburgo* (Rome, 1603, repr. Farnborough, 1967), Glosses actually by William of Rennes.

*-S. Raimundus de Pennaforte:* *Summa de Paenitentia,* eds. Xaverio Ochoa and Aloisio Diez (Rome, 1976).

-Troyes, Bibliothèque Municipale MS 1710 and Reims, Bibliothèque Municipale MS 554.

Raymundus Guilha Tarasconensis: See Nicholas of Bar.

Ricardus de Mediavilla *Super Sententiis,* 4 vols. (Venice, 1507).

*- Quodlibeta* (Venice, 1509).

- Vatican, Bibliotheca Vaticana Borgh. MS 361.

Richer von Senones, *Gesta Senoniensis Ecclesiae*, ed. G. Waitz, MGH Series Scriptorum 25 (Hannover, 1880).

Robert Courson, *Summa,* Paris, Bibliothèque Nationale MS Lat. 14524, Paris, Bibliothèque Nationale MS Lat. 3259; London, British Library, Royal MS 9 E XIV.

-‘De Penitentia’ published in V.l. Kennedy (ed.), ‘Robert of Courson on Penance’ *Mediaeval Studies* 7 (1945), 291-336.

Roger Marston, *Quodlibeta Quatuor*, eds. G.F. Etzkorn and I.C. Brady (Quarrachi-Florence, 1968).

Rufinus, *Historia Ecclesiastica*, *PL* 21,cols. 467-540.

Salimbene de Adam, *Chronica,* ed. Giuseppe Scalia, *CCCM* 125 (Turnhout, 1998).

Servais de Mont Saint Éloi, *Quodlibeta,* Paris, Bibliothèque Nationale MS Lat. 15350.

Simund de Freine, *Vie de Saint Georges*, in John E. Matzke (ed.), *Les Œuvres de Simund de Freine* (Paris, 1909).

Stephen Langton, *In Genesim,* section ed. Emily Corran, ‘Hiding the Truth: exegetical discussions of Abraham’s lie from Hugh of St. Victor to Stephen Langton’ *Historical Research* 87 no.235 (2014), 15-17.

- *Quaestiones Theologiae: Liber I,* eds. Riccardo Quinto and Magdalena Bieniak, Auctores Britannici Medii Aevi 22 (Oxford, 2014).

- Cambridge, St. John’s College Library MS C.7 (57).

Sylvestro Mazzolini da Priero, *Summa Summarum* (Lyon, 1533).

Thomas Aquinas, *In Quattuor Libros Sententiarum,* in Roberto Busa (ed.) *Opera Omnia,* 7 vols.(Stuttgart-Bad Cannstatt, 1980).

- *Summa Theologiae,* in *Opera Omnia iussu Leonis XIII,* 4-12 (Rome, 1886-1906).

- *Quaestiones de Quolibet*, ed. R.-A. Gauthier, in *Opera Omnia iussu Leonis XIII,* 25, 1-2 (Rome, Paris, 1996).

Thomas Chobham, *Summa Confessorum,* ed. Revd. F. Broomfield, Analecta Mediaevalia Namurcensia 25 (Louvain and Paris, 1968).

*Vie de sainte Juliane,* in Hugo von Feilitzen (ed.), *Li Ver del Juïse en Fornfransk Predikan* (Berling, 1883).

*-* Translation: Brigitte Cazelles, *The Lady as Saint: A Collection of French Hagiographic Romances of the Thirteenth Century* (Philadelphia, 1991).

*Vita Amici et Amelii Carissimorum,* in Eugen Kölbing (ed.), *Amis and Amiloun: Zugleich mit der altfranzösischen Quelle* (Heilbronn, 1884), pp. xcvii-cx.

Walter of Châtillon, *The Shorter Poems*, ed. David A. Traill (Oxford, 2013).

Walter Map, *De Nugis Curialium: Courtiers Trifles,* ed. and trans. M.R. James (Oxford, 1983).

William of Auvergne, *De Virtutibus*, in *Opera Omnia*, eds. F. Hotot and B. Le Feron, 2 vols. (Orléans, 1674, repr. Frankfurt-am-Main, 1963).

William of Auxerre, *Summa Aurea,* ed. Jean Ribaillier, Spicilegium Bonaventurianum 16-20, 5 vols. (Paris and Rome, 1980-1987).

William of Pagula, *Oculus Sacerdotis,* London, British Library Royal MS 8 B XV; London, British Library Royal MS 6 E I, London, British Library Egerton MS 655; London, British Library Royal MS 8 C 11.

William of Rennes, *Apparatus* to the *Summa de Casibus* of Raymond of Penafort, see entry for Raymond of Penafort, *Summa de Casibus.*

*- Questiones Summe de Casibus Raymundi de Penafort,* Paris, Bibliothèque Nationale MS Lat. 16421*;* Strasbourg, Bibliothèque Nationale et Universitaire MS 151.

**Modern Sources**

Aertsen, Jan A., Kent Emery, Jr. and Andreas Speer (eds.), *Nach der Verurteilung von 1277: Philosophie und Theologie an der Universität von Paris im letzten Viertel des 13. Jahrhunderts. Studien und Texte* (Berlin and New York, 2001).

Altholz, Josef L., ‘Truth and Equivocation: Liguori’s Moral Theology and Newman’s Apologia’, *Church History* 44.1 (1975), 73-84.

Anciaux, Paul, *La Théologie du sacrement de pénitence au XIIe siècle* (Louvain and Gembloux, 1949).

Arnold, John, *Inquisition and Power: Catharism and the Confessing Subject in Medieval Languedoc* (Philadelphia, 2001).

- *Belief and Unbelief in Medieval Europe* (London, 2010).

Baldwin, John W., ‘The Medieval Theories of the Just Price: Romanists, Canonists and Theologians in the Twelfth and Thirteenth Centuries’, *Transactions of the American Philosophical Society* 49.4 (1959), 1-92.

*- Masters, Princes and Merchants*: *The Social Views of Peter the Chanter and his Circle,* 2 vols. (Princeton, 1970).

- ‘The Crisis of the Ordeal: Literature, Law, and Religion around 1200’ *The Journal of Medieval and Renaissance Studies* 24.3 (1994), 327-353.

Barber, Malcolm, *The Trial of the Templars,* 2nd edn. (Cambridge, 2006).

Barnes, J.A., *A Pack of Lies: Towards a Sociology of Lying* (Cambridge, 1994).

Bartlett, Robert, *Gerald of Wales: A Voice of the Middle Ages* (Oxford, 2006).

*-Trial by Fire and Water: The Medieval Judicial Ordeal* (Oxford, 1986).

Bazàn, B.C., J.F. Wippel, G. Franzen and D. Jacquart, *Les Questions disputées et les questions quodlibétiques dans les facultés de théologie, de droit et de médecine,* Typologie des Sources du Moyen Âge occidental, Fasc. 44-45 (Turnhout, 1985).

Benton, John F., ‘Consciousness of Self and Perceptions of Individuality’ in Robert L. Benson and Giles Constable (eds.), *Renaissance and Renewal in the Twelfth Century* (Oxford, 1982), pp. 263-295.

Bianchi, Luca, *Il vescovo e i filosofi: Le condanna parigina del 1277 e l’evoluzione dell’aristotelismo scolastico* (Bergamo, 1990).

Biller, Peter, ‘Confession in the Middle Ages: Introduction’, in Biller and Minnis (eds.), *Handling Sin,* pp. 23-31.

- ‘Confessors’ Manuals and the Avoidance of Offspring’ in Biller and Minnis (eds.), *Handling Sin,* pp. 165-187.

- *The Waldenses, 1170-1530* (Aldershot, 2001).

- *The Measure of Multitude: Population in Medieval Thought* (Oxford, 2003).

- Review of Mark Gregory Pegg, *The Corruption of Angels: The Great Inquisition of 1245-1246, Speculum* 78.4 (2003), 1366-1370.

- Review of R.I. Moore, *The War on Heresy: Faith and Power in Medieval Europe, Reviews in History (review no. 1546)*

[*http://www.history.ac.uk/reviews/review/1546*](http://www.history.ac.uk/reviews/review/1546), date accessed: 4 June, 2015.

Biller, Peter and A.J. Minnis (eds.), *Handling Sin: Confession in the Middle Ages* (Woodbridge, Suffolk and Rochester N.Y., 1998, repr. 2013).

Bird, Jessalynn, ‘The Wheat and the Tares: Peter the Chanter’s Circle and the *Fama-*Based Inquest Against Heresy and Criminal Sins, c.1198-c.1235’ in Uta-Renate Blumenthal, Kenneth Pennington and Atria A. Larson (eds.), *Proceedings of the Twelfth International Congress of Medieval Canon Law, Washington, D.C. 1-7 August 2004* (Vatican, 2008), pp. 763-856.

Blakeney, Rev. R.P., *Saint Alphonsus Liguori or Extracts Translated from the Moral Theology of the Above Romish Saint who was Canonized in the year 1839 with Remarks thereon* (London, 1852).

Boureau, Alain, ‘Droit naturel et abstraction judiciaire. Hypothèses sur la nature du droit médiéval’ *Annales. Histoire, Sciences Sociales* 57.6 (2002), 1463-1488.

- *La Religion de l’état: La construction de la république étatique dans le discours théologique de l'Occident médiéval (1250-1350)* (Paris, 2006).

- *L'Empire du livre. Pour une histoire du savoir scolastique (1200-1380): La Raison scolastique II* (Paris, 2007).

*- De vagues individus. La Condition humaine dans la pensée scolastique: La Raison scolastique III* (Paris, 2008).

*- Le Désir dicté: Histoire du vœu religieux dans l’Occident* (Paris, 2014).

Boyle, Leonard E., ‘A Study of the Works attributed to William of Pagula with Special Reference to the *Oculus Sacerdotis* and *Summa Summarum*’, 2 vols., D.Phil dissertation, Oxford University (1956).

- *Pastoral Care, Clerical Education and Canon Law, 1200-1400* (London, 1981).

- ‘The Inter-Conciliar Period 1179-1215 and the Beginnings of Pastoral Manuals’, in Filippo Liotta (ed.), *Miscellanea Rolando Bandinelli, Papa Alessandro III* (Siena, 1986), pp. 43-56.

Brown, Elizabeth A.R., ‘Taxation and Morality in the Thirteenth and Fourteenth Centuries: Conscience and Political Power and the Kings of France’ *French Historical Studies* 8.1 (1973), 1-28.

- *The Monarchy of Capetian France and Royal Ceremonial* (Aldershot, repr. 1988).

-‘Moral Imperatives and Conundrums of Conscience: Reflections on Philip the Fair of France’ *Speculum* 87 (2012), 1-36.

Bruce, Scott G., *Silence and Sign Language in Medieval Monasticism: The Cluniac Tradition c. 900-1200* (Cambridge, 2007).

Buc, Philippe, *L’Ambiguïté du livre: Prince, pouvoir, et peuple dans les commentaires de la Bible au Moyen Âge* (Paris, 1994).

Burr, David, *Olivi and Franciscan Poverty: The Origins of the* Usus Pauper *Controversy* (Philadelphia, 1989)*.*

Calin, William, *The Epic Quest: Studies in Four Old French Chansons de Geste* (Baltimore, 1966).

Caraman, Philip, *Henry Garnet 1555-1606 and the Gunpowder Plot* (London, 1964).

Casagrande, Carla and Silvana Vecchio, *I peccati della lingua: Disciplina ed etica della parola nella cultura medievale* (Rome, 1987).

Cavaillé, Jean, ‘L’Art des équivoques: Hérésie, inquisition et casuistique. Questions sur la transmission d’une doctrine médiévale à l’époque moderne’, *Mediévales* 43 (2002), 119-145.

- *Dis/simulations: Jules-César Vanini, François La Mothe Le Vayer, Gabriel Naudé, Louis Machon et Torquato Accetto : Religion, morale et politique au XVIIe siècle* (Paris, 2002).

Chambers, Katherine, ‘“When We Do Nothing Wrong, We are Peers”: Peter the Chanter and Twelfth-Century Political Thought’ *Speculum* 88.2 (2013), 405-426.

Chiffoleau, Jacques, ‘”Ecclesia de occultis non iudicat”? L’Église, le secret, l’occulte du XIIe au XVe siècle’ in *Il segreto: The Secret,* Micrologus 14 (Florence, 2006), pp. 359-481.

Colish, Marcia,‘The Stoic Theory of Verbal Signification and the Problem of Lies and False Statements from Antiquity to St. Anselm’ in *Archéologie du Signe,* eds. Lucie Brind’Amour and Eugene Vance (Toronto, 1983), pp. 17-43.

*- Peter Lombard*, 2 vols. (Leiden and New York, 1994).

- ‘Rethinking Lying in the Twelfth Century’, in István P. Bejczy and Richard G. Newhauser (eds.), *Virtue and Ethics in the Twelfth Century* (Leiden and Boston, 2005), pp. 155-173.

Colliot, R. *Adenet le Roi “Berte aus Grans Pies”: Étude littéraire générale*, 2 vols. (Paris, 1970).

Condren, Conal, *Argument and Authority in Early Modern England: the Presupposition of Oaths and Offices* (Cambridge, 2006).

Corran, Emily, ‘Hiding the Truth: Exegetical Discussions of Abraham’s Lie from Hugh of St. Victor to Stephen Langton’ *Historical Research* 87.235 (2014), 1-17.

- ‘Peter John Olivi’s Ethics of Lying and Equivocation: Casuistical Teaching drawn from his Commentaries of *Matthew 5:37* and *Luke 24:28’ Archivum Franciscanum Historicum* 108 (2015), 89-114.

-‘Lying, Equivocation and Mental Reservation: Peter John Olivi in the Context of Thirteenth Century Thought’ *Studi Francescani* 112 (2015), 5-25.

Craun, E.D., *Lies, Slander and Obscenity in Medieval English Literature: Pastoral Rhetoric and the Deviant Speaker* (Cambridge, 1997).

Dauvillier, Jean, ‘Pierre le Chantre et la dispense de marriage non consommé’, in *Études d’histoire du droit privé offertes à Pierre Petot,* Librarie générale de droit et jurisprudence (Sirey, 1959), pp. 97-105.

d’Avray, D.L., ‘“Magna Carta”: its Background in Stephan Langton’s Academic Biblical Exegesis and its Episcopal Reception’, *Studi Medievali* 3rd Series 38.1 (1997), 423-438.

- *Medieval Marriage: Symbolism and Society* (Oxford, 2005, repr. 2010).

- *Medieval Religious Rationalities: A Weberian Analysis* (Cambridge, 2010).

- *Papacy, Monarchy and Marriage, 860-1600* (Cambridge, 2015).

de Combarieu du Grès, Micheline, ‘Une extrême amitié’ in Jean Dufournet (ed.), *Ami et Amile: Une chanson de geste de l’amitié* (Paris, 1987), pp. 15-38.

de Jong, Maike, ‘What was *Public* about Public Penance? *Paenitentia Publica* and Justice in the Carolingian World’, in *La giustizia nell’alto medioevo (secoli IX-XI) 11-17 aprile 1996.* Settimane di studio del centro italiano di studi sull’alto medioevo 44 (Spoleto, 1997), pp. 863-902.

de Lagarde, Georges, ‘La Philosophie sociale d’Henri de Gand et Godefroid de Fontaines’ *AHDLMA* 14 (1943-5), 73-142.

Denton, Jeffrey, ‘The Attempted Trial of Boniface VIII for Heresy’ in Maureen Mulholland and Brian Pullan (eds), *Judicial Tribunals in England and Europe, 1200-1700,* The trial in history volume 1 (Manchester, 2003), pp. 117-128.

Dickson, Marcel and Christiane, ‘Le Cardinal Robert de Courson, sa vie’, *AHDLMA* 9 (1934), 53-142.

*Dictionnaire de droit canonique,* 7 vols. (Paris, 1935-1965).

*Dictionnaire de théologie catholique*, 15 vols., (Paris, 1923-72).

Dietterle, Johannes, ‘Die *Summae Confessorum* (sive de Casibus Conscientiae) von ihren Anfängen an bis zu Silvester Prierias’ *Zeitschrift für Kirchengeschichte* 26 (1905), 59-81, 350-364.

Dondaine, Antoine, O.P., ‘Le Manuel de l’Inquisiteur (1230-1330)’, in his *Les hérésies et l’Inquisition XIIe-XIIIe siècles (*Aldershot, 1990), art. II.

Douie, D.L., *The Conflict between the Seculars and the Mendicants at the University of Paris in the Thirteenth Century,* The Aquinas Society of London, Aquinas Paper No. 23 (London, 1954).

Dresch, Paul and Hannah Skoda (eds.), *Legalism: Anthropology and Histor*y (Oxford, 2012).

Fallis, Don, ‘Davidson was Almost Right about Lying’ *Australian Journal of Philosophy* (2012), 1-17.

Feehan, Thomas D., ‘Augustine on Lying and Deception’ *Augustinian Studies* 19 (1988), 131-139.

- ‘The Morality of Lying in St. Augustine’ *Augustinian Studies* 21 (1990), 67-81.

- ‘Augustine’s Own Examples of Lying’ *Augustinian Studies* 22 (1991), 165-90.

Finke, Heinrich, *Aus den Tagen Bonifaz VIII: Funde und Forschungen* (Münster, 1902).

Frappier, Jean, ‘Vues sur les conceptions courtoises dans les littératures d'oc et d'oïl au XIIe siècle’ *Cahiers de civilisation médiévale* 2 (1959), 135-56.

- ‘Structure et sens du Tristan : version commune, version courtoise’ *Cahiers de civilisation médiévale* 6e anné, 23 (1963), 255-280, 441-454.

Gaunt, Simon, *Gender and Genre in Medieval French Literature* (Cambridge, 1995).

Gilbert, Jane, ‘Gender, Oaths and Ambiguity in *Sir Tristrem* and Béroul’s *Roman de Tristan*’ in Ad Putter and Jane Gilbert (eds.), *The Spirit of Medieval English Popular Romance* (Harlow, 2000), pp. 237-257.

Given, James B., *Inquisition and Medieval Society: Power, Discipline and Resistance in Languedoc* (Ithaca N.Y. and London, 1997),

Glorieux, P., *La Littérature quodlibétique de 1260 à 1320,* 2 vols. (Kain and Paris, 1925-35).

Goering, Joseph, ‘The ‘Summa de Penitentia’ of John of Kent’ *Bulletin of Medieval Canon Law* 18 (1988), 13-31.

- ‘The Internal Forum and the Literature of Penance and Confession’ in Hartmann and Pennington (eds.), *The History of Medieval Canon Law*, pp. 379-428.

Grabmann, Martin, *Die Geschichte der scholastischen Methode*, 2 vols. (Freiburg im Breisgau, 1909-11),

Greenblatt, Steven, *Renaissance Self-fashioning: From More to Shakespeare,* 2nd edn. (Chicago and London, 2005).

Grice, Paul, *Studies in the Way of Words (*Cambridge MA. and London, 1989, repr.1993).

Gründel, Johannes, *Die Lehre von den Umständen der menschlichen Handlung im Mittelalter,* Beiträge zur Geschichte der Philosophie und Theologie des Mittelalters 39.5 (Münster, 1963).

Grundmann, Herbert, ‘Der Typus des Ketzers in mittelalterliche Anschauung,’ in *Kultur – und Universalgeschichte: Walter Goetz zu seinem 60. Geburtstag* (Leipzig and Berlin, 1927), pp. 91-107.

Hamesse, Jacqueline, Theological *Quaestiones Quodlibetales*’ in Schabel (ed.), *Theological Quodlibeta in the Middle Ages*: *The Thirteenth Century,* pp. 17-48.

Hamilton, Sarah, *The Practice of Penance 900-1050* (London, 2001).

Hartmann, Wilfried and Kenneth Pennington (eds.), *The History of Medieval Canon Law in the Classical Period, 1140-1234: from Gratian to the Decretals of Pope Gregory IX* (Washington D.C., 2008).

Hauréau, B., *Notices et extraits de quelques manuscrits latins de la Bibliothèque Nationale,* 6 vols. (Paris, 1890-93).

Helgeson, James, *The Lying Mirror: The First-Person Stance and Sixteenth-Century Writing* (Geneva, 2012).

Helmholz, Richard, *The Spirit of Classical Canon Law* (Athens GA., 1996).

- ‘Scandalum in the Medieval Canon Law and in the English Ecclesiastical Courts’, *Zeitscrift der Savigny-Stiftung für Rechtsgeschichte* Bd. 127, kanonistische Abteilung96 (2010), 258-274.

Hennings, R., *Der Briefwechsel zwischen Augustinus und Hieronymus und ihr Streit um den Kanon des alten Testaments und die Auslegung von Gal. 2, 11–14,* Supplements to Vigiliae Christianae 21 (Leiden etc., 1994).

Hexter, Ralph J., *Equivocal Oaths and Ordeals in Medieval Literature* (Cambridge MA., 1975).

Hissette, Roland, *Enquête sur les 219 articles condamnés à Paris le 7 mars 1277* (Louvain and Paris, 1977).

Hoeflich, Michael H. and Jasonne M. Grabher, ‘The Establishment of Normative Legal Texts: The Beginnings of the *Ius commune*’, in Hartmann and Pennington (eds.), *The History of Medieval Canon Law,* pp. 1-21.

Hödl, Ludwig, ‘Neue Nachrichten über die Pariser Verurteilungen der tomasischen Formlehre’ *Scholastik* 39 (1964), 178-196.

Hosking, Geoffrey, *Trust: A History* (Oxford, 2014).

Hunt, Tony, ‘Abelardian Ethics and Béroul’s *Tristan*’ *Romania* 98 (1977), 501-540.

Jonsen, Albert R. and Stephen Toulmin, *The Abuse of Casuistry: A History of Moral Reasoning* (Berkeley, Los Angeles and London, 1988).

Kaeppeli, Thomas, *Scriptores Ordinis Praedicatorum Medii Aevi,* 4 vols. (Rome, 1970-1993).

Kant, Immmanuel, *Groundwork for the Metaphysics of Morals,* in Mary J. Gregor (trans. and ed.), *Immanuel Kant: Practical Philosophy* (Cambridge, 1996, repr. 2008), 4:387-463, pp. 43-108.

*- The Metaphysics of Morals,* in Gregor (trans. and ed.), *Immanuel Kant: Practical Philosophy*, 6:205-308, pp. 364-452.

- ‘On a Supposed Right to Lie from Philanthropy’ in Gregor (trans. and ed.), *Immanuel Kant: Practical Philosophy* 8:425-430, pp. 610-615.

Kay, Sarah, ‘Seduction and Suppression in “Ami et Amile”’ *French Studies* 44.2 (1990), 129-142.

- *The* Chansons de geste *in the Age of Romance: Political Fictions* (Oxford, 1995)*.*

Kempshall, M.S., *The Common Good in Late Medieval Political Thought* (Oxford, 1999)*.*

- *Rhetoric and the Writing of History 400-1500* (Manchester, 2011).

Kennedy, V.L, ‘Robert of Courson on Penance’ *Mediaeval Studies* 7 (1945), 291-336.

-‘The Content of Courson’s *Summa*’ *Mediaeval Studies* 9 (1947), 81-107.

König-Pralong, Caterina, *Le Bon usage des saviors: scolastique, philosophie et politique culturelle* (Paris, 2011).

Korsgaard, Christine, *Creating the Kingdom of Ends* (Cambridge, 1996).

- *The Sources of Normativity* (Cambridge, 1996).

Kurtschied, Bertrand, *A History of the Seal of Confession*, trans. F.A. Marks (St Louis and London, 1927).

Kuttner, Stephan, *Kanonistische Schuldlehre von Gratian bis auf die Dekretalen Gregors IX: Systematisch auf Grund der handschriftlichen Quellen dargestellt,* Studi e Testi 64 (Vatican, 1935).

- ‘Ecclesia de Occultis non Iudicat: Problemata ex Doctrina Poenali Decretistarum et Decretalistarum a Gratiano usque ad Gregorium PP. IX’ in *Acta Congressus Iuridici Internationalis: VII Saeculo a Decretalibus Gregorii IX et XIV a Codice Iustiniano Promulgatis: Romae 12-17 Novembris 1934*, 5 vols. (Rome, 1935-7) vol. iii, pp. 227-246.

Lacey, Norris J. and Joan Tasker Grimbert (eds.), *A Companion to Chrétien de Troyes* (Cambridge, 2005).

Lambert, Malcolm, *Medieval Heresy: Popular Movements from the Gregorian Reform to the Reformation,* 3rd edn. (Oxford, 2002).

Landgraf, Artur M., ‘Definition und Sündhaftigkeit der Lüge nach der Lehre der Frühscholastik’ *Zeitschrift für katholische Theologie* 63 (1939): 50-85, 157-180.

- ‘Die Stellungnahme der Frühscholastik zur Lüge der alttestamentlichen Patriarchen’, *Theologisch-praktische Quartalschrift* 92 (1939), 13-32, 218-231.

Lea, Henry Charles, *A History of Auricular Confession and Indulgences in the Latin Church,* 3 vols., (London, 1896).

Le Bras, Gabriel, ‘Théologie et droit romain dans l’oeuvre d’Henri de Suse’, in le Faculté de droit et des sciences économiques de Grenoble (eds.), *Études historiques à la mémoire de Noël Didier* (Paris, 1960), pp. 195-204.

Lefebvre, Charles, ‘Dissimulation’ in R. Naz (ed.), *Dictionnaire de droit canonique,* vol. iv, cols 1296-1307.

Luscombe, David, *The School of Peter Abelard: The Influence of Abelard’s Thought in the Early Scholastic Period* (Cambridge, 1969).

MacIntyre, Alasdair, *Truthfulness, Lies and Moral Philosophers: What can we Learn from Mill and Kant?* The Tanner Lectures on Human Values 16 (Salt Lake City, 1995).

Mansfield, Mary C., *The Humiliation of Sinners: Public Penance in Thirteenth-Century France* (Ithaca, 1995).

Marenbon, John, *The Philosophy of Peter Abelard* (Cambridge, 1997).

Marmursztejn, Elsa, *L’Authorité des maîtres: Scholastique, norms et société au XIIIe siècle* (Paris, 2007).

Mayali, Laurent, ‘The Concept of Discretionary Punishment in Medieval Jurisprudence’, in Rosalio Iosepho Card. Castillo Lera (ed.), *Studia in Honorem Eminentissimi Cardinalis Alphonsi M. Stickler,* Studia et Textus Historiae Iuris Canonici 7 (Rome, 1992), pp. 299-315.

McEwan, Ian, *The Children Act* (London, 2014).

Meens, Rob, *Penance in Medieval Europe, 600-1200* (Cambridge, 2014).

Mews, Constant, *Abelard and Heloise* (Oxford, 2005).

Meyer, Christoph H.F., *Die Distinktionstechnik in der Kanonistik des 12. Jahrhunderts: Ein Beitrag zur Wissenschaftsgeschichte des Hochmittelalters* (Leuven, 2000).

Michaud-Quantin, Pierre, *Sommes de casuistique et manuels de confession au Moyen Âge (XII-XVI siècles)* Analecta Mediaevalia Namurcensia 13 (Louvain, Lille and Montreal, 1962).

Mickel, Emanuel, ‘The Question of Guilt in *Ami et Amile*’ *Romania* 106 (1985), 19-35.

Moore, R.I., *The War on Heresy: Faith and Power in Medieval Europe* (London, 2012).

Morris, Colin, *The Discovery of the Individual 1050-1200* (London, 1972).

Murray, Alexander, ‘Confession before 1215’ *Transactions of the Royal Historical Society* Sixth Series, 3 (1993), 51-81.

- ‘Counselling in Medieval Confession’ in Biller and Minnis (eds.), *Handling Sin: Confession in the Middle Ages,* pp. 63-77.

- ‘Into your Enemy’s Stomach’, review of Jacques le Goff, *Saint Louis*, trans. Gareth Evan Gollrad, *London Review of Books* 32.7 (8 April 2010), 25-26.

- *Conscience and Authority in the Medieval Church* (Oxford, 2015).

Newman, John Henry, *Apologia pro Vita Sua*, ed. Martin J. Svaglic (Oxford, 1967).

Nörr, Wolfgang Knut, *Zur Stellung des Richters im gelehrten Prozeß der Frühzeit: Iudex secundum allegata non secundum conscientiam iudicat* (Munich, 1967).

Olivero, Giuseppe, *Dissimulatio e tolerantia nell’ordinamento canonico* (Milan, 1953).

Padoa-Schioppa, Antonio, ‘Sur la conscience du juge dans le *ius commune* européen’, in Jean-Marie Carbasse and Laurence Depambour-Tarride (eds.), *La Conscience du juge dans la tradition juridique européene* (Paris, 1999), pp. 95-129.

Pascal, Blaise, *Les Provinciales,* in Louis Cognet (ed.), *Pascal: Les Provinciales, Pensées et opuscules divers* (Paris, 2004).

Payen, Jean-Charles, *Le Motif du repentir dans la literature française médiévale (des origines à 1230)* (Geneva, 1967).

Pegg, Mark Gregory, *The Corruption of Angels: The Great Inquisition of 1245-1246* (Princeton, 2001).

Pelikan, Jaroslav, *The Christian Tradition: A History of the Development of Doctrine. The Growth of Medieval Theology (600-1300)* (Chicago, 1978).

Pennington, Kenneth, ‘Henricus de Segusio (Hostiensis)’ in his *Popes, Canonists and Texts 1150-1550* (Aldershot, 1993), XVI.

- *The Prince and the Law, 1200-1600: Sovereignty and Rights in the Western Legal Tradition* (Berkeley, 1993).

Philippart, Guy, *Les Légendiers latins et autres manuscrits hagiographiques,* Typologie des sources du Moyen Âge occidental, Fasc. 24-25 (Turnhout, 1977).

Pirie, Fernanada, *The Anthropology of Law* (Oxford, 2013).

Pirie, Fernanda, and Judith Scheele (eds.), *Legalism: Community and Justice* (Oxford, 2014).

Piron, Sylvain, ‘Nicholas of Bar’s Collection’, in Schabel (ed.) *Theological Quodlibeta* *in* *the Middle Ages: The Fourteenth Century*, pp. 333-344.

Polak, Lucie, *Chrétien de Troyes: Cligès*, Critical Guides to French Texts (London, 1982).

Pons, Alain, ‘La rhétorique des manières au XVIe siècle en Italie’ in Marc Fumaroli (ed.), *Histoire de la rhétorique dans l’Europe moderne 1450-1950* (Paris, 1999), pp. 411-430.

Porro, Pasquale, ‘Doing Theology (and Philosophy) in the First Person: Henry of Ghent’s *Quodlibeta’* in Schabel (ed.), *Theological Quodlibeta in the Middle Ages: The Thirteenth Century*, pp. 171-231.

Powicke, F.M., *Stephen Langton, being the Ford lectures delivered in the University of Oxford in Hilary Term 1927* (Oxford, 1928).

Quinto, Riccardo, ‘*Doctor Nominatissimus’ Stefano Langton (†1228) e la tradizione delle sue opere,* Beiträge zur Geschichte der Philosophie und Theologie des Mittelalters n.F. Bd. 39 (Münster, 1994).

- “*Scholastica”. Storia di un concetto* (Padua, 2001).

Ramsey, Boniface, ‘Two Traditions on Lying and Deception in the Ancient Church’ *Thomist* 49.4 (1985), 504-533.

Richard, Jean, *Saint Louis: Crusader King of France,* ed. and abridged Simon Lloyd,trans. Jean Birrell (Cambridge, 1992).

Rider, Catherine, ‘*Sciendum est autem sacerdotibus (penitens accedens ad confessionem’:* A short Thirteenth-Century Treatise on Hearing Confessions’ *Mediaeval Studies* 73 (2011), 147-182.

Roca, M. J., ‘Der Toleranzbegriff im kanonischen Recht’ *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte* Bd. 121, kanonistische Abteilung 90 (2004), 548-561.

Roest, Bert, *Franciscan Literature of Religious Instruction before the Council of Trent* (Leiden, 2004).

Rorty, Richard, review of Bernard Williams, *Truth and Truthfulness: An Essay in Genealogy:* ‘To the Sunlit Uplands’ *London Review of Books* Vol. 24 No. 21 (31 October 2002), 13-15.

Rosier-Catach, Irène, *La Parole efficace: Signe, rituel, sacré* (Paris, 2004).

Runciman, David, *Political Hypocrisy: The Mask of Power, from Hobbes to Orwell and Beyond* (Princeton and Oxford, 2008).

Rusconi, Roberto, *L’ordine dei peccati: La confessione tra Medioevo ed età moderna* (Bologna, 2002).

Sabapathy, John, *Officers and Accountability in Medieval England 1170-1300* (Oxford, 2014).

Sackville, L.J., *Heresy and Heretics in the Thirteenth Century: The Textual Representations* (York, 2011).

Schabel, Christopher (ed.), *Theological Quodlibeta in the Middle Ages*: *The Thirteenth Century* (Leiden and Boston, 2006).

- (ed.), *Theological Quodlibeta* *in* *the Middle Ages: The Fourteenth Century* (Leiden and Boston, 2007).

Schapiro, Tamar, ‘Compliance, Complicity and the Nature of Nonideal Conditions’ *The Journal of Philosophy* 100.7 (2003), 329-355.

Shakespeare, William, *Macbeth* (Penguin, London, 2005).

Sidgwick, Henry, *Outlines of the History of Ethics for English Readers,* 6th edn. (New York, 1931, repr. 1967).

- *The Methods of Ethics,* 7th edn. (London, 1962).

Skinner, Patricia and Elizabeth van Houts (eds.), *Medieval Writings on Secular Women* (Penguin, London, 2011).

Skinner, Quentin, ‘Republican Virtues in an Age of Princes’ in his *Visions of Politics Volume II: Renaissance Virtues* (Cambridge, 2002), pp. 118-159.

- ‘Hobbes on Rhetoric and the Construction of Morality’ in his *Visions of Politics: Volume III. Hobbes and Civil Science* (Cambridge, 2002), pp. 87-141.

Smalley, Beryl, *The Study of the Bible in the Middle Ages,* 3rd edn. (Oxford, 1984).

Smith, Lesley, *The* Glossa Ordinaria: *The Making of a Medieval Bible Commentary* (Leiden and Boston, 2009).

- *The Ten Commandments: Interpreting the Bible in the Medieval World* (Turnhout, 2014).

Snyder, Jon R., *Dissimulation and the Culture of Secrecy in Early Modern Europe* (Berkeley and London, 2009).

Sommerville, Johann, ‘The “New Art of Lying”: Equivocation, Mental Reservation, and Casuistry’ in Edmund Leites (ed.) *Conscience and Casuistry in Early Modern Europe* (Cambridge, 1988), pp. 159-184.

Southern, R.W., *Robert Grosseteste: The Growth of an English Mind in Medieval Europe* (Oxford, 1986).

- ‘The Changing Role of Universities in Medieval Europe’ *Historical Research* 60.142 (1987), 133-146.

- *Scholastic Humanism and the Unification of Europe: Volume II The Heroic Age* (Oxford, 2001).

Stephen Jaeger, C., *Medieval Humanism in Gottfried von Strassburg’s Tristan und Isolde* (Heidelberg, 1977).

Sullivan, Karen, *The Inner Lives of Medieval Inquisitors* (Chicago, 2011).

Tasker Grimbert, Joan, ‘*Cligès* and the Chansons: A Slave to Love’, in Lacey and Tasker Grimbert (eds.), *A Companion to Chrétien de Troyes,* pp. 120-136.

Tentler, Thomas N., *Sin and Confession on the Eve of the Reformation* (Princeton N.J., 1977).

Tomaryn Bruckner, Matilda, ‘*Le Chevalier de la Charrette*: That Obscure Object of Desire, Lancelot’ in Lacey and Tasker Grimbert (eds.), *A Companion to Chrétien de Troyes,* pp. 137-155.

Trapman, Johannes, ‘Erasmus on Lying and Simulation’ in van Houdt et al. (ed.) *On the Edge of Truth and Honesty,* pp. 33-46.

Uslaner, Eric M., review of Geoffrey Hosking, *Trust: A history, Reviews in History* (review no. 1729), <http://www.history.ac.uk/reviews/review/1729> (accessed 17 July 2015).

Van den Eynde, Damien, ‘Précisions chronologiques sur quelques ouvrages théologiques du XIIe siècle’ *Antonianum,* 26 (1951), 228-239.

Van Houdt, Toon, et al. (eds.), *On the Edge of Truth and Honesty: Principles and Strategies of Fraud and Deceit in the Early Modern Period* (Leiden and Boston, 2002).

- ‘Word Histories, and Beyond: Towards a Conceptualization of Fraud and Deceit in Early Modern Times’, in Van Houdt et al. (eds.) *On the Edge of Truth and Honesty,* pp. 1-32.

Vecchio, Silvana, ‘Mensonge, simulation, dissimulation. Primauté de l’intention et ambiguïté du langage dans la théologie morale du bas Moyen Age’, in Costantino Marmo (ed.)*,* *Vestigia, Imagines, Verba: Semiotics and Logic in Medieval Theological Texts (XIIth-XIVth century),* Semiotic and Cognitive Studies 4 (Turnhout, 1997), pp. 117-132.

Vince, Máté, ‘From ‘Aequivocatio’ to the ‘Jesuitical Equivocation’: The Changing Concepts of Ambiguity in Early Modern England’, unpublished PhD Thesis, University of Warwick (2013).

Vincent, Nicholas, ‘Some Pardoners’ Tales: The Earliest English Indulgences’ *TRHS* 12 (2002), 23-58.

-‘Stephen Langton, Archbishop of Canterbury’ in Louis-Jacques Bataillon, Nicole Bériou, Gilbert Dahan, Riccardo Quinto (eds.), *Étienne Langton: Prédicateur, Bibliste, Théolgien* (Turnhout, 2010), pp. 51-124.

Vogel, Cyrile, *Le Pécheur et la pénitence au Moyen Âge* (Paris, 1969).

- *En Rémission des péchés. Recherches sur les systèmes pénitentiels dans l’Eglise latine*, ed. A. Faivre (Aldershot, 1994).

Warner, G.F. and Gilson, J.P., *Catalogue of the Manuscripts in the Old Royal and King's Collections,* 2 vols. (London, 1921).

Wei, Ian P., ‘The Masters of Theology at the University of Paris in the Late Thirteenth Century and Early Fourteenth Centuries: An Authority beyond the Schools’ *Bulletin of the John Rylands University Library of Manchester* 75 (1993), 37-63.

- ‘The Self-Image of the Masters of Theology at the University of Paris in the Late Thirteenth and Early Fourteenth Centuries’ *The Journal of Ecclesiastical History* 46 (1995), 398-431.

*- Intellectual Culture in Medieval Paris: Theologians and the University c.1100-1330* (Cambridge, 2012).

Weiler, Björn, ‘Tales of Trickery and Deceit: the Election of Frederick Barbarossa (1152), Historical Memory and the Culture of Kingship in Later Staufen Germany’ *Journal of Medieval History* 38:3 (2012), 295-317.

Williams, Bernard, *Problems of the Self: Philosophical Papers 1956-1972* (Cambridge, 1973).

*- Ethics and the Limits of Philosophy,* (Fontana Press 1985, repr. Oxford 2006).

- *Truth and Truthfulness:* *An Essay in Genealogy* (Princeton, 2002).

Winroth, Anders, *The Making of Gratian’s* Decretum(Cambridge, 2000).

Wippel J.F., ‘Quodlibetal Questions Chiefly in the Theology Faculties’ in Bazàn, Wippel, Franzen and Jacquart (eds.), *Les Questions disputées et les questions quodlibétiques,* pp. 153-222.

Wolff, Jonathan, *Ethics and Public Policy: A Philosophical Inquiry* (London and New York, 2011).

Wood, Allen W., ‘Kant and the Right to Lie’ *Eidos* 15 (2011), 96-117.

Zagorin, Perez, *Ways of Lying: Dissimulation, Persecution and Conformity in Early Modern Europe* (Cambridge MA. and London, 1990).

1. Caesarius von Heisterbach, *Dialogus Miraculorum,* ed. Horst Schneider with German trans. Nikolaus Nösges and Horst Schneider, 5 vols. (Turnhout, 2009), VI.5, vol. iii, p. 1164; ‘Civis quidam de Colonia, sicut mihi retulit quidam ex sacerdotibus sancti Andreae, uxorem propriam minus diligens, saepe illam affligebat. Propter quod illa furata est ei pecuniam in bona quantitate. Cui cum maritus crimen imponeret, et ipsa fortiter negaret, timens ab illo deprehendi, pecuniam proiecit in cloacam. Postea dolens de facto, ad Decanum venit, furtum furtique causam per confessionem aperuit, et satis puto virum sanctum illi suasisse, ut pecuniam marito proderet; sed quia illa cum iuramento negaverat, facere non audebat, timens propter hoc amplius affligi. Cui Decanus respondit, ‘Si potero pecuniam habere sine nota, vis ut detur pauperibus?’ Dicente illa, hoc omnimodis desidero, post aliquot dies Decanus locutus est civi: “Vis mihi licentiam dare, ut purgari faciam cloacum tuam, et si aliquid mihi Dominus ibi dederit, inde tollam?” Sciens ille eum virum sanctum esse, cogitans etiam quia Deus aliquid ei revelasset, licentiavit. Purgata est cloaca, inventa est pecunia, et infra paucos dies per manus hominis Dei pauperibus erogata.

   Novicius: In hoc loco posset detractor figere dentem.

   Monchus: Tria videntur eum hic excusare a peccato. Primum, quod pecunia eadem sicut mariti, ita et feminae fuit. Secundum, quod tamen perdita fuit, quam propter confessionem prodere non licuit. Tertium, quod pauperibus eam distribuit. Novissime caritas, quae eum ad hoc instigavit. Solent enim sacerdotes saepe licentiare feminis, ut maritis suis avaris et immisericordibus rapiant et indigentibus largiantur.’ [↑](#footnote-ref-1)
2. David Runciman, *Political Hypocrisy: The Mask of Power, from Hobbes to Orwell and Beyond* (Princeton and Oxford, 2008). [↑](#footnote-ref-2)
3. Geoffrey Hosking, *Trust: A History* (Oxford, 2014), pp. 29-42; the idea also has been expressed by some philosophers, Paul Grice suggested something similar with his idea of a ‘cooperative principle’: *Studies in the Way of Words (*Cambridge MA. and London, 1989, repr.1993), p. 26. Following Grice, the moral philosopher Bernard Williams argued that the necessity of trust in any society means that truthfulness is a value above and beyond its instrumental use. *Truth and Truthfulness:* *An Essay in Genealogy* (Princeton, 2002). Note though that these arguments have not gone undisputed. See comments on Hosking in Eric M. Uslaner, review of *Trust: A History, Reviews in History* (review no. 1729). Ulsaner’s point that there is significant cultural diversity in levels of trust and lying is also made by J.A. Barnes, *A Pack of Lies: Towards a Sociology of Lying* (Cambridge, 1994), pp. 65-78. [↑](#footnote-ref-3)
4. Thomas Feehan, ‘The Morality of Lying in St. Augustine’ *Augustinian Studies* 21 (1990), 67-81 at 68-71; Marcia Colish, ‘The Stoic Theory of Verbal Signification and the Problem of Lies and False Statements from Antiquity to St. Anselm’ in Lucie Brind’Amour and Eugene Vance (eds.), *Archéologie du Signe* (Toronto, 1983), pp. 17-43 at36-37. [↑](#footnote-ref-4)
5. Peter the Chanter, *Verbum Adbreviatum*: *Textus Conflatus,* ed. Monique Boutry, *CCCM* 196 (Turnhout, 2004), II.29, p. 710: ‘Si uerus es et uerax, cum Deo similitudinem habes expressam; Deus enim ueritas est.’ [↑](#footnote-ref-5)
6. The classic study is Carla Casagrande and Silvana Vecchio, *I peccati della lingua: Disciplina ed etica della parola nella cultura medievale* (Rome, 1987). [↑](#footnote-ref-6)
7. Guilelmus Peraldus, *Summae Virtutum ac Vitiorum*, 2 vols. bound together (Antwerp, 1587)*,* vol. ii, f. 176vb: ‘Lingua enim in humido siue in lubrico est et ideo de facili labitur. Ideo scriptum est Eccle. (Sirach) 14 Beatus vir qui non est lapsus verbo ex ore suo. Propter pronitatem ad malum quae in linga est, ponitur sal in ore paruulorum qui baptizantur ad ostendendum quod membrum illud de facili putrefiat et vermibus vitiorum scaturiat’ (etc.) [↑](#footnote-ref-7)
8. On monastic ethics of silence, Scott G. Bruce, *Silence and Sign Language in Medieval Monasticism: The Cluniac Tradition c. 900-1200* (Cambridge, 2007), pp. 25-26. [↑](#footnote-ref-8)
9. *Collectio Exemplorum Cisterciensis,* ed. Jacques Berlioz and Marie Anne Polo de Beaulieu (Turnhout, 2012), c. 25.11, p. 102: ‘Narrabant de abbate Or quia neque mentitus est unquam, neque iurauit, nec maledixit alicui homini neque, si necesse non fuerit, alicui locutus est.’ [↑](#footnote-ref-9)
10. Peter the Chanter, *Verbum Adbreviatum,* II.29, p. 712: ‘Mendacium et gula uicium est uiscosum et herens; difficile exuitur lingua mendaciis assueta. Ceteris enim uiciis sepe maturior etas finem imponit, mendacio uero nequaquam, sic nec gule. Cotidie enim comedimus, cotidie loquimur, et ita facilius quis in hec uicia labitur, difficilius ea dediscit.’ [↑](#footnote-ref-10)
11. eg. Salimbene de Adam, *Chronica,* ed. Giuseppe Scalia, *CCCM* 125 (Turnhout, 1998), c. 112, vol. i, pp. 114-118. [↑](#footnote-ref-11)
12. See Edwin D. Craun, *Lies, Slander and Obscenity in Medieval English Literature: Pastoral Rhetoric and the Deviant Speaker* (Cambridge, 1997), ch. 3-6. [↑](#footnote-ref-12)
13. Tolerant stories about spouses who lie about their children crop in a number of contexts; cf. John Arnold, *Belief and Unbelief in Medieval Europe* (London, 2010) p.162; Patricia Skinner and Elizabeth van Houts (eds.), *Medieval Writings on Secular Women* (Penguin, London, 2011), pp. 29-31. [↑](#footnote-ref-13)
14. Cicero, *De Officiis,* ed. and trans. M.T. Griffin and E.M. Atkins (Cambridge, 1991, repr. 2009), Book III, cc. 99-115, pp. 138-145. [↑](#footnote-ref-14)
15. Quentin Skinner, ‘Republican Virtues in an Age of Princes’ in his *Visions of Politics Volume II: Renaissance Virtues* (Cambridge, 2002), pp. 118-159 at 124-126. [↑](#footnote-ref-15)
16. Niccolò Machiavelli, *The Prince,* trans. George Bull (Penguin, Harmondsworth,1961, repr. 1964), c. 18, pp. 99-102. [↑](#footnote-ref-16)
17. Augustine, *De Mendacio* and *Contra Mendacium*, ed. Josephus Zycha, *CSEL* 41 (Vienna, 1900). [↑](#footnote-ref-17)
18. *De Mendacio*, XIII.22, p. 441. [↑](#footnote-ref-18)
19. M.S. Kempshall, *The Common Good in Late Medieval Political Thought* (Oxford, 1999), pp. 168 ff. [↑](#footnote-ref-19)
20. Immanuel Kant, *Groundwork for the Metaphysics of Morals,* in Mary J. Gregor (trans. and ed.), *Immanuel Kant: Practical Philosophy* (Cambridge, 1996, repr. 2008), 4:422, p. 74. [↑](#footnote-ref-20)
21. Immanuel Kant, ‘On a Supposed Right to Lie from Philanthropy’ in Gregor (trans. and ed.), *Practical Philosophy,* 8:425-430, pp. 611-615. [↑](#footnote-ref-21)
22. Benjamin Constant’s views are quoted in ‘On a Supposed Right to Lie’; cf. Williams, *Truth and Truthfulness,* pp. 114-115; even a Kantian can admit that Constant had a point: Christine Korsgaard, ‘Kant’s Formula of Universal Law’ in her *Creating the Kingdom of Ends* (Cambridge, 1996), pp. 77-105 at 100. [↑](#footnote-ref-22)
23. Christine Korsgaard, ‘Two Arguments against Lying’, in *Creating the Kingdom,* pp. 335-362. [↑](#footnote-ref-23)
24. The former: Allen W. Wood. ‘Kant and the Right to Lie’ *Eidos* 15 (2011), 96-117; the latter: Christine Korsgaard, ‘The Right to Lie: Kant on Dealing with Evil’, in her *Creating the Kingdom,* pp. 133-158; Tamar Schapiro, ‘Compliance, Complicity and the Nature of Nonideal Conditions’ *The Journal of Philosophy* 100.7 (2003), 329-355. [↑](#footnote-ref-24)
25. Alasdair Macintyre, *Truthfulness, Lies and Moral Philosophers: What can we Learn from Mill and Kant?* The Tanner Lectures on Human Values 16 (Salt Lake City, 1995). [↑](#footnote-ref-25)
26. Bernard Williams, ‘Ethical Consistency’ in his *Problems of the Self: Philosophical Papers 1956-1972* (Cambridge, 1973), pp. 166-186 at 173. [↑](#footnote-ref-26)
27. Bernard Williams, *Truth and Truthfulness.* [↑](#footnote-ref-27)
28. See Richard Rorty’s review of *Truth and Truthfulness:* ‘To the Sunlit Uplands’ *London Review of Books* Vol. 24 No. 21 (31 October 2002), 13-15; Similar criticisms extended to Williams’s moral theory in general can be found in Christine M. Korsgaard, *The Sources of Normativity* (Cambridge, 1996), pp. 76-78, 88-89. [↑](#footnote-ref-28)
29. William Shakespeare, *Macbeth* (Penguin, London, 2005), Act 2, Scene 3, p. 30. On the place of Jesuits in the English imagination in the Renaissance see Conal Condren, *Argument and Authority in Early Modern England: the Presupposition of Oaths and Offices* (Cambridge, 2006), pp. 105, 172. [↑](#footnote-ref-29)
30. Blaise Pascal, *Les Provinciales,* in Louis Cognet (ed.), *Pascal: Les Provinciales, Pensées et opuscules divers* (Paris, 2004), *Neuvième lettre*, pp. 412-414. [↑](#footnote-ref-30)
31. Philip Caraman, *Henry Garnet 1555-1606 and the Gunpowder Plot* (London, 1964), pp. 253, 351-352, 406-407. [↑](#footnote-ref-31)
32. Henry Charles Lea, *A History of Auricular Confession and Indulgences in the Latin Church,* 3 vols., (London, 1896), vol. ii, pp. 401-408; Albert R. Jonsen and Stephen Toulmin, *The Abuse of Casuistry: A History of Moral Reasoning* (Berkeley, Los Angeles and London, 1988), pp. 195-215; Johann Sommerville, ‘The “New Art of Lying”: Equivocation, Mental Reservation, and Casuistry’ in Edmund Leites (ed.) *Conscience and Casuistry in Early Modern Europe* (Cambridge, 1988), pp. 159-184; Perez Zagorin, *Ways of Lying: Dissimulation, Persecution and Conformity in Early Modern Europe* (Cambridge MA. and London, 1990). [↑](#footnote-ref-32)
33. Jean Cavaillé, *Dis/simulations: Jules-César Vanini, François La Mothe Le Vayer, Gabriel Naudé, Louis Machon et Torquato Accetto : Religion, morale et politique au XVIIe siècle*(Paris, 2002); he has published numerous articles on this subject, which are listed on his online bibliography at <http://dossiersgrihl.revues.org/2103>, last accessed 22 April 2015. Also see Jon R. Snyder, *Dissimulation and the Culture of Secrecy in Early Modern Europe* (Berkeley and London, 2009); Toon van Houdt et al. (eds.), *On the Edge of Truth and Honesty: Principles and Strategies of Fraud and Deceit in the Early Modern Period* (Leiden and Boston, 2002). [↑](#footnote-ref-33)
34. Cavaillé , *Dis/simulations,* ch. 1 [↑](#footnote-ref-34)
35. cf. Toon van Houdt, ‘Word Histories, and Beyond: Towards a Conceptualization of Fraud and Deceit in Early Modern Times’, in van Houdt et al. (eds.), *On the Edge of Truth and Honesty,* pp. 1-32; Zagorin, *Ways of Lying,* pp. 2-3; Stephen Greenblatt, *Renaissance Self-fashioning: From More to Shakespeare,* 2nd edn. (Chicago and London, 2005), p. 2. [↑](#footnote-ref-35)
36. On Montaigne and Erasmus: James Helgeson, *The Lying Mirror: The First-Person Stance and Sixteenth-Century Writing* (Geneva, 2012), pp. 103-125; Johannes Trapman, ‘Erasmus on Lying and Simulation’ in van Houdt et al. (ed.), *On the Edge of Truth,* pp. 33-46; on courtly dissimulation, Alain Pons, ‘La rhétorique des manières au XVIe siècle en Italie’ in Marc Fumaroli (ed.), *Histoire de la rhétorique dans l’Europe moderne 1450-1950* (Paris, 1999), pp. 411-430 at 423-424; on Hobbes, Quentin Skinner, ‘Hobbes on Rhetoric and the Construction of Morality’ in his *Visions of Politics: Volume III. Hobbes and Civil Science* (Cambridge, 2002), pp. 87-141. [↑](#footnote-ref-36)
37. F.M. Powicke, *Stephen Langton, being the Ford lectures delivered in the University of Oxford in Hilary Term 1927* (Oxford, 1928), he refers to Peter the Chanter’s circle’s influence on church government at p. 61, and the influence of Langton’s theology on the drafting of Magna Carta on p. 106. Of course, continental scholars had noticed that there was practical moral theology at work in the Paris schools of the late twelfth century long before this; Powicke was the first to link practical thought and political action – thereby bringing the intellectual history to the notice of history students in England. cf. Martin Grabmann, *Die Geschichte der scholastischen Methode*, 2 vols. (Freiburg im Breisgau, 1909-11), vol. ii, pp. 476-485. [↑](#footnote-ref-37)
38. Beryl Smalley, *The Study of the Bible in the Middle Ages,* 3rd edn. (Oxford, 1984). [↑](#footnote-ref-38)
39. Leonard Boyle first called the time of Peter the Chanter’s circle the ‘inter-conciliar period’. The term is apt in that it captures both the period in which they were active (1179-1215) and, since the Third and Fourth Lateran Councils were characterised by a strong pastoral agenda, the distinctively practical-moral focus of the Paris theology schools in this period. Leonard E. Boyle, ‘The Inter-Conciliar Period 1179-1215 and the Beginnings of Pastoral Manuals’, in Filippo Liotta (ed.), *Miscellanea Rolando Bandinelli, Papa Alessandro III* (Siena, 1986), pp. 43-56. [↑](#footnote-ref-39)
40. John W. Baldwin, *Masters Princes and Merchants*: *The Social Views of Peter the Chanter and his Circle* (Princeton, 1970). [↑](#footnote-ref-40)
41. Between Grabman and Baldwin, there were, of course, many studies of aspects of medieval applied ethics; but no one had quite brought the individual strands together into one fused account eg. Georges de Lagarde, ‘La Philosophie sociale d’Henri de Gand et Godefroid de Fontaines’ *AHDLMA* 14 (1943-5), 73-142; John W. Baldwin, ‘The Medieval Theories of the Just Price: Romanists, Canonists and Theologians in the Twelfth and Thirteenth Centuries’, *Transactions of the American Philosophical Society* 49.4 (1959), 1-92. [↑](#footnote-ref-41)
42. There are a number of thematic studies of aspects of medieval practical thought, which bring out the importance of the inter-conciliar years (1179-1215): Philippe Buc, *L’Ambiguïté du livre: Prince, pouvoir, et peuple dans les commentaires de la Bible au Moyen Âge* (Paris, 1994); Peter Biller, *The Measure of Multitude: Population in Medieval Thought* (Oxford, 2000); IrèneRosier-Catach, *La Parole efficace: Signe, rituel, sacré* (Paris, 2004); Katherine Chambers, ‘“When We Do Nothing Wrong, We are Peers”: Peter the Chanter and Twelfth-Century Political Thought’ *Speculum* 88.2 (2013), 405-426. Other studies have developed the second part of Baldwin’s argument, namely, the influence of Peter the Chanter and his circle’s thought on later legislation and church government; Robert Bartlett, *Trial by Fire and Water: The Medieval Judicial Ordeal* (Oxford, 1986);R.W. Southern suggested, but unfortunately never fully developed, the idea that practical moral teaching had a direct effect on the practice of government from the late twelfth century. See his comments on Stephen of Langton’s administration in *Robert Grosseteste: The Growth of an English Mind in Medieval Europe* (Oxford, 1986), pp. 237-243, and his discussion of the practical moral advice dispensed in Peter of Blois’s late correspondence in *Scholastic Humanism and the Unification of Europe: Volume II The Heroic Age* (Oxford, 2001), pp. 207-212; Alexander Murray, ‘Confession before 1215’, *TRHS* sixth series, vol. 3 (1993), 51-81, reprinted in his *Conscience and Authority in the Medieval Church* (Oxford, 2015), pp. 17-48; David L. d’Avray, ‘“Magna Carta”: its Background in Stephen Langton’s Academic Biblical Exegesis and its Episcopal Reception’, *Studi Medievali* 3rd Series 38.1 (1997), 423-438; Jessalynn Bird, ‘The Wheat and the Tares: Peter the Chanter’s Circle and the *Fama-*Based Inquest Against Heresy and Criminal Sins, c.1198-c.1235’ in Uta-Renate Blumenthal, Kenneth Pennington and Atria A. Larson (eds.), *Proceedings of the Twelfth International Congress of Medieval Canon Law, Washington, D.C. 1-7 August 2004* (Vatican, 2008), pp. 763-856. [↑](#footnote-ref-42)
43. Elsa Marmursztejn, *L’Autorité des maîtres: Scolastique, normes et société au XIIIe siècle* (Paris, 2007)*;* Ian P. Wei, *Intellectual Culture in Medieval Paris: Theologians and the University c.1100-1330* (Cambridge, 2012), ch. 5-6. [↑](#footnote-ref-43)
44. Pierre Michaud-Quantin, *Sommes de casuistique et manuels de confession au Moyen Âge (XII-XVI siècles)* Analecta Mediaevalia Namurcensia 13 (Louvain, Lille and Montreal, 1962); Boyle’s unpublished PhD thesis is nominally on the author of a particularly popular guide for parish priests, William of Pagula, but in fact sets out the full range of practical pastoral guides produced in England in the thirteenth and fourteenth century. Leonard E. Boyle, ‘A Study of the Works attributed to William of Pagula with special reference to the *Oculus sacerdotis* and *Summa summarum*’, 2 vols., D.Phil dissertation, Oxford University (1956); His later collection of essays include chapters on Dominican education in applied ethics and the popularization of Thomas Aquinas’s practical quodlibets by John of Freiburg: *Pastoral Care: Clerical Education and Canon Law, 1200-1400* (London, 1981). [↑](#footnote-ref-44)
45. Boyle, ‘The Inter-Conciliar Period’, and ‘The Quodlibets of Saint Thomas and Pastoral Care’, in *Pastoral Care*, II, pp. 232-256. [↑](#footnote-ref-45)
46. Joseph Goering, ‘The Internal Forum and the Literature of Penance and Confession’, in Wilfried Hartmann and Kenneth Pennington (eds.), *The History of Medieval Canon Law in the Classical Period, 1140-1234: from Gratian to the Decretals of Pope Gregory IX* (Washington D.C., 2008), pp. 379-428; cf. Thomas N. Tentler, *Sin and Confession on the Eve of the Reformation* (Princeton N.J., 1977); Roberto Rusconi, *L’ordine dei peccati: La confessione tra Medioevo ed età moderna* (Bologna, 2002); Bert Roest, *Franciscan Literature of Religious Instruction before the Council of Trent* (Leiden, 2004); an up-to-date bibliography of published pastoral manuals can be found in Catherine Rider, ‘*Sciendum est autem sacerdotibus (penitens accedens ad confessionem’:* A Short Thirteenth-Century Treatise on Hearing Confessions’ *Mediaeval Studies* 73 (2011), 147-182 at 147-149. [↑](#footnote-ref-46)
47. Martin Grabmann, *Die Geschichte der scholastischen Methode,* vol. i, pp. 36-37; ‘Die scholastische Methode will durch Anwendung der Vernunft, der Philosophie auf die Offenbarungswahrheiten möglichste Einsicht in den Glaubensinhalt gewinnen, um so die übernatürliche Wahrheit dem denkenden Menschengeiste inhaltlich näher zu bringen, eine systematische, organisch zusammenfassende Gesamtdarstellung der Heilswahrheit zu ermöglichen und die gegen den Offenbarungsinhalt vom Vernunftstandpunkte aus erhobenen Einwände lösen zu können.’ [↑](#footnote-ref-47)
48. Riccardo Quinto, “*Scholastica”. Storia di un concetto* (Padua, 2001), p. 416: ‘Vi sarà invece “scolastica” laddove esistano dei testi che costituiscono la base di un certo settore disciplinare, e “scolastico” sara *un certo modo di leggere tali testi*.’ Quinto’s emphasis. [↑](#footnote-ref-48)
49. ibid., pp. 416-417: ‘portatore di una verità che costituisce tutto il suo valore’. [↑](#footnote-ref-49)
50. Alain Boureau, *La Religion de l’état: La Construction de la république étatique dans le discours théologique de l'Occident médiéval (1250-1350)* (Paris, 2006); *L'Empire du livre. Pour une histoire du savoir scolastique (1200-1380): La Raison scolastique II* (Paris, 2007); *De Vagues individus. La Condition humaine dans la pensée scolastique: La Raison scolastique III* (Paris, 2008). [↑](#footnote-ref-50)
51. The definition of lying and perjury was the subject of debate among theologians and canonists in the twelfth century, then settled into fixed definitions in the thirteenth. As in modern philosophy, disagreements about the definition only concerned pedantic details in a few exceptional instances of lying. For example, twelfth century theologians decided that Christ’s use of parables was not a lie, but debated whether the Jews lied both when they said that Christ should be crucified (they spoke a falsehood unwittingly, but had an evil intention), and when they mockingly called him king of the Jews (they thought they were telling a blatant untruth, and did not intend to deceive; in fact the statement was true). See Artur Landgraf, ‘Definition und Sündhaftigkeit der Lüge nach der Lehre der Frühscholastik’ *Zeitschrift für katholische Theologie* 63 (1939): 50-85, 157-180, at 50-85. (For an overview of the modern philosophical discussion about the definition of lying see Don Fallis, ‘Davidson was Almost Right about Lying’ *Australian Journal of Philosophy* (2012), 1-17: the two big concerns are first, whether a blatant lie, i.e. a deliberate falsehood told in the expectation that it will fool no one, should be included in the definition of a lie, and whether behaviour as well as language can be pertinent in establishing whether a person has made a false assertion – eg. if you wink as you say a falsehood, are you lying? The medieval and modern limiting casesin the definition of a lie are in fact remarkably similar.)The usual definition of lying came to be ‘falsa significatio cum voluntate fallendi’ (Augustine, *Contra Mendacium*, XII.26, p. 507) and remained secure throughout the later history of theology. Perjury on the other hand was defined with much less disagreement as ‘mendacium iuramento firmatum’, yet the word was used to mean a much wider range of transgressions than the words imply. See Rosier-Catach, *La Parole efficace,* pp. 304-312. [↑](#footnote-ref-51)
52. Rosier-Catach, *La Parole efficace,* p. 308. [↑](#footnote-ref-52)
53. On the semantic field surrounding ‘dissimulatio’ see M.J. Roca, ‘Der Toleranzbegriff im kanonischen Recht’ *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte* Bd. 121, kanonistische Abteilung 90 (2004), 548-561 at 550-554. [↑](#footnote-ref-53)
54. One additional terminological caveat is that I use the word ‘circumstance’ throughout this thesis in the non-technical sense of all relevant details. On the development of a specialized theological meaning for the word in scholastic theology see Johannes Gründel, *Die Lehre von den Umständen der menschlichen Handlung im Mittelalter,* Beiträge zur Geschichte der Philosophie und Theologie des Mittelalters 39.5 (Münster, 1963). [↑](#footnote-ref-54)
55. Bibliography on the doctrine of equivocation and mental restriction: Henry Charles Lea, *A History of Auricular Confession and Indulgence in the Latin Church,* 3 vols., (London, 1896), vol. ii, pp. 401-408; Albert R. Jonsen and Stephen Toulmin, *The Abuse of Casuistry: A History of Moral Reasoning* (Berkeley and London, 1988), pp. 195-215; Johann P. Sommerville, ‘The “New Art of Lying”: Equivocation, Mental Reservation, and Casuistry’, in Edmund Leites (ed.), *Conscience and Casuistry in Early Modern Europe* (Cambridge, 1988), pp. 159-184; Perez Zagorin, *Ways of Lying: Dissimulation, Persecution and Conformity in Early Modern Europe* (Cambridge MA. and London, 1990); Máté Vince, ‘From ‘Aequivocatio’ to the ‘Jesuitical Equivocation’: The Changing Concepts of Ambiguity in Early Modern England’, unpublished PhD Thesis, University of Warwick (2013). [↑](#footnote-ref-55)
56. See Zagorin, *Ways of Lying,* pp. 218-9; Legislation printed in *Dictionnaire de théologie catholique*, 15 vols., (Paris, 1923-72), ‘Laxisme’, vol. ix, cols. 61-64. [↑](#footnote-ref-56)
57. See Philip Caraman, *Henry Garnet 1555-1606 and the Gunpowder Plot* (London, 1964), pp. 403-405; Conal Condren, *Argument and Authority in Early Modern England: the Presupposition of Oaths and Offices* (Cambridge, 2006), pp. 285-289. [↑](#footnote-ref-57)
58. cf. Josef L. Altholz, ‘Truth and Equivocation: Liguori’s Moral Theology and Newman’s Apologia’, *Church History* 44.1 (1975), 73-84; John Henry Newman, *Apologia pro Vita Sua*, ed. Martin J. Svaglic (Oxford, 1967), pp. 302-311. [↑](#footnote-ref-58)
59. Blaise Pascal, *Les Provinciales,* in Louis Cognet (ed.), *Pascal: Les Provinciales, Pensées et opuscules divers* (Paris, 2004), *Neuvième lettre*, pp. 412-414. [↑](#footnote-ref-59)
60. Rev. R.P. Blakeney, *Saint Alphonsus Liguori or Extracts Translated from the Moral Theology of the Above Romish Saint who was Canonized in the year 1839 with Remarks thereon* (London, 1852), pp. 92-123. [↑](#footnote-ref-60)
61. ibid., pp. 124-149. [↑](#footnote-ref-61)
62. Lea, *A History of Auricular Confession,* vol. ii, p. 402. [↑](#footnote-ref-62)
63. Henry Sidgwick, *Outlines of the History of Ethics for English Readers,* 6th edn. (New York, 1931, repr. 1967), p. 156. [↑](#footnote-ref-63)
64. Zagorin, *Ways of Lying*, pp. 159-160. [↑](#footnote-ref-64)
65. Sommerville, ‘The “New Art of Lying”’, pp. 176-177. [↑](#footnote-ref-65)
66. Bernard Williams, *Truth and Truthfulness: An Essay in Genealogy* (Princeton, 2002), p. 105. Williams’s view of equivocation is slightly different from that of the protestant authors mentioned above; whereas the protestants say that one simply should not lie, Williams thinks that it is permissible to lie on occasion, but that the linguistic formulation does not matter. They do concur however in their view that equivocation is no more than a red herring. [↑](#footnote-ref-66)
67. Immanuel Kant, *The Metaphysics of Morals,* in Mary J. Gregor (trans. and ed.), *Immanuel Kant: Practical Philosophy* (Cambridge, 1996, repr. 2008), 6:431, p. 554. [↑](#footnote-ref-67)
68. ibid., 6:431, p. 554. [↑](#footnote-ref-68)
69. Artur Landgraf, ‘Definition und Sündhaftigkeit der Lüge nach der Lehre der Frühscholastik’ *Zeitschrift für katholische Theologie* 63 (1939), 50-85, 157-180; Artur Landgraf, ‘Die Stellungnahme der Frühscholastik zur Lüge der alttestamentlichen Patriarchen’, *Theologisch-praktische Quartalschrift* 92 (1939), 13-32, 218-231; Carla Casagrande and Silvana Vecchio, *I peccati della lingua: Disciplina ed etica della parola nella cultura medievale* (Rome, 1987), pp. 251-289; Marcia L. Colish, *Peter Lombard*, 2 vols. (Leiden and New York, 1994), vol. ii, pp. 474-5, 483, 511-514, as well as her, ‘Rethinking Lying in the Twelfth Century’, in István P. Bejczy and Richard G. Newhauser (eds.), *Virtue and Ethics in the Twelfth Century* (Leiden and Boston, 2005), pp. 155-173; Silvana Vecchio, ‘Mensonge, simulation, dissimulation. Primauté de l’intention et ambiguïté du langage dans la théologie morale du bas Moyen Age’, in Costantino Marmo (ed.)*,* *Vestigia, Imagines, Verba: Semiotics and Logic in Medieval Theological Texts (XIIth-XIVth century),* Semiotic and Cognitive Studies 4 (Turnhout, 1997), pp. 117-132; Irène Rosier-Catach, *La Parole efficace: Signe, rituel, sacré* (Paris, 2004), pp. 295-323; Lesley Smith, *The Ten Commandments: Interpreting the Bible in the Medieval World* (Turnhout, 2014), pp. 154-174. [↑](#footnote-ref-69)
70. Thomas Aquinas, *Summa Theologiae,* in *Opera Omnia iussu Leonis XIII,* 4-12 (Rome, 1886-1906),IIa-IIae, q. 110, art. 1, vol. ix, p. 421; Petrus Lombardus, *Sententiae in IV libris distinctae,* ed. Collegium S. Bonaventurae ad Claras Aquas, Spicilegium Bonaventurianum 4-5, 2 vols. (Grottaferrata, Rome, 1971-1981), Lib. 3, D. 38, c. 5.2, vol. ii, p. 216; *Decretum Gratiani*, in Emil Friedberg (ed.), *Corpus Iuris Canonici*, 2 vols. (Leipzig, 1879-81, repr. 1959), C. 22, q. 2, c. 4, vol. i, cols. 867-868. [↑](#footnote-ref-70)
71. This thread of patristic thought and all of these examples are described by Boniface Ramsey, ‘Two Traditions on Lying and Deception in the Ancient Church’ *Thomist* 49.4 (Oct 1985), 504-533, examples at 516, 519, 521. [↑](#footnote-ref-71)
72. For more detailed discussions of Augustine’s philosophy of lying, see three articles by Thomas D. Feehan, ‘Augustine on Lying and Deception’ *Augustinian Studies* 19 (1988), 131-139; ‘The Morality of Lying in St. Augustine’ *Augustinian Studies* 21 (1990), 67-81; ‘Augustine’s Own Examples of Lying’ *Augustinian Studies* 22 (1991), 165-190; Marcia Colish, ‘The Stoic Theory of Verbal Signification and the Problem of Lies and False Statement from Antiquity to St. Anselm’, in Lucie Brind’Amour and Eugene Vance (eds.), *Archéologie du Signe* (Toronto, 1983), pp. 17-43. [↑](#footnote-ref-72)
73. The story first appears in Rufinus’ *Historia Ecclesiastica*, *PL* 21,cols. 502-503. [↑](#footnote-ref-73)
74. The story is taken from the anonymous account, *BHL* 2760, *Acta Sanctorum*, 67 vols. (repr. Brussels 1902-1970)Sept. VI, pp. 123-128. [↑](#footnote-ref-74)
75. The story first appears in Ambrose, *De Officiis,* ed. and trans. Ivor J. Davidson, 2 vols. (Oxford, 2001), Lib. 2, XXVIII.140, vol. i, pp. 346-347. See also the verse retelling *BHL* 4766, *Acta Sanctorum,* August II, pp. 512-516. [↑](#footnote-ref-75)
76. Iacopo da Varazze, *Legenda Aurea,* ed. Giovanni Paolo Maggioni, 2 vols. (Tavarnuzze, 1998), c. 5, vol. i, pp. 57-58. [↑](#footnote-ref-76)
77. *BHL* lists 16 versions of the life of Athanasius, in 49 manuscripts, 20 versions of the life of Eustachius in 130 manuscripts, 74 versions of the life of Laurence in over 200 manuscripts, and 34 versions of the life of Thomas in over 20 manuscripts. [↑](#footnote-ref-77)
78. Guy Philippart, *Les Légendiers latins et autres manuscrits hagiographiques,* Typologie des sources du Moyen Âge occidental, Fasc. 24-25 (Turnhout, 1977), pp. 27-44. [↑](#footnote-ref-78)
79. ibid., pp. 45-50. [↑](#footnote-ref-79)
80. Simund de Freine, *Vie de Saint Georges*, in John E. Matzke (ed.), *Les Œuvres de Simund de Freine* (Paris, 1909), pp. 61-117. [↑](#footnote-ref-80)
81. Simund de Freine, *Vie de Saint George,* ll. 941-945, p. 92. [↑](#footnote-ref-81)
82. ibid., ll. 990-999, pp. 93-4: ‘A la gent vout faire apert / Que fous est qui deble sert. / La vout que fust aperceu / Cum le pople fut deceu. / Od lui menat grantment genz, / Deus mil homes e cinc cenz. / Pur assembler pople grant / Dit e premis out avant / Par vesdie e par queintise / Qu’il vout faire sacrefise.’ My translation. [↑](#footnote-ref-82)
83. ibid., ll. 1000-1051, pp. 94-95. [↑](#footnote-ref-83)
84. *Vie de sainte Juliane,* in Hugo von Feilitzen (ed.), *Li Ver del Juïse en Fornfransk Predikan* (Berling, 1883), pp. 7-24 at 9. ll. 140-3; ‘Ja certes n’astrai ta molliers / se primes non es chanceliers / desoz lo roi maistre avoweiz’. Translation in Brigitte Cazelles, *The Lady as Saint: A Collection of French Hagiographic Romances of the Thirteenth Century* (Philadelphia, 1991), p. 206. [↑](#footnote-ref-84)
85. *Ami et Amile,* ed.Peter F. Dembowski (Paris, 1969), ll. 754-756, p. 25; ‘Sire, menaciéz sui asséz. / Cent dehais ait en viaire et el nés / Qui m’en encuse, s’il ne le weult monstrer.’ I am using Samuel N. Rosenberg and Samuel Danon’s translation, 2nd edn. (Ann Arbor, 1996), which I have amended to make more literal in a few places. [↑](#footnote-ref-85)
86. A slightly earlier Anglo-Norman version has Amis swear a further equivocating oath at this point (the names are switched in this retelling): first he swears that ‘you will have the judgment that your daughter deserves’, and later instead of swearing to the queen that he will return to fight the duel, he swears that ‘by my faith, you will not die for me, as long as I am alive.’ *Amis e Amiloun,* in Eugen Kölbing (ed.), *Amis and Amiloun: Zugleich mit der altfranzösischen Quelle* (Heilbronn, 1884), ll. 421-425, 442-444, pp. 138, 140. [↑](#footnote-ref-86)
87. *Vita Amici et Amelii Carissimorum,* in Kölbing (ed.), *Amis and Amiloun,* xcvii-cx. [↑](#footnote-ref-87)
88. Although he had realised at the time that the woman in his bed might be a noble lady and even Charles’ daughter and failed to act on the possibility. See *Ami et Amile,* ll. 676-679, p. 22, and Simon Gaunt, *Gender and Genre in Medieval French Literature* (Cambridge, 1995), p. 48. [↑](#footnote-ref-88)
89. *Vita Amici et Amelii,* ed. Kolbing, p. ciii, l. 42 – p. civ, l. 2, ‘Amicum vero cum uxore sua manentem percussit Deus morbo lepre, ita ut de lecto surgere non posset, juxta illud quod scriptum est: Omnem filium quem Deus recipit, corripit, flagellat et castigat.’ [↑](#footnote-ref-89)
90. ibid. p. ciii, ll. 14-17, ‘Heu michi, qui mortem huius comitis tam fraudulenter cupio! Scio enim quod si illum interfecero, reus ero ante supernum judicem, si vero meam vitam tulerit, de me semper obprobrium narrabitur perpetuum.’ [↑](#footnote-ref-90)
91. *Ami et Amile,* ll. 1768-1774, p. 57: ‘Conseilliéz moi, Peres de tout le mont. / Ja prins je fame au los de mes barons / Que n’a si bele chevaliers en cest mont. / Se je preing autre, Dex, de moi qu’iert il dont? / Or jurrerai en non mon compaingnon, / La penitance en ferai jusqu’an som, / Ja nel savra ma fame.’ [↑](#footnote-ref-91)
92. ibid., ll. 1791-1796, pp. 57-58: ‘Et dist li cuens: “Dont jurrai je folie. / Puis quel voléz, or jurrai vostre fille. / Si m’ait Dex et ces saintes reliques / Qui sor cel paile sont couchies et mises, / D’ui en un mois, se Dex me donne vie, / A son conmant iert espoussee et prinse.”’ [↑](#footnote-ref-92)
93. In the Anglo-Norman version, Amilun actually marries the king’s daughter, even though he already has a wife. His leprosy is prophesied by a voice only he can hear. *Amis e Amiloun*, ed. Kölbing, p. 153, l. 720. [↑](#footnote-ref-93)
94. William Calin, *The Epic Quest: Studies in Four Old French Chansons de Geste* (Baltimore, 1966), p. 91: ‘The discussion of juridical problems, crucial to so many *chansons de geste*, in *Ami et Amile* is seen to be hollow. The poet cuts through them to propose a totally different attitude toward life’; Gaunt, *Gender and Genre,* p. 50: ‘If the letter of the law is observed, the spirit is not. In a genre which appears to promote a rigid moral code, it would appear that the hero is right because he is the hero and not that he is the hero because he is right.’ Sarah Kay sees Ami and Amile’s relationship as one of morally unproblematic unity; ‘Gender solidarity assures masculine supremacy and agreement: assures, that is, power over others and over meaning.’ ‘Seduction and Suppression in “Ami et Amile”’ *French Studies* 44.2 (1990), 129-142 at 141; But Emanuel Mickel makes many of the same points I have in ‘The Question of Guilt in *Ami et Amile*’ *Romania* 106 (1985), 19-35; see also Micheline de Combarieu du Grès, ‘Une extrême amitié’ in Jean Dufournet (ed.), *Ami et Amile: Une chanson de geste de l’amitié* (Paris, 1987), pp. 15-38 at 24. [↑](#footnote-ref-94)
95. Adenet le Roi, *Berte as grans piés,* ed. Albert Henry (Geneva, 1982). Study by R. Colliot, *Adenet le Roi “Berte aus Grans Piés”: Étude littéraire générale*, 2 vols., (Paris, 1970). [↑](#footnote-ref-95)
96. *Berte as grans pies,* ll. 1054-1059, p. 90; ‘…G’iroie ains d’uis en huis mes aumosnes rouver […] Ma virginité vueil, se Dieu plaist, bien garder, / Car qui pert pucelage, ce est sans recouvrer.’ [↑](#footnote-ref-96)
97. ibid., ll. 2512-2519, p. 137; ‘Symon, fait ele, sire, pour quoi vous celeroie / Se j’estoie roÿne? Grant folie feroie. / Pleüst Dieu que le fusse, j’en aroie grant joie. / Vous povez bien savoir que je mieus l’ameroie / Que manoir en ce bois; bien dervee seroie, / Se j’estoie roÿne et puis le vous celoie. / Ce ne seroit pas sens, se je m’en escusoie, / Ains seroie molt fole, se de ce vous mentoie.’ My translation. [↑](#footnote-ref-97)
98. One way of describing the difference between romance and *chanson de geste* (apart from versification) has been to say that, whereas epic poems typically foreground relationships between men and focus on violent conflicts arising due to a failure of the common codes of conduct, romance usually focuses on the more nuclear relationships between the knight, a lady and an overlord, and brings much more ambiguity to all of these relationships – is the adultery or the marriage the legitimate connection? Who is to blame when the relationships go wrong? Simon Gaunt describes the romantic hero as ‘a divided self, split between an impulse towards social integration and a counter-impulse towards socially alienating, but privately fulfilling desires. The concomitant ambivalence surrounding the male individual’s construction of his identity is frequently reflected in equivocal public perception of his worth’, *Gender and Genre,* p. 109; And as Sarah Kay puts it, ‘Romances are more likely [than *chansons de geste*] to take pleasure in the uncertainty of reference, and the problems of interpretation’, *The* Chansons de geste *in the Age of Romance: Political Fictions* (Oxford, 1995)*,* p.236. However, these distinctions are blurred, not least because the same stories were often rewritten in a number of genres. See discussion in Kay ‘Seduction and Suppression’, 130-131; Jane Gilbert, ‘Gender, Oaths and Ambiguity in *Sir Tristrem* and Béroul’s *Roman de Tristan*’ in Ad Putter and Jane Gilbert (eds.), *The Spirit of Medieval English Popular Romance* (Harlow, 2000), pp. 237-257 at 238-239. [↑](#footnote-ref-98)
99. Béroul, *Le Roman de Tristan,* in Daniel Lacroix and Philippe Walter (eds.), *Tristan et Iseut: Les poems français, la saga norroise* (Paris, 1989, repr. 2006), ll. 4201-4216, p. 214. It is in fact slightly problematic to talk about genre in the case of *Tristan,* since Béroul’s version has been described as a hybrid between romance and fabliau, in contrast with the more homogenously ‘courtly’ tradition of Thomas and Gottfried. See Jean Frappier, ‘Structure et sens du Tristan : version commune, version courtoise’ *Cahiers de civilisation médiévale* 6e anné, 23 (1963), 255-280, 441-454. This distinction between two traditions of the Tristan legend does have implications for how the morality of deception is treated, since the two versions deal with themes such as the love potion and the equivocating oath rather differently. For the purposes of this chapter, I have left these matters to one side, although I mention below how Gottfried differs from Béroul on the equivocating oath. [↑](#footnote-ref-99)
100. Béroul, *Le Roman de Tristan,* l. 2354, p. 130: ‘par bel mentir’. [↑](#footnote-ref-100)
101. And according to Frappier, this is even more markedly the case in Thomas’s and Gottfried’s version of the *Tristan.* See ‘Structure et sens du Tristan’, 273-276. [↑](#footnote-ref-101)
102. Tony Hunt, ‘Abelardian Ethics and Béroul’s *Tristan*’ *Romania* 98 (1977), 501-540. [↑](#footnote-ref-102)
103. C. Stephen Jaeger, *Medieval Humanism in Gottfried von Strassburg’s Tristan und Isolde* (Heidelberg, 1977), pp. 64-96. [↑](#footnote-ref-103)
104. He cites, for example, the prologue of *Policraticus,* where John regrets the necessity of going to court and the *Entheticus* in which he advocates deception ‘arte pia’: Stephen Jaeger, *Medieval Humanism,* pp. 83, 92; John of Salisbury, *Policraticus,* ed. K.S.B. Keats–Rohan (Turnholt, 1993), I. prol., pp. 21-26; *Entheticus Maior,* ed. Jan van Laarhoven, 3 vols. (Leiden etc., 1987), l. 1437 ff., vol. i, p. 199. [↑](#footnote-ref-104)
105. Stephen Jaeger, *Medieval Humanism*, pp. 92-94. [↑](#footnote-ref-105)
106. Béroul, *Le Roman de Tristan,* ll. 22-25, p. 24; ‘Mais Dex plevis ma loiauté, / Qui sor mon cors mete flaele, / S’onques fors cil qui m’ot pucele / Out m’amistié encor nul jor!’ [↑](#footnote-ref-106)
107. ibid., ll. 1412-1416, p. 88; ‘Sire, por Deu omnipotent, / Il ne m’aime pas, ne je lui, / Fors par un herbé dont je bui / Et il en but: ce fu pechiez. / Por ce nos a li rois chaciez.’ [↑](#footnote-ref-107)
108. ibid., ll. 1417-1418, p. 88; ‘Diva! cil Dex qui fist le mont, / Il vos donst voire repentance!’ [↑](#footnote-ref-108)
109. Who deceives those around him entertainingly, although we are in no doubt about his immorality. There may well be quite a lot of ethical thought going on in both the Renard the Fox stories and in Tristan, but it is all directed into the balanced satire of the astute character’s manipulation and the gullible character’s corruptibility; both sides facilitate the worst in the other’s character. Moral dilemmas and casuistry do not figure. [↑](#footnote-ref-109)
110. Gottfried von Strassburg, *Tristan und Isold,* eds. Walter Haug and Manfred Günter Scholz, 2 vols. (Berlin, 2011), ll. 15733-15750, vol. i, p. 874; ‘Dâ wart wol g’offenbæret / und al der werlt bewæret / daz der vil tugenthafte Crist / wintschaffen alse ein ermel ist: / er vüeget unde suochet an, / dâ man’z an in gesuochen kan, / alse gevuoge und alse wol, / als er von allem rehte sol. / er’st allen herzen bereit, / ze durnehte und ze trügeheit. / ist ez ernest, ist ez spil, / er ist ie, swie sô man wil. / daz wart wol offenbâre schîn / an der gevüegen künigîn: / die generte ir trügeheit / und ir gelüppeter eit / der hin ze gote gelâzen was, / daz si an ir êren genas.’ The English is adapted from the A.T. Hatto translation for literalness; 2nd edn. (Penguin, Harmondsworth, Middlesex, 1967 repr. 1975), p. 248. My thanks to Nigel Palmer for his help with this translation. [↑](#footnote-ref-110)
111. Not all scholars have seen Gottfried’s words in this way, but Frappier reads the passage as an ironic reaction to Thomas’s whole-hearted endorsement of the equivocation. See ‘Structure et sens du Tristan’, 453. [↑](#footnote-ref-111)
112. Jean Frappier, ‘Vues sur les conceptions courtoises dans les littératures d'oc et d'oïl au XIIe siècle’ *Cahiers de civilisation médiévale* 2 (1959), 135-156 at 153; Joan Tasker Grimbert, ‘*Cligès* and the Chansons: A Slave to Love’, in Norris J. Lacey and Joan Tasker Grimbert (eds.), *A Companion to Chrétien de Troyes* (Cambridge, 2005), pp. 120-136 at 123-125. [↑](#footnote-ref-112)
113. Chrétien de Troyes, *Cligès,* ed. Charles Méla and Olivier Collet in *Chrétien de Troyes: Romans* (Paris, 1994), pp. 285-494. [↑](#footnote-ref-113)
114. Chrétien de Troyes, *Cligès,* ll. 3099-3108, p. 384: ‘Einz vodraie estre desmembree / Que de nos .II. fust remembree / L’amor d’Iseut et de Tristen, / Dont tantes folies dist l’en / Que hontes m’est a raconter. / Je ne me porroie acorder / A la vie qu’Ysez mena. / Amors en lui trop vilena, / Car li cors fu a dos rentiers / Et li cuers iere a un entiers.’ My translation. [↑](#footnote-ref-114)
115. ibid., ll. 3124-3130, p. 385: ‘Et quant il iert de mon cors sire, / S’il en fait rien que je ne vueille / N’est pas droiz qu’un autre i acueille, / Ne cil ne puet fame espouser / Sanz sa fiance trespasser, / Einz avra, s’en ne li fet tort, / Cligés l’empire aprés sa mort.’ [↑](#footnote-ref-115)
116. ibid., ll. 5244-5264, pp. 449-450. [↑](#footnote-ref-116)
117. Lucie Polak, *Chrétien de Troyes: Cligès*, Critical Guides to French Texts (London, 1982), p. 89 describes the dilemma as ‘a topical debating point at the time, at a court frequented by noblemen and clerics, who were well acquainted with the problems of marriage and annulment proceedings.’ Her discussion overlaps with much of what follows and extends to other ways in which Chrétien muddies the waters. cf. David d’Avray, *Medieval Marriage: Symbolism and Society* (Oxford, 2005, repr. 2010), p.99. [↑](#footnote-ref-117)
118. Chrétien de Troyes, *Cligès,* ll. 5854-5945, pp. 469-471. [↑](#footnote-ref-118)
119. ibid., l. 5945, p. 471. [↑](#footnote-ref-119)
120. Chrétien de Troyes, *Le Chevalier de la Charette,* ed. Charles Méla in *Chrétien de Troyes: Romans*, pp. 495-704, at ll. 4546-5043, pp. 631-645. [↑](#footnote-ref-120)
121. For a general picture of the difficulties and ambiguities of *Le Chevalier de la Charrette* see Matilda Tomaryn Bruckner, ‘*Le Chevalier de la Charrette*: That Obscure Object of Desire, Lancelot’ in *A Companion to Chrétien de Troyes,* pp. 137-155. [↑](#footnote-ref-121)
122. Guillaume le Normand, *Le Prestre et Alison,* in Willem Noomen (ed.), *Nouveau receuil complet des fabliaux (NRCF),* 20 vols. (Van Gorcum, Assen, 1994), vol. viii, pp. 183-206. [↑](#footnote-ref-122)
123. The theme of virtuous guile was a long running one in medieval histories, ultimately reflecting rhetorical teaching about the need for *dolus* and *vis* in political actions found in the *Rhetorica ad Herennium.* For discussion see Matthew Kempshall, *Rhetoric and the Writing of History 400-1500* (Manchester, 2011), pp. 237-238. [↑](#footnote-ref-123)
124. Ralph of Coggeshall, *Chronicon Anglicanum,* Rolls Series 66(London, 1875), pp. 197-199; Richer von Senones, *Gesta Senoniensis Ecclesiae*, ed. G. Waitz, MGH Series Scriptorum 25 (Hannover, 1880), pp. 288-290. I owe thanks to John Sabapathy for this reference; see his comments on the moral thinking in this story, *Officers and Accountability in Medieval England 1170-1300* (Oxford, 2014), p. 223. [↑](#footnote-ref-124)
125. *La Chronique de Gislebert de Mons,* ed. Léon Vanderkindere (Brussels, 1904), pp. 92-94; translation, Gilbert of Mons, *Chronicle of Hainaut*, trans. Laura Napran (Woodbridge, 2005), pp. 54-55. This episode is discussed in Björn Weiler, ‘Tales of Trickery and Deceit: the Election of Frederick Barbarossa (1152), Historical Memory and the Culture of Kingship in Later Staufen Germany’ *Journal of Medieval History* 38:3 (2012), 295-317 at 297-300. [↑](#footnote-ref-125)
126. *Ci nous dit: Recueil d’exemples moraux,* ed. Gérard Blangez, 2 vols. (Paris, 1979), vol. i, pp. 191-192. [↑](#footnote-ref-126)
127. Jane Gilbert makes this point about the *Tristan* story in ‘Gender, Oaths and Ambiguity’, p. 241. [↑](#footnote-ref-127)
128. Gaunt’s word in *Gender and Genre*, p. 97. [↑](#footnote-ref-128)
129. cf. de Combarieu du Grès, ‘Une extrême amitié.’ [↑](#footnote-ref-129)
130. Jean-Charles Payen, *Le Motif du repentir dans la literature française médiévale (des origines à 1230)* (Geneva, 1967), pp. 455-457. [↑](#footnote-ref-130)
131. Ralph J. Hexter, *Equivocal Oaths and Ordeals in Medieval Literature* (Harvard MA., 1975); John W. Baldwin, ‘The Crisis of the Ordeal: Literature, Law, and Religion around 1200’ *The Journal of Medieval and Renaissance Studies* 24.3 (1994), 327-353 at 336-340. [↑](#footnote-ref-131)
132. The most powerful objection being that the ordeal illicitly seeks to ‘test’ God. See Robert Bartlett, *Trial by Fire and Water: The Medieval Judicial Ordeal* (Oxford, 1986), pp. 70-90. [↑](#footnote-ref-132)
133. Alasdair MacIntyre, *Truthfulness, Lies and Moral Philosophers: What Can We Learn From Mill and Kant?* The Tanner Lectures on Human Values 16 (Salt Lake City, 1995), pp. 307-361; Williams, *Truth and truthfulness*, pp. 100-110. [↑](#footnote-ref-133)
134. John Bromyard, *Summa Predicantium* (Venice, 1586), ‘Iuramentum’ art. 4, f. 418vb; ‘…duodecim periuri de quibus fertur quod cum litigaretur inter duos dominos de dominio eiusdam terre, et iudices sedere deberent super terram, de qua litigabatur, acceperunt in calceis suis de terra illius, qui nullum ius habuit ad terram, de qua litigabatur, et iurauerunt quod terra super quam stabant, illius erat, qui nullum ius ad terram illam, de qualis fuit, habuit, de terra in calceis intelligentes. Et sub illo colore cauteriatas conscientias suas glosabant, sed tamen quod Deus cor illorum non latuit, effectus uindictae sequentis ostendit.’ [↑](#footnote-ref-134)
135. Augustine, *De Mendacio*, and *Contra Mendacium*, ed. Josephus Zycha, *CSEL* 41 (Vienna, 1900). [↑](#footnote-ref-135)
136. cf. Ralph Hennings, *Der Briefwechsel zwischen Augustinus und Hieronymus und ihr Streit um den Kanon des alten Testaments und die Auslegung von Gal. 2, 11–14,* Supplements to Vigiliae Christianae 21 (Leiden etc., 1994), pp. 126-130. [↑](#footnote-ref-136)
137. *Contra Mendacium,* I.1, pp. 469-471. [↑](#footnote-ref-137)
138. *Contra Mendacium,* VII.18, pp. 489-491. [↑](#footnote-ref-138)
139. Augustine, *Sermo* 180, *PL* 38, cols. 972-979. [↑](#footnote-ref-139)
140. Mt 5:37, Iac 5:12. [↑](#footnote-ref-140)
141. Augustine, *Sermo* 180, c.2, 5, *PL* 38, cols. 972, 974-975. [↑](#footnote-ref-141)
142. ibid., c. 2, col. 973. [↑](#footnote-ref-142)
143. ibid., c. 3, cols. 973-974. [↑](#footnote-ref-143)
144. *De Mendacio*, XIII.22-23, pp. 440-443. [↑](#footnote-ref-144)
145. *Contra Mendacium,* XVIII.36, p. 519. [↑](#footnote-ref-145)
146. *Contra Mendacium,* XVIII.36-37, pp. 520-522. Thomas Feehan lists all of the cases of conscience that Augustine considers in ‘Augustine’s Own Examples of Lying’ *Augustinian Studies* 22 (1991), 165-190. [↑](#footnote-ref-146)
147. See his teaching on homicide in *De Libero Arbitrio Libri Tres*, ed. William M. Green, CSEL74 (Vienna, 1956), for example, at Lib. 1, IV.9, pp. 9-11. [↑](#footnote-ref-147)
148. Augustine, *Contra Faustum*, ed. Iosephus Zycha, *CSEL* 25 (Vienna, 1891), XXII.1, p. 591. [↑](#footnote-ref-148)
149. *Contra Faustum*, XXII.24-25, pp. 619-620. [↑](#footnote-ref-149)
150. *Contra Faustum*, XXII.59, pp. 654–655. [↑](#footnote-ref-150)
151. *Contra Faustum*, XXII.33–6, pp. 627–631; cf. *De Civitate Dei*, ed. B. Dombart and A. Kalb, *CCSL* 47-48, 2 vols. (Turnhout, 1955), XVI.19, vol. ii, p. 522; *Contra Mendacium*, X.23, pp. 498–499. [↑](#footnote-ref-151)
152. *Quaestionum in Heptateuchum Libri VII*, ed. J. Zycha, *CCSL* 28.2 (Vienna, 1895), I, q. 139, pp. 72-73. [↑](#footnote-ref-152)
153. eg. Isidore of Seville, *Sententiarum Libri Tres*, Lib. 2, c. 30, ‘De Mendacio’, *PL* 83, col. 632; Hrabanus Maurus, *De Virtutibus et Vitiis et Peccatorum Satisfactione*, Lib. 3, c. 78 ff., ‘De Mendacio’, *PL* 112, col. 1393, Ivo of Chartres, *Decretum,* XII, ‘De Mendacio et Perjurio’, *PL* 161, col. 779. [↑](#footnote-ref-153)
154. *De Mendacio,* XI.18-XII.20, pp. 437-439. [↑](#footnote-ref-154)
155. *De Mendacio,* XIV.25, pp. 444-446. [↑](#footnote-ref-155)
156. *Sermo* 180, c. 2, *PL* 38, col. 973. [↑](#footnote-ref-156)
157. eg. Hrabanus Maurus, *Commentarium in Genesim Libri Quattuor,* Lib. 2, c. 13, Lib IV, c.6, *PL* 107, cols. 534-535, 638-639. [↑](#footnote-ref-157)
158. I have chosen Abelard and Gratian as examples, but they are not the only twelfth century authors on the cusp of casuistry – I could also have talked about Peter Lombard’s *Sentences,* which is a more comprehensive reiteration of Augustine’s thought, but perhaps less innovative than Abelard and Gratian. See Petrus Lombardus, *Sententiae in IV Libris Distinctae,* ed. Collegium S. Bonaventurae ad Claras Aquas, Spicilegium Bonaventurianum 4-5, 2 vols. (Grottaferrata, Rome, 1971-1981), Lib. 3, D. 38-9, vol. ii, pp. 213-227.  [↑](#footnote-ref-158)
159. Rob Meens, *Penance in Medieval Europe, 600-1200* (Cambridge, 2014), pp. 200-201. [↑](#footnote-ref-159)
160. John Marenbon: ‘It is certainly a weakness of Abelard’s ethics that, despite his awareness in more practical discussions of moral unclarity and conflict, in his theoretical account he thinks of sinning almost exclusively as the breaking of clear prohibitions which are exceptionless or have only clear exceptions.’ *The Philosophy of Peter Abelard* (Cambridge, 1997), pp. 275-276. [↑](#footnote-ref-160)
161. Peter Abelard, *Planctus Virginum Israel super Filia Iepte Galadite,* in Juanita Feros Ruys, *The Repentant Abelard: Family, Gender and Ethics in Peter Abelard’s* Carmen ad Astralabium *and* Planctus (New York, 2014), pp. 247-251, 259-262, 274-283; comments on Abelard’s interest in the symbolic, gendered meaning of the daughter’s fate at pp. 63-64; cf. Marenbon, *Peter Abelard,* pp. 319-320. [↑](#footnote-ref-161)
162. Peter Abelard, *Sic et Non,* eds. Blanche B. Boyer and Richard McKeon (Chicago and London, 1976-1977), q.128, q.157 and q.154, pp. 445-6, 515-517, 524-526. [↑](#footnote-ref-162)
163. See the prologue to Abelard, *Sic et Non,* pp. 89-104, translation in A.J. Minnis and A.B. Scott (eds.), *Medieval Literary Theory and Criticism c.1100-c.1375. The Commentary Tradition* (Oxford, 1988, revised edn. 1991), pp. 87-100. [↑](#footnote-ref-163)
164. Constant J. Mews: ‘By applying titles to individual sections such as “That the sins of the Fathers are passed onto their sons or not”, “That it is legitimate to have a concubine or not”, he implicitly raises issues on which Ivo of Chartres and Anselm of Laon had delivered answers that they had thought definitive. Abelard effectively points out that the standard judgment on many issues needed to be subject to reasoned questioning.’, *Abelard and Heloise* (Oxford, 2005), p. 130. [↑](#footnote-ref-164)
165. Abelard, *Sic et Non,* q. 154.8, p. 517: ‘Est enim necessarium plerumque mendacium, et nonnunquam falsitas utilis est, cum aut percussori de latente mentimur, aut testimonium pro periclitante frustramur, aut fallimus difficultate curationis aegrotum. Oportet enim secundum apostoli doctrinam sermonem nostrum sale esse conditum’. Hilary of Poitiers, *Tractatus in* *Ps. 14.10,* *PL* 9, col. 305. [↑](#footnote-ref-165)
166. *Decretum Gratiani*, in Emil Friedberg (ed.), *Corpus Iuris Canonici*, 2 vols. (Leipzig, 1879-81 repr. Graz, 1959), (hereafter quoted as Gratian, *Decretum*), prolegomena to C. 22, vol. i, col. 860; ‘Quidam episcopus iurauit falsum quod putabat uerum, quo conperto archidiaconus eius iurauit se numquam prestaturum ei obedientiam. Conpellitur archidiaconus ab episcopo ad exhibendum sibi consuetam reverentiam; accusatur episcopus de duplici periurio, et de eo, quod falsum iurauit, et quia archidiaconum ad peierandum conpellit.’ [↑](#footnote-ref-166)
167. I am considering the text as it appeared in its earlier recension by its first author, ‘Gratian 1’. On the multiple recensions on the *Decretum*, see Anders Winroth, *The Making of Gratian’s* Decretum(Cambridge, 2000). In fact, although the later author or authors of the *Decretum* added several canons to this section, most contribute only restatements of the same arguments, rather than any new substance. [↑](#footnote-ref-167)
168. Christoph H.F. Meyer argues that, as far as method is concerned, Gratian owed more to Abelard than he did to earlier decretists and jurists: *Die Distinktionstechnik in der Kanonistik des 12. Jahrhunderts: Ein Beitrag zur Wissenschaftsgeschichte des Hochmittelalters* (Leuven, 2000), especially at p. 264. [↑](#footnote-ref-168)
169. This was originally Rudolf Sohm’s observation. See the introduction to Meyer, *Distinktionstechnik*, pp. 1-2, and D.L. d’Avray, *Medieval Religious Rationalities: A Weberian Analysis* (Cambridge, 2010), pp. 127-128. [↑](#footnote-ref-169)
170. Gratian, *Decretum,* C.22 q.2 c.21, vol. i, col. 873; A text of Jerome in favour of simulation. [↑](#footnote-ref-170)
171. Stephan Kuttner, *Kanonistische Schuldlehre von Gratian bis auf die Dekretalen Gregors IX: Systematisch auf Grund der handschriftlichen Quellen dargestellt,* Studi e Testi 64 (Vatican, 1935). [↑](#footnote-ref-171)
172. Kuttner, *Kanonistische Schuldlehre,* pp. 65-71. [↑](#footnote-ref-172)
173. Gratian, *Decretum,* D.13 c.2, vol. i, col. 32. See Kuttner, *Kanonistische Schuldlehre*, pp. 258-259. [↑](#footnote-ref-173)
174. Kuttner, *Kanonistische Schuldlehre,* p. 259. [↑](#footnote-ref-174)
175. Quoted in Gratian, *Decretum* at C.22, q.2 c.14, vol. i, col. 871. [↑](#footnote-ref-175)
176. Kuttner, *Kanonistische Schuldlehre,* pp. 288-289. [↑](#footnote-ref-176)
177. Joseph Goering, ‘The Internal Forum and the Literature of Penance and Confession’ in Wilfried Hartmann and Kenneth Pennington (eds.), *The History of Medieval Canon Law in the Classical Period, 1140-1234: from Gratian to the Decretals of Pope Gregory IX* (Washington D.C., 2008), pp. 379-428 at 380; Meens, *Penance in Medieval Europe,* p. 199; Alexander Murray, *Conscience and Authority in the Medieval Church* (Oxford, 2015), pp. 9-14. [↑](#footnote-ref-177)
178. Beryl Smalley, *The Study of the Bible in the Middle Ages,* 3rd edn. (Oxford, 1984), pp. 86-90 on the innovations of Hugh of Saint Victor. [↑](#footnote-ref-178)
179. For the history of the production of the Gloss, Smalley, *The Study of the Bible,* pp. 46-66; Lesley Smith, *The* Glossa Ordinaria: *The Making of a Medieval Bible Commentary* (Leiden and Boston, 2009). [↑](#footnote-ref-179)
180. Hugh of Saint Victor, *In Scripturam Sacram,* Gen.c. XII, *PL* 175, col. 50c ‘Item si proferatur verbum vel signum ad significandum quod non est, non tamen propter deceptionem sed vel propter utilitatem, vel correctionem vel increpationem, non dicitur mendacium […]’ [↑](#footnote-ref-180)
181. ibid. ‘Fuitque relator divinae voluntatis, non suae, nec accusatur de mendacio, sicut nec ille qui refert aliena verba.’ [↑](#footnote-ref-181)
182. ibid. ‘Vel concedamus Abraham mentitum fuisse sicut hominem. Non est mirum, non enim semper verum dixit. Nunquid non est mentitus beatus Petrus timore mortis in passione Domini? Sed sciendum quod casus sanctorum virorum, quando contigit permittente Deo, nobis in spem proponitur resurgendi’. (punctuation amended). [↑](#footnote-ref-182)
183. Martin Grabmann, *Die Geschichte der scholastischen Methode,* 2 vols. (Freiburg im Breisgau, 1911), vol. ii, p. 476; Smalley, *The* *Study of the Bible*, p. 249. [↑](#footnote-ref-183)
184. On the ‘Masters of the Sacred Page’ as pastoral reformers, see Smalley, *The* *Study of the Bible*, pp. 249-263. [↑](#footnote-ref-184)
185. *Biblia Latina cum Glossa Ordinaria*, ed. Rusch, 4 vols. (Strasburg, 1480-81, repr. Turnhout, 1992), Gn 42:9, vol. i, p. 97. [↑](#footnote-ref-185)
186. Peter the Chanter, *In Genesim,* London, British Library, Royal MS 2 C VIII, f. 35ra. [↑](#footnote-ref-186)
187. ibid., ‘Videtur etiam iuramentum indiscretum quia non habuit tres comites; sine iuramento id facere posset.’ [↑](#footnote-ref-187)
188. Jerome, *In Hieremiam Prophetam Libri Sex, CSEL* 59 (Vienna, 1913, repr. New York, 1961),I.69,p. 51, Gratian, *Decretum*, C.22, q.2, c.2, vol. i, col. 867; Petrus Lombardus, *Sententiae*, Lib. 3,D. 39, c. 2.1, vol. ii, pp. 218-219. [↑](#footnote-ref-188)
189. Irène Rosier-Catach, *La Parole efficace: Signe, rituel, sacré* (Paris, 2004), pp. 307-8; Carla Casagrande and Silvana Vecchio, *I peccati della lingua: Disciplina ed etica della parola nella cultura medievale* (Rome, 1987), pp. 271-272. [↑](#footnote-ref-189)
190. *Biblia Latina cum Glossa Ordinaria,* Ios 9:19,v. ‘Iuravimus eis’, vol. i, p. 445. [↑](#footnote-ref-190)
191. I have compared Peter the Chanter’s commentary to the *Gloss* and to Andrew of Saint Victor’s commentary of Joshua (Cambridge, Corpus Christi College MS 30, f. 48r) All of the comments I quote here seem to be original to Peter. [↑](#footnote-ref-191)
192. Peter the Chanter, *In Iosue,* Oxford, Balliol College MS 23, f. 120va; ‘Servi tui sumus veritatem celant de terra longinqua ecce mendacium.’ [↑](#footnote-ref-192)
193. ibid.; ‘Ne forte in terra que nobis debetur et cum hic patet quod non tenebantur iuramento, quia aliter intelligebant quam Gabaonite et subintelligebant conditionem, scilicet, nisi fueritis de terra que nobis debetur.’ [↑](#footnote-ref-193)
194. cf. Kuttner, *Kanonistische Schuldlehre,* p. 278 n. 1. [↑](#footnote-ref-194)
195. See below Ch. 3, pp. 119-121. [↑](#footnote-ref-195)
196. Peter the Chanter, *In Iosue,* Oxford, Balliol College MS 23, f. 120vb; ‘Ne ira Dei contra nos concitetur si periuraverimus Ecce formam iurisiurandi ledere timet; sciebat iuramentum illud non tenere. Temperavit ergo inter iuramentum et preceptum domini de deletione eorum dicens, Itaque sub maledictione eritis pene cedentes ligna etc. Lignarios et acquarios eos constituit.’ [↑](#footnote-ref-196)
197. ibid. ‘Et iurisiurandi religio nobis commendatur.’ [↑](#footnote-ref-197)
198. This passage is edited in Emily Corran, ‘Hiding the Truth: Exegetical Discussions of Abraham’s Lie from Hugh of St. Victor to Stephen Langton’ *Historical Research* 87.235 (2014), 15-17; at 16 n. 11 ‘Item, Abraham dixit uxori sue, ‘Dic quod soror mea es’, sed verum est quod iuramentum referendum est ad intellectum illius qui accipit, ergo a simili in publica locutione.’ [↑](#footnote-ref-198)
199. ibid., 16 n. 6 ‘Item, nonne verba referenda sunt ad intencionem illius cui fit locutio, sicut iuramentum accipiendum est secundum quod *ille intelligit cui iuratur*. Videtur ergo quod falsum dixit.’ cf. Petrus Lombardus, *Sententiae,* Lib. 3, D. 39 c. 11, vol. ii, p. 227; *‘*quacumque arte verborum quis iuret, Deus tamen, qui conscientiae testis est, ita hoc accipit, sicut ille cui iuratur intelligit.’ [↑](#footnote-ref-199)
200. Corran, ‘Hiding the Truth’, 16, nn. 18-25. [↑](#footnote-ref-200)
201. Cyrile Vogel, *Le Pécheur et la pénitence au Moyen Âge* (Paris, 1969), pp. 15-36; Cyrille Vogel, ‘Pénitence et excommunication dans l’église ancienne et Durant le haut Moyen Age’, in his *En Rémission des péchés. Recherches sur les systèmes pénitentiels dans l’Eglise latine*, ed. A. Faivre (Aldershot, 1994), IV, pp. 13-18; See also, Colin Morris, *The Discovery of the Individual 1050-1200* (London, 1972), pp. 70-75; John F. Benton, ‘Consciousness of Self and Perceptions of Individuality’ in Robert L. Benson and Giles Constable (eds.), *Renaissance and Renewal in the Twelfth Century* (Oxford, 1982), pp. 263-295 at 271-274. [↑](#footnote-ref-201)
202. Vogel, *Le Pécheur et la pénitence,* p. 28. [↑](#footnote-ref-202)
203. Mary C. Mansfield, *The Humiliation of Sinners: Public Penance in Thirteenth-Century France* (Ithaca, 1995); Maike de Jong, ‘What was *Public* about Public Penance? *Paenitentia Publica* and Justice in the Carolingian World’, in *La giustizia nell’alto medioevo (secoli IX-XI) 11-17 aprile 1996.* Settimane di studio del centro italiano di studi sull’alto medioevo 44 (Spoleto, 1997), pp. 863-902. [↑](#footnote-ref-203)
204. Sarah Hamilton, *The Practice of Penance 900-1050* (London, 2001), p.40, Meens, *Penance in Medieval Europe,* p. 121. [↑](#footnote-ref-204)
205. Hamilton, *The Practice of Penance,* pp. 59, 75, 112, 119. [↑](#footnote-ref-205)
206. The argument for early penitentials being used as ‘amercements’ in Alexander Murray, ‘Confession before 1215’ *TRHS* Sixth Series, 3 (1993), 51-81 at 61, (the article is reprinted in *Conscience and Authority,* pp. 17-48, but I will quote from the original THRS paper from now on); Hamilton objects to Murray’s argument as ‘a trick of the evidential light’, *Practice of Penance,* pp. 14-16, 209, quote at 15. [↑](#footnote-ref-206)
207. I am paraphrasing Murray’s argument (which I find convincing) for a change in practice that responds directly to Hamilton; *Conscience and Authority*, pp. 11-14. [↑](#footnote-ref-207)
208. Paul Anciaux, *La Théologie du sacrement de pénitence au XIIe siècle* (Louvain and Gembloux, 1949), pp. 137-274, 356-490. [↑](#footnote-ref-208)
209. ibid., pp. 275-353, 491-607. cf. Johannes Gründel, *Die Lehre von den Umständen der menschlichen Handlung im Mittelalter,* Beiträge zur Geschichte der Philosophie und Theologie des Mittelalters 39.5 (Münster, 1963). [↑](#footnote-ref-209)
210. Nicholas Vincent, ‘Some Pardoners’ Tales: The Earliest English Indulgences’ *TRHS* 12 (2002), 23-58 at 32-33, 53-54, 55-56. [↑](#footnote-ref-210)
211. Murray, ‘Confession before 1215’, 79. Hamilton has questioned this argument, citing cases of lay confession before the twelfth century. Murray responds in the introduction to *Conscience and Authority*, pp. 5-16; John H. Arnold also points out the importance of the circuits of reforming bishops such as Robert Grosseteste in the spread of lay confession, *Belief and Unbelief in Medieval Europe* (London, 2010), p. 173. [↑](#footnote-ref-211)
212. Murray, ‘Confession before 1215’, 75-79. [↑](#footnote-ref-212)
213. Vincent, ‘Some Pardoners’ Tales’, 48-49. [↑](#footnote-ref-213)
214. On Marriage dispensations, see David d’Avray, *Papacy, Monarchy and Marriage, 860-1600* (Cambridge, 2015); on vows, Richard Helmholz, *The Spirit of Classical Canon Law* (Athens, GA., 1996), pp. 233-237. [↑](#footnote-ref-214)
215. For example, in his commentary on Genesis 42, Peter the Chanter compared Joseph’s precautions to the legal procedure of his own day. Joseph sent Benjamin to fetch his father to attest to his brothers’ innocence; the Chanter compared this to the contemporary practice of requiring papal letters and a pledge from those appealing in lawsuits that they would follow through with their appeal: Peter the Chanter, *In Genesim,* London, British Library, MS Royal 2 C VIII, f. 34vb, next to v. ‘vinculis’;‘Argumentum de exigenda cautionem ab appellantibus quod appellationem prosequantur’; next to v. ‘exploratores estis’ (i.e. where Joseph appears to accuse his brothers): ‘Similes exploratoribus mentientibus habebimini. Sic potest dici appellantibus, ‘Nisi litteras domini Pape attuleritis, exploratores estis’. On the continuation of this tradition of practical moral reading in Peter John Olivi’s exegesis, see Emily Corran, ‘Lying, Equivocation and Mental Reservation: Peter John Olivi in the Context of Thirteenth Century Thought’ *Studi Francescani* 112 (2015), 5-25 at12-15. [↑](#footnote-ref-215)
216. Peter the Chanter, *Summa de Sacramentis et Animae Consiliis,* ed. Jean-Albert Dugauquier, Analecta Mediaevalia Namurcensia 4, 7, 11, 16, 21, 5 vols. (Paris, 1954-1967) (hereafter *Summa*), §46, I, vol. iv, p. 121. Most of the *Summa* is published in Dugauquier’s edition, but some additional *reportationes* are only available in manuscript. I discuss the manuscript tradition on pp. 108-110. [↑](#footnote-ref-216)
217. *Summa* §54, I, vol. iv, p. 131. [↑](#footnote-ref-217)
218. London, British Library, Harley MS 3596, fol. 140va. [↑](#footnote-ref-218)
219. *Summa* §391*,* III 2b, vol. xxi, pp. 601-602. [↑](#footnote-ref-219)
220. *Summa* §270, III 2a, vol. xvi, p. 290. [↑](#footnote-ref-220)
221. *Summa* §349, III 2b, vol. xxi, p. 462; ‘Esto quod clericus aliquis sepe scandalizatur propter curam reddituum suorum, et dicit Dominus: *Si manus tua scandalizat te abscide eam*. Iurat ergo in manum sacerdotis vel alicuius alterius quod dimittet omnes redditus suos, non ea intentione tamen ut intret monasterium sed ut sine redditibus sit in seculo. Abrenuntiat redditibus et omnes dimittit. Postea videt quod non est ita utilis in seculo sicut prius: non habet unde succurrat pauperibus, non habet equitaturas ut proficiscatur ad consolandos et visitandos pauperes, infirmos, in carcere positos, non potest corporaliter implere illa opera misericordie que Deus inquiret in die iuditii. Videt etiam quod redditus illi quos prius habuit pessime administrantur et indignis committuntur et expenduntur in meretricibus et aliis talibus. Vult absolui a iuramento ut iterum redeat ad redditus, ut melius serviat Deo quam modo deserviat. Queritur utrum ille cui prius iurauit possit eum absolvere.’ [↑](#footnote-ref-221)
222. *Summa* §217, III 2a, vol. xvi, pp. 191-192; ‘Quedam uirgo obligauit operas suas cuidam uidue usque ad annum fide media. Erat ibi in eadem domo adolescens nepos uidue et non plures, et sollicitabat uirginem illam instanter de opere uenerio. Illa timens ne uincatur, querit utrum uiolet fidem si recedat. Quid dicetur cum dicat Apostolus: *Fugite fornicationem* etc, et hoc est mandatum. Ergo, et fugienda est illi et fornicatio et quecumque eam impellere possunt ad fornicandum. Ergo debet recedere a domo illa, cum domina sua nolit corrigere nepotem suum, et ille constanter instet uirgini. Ipsaque quamuis multum obluctetur quandoque tamen sentiat se mollescere ad preces et assultus illius iuuenis. Quid faciet illa cum domina sua non uelit eam absoluere a fide data, sacerdote etiam monente et consulente. Immo querit ut excommunicet eam si ab ea recedat, dicens: ‘Nepos meus nullam sibi uim inferret contra uoluntatem illius.’ Si recesserit, uidetur peccare mortaliter mentiendo fidem. Si remaneat, poterit periclitari anima illius.’ [↑](#footnote-ref-222)
223. *Summa,* Append. V.17, III 2b, vol. xxi, p. 730; ‘Quedam concepit de consanguineo suo et ut evitaret opprobrium et infamiam, adhesit alii ut ei partum ascriberet, et ille, partu edito, recepit eum tanquam suum et educari fecit. Processu temporis mulier illa recessit ab eo quem sic deceperat et nupsit cuidam, uidelicet tercio, sed secundus adhuc educat editum paruulum tamquam suum proprium. Mulier penitet. Querit quid facere debeat erga illum quem sic mendacio suo decipit.’ [↑](#footnote-ref-223)
224. ibid. [↑](#footnote-ref-224)
225. Paul Anciaux thought that the Chanter’s most significant contribution was his cases of conscience, *La Théologie du sacrement de pénitence au XIIe siècle* (Louvain and Gembloux, 1949), pp. 86-89, 417, 427, 505; and Pierre Michaud-Quantin remarked that the *Summa w*as the first real collection of cases of conscience in theology: *Sommes de casuistique et manuels de confession au moyen âge (XII-XVI siècles)* Analecta Mediaevalia Namurcensia 13 (Louvain, Lille and Montreal, 1962), p. 46, n. 14; Leonard Boyle most closely anticipated the argument of this chapter: he called the Chanter’s *Summa* ‘the first important collection of medieval casuistry, of, that is, the teaching and dissemination of practical theology through the medium of cases or case-histories from everyday experience’. Rather characteristically, he buried his discovery where it was unlikely to attract the notice of scholarship in general: Leonard E. Boyle, ‘The Inter-Conciliar Period 1179-1215 and the Beginnings of Pastoral Manuals’, in Filippo Liotta (ed.), *Miscellanea Rolando Bandinelli, Papa Alessandro III* (Siena, 1986), pp. 43-56 at 53. [↑](#footnote-ref-225)
226. The late John W. Baldwin used the *Verbum Abbreviatum* and the *Summa* as the main sources of his *Masters, Princes and Merchants*: *The Social Views of Peter the Chanter and his Circle,* 2 vols. (Princeton, N.J., 1970), which brought the works of Peter the Chanter to general scholarly notice. He emphasized Peter the Chanter’s practical interest in social issues, a quality of that remained constant throughout his writings. No doubt for this reason, he did not really draw attention to these differences of methodology and genre between the two works. [↑](#footnote-ref-226)
227. Baldwin, *Masters,* vol. i, p. 14. [↑](#footnote-ref-227)
228. Introduction to the *Verbum Adbreviatum: Textus Conflatus,* ed. Monique Boutry, *CCCM* 196 (Turnhout, 2004) (hereafter *VA*), pp. xxxvii-xl (Boutry stipulates that the composite version of the *VA* was probably produced after 1191); *Summa,* III 1, vol. xi, pp. 179-186. Damien Van den Eynde independently concluded that the *Summa* was written between these same dates, ‘Précisions chronologiques sur quelques ouvrages théologiques du XIIe siècle’ *Antonianum,* 26 (1951), 228-239 at 234-237; cf. Baldwin, *Masters,* vol. ii, pp. 245, 265. [↑](#footnote-ref-228)
229. *VA*, Prol., p. 8; ‘Colligamus igitur nobis utiliora capitula, sumpta tum ex corpore sacre Scripture, tum ex bene dictis aliarum scripturarum. “Quicquid enim ubicumque bene dictum est” uel necessarium est unquam theologo, “meum est”.’ [↑](#footnote-ref-229)
230. *VA,* Prol., p. 8. [↑](#footnote-ref-230)
231. *VA,* I.61, pp. 416-419. [↑](#footnote-ref-231)
232. *VA,* I.61, p. 418 ‘uide que, quot, qualia, quanta, quando uel cui et quibus loquaris…’ [↑](#footnote-ref-232)
233. *Summa,* §72, II, vol. vii, p. 3: ‘Post hec de penitentia agendum est, in quo tractatu pauca quedam que minus publicata sunt proponemus, aliis que in libro sententiarum absoluta sunt, insistere superfluum ducentes.’ [↑](#footnote-ref-233)
234. *Summa,* §156, III 2a, vol. xvi, p. 3; ‘Vnde propositum nostrum est tractare de symonia inquirendo casus circa eam subtiles. Alibi quidem de ea tractauimus sed alio fine, eius scilicet pestem detestando.’ [↑](#footnote-ref-234)
235. *VA,* 1.30, p. 232 ff. [↑](#footnote-ref-235)
236. *Summa,* §158, III 2a, vol. xvi, p. 15. [↑](#footnote-ref-236)
237. *Summa,* §173, III 2a, vol. xvi, p. 65. [↑](#footnote-ref-237)
238. *Summa,* §179, III 2a, vol. xvi, p. 78. [↑](#footnote-ref-238)
239. *Summa* §323*,* III 2a, vol xvi, p. 384. [↑](#footnote-ref-239)
240. *Summa,* App. V.9, III 2b, vol. xxi, p. 713. [↑](#footnote-ref-240)
241. B. Hauréau, *Notices et extraits de quelques manuscrits latins de la Bibliothèque Nationale,* 6 vols. (Paris, 1890-93), vol. ii, p. 7; quoted by Dugauquier in the introduction to the *Summa,* vol. iv, pp. vi-vii. [↑](#footnote-ref-241)
242. On their more abstract teaching on lying, see Artur M. Landgraf, ‘Definition und Sündhaftigkeit der Lüge nach der Lehre der Frühscholastik’, *Zeitschrift für katholische Theologie* 63 (1939), 50-85, 157-180. [↑](#footnote-ref-242)
243. Peter Abelard, *Scito Te Ipsum,* in D. Luscombe (ed.), *Peter Abelard’s Ethics* (Oxford, 1971),pp. 38-40. [↑](#footnote-ref-243)
244. *Summa,* §307, III 2a, vol. xvi, p. 355; Raymond of Penafort, *Summa de Paenitentia et Matrimonio cum Glossis Ioannis de Friburgo* (Rome, 1603, repr. Farnborough, 1967), Lib. 1, Tit. 9, §13, pp. 90-92. [↑](#footnote-ref-244)
245. Abelard, *Scito Te Ipsum*, p. 44, l. 3 ff; cf. John Sabapathy, *Officers and Accountability in Medieval England 1170-1300* (Oxford, 2014), p. 259. [↑](#footnote-ref-245)
246. Peter Lombard, *Sententiae in IV Libris Distinctae,* ed. Collegium S. Bonaventurae ad Claras Aquas, Spicilegium Bonaventurianum 4-5, 2 vols. (Grottaferrata, Rome, 1981), Lib. 4, D. 38, c. 3.4-5, vol. ii, p. 483. [↑](#footnote-ref-246)
247. *Summa,* Append. V.27, III 2b, vol. xxi, p. 742. [↑](#footnote-ref-247)
248. *Summa,* §263, III 2a, vol. xvi, p. 277. [↑](#footnote-ref-248)
249. *Summa,* Append. V.27, III 2b, vol. xxi, pp. 742-743. [↑](#footnote-ref-249)
250. Ch. 2, pp. 78-80. [↑](#footnote-ref-250)
251. cf. Quinto’s comments on jurisprudence in this period, which sought above all to formulate coherent principles: Riccardo Quinto, *“Scholastica”. Storia di un concetto* (Padua, 2001), p. 364-365. [↑](#footnote-ref-251)
252. This is edited in parts I and II, vols. iv and vii of Dugauquier’s edition. [↑](#footnote-ref-252)
253. See Dugauquier’s introduction to the *Summa,* vol. iv, p. xci. [↑](#footnote-ref-253)
254. See Dugauquier’s analysis of the use of the first, second and third person throughout the work*: Summa,* III 1, vol. xi, pp. 86-178, with conclusions at 163-165 and again at 177-178. [↑](#footnote-ref-254)
255. Part III 2a and b, vols. xvi and xxi of Dugauquier’s edition. [↑](#footnote-ref-255)
256. In the twelfth century, it was not uncommon for masters to allow their students to copy incomplete versions of their works and for unauthorized *reportationes* of their teaching (i.e. lecture notes copied down by a student and worked up as a more or less accurate transcription) to circulate. See for comparison, David Luscombe on Abelard’s policy on the copying and circulation of his work; *The School of Peter Abelard: The Influence of Abelard’s Thought in the Early Scholastic Period* (Cambridge, 1969), pp. 95-96. [↑](#footnote-ref-256)
257. *Summa,* III 1, vol. xi, pp. 165-166. [↑](#footnote-ref-257)
258. Compare ‘De Incesto’, *Summa,* §271, III 2a, vol. xvi, p. 291, and Append. V.17, III 2b, vol. xxi, p. 730. [↑](#footnote-ref-258)
259. Marcel and Christiane Dickson thought that Courson started his studies in 1190-1195 at the latest. We know Courson was still studying with the Chanter in the very last year of his life because he reports an opinion of the Chanter, stating that the teacher said it in the last year of his life, when the matter was the subject of lively debate. See Marcel and Christiane Dickson, ‘Le Cardinal Robert de Courson, sa vie’ *AHDLMA* 9 (1934), 53-142 at 64-65. [↑](#footnote-ref-259)
260. For comparison, Bartholomew of Exeter included in his penitential chapters collecting authorities on homicide, adultery and fornication, perjury and lying, theft, sacrilege, usury and simony, in Adrian Morey (ed.), *Bartholomew of Exeter, Bishop and Canonist: A Study in the Twelfth Century* (Cambridge, 1937), pp. 210-264;Alain de Lille lists the penitential canons on homicide, perjury, theft, fornication, fortune telling and the spoiling of the eucharist through negligence. Alain de Lille, *Liber Poenitentialis,* ed. Jean Longère, Analecta Mediaevalia Namurcensa 17-18, 2 vols. (Louvain and Lille, 1965), vol. ii, pp. 38-44. [↑](#footnote-ref-260)
261. See Bertrand Kurtscheid *A History of the Seal of Confession*, trans. F.A. Marks (St Louis and London, 1927), especially Part 1, pp. 42-126. [↑](#footnote-ref-261)
262. *Decretum Gratiani*, in Emil Friedberg (ed.), *Corpus Iuris Canonici*, 2 vols. (Leipzig, 1879-81m repr. 1959),C.33m q.3 ‘Tractatus de Poenitentia’ D.VI, c.2, vol. i, col. 1244; Peter Lombard, *Sententiae,* Lib. 4, D. 21, c. 9, vol. ii, p. 385: ‘Sacerdos ante omnia caveat ne de his qui ei confitentur peccata sua alicui recitet, non propinquis, non extraneis; nec, quod absit, pro aliquo scandalo.’ cf. Jacques Chiffoleau, ‘”Ecclesia de occultis non iudicat”? L’Église, le secret, l’occulte du XIIe au XVe siècle’ in *Il segreto: The Secret,* Micrologus 14 (Florence, 2006), pp. 359-481 at 381-387. [↑](#footnote-ref-262)
263. *Summa* §133, II, vol. vii, pp. 292-293. [↑](#footnote-ref-263)
264. e.g. Huguccio expresses the same view: *Summa in Decretalium* C.33 q.3, De penitentia, D. VI, c. 2, v. ‘Peregrinando pergat’, Paris, Bibliothèque Nationale MS Lat. 3892, f. 340vb; ‘Item credo nec sacerdos secreto [sic] debeat sacerdos illud peccatum alicui dicere, etiam secretario suo, nec in penitentia nec alio modo, nisi forte, tacita persona. Quinimo dubitat qualiter de tali peccato debeat iniungere penitentiam, secure consulat peritiores. Et si vult quod illud peccatum sit ei manifestum in penitentia episcopo tamen suo in tali articulo, scilicet ut eum consulat de modo penitentie. Satis credo quod possit dicere secreto illud peccatum talibus personis que possunt prodesse et non obesse, ut patri et matri et uxori, episcopo et filibus ar. xxii. q.5. hoc videtur.’ cf. Kurtscheid, *Seal of Confession*, pp. 130-131. [↑](#footnote-ref-264)
265. Text 1. [↑](#footnote-ref-265)
266. Huguccio, *Summa in Decretalium,* Causa III, q. 7, c. 7, v. ‘Non publicare’; Paris, Bibliothèque Nationale MS Lat. 3892, f. 153rb: (on the prohibition on bringing crimes confessed to court) ‘Sed hic intelligo si dicat quod sibi manifestata sint in penitentia, vel si aliter nichil sciebat vite et post confessionem sibi factam publicat ea vel in iure vel exterius coram multis vel paucis etiam tacito quod sibi essent in penitentia confessa. Si vero sacerdos alias scit (ms. sit) peccatum alicuius et testibus convincere potest, et ille in penitentia confitetur ei, sed penitere non vult, inde nec satisfacere post trinam admonitionem, licite sacerdos potest procedere ad denunciationem, ut preceptum evangelicum et forte ad sollempnem accusationem semper tamen tacita sibi confessione facta in penitentia.’ [↑](#footnote-ref-266)
267. *Summa,* §133, II, vol. vii, pp. 300-301. [↑](#footnote-ref-267)
268. ibid., vol. vii, p. 301. [↑](#footnote-ref-268)
269. ibid., vol. vii, pp. 302-303. [↑](#footnote-ref-269)
270. ibid., vol. vii, p. 304: ‘nulla ratione reueletur confessio aut per manifestam expressionem, aut quamcumque innuitionem, ubi nullum imminet anime periculum.’ [↑](#footnote-ref-270)
271. ibid., vol. vii, p. 291: ‘ea que nobis per confessionem reuelantur, aliis non sunt detegenda, nemini uenit in dubium, neque per uerborum expressionem, neque per quamcumque innuitionem.’ [↑](#footnote-ref-271)
272. ibid., vol. vii, pp. 305-306: ‘Sed tamen nonnisi propter maximam necessitatem reuelanda est confessio, neque per uerborum expressionem, neque per quamcumque innuitionem, et tunc ita ut nemo ledatur.’ [↑](#footnote-ref-272)
273. Giuseppe Olivero’s book (*Dissimulatio e tolerantia nell’ordinamento canonico* (Milan, 1953)) is the most extensive treatment of dissimulation: he associates the term with two main categories of cases, the toleration of priests of longstanding who are found to have an impediment to ordination (including clerical marriage) and tacit permission for either a marriage within the forbidden degree, or a non-ratified separation. The former form of dissimulation was phased out rather earlier than the second. See also Charles Lefebvre, ‘Dissimulation’ in R. Naz (ed.), *Dictionnaire de droit canonique,* 7 vols. (Paris, 1935-1965), vol. iv, cols 1296-1307; Jean Dauvillier, ‘Pierre le Chantre et la dispense de marriage non consommé’, in *Études d’histoire du droit privé offertes à Pierre Petot,* Librarie générale de droit et jurisprudence (Sirey, 1959), pp. 97-105; see also the recent summary in M.J. Roca, ‘Der Toleranzbegriff im kanonischen Recht’ *Zeitschrift der Savigny-Stiftung für Rechtgeschichte* Bd. 121, Kanonistische Abteilung 90 (2004), 548-561 at 533; David d’Avray, *Papacy, Monarchy and Marriage, 860-1600* (Cambridge, 2015), pp. 197-199. [↑](#footnote-ref-273)
274. Dauvillier, ‘Pierre le Chantre’, p. 101. Dauvillier is paraphrasing Charles Lefebvre, ‘Dissimulation’, vol. iv, col. 1306. [↑](#footnote-ref-274)
275. *Summa,* §360, III 2b, vol. xxi, p. 524. [↑](#footnote-ref-275)
276. The relevant decretals are *Comp.* 1: Book 4, Tit. 14, c. 1; *Comp.* 2: Book 4 Tit. 12, c. 2; *Comp* 3: Book 4, Tit. 13, c. 2. in E. Friedberg (ed.), *Quinque Compilationes Antiquae*, (Graz, 1956), pp. 50, 95, 129; cf. Lefebvre, ‘Dissimulation’, vol. iv, cols. 1300-1301. [↑](#footnote-ref-276)
277. Olivero, *Dissimulatio e tolerantia,* pp. 56-57; but Olivero points to two important exceptions where decretals on dissimulation from before the fourth Lateran made it into the *Liber Extra:* a decretal of Innocent III (*Decretales Gregorii IX,* Lib. 4, Tit. 14, c.6) which permits a dissimulation of a marriage in the fifth degree, and Alexander III’s advice that a bishop can dissimulate the rules of marriage with a spiritual relation in order to comply with local custom (*Decretales Gregorii IX,* Lib. 4, Tit. 11, c. 3), *Dissimulatio e tolerantia,* pp. 57-60. On Innocent’s reforms see David d’Avray, *Medieval marriage: Symbolism and society* (Oxford, 2005, repr. 2010), pp. 104-108, and *Papacy, Monarchy and Marriage,* pp. 199-201. [↑](#footnote-ref-277)
278. Lefebvre, ‘Dissimulation’, vol. iv, col.1302. [↑](#footnote-ref-278)
279. Lefebvre shows how early canonists up to Goffredus of Trani thought of dissimulation as a withholding of public prosecution distinct from toleration and dispensation, since these latter two publicly acknowledge the subjct’s right to persist. Later canonists, including Innocent IV, Hostiensis and Johannes Andreae thought it unacceptable that the church should permit a state of mortal sin, and so redefined dissimulation as a silent dispensation, i.e. an official but tacit sanction. The concept was only revived as a procedure in its own right in the sixteenth century following influence from moral teachings in casuistical manuals. ‘Dissimulation’, vol. iv, cols. 1303-1306. [↑](#footnote-ref-279)
280. *Summa,* §147, II, vol. vii, p. 354. [↑](#footnote-ref-280)
281. *Summa,* §271, III 2a, vol. xvi, p. 291. [↑](#footnote-ref-281)
282. *Summa,* Append. V.17, III 2b, vol. xxi, p. 730: ‘Mulier penitet. Querit quid facere debeat erga illum quem sic mendacio suo decipit.’ [↑](#footnote-ref-282)
283. ibid. [↑](#footnote-ref-283)
284. *Decretales Gregorii IX,* in in Emil Friedberg (ed.), *Corpus Iuris canonici*, 2 vols. (Leipzig, 1879-81, repr. Graz, 1959), Lib. 5, Tit. 38, c. 9, vol. ii, col. 886 [↑](#footnote-ref-284)
285. See the *Glossa Ordinaria* to *Decretales* *Gregorii IX,* in *Corpus Juris Canonici Emendatum et Notis Illustratum*, 3 parts in 4 vols. (Rome, 1582), Lib. 5. Tit. 38, c. 9.v.’Deneganda’, part II, vol. ii, col. 1869; ‘…sed ipsa non potest detegere suppositionem quia ei non crederetur obstante praesumptione, quae habetur ex matrimonio, quod filius natus sit ex nuptiis […] et etiam periculosum esset mulieri illud detegere.’ [↑](#footnote-ref-285)
286. Text 2. [↑](#footnote-ref-286)
287. Quoted in Baldwin, *Masters*, vol. ii, p. 218, n. 96. [↑](#footnote-ref-287)
288. cf. Baldwin, *Masters*, vol. i, pp. 328-329. [↑](#footnote-ref-288)
289. Text 3. [↑](#footnote-ref-289)
290. e.g. Paul Grice’s ‘implicatures’ in *Studies in the Way of Words* (Harvard MA., 1989), pp. 24-40. [↑](#footnote-ref-290)
291. On the more abstract part of the Chanter’s writings about the meanings of speech and intention, see Irène Rosier-Catach, *La Parole efficace: Signe, rituel sacré* (Paris, 2004), p. 342. [↑](#footnote-ref-291)
292. See above, ch. 2, p. 79. [↑](#footnote-ref-292)
293. *Summa,* §226, III 2a, vol. xvi, pp. 209-210. [↑](#footnote-ref-293)
294. *Summa,* §217, III 2a, vol. xvi, pp. 191-192. [↑](#footnote-ref-294)
295. ibid., pp. 192-193 [↑](#footnote-ref-295)
296. *Summa,* §349, III 2b, vol. xxi, pp. 460-461. [↑](#footnote-ref-296)
297. Alain Boureau, *Le Désir dicté: Histoire du vœu religieux dans l’Occident* (Paris, 2014), Ch. 2. [↑](#footnote-ref-297)
298. eg. *Summa,* §374, III 2b, vol. xxi, p. 570; ‘Solet hic queri questio scolastica …’. [↑](#footnote-ref-298)
299. Quoted in Text 3; ‘Hoc autem proponit non propter curiositatem iuris civilis, set propter sollicitudinem evitandi peccati.’ [↑](#footnote-ref-299)
300. Text 4. [↑](#footnote-ref-300)
301. Peter the Chanter, *Summa,* Paris, Bibliothèque Nationale MS Lat. 3477, f. 130va; ‘Qui descendunt in mare cum Domino in navibus, vident mira in profundo, quia mirabilia Dei in aquis multis, que aque nos submergunt (cf. Ps 107:23). In fluctus mundi descendimus ad dubitationes quas parit nobis, nobis (sic.) quia quod distat inter declamatorem in scolis et oratorem in foro, hoc interest inter ruminantes veteranas questiones scolasticas et illos qui ad consultationes singulorum tenentur respondere’. Quoted in *Summa* III 1, vol. xi, p. 331, but I have corrected the transcription. The meaning of this striking passage is not clear, and it is possible that there is some confusion in the way the *reportatio* has recorded a formulation given in the course of a lecture. [↑](#footnote-ref-301)
302. On the fluidity of genre in the writings of this generation of theologians, see Beryl Smalley, *The Study of the Bible in the Middle Ages,* 3rd edn. (Oxford, 1984), pp. 212-213. [↑](#footnote-ref-302)
303. The biography of Robert Courson is described in Marcel and Christiane Dickson, ‘Le Cardinal Robert de Courson, sa vie’; V.L Kennedy published the first chapter of Robert’s *Summa* and its table of contents: ‘Robert of Courson on Penance’ *Mediaeval Studies* 7 (1945), 291-336; and ‘The Content of Courson’s *Summa*’ *Mediaeval Studies* 9 (1947), 81-107. [↑](#footnote-ref-303)
304. Paris, Bibliothèque Nationale MS Lat. 14524, ff. 82r-83r. See the table of contents of this manuscript in Kennedy, ‘The Content of Courson’s *Summa*’. [↑](#footnote-ref-304)
305. Robert of Courson, *Summa,* in Kennedy, ‘Robert Courson on Penance’, 316-317. [↑](#footnote-ref-305)
306. ibid., 320; ‘Item est casus qui late patet in foro penitentiali ex quo multa ecclesie imminet confusio. Puta: matrona est nobilis attendens se non posse de uiro concipere aut supponit puerperium aut de alieno uiro concipit…’ [↑](#footnote-ref-306)
307. ibid., 320-321. [↑](#footnote-ref-307)
308. ibid., 321-322. [↑](#footnote-ref-308)
309. ibid., 319-320. [↑](#footnote-ref-309)
310. On the history of the concept of scandal Richard Helmholz, ‘Scandalum in the Medieval Canon Law and in the English Ecclesiastical Courts’ *Zeitscrift der Savigny-Stiftung für Rechtsgeschichte* Bd. 127, Kanonistische Abteilung96 (2010), 258-274 at 260. [↑](#footnote-ref-310)
311. The maxim was attributed to Jerome in the middle ages, but no patristic source has been found. [↑](#footnote-ref-311)
312. See Text 5. [↑](#footnote-ref-312)
313. See Kennedy’s list of the chapter headings, ‘The Contents’, 97. [↑](#footnote-ref-313)
314. Robert Courson, *Summa,* Paris, Bibliothèque Nationale MS Lat. 14524, f. 90rb: ‘Sed perplexitas facti involvit plures, sicut ostenditur in predicto capitulo Gregorii, ubi dicitur, ‘Nervi testiculorum Leviathan perplexi sunt etc.’ ubi homo ex proprio vitio inescatus, se talem constituit in animo quod velit nolit Deus alterum peccatorum committet. Et ibi consilium Gregorii locum habet scilicet, ut minus malum tunc eligat, et maius declinet.’ On the history of the concept of perplexity in canon law, see Stephan Kuttner, *Kanonistische Schuldlehre von Gratian bis auf die Dekretalen Gregors IX: Systematisch auf Grund der handschriftlichen Quellen dargestellt,* Studi e Testi 64 (Vatican, 1935), pp. 270-291. [↑](#footnote-ref-314)
315. Kennedy, ‘The Contents’, 98. [↑](#footnote-ref-315)
316. Baldwin, *Masters,* vol. i, p. 32. [↑](#footnote-ref-316)
317. Geoffrey of Poitiers, *Summa,* Avranches, Bibliothèque Municipale MS 121, ff. 75vb-77va. [↑](#footnote-ref-317)
318. ibid., ff. 77vb-79va. [↑](#footnote-ref-318)
319. Stephen Langton, *Quaestiones Theologiae,* Cambridge St. John’s College Library MS C.7 (57), ff. 274v-275v. Many thanks to Magdalena Bieniak for generously sharing her images of this manuscript with me. On Stephen Langton’s *Quaestiones* see Riccardo Quinto, ‘*Doctor Nominatissimus’ Stefano Langton (†1228) e la tradizione delle sue opere,* Beiträge zur Geschichte der Philosophie und Theologie des Mittelalters n.F. Bd. 39 (Münster, 1994), and the new volume of the first book of his questions, *Quaestiones Theologiae: Liber I,* eds. Riccardo Quinto and Magdalena Bieniak, Auctores Britannici Medii Aevi 22 (Oxford, 2014). [↑](#footnote-ref-319)
320. Stephen Langton, *Quaestiones Theologiae,* Cambridge St. John’s College Library MS C.7 (57), f. 275ra. [↑](#footnote-ref-320)
321. See Nicholas Vincent, ‘Stephen Langton, Archbishop of Canterbury’ in Louis-Jacques Bataillon, Nicole Bériou, Gilbert Dahan, Riccardo Quinto (eds.), *Étienne Langton: Prédicateur, Bibliste, Théolgien* (Turnhout, 2010), pp. 51-124 at 75. [↑](#footnote-ref-321)
322. William of Auxerre, *Summa Aurea,* ed. Jean Ribaillier, Spicilegium Bonaventurianum 16-20, 5 vols. (Paris and Rome, 1980-1987), Book III.2, Tractatus LIV, c. 2-3, vol. iv, pp. 1047-1054. [↑](#footnote-ref-322)
323. William of Auvergne, *De Virtutibus*, in F. Hotot and B. Le Feron (eds.), *Opera Omnia*, 2 vols. (Orléans, 1674, repr. Frankfurt-am-Main, 1963) vol. i, pp. 164a -166b. [↑](#footnote-ref-323)
324. ibid. vol. i, p. 164a. William’s use of moral dilemmas is original and warrants further study. [↑](#footnote-ref-324)
325. The history of these manuals can by found in Leonard E. Boyle, ‘A Study of the Works attributed to William of Pagula with Special Reference to the *Oculus Sacerdotis* and *Summa Summarum*’, 2 vols., unpublished D.Phil dissertation, Oxford university, (1956), vol. i, pp. 188-281. [↑](#footnote-ref-325)
326. Thomas Chobham, *Summa Confessorum,* ed. Revd. F. Broomfield, Analecta Mediaevalia Namurcensa 25 (Louvain and Paris, 1968), Proemium, p. 3; ‘De penitentia igitur dicturi subtilitates et inquisitiones theoricas pretermittemus et operationes et considerationes practicas que ad audiendas confessiones et ad iniungendas penitentias sacerdotibus necessarie sunt diligentius prosequamur.’ [↑](#footnote-ref-326)
327. ibid., Art. 7, Dist. 11, pp. 539-557. [↑](#footnote-ref-327)
328. ibid., Art. 7, Dist. 2, q. 14, cap.3, pp. 374-375; [↑](#footnote-ref-328)
329. ibid., Art. 7, Dist. 2, q. 17, cap. 3, pp. 392-393. [↑](#footnote-ref-329)
330. Joseph Goering, ‘The ‘Summa de Penitentia’ of John of Kent’, *Bulletin of Medieval Canon Law* 18 (1988), 13-31. [↑](#footnote-ref-330)
331. John of Kent, *Summa de Penitentia,* London, British Library Royal MS 9 A XIV, f. 203va, I have amended the transcription in Goering ‘The ‘Summa de Penitentia’, 22. ‘Compendium operis subsequentis principaliter ad hoc tendit ut questiones difficiles que certum continent periculum animarum et que frequentius in penitentiali iudicio accidunt explicet et dissoluat. Egreditur tamen quandoque more fluminis et ex accidenti ac tangit que plerisque penitentiali examini forsitan minus (ms. nimis) congruere uidebuntur.’ [↑](#footnote-ref-331)
332. ibid. ff. 217vb-220ra. [↑](#footnote-ref-332)
333. ibid., ff. 119rb-119va. [↑](#footnote-ref-333)
334. G.F. Warner and J.P. Gilson, *Catalogue of the Manuscripts in the Old**Royal and King's Collections,* 2 vols. (London, 1921), vol. i, pp. 284-286; Leonard Boyle, ‘A Study’ describes these other works; vol. i, pp. 220-223, 226-229, 231, 241-242, vol. ii, pp. 20-22, 34-35. [↑](#footnote-ref-334)
335. Kuttner, *Kanonistische Schuldlehre,* pp. 270-291; Robert of Courson, *Summa,* Paris, Bibliothèque Nationale MS Lat. 14524, f.90rb. [↑](#footnote-ref-335)
336. positus L [↑](#footnote-ref-336)
337. tu scis quod] om. L [↑](#footnote-ref-337)
338. predicas L [↑](#footnote-ref-338)
339. est tibi B [↑](#footnote-ref-339)
340. est tibi B [↑](#footnote-ref-340)
341. doctrine relinquatur…veritas] om. L [↑](#footnote-ref-341)
342. quod hoc B [↑](#footnote-ref-342)
343. auctoritate illa Evangelii] in illo Evangelio L; auctoritate Evangelica B [↑](#footnote-ref-343)
344. ubi…Iesum] om. L B [↑](#footnote-ref-344)
345. om. L [↑](#footnote-ref-345)
346. Siniti illos] dicens L; Siniti eos B [↑](#footnote-ref-346)
347. Mt 15:12-14. [↑](#footnote-ref-347)
348. potius B [↑](#footnote-ref-348)
349. veritas vite B [↑](#footnote-ref-349)
350. om. L [↑](#footnote-ref-350)
351. se P [↑](#footnote-ref-351)
352. om. P [↑](#footnote-ref-352)
353. occident L [↑](#footnote-ref-353)
354. om. L [↑](#footnote-ref-354)
355. Quero hic utrum] Debesne L [↑](#footnote-ref-355)
356. veneris L [↑](#footnote-ref-356)
357. eris L [↑](#footnote-ref-357)
358. sententies L [↑](#footnote-ref-358)
359. paris P B [↑](#footnote-ref-359)
360. Dicimus quod nullatenus] Non L [↑](#footnote-ref-360)
361. nec L [↑](#footnote-ref-361)
362. om. L [↑](#footnote-ref-362)
363. om. B [↑](#footnote-ref-363)
364. facere L [↑](#footnote-ref-364)
365. in L [↑](#footnote-ref-365)
366. Mk 6:18 [↑](#footnote-ref-366)
367. For an overview of the history of confessors’ manuals and books on penitence in this period, see Pierre Michaud-Quantin, *Sommes de casuistique et manuels de confession au Moyen Âge (XII-XVI siècles),* Analecta Mediaevalia Namurcensia 13 (Louvain, Lille and Montreal, 1962); Leonard E. Boyle, ‘A Study of the Works Attributed to William of Pagula with Special Reference to the *Oculus Sacerdotis* and *Summa Summarum*’, 2 vols., unpublished D.Phil thesis, Oxford University (1956); Leonard E. Boyle, *Pastoral Care: Clerical Education and Canon Law, 1200-1400* (London, 1981); Thomas N. Tentler, *Sin and Confession on the Eve of the Reformation* (Princeton N.J., 1977); Roberto Rusconi, *L’ordine dei peccati: La confessione tra Medioevo ed età moderna* (Bologna, 2002); Bert Roest, *Franciscan Literature of Religious Instruction before the Council of Trent* (Leiden and Boston, 2004). A useful summary of scholarship in this field up to 1998 can be found in Peter Biller, ‘Confession in the Middle Ages: Introduction’, in Peter Biller and A. J. Minnis (eds.), *Handling Sin: Confession in the Middle Ages* (Woodbridge, Suffolk and Rochester N.Y., 1998, repr. 2013) pp. 23-31. [↑](#footnote-ref-367)
368. Michaud-Quantin, *Sommes de casuistique*, p. 40. [↑](#footnote-ref-368)
369. On the development of equivocation and mental reservation see Albert R. Jonsen and Stephen Toulmin, *The Abuse of Casuistry: A History of Moral Reasoning* (Berkeley and London, 1988), pp. 195-215; Johann P. Sommerville, ‘The “New Art of Lying”: Equivocation, Mental Reservation, and Casuistry’, in Edmund Leites (ed.), *Conscience and Casuistry in Early Modern Europe* (Cambridge, 1988), pp. 159-184; Perez Zagorin, *Ways of Lying: Dissimulation, Persecution and Conformity in Early Modern Europe* (Cambridge MA. and London, 1990), ch. 8-10, pp. 153-254. [↑](#footnote-ref-369)
370. Augustine, *De Mendacio*, ed. Josephus Zycha, *CSEL* 41 (Vienna, 1900), XIII.22-2, pp. 440-444; Immanuel Kant ‘On a Supposed Right to Lie from Philanthropy’ in Mary J. Gregor (trans. and ed.), *Immanuel Kant: Practical Philosophy* (Cambridge, 1996, repr. 2008), 8:425-430, pp. 611-615. [↑](#footnote-ref-370)
371. eg. Benjamin Constant’s arguments about the case, quoted in Kant ‘On a Supposed Right to Lie’, 8:425-430, p. 610-615; Henry Sidgwick, *The Methods of Ethics,* 7th edn. (London, 1962), pp.315-319*.* [↑](#footnote-ref-371)
372. eg. Henry Charles Lea, *A History of Auricular Confession and Indulgence in the Latin Church,* 3 vols., (London, 1896), vol. ii, p. 406; Zagorin, *Ways of Lying*, p. 168. [↑](#footnote-ref-372)
373. See Chapter 1, pp. 34-37; Alasdair MacIntyre *Truthfulness, Lies and Moral Philosophers: What can we Learn from Mill and Kant?* The Tanner Lectures on Human Values 16 (Salt Lake City, 1995), pp. 307-361; Bernard Williams, *Truth and Truthfulness: An Essay in Genealogy* (Princeton, 2002)*,* pp. 102-105. [↑](#footnote-ref-373)
374. Robert Courson often disagreed with the Chanter on questions about lying, but in the case of the murderer it seems he was close, but not identical to the Chanter. I have not been able to find a surviving text where the Chanter answers the murderer at the door dilemma, but he is quoted by the *Summa Bambergensis* as being in favour of lying*: ‘*… Cantor dicebat quod bene potest quis mentiri pro vita alicuius conservanda, unde dicebat ‘occiditur’ i.e. leditur per peccatum veniale’, quoted in Stephan Kuttner, *Kanonistische Schuldlehre von Gratian bis auf die Dekretalen Gregors IX: Systematisch auf Grund der handschriftlichen Quellen dargestellt,* Studi e Testi 64 (Vatican, 1935), p. 288. [↑](#footnote-ref-374)
375. Text 1.1. [↑](#footnote-ref-375)
376. Text 1.1. [↑](#footnote-ref-376)
377. Text 1.2-3. [↑](#footnote-ref-377)
378. Text 1.4, ‘contra id quod conscientia dictat ei dicendum’. [↑](#footnote-ref-378)
379. Text 1.5. [↑](#footnote-ref-379)
380. Michaud-Quantin, *Sommes de casuistique,* p. 34; *S. Raimundus de Pennaforte:* *Summa de Paenitentia,* eds. Xaverio Ochoa and Aloisio Diez (Rome, 1976), p. lxxvii. [↑](#footnote-ref-380)
381. Raymond of Penafort, *Summa de Poenitentia et Matrimonio cum Glossis Ioannis de Friburgo* (Rome, 1603, repr. Farnborough, 1967) (Hereafter cited as Raymond of Penafort, *Summa de Casibus*), Liber I, Tit. 10, §6, p. 100. Glosses are in fact by William of Rennes. (Unless otherwise indicated, all references to Raymond’s *Summa de Casibus* are to this edition). [↑](#footnote-ref-381)
382. Raymond of Penafort, *Summa de Casibus*, Lib. 1, Tit. 10 §6, pp. 100-101. I have corrected the printed text against two manuscripts, Troyes, Bibliothèque Municipale MS 1710, ff. 44v-45r; Reims, Bibliothèque Municipale MS 554, ff. 69r-69v.

     ‘Ego credo, salvo meliori iudicio, quod talis debet esse processus: primo debet tacere, ut dicit Augustinus. Si videtur ei quod taciturnitas sit periculosa, quia ex eo credit interrogans eum concedere illum esse in domo, tunc transferat se, si potest, (si potest] om. edn.) in aliam materiam, quasi interrogando eum de aliquo facto, vel simile. arg. 43. dist. ‘In mandantis’. Vel respondeat verbum aliquod aequiuocum, ut puta, non est hic, id est, non comedit hic, vel simile aliquod. Ad hoc mouent nos infinita exempla, de quibus pauca dicamus. (…) vel dic simpliciter quod debet negare et asserere eum non esse ibi. Si tamen sua conscientia dictat sibi quod ita debeat dicere, tunc non dicet contra conscientiam; imo sequetur eam, et nullo modo peccabit: nec contradicit in aliquo istis Augustinus, quia hic non mentietur, id est, non ibit contra mentem (…)’. cf. Augustine, *De Mendacio,* III.3, p. 415. [↑](#footnote-ref-382)
383. On Hostiensis see Kenneth Pennington, ‘Henricus de Segusio (Hostiensis)’ in his *Popes, Canonists and Texts 1150-1550* (Aldershot, 1993), art. XVI. Because he did not write a manual for confessors in the traditional sense, the historiography of penance and confessors’ manuals has tended to neglect Hostiensis’s contribution, although Gabriel le Bras commented on the unusual prominence Hostiensis gave to questions relating to the internal forum: ‘Théologie et droit romain dans l’oeuvre d’Henri de Suse’, in le Faculté de droit et des sciences économiques de Grenoble (eds.), *Études historiques à la mémoire de Noël Didier* (Paris, 1960), pp. 195-204. [↑](#footnote-ref-383)
384. Henricus de Segusio (Hostiensis), *Summa Aurea* (Venice, 1574), Lib. 5, ‘De Penitentiis et Remissionibus’, col.1810; I have corrected the text against an early manuscript, Munich, Bayerische Staatsbibliothek Clm. 14006, f. 202va;

     ‘Dicas quod sic possum respondere. Si talem quaeris, curre (currere edn.) quam citius illuc: ita tamen quod ostendam ei aliam viam, quam fugiens teneat: vel alium locum quod intraverit latens, et dicam ei quod nisi cito currat, forte non poterit ipsum consequi, nec etiam invenire. Vel sic: Frater, multi intrant domum istam et exeunt, quos ego non video, neque scio. Si esset hic, ita bene posses tu, vel alius, ipsum videre (vendere edn.) sicut ego. Si multum instet quaerens, nec ei verba ista sufficiant, et domus spaciosa sit, potero dicere: Deus scit, nescio ubi sit, id est, in quo angulo domus latitat – sic debeo intelligere. Et si possum ipsum tenere in verbis his, vel similibus, ita quod nullum periculum immineat, bene erit.

     Alioquin potero ei dicere, Ego scio ipsum, et statim ostendam tibi: sed hoc non possum bono modo facere, nisi primo mitam pro quodam: et sic mittere possum pro episcopo vel domino terrae: qui ipsum saluet. Vel si dominus terrae ipsum querit, vel timetur, ne ipsum interficiat, finaliter debeo informare meam conscientiam ad negandum, et dicere, Non vidi ipsum, diu est. Possum enim diu intelligere sicut volo. Vel dicam simpliciter informata conscientia, Non est hic, id est, in loco ubi (ms. in quo) teneo pedes meos, vel etiam si simpliciter negem, non peccabo conscientia informata, nec dicam mendacium quod nihil aliud est quam contra mentem ire, et quia non intendo ipsum fallere, nam secundum Augustinum, mendacium nihil aliud est, quam falsa significatio vocis cum intentione fallendi. 22. q.2. §ille ergo.’ [↑](#footnote-ref-384)
385. Quoted in the ‘Ad Pium Lectorem’ unpaginated preface to Raymond of Penafort, *Summa de Casibus.* [↑](#footnote-ref-385)
386. See Robert of Courson, *Summa*, in V.L. Kennedy, ‘Robert of Courson on Penance’ *Mediaeval Studies* 7 (1945), 291-339 at 320-321, and Raymond of Penafort, *Summa de Casibus,* Lib. 2, Tit. 5 §10-11, pp. 176-177. cf. *Decretales Gregorii IX,* inEmil Friedberg (ed.), *Corpus Iuris Canonici,* 2 vols. (Leipzig, 1879-81, repr. Graz, 1959), Lib. 5, Tit. 38, c. 9, vol. ii, col. 886. [↑](#footnote-ref-386)
387. See Ch. 3, pp. 112-118. [↑](#footnote-ref-387)
388. Raymond of Penafort, *Summa de Casibus,* Proemium, p. 1; Michaud-Quantin, *Sommes de casuistique*, p. 40, Joseph Goering, ‘The Internal Forum and the Literature of Penance and Confession’ in Wilfried Hartmann and Kenneth Pennington (eds.), *The History of Medieval Canon Law in the Classical Period, 1140-1234: from Gratian to the Decretals of Pope Gregory IX* (Washington D.C., 2008), pp. 379-428, at 398. Rusconi, *L’ordine*, pp. 72-80. [↑](#footnote-ref-388)
389. William of Rennesreads this as a situation where many lay people are collectively committing a sin such as refusing to pay tithes or participating in tournaments and duels: *Apparatus* to Raymond of Penafort, *Summa de Casibus*, Lib. 3, Tit. 30, §4, p. 355, v. ‘In scelere’. [↑](#footnote-ref-389)
390. Raymond of Penafort, *Summa de Casibus*, Lib. 3, Tit. 30, §4, pp. 355-356. [↑](#footnote-ref-390)
391. Raymond of Penafort, *Summa de Casibus,* Lib.3, Tit. 30, §6, pp. 356-357. [↑](#footnote-ref-391)
392. *Decretales Gregorii IX,* Lib. 3, Tit. 41, c. 7, vol. ii, col. 640. [↑](#footnote-ref-392)
393. On discretionary judgment see Laurent Mayali, ‘The Concept of Discretionary Punishment in Medieval Jurisprudence’, in Rosalio Iosepho Card. Castillo Lera (ed.), *Studia in Honorem Eminentissimi Cardinalis Alphonsi M. Stickler,* Studia et Textus Historiae Iuris Canonici 7 (Rome, 1992), pp. 299-315. [↑](#footnote-ref-393)
394. *Questiones Summe de Casibus Raymundi de Penafort;* MSS listed in Thomas Kaeppeli, *Scriptores Ordinis Praedicatorum Medii Aevi,* 4 vols. (Rome, 1970-1993), vol. ii, pp. 156-159. I have used Paris, Bibliothèque Nationale MS Lat. 16421and Strasbourg, Bibliothèque Nationale et Universitaire MS 151. As far as I know, there has not been any previous work on this treatise. Based on my transcriptions of only a few passages of the *Questiones*, I offer the following tentative hypotheses about its composition. The *Questiones* are organised around practical dilemmas, which lead into a more general discussion. The text in the *Questiones* is often almost identical to that of the *Apparatus*, although the sections are divided into smaller snippets in the latter. The text seems to progress more logically in the *Questiones* than in the *Apparatus.* For example, in the former, William suggests three cases of conscience in close succession (Paris, Bibliothèque Nationale MS Lat. 16421, f.148vb-149ra). First, is a woman, who has been asked to swear that she is innocent of adultery, permitted to do so, given that she did in fact commit adultery, but has since confessed and been given absolution for the sin? Second, if a lord requires his chief steward to swear that he will tell him anything he knows or hears about his forests or defences, is the steward required to tell his master about a proposed attack on these properties? Finally, if an over-zealous or avaricious husband asks his household to swear that they will tell him of any evidence of adultery in his wife, or damages to his property, are they required to reveal what cannot be proved? The cases in this context follow on quite logically, all three being about the licitness of denying the truth under oath in cases where it would be wrong, or not obligatory, to reveal secret knowledge and where the oath has been unjustly extorted. In the *Apparatus* the three cases are separated, and do not bear any obvious relation with Raymond’s text (see William of Rennes, *Apparatus* to Raymond of Penafort, *Summa de Casibus,* Lib. 1, Tit. 9, §3, p. 82, v. ‘De credulitate’; ibid. §9, p.88, v. ‘Qui compulsus’). On these grounds, I would cautiously suggest that William first wrote the questions on Raymond’s *Summa,* and then rearranged the work as an *Apparatus* at a later date. If he did do so, he would have followed a similar progression to John of Freiburg, who composed a set of questions on Raymond’s *Summa,* before expanding it into a fully updated *Summa Confessorum.* (cf. Boyle, ‘The *Summa Confessorum* of John of Freiburg and the Popularization of the Moral Teaching of St Thomas and Some of his Contemporaries*’*,in *Pastoral Care,* III, pp. 245-268). As with John’s *Summa Confessorum,* William’s later work was a good deal more successful in terms of diffusion than the earlier *Questiones,* although, with eight surviving manuscripts, we need not assume that the *Questiones* fell entirely by the wayside. William’s thought is often conveyed more clearly and logically in the *Questiones*, and his argument is more frequently tied to a case of conscience (whereas in the *Apparatus* the dilemma has sometimes been cut, leaving only the general conclusion); this is why I have used the *Questiones* in addition to the *Apparatus* in this chapter. [↑](#footnote-ref-394)
395. I have used the text in the casuistical treatise, as the clearer and more easy to follow version, printed as Text 2 below. The version in the *Apparatus* is printed in Raymond of Penafort, *Summa de Casibus*, Lib. 4, Tit. 21, §2, p. 573, v. ‘Inquisitioni’. [↑](#footnote-ref-395)
396. See Text 2.1. In another report of the dilemma, a few folia later, William of Rennes draws more pointed attention to the moral calculation of willful ignorance: Paris, Bibliothèque Nationale MS Lat. 16421, f. 162vb: ‘Item aliquis audivit quod est perpetuum impedimentum in matrimonio suo. Numquid consulendum est ei quod quantum poterit laboret ut sciat veritatem, et an teneatur hoc facere in illo casu, cum non potest hoc probari in foro iudiciali, vel potest *dissimulare ut minus peccet nesciens*, utpote, scit aliquem paratus esset facere ei fidem quod verum sit impedimentum, quia fuit presens in facto illo?’ My emphasis. [↑](#footnote-ref-396)
397. Text 2.2. [↑](#footnote-ref-397)
398. Text 2.3. [↑](#footnote-ref-398)
399. Text 2.3. [↑](#footnote-ref-399)
400. Text 2.5, [↑](#footnote-ref-400)
401. *Apparatus* to Raymond of Penafort, *Summa de Casibus*, Lib. 1, Tit. 9, §3, pp. 82-83. v. ‘De credulitate’; ‘Si tamen huiusmodi mulier iusto metu perculsa iuraret sub verbis duplicibus, quae uno sensu contineant veritatem, et in illo sensu intelligeret, forsitan non peccaret, per hanc cautelam illius malitiam excludendo.’ [↑](#footnote-ref-401)
402. ibid., Lib. 3, Tit. 34, §59, p.489, v. ‘Reuelantis confessionem’. [↑](#footnote-ref-402)
403. See Alexander Murray, ‘Counselling in Medieval Confession’ in *Handling Sin,* pp. 63-77; he makes two points in particular that are worth repeating here: at p. 66, that the constitution of the fourth Lateran Council, *Omnis Utriusque Sexus,* which calls for annual confession instructs the confessor both to decide what advice to give *and* what remedy to apply (‘quale illi consilium debeat adhibere et cuiusmodi remedium adhibere’) as two linked but separate activities; and at p. 77, that Caesarius of Heisterbach frequently refers to penitents receiving *consilium* from priests on practical matters, such as how to become rich, and admonitions not to lie. A priest in one story refuses one penitent the sacrament but offers to give *consilium.* Joseph Goering also refers to an Italian folktale in which a lay man goes to his confessor for advice on a practical case of conscience: he has vowed with his friend that the first of them to marry would call the other to be groomsman. One of the friends has died, and the other is about to be married, and asks his confessor whether he is still obliged to call his friend. Goering, ‘The Internal Forum’, p. 394. [↑](#footnote-ref-403)
404. On the division between public crime and private sin, see Stephan Kuttner, ‘Ecclesia de Occultis non Iudicat: Problemata ex Doctrina Poenali Decretistarum et Decretalistarum a Gratiano usque ad Gregorium PP. IX’ in *Acta Congressus Iuridici Internationalis: VII Saeculo a Decretalibus Gregorii IX et XIV a Codice Iustiniano Promulgatis: Romae 12-17 Novembris 1934*, 5 vols. (Rome, 1935-7), vol. iii, pp. 227-246; Jacques Chiffoleau argues that the division between sins nevertheless left room for considerable overlap between the two fora: ‘“Ecclesia de occultis non iudicat”? L’Eglise, le secret, l’occulte du XIIe au XVe siècle’ in *Il Segreto: The Secret* Micrologus XIV (Florence, 2006), pp. 359-481. [↑](#footnote-ref-404)
405. Alexander Murray, *Conscience and Authority in the Medieval Church* (Oxford, 2015), p. 10. [↑](#footnote-ref-405)
406. Goering, ‘The Internal Forum’, pp. 394-405. [↑](#footnote-ref-406)
407. Mayali, ‘The Concept of Discretionary Punishment’, p. 303. [↑](#footnote-ref-407)
408. Raymond of Penafort began his *Summa de Casibus*, stating that his manual for the use of those engaged in ‘iudicium animarum in foro paenitentiali’. *Summa de Casibus,* Proemium,p. 1. [↑](#footnote-ref-408)
409. Fernanda Pirie, *The Anthropology of Law* (Oxford, 2013), pp. 131-144. It has not been possible to engage here fully with the extensive bibliography in this lively area. For an insight into the breadth and common features of what might be called ‘legalistic’ thinking see two edited volumes of papers from the Oxford Legalism project: Paul Dresch and Hannah Skoda (eds.), *Legalism: Anthropology and Histor*y (Oxford, 2012); Fernanda Pirie and Judith Scheele (eds.), *Legalism: Community and Justice* (Oxford, 2014). [↑](#footnote-ref-409)
410. John of Freiburg *Summa Confessorum (*Lyon, 1518), Tit. 9, q. 18, f. 27ra. I have checked the printed text against two relatively early manuscript, Reims, Bibliothèque municipal MS 551, f. 31ra-b and Paris, Biblothèque Nationale MS Lat. 3260, f. 24va.

     ‘Que conditiones implicite subintelliguntur (mss. subintelligantur) in iuramento? Respondeo secundum Hostiensem [Liber. II, Rubrica xxiiii ‘De Iureiurando’ §iii. ‘Quot Species’]. Dicendum quod in omni iuramento intelliguntur iste conditiones tacite: ut faciam hoc si Deo placuerit. Item si pape placuerit, quia eius autoritas videtur excepta, [ut xxv. q.1 §ultimum ver. ‘Ipsi namque’].

     ¶ Item si res in eodem statu permanserit, ut patet in eo qui gladium sanus deposuit et illum furiosus repetit, non teneor reddere etiam si iuravi. [xxii. q. 2 ‘Ne Quis’. Idem Raymundus. §xviii in *Summa*. Et Innocentius in glossa super c. ‘Quemadmodum’.]

     ¶ Item si modo (mss: mihi) fidem seruaueris; non seruanti enim fidem non est fides seruanda, unde si non facis mihi quod promisisti, non teneor. [Extra. ‘De Iureiuranda’ c. ‘Pervenit’ (mss. ‘Pervenit’ ii) et c. ‘Sicut’; idem Raymundus, idem Innocentius.]

     ¶ Item si iuro tibi pecuniam reddere ad certum tempus, spe future numerationis subauditur, si pecuniam numeravit (mss. numeraveris), [ut *Codex* ‘De Non Numerata Pecunia’, c. ‘Indubitati.’]

     ¶ Item si iuro tibi aliquid solvere ad certum tempus vel ad certum diem subauditur nisi iudex contra precipiat. Nam ius superioris semper videtur exceptum. [Extra ‘De Iureiurando’, ‘Venientes’ §i ad finem.]

     ¶ Item si iuro tibi dare dotem subauditur si nuptie secute fuerunt (mss. fuerint), [ut *Digesta, ‘*De Iure Dotium’, ‘Stipulationem’.’] [↑](#footnote-ref-410)
411. Paris, Bibliothèque Nationale MS Lat. 14521, f.154ra: ‘Item habemus aliquid exemplum de decano Suessionensi qui excommunicatus a suo episcopo petiit absolutionem a Papa Adriano. Iuravit quod staret mandato pape. Precepit papa quod intraret caveam. Intravit cum omni obedientia et ibi mortuus est, sed questio est utrum teneretur intrare ratione iuramenti, cum summus pontifex multo graviorem penam ei infligeret quam deberetur ei pro suo delicto, et aliam etiam quam ipse intellexisset in iuramento.’ [↑](#footnote-ref-411)
412. John of Freiburg, *Summa Confessorum,* f.27ra; ‘Item si iuro stare mandatis tuis pro offensa tibi vel tuis facta (ms. Lat. 3260: fratris) subauditur nisi immoderatum quid precipias, iniustum illicitum impossibile vel inhonestum, quia talibus (ms. Lat. 3260: tali huiusmodi) parendum non est.’ [↑](#footnote-ref-412)
413. John of Freiburg, *Summa Confessorum,* f. 27rb-va; ‘¶ Item subintelligitur si facultas se obtulerit aliquis non imputabitur. [ut Extra ‘De Iureiurando’, ‘Querelam’, et c. ‘Brevi’]. Excusat ergo hominem necessitas vel impossibilitas.’ [↑](#footnote-ref-413)
414. ibid., f. 27rb; ‘Nota etiam quod dicit Raymundus [eo titulum, §xiiii, ‘Item queritur’]: si debitor iuravit creditori se soluturum aliquid in certo termino, et impeditus non potest solvere, ut si quidem quando iurabat credebat se non posse solvere, vel credebat quod posset sed fatue, quia non habebat causam credendi, tunc in utroque casu peierabat. Quia in primo casu deerat veritas in conscientia. In secundo casu, iudicium, id est, discretio. Si vero credebat ab initio se posse solvere et probabiliter non perierabat quantum in hoc. Et si postea fecit posse (mss: posse suum) et non potuit persolvere in certo termino non est propter hoc periurus ex hac causa, sed multomagis excusatur si misit tempore debito sed casu fuit amissa pecunia in via.’ [↑](#footnote-ref-414)
415. ibid., f.27rb; ‘Quid ergo si quis iurauit tenere obstagia, nec habet in loco quid comedat vel unde soluat? Respondeo secundum Hostiensem [ibidem] aut non erat soluendo tempore obligationis, et tunc tenetur obstagia seruare, quia ad hoc se videtur obligasse et victum querat manibus suis aut hostiatim mendicando. Aut erat soluendo, et factus est non soluendo; et tunc distinguo aut enim talis est qui possit mendicare sine (om. ms. 551) verecundia, puta abiectus vel vilis et tunc idem [quod prius articulum xciii di. ‘Dyaconi’.] Vel est homo nobilis et in dignitate constitutus et tali subueniendum est iuris beneficio [ut Extra ‘De Iureiurando’ ‘Querelam’ et c. ‘Brevi’ et ailis iuribus].’ [↑](#footnote-ref-415)
416. Angelo de Carletti de Chivasso, *Summa de Casibus Conscientiae* (Hereafter, *Summa Angelica*)(Lyon, 1512), f. 205vb; ‘Sed quero episcopus statuit quod quilibet clericus absens revertatur infra certam diem sub pena excommunicationis. Clericus de licentia episcopi iverat (*ed.* iurat)ad studium et iuraverat creditori suo non recedere ante eius solutione. Queritur an obliget iuramentum vel preceptum prelati seu legis. Et videtur quod iuramentum sit nullum quia contra obedientiam superioris non potest servari sine interitu salutis, [d. c. cum contingat. et c.ii. ‘De pactis’*Liber Sextus*]. Sed Paulus (i.e.Paulus de Liazariis, 14th century canonist) [in c. venientes in ‘Iureiurando’] dicit et est dictum Iohannis Andreae [in mercurialibus, in ‘Regula in malis promissiis’ *Liber Sextus*], quod ex quo cum licencia episcopi fuit in studio et pro necessitate studii contraxit debitum videtur se obligasse cum licencia episcopi, quia uno concesso conceduntur omnia sine quibus illud non habet effectum [c. ‘Preteria’ et c. ‘Prudentiam’ ‘De officiis iudicis delegati’ et l. ‘Ad rem mobilem’ et l. ‘Ad legant.’ Digest, ‘De procuratoribus’] et sic non debet recedere sed servare iuramentum. Secus si sine licentiam episcopi vel non pro necessitate studii, sed pro lascivia, quia tunc iuramentum non valet contra obedientiam superioris. Item dico in patre revocante filium qui predicto modo iuraverat, et idem de quolibet subdito, et facit pro mercatoribus quod contra prohibitionem suorum dominorum vadunt ad certa loca prohibita secundum quod prohibere possunt [ut in l. finem et quod ibi notatur Dig. ‘De decretis ab ordine faciendis’; et l. ‘Mercatores’, Codex, ‘De comerciis et mercatoribus’; et l. ‘Relegatorum’, Dig. ‘De interdictis et relegatis’ et quod ibi notatur.] quia non potuerunt se obligare ad id standum, nisi superiores tacite vel expresse consentiant.’ On the *Summa Angelica* cf. Michaud-Quantin, *Sommes de casuistique,* pp. 99-101, Roest, *Franciscan Literature*, pp. 351-352. [↑](#footnote-ref-416)
417. For example, from the fourteenth century on, particularly Alexander of Hales, Thomas Aquinas, Bonaventure and Richard of Mediavilla’s discussion of the Egyptian midwives was frequently included in confessors’ manuals, eg. Astesanus de Asti, *Summa de Casibus* (Cologne, 1479), Lib. 1, ti. 36 art. 5, § ‘Quidam vero’. (The codex is unfoliated, as are all of the editions available to me.) [↑](#footnote-ref-417)
418. See Peter Biller, ‘Confessors’ Manuals and the Avoidance of Offspring’ in *Handling Sin,* pp. 165-187 at 169-175: he points out that John of Freiburg described his *Summa Confessorum* as a reference work for experts, whilst his *Confessionale* was for simple readers. To give an idea of which manuals I mean, the confessors’ manuals which include a chapter on oaths and list of implicit conditions includes John of Freiburg’s *Summa Confessorum*, Astesanus de Asti’s *Summa* (A Franciscan *Summa* in five books)*,* (these are large reference works) the *Summa Pisana* and some fifteenth century reference works,the *Summa Angelica* and the *Summa Silvestris*: these three were organised alphabetically and printed in small enough codices to be carried around. [↑](#footnote-ref-418)
419. See for instance Michaud-Quantin’s comments on the *Summa* of Bartholomew of Pisa from 1338, *Sommes de casuistique*, p. 61. [↑](#footnote-ref-419)
420. Michaud-Quantin, *Sommes de casuistique,* p. 57; Rusconi, *L’ordine,* p. 225; Roest, *Franciscan Literature,* p. 351. [↑](#footnote-ref-420)
421. Hence John of Freiburg’s instruction in the *Confessionale* to look up rare and difficult problems in Raymond of Penafort’s *Summa de Casibus* or his own *Summa Confessorum.* Quoted in Biller, ‘Confessors’ Manuals’ in *Handling Sin,* pp. 171-172. Raymond says that he has treated his material ‘prout plenius et planius potui’, *Summa de Casibus,* Proemium, p.2. [↑](#footnote-ref-421)
422. See further discussion of this dilemma below ch. 5, pp. 183-188. [↑](#footnote-ref-422)
423. Hostiensis, *Summa Aurea,* Lib. 5, ‘De Penitentiis et Remissionibus’ §49, cols. 1805-1810. [↑](#footnote-ref-423)
424. Hostiensis, *Summa Aurea,* Lib. 5, ‘De Penitentiis et Remissionibus’, §49, col. 1810-1811. ‘Quaeras etiam de omnibus aliis vitiis quae si vellemus prosequendo sc[r]ibere nimis esset prolixum, sed haec sufficient, sine concordem quas in superioribus sub § omisimus ex certa scientia causa brevitatis, ad instruendos utcunque simplices sacerdotes, cum aliis quae sunt supra notata et inferius subsequentur. Et per iura possunt omnia comprobari.’ [↑](#footnote-ref-424)
425. cf. Boyle, ‘A Study of the works attributed to William of Pagula’, and *Pastoral Care,* IV and V. [↑](#footnote-ref-425)
426. See Text 3 below. cf. Raymond of Penafort, *Summa de Casibus*, Lib. 2, Tit. 5, §9-10, pp. 174-175, and Hostiensis, *Summa Aurea,* Liber 5, ‘De Penitentiis et Remissionibus’, 61 §2, cols. 1845-1846. [↑](#footnote-ref-426)
427. Text 3.5. [↑](#footnote-ref-427)
428. Text 3.2. [↑](#footnote-ref-428)
429. Text 3.6. [↑](#footnote-ref-429)
430. ut ergo] quod ad hoc quod B; ut ergo aliquod L [↑](#footnote-ref-430)
431. quicumque loquitur L [↑](#footnote-ref-431)
432. contra B [↑](#footnote-ref-432)
433. secundum quod B [↑](#footnote-ref-433)
434. in ecclesia] cum conscientia P [↑](#footnote-ref-434)
435. etiam si] si etiam P [↑](#footnote-ref-435)
436. sit L [↑](#footnote-ref-436)
437. ei L B [↑](#footnote-ref-437)
438. premissum…hoc] est illud supra, premisit Augustinus dicens B [↑](#footnote-ref-438)
439. tradere L [↑](#footnote-ref-439)
440. tacet L; ad mortem…taceat] et cetera B [↑](#footnote-ref-440)
441. dicit B [↑](#footnote-ref-441)
442. om. P [↑](#footnote-ref-442)
443. quicquid] omne quod L B [↑](#footnote-ref-443)
444. om. L [↑](#footnote-ref-444)
445. pessimus P [↑](#footnote-ref-445)
446. sic iste B [↑](#footnote-ref-446)
447. mox L B [↑](#footnote-ref-447)
448. om. P [↑](#footnote-ref-448)
449. Estne] An est L B [↑](#footnote-ref-449)
450. hinc L [↑](#footnote-ref-450)
451. quod vel] ut L ut vel B [↑](#footnote-ref-451)
452. vel..occidi] om. L B [↑](#footnote-ref-452)
453. sibi B [↑](#footnote-ref-453)
454. hoc L B [↑](#footnote-ref-454)
455. fiunt L B [↑](#footnote-ref-455)
456. cum P [↑](#footnote-ref-456)
457. alium L B [↑](#footnote-ref-457)
458. Notum P [↑](#footnote-ref-458)
459. a falsitate] ob falsitatem B [↑](#footnote-ref-459)
460. animus L B [↑](#footnote-ref-460)
461. contra predicta L [↑](#footnote-ref-461)
462. L] exceptionem P, dampnationem B; read ‘damnum’? [↑](#footnote-ref-462)
463. quis] aliquis dicere quando P B [↑](#footnote-ref-463)
464. sentit B [↑](#footnote-ref-464)
465. aliquis P aliquis aliquid L [↑](#footnote-ref-465)
466. sumitur L [↑](#footnote-ref-466)
467. recta conscientia] iusta scientia L [↑](#footnote-ref-467)
468. dictat esse] iudicat L B [↑](#footnote-ref-468)
469. fallat hominem L [↑](#footnote-ref-469)
470. om. P [↑](#footnote-ref-470)
471. om. L [↑](#footnote-ref-471)
472. scit P [↑](#footnote-ref-472)
473. relinquit B [↑](#footnote-ref-473)
474. ad falsum dicendum ad] om. L; ad] transit ad B [↑](#footnote-ref-474)
475. circumstancias suas L [↑](#footnote-ref-475)
476. Possibly Odo of Dover, who wrote a Summa on the Decretum, *Decreta Minora.* I checked the manuscript of this work in the British Library, but it was too damaged to make out. [↑](#footnote-ref-476)
477. se L B [↑](#footnote-ref-477)
478. recipere L B [↑](#footnote-ref-478)
479. vitam alicuius] alium L [↑](#footnote-ref-479)
480. illa L [↑](#footnote-ref-480)
481. om. L [↑](#footnote-ref-481)
482. perfectis mentiri, hoc est B [↑](#footnote-ref-482)
483. om. P L [↑](#footnote-ref-483)
484. id est1…faciendum] Quia sic mentiri sive dicere falsum L B [↑](#footnote-ref-484)
485. cum modica B [↑](#footnote-ref-485)
486. Laudonus B (i.e. from Laudun). [↑](#footnote-ref-486)
487. prius L B [↑](#footnote-ref-487)
488. est hic B [↑](#footnote-ref-488)
489. illum…obiisse] non fuisse mortuum L, illum non esse mortuum B [↑](#footnote-ref-489)
490. homagium L B [↑](#footnote-ref-490)
491. effugerent L [↑](#footnote-ref-491)
492. iustissimus L B [↑](#footnote-ref-492)
493. clericus ei] querenti B [↑](#footnote-ref-493)
494. eum] illum, cum ipse sis clericus? B [↑](#footnote-ref-494)
495. in tali casu] om. P [↑](#footnote-ref-495)
496. per P [↑](#footnote-ref-496)
497. audit S [↑](#footnote-ref-497)
498. in secreto P [↑](#footnote-ref-498)
499. Habet P [↑](#footnote-ref-499)
500. teneantur P [↑](#footnote-ref-500)
501. an P [↑](#footnote-ref-501)
502. om. P [↑](#footnote-ref-502)
503. discedere P [↑](#footnote-ref-503)
504. eum P [↑](#footnote-ref-504)
505. om. S [↑](#footnote-ref-505)
506. sicut…est] om S [↑](#footnote-ref-506)
507. *Decretales Gregorii IX,* Lib. 5, Tit. 39, c. 44, vol. ii, col. 908. [↑](#footnote-ref-507)
508. evidens C [↑](#footnote-ref-508)
509. cum R [↑](#footnote-ref-509)
510. C E R] om. B [↑](#footnote-ref-510)
511. *Decretales Gregorii IX,* Lib. 5, Tit. 38, c.9, vol. ii, col. 886. [↑](#footnote-ref-511)
512. debet tantum dare] tantum daret E [↑](#footnote-ref-512)
513. ad probanda] om. R [↑](#footnote-ref-513)
514. inducere C [↑](#footnote-ref-514)
515. inde gravum] in grande C [↑](#footnote-ref-515)
516. scandalum R [↑](#footnote-ref-516)
517. adventuram E [↑](#footnote-ref-517)
518. adducat R [↑](#footnote-ref-518)
519. responsio C E R [↑](#footnote-ref-519)
520. parit C R [↑](#footnote-ref-520)
521. accusatrix vel denunciatrix] accusare vel denunciare potest R [↑](#footnote-ref-521)
522. nullum scandalum dimittent] illud scandalum non tacebunt R nullum scandalum dimittant C E [↑](#footnote-ref-522)
523. debet de quibuscumque modo R [↑](#footnote-ref-523)
524. eterna C [↑](#footnote-ref-524)
525. C R] enim B E [↑](#footnote-ref-525)
526. tamen C [↑](#footnote-ref-526)
527. E R] possunt B C [↑](#footnote-ref-527)
528. *Corran*] mss: tamen [↑](#footnote-ref-528)
529. vel R [↑](#footnote-ref-529)
530. om. R; perito revelet] om. C [↑](#footnote-ref-530)
531. maiestatis C [↑](#footnote-ref-531)
532. melius R [↑](#footnote-ref-532)
533. CER] quod si ita inventum fuerit B [↑](#footnote-ref-533)
534. CER] hereditatis B [↑](#footnote-ref-534)
535. imminet R [↑](#footnote-ref-535)
536. sicut…viris] sicut dicunt aliene mulieres que denunciantur viribus C [↑](#footnote-ref-536)
537. sustinetur R [↑](#footnote-ref-537)
538. receptos R; om.C E [↑](#footnote-ref-538)
539. quanti consilio R; consciencie C [↑](#footnote-ref-539)
540. ER] mulieri B C [↑](#footnote-ref-540)
541. anima C [↑](#footnote-ref-541)
542. om. C [↑](#footnote-ref-542)
543. Potest] Et caute potest R [↑](#footnote-ref-543)
544. quedam persona tenetur R [↑](#footnote-ref-544)
545. tibi etiam in hoc] tui in hoc C; tibi R [↑](#footnote-ref-545)
546. mittit R mittentur C [↑](#footnote-ref-546)
547. tui C [↑](#footnote-ref-547)
548. ultimum R; Raymond of Penafort, *Summa de Casibus*, Lib. 2, Tit. 5, §11, p.176. [↑](#footnote-ref-548)
549. P. Glorieux, *La Littérature quodlibétique de 1260 à 1320,* 2 vols. (Kain and Paris, 1925-35), vol. i, pp. 18-20; J.F. Wippel ‘Quodlibetal Questions Chiefly in the Theology Faculties’ in B.C. Bazàn, J.F. Wippel, G. Franzen and D. Jacquart, *Les Questions disputées et les questions quodlibétiques dans les facultés de théologie, de droit et de médecine,* Typologie des sources du Moyen Âge occidental Fasc. 44-45 (Turnhout, 1985), pp. 153-222, a passage on procedure and format at pp. 157-175; Jacqueline Hamesse, ‘Theological *Quaestiones Quodlibetales*’ in Christopher Schabel (ed.), *Theological Quodlibeta in the Middle Ages*: *The Thirteenth Century* (Leiden and Boston, 2006), pp. 17-48. [↑](#footnote-ref-549)
550. Thomas Aquinas, *Quaestiones de Quolibet* in R.-A. Gauthier (ed.), *Opera Omnia iussu Leonis XIII,* 25, 1-2 (Rome, Paris, 1996),V, q.8, a.2, vol. xxv.2, p. 381; ‘Si uir accuset uxorem de adulterio occulto, utrum mulier teneatur in iudicio suum peccatum confiteri?’ cf. William of Rennes, *Apparatus*, printed in Raymond of Penafort, *Summa de Poenitentia et Matrimonio cum Glossis Ioannis de Friburgo* (Rome, 1603, repr. Farnborough, 1967), (Hereafter cited as Raymond of Penafort, *Summa de Casibus*)*,* Book I, Tit. 9 §3, v. ‘De credulitate’, pp. 82-83. [↑](#footnote-ref-550)
551. eg. in Nicholas of Bar’s collection, Paris, Bibliothèque Nationale, MS Lat. 15850 at ff. 18vb and 27rb; cf. Raymond of Penafort, *Summa de Casibus*, Book III, Tit. 34, §59, p.489, v. ‘Reuelantis confessionem’. [↑](#footnote-ref-551)
552. Godfrey of Fontaines, *Quodlibet* VII, q.18, in *Les Quodlibet cinq, six et sept,* ed. M. de Wulf and J. Hoffmans (Louvain, 1914), pp. 402-405; ‘Utrum magister in theologia debet dicere contra articulum episcopi si credat oppositum esse verum?’ [↑](#footnote-ref-552)
553. Roger Marston, *Quodlibet* IV, q. 39, in *Quodlibeta Quatuor*, eds. G.F. Etzkorn and I.C. Brady (Quarrachi-Florence, 1968), pp. 450-2; ‘Utrum possint absolvi nisi restituant, qui propter iuramentum suum faciunt alieno domino perdere de iure suo quando aestimant bona suorum de quibus reddere debent decimam vel decimam quintam?’ [↑](#footnote-ref-553)
554. On Nicholas Bar’s Collection, see Sylvain Piron, ‘Nicholas of Bar’s Collection’, in Christopher Schabel (ed.) *Theological Quodlibeta* *in* *the Middle Ages: The Fourteenth Century* (Leiden and Boston, 2007), pp. 333-344. [↑](#footnote-ref-554)
555. Raymundus Guilha Tarasconensis, *Quodlibet* I, q. 1, Paris, Bibliothèque Nationale, MS Lat. 15850, f.20vb; ‘Utrum aliquis loquens celando veritatem mentiatur vel peccet mortaliter?’ [↑](#footnote-ref-555)
556. Iohannes de Murro, *Quodlibet* I, q. 4, Paris, Bibliothèque Nationale, MS Lat. 15850, f.23va; ‘Queritur si constante matrimonio mulier ex adulterio suscipiat filium, vir suus credat esse suum et mulier in confessione dicat sacedoti sic esse, utrum sacerdos debeat ei dicere quod filium illum repellat a se et quod dicat talis non debet esse heres?’ [↑](#footnote-ref-556)
557. Adenulphus de Anagni, *Quodlibet* I q. 18, Paris, Bibliothèque Nationale MS Lat. 14899, f. 150ra; ‘Utrum scilicet accusatus coram iudice possit sine peccato mortali negare veritatem, propter quam dampnaretur?’ Bernardus de Trilla, *Quodlibet.* I, q. 23, Vatican Borgh. MS 156, f.167ra: ‘Utrum subditus requisitus in iudicio de veritate dicenda peccet mortaliter non dicendo?’ [↑](#footnote-ref-557)
558. Servais of Mont-Saint Éloi, *Quodlibet* I, q. 5, Paris, Bibliothèque Nationale MS Lat. 15350, f.270ra; ‘Utrum contrahens cum aliqua per verba de futuro, carnali copula consecuta, et hoc fiat in occulto, postea contrahens in facie ecclesie cum alia, et iurans priori quod nunquam cognovit eam affectu maritali, utrum ipsa possit contrahere cum alio, cum istum cognoverit affectu maritali?’ cf. William of Rennes, *Apparatus*, in Raymond of Penafort, *Summa de Casibus*, Lib. 4, Tit. 2, §4, pp. 512-513, v. ‘Matrimonium iudicari’. [↑](#footnote-ref-558)
559. Thomas Aquinas, *Quodlibet* V q. 8 art. 2*,* in *Quaestiones de Quolibet,* vol. xxv.2, p. 381; Thomas Aquinas, *Quodlibet* VI q. 9 art.3, in *Quaestiones de Quolibet,* vol. xxv.2, p. 312. [↑](#footnote-ref-559)
560. Although it is noticeable that the collections of certain masters seem to privilege particular areas of theology. Only moral questions are included in the quodlibets of Servais of Mont Saint-Éloi and Berthaud of Saint Denis. William of Ockham’s are entirely metaphysical. Boyle presumed this was because the audience tailored their questions to the strengths of the master responding (Leonard E. Boyle, ‘The Quodlibets of St. Thomas and Pastoral Care’, in *Pastoral Care, Clerical Education and Canon Law, 1200-1400* (London, 1981), article II, pp. 232-256 at 240). More recent scholarship suggests both that the masters had a certain amount of freedom to pick from a long list of questions disputed on the first day of the quodlibet, (although refusing sensitive questions was frowned on) (see Wippel, ‘Quodlibetal Questions’, p. 199; Ian P. Wei, ‘The Self-Image of the Masters of Theology at the University of Paris in the Late Thirteenth and Early Fourteenth Centuries’ *The Journal of Ecclesiastical History* 46 (1995), 398-431, at 421-426), and that those compiling unauthorised collections of quodlibets would sometimes favour a particular specialism. (Piron, ‘Nicholas of Bar’s Collection’, p. 338). [↑](#footnote-ref-560)
561. Henry of Ghent, *Quodlibet* III, q. 25 (Paris, 1518), f. 83v, checked against Oxford, Merton College MS 107, f. 51ra; ‘Utrum licet mentiri causa humilitatis?’ [↑](#footnote-ref-561)
562. See Thomas Aquinas, *Summa Theologia,* in *Opera omnia iussu Leonis XIII P.M.* 4-12 (Rome, 1886-1906), IIa-IIae, Q. 113, art. 1, vol.ix,p. 437. [↑](#footnote-ref-562)
563. The two that Henry quotes are Gregory the Great, Ep. 64, (*PL* 77, col.522) that good minds think they are sinning when there is not sin, and Iob 9:28, ‘Thou wouldst hold me guilty’. [↑](#footnote-ref-563)
564. Henry of Ghent, *Quodlibet* III, q.25, f. 84r, MS f. 51rb; ‘Dicendum quod peccatum agnosci potest ubi non est dupliciter, vel assertiue vel timorose. Assertiue hoc non est bonarum mentium, sed presumptuosarum et arrogantium, ut dictum est. Et non sic intelligit Gregorius dictum suum. Sed intelligit timorose mentiendo, scilicet ne peccent in quocumque opere suo, iuxta illud quod dicit Iob. “Verebar omnia opera mea,” quia in talibus dubiis semper contra nos debemus praesumere deterius. Quia nullum periculum est poenitere de talibus tanquam peccatum adesset etsi non sit, ita quod esset periculum non velle poenitere qua forte posset peccatum adesse.’ [↑](#footnote-ref-564)
565. Berthaud of Saint Denis, *Quodlibet* I, q.8, cf. Text 1; Gerard of Abbeville had been asked a similar question in his fifth quodlibet in 1265, and gave a reply on similar lines to this. cf. Paris, Bibliothèque Nationale MS Lat. 16405, f. 54rb. [↑](#footnote-ref-565)
566. William of Rennes, *Apparatus*, in Raymond of Penafort, *Summa de Casibus*, Book III, Tit. 30, §9, p. 360, v. ‘Suspendatur’; ‘Credo autem quod peccant Episcopi, et inferiores praelati, ad quos pertinet huiusmodi admonitionem facere: (inferiores enim eam possunt facere, etiam si sint simplices sacerdotes, curati tamen; cum constitutio illa non specificet, quod ab Eposcipo sit facienda) si per negligentiam, aut alias corrupta intentione omittant eam facere; si autem ex iusta causa omittant, quia forte vident ibi multorum stragem iacere, vel aliud simile, non peccant.’ [↑](#footnote-ref-566)
567. Berthaud of Saint Denis, *Quodlibet* 1, q. 8, Text 1.5. [↑](#footnote-ref-567)
568. Text 1.5. [↑](#footnote-ref-568)
569. Text 1.5. [↑](#footnote-ref-569)
570. Text 1.6. [↑](#footnote-ref-570)
571. Text 1.10-12. [↑](#footnote-ref-571)
572. This was a culture that the masters of Paris actively fostered themselves; cf. Ian P. Wei, *Intellectual Culture in Medieval Paris: Theologians and the University, c.1100-1330* (Cambridge, 2012), pp. 174-179; Elsa Marmursztejn, *L’Autorité des maîtres: Scolastique, normes et société au XIIIe siècle* (Paris, 2007)*,* pp. 21-82. [↑](#footnote-ref-572)
573. See Ian P. Wei, ‘The Masters of Theology at the University of Paris in the Late Thirteenth Century and Early Fourteenth Centuries: An Authority beyond the Schools’ *Bulletin of the John Rylands University Library of Manchester* 75 (1993), 37-63 at 41; Piron, ‘Nicholas of Bar’s Collection’, p. 338. [↑](#footnote-ref-573)
574. Glorieux, *Littérature quodlibétique,* vol. i, pp. 63-64. [↑](#footnote-ref-574)
575. Ch.3 pp. 105-106. [↑](#footnote-ref-575)
576. There are several studies of this case of conscience, of which the most useful are: Knut Wolfgang Nörr, *Zur Stellung des Richters im gelehrten Prozeß der Frühzeit: Iudex secundum allegata non secundum conscientiam iudicat* (Munich, 1967); Antonio Padoa-Schioppa, ‘Sur la conscience du juge dans le *ius commune* européen’, in Jean-Marie Carbasse and Laurence Depambour-Tarride (eds.), *La Conscience du juge dans la tradition juridique européene* (Paris, 1999), pp. 95-129. [↑](#footnote-ref-576)
577. Nörr, *Zur Stellung*, eg. pp. 18-19; Padoa-Schioppa, ‘Sur la conscience’, p. 96. [↑](#footnote-ref-577)
578. Nörr, *Zur Stellung*, pp. 18-19, 22-23, 56-57, 60; Padoa-Schioppa, ‘Sur la conscience’, pp. 103, 108. [↑](#footnote-ref-578)
579. Nörr, *Zur Stellung*, p. 19. [↑](#footnote-ref-579)
580. Henry of Ghent, *Quodlibet* II, q. 16*,* ed. R. Wielockx, *Henrici de Gandavo Opera Omnia* VI (Leuven, 1983), p. 101; ‘Utrum princeps licite possit tenere bona alicuius sibi per publicam iustitiam adiudicata propter culpam illi impositam, quem in rei veritate scit esse innocentem?’ [↑](#footnote-ref-580)
581. Henry of Ghent, *Quodlibet* II, q. 16, p. 102, ll. 19-23. [↑](#footnote-ref-581)
582. Henry of Ghent, *Quodlibet* II, q. 16, pp. 102-103, l. 24. On the rise of a concept of natural law see Alain Boureau, ‘Droit naturel et abstraction judiciaire. Hypothèses sur la nature du droit médiéval’ *Annales. Histoire, Sciences Sociales* 57.6 (2002), 1463-1488. [↑](#footnote-ref-582)
583. Henry of Ghent, *Quodlibet* II, q. 16, pp. 104-105, ll. 58-82. [↑](#footnote-ref-583)
584. cf. Ch. 3, p.125, n. 95. [↑](#footnote-ref-584)
585. Henry of Ghent, *Quodlibet* II, q. 16, p. 106, ll. 98-02 (The line numbers revert to zero at 100). [↑](#footnote-ref-585)
586. ibid., p. 107, ll. 22-26. [↑](#footnote-ref-586)
587. ibid., pp. 107-108, ll. 29-50. [↑](#footnote-ref-587)
588. ibid., p. 108. ll. 51-55. [↑](#footnote-ref-588)
589. M.S. Kempshall, *The Common Good in Late Medieval Political Thought* (Oxford, 1999). [↑](#footnote-ref-589)
590. Kempshall, *The Common Good,* pp. 104-105; cf. on a similar view expressed by Siger de Brabant, Georges de Lagarde, ‘La Philosophie sociale d’Henri de Gand et Godefroid de Fontaines’ *AHDLMA* 14 (1943-5), 73-142, at 92. [↑](#footnote-ref-590)
591. Lagarde, ‘La Philosophie sociale’, 94-96; Kempshall, *The Common Good,* pp. 160, 171-174. [↑](#footnote-ref-591)
592. Ricardus de Mediavilla, *Quodlibet* III, q. 25 (Venice, 1509), f. 41r-v, checked against Vatican, Bibliotheca Vaticana, Borgh. MS 361, f. 124ra-125ra; ‘Utrum iudex scienter sententians contra veritatem de qua certus est in conscientia sua, quam tamen nescit ut iudex sed tanquam quedam singularis persona forte quia solus factum vidit, peccet mortaliter?’ [↑](#footnote-ref-592)
593. ibid., f. 41rb-vb. [↑](#footnote-ref-593)
594. ibid., f.41vb; ‘Ad hoc est etiam ratio. Iudex enim magis tenetur esse sollicitus pro salute boni communis quam pro salute singularis persone, maxime cum inquantum iudex sit publica persona et pro defensione boni communis statuatur. Cum etiam bonum commune (*ed.* ecclesie) nobilius sit quam bonum singularis persone secundum quod trahi potest ex sententia Philosophi primo Ethicorum capitulo primo.’ cf. *Ethica Nicomachea, translatio Roberti Grosseteste Lincolniensis sive ‘Liber Ethicorum’ A Recensio Pura,* ed. Renatus Antonius Gautier (Leiden and Brussels, 1972), Lib. 1 c.1, 1094b.10, p. 142 [↑](#footnote-ref-594)
595. Richard of Mediavilla, *Quodlibet* III, q. 25, f. 41vb; ‘Sed si iudex sententiaret (*ed.* sententiaretur) pro aliquo convicto in iudicio quem tamen ut privata persona scit (*ed.* sit, *ms.* sicut) innocentem, quamvis hoc esset ad bonum illius innocentis, tamen esset ad malum communitatis quia populus scandalizaretur et via innocentis opprimendi et noxios dimittendi iniquis iudicibus aperiretur. Posset enim dicere iniquus iudex quando per odium vel per munera vellet punire innocentem quod in conscientia sua scit eum esse reum, et quando propter priuatum amorem vel propter munera vellet dimittere noxium diceret quod in conscientia sua scit eum esse innocentem et sic via malefaciendi iniquis iudicibus esset aperta.’ [↑](#footnote-ref-595)
596. cf. Nörr, *Zur Stellung,* pp. 56-7, 60. [↑](#footnote-ref-596)
597. Richard of Mediavilla, *Quodlibet* III, q. 25, f. 42ra; ‘Fuerunt tamen aliqui qui dixerunt quod si iudex in conscientia sua scit aliquem esse innocentem qui tamen in iudicio convictus est, debet causam remittere ad superiorem et si superior nulli subiectus est et scit illum innocentem esse debet ipsum absolvere. Sed hec sententia videtur esse contra iura preallegata. ¶ Preterea tunc obligaretur iudex inferior, utpote comes ad transferendum suam iudiciariam potestatem in superiorem, utpote in regem saltem in illo casu, et si posset sibi preiudicium generari in aliis casibus quia si ter aut quater hoc faceret posset dicere rex se esse in posessione iudicandi et puniendi homines illius comitis, pretermisso eius (*ms.* illius comitis) iudicio.’ [↑](#footnote-ref-597)
598. ibid., f. 42ra; ‘Preterea quamvis iudex qui non habet superiorem nisi Deum non sit subditus legibus quas ipse condidit decet tamen ipsum secundum ipsas iudicare ne populum scandalizet.’ The principle he is quoting is ‘Digna Vox’. For an account of academic discussions of the implications of this rule in canon and secular law see Kenneth Pennington, *The Prince and the Law, 1200-1600: Sovereignty and Rights in the Western Legal Tradition* (Berkeley, 1993). [↑](#footnote-ref-598)
599. Jean de Pouilly, *Quodlibet* II, q. 20, Paris, Bibliothèque Nationale MS Lat. 15372, f. 69ra-vb; ‘Utrum supposito quod aliquis sciat veritatem alicuius criminis perpetrati in civitate et ipse fiat iudex in illa et coram eo probetur contrarium veritatis quam ipse scit, debeat iudicare secundum allegata?’ [↑](#footnote-ref-599)
600. ibid., f.69rb: ‘Lex autem coactivam habet potentiam, sententia autem iudicis lex quedam est, unde Aristoteles V. Ethicorum sententialia dicit legalia, non quia sint leges communes, sed propter applicationem legum communium ad aliqua facta particularia, ut sunt sententie iudicum, quia iuxta leges et iura pronunciant [ut dicit capitulum ‘Iudicet’] et ideo pro iure habentur, et ideo vim coactivam habent. Sententia autem alicuius non potest habere vim coactivam nisi sit persona communis fungens publica auctoritate et potestate. Unde Aristoteles X. Ethicorum, ‘Paterna igitur preceptio non habet forte neque coactivum nec totaliter que unius viri non regis existentis vel alicuius talis, scilicet qui fungitur potestate communi.’ cf. *Ethica Nicomachea,* Lib. 5, c.12, 1134b23; Lib 10, c. 9, 1180a19, pp. 241, 366. [↑](#footnote-ref-600)
601. Jean de Pouilly, *Quodlibet* II*,* q. 20, f. 69va; ‘…ideo probantem partem debet absolvere qualitercumque res se habeat, sive sciat in quantum singularis persona contraium esse verum sive non.’ Compare with the legal opinions quoted in Nörr, *Zur Stellung*, pp. 32, 53. [↑](#footnote-ref-601)
602. eg. Astesanus de Asti, *Summa* *de Casibus* (Cologne, 1479), Lib. 1, ti. 18, ar.10 (the codex is unfoliated, as are all of the editions available to me.); Angelo de Carletti de Chivasso, *Summa de Casibus Conscientiae* (Hereafter, *Summa Angelica*)(Lyons, 1512), f. 198va (cited as one of a number of sources). [↑](#footnote-ref-602)
603. Marmursztejn, *L’Autorité des maîtres;* Wei, *Intellectual Culture,* pp. 174, 228-232, 242-243. [↑](#footnote-ref-603)
604. Leonard Boyle made this observation about theology in general: ‘The Quodlibets of St. Thomas’, in *Pastoral Care,* II,pp. 252-253. [↑](#footnote-ref-604)
605. On Astesanus, see Johannes Dietterle, ‘Die *Summae Confessorum* (sive de Casibus Conscientiae) von ihren Anfängen an bis zu Silvester Prierias’ *Zeitschrift für Kirchengeschichte* 26 (1905), 59-81, 350-364 at 350-362; Pierre Michaud-Quantin, *Sommes de casuistique et manuels de confession au Moyen Âge (XII-XVI siècles),* Analecta Mediaevalia Namurcensia 13 (Louvain, Lille and Montreal, 1962), pp. 57-60; Bert Roest, *Franciscan Literature of Religious Instruction before the Council of Trent* (Leiden, Boston, 2004), pp. 332-333. [↑](#footnote-ref-605)
606. Boyle, ‘The *Summa Confessorum* of John of Freiburg’ in *Pastoral Care*, III, p. 261. [↑](#footnote-ref-606)
607. Astesanus de Asti, *Summa de Casibus*, Lib. 1, ti. 18, art. 10. [↑](#footnote-ref-607)
608. Thomas Aquinas, *In Quattuor Libros Sententiarum,* in Roberto Busa (ed.) *Opera Omnia,* (Stuttgart-Bad Cannstatt, 1980) Lib. 4,D. 21 q. 3, art. 1a, vol. i, p. 561: ‘... illud autem quod sub confessione scitur, est quasi nescitum, cum non sciat ut homo, sed ut deus […] Ad tertium dicendum, quod homo non adducitur in testimonium nisi ut homo; et ideo absque laesione conscientiae potest jurare se nescire quod scit tantum ut deus.’ Ricardus de Mediavilla, *Super Sententiis* 4 vols. (Venice, 1507), Lib. 4, Dist. 21, d. 4, q. 1; vol. iv, f. 114rb-va. [↑](#footnote-ref-608)
609. Ricardus de Mediavilla, *Super Sententiis,* Lib. 4, Dist. 21, d. 4, q. 1, vol. iv, f. 114va; ‘Eadem persona secundam naturam vere affirmare potest aliquid in persona alterius loquens, quod vere negat loquens in persona propria. Unde angelus loquens Moysi in persona Dei vere dixit, ‘Ego sum Dominus Deus tuus quod eduxi te de terra Egypti.’ Exodus 20, quod vere negasset in persona propria loquens. Ergo a simili homo representans Dei personam in foro confessionis vere aliquid potest affirmare quod extra forum confessionis, quando loquitur ut personam propriam gerens, vere negat. Verum ergo dicit negando se audivisse vel scire que ad notitiam eius non devenerunt, nisi inquantum representabat personam Dei. Ergo extra forum confessionis dicendo se illa audivisse vel scire mentitur, sed vitare mendacium est de iure nature, ergo et confessionis sigillum. ’ [↑](#footnote-ref-609)
610. Johannes Duns Scotus, *Ordinatio: Liber Quartus* in P. Barnaba (ed.), *Opera Omnia,* 21 vols. (Vatican, 1950-2013), Dist. 21 q. 2, vol. xiii, pp. 251-271. [↑](#footnote-ref-610)
611. Astesanus de Asti, *Summa de Casibus,* Lib. 5, ti. 20, art. 1. [↑](#footnote-ref-611)
612. Michaud-Quantin, *Sommes,* p.59. [↑](#footnote-ref-612)
613. Leonard E. Boyle, ‘A Study of the Works attributed to William of Pagula with Special Reference to the *Oculus Sacerdotis* and *Summa Summarum*’, 2 vols., unpublished D.Phil dissertation, Oxford University (1956) vol. i, p. 375-379, vol. ii, p. 59. The first part of the *Speculum* in its longer version from c.1350 has been published: Ranulph Higden, *Speculum Curatorum: A Mirror for Curates*, ed. and trans. Eugene Crook and Margaret Jennings, Dallas Medieval Texts and Translations 13.1 (Paris, 2012). This is based on Urbana-Champaign, University of Illinois MS Pre-1650 72. I am using a text from the second half of the work, and have used the manuscripts available to me, which transmit the earlier version of the *Speculum.* [↑](#footnote-ref-613)
614. Ranulph Higden, *Speculum Curatorum*, Cambridge, University Library MS Mm-1-20, f. 185v; checked against London, British Library Harley MS 1004, f. 158va. [↑](#footnote-ref-614)
615. ibid.; ‘Et ut melius sciatur quando hec pena incurritur et quando non, dicit Thomas in scripto quod sigillum confessionis directe se extendit ad ea que cadunt sub sacramentali confessione. ¶ Sed indirecte pertinent ad hoc sigillum ea per que posset peccator aut peccatum deprehendi. ¶ Sed et alia (et alia] Harley ms: illa) que tempore confessionis dicuntur celari debent, tam propter scandalum vitandum, tam propter pronitatem que ex tali consuetudine accidere posset.’ [↑](#footnote-ref-615)
616. Thomas Kaeppeli, *Scriptores Ordinis Praedicatorum Medii Aevi,* 4 vols. (Rome, 1970-1993)*,* vol.i, pp. 92-96; Michaud-Quantin, *Sommes,* p. 74. [↑](#footnote-ref-616)
617. Antoninus of Florence, *Confessionale* ‘Defecerunt’ (Paris, 1516), f. 37va-b. [↑](#footnote-ref-617)
618. Sylvestor Mazzolini da Priero, *Summa Summarum* (Lyon, 1533), f. 56v-57r. [↑](#footnote-ref-618)
619. *Summa Angelica,* ‘Eucharistia’ ii. §5. f. 103va. [↑](#footnote-ref-619)
620. Baptista Trovamala de Salis, *Summa Rosella* (Paris, 1515), ‘Confessionis Celatio’, §6, f. 94rb. [↑](#footnote-ref-620)
621. Boyle, ‘The Quodlibets of St. Thomas’, in *Pastoral Care,* II, pp. 252-253. [↑](#footnote-ref-621)
622. Wei argues that quodlibetical teaching in its original form reached an audience outside the schools in ‘The Masters of Theology’. He cites the quodlibets used by French bishops in their case against friars during the secular-mendicant controversy (at p. 42), and the influence of quodlibetical disputes in determining the grounds on which the French government and the Colonna cardinals brought a case against Boniface VIII (at pp. 59-60). These are both fascinating cases where quodlibets were put to use in a controversy which the theology masters could not have envisioned when they first gave their responses, nor could this kind of wider public response have been elicited to any but the most controversial and political questions the masters treated. [↑](#footnote-ref-622)
623. X.5.41.3. [↑](#footnote-ref-623)
624. I have not found the source of this quote. [↑](#footnote-ref-624)
625. Mt 18:7. [↑](#footnote-ref-625)
626. Augustine, *Epistula* 47, ed. Kl.D. Daur, *CCSL* 31 (Turnhout, 2004), c. 5, p. 207. [↑](#footnote-ref-626)
627. sic., possibly means *Decretum,* C.23, q.5 c.8. [↑](#footnote-ref-627)
628. ms. incambit. [↑](#footnote-ref-628)
629. gradu *ras.* [↑](#footnote-ref-629)
630. *Decretum,* C.VIII, q.1, c.11. [↑](#footnote-ref-630)
631. ms. dicat [↑](#footnote-ref-631)
632. ms. non quam [↑](#footnote-ref-632)
633. ms. quas [↑](#footnote-ref-633)
634. trimet *ras.* [↑](#footnote-ref-634)
635. ms. excercet [↑](#footnote-ref-635)
636. ms. eius [↑](#footnote-ref-636)
637. Augustine, *Epistola* 210, Al. Goldbacher, *CSEL* 57 (Vienna, 1911), c. 2, p. 355. [↑](#footnote-ref-637)
638. *Decretum,* C.11, q.3. c.80. [↑](#footnote-ref-638)
639. gradu *ras.* [↑](#footnote-ref-639)
640. Ecl 3:7. [↑](#footnote-ref-640)
641. 1 Sml 25:36. [↑](#footnote-ref-641)
642. Presumably there is an omission here. [↑](#footnote-ref-642)
643. dissimultio rea correptione *ms.* [↑](#footnote-ref-643)
644. Augustine, *De Civitate Dei*, ed. B. Dombart and A. Kalb, *CCSL* 47-48, 2 vols. (Turnhout, 1955), I,c.9, vol. i, p. 9. [↑](#footnote-ref-644)
645. Augustine, *Contra Mendacium,* ed. Josephus Zycha, *CSEL* 41 (Vienna, 1900), c. 10, p. 498. [↑](#footnote-ref-645)
646. See Ch 1 pp. 34-37. [↑](#footnote-ref-646)
647. Alexander Murray, ‘Into your Enemy’s Stomach’, review of Jacques le Goff, *Saint Louis*, trans. Gareth Evan Gollrad, *London Review of Books* 32.7 (8 April 2010), 25-26. [↑](#footnote-ref-647)
648. Joinville, *Vie de Saint Louis,* ed. Jacques Monfrin (Paris, 1998), ch. 20, p. 10; ‘Le saint roy ama tant verité que neis aus Sarrazins ne voult il pas mentir de ce que il leur avoit convenant’. Translated Henry G. Bohn, *Chronicles of the Crusades* (London, repr. 2004), p. 352, corrected for literalness. [↑](#footnote-ref-648)
649. Joinville, *Vie de Saint Louis*, ch. 362, 387, pp.178, 190. [↑](#footnote-ref-649)
650. Joinville, *Vie de Saint Louis,* ch. 66-67, p. 34; ‘Le sceau de la lettre estoit brisié si que il n’i avoit de remenant fors que la moitié des jambes de l’ymage du seel le roy et l’eschamel sur quoy li roys tenoit ses piez; et il le nous moustra a touz, qui estions de son conseil, et que nous li aidissons a conseiller. Nous deismes trestuit sanz nul descort que il n’estoit de riens tenu a la lettre mettre a execucion. Et lors il dit a Jehan Sarrazin, son chamberlain, que il li baillast la lettre que il li avoit commandee. Quant il tint la lettre, il nous dit: “Seigneurs, veez ci le seel de quoy je usoy avant que je alasse outre mer, et voit on tout cler par ce seel que l’empreinte du seel brisee est semblable au seel entier; par quoy je n’oseroie en bone conscience ladite contee retenir.”’ [↑](#footnote-ref-650)
651. Joinville, *Vie de Saint Louis,* ch. 380-385, pp. 186-190; Jean Richard, *Saint Louis: Crusader King of France,* ed. and abridged Simon Lloyd,trans. Jean Birrell (Cambridge, 1992), pp. 131-2. [↑](#footnote-ref-651)
652. Joinville, *Vie de Saint Louis*, c. 381, pp. 186-188; ‘ “Sire de Joinville, ce conseil que vous donnés au roy n’est ne bon ne resonnable, car vous savés que nous recevons les commandes en tel maniere que par nos seremens nous ne le poons delivrer mes que a ceulz qui les nous baillent.”’ [↑](#footnote-ref-652)
653. ibid., c.382, p. 188; ‘Et lors parla frere Renaut de Vichiers, qui estoit marechal du Temple, et dit ainsi: “ Sire, lessiés ester la tençon du seigneur de Joinville et de nostre commandeur, car aussi comme nostre commandeur dit, nous ne pourrions riens bailler que nous ne feussiens parjures. Et de ce que le seneschal vous loe que ce nous ne vous en voulon prester, que vous en preignés, ne dit il pas molt grans merveilles, et vous en ferés vostre volenté. Et se vous prenez du nostre, nous avons bien tant du vostre en Acre que vous nous desdomagerés bien.”’ [↑](#footnote-ref-653)
654. ibid., c. 384, p. 188; ‘Si tost comme je fu avalé la ou le tresor estoit, je demandé au tresorier du Temple, qui la estoit, qui il me baillast les clefz d’une huche qui estoit devant moy. Et il, qui me vit megre et descharné de la maladie, et en l’abit que je avoie esté en prison, dit que il m’en bailleroit nulles. Et je regardé une coignee qui gisoit illec, si la levai et dis que je feroie la clef le roy. Quant le marechal vit ce, si me prist par le poing et me dit: “Sire, nous veons bien que c’est force que vous nous fetes, et nous vous ferons bailler les clez.” Lors commanda au tresorier que en les baillast ce qu’il fist.’ [↑](#footnote-ref-654)
655. R.H. Helmholz, *The Spirit of Classical Canon Law* (Athens, Georgia and London, 1996), p. 95, 252-254; cf. Raymond of Penafort, *Summa de Poenitentia et Matrimonio cum Glossis Ioannis de Friburgo* (Rome, 1603 repr. Farnborough 1967),Book III, Tit.22, §16, pp. 313-314. [↑](#footnote-ref-655)
656. The paragraphs that follow are based closely on the work of Elizabeth A. R. Brown, who has written so convincingly on Philip’s private conscience. [↑](#footnote-ref-656)
657. The unanimous view among twentieth-century historians: Malcolm Barber, *The Trial of the Templars,* 2nd edn. (Cambridge, 2006), pp. 302-304; On Nogaret’s accusations against Boniface, see Jeffrey Denton, ‘The Attempted Trial of Boniface VIII for Heresy’ in Maureen Mulholland and Brian Pullan (eds), *Judicial Tribunals in England and Europe, 1200-1700,* The Trial in History Volume 1 (Manchester, 2003), pp. 117-128 at 118. [↑](#footnote-ref-657)
658. A survey of recent historiography on this question can be found in Barber, *The Trial of the Templars*, pp. 294-301. [↑](#footnote-ref-658)
659. Elizabeth A.R. Brown, ‘Moral Imperatives and Conundrums of Conscience: Reflections on Philip the Fair of France’ *Speculum* 87 (2012), 1-36 at 17-21. [↑](#footnote-ref-659)
660. Brown, ‘Moral Imperatives’, 23 and 33; ‘Christus est ueritas. et quicumque veritatem neguat christum neguat et quj recedit a ueritate Recedit a christo.’ [↑](#footnote-ref-660)
661. Elizabeth A.R. Brown, ‘The Prince is Father of the King: The Character and Childhood of Philip the Fair of France’ in her *The Monarchy of Capetian France and Royal Ceremonial* (Aldershot, repr. 1988,) II, p. 292. [↑](#footnote-ref-661)
662. Elizabeth A.R. Brown, ‘Taxation and Morality in the Thirteenth and Fourteenth Centuries: Conscience and Political Power and the Kings of France’ *French Historical Studies* 8.1 (1973), 1-28 at 19. [↑](#footnote-ref-662)
663. Elizabeth A.R. Brown, ‘Royal Salvation and Needs of State in Early-Fourteenth-Century France’ in *The Monarchy of Capetian France*, IV, pp. 22-24; ‘Moral Imperatives’, 7. [↑](#footnote-ref-663)
664. Brown talks about Philip’s ‘intense competition with his dead wife’ in pious donations; ‘Moral Imperatives’, 8. [↑](#footnote-ref-664)
665. Brown, ‘Moral Imperatives’, 7-8. [↑](#footnote-ref-665)
666. See Ch. 1. [↑](#footnote-ref-666)
667. Jean-Pierre Cavaillé, *Dis/simulations: Jules-César Vanini, François La Mothe Le Vayer, Gabriel Naudé, Louis Machon et Torquato Accetto : Religion, morale et politique au XVIIe siècle* (Paris, 2002), pp. 14-19. [↑](#footnote-ref-667)
668. The linked, but separate question, whether the teachings and philosophical positions of university masters were affected by prohibitions have been discussed at length by Luca Bianchi, *Il vescovo e i filosofi: Le condanna parigina del 1277 e l’evoluzione dell’aristotelismo scolastico* (Bergamo, 1990), and in the edited volume, Jan A. Aertsen, Kent Emery, Jr. and Andreas Speer (eds.), *Nach der Verurteilung von 1277: Philosophie und Theologie an der Universität von Paris im letzten Viertel des 13. Jahrhunderts. Studien und Texte* (Berlin and New York, 2001). [↑](#footnote-ref-668)
669. John Peckham, *Quodlibet* I, q. 30 in *Quodlibeta Quatuor*, eds. Girard J. Etzkorn and Ferdinandus Delorme, O.F.M., Bibliotheca Franciscana Scholastica Medii Aevi 25 (Quaracchi, Grottaferrata, 1989), pp. 61-64. [↑](#footnote-ref-669)
670. Henry of Ghent, *Quaestiones de* *Quolibet* (Paris, 1518), XI, q.22, f. 475r-v, compared against Oxford, Merton College MS 107, f. 29v; ‘Ideo[ms. Unde] qui [ms. quia]exponit privilegium domini pape secundum planum verborum, quando in eo non est ambiguum ut doctor humilis est commendandus. Qui vero exponit ipsum cum aliquid verborum est ambiguum, ut interpretator presumptuosus est corripiendus. Qui vero exponit ipsum contra planum verborum nequaquam est comendandus, sed potius ut prevaricator iniuriosus est fustigandus et sic talis sua expositione reuerentiam pape aut alicui suorum superiorum non exhibet […]’ [↑](#footnote-ref-670)
671. David Burr, *Olivi and Franciscan Poverty: The Origins of the* Usus Pauper *Controversy* (Philadelphia, 1989)*,* p. 80. [↑](#footnote-ref-671)
672. Catherine König-Pralong, *Le Bon usage des saviors: scolastique, philosophie et politique culturelle* (Paris, 2011), pp. 91-92, 142-143, 189. [↑](#footnote-ref-672)
673. Godfrey of Fontaines, *Quodlibet* IV,q.13, in *Les Quatre premiers quodlibets,* eds. M. de Wulf and A. Pelzer (Louvain, 1904), p. 276. This Quodlibet is the only source for this council. [↑](#footnote-ref-673)
674. There is an extensive bibliography on this subject, the seminal study being Roland Hissette, *Enquête sur les 219 articles condamnés à Paris le 7 mars 1277* (Louvain and Paris, 1977). [↑](#footnote-ref-674)
675. R.W. Southern, ‘The Changing Role of Universities in Medieval Europe’ *Historical Research* 60.142 (1987), 133-146 at 139. [↑](#footnote-ref-675)
676. On both of these cases, Southern, ‘The Changing Role of Universities’, 135-7. [↑](#footnote-ref-676)
677. See Henry of Ghent’s comments to questions on angels in Pasquale Porro, ‘Doing Theology (and Philosophy) in the First Person: Henry of Ghent’s *Quodlibeta’* in Christopher Schabel (ed.), *Theological Quodlibeta in the Middle Ages: The Thirteenth Century* (Leiden and Boston, 2006), pp. 171-231 at 195. [↑](#footnote-ref-677)
678. Ludwig Hödl, ‘Neue Nachrichten über die Pariser Verurteilungen der tomasischen Formlehre’, *Scholastik* 39 (1964), 178-196 at 184-5. [↑](#footnote-ref-678)
679. Bianchi, *Il vescovo e i filosofi,* pp. 31-35. [↑](#footnote-ref-679)
680. Quodlibets on this subject that I have not discussed here include: Gerard of Abbeville, *Quodlibet X,* q3, Paris, Bibliothèque Nationale MS Lat. 16405, ff. 80ra-rb; ‘Utrum arguenda non arguere sit peccatum?’; Henry of Ghent, *Quodlibet* XII q.16, ed. Decorte (Leuven, 1987). pp. 91-93; ‘Utrum scholastice docens falsum ex sinistra affectione motus peccet mortaliter?’; Servais of Mont Saint Éloi, *Quodlibet* I. q. 55, Paris, Bibliothèque Nationale MS Lat. 15350, f. 281rb; ‘Queritur de peccato magistri in theologia disputantis de quolibet, qui renuit accipere quaestionem sibi propositam quia tangit aliquos quos timet offendere, peccet in hoc mortaliter?’; Hervaeus Natalis, *Quodlibet* II, q. 16 (Venice, 1513, repr. Ridgewood, N.J., 1966), f. 65v; ‘Utrum magister in theologia questiones curiosas tractans et utiles dimittens mortaliter peccet?’ [↑](#footnote-ref-680)
681. See above Ch. 3 p. 125-126. [↑](#footnote-ref-681)
682. Ricardus de Mediavilla, *Quodlibet* III, q. 22 (Venice, 1509), f. 40va-b. [↑](#footnote-ref-682)
683. Ricardus de Mediavilla, *Quodlibet* III, q. 22, f. 40va (corrected against Vatican, Borg. 361, f. 123rb); ‘In casu enim in quo si non reciperet questionem deliberative adverteret fieri preiudicium veritati fidei vel morum non recipiendo peccaret mortaliter, et maxime si probabiliter coniecturaret quod illam questionem recipiendo et determinando illis periculis obviare posset. In illo autem casu in quo videretur probabiliter quod si questio non reciperetur in nullo preiudicaretur fidei vel moribus, videret tamen quod hoc scire auditoribus utile esset, si (sed *ms.*) illam questionem dimitteret recipere ne illorum incurreret malivolentiam a quibus bonum (utile *add. ms.*) recipit vel recipere posset, sic dico quod posset peccare venialiter. In illo autem casu in quo, si questionem non reciperet, estimaret (edn. ‘si’ *om.* … estimare) probabiliter non fieri preiudicium fidei vel moribus sed hoc faceret pro conservanda conchordia (*om. ed.*) charitate et pro vitanda turbatione et scandalo et malis iudiciis que ex receptione et determinatione illius questionis oriri possent, sic dico quod mereretur. [↑](#footnote-ref-683)
684. cf. Henry of Ghent, *Quodlibet* II, q. 9*,* ed. R. Wielockx (Leuven, 1983), p. 67. [↑](#footnote-ref-684)
685. Henry of Ghent, *Quodlibet X,* q. 16, ed. R. Macken, *Henrici de Gandavo Opera* *Omnia* XIV (Leiden, 1981), pp. 304-307; ‘Utrum doctor sive magister determinans quaestiones vel exponens scripturas publice peccet mortaliter non explicando veritatem quam novit?’ Discussion of this question in Elsa Marmursztejn, *L’Autorité des maîtres: Scolastique, normes et société au XIIIe siècle* (Paris, 2007)*,* p. 60. [↑](#footnote-ref-685)
686. Henry of Ghent, *Quodlibet* X, q. 16, p. 306, ll. 42-44. [↑](#footnote-ref-686)
687. ibid., p. 306, ll. 44-5; cf. Henry of Ghent, *Quodlibet* XII, q. 16, pp. 91-93. [↑](#footnote-ref-687)
688. Henricus de Gandavo, *Quodlibet* X, q. 16, p. 306, ll. 49-60. [↑](#footnote-ref-688)
689. ibid., p. 306, ll. 61-69. [↑](#footnote-ref-689)
690. Henry of Ghent, *Quodlibet XV*, q.15, eds. Girard Etzkorn and G.A. Wilson, *Henrici de Gandavo Opera Omnia* XX (Leuven, 2007), pp. 147-154; ‘Utrum licitum sit magistris disputare de potestate praelatorum?’ Discussions of this question in Marmursztejn, *L’Autorité des maîtres,* pp. 71-73; Ian P. Wei, *Intellectual Culture in Medieval Paris: Theologians and the University, c.1100-1330* (Cambridge, 2012), pp. 181-182. [↑](#footnote-ref-690)
691. D.L. Douie, *The Conflict between the Seculars and the Mendicants at the University of Paris in the Thirteenth Century,* The Aquinas Society of London, Aquinas Paper No. 23 (London, 1954), pp. 28-30; Southern, ‘The Changing Role of Universities’, p. 136. [↑](#footnote-ref-691)
692. Heinrich Finke, *Aus den Tagen Bonifaz VIII: Funde und Forschungen* (Münster, 1902), Quellen, pp. III-VII. [↑](#footnote-ref-692)
693. Henricus de Gandavo, *Quodlibet* XV, q.15, ll. 26-53, pp. 148-149. [↑](#footnote-ref-693)
694. ibid., ll. 87-88, p. 150. [↑](#footnote-ref-694)
695. ibid., ll. 91-109, pp. 150-151. [↑](#footnote-ref-695)
696. ibid., ll. 110-123, pp. 151-152. [↑](#footnote-ref-696)
697. ibid., ll. 139-42, pp. 152-153. [↑](#footnote-ref-697)
698. ibid., ll. 144-151, p. 153. [↑](#footnote-ref-698)
699. ibid., ll. 151-166, pp. 153-154. [↑](#footnote-ref-699)
700. Godfrey of Fontaines, *Quodlibet* IV,q. 13,eds. M. de Wulf and A. Pelzer (Louvain, 1904), p. 276; ‘aliquo modo possunt excusari.’ [↑](#footnote-ref-700)
701. Godfrey of Fontaines, *Quodlibet* XII, q. 5, in *Les Quodlibets onze , douze, treize et quatorze,* ed. J. Hoffmans (Louvain, 1932), p. 100. [↑](#footnote-ref-701)
702. Godfrey of Fontaines, *Quodlibet* VII,q. 18, in *Les Quatre premiers quodlibets,* eds. M de Wulf and J. Hoffmans (Louvain, 1914), pp. 402-405; ‘Utrum magister in theologia debet dicere contra articulum episcopi si credat oppositum esse verum?’ cf. Marmursztejn, *L’Autorité des maîtres,* pp. 69-71; Wei, *Intellectual culture,* pp. 179-181. [↑](#footnote-ref-702)
703. ibid., p. 403. [↑](#footnote-ref-703)
704. ibid., pp. 403-404. [↑](#footnote-ref-704)
705. ibid., p. 404. [↑](#footnote-ref-705)
706. ibid., p. 404-405 [↑](#footnote-ref-706)
707. This point was first made by Herbert Grundmann, ‘Der Typus des Ketzers in mittelalterliche Anschauung’ in *Kultur – und Universalgeschichte: Walter Goetz zu seinem 60. Geburtstag* (Leipzig and Berlin, 1927), pp. 91-107; see also Peter Biller, ‘The *Topos* and Reality of the Heretic as *Illiteratus’* in his *The Waldenses, 1170-1530* (Aldershot, 2001), pp. 169-190 at 169-171; L.J. Sackville, *Heresy and Heretics in the Thirteenth Century: The Textual Representations* (York, 2011), pp. 39, 71, 149, 164, 166-167, 169. [↑](#footnote-ref-707)
708. Pseudo-David of Augsburg, *De Inquisitione Hereticorum* in W. Preger (ed.), *Der Tractat des David von Augsburg über die Waldesier* (Munich, 1878), p. 229; ‘Respondet cum magna fiducia elevatis ad celum oculis: domine, tu scis, quod de hoc innocens sum et numquam aliam fidem habui nisi veram fidem christianam. Dico: fidem tuam dicis, quia fidem nostram reputas falsam et hereticam; sed adiuro te querens si umquam aliam fidem pro vera didiceris vel credideris, quam illam, quam gens et ecclesia Romana credit esse veram fidem? Respondet: illam fidem, quam ecclesia tenet, ego pro fide habeo. Dico: complices erroris tui credis esse sanctam ecclesiam et illius fidem credis. Respondet: veram fidem, quam Romana credit ecclesia et quam vos ipse predicatis nobis aperte, ego credo. Dico: forte Rome habes aliquos de secta tua et illos vocas Romanam ecclesiam, et illorum fidem tenes. Ego eciam cum predico, diversa loquor et aliqua dico in quibus videmur eciam consentire, ut unum Deum esse. Ita et tu aliqua credis eorum que predico, nihilominus tamen posses esse hereticus, si alia non credis, que similiter sunt credenda.’ [↑](#footnote-ref-708)
709. Bernard Gui, *Practica Officii Inquisitionis Heretice Pravitatis,* in G. Mollat (ed. and trans. into French), *Manuel de l’inquisiteur,* 2 vols. (Paris, 1926), vol.i, pp. 64-76; cf. Étienne de Bourbon, *Tractatus de Diversis Materiis Praedicabilibus,* in A. Lecoy de la Marche (ed.), *Anecdotes historiques, légendes et apologues tirés du receuil inédit d’Étienne de Bourbon, Dominicain du XIIIe siècle* (Paris, 1877), pp. 311-314. [↑](#footnote-ref-709)
710. cf. Jean-Pierre Cavaillé, ‘L’Art des équivoques: Hérésie, inquisition et casuistique. Questions sur la transmission d’une doctrine médiévale à l’époque moderne’, *Mediévales* 43 (2002), 119-145; Karen Sullivan, *The Inner Lives of Medieval Inquisitors* (Chicago, 2011), pp. 176-177. [↑](#footnote-ref-710)
711. Pseudo-David of Augsburg, *De Inquisitione Hereticorum*, pp. 223-224. [↑](#footnote-ref-711)
712. ibid. p.224; ‘Vulpes enim astutae sunt simili subtili astucia capiendae.’ [↑](#footnote-ref-712)
713. cf. Antoine Dondaine, ‘Le Manuel de l’Inquisiteur (1230-1330)’, in his *Les hérésies et l’Inquisition XIIe-XIIIe siècles (*Aldershot, 1990), art. II, p. 124, n.22. [↑](#footnote-ref-713)
714. Nicholas Eymerich, *Directorium Inquisitorum* (Rome, 1578), p. 291; ‘*Cautelae inquisitorum decem contra haereticorum cavillationes et fraudes’.* [↑](#footnote-ref-714)
715. ibid., p. 292. See n. 79 below. [↑](#footnote-ref-715)
716. ibid., p. 292; ‘Ego compatiebar tibi et volebam quod mihi diceres veritatem, ut expedirem te et factum tuum et non remaneres sic captus, quia delicatus es, et posses leviter incurrere aegritudinem, quia habeo recedere a te et ire ubi sum valde necessarius, et nescio quando revertar.’ [↑](#footnote-ref-716)
717. I disagree here with Cavaillé, ‘L’Art des équivoques’, 122. [↑](#footnote-ref-717)
718. eg. see the difference in description of Waldenses, Cathars and Béguins in Bernard Gui, *Practica Officii Inquisitionis,* vol. i, pp. 22-24, 58-72, 94-96. [↑](#footnote-ref-718)
719. Peter Biller, ‘The Topos and Reality of the Hereti as *Illiteratus’*,pp. 171, 174-175. [↑](#footnote-ref-719)
720. Pseudo-David of Augsburg, *De Inquisitione Hereticorum,* p. 221; Bernard Gui, *Practica Officii Inquisitionis,* vol. i, p. 60. [↑](#footnote-ref-720)
721. What inquisition records can tell us about heretics has been the source of much disagreement. Mark Pegg and R.I. Moore have argued that inquisition records greatly distort our picture of heresy: Mark Gregory Pegg, *The Corruption of Angels: The Great Inquisition of 1245-1246* (Princeton, 2001), ch.7; R.I. Moore, *The War on Heresy: Faith and Power in Medieval Europe* (London, 2012) pp. 260-263; Peter Biller has replied that the two historians misrepresent the records; see his reviews of the works cited above, in *Speculum* 78.4 (2003), 1366-1370, and *Reviews in History* (review no. 1546). [↑](#footnote-ref-721)
722. James B. Given, *Inquisition and Medieval Society: Power, Discipline and Resistance in Languedoc* (Ithaca N.Y. and London, 1997), pp. 95-96, 98-99; John Arnold, *Inquisition and Power: Catharism and the Confessing Subject in Medieval Languedoc* (Philadelphia, 2001), pp. 167-173, 190-197; Cavaillé, ‘L’Art des équivoques’, 129-130, 139-141. [↑](#footnote-ref-722)
723. eg. Robert of Courson, *Summa,* Paris, Bibliothèque Nationale MS Lat. 14524, f. 90va; ‘Item abbas depositarius recepit ab aliquo depositum immensum pecunie, qui iuravit se redditurum pecuniam poscenti. Postmodum ille qui deposuit factus est hereticus et repetit pecuniam suam ut eam conferat hereticis in subversionem ecclesie. […] (f.90vb) De abbate qui recipit depositum, dicimus quod non debet restituere illud domino suo si versus est ad hereticos in subversionem ecclesie. Sicut teste Augustino, gladium furem non debes reddere, licet iuraveris quod redderes poscenti, quia non intellexisti quod insanus gladium deberet repetere, sicut non intellexit abbas quod factus hereticus deberet repetere pecuniam. Si vero iuravit quod redderet ei sive facto heretico sive non, perperam iuravit et ideo debet penitere de perperam iuramento et non reddere ei pecuniam propter hoc, sed per manum episcopi vel metropolitani fiet restitutio pecunie heredibus illius heretici, vel retinebitur quousque ille redeat ad fidei unitatem, aut fiet de illa quod disposuerit in ecclesia. [↑](#footnote-ref-723)
724. Eymerich, *Directorium Inquisitorum,* p. 292; ‘Et inquisitor intrabit ad finem cum eis et promittet sibi facere gratiam et faciat, nam totum est gratiosum quod fit pro conversione haereticorum et penitentie sunt gratiae et medelae. Et ubi delatus petat gratiam et quod deteget errorem suum, dicatur sibi quod amplius fiet sibi quam ipse petat et quaedam verba generalia taliter ut veritas habeatur et hereticus convertatur et fiat sibi gratia quod ad misericordiam admittatur.’ [↑](#footnote-ref-724)
725. ibid., p. 292; ‘si videat sic haereticum in negativa perseverantem, *fingat se longius debere ire*.’ [↑](#footnote-ref-725)
726. eg. Thomas Aquinas, *Summa Theologiae,* in *Opera Omnia iussu Leonis XIII,* 4-12 (Rome 1886-1906), IIa-IIae, Q.111, a.1, arg. 1, and ad.1, vol. ix, p. 429; cf. on Peter John Olivi’s particularly rich casuistical discussion of this passage, Emily Corran, ‘Peter John Olivi’s Ethics of Lying and Equivocation: Casuistical Teaching drawn from his Commentaries of *Matthew 5:37* and *Luke 24:28’ Archivum Franciscanum Historicum* 108 (2015), 89-114. [↑](#footnote-ref-726)
727. Eymerich, *Directorium Inquisitorum,* p. 293; ‘Istae sunt decem cautelae inquisitoris ad extorquendum veritatem ab haereticis gratiose absque quaestionibus et tormentis.’ [↑](#footnote-ref-727)
728. See ibid., *Scholion* 29, p. 139. [↑](#footnote-ref-728)
729. Malcolm Lambert, *Medieval Heresy: Popular Movements from the Gregorian Reform to the Reformation,* 3rd edn. (Oxford, 2002),p. 111. [↑](#footnote-ref-729)
730. Guillelmus Peraldus, *Summae Virtutum ac Vitiorum*, 2 vols. bound together (Antwerp, 1587), vol.ii. f. 183va: ‘Homo enim mendax filius est diaboli imitatione.’ [↑](#footnote-ref-730)
731. Iacobus de Vitraico, *Sermones Vulgares vel ad Status (Prologus 1-XXXVI)* ed. Jean Longère, *CCCM* 225 (Turnhout, 2013), XI.16, pp. 201-203; XVIII.11, p. 332, XXXI.15, p. 590. [↑](#footnote-ref-731)
732. Caesarius von Heisterbach, *Dialogus Miraculorum*, ed. Horst Schneider, German trans. Nikolaus Nösges and Horst Schneider, 5 vols. (Turnhout, 2009), 3.6, vol. ii, pp. 516-518. [↑](#footnote-ref-732)
733. Walter of Châtillon, *The Shorter Poems*, ed. David A. Traill (Oxford, 2013), 29.1, p. 62. [↑](#footnote-ref-733)
734. John of Salisbury, *Policraticus,* ed. andtrans. Cary J. Nederman (Cambridge 1990, repr. 2000), Lib. 3, ch. 4, 6, p. 19. [↑](#footnote-ref-734)
735. Gerald of Wales, *Descriptio Kambriae,* ed. James F. Dimock, Rolls Series 21.vi (London, 1868), p. 206; cf. Robert Bartlett, *Gerald of Wales: A Voice of the Middle Ages* (Oxford, 2006), p. 37. [↑](#footnote-ref-735)
736. Jean Renart, *Le Roman de la Rose ou de Guillaume de Dole,* ed. Félix Lecoy (Paris, 1962); *Doon de la Roche*: *Chanson de geste,* ed. Paul Meyer (Paris, 1921). [↑](#footnote-ref-736)
737. *Daurel et Beton*, *Chanson de geste provençal* ed. Paul Meyer (Paris, 1880). [↑](#footnote-ref-737)
738. *La Chasteleine de Vergi,* ed. Gaston Raynaud and Lucien Foulet (Paris, 1972); *Les Lais de Marie de France,* ed. Jeanne Lods (Paris, 1959), pp. 66-85. [↑](#footnote-ref-738)
739. Iacapo de Varazze, *Legenda Aurea,* ed. Giovanni Paolo Maggioni, 2 vols. (Florence, 1998), vol. i, pp. 44-45. [↑](#footnote-ref-739)
740. Caesarius von Heisterbach, *Dialogus Miraculorum,* 3.37, vol. ii, pp. 630-632. [↑](#footnote-ref-740)
741. Walter Map, *De Nugis Curialium: Courtiers Trifles,* ed. and trans. M.R. James (Oxford, 1983), pp. 106-108. [↑](#footnote-ref-741)
742. Dante, *Inferno,* ed. and trans. Robin Kirkpatrick (Penguin Classics, 2006), 27.60-129, pp. 238-243. [↑](#footnote-ref-742)
743. Dante, *Inferno,* 27.110: ‘lunga promessa con l’attender corto’. [↑](#footnote-ref-743)
744. Bernard Williams’s terminology of ‘thick’ and ‘thin’ ethical concepts can help here. ‘Thin’ concepts keep the moral judgment and the description of an action separate (so the moral terminology is reduced to generalities such as ‘good’ and ‘bad’ and the action is described in neutral terms), whereas ‘thick’ concepts roll both into one (e.g. ‘treachery’ describes a factual action and simultaneously passes an ethical judgment). Casuistical discussions more typically stick to thin concepts, since they are enquiries whether certain unusual actions might be called moral. Indeed, Williams observes that coherent ethical theories only really work with ‘thin’ concepts – ‘thick’ ones are too messy to systematize. The authors discussed in the last few paragraphs all use ‘thick’ ethical concepts. ‘Thick’ discussions of lying, deception and perjury were (and still are) more familiar than the ‘thin’ ones – and this perhaps was a disincentive to widespread casuistical thought. On ‘thick’ and ‘thin’ concepts, see *Ethics and the Limits of Philosophy,* (Fontana Press 1985, repr. Oxford 2006), pp. 129, 140, 143-145. [↑](#footnote-ref-744)
745. This was certainly Robert Armstrong’s experience when he famously used the term in the witness box during the *Spycatcher* trial in 1986; Armstrong, the UK Cabinet Secretary, was describing a misleading letter, and the phrase later became shorthand for all deceitful pedantry. [↑](#footnote-ref-745)
746. Augustine, *De Mendacio,* ed. Josephus Zycha, CSEL 41 (Vienna, 1900). c.21, p. 465; ‘Quisquis autem esse aliquod genus mendacii, quod peccatum non sit, putaverit, decipiet se ipsum turpiter, cum honestum se deceptorem arbitratur aliorum.’ cf. *Decretum Gratiani*, in Emil Friedberg (ed.), *Corpus Iuris Canonici*, 2 vols. (Leipzig, 1879-81 repr. Graz 1959)*,* C. 22, q. 2, c.8, vol. i, col. 870; Peter Lombard, *Sententiae in IV Libris Distinctae,* ed. Collegium S. Bonaventurae ad Claras Aquas, Spicilegium Bonaventurianum 4-5, 2 vols. (Grottaferrata, Rome, 1981), Lib. 3, D. 38, c. 2, vol. ii, p. 215. [↑](#footnote-ref-746)
747. John Arnold discusses this trend in *Belief and Unbelief in Medieval Europe* (London, 2010), Ch. 2, especially pp. 37-39. [↑](#footnote-ref-747)
748. Michael H. Hoeflich and Jasonne M. Grabher, ‘The Establishment of Normative Legal Texts: The Beginnings of the *Ius commune*’, in Wilfried Hartmann and Kenneth Pennington (eds.), *The History of Medieval Canon Law in the Classical Period, 1140-1234: From Gratian to the Decretals of Gregory IX* (Washington D.C., 2008)*,* pp. 1-21 at 7. [↑](#footnote-ref-748)
749. Roberto Rusconi, *L’ordine dei peccati*. *La confessione tra Medioevo et età moderna* (Bologna, 2002), pp. 72-74; Joseph Goering, ‘The Internal Forum and the Literature of Penance and Confession’ in Hartmann and Pennington (eds.), *The History of Medieval Canon Law,* pp. 379-428 at 402. [↑](#footnote-ref-749)
750. On the sacraments see Jaroslav Pelikan, *The Christian Tradition: A History of the Development of Doctrine. The Growth of Medieval Theology (600-1300)* (Chicago, 1978), pp. 204-214; on marriage dispensations and annulments, D.L. d’Avray, *Papacy, Monarchy and Marriage, 860-1600* (Cambridge, 2015); on economic and military thought see John W. Baldwin, *Masters, Princes and Merchants: The Social Views of Peter the Chanter and his Circle* (Princeton, 1970), vol. i, pp. 205-227, 270-314; John W. Baldwin, ‘The Medieval Theories of the Just Price: Romanists, Canonists and Theologians in the Twelfth and Thirteenth Centuries’, *Transactions of the American Philosophical Society* 49.4 (1959), 1-92; on institutions see John Sabapathy, *Officers and Accountability in Medieval England 1170-1300* (Oxford, 2014). [↑](#footnote-ref-750)
751. *De Rebus Alsaticis Ineuntis Saeculi XIII,* ed. Philippus Jaffé, *MGH Scriptores* 17 (Hannover, 1861), pp. 232-237. I owe this *fiche* (via an intermediary) to Peter Biller. [↑](#footnote-ref-751)
752. cf. Peter Biller, *The Measure of Multitude: Population in Medieval Thought* (Oxford, 2003), pp. 226-227. [↑](#footnote-ref-752)
753. *De Rebus Alsaticis*, c. 1, p. 232; ‘Sacerdotes etiam quas generaliter concubinas habuerunt, quia rustici ad hoc eos communiter inducebant; dicebant enim: *Sacerdotes continens esse non poterit; unde melius est, quod uxorem solam habeat quam uxores omnium sollicitet et cognoscat.* […] Dominus Henricus, episcopus Basiliensis, in morte sua 20 pueros, orbatos parente, suis matribus dereliquit,’ [↑](#footnote-ref-753)
754. ibid., c.9, p. 235; ‘Nigri monachi et moniales, qui non proprie de regula beati Benedicti prodierunt, sed immediate sub pape subfuerunt dominio, officium beati Benedicti bene pro suo modulo servarunt, vestes autem religiosorum et constitutiones et mores servare plurimi contempserunt.’ [↑](#footnote-ref-754)
755. ibid., c.15 p. 236; ‘Possessiones abbates, clerici a pauperibus obligabant, peccatum facere non credebant.’ [↑](#footnote-ref-755)
756. ibid., c.14, p. 236; ‘Milites venationibus, piscationibus, torneamentis, hastiludiis, amplexibus vacabant, et pene omnes simplicem fornicationem peccatum minimum reputabant. Quilibet servus ancillam cuius voluit procabatur.’ [↑](#footnote-ref-756)
757. ibid., c.10, p. 236; ‘Parisius tunc temporis noscitur viguisse studium.’ [↑](#footnote-ref-757)
758. ibid. c. 2, p. 232; ‘Libri iuris multi fuerunt, sed pauci de clericis eos sibi poterant comparare; si autem aliquis eos sibi comparasset, nequaquam propter nimietatem utiliter perlegere potuisset. Fratres ordinis Minorum primitive scientie laici fuerunt; sed et fratres Predicatores primitivi in scientia iuris modici fuerunt, et hi, qui extitere, prudenter simplicibus rusticis consulere potuerunt. Multos enim casus iuris fratres Predicatores Basilienses Parisius miserunt, et determinationem eorum a fratribus Parisiensibus receperunt.’ [↑](#footnote-ref-758)
759. ibid., c.1, p. 232; ‘Sacerdotes multi modici in scientia fuerunt, unde minus prudenter consulere potuerunt.’ [↑](#footnote-ref-759)
760. ibid., c.1, p. 232; ‘Circa annum Domini 1200. sacerdotes in Alsatia pauci fuerunt, et unus in duabus villis vel tribus vel 4 parvis villis eis missas ad sufficientiam celebravit.’ [↑](#footnote-ref-760)
761. ibid., c.16, p. 236; ‘Heretici in locis plurimis abundabant; hos autem fratres Predicatores cum magna dominorum potentia laudabiliter extirpabant.’ [↑](#footnote-ref-761)
762. ibid., c.3 p. 233; ‘Fecit et hic Remundus summam parvulam iuris, confessoribus et sacerdotibus necessariam; hac enim scita, poterat quis in multis casibus prudenter et laudabiliter respondere.’ [↑](#footnote-ref-762)
763. Henry Charles Lea recycled all of these commonplaces in an otherwise scholarly history of confession: Henry Charles Lea, *A History of Auricular Confession and Indulgence in the Latin Church,* 3 vols. (London, 1896), vol. ii, pp. 401-408. The same views still appear in much modern scholarship, see my introduction. [↑](#footnote-ref-763)
764. See above Ch. 3, pp. 119. [↑](#footnote-ref-764)
765. Other moral philosophers were quicker to evoke the language of martyrdom: think for example of Abelard’s *Planctus*, which praises the sufffering of Biblical figures, supposedly as *exempla* for Heloise and her nuns. cf. Juanita Feros Ruys, *The Repentant Abelard: Family, Gender and Ethics in Peter Abelard’s* Carmen ad Astralabium *and* Planctus (New York, 2014). [↑](#footnote-ref-765)
766. See above, Ch 4., pp. 163-165. [↑](#footnote-ref-766)
767. A central argument to David d’Avray’s recent book on royal marriage annulments and dispensations, *Papacy, Monarchy and Marriage.* [↑](#footnote-ref-767)
768. See above Ch.3, pp. 110. [↑](#footnote-ref-768)
769. *Summa,* §349, III 2b, vol. xxi, p. 462-463. [↑](#footnote-ref-769)
770. See James Helgeson, *The Lying Mirror: The First-Person Stance and Sixteenth-Century Writing* (Geneva, 2012); Alain Pons, ‘La rhétorique des manières au XVIe siècle en Italie’ in Marc Fumaroli (ed.), *Histoire de la rhétorique dans l’Europe moderne 1450-1950* (Paris, 1999), pp. 411-430 at 423-424. [↑](#footnote-ref-770)
771. Quentin Skinner, ‘Hobbes on Rhetoric and the Construction of Morality’ in his *Visions of Politics: Volume III. Hobbes and Civil Science* (Cambridge, 2002), pp. 87-141; Paul Grice, *Studies in the Way of Words* (Harvard MA, 1989). [↑](#footnote-ref-771)
772. See above Ch. 4, p. 141. [↑](#footnote-ref-772)
773. I make this comparison as a non-specialist who has enjoyed the Radio 4 program ‘Inside the Ethics Committee’, which discusses the decisions of medical ethics boards, and Ian McEwan’s novel, *The Children Act* (London, 2014), which he wrote based on judges’ reports from the family law courts. Family law is distinct from other branches of law in that it must provide for the welfare of any children involved; this confers a quasi-pastoral tone on its judgments. [↑](#footnote-ref-773)
774. Jonathan Wolff, *Ethics and Public Policy: A Philosophical Inquiry* (London and New York, 2011), pp. 1-10 at 6. [↑](#footnote-ref-774)