

WITH A PURE CONSCIENCE

Christian Liberty before the Reformation

IAN CHRISTOPHER LEVY



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Ian Christopher Levy

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*In memory of my
mother,
Alison Howard-Levy*

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PREFACE

The seeds of this book were planted over ten years ago when I was asked by Professor Robert Louis Wilken to participate in a conference commemorating the Edict of Milan, which extended religious toleration to the Christians of the Roman Empire in AD 313. That resulted in my chapter, “Liberty of Conscience and Freedom of Religion in the Medieval Canonists and Theologians,” which appeared in the Cambridge volume *Christianity and Freedom: Historical Perspectives*.¹ I remain indebted to Professor Wilken, not only for his initial conference invitation and subsequent review of my work, but for the sustained collegiality of this distinguished scholar.

The research I had done for that chapter sparked further interest in questions of conscience, religious liberty, and rights more generally as conceived and developed across the course of the Middle Ages. Although I had tackled related topics in the past, I knew that I would want to return to these questions in greater depth and on a larger scale. What struck me was not only the sophisticated intellectual efforts of the medieval theologians and canonists, as one might have already expected, but that their insightful treatment of such foundational matters was not more widely acknowledged today. Specialists in medieval scholasticism and canon law may be well acquainted with such themes as the sacred domain of conscience, inalienable personal rights, the parameters of obedience, and the limits placed upon ecclesiastical authority. Outside of this fairly limited coterie, however, are many otherwise informed readers of Church history who might not fully recognize the extent to which these principles were already being intricately constructed in the twelfth century and further developed over the following four hundred years prior to the Protestant Reformation. This book attempts to shed some further light on these developments in a variety of contexts, within and without the university walls, and often in the midst of momentous controversies.

Work on *With a Pure Conscience* began in earnest with my sabbatical in 2019 and took many twists and turns along the way to completion. I remain indebted to all the people who have supported my studies. The School of Arts and Sciences at Providence College generously awarded me a summer stipend as I was bringing this project to completion. The librarians of the

Providence College Library were always prepared to fulfill even my most obscure interlibrary loan requests. A debt of gratitude is owed to Professor Franklin Harkins of Boston College, who encouraged me to submit my manuscript to the Fordham Series in Medieval Studies and offered valuable guidance throughout the process. The acquisitions editor at Fordham, Dr. John Garza, has been very helpful step by step, from the submission of the text through its final approval. Many thanks also to Kem Crimmins and Lis Pearson for their careful work at the production stage. I am certainly grateful to the two readers whose comments proved valuable not only in locating omissions and asking for greater clarity in some cases, but in framing the larger scope of this book. Professor Stephen Lahey, friend and colleague for almost thirty years, provided exceptional insights in a frank manner that I took to heart. As always, I give heartfelt thanks to my wife, Michelle, for her continued support and companionship.

ABBREVIATIONS

- CCCM *Corpus Christianorum. Continuatio Mediaevalis*. Turnhout: Brepols, 1971–
- CCSL *Corpus Christianorum. Series Latina*. Turnhout: Brepols, 1953–
- CSEL *Corpus Scriptorum Ecclesiasticorum Latinorum*. Vienna: Tempsky, 1866–
- CUP *Chartularium Universitatis Parisiensis*. 4 vols. Edited by Henry Denifle. Paris: 1889–1897; reprint, Cambridge: Cambridge University Press, 2014.
- Denzinger *Enchiridion Symbolorum*. Edited by Henry Denzinger and Adolf Schönmetzer, 36th edition. Rome: Herder, 1976.
- Friedberg *Corpus iuris canonici*. 2 vols. Edited by Emil Friedberg. Leipzig: 1879; reprint, Graz: Akademische Druck- u. Verlagsanstalt, 1960.
- PL *Patrologia Latina Cursus Completus. Series Latina*. 221 volumes. Edited by J. P. Migne. Paris, 1844–1871.
- Tanner *Decrees of the Ecumenical Councils*. 2 vols. Edited by Norman Tanner. Washington, D.C.: Georgetown University Press, 1990.
- WA *D. Martin Luthers Werke (Weimarer Ausgabe)*. 136 vols. Weimar: Hermann Böhlau, 1883–2009.

Habentes mysterium fidei in conscientia pura

—1 Timothy 3:9

In pura conscientia dico quod non credo me dixisse contra veritatem

—Godfrey of Fontaines, Quodlibet 12, q. 20

INTRODUCTION

When Martin Luther appeared before the Diet of Worms in April of 1521, he was presented with a table piled with his own writings. Not unlike Jan Hus, who stood before the Council of Constance a century earlier, Luther wished to distinguish between the different works, some of which he claimed were innocent enough and others for which he might offer further explanation. Yet Johann Von der Eck, representative of the Archbishop of Trier, insisted that Luther renounce them all without distinction or equivocation. It was in the face of this ultimatum that Luther tendered his famous statement: “Unless I am convinced by the testimony of the Scriptures or by evident reason—for I do not trust either in the pope or in councils alone, since it is certain that they have frequently erred and contradicted themselves—I am bound by the Scriptures I have cited and my conscience is captive to the word of God (*capta conscientia in verbis Dei*). I cannot and I will not revoke anything, since it is neither safe nor sound to proceed against one’s conscience (*contra conscientiam*).”

Although Von der Eck understood the merits of such an appeal to conscience, he nevertheless advised Luther to set aside his conscience in this case precisely because it was erroneous. Recantation, Von der Eck advised, would actually be the safe and sound moral course: “*Depone conscientiam, Martine, quam deponere teneris, quia erronea est, et tutum tibi erit revocare et integrum.*”¹

This scene is popularly regarded as a pivotal moment in the birth of modernity, as the West finally begins to extricate itself from the heavy shackles of medieval obscurantism. The brave individual intent on following what he believes to be right has taken his stand upon conscience and refused to submit to the soul-crushing might of the ecclesiastical powers arrayed against him.² To regard this single moment as marking a great rupture with the past would, however, be a serious misreading of history. It not only decontextualizes Luther and thereby presents him in an anachronistic light; more importantly, it mischaracterizes the very world in which he lived. Some Reformation scholars of the last half century have attempted to

2 INTRODUCTION

set the record straight, as we find in Heiko Oberman's deeply learned biography of Luther: "Out of the understandable desire to declare Luther as the forerunner of the Enlightenment, the statement 'Here I stand, I can do no other' was reinterpreted as the principle of freedom of conscience. But that is missing the whole point. Appealing to conscience was common medieval practice; appealing to a 'free' conscience that had liberated itself from all bonds would never have occurred to Luther."³

Martin Luther, an Augustinian friar and university master, knew very well that staking out one's ground upon Holy Scripture was no novel approach to authority. All of his contemporaries, even those opponents with the loftiest conceptions of papal power, recognized Scripture's surpassing authority. Nor would the assembled theologians and jurists have found anything strange in Luther's refusal, precisely as a matter of conscience, to recant positions that he believed were determined by Scripture. Indeed, it was universally agreed that one must never proceed against the dictates of one's own conscience. In this vein one may concur with Bernhard Lohse that Luther's conception of conscience was: "timebound in several essential points . . . First of all, the self-evident way in which Luther presupposed the authority of Scripture as given and valid was possible in the sixteenth century but can longer be re-affirmed since the Enlightenment."⁴

Johann Von der Eck, for his part, was by no means the voice of benighted intolerance, for we need to bear in mind the events immediately leading up to the proceedings at Worms. Pope Leo X's bull *Exsurge Domine*, issued on 15 June 1520, had condemned forty-one propositions attributed to Luther. Luther's subsequent refusal to issue a revocation prompted his formal excommunication on 3 January 1521 (*Decet Romanum Pontificem*). From Von der Eck's perspective, Luther had already been corrected, the review process concluded, and the time for dialogue now over. Consequently, the Trier official demanded that Luther provide a straightforward response: Was he now willing to recant his errors unconditionally? To be clear, though, Von der Eck was not thereby asking Luther to violate his own conscience. That is precisely why he told Luther to "set aside" his (erroneous) conscience, so that he would not violate it. This is not a distinction without a difference, and the difference was long recognized throughout the medieval tradition. One could not be expected to testify publicly to something that one did not actually believe. That would amount to perjuring oneself, and so constitute a mortal sin. One could, however, be asked to concede that learned authorities

may have a better grasp of the situation than oneself. And so, having been legitimately corrected, one could then set aside earlier misgivings for the greater good of the community. In morally ambiguous situations, when one cannot be certain about the right way to proceed, medieval Christians were generally advised to follow the safer course, the one presenting the least risk of committing a sin. Recantation in some cases might just be the safer moral choice—hence Von der Eck’s advice to Luther.

We begin with Martin Luther’s appearance at Worms because the popular understanding of this singular event is emblematic of a larger post-Enlightenment misconception of the Middle Ages and, consequently, a failure to appreciate so much of what medieval society has bequeathed to the modern world. This is especially so with respect to some of our own most cherished principles, such as freedom of conscience, open intellectual inquiry, and equality under the law. Such bedrock tenets are too often regarded as the signal achievements of modernity, sprouting with the Reformation and blossoming in the Enlightenment, when in fact many of our noblest ideals have a distinguished pedigree stretching back at least one thousand years. This does not mean that a free conscience, natural rights, and open inquiry looked just the same in thirteenth-century Paris as they do today. The world of the medieval theologians and canonists was certainly different from our own, most notably perhaps for being “enchanted,” as the philosopher Charles Taylor has put it, as opposed to the prevailing “disenchantment” that characterizes the modern West.⁵ The existence of God was not simply acknowledged in the thirteenth century; rather, the presence of the divine was understood to suffuse every aspect of public and private life.

I am not necessarily advocating a return to that “enchanted” world, which would be impossible in any case. What we can do, though, is acknowledge the debt that is owed it for the inheritance we have received. Medieval theologians and canonists had developed sophisticated and nuanced arguments in defense of personal liberty and freedom of conscience. They did so based upon the conviction that each human person possesses an inalienable right to pursue his or her spiritual vocation and to inquire into the truth, provided that such pursuits were not deemed injurious to the commonweal. For this was an age in which all power, whether secular or sacred, was held to be exercised legitimately only insofar as it served the common good of the whole society rather than the narrow interests of only a few members. Within these basic parameters, however, there remained a

domain of personal liberty guaranteed by natural and divine law that could not be infringed by either secular or ecclesiastical authority. Theologians and canonists neither countenanced blind obedience to the powers that be nor permitted Christians to stand idle in the face of manifest transgressions of the Church's constitution and sacred traditions.

This study begins in the universities but will not be confined to them. In fact, the masters belonged very much to the public space and conceived their vocation along public lines. By virtue of their office, they fulfilled their vocation as masters of the sacred page (*magistri sacrae paginae*) by speaking the truth on a variety of matters that directly affected the Christian society in which they lived. Such truth-telling, based upon their claim to a rare and highly refined expertise, periodically involved the correction of prelates and even the pope if it came to that. Chapter One, which takes us inside the magisterial world, will provide a window into their self-understanding and introduce us to an initial cast of characters, secular and mendicant, who will continue to play important roles throughout the book.

Chapter Two explores the magisterial conception of conscience: not only that one should follow the dictates of one's own conscience, but how to proceed even when that same conscience is in error. This discussion leads, in turn, to the efforts of the masters to regulate discourse within their own ranks; hence the possibility of censure. For it was here that one's freedom to pursue the truth pushed up against the masters' sworn obligation to defend the Catholic faith against the threat of heresy. The freedom of inquiry (*libertas inquirendi*) which the masters reckoned a right belonging to their office was not an absolute right. Everyone agreed, even if not in every instance, that certain limits could be placed upon public discourse in order to preserve the cohesion and well-being of the larger community. In fact, we often find that same argument made today.

Chapter Three serves in some ways as an extension of the first two chapters as it takes up the cherished magisterial right to dispute some of the most important, and perhaps controversial, topics of the day. The masters insisted upon this right, precisely because it belonged to their greater sense of vocation. The whole purpose of academic disputation, conducted according to established protocols, was to clear out the shambles of obsolete or half-baked theories in order to provide the reasoned clarity that the present situation required. This is why, as we shall see, the masters bristled at the periodic attempts of prelates to declare matters out of bounds for disputation.

Cutting short scholarly inquiry in this way might not only trample upon magisterial prerogatives, but it deprived Christian society of its own right to know, and live according to, the truth in any given situation. In fact, one of the most essential lines of inquiry was into the limits of prelatical authority itself. All Christians should be aware of the extent to which their bishop, or even the pope, could impose his will upon them.

Chapter Four takes a bit of a different turn as we expand our vista to encompass the wider Christian experience of the interior forum of conscience and public forum of the ecclesiastical courts. Again, the theologians are often our guides; although we will now include a healthy dose of canon law. By the twelfth century, and then really blossoming in the thirteenth, there emerged a profound recognition that every Christian—clerical or lay, man or woman—was possessed of a unique spiritual dignity; each person was a responsible moral actor called into communion with God. This principle vividly emerges in the renewal of pastoral care following the Fourth Lateran Council convened in November 1215. There were new guidelines established for the sacrament of penance that called upon all Christians to search their consciences and develop an ever more mature relationship with Christ the Redeemer. Penance, or the forum of conscience, was a deeply personal and sacred space wherein the penitent opened up his or her soul to God alone; for in fact the priest was present not as a man but as God. It was for this reason that the contents of one's confession could not be revealed, no matter the pressure that might be applied to the priest. The external forum of the ecclesiastical courts recognized the sacrosanct nature not only of the penitential forum itself, but the interior recesses of the human heart which could not be trampled. Private sins were not subject to prosecution in the courts; hence the formula that "the Church does not judge secret things." This principle belonged to a larger recognition of natural rights that each person possessed, rights that having been bestowed by God, could not be infringed by men. All of which translated into a set of concrete rights that every defendant could expect to be upheld in court, the violation of which formed the grounds for appeal. Spelled out by jurists primarily, but discussed in-depth at times by theologians, due process (*ordo iudicarius*) was characteristic of a Christian society which recognized that societal well-being could not be achieved at the expense of the individual Christian's own freedom to pursue a life of virtue. What happens, however, when a single theologian intent on following his conscience as it directs him to the

good is regarded as a threat to the cohesion of Christendom? This was the situation when, thrust into the exterior forum, the Czech master Jan Hus appeared before the Council of Constance in 1415. It was there that personal conscience and ecclesiastical authority tragically intersected.

Chapter Five broadens the discussion of freedom and rights to look at those responsibilities which Christians bear under the Gospel. This chapter will examine three fundamental and interconnected facets of medieval Christian society: oaths and vows; fraternal correction; and obedience to one's superiors. Since all three categories directly involved interpersonal relationships in one form or another, it is to be expected that they frequently coincided. Oaths and vows were of their nature sacred acts, whether made directly to God or to other people in the presence of God. It is for this reason that they had to be performed freely and in good faith. If this was the principle, however, it was not always the practice. There will, therefore, be a frank discussion of coercion, especially as it pertained to the sacraments of marriage and baptism. As oaths and vows hold Christian society together, so fraternal correction was a means for that same society to defend its integrity against destructive forces that may arise from within. Based upon a direct injunction issued by Christ (Matt 18:15-17), the process of fraternal correction was ultimately rooted in the principle that all Christians are brothers and sisters, and so may be charitably admonished when they pose a danger to the community. Not only did every Christian have an obligation to issue a correction, but remaining silent in the presence of evil was to render oneself complicit in that same crime. And while oaths of obedience were meant to be kept, it was also recognized that obedience had its limits. One's religious superior could not demand anything of a monk or friar that violated the rule they had vowed. And on a greater scale, there could be no expectation of obedience that might compromise a Christian's principal obligation to God. If, in good conscience, one believed that a superior's demand ran contrary to the Gospel, one was under no obligation to obey; hence in keeping with Acts 5:29, "We ought to obey God rather than men."

Chapter Six continues to trace these themes, although more specifically when examining the scope of papal power as applied to the religious life, and more specifically to the life of the Franciscan Order. Here, questions of authority, obedience, and conscience coalesce with the freedom to live strictly according to the Gospel, and so to embrace fully the life of evangelical perfection. A sophisticated apparatus of papal authority had been

erected in the twelfth century and only grew in its subtle complexity across the thirteenth and fourteenth centuries. Despite some seemingly audacious claims on the part of the canonists, it was generally understood that the monarchical papacy operated within certain constitutional limits. Christ had bestowed upon Saint Peter and his successors a unique and supreme power, which was to be exercised at all times for the good of the Church. There were certain things that the pope simply could not do; he could not issue rulings that would contradict ancient apostolic doctrine nor in any way undermine the Church's greater well-being, the so called *status ecclesiae*. There were also certain aspects of the religious life that remained beyond his authority to alter, although the precise boundaries in certain cases were not always clear-cut. No one in the thirteenth century so diligently examined the application of papal authority to the life of the professed religious as the Franciscan theologian Peter John Olivi. Every person, according to Olivi, is free to hand himself over entirely to God through his vow of religious life. Such a personal decision, moreover, remains within his liberty apart from papal consent. Olivi receives the most sustained attention in this chapter, but not to the exclusion of fellow Franciscans Hugh of Digne and Ubertino da Casale. The chapter concludes with two popes who attempted to regulate a dispute within the Franciscan Order that pitted conscience against obedience: Clement V who issued the bull *Exivi de paradiso* in 1312 and his successor John XXII with his bull *Quorundam exigit* in 1317. This will then set the stage for the final chapter of this book wherein papal authority is tested on a variety of fronts.

Chapter Seven once more raises the question of fraternal correction, although this time when applied to the pope. Even the Vicar of Christ, if perceived to be a threat to the integrity of the Christian life and a danger to the Body of Christ, can be corrected by his fellow Christians. Monarch though he may be, the pope is still a brother in Christ, and therefore subject to charitable correction should he stray from the path of virtue. If the pope refuses to be corrected, unlike Saint Peter who humbly accepted Saint Paul's rebuke at Antioch when he failed to walk according to the Gospel (Gal 2:11–14), the faithful would be within their rights to proceed against him as a pertinacious heretic. Many Franciscan theologians, chief among them William of Ockham, came to regard Pope John XXII as just such a heretic. He was infringing upon the right of the Franciscans to exercise their evangelical freedom so as to live as God and nature had intended. Because the New

Law of the Gospel is itself a law of liberty, every Christian must be free to act as his or her own conscience leads in pursuit of the evangelical life revealed in the person of Jesus Christ. The second half of Chapter Seven takes us into the time of the Great Schism (1378–1417) when the whole Church had to consider the correction of rival popes and the withdrawal of obedience from those whose conduct endangered the larger community of Christians, itself a sacred body that has the right to preserve its own life. Yet what we also find at the turn of fifteenth century, and even earlier in the fourteenth, is an earnest attempt to recover the true nature of the papal office, to shake off its autocratic tendencies and restore its pristine form of servitude, so that the pope might take up his duty as the good shepherd who lays down his life for the sheep (Jn 10:11). In this way the papacy and the Church itself could be reconfigured along its original scriptural lines, and so better resemble the sacred community that Christ had intended to found.

CHAPTER ONE

UNIVERSITY MASTERS AND THE COMMONWEAL

Alain Boureau has spoken of the medieval theologian's "ethical and religious obligation to decipher." The theologian was conscious of a *Beruf* which was at once a vocation and a profession.¹ Fulbert of Chartres, who had studied under Gerbert of Aurillac at Reims before embarking upon his own illustrious career, observed that the life of the cathedral school master turned on the integration of classroom lectures, prayer, and learned study (*lectio, oratio, eruditio*).² According to the tenth-century customs of Fleury, these scholars were expected to defend the Catholic faith, refute heretics, and otherwise support pure doctrine.³ The profound responsibilities that the theologians had taken on were exemplified centuries later in a disciplinary procedure overseen by twenty-one masters of theology at the University of Paris in 1364. Here it is stated that doctors of Sacred Scripture (*sacrae scripturae doctores*) have been specifically ordained in the Church to serve as cultivators of the Lord's vineyard. As such, they must be vigilant in their efforts to ensure that no fruits of depraved teaching are permitted to sprout. In fact, by their very office (*ex officio*) these theologians are obligated to cut off the diseased branches of false dogma and root out the thorns of error.⁴ About 150 years later, when Martin Luther sent his *Ninety-Five Theses* to Albrecht of Mainz in October 1517, he signed the accompanying letter: *Indignus Filius Martinus Luther, Aug. Doctor S. Theologiae vocatus*. As one called (*vocatus*) to be a doctor of sacred theology, this Wittenberg master asserted both his right and his obligation to correct error and preserve true doctrine. His own Augustinian Order, and thus the Church itself, had bestowed this office upon him for that very purpose.⁵

THE COMMUNITY OF MASTERS

In a classic essay, Herbert Grundmann had observed that by the thirteenth century there were three distinct estates recognized within Christendom: the priesthood (*sacerdotium*); kingdom and empire (*regnum/imperium*);

and the realm of the scholars (*studium*). When Pope Gregory IX issued the bull *Parens scientiarum* in 1231 which recognized the University of Paris as a *studium litterarum*, and thus a source of wisdom, it was clear that the *sapientia scholastica* had formally taken its place alongside those two other vital components of Christian society: *fides et militia*.⁶ Theology was regarded as supreme among the academic disciplines, as reflected in her title *regina scientiarum*. Some years earlier Pope Honorius III's 1219 bull *Super speculam* had prohibited the study of Roman law at Paris not only to check the influence of civil law upon canon law, but more importantly to protect the interests of theology. Theology ought to reign above all the rest at Paris, according to the pope; law could be taught at other schools.⁷ The actions of these two popes set the tone across the centuries. For, despite periodic tensions, the papacy especially recognized the vital contributions of university theologians to Christian society.⁸ In a letter sent to fellow masters in 1400, Jean Gerson spoke admiringly of the University of Paris as his nurturing mother (*alma . . . mater mea*) which appears as a bright spiritual sun shining upon the Church, scattering dark shadows of error with her brilliant light.⁹ And in a sermon delivered some years later at the Council of Constance, Gerson similarly extolled Paris as the *cultrix et amatrix* of all that pertains to Christian piety and sound doctrine.¹⁰

By the thirteenth century, masters of theology were formally recognized as "masters of the sacred page" (*magistri sacrae paginae*), for the very fact that the Bible was the text that they lectured upon; this divine text formed the basis of their discipline.¹¹ The Franciscan theologian Peter Auriol observed that theological principles are articles of faith which belong ultimately to Holy Scripture. Theological knowledge, therefore, pertains only to those things that are written in the Bible: what was understood by the prophets and the apostles and other composers of the sacred books, all of which possess greater authority than those texts which form the basis of civil and canon law. The masters of Scripture, said Peter, understand what is written in these divine books; they grasp what the biblical writers understood, and so attain true knowledge of theology.¹²

Within the university the term *magisterium* signaled the right to teach. In the faculty of theology *magisterium* connoted the intellectual authority of the teachers (*doctores*) as distinct from the doctrinal authority of the pope and bishops.¹³ Thomas Aquinas would therefore distinguish between the *magisterium cathedrae pastoralis* and the *magisterium cathedrae*

magistralis. The former was an excellence of power, the latter a personal competence publicly recognized. The *magisterium* of the theologian was understood to be a public office in the Church whose substance derived from its knowledge-based competency.¹⁴ The bishops very much valued the counsel of the theologians and relied upon their guidance. Stephen I of Paris in 1227 referred to the *consilio magistrorum theologiae*; William of Paris in 1240 mentioned seeking counsel from all reigning masters in Paris: *convocatio consilio omnium magistrorum tunc Parisiis regentium*; and Saint Bonaventure recalled someone being excommunicated by Stephen II of Paris upon the general advice of the masters: *de communi consilio magistrorum*.¹⁵ If ecclesiastical prelates turned to the theologians, for assistance, it was because they were recognized as the authentic examiners of doctrine. This was grounded, according to Gerson, in the reception of their doctorate, as he appealed to the precise words spoken by the chancellor to the recipient: "I, by apostolic authority, grant you the license of reading, reigning, disputing, and teaching in the Sacred Theology faculty here and in every land in the name of the Father, the Son, and the Holy Spirit."¹⁶

Distinctly aware of their own illustrious status, the masters even had their own personal seals, apart from the corporate seal of the university and its different faculties, which they attached to documents. Often their seal depicted them in profile lecturing from an open book, thereby emphasizing their teaching office. The fact that some retained the title *magister* on their seal following promotion to high ecclesiastical office testifies to its mark of status. Having been elevated to Bishop of Paris in 1159, Peter Lombard's seal read: *Sigillum Magistri Petri Pariensis Episcopi*.¹⁷ The seal of the doctor indicated the place that one held within the hierarchy; it was emblematic of one's honorable position. Manuscript images frequently depict the master teaching while his students listen before him; it is a scene of magisterial authority. In some images the master is double the size of his listeners, thereby expressing their social inequality as the master dominates the scene. Unlike images depicting the exercise of scholastic disputation, presenting as they do an exchange between equals, the depictions of the master lecturing to his students are meant to convey authority and the hierarchical transmission of knowledge.¹⁸

The magisterial inception ceremony was a solemn ritual whereby one was engrafted into the corporation of the masters. When Stephen Langton delivered his inaugural lecture (*principium*) upon ascension to the

magisterial chair at Paris in 1180, he specifically addressed the proper disposition of the master whose responsibility it was to form the students placed under his care. Langton wished to foster humility and devotion among fellow masters who might otherwise succumb to the temptations of power and entitlement that their prestigious positions afforded them.¹⁹ As the science of theology was grounded in Holy Scripture, so the master had a responsibility to break open this sacred text, grinding it down with the pestle of exposition so that its deeper meaning might be revealed. Simple readers may think that Scripture can be easily understood, but the experts know that it is filled with an inexhaustible supply of subtle discourse.²⁰ Langton recognized, moreover, the integral connection between personal morals and sound doctrine. Those who are going to teach Sacred Scripture must lead upright lives. Like the prophet Ezekiel who beheld the glory of the Lord (Ezek 2:1–2), the master who contemplates the secret mysteries of Scripture must subject himself to the yoke of humility—an essential quality for those who expound upon the divine text. Scientific expertise was necessary, but not sufficient; the master was expected to embody Christian virtues. Hence if anyone would assume this lofty teaching office, said Langton, he must first learn good deeds before venturing to teach others, adopting a gentle spirit that might not be puffed up by one's own wisdom and virtuous acts. Langton concluded on a personal note: "And yet what can I say, since I possess neither an excellent life, nor outstanding knowledge, even as I now ascend the magisterial chair (*cathedram magistralem ascendo*)? I shall nevertheless set my sights on the inexhaustible mercy of divine goodness rather than mere human presumption, and now turn my tongue to the service of my Redeemer and commit my purpose and myself to his grace."²¹ In fact, the expression *ad cathedram magistralem ascendere* indicated not only that one had attained the grade of master, but evoked the real and ritualized act of ascending to the magisterial chair for the first time when presenting one's inaugural lecture.²²

By the thirteenth century, the inception ceremony took place in three stages: vespers, the *aula*, and the resumption. The first stage, the vespers, was a disputation that occurred the night before the inception ceremony. The actual inception ceremony the next day took place in the bishop's hall (*aula*), and it was at this time that the master delivered his *principium*, itself a formal commendation of Holy Scripture, which was followed by some more disputations. Finally, at the resumption, the master completed the

principium that he had begun at the *aula*, and also concluded the full round of disputations. It was, moreover, in the bishop's hall that the incepting master received his license to read and dispute theology, and furthermore to teach in the sacred theology faculty anywhere in the world.²³

When the Dominican friar Thomas Aquinas delivered the *aula* portion of his magisterial inception lecture at Paris in 1256, he called upon the words of the Psalmist, "You water the hills from your upper rooms; the earth shall be filled with your works" (Ps 103/104:13). Thomas began by echoing Pseudo-Dionysius's *Ecclesiastical Hierarchy* when he declared that "The King and Lord of Heaven has established his law from all eternity, such that the gifts of his providence flow down through stages to the lowest reaches of creation." Fittingly for an inaugural magisterial sermon, Thomas likened the fructification of the land through the rains to the pouring out of divine wisdom upon the minds of teachers who, Thomas informs us, are signified by these hills. It is by their ministry that the light of divine wisdom will then reach the minds of those who attend their lectures and hear their sermons. Thomas thereupon proceeded to treat four components of this effusion of divine wisdom: the loftiness of spiritual teaching; the dignity of its teachers; the condition of its hearers; and the order of its communication.²⁴

The man who had reached the highest rung of the ladder, incepting as a master of theology, had been subject to various examinations as he made his way along this arduous *cursus honorum*. In each case he had to gain the approbation of the body into which he was incorporated. Consider the oath taken by the sub-chancellor of Sainte-Geneviève between the hands of the chancellor, and in the presence of the assembled arts faculty, as he swore to admit worthy students while rejecting the unworthy. All were judged according to their merits and the recommendations of their examining masters. In 1317, the Paris theology faculty presented academic advancement as an accumulation of merits. A commendable life, honest morals, and knowledge of letters opens up the path to honors and the acquisition of ecclesiastical benefices for those men who are known for their upstanding reputation and good name (*fama et nomine insigniti*).²⁵

The ideal master will therefore embody intellectual and moral excellence: he serves as a guide to salvation for his audience; has a stable disposition; is obedient to the statutes of the corporation; is charitable; is parental toward students; and also dresses so as to denote his magisterial status and honor of his faculty. In letter of May 1245 addressed to the masters and

scholars at Paris, Pope Innocent IV recounted their proficiency not only in scholarly matters, but their honorable manner of life (*honestate morum et litterarum scientia*). Fourteen years later in July 1259 Alexander IV, seeking the reconciliation of secular and mendicant masters, would remind them of their duty to cultivate the heavenly virtues of wisdom, decency, peacefulness, and modesty.²⁶

TRUTH EMERGES THROUGH DISPUTATION

As noted earlier, “disputing” was specifically named among the tasks for which the incepting master was licensed by the chancellor (CUP 2:683; no. 1185). An organized discussion of important questions, disputation was central to the life of the university and the formation of its scholars. When a master disputed, all the lessons scheduled for that morning, whether those of other masters or bachelors of the faculty, were cancelled. It was the master who organized the disputation, chose its theme, and appointed two bachelors in theology to serve in the roles of respondent and opponent. Although held under the direction of the master it was not, therefore, he who actually disputed. Rather, the master presented the question (*Quaestio est utrum . . .*) and laid out preliminary arguments, both pro and con, which the respondent and opponent proceeded to discuss; the former defending the thesis and the latter raising objections to the proposed solution, and both noting the flaws in the arguments of the other. This was not so much a contest, however, as a dialectical exercise designed to further elucidate the subject matter. As the disputation progressed, doctors and students could present their own arguments for and against the proposed thesis. It was for the responding bachelor to reply to objections raised by the audience, although here he might receive assistance from the master. At the conclusion of the session, or shortly thereafter, the master offered an authoritative determination of the question. In fact, the determination of some point of doctrine was a right reserved for those who bore the title of master; bachelors had no such authority.²⁷

For all the benefits of a well-run disputation, there were admittedly occasions when these exercises might generate more heat than light. No one was more aware of this than the masters themselves, whose duty it was to see that this exercise was put to productive use. Jean Gerson granted that disputation could be quite effective in sharpening the mind and honing

one's understanding of theology, although quickly cautioning that he was speaking not of the bitter disputation that only fosters further strife in the schools, but the enlightening sort that genuinely seeks the truth (*sed modestam, qualem esse decet veritatis inquisitionem*).²⁸ Gerson was not alone in his criticism of an otherwise useful exercise that could seem at times to have lost its moorings. An anonymous thirteenth-century observer had dismissed the questions raised in disputations as "useless and frivolous, contributing in no way to the edification of faith or morals, but rather to their subversion." Similarly in 1317, Pope John XXII lamented the way that disputations had rendered academics an increasingly contentious lot as they frittered away their time with pointless questions. Indeed, said the pope, this would ultimately spell the demise of their discipline.²⁹ Such pejorative connotations also help to account for those instances in which certain issues (e.g., mendicant privileges) were declared off-limits for disputation for fear that they would only stoke tensions rather than provide a respite of clarity.

There may well have been some excesses at the margins, but disputation in its various forms remained a mainstay of the universities and resulted in some of the most profound magisterial reflections on the widest array of topics. The *quodlibet* was a specific type of disputed question that appeared in the Paris theology faculty by the middle of the thirteenth century, likely originating in the mendicant studia before being adopted by the universities as a whole.³⁰ These were solemn sessions held each Advent and Lent. Although overseen by the master, he did not raise the initial question as he would have in ordinary disputations. Instead, questions could be posed by anyone who was present that day, even the non-university public, whereas the master could only decline to address a question if he deemed it inappropriate. The masters were not required to hold quodlibets, and some chose not to, while others recognized their value in reaching the broader public on important topics of the day.³¹

Some quodlibetal questions reflected upon the scholastic method itself. Thomas Aquinas, who taught at Paris from 1256 to 1259 and then again from 1268 to 1272, produced sets of quodlibetal questions in each stint. Thomas addressed one in particular during Lent in 1271 that asked, "whether theological determinations should be resolved by way of authority or by argument (*auctoritate vel ratione*)." Now it would seem that the master determining theological questions should invoke authoritative sources rather than marshaling arguments, since the first principles of the science of theology

are the articles of faith which are themselves known through authorities. On the other hand, we read in the Epistle to Titus: "Holding fast the faithful word which is in accordance with the teaching, so that he will be able both to exhort in sound doctrine and to refute those who contradict" (Ti 1:9). And because those who would contradict the true faith are better refuted by arguments than by an appeal to authorities, it is more suitable to render a determination on questions by way of argumentation. At this point, Thomas observed that there are two forms of disputation. The first sort is designed to remove doubt; in such a theological disputation (*disputatio theologica*) one should proceed by appealing to the authorities that are acceptable to those with whom one is disputing. Hence, when disputing with Jews one appeals to the Old Testament; Manichees, the New Testament; with schismatics both Testaments but not the holy doctors; and if none of these authorities, then an appeal to natural reason. Yet the procedure that Thomas outlined is not really applicable to the schools where everyone is already Catholic and has sworn to uphold the teachings of the Church. Hence it is the second form of disputation, what Thomas identifies as "magisterial" (*disputatio est magistralis in scholis*), that is suited for the university lecture halls and mendicant studia. It is not employed to remove error but is instead designed to instruct the listeners so as to lead them into a deeper understanding of the truth. Here, says Thomas, it is necessary to begin with arguments so that one can get at the root of the truth (*veritatis radix*) since it is in this way that listeners come to see just how it is that what is stated is actually true. Authorities may have a role to play, but it is reasoned argumentation that will make this disputation fruitful. For if the master were to rely upon authorities alone, says Thomas, the listener may indeed achieve certainty of the matter, but he will fail to acquire any genuine knowledge or understanding of it and so walk away empty-headed.³² In other words, the student will merely know that something is the case, but not why it is the case; and therefore will not have learned very much at all.

Many quodlibetal questions were of a practical nature, which presupposed that the theologians were competent to offer counsel on virtually every aspect of Christian society. As Elsa Marmursztejn has noted, by participating in these public exercises, the theologians sought to establish their role as the principal architects of Christendom. The quodlibetal sessions were the forum wherein a distinctly intellectual authority could be exercised. Solutions to questions reached by the masters were regarded as

normative, not unlike judicial rulings, as the theologians explicitly applied the foundational principles of divine and natural law.³³ Although the range of questions asked could be quite expansive, reflecting the varied interests of the audience, there tended to be a concentration upon matters deemed helpful in achieving one's salvation since many of the students expected to return to their pastoral duties (*cura animarum*) following their stint at the university. Gerard of Abbeville's quodlibets, for instance, were among the most pastorally oriented of the thirteenth century,³⁴ while Gervais du Mont-Saint-Éloi (1282–1290) likewise took on more practical questions concerning the sacraments, vows, and the moral life.³⁵ Hence we need always remember that the university masters, whether secular or mendicant, were priests whose pastoral duties included not only preaching, but the administration of the sacraments, not the least of which included hearing confession (of which we will have more to say). In fact, it has been recently argued that quodlibetal questions on conscience and morals ought to be viewed within the larger framework of penitential literature.³⁶

A CHRISTIAN VOCATION: TO STUDY OR TO SAVE SOULS?

The duties of the theologian extended beyond the lecture hall into the parish churches, as the masters put their expertise to use in effective preaching. In the last decade of the twelfth century, Peter the Chanter was reminding his fellow scholars at Paris that a master's training in Holy Scripture consisted first in careful explication of the biblical text (*lectio*), which formed a solid foundation for the tasks that followed. Next, one attached the walls of disputation (*disputatio*), for nothing can be fully understood, nor anything faithfully preached, unless it has first been mashed up in the teeth of lecture hall discussion. These two activities serve the final, indeed the greatest, task of preaching (*praedicatio*), which formed the roof that protects the faithful against the winds of vice. According to the Chanter, preaching must always come after the reading of Sacred Scripture and inquiry into disputed topics. For, as he sees it, the Christian religion is a matter of both faith and good morals: *lectio* and *disputatio* pertain to the explication and defense of the faith, while *praedicatio* encourages upright conduct.³⁷

Preaching was a "social function," and the preacher fulfilled the role of intermediary and interpreter as he conveyed the truth that the apostles had received from Christ. The preacher was obliged to possess a deep

knowledge of revealed doctrine and to proclaim this sacred teaching apart from any desire for worldly honors. As the master Nicolas Byard put it, the preacher should seek for nothing but the salvation of his audience, setting aside any quest for personal glory or earthly comforts. Because the preacher gives exterior expression to the interior word, who is Christ, so he ought to live by grace. The Franciscan Eustace of Arras insisted that both holiness and learning (*sanctitas et doctrina*) must be present in the doctor if he is to receive the heavenly aureole. One prayer recited before preaching asks that Christ, the master of highest truth and doctor of eternal salvation, would deign through the Holy Spirit to purify and illuminate the doctor, such that his life might be one of good moral conduct, his words filled with grace, and his heart moved by good intention. As Jean Leclercq concluded, "The preacher plays a necessary role in the life of the Church, as he responds to the needs of a determined audience. The office that he fulfills is an authentic form of apostolic ministry. It is a *magisterium*."³⁸

The scholastic sermon style which predominated in the universities of the later Middle Ages, was referred to by the masters as the *sermo modernus* to distinguish it from the patristic homily. These intricately constructed works focused upon a particular theme announced by the preacher at the outset. The typical scholastic, or university, sermon comprised no less than twelve separate parts. Such elaborate sermons were no doubt designed to impress one's fellows, but they were ultimately intended for the spiritual edification of the audience. As the fourteenth-century English Dominican Thomas Waleys observed: "It is customary that after announcing and identifying the *thema* the preacher, before he begins his sermon, exhorts the people to pray to God for grace for himself and for his audience, namely that he may preach the word of God worthily and that the people may hear it to their benefit."³⁹ The Dominican Bernard Gui had extolled Thomas Aquinas as a preacher who drew appreciative crowds, furthermore noting: "To the ordinary faithful he spoke the word of God with singular grace and power, without indulging in far-fetched reasoning or the vanities of worldly wisdom or in the sort of language that serves rather to tickle the curiosity of a congregation than to do it any real good. Subtleties he kept for the schools."⁴⁰ Preaching was not merely an addendum to one's academic obligations, therefore, but another means of teaching, conveying as it does salvific knowledge to one's audience. The Franciscan Roger Bacon envisioned a grand renewal of the Church at the center of which would be effective

preaching. The Church's principal task, Bacon believed, was to preach not only that unbelievers might accept Christianity, but that believers might be strengthened in both faith and morals.⁴¹

And yet were masters nevertheless spending too much time in the studia, content to keep their own company, thereby neglecting their greater pastoral responsibilities? Based upon the quodlibetal questions that they fielded from audiences this must have been a topic of real concern. Some of these questions seem to have been formulated with a specific master in mind. It was probably no coincidence that the secular theologian Gerard of Abbeville, who was himself an archdeacon teaching at Paris in the 1260s, was asked whether it is lawful for an archdeacon to leave behind the flock that he has been assigned so that he might study in the schools. Some say no; for it is the mercenary, rather than the good shepherd, who deserts the flock (Jn 10:12). In his response Gerard began by pointing out that canon law stipulates an archdeacon visit the churches under his auspices at least once a year, or perhaps more should some need arise. And so, according to Gerard, having completed the required circuit, neither custom nor statute prevents an archdeacon from then studying and reading sacred texts. In fact, he says, such archdeacons are surely not neglecting their work in the Lord's vineyard if they labor for the common good of the Church in the schools of wisdom; here likening these men to clouds gathering up the rain of sacred doctrine which at the right time will pour down upon the faithful.⁴²

Along these lines Thomas Aquinas, himself a member of the Order of Preachers, was asked during the Lenten quodlibets of 1269 whether it might be a sin for someone who could be devoting his attention to the salvation of souls to instead spend his time in the studium teaching theology. By way of a response, Thomas laid out a hierarchical model that would secure the master's place within the university rather than out in the field. Invoking the analogy of the architect and the builder, Thomas noted that the principal architects are the bishops who oversee the work of the clergy administering the sacraments. Yet, he said, teachers of theology (*theologiae doctores*) might also be likened to principal architects, inasmuch as they teach others how to save souls. These masters teach the truths of salvation to those who can then benefit themselves and others. Although Thomas would admit that there could be exceptional circumstances when masters may have to set aside the duties of their office to pursue the salvation of

particular souls.⁴³ William Peter of Falegar invoked a similar analogy when proposing that doctors should, *ex officio*, teach things that are useful to salvation. Evoking Pseudo-Dionysius's picture of the celestial hierarchy, Peter noted that superior angels teach the middle who in turn teach those below; heavenly lights likewise illuminate those that are inferior; while the architect teaches refined skills as the manual laborers lay the stones. So it is that the greater doctors teach the middle, i.e., the pastors, who then teach the laity at the lowest level of the scale.⁴⁴

The secular theologian Henry of Ghent held a magisterial chair at Paris from 1276 until 1293, producing a substantial set of quodlibetal questions. One such question asked whether it would be better to remain in the studium with the hope of achieving still greater erudition or to leave it behind for the sake of saving souls? It would seem that one really should save souls, drawing others to the love of God, even if this runs against common custom. Henry finds that this is only a dilemma, however, if we suppose that the man in question is well-suited to both occupations. As for the man who is disposed to the care of souls, but not very proficient in the studium, it would be foolish for him to stick with his studies. Conversely, the man best suited to the studium, but ill-suited for pastoral duties, would do better attending the studium in the hope that he might learn what he needs to become capable of caring for souls. To that effect Henry cited the Apostle Paul's exposition of the various gifts of the Holy Spirit (1 Cor 12:4–7), noting that in the case of someone who is disposed to one track rather than the other the solution is clear. Again, the problem here does not really pertain to the person who is better suited to the studium; in that case it makes sense that he would remain there. The difficulty arises when the person is equally disposed to both fields. Henry advised that if one field is more in need of his labors, then it is better that he devote himself to the one that needs him more. It may indeed be useful for the doctor to remain in the studium instructing others so that those men can then fan out across the world and serve as teachers of souls. They can strengthen others in the truth of the faith, explicate Holy Scripture, and even defend the faith against heresy. This work will benefit the whole Church. If, however, the studium is already well-served by other doctors, such that there is little need for this man's talents while the Church has greater need of his work, he should then leave the studium for the salvation of souls.⁴⁵

Henry also had recourse here to the standard analogy of the architect and the masons: there are those who teach the rules and those who actually lay the stones. The architect/doctor might choose to remain in the schools to serve as a greater light for the Church, rather than leave to take on the role of the mason laying stones, as a lesser light. In the end, though, Henry concluded that everyone should be laboring for the salvation of souls, even if not all in the same way. Let each person stick with the state where he is most proficient and can do the greatest good. The doctor of theology can make a genuine contribution to that end. In fact, it would be to the detriment of the Church if everyone wished to assist souls in precisely the same way. Citing the parable of the talents (Matt 25:15), Henry counseled that no one should aspire to a higher grade than he reckons himself worthy. Everything in the end must serve the unity and peace of the Church; otherwise it is not merely a matter of custom, but instead of corruption.⁴⁶ Henry may have been justifying his own choices here, but he was also establishing the nature of his sacred vocation: God has called him to serve by teaching.

Recall that the masters not only expected honors in this world for all their efforts, but also in the world to come. Theirs was, after all, a virtuous endeavor deserving of divine reward. What about those who are worthy of being licensed in theology, and yet have not received a license; are they still entitled to the heavenly aureole? Some have pointed out that a virgin will receive the aureole, even though virginity is not a humanly determined category of honor. Whereas promotion to the magisterium by way of a license is no more than some human approbation of dignity. It stands to reason, therefore, that the unlicensed man is also deserving of the aureole in heaven. On the other hand, the judgment of the Church Triumphant conforms to that of the Church Militant. Hence if the Church Militant does not formally reckon a man worthy of assuming the status of master, wherein one merits the aureole, neither then does the Church Triumphant recognize him—hence no aureole. Henry observes, however, that reception of the aureole must surely depend more upon action than status. For no matter the status of the person who endures death for the sake of faith and justice, that person would merit the aureole of the martyrs. And so too would the one who preserves her virginity for the sake of God receive the aureole of the virgins. Likewise, the one who teaches others and leads them along the path of truth that results in eternal life, whether or not he is a master, would receive the aureole of the doctors. In all such cases it is the act

rather than the status that really matters. As for the judgment of the Church Militant: if a man is worthy of promotion to the magisterium, but is not promoted with the others, the error does not rest with the one who should have been promoted. Hence, were he to teach at some other time that suits the Church, even apart from the status of master, he would be awarded the aureole for performing the act of the teacher despite lacking magisterial status. Although were this same man prevented from teaching, even as he wished to do so, he would not receive the aureole. His good intention is not enough; the act of teaching is required.⁴⁷

MAGISTERIAL RESPONSIBILITIES AND DEFICIENCIES

Perhaps it was because they were deeply conscious both of their own privileged status, and their consequent responsibilities, that the medieval masters could be quite critical of the very academic culture in which they were embedded and to which they had devoted their lives. A deep sense of vocation may be revealed in the airing of one's frustrations with colleagues who fail to meet their principal obligations. Christendom, after all, counted upon these scholars to work carefully through some complex pastoral and theological issues. Actually, the freedom and the willingness to criticize one's own institutions can be read as a sign of intellectual vitality. Moribund cultures, on the other hand, shrink from the sort of frank assessments that are essential to promoting meaningful change. Only decrepit regimes choose to neglect their deficiencies and then bristle at their acknowledgment. The medieval schools, on the other hand, were very much filled with life.

To promote his vision of reform, Peter the Chanter mapped out a continuum of sacred religious duties: The Old Testament patriarchs by their deeds and example fought against idolatry; the prophets by word and example corrected the Israelites when they fell into moral turpitude; the apostles also by word and example, even unto death, preached against infidelity; while the Church doctors disputed against heresies in defense of the Gospel and the faith. And now we too, said the Chanter, should be bearing fruit for the sake of the Church by focusing upon meaningful topics, rather than lapsing into sterility as we languish in pointless and empty questions.⁴⁸ Clearly wishing to emphasize the moral duties of the masters, the Chanter decried the presumptuous habits of those exegetes who, in their temerity, attempt to soften the rigor of Sacred Scripture. The proponents of these novelties claim

that certain evangelical precepts were meant only for the apostles, not modern people; while some counsels are sloughed off as merely circumstantial in their scope. As the Chanter saw it, these men would have the divine law hang upon their own interpretations and customs. Not wishing to follow the Law of God, they pursue their own depraved will, when all the while they ought to be conforming their will to the rule of Sacred Scripture.⁴⁹

Masters, therefore, are called to fulfill the divine precepts rather than finding ways to make their own lives a little bit easier. Mohammed, according to the Chanter, had seen the law of the Gospel and judged it too difficult to be fulfilled. Supposedly Mohammed remarked to some of his students: "Because the Law of Christ is exceedingly onerous and heavy, follow me and I will conform to you." Hence Mohammed indulged concubines and was lax in matters of food and drink, leading his followers into error. Such is the case now, says the Chanter, as some Christians prefer to lessen Scripture's rigor to better suit their own manners. On the other hand, "the just man who lives by faith" (Rom 1:17), will say, "I have adhered to your testimonies, O Lord" (Ps 119:31), rather than willfully imposing superfluous and depraved explanations upon these passages.⁵⁰ One must not temper the strictness of Sacred Scripture nor dilute the simplicity of the Gospel with extraneous expositions.⁵¹ The schoolmen have a sacred task, indeed a personal vocation, to which they must continually recommit themselves. The Chanter was insistent that biblical exegesis, and thus theology itself, remain inseparable from personal sanctity. Pious exposition should produce fruit in the holy life of the preacher himself: "He who does not burn with sanctity will never set others ablaze."⁵²

It was generally agreed that no sin so plagued the magisterial class as pride; this was a vice that could potentially wreck their vocation if left unchecked. This elite cadre of *literati* had always to resist the temptation of glorying in their own erudition and basking in adulation. Robert of Courson, who had studied with Peter the Chanter and served as chancellor at Paris, railed against those scholars who have unworthily ascended to the magisterial chair (*ascendens ad cathedram*), principally seeking accolades when they should be devoted to teaching sound doctrine. Misdirected in their intentions, said Robert, they are lapsing into mortal sin. While those who wish to use their magisterial office as a springboard to ecclesiastical advancement are essentially guilty of simony.⁵³

The pitfalls of vanity were vividly portrayed in a 1488 *danse macabre* produced at Heidelberg which depicts a doctor identified as a "great master of

Paris" led away by death represented in the form of a skeleton. Although his magisterial grade placed him in the highest stratum of the university, the venerable scholar is now called to leave this world despite such achievements. Perhaps his desire for academic honors could be seen to stand in contradiction to the quest for eternal salvation that ought to have received his full attention. For here, death calls up short the vanity of this doctor's claims to authority; his worldly status and pretensions are brought low.⁵⁴

Would it then be fair to say that a doctor who principally seeks his own honor by teaching is committing a mortal sin? As Henry of Ghent took up this question, it was acknowledged that a person might appear to be showing disdain for God by using a thing—in this case the teaching office—principally for an end to which it was not ordered; and for that reason, he does sin mortally. As for the act of instructing people in wisdom, it is by definition ordered to the honor of God rather than one's own aggrandizement. It is possible, however, that a doctor might seek his own honor in such a way that God would be more fully honored through him; and in that sense he would principally be seeking God's honor. On the other hand, were the doctor principally to seek his own honor, and thus prefer it to the divine honor, this would be entirely illicit and an abuse of his sacred teaching obligations, and so reckoned a mortal sin.⁵⁵

Given the emphasis placed upon the disposition of the master, does a man who teaches something false in a scholastic context, moved by some perverse intention, thereby commit a mortal sin? Some argue that such a person does sin mortally, since he causes others to err. For it is fitting that a student would believe the statements of his teacher. On the other hand, it is possible that the one teaching such things as a matter of conscience does believe them to be true, which means that he would sin by teaching the contrary. To which Henry responded that we need to consider the master's state of mind. Was he teaching falsehoods because he was moved by his own wicked intentions, be it a passion that overtook him at that hour, some vicious habit of hatred, envy manifested in a grudge against others, or perhaps seeking some favor? And did these falsehoods pertain to faith and morals? If all of the above, then he not only sins mortally on account of the hatred or envy that he harbors, but also because he was engaged in the act of teaching dangerous falsehoods. If, however, what he teaches does not pertain to faith and morals, then although he would sin mortally on account of his depraved motive, or the evil will that he harbors when teaching

such things, he would not necessarily commit a mortal sin by the very act of teaching itself.⁵⁶

As we have seen, the dignity of the magisterial office comes with great responsibility. Doctors who neglect to study, and thus are ignorant of what their profession requires, cannot be excused from sin when they end up teaching falsehoods. Note, moreover, the fact that they are otherwise not swayed in their teaching by either fear or favor, does not excuse the failure to discharge their responsibilities. The same applies to doctors who, although they exhibit all due diligence in their studies so as to be effective teachers, are nevertheless impeded by some natural indisposition that renders them unable to attain the requisite knowledge, and so end up teaching falsehoods. Such people cannot be excused, said Henry, for they were not careful enough to learn what they should have learned; nor did they refuse promotion to an office that demanded a level of knowledge that exceeded their natural capabilities.⁵⁷

Perhaps no medieval theologian reflected so deeply upon academic culture as the theologian and onetime university chancellor, Jean Gerson. In a letter to his mentor Pierre d'Ailly, Gerson called for a thoroughgoing reformation (*necessaria reformatio*) of the theology curriculum. He complained that the Parisian masters were consumed by useless teachings rather than those necessary for salvation, all to the neglect of Scripture and the reading of the holy doctors. Preoccupied as they were by these vain speculations, the other faculties mocked theologians as dreamers who knew nothing of the solid truth and morals of Scripture. Their arcane teachings opened the path to countless errors, arbitrarily concocting terms that other masters neither understood nor even wish to understand. Worse yet, the life and morals of some scandalized the rest of the faculty. The bachelors were in desperate need of proper supervision, but the chancellor hesitated in taking action lest he upset those masters who had no interest in devoting their time to such things. The masters of theology, said Gerson, should really be shouldering some of the responsibility for the formation of the younger members, admonishing bachelors to steer clear of pointless subjects. As it was, though, excessive concentration upon the fairly abstruse first book of Peter Lombard's *Sentences*, to the neglect of the other three more practical books, no doubt contributed to a program of increasingly abstract theological speculation. Reminding his colleagues of their greater vocation, beyond the confines of the schools, Gerson suggested that theologians set aside

their pet interests and instead carefully consider how they might provide the people with a sound moral education. Perhaps someone on the faculty might even take the time to draw up a compendium for the laity that explains the main points of the Christian religion.⁵⁸

In this vein, Gerson worried that masters were losing their way among the latest fads, unable to sift out material of lasting value. Far too many books were being produced which passed on what amounted to superfluous musings that only served to confuse their readers. Gerson found the current crop of scholastics bereft of genuinely new ideas and thus content with rehashing older theories under some newfangled guise (*non nova sed antiqua noviterque*). In our attempt to make these older works our own, lamented Gerson, we only render them absurd. While those who lectured on the *Sentences* were loathe to be seen following venerable theologians of the past and so lose themselves in pointless discussions. Why not just make use of all the good theology that had already been written? Students who were new to theology would do well to consult sound teachers of upright life rather than those who question even the course of studies. Let them seek the sort of theology that edifies its readers and can form the way of life of those who study it. To that end Gerson suggested reading Bonaventure, Thomas Aquinas, Durand of Saint-Pourçain, and Henry of Ghent's quodlibetal questions.⁵⁹ If Gerson attempted to guide others to great books and their authors, it was part of his larger effort to convince fellow schoolmen to observe a common theological terminology and style that elucidated rather than obscured Christian doctrine and morals. In this way, as Daniel Hobbins has observed, Gerson wanted to establish what he called a "common school of theological truth," such as prevailed at Paris in the thirteenth century prior to the fragmentation of scholasticism that he observed in his own day.⁶⁰

Gerson took to the pulpit to deliver a substantial and sometimes stinging rebuke of his fellows. His *Contra curiositatem studentium* has been aptly characterized by Brian Patrick McGuire as, "a classic expression of the limitations of scholastic discourse and a plea for a university whose education is aimed at the entire person and not just the intellect."⁶¹ Taking as his text Mark 1:15—"Repent and believe the gospel"—Gerson asked his audience, "Do you wish to see the light of heaven? Do you wish to be lifted up from this prison to greater heights? I know that you do. So, then, obey Christ's proclamation and repent."⁶² It is pride that is obstructing the way of schoolmen, impeding their way to penitence and a living faith. They have been drawn

into the twin traps of singularity and curiosity, whose fruit is contention, pertinacity, defense of error, and love of one's own sensibilities. Propelled by these vices, they show contempt for the simple, whom they scandalize, having thus abandoned the path of humble instruction. These are the traits, opposed to true faith, of which they must repent. Let the theologians especially be warned against these vices, said Gerson, as they abandon the sacred letters of the New Law of the Gospel for human traditions and other worthless pursuits.⁶³ At length, Gerson put the question to his fellow schoolmen: Are we ready to put away all that offends against, or least does not build up, Christian piety; are we prepared to repent and believe the Gospel? Then let us learn not so much to dispute but to love, mindful always of our own end.⁶⁴ Clear and prudent understanding of those teachings gleaned from the Gospel should henceforth be sought. For it will be through repentance, rather than human investigation, that one arrives at true knowledge of God.⁶⁵

A reform-minded sermon is bound to paint the current situation in only the starkest terms in order to spur significant change. The state of the late medieval university was not, however, nearly so dire as Gerson makes it out; these scholars and masters had surely not forsaken the Gospel. Recall, moreover, that it was Gerson who had likened Paris to a radiant beacon of orthodoxy and wholesome nurturer of piety. If Gerson wanted to reset the balance between the academic and the pastoral, it was because he firmly believed in the greater mission of the university. Although it must be said that the "golden age" Gerson wished to reinstate was not really so harmonious as he may have imagined. Those thirteenth-century masters whom he praised knew their fair share of controversy and division. More to the point, though, we see that behind Gerson's criticisms, and those of Peter the Chanter two centuries earlier, rests a tacit assumption of the indispensable role that the university and its masters continued to play in Christian society.

CHAPTER TWO

CONSCIENCE AND CENSURE

Is a theologian who has dedicated his life to the pursuit of truth, whether accessible by human reason or divine revelation, obliged to follow his conscience in all cases? The answer is not so clear-cut, since even the most learned master can still err. If not for humility's sake, then at least for the common good, should he be willing to set aside his conscience? In order to answer such questions we need to begin our discussion in the first half of the twelfth century with Peter Abelard, who laid the groundwork for later medieval analysis of intention and consent with respect to conscience and moral responsibility.¹ It was in his c. 1139 *Scito te ipsum* (aka *Ethica*) that Abelard had asserted that God is primarily concerned not with human actions, but instead the intention behind those actions. Emphasizing the interior disposition of the actor, Abelard was in keeping with trends already underway in the twelfth century, notably at the Laon school, but also evident in the works of Anselm of Canterbury and Bernard of Clairvaux.²

Abelard believed that we show contempt for God, and therefore sin, when we freely consent to what we believe should instead be forsaken on God's account.³ Or as he put it in his *Sentences*, "Sin (*peccatum*) is nothing other than guilt (*culpa*). . . . Whereas guilt is nothing other than contempt for the creator, which is when either we will, against conscience (*contra conscientiam*), what we know displeases him and is prohibited by him, or when we do not will what we know pleases him and is commanded by him."⁴ It is the intention of the agent (*intentio agentis*), rather than the aftermath of his actions, that makes the difference.⁵ Note, however, that one's best intentions might be misguided. Hence the desire to please God by one's action does not in itself produce a morally good act. Otherwise, as Abelard noted, unbelievers would also have good works, since they too believe that they are pleasing God.⁶ Abelard, as Jean Porter observes, most certainly did believe in an objective moral order. The agent's intention, however noble, does not transform an objectively wrongful act into one that is good. For even as

that person may not be morally culpable for some bad act, owing to his mistaken intention, the act itself nevertheless remains bad.⁷

If sin properly speaking is contempt for God that is because one willingly consents to the very thing that one's conscience dictates is prohibited by God. And it is in this sense that all sin constitutes a sin against conscience (*contra conscientiam*).⁸ As John Marenbon observes, for Abelard conscience is a power by which we can recognize certain clear and fundamental moral truths. And so, when Abelard spoke of acting against conscience, he envisaged conscience issuing a command on the basis of its recognition of some such truth. Conscience recognizes that killing is prohibited by divine law and so commands me not to kill; if I do so anyway, I have acted against conscience.⁹ Yet what if my conscience directs me to perform some action on the grounds that it is pleasing to God, when in fact it is not? Am I always obliged to follow my conscience, even when it is in error?

Abelard most controversially tested the dilemma of an erroneous conscience when he asserted that those who crucified Christ had acted out of ignorance and therefore did not properly sin, inasmuch as they did not act out of contempt for God.¹⁰ Similarly, those who persecuted Christ's disciples sincerely believed that the disciples were deserving of such punishment. What these persecutors did was certainly wrong, but they would have sinned even more gravely, according to Abelard, had they spared Christ and his disciples against the directive of their own consciences (*contra conscientiam*).¹¹ Not surprisingly, such an audacious claim was seized upon by Abelard's opponents. As a result, among the nineteen errors condemned at the Council of Sens on 25 May 1141, are numbered the following: "that those who in their ignorance crucified Christ did not sin;" and "that guilt (*culpa*) cannot be attached to actions that are the result of ignorance."¹²

In the event, however, Abelard's students continued to pursue the principle of sin from the interior perspective of intentionality rather than outward actions. The Englishman Robert of Melun, who spent the bulk of his career in the French schools of the mid-twelfth century, reflected his teacher's influence when addressing a set of questions on the Pauline Epistles.¹³ Here Robert examined the Apostle Paul's persecution of the Church (Gal 1:13), which by his own admission he had once carried out with a fervent zeal. Had Paul really sinned in persecuting the Church when one considers his zeal for the Law and his belief that he was serving God? Many Catholics,

according to Robert, believe that when a person's conscience dictates that he must do something for God's sake, it would be a sin not to do it, since one would then be acting against one's own conscience (*contra conscientiam agit*). After all, the Apostle Paul himself says that "everything that is not of faith is sin" (Rom 14:23), which the standard biblical gloss (aka *Glossa ordinaria*) takes to mean against one's conscience (*contra conscientiam*). Yet to persecute the Church is itself a sin. Hence there are those who say that Paul would have sinned either way. Here Robert concluded that, while Paul's intention was good, inasmuch as he wanted to exhibit his obedience to God, the action that he took was still evil and born of error having been executed upon the dictates of an erroneous conscience. In the end, though, it is because the zeal and fervor of Paul's love was good in itself that his erroneous action can be excused in this case.¹⁴

The issue of conscience also arises with Paul's confrontation of Peter at Antioch (Gal 2:11–14). The question here is whether Peter really was reprehensible for having abstained from eating with the Gentiles in the presence of the Jewish Christians. Because Peter believed that he had to do this in order to avoid a scandal, he would have acted against his own conscience had he not abstained. This leads some to conclude not only that Peter did not sin, but that he actually acted meritoriously. Robert for his part determined that while Peter was morally good insofar as he acted out of a righteous zeal, he still erred in this instance, which means that Paul was right to have corrected him. Nevertheless, Peter had not actually sinned; for this reason, he was not reprehensible since righteous zeal excuses error.¹⁵

The achievements of Peter Abelard and his school are undeniable. Yet one has to wait another century after Abelard for more sustained analysis of the mechanics of conscience and moral decision-making. It was in 1235 that the Parisian theologian Philip the Chancellor produced what was perhaps the first systematic treatment of conscience in the Middle Ages, which then established the basic parameters for future discussions among the schoolmen. Philip would draw a distinction between *synderesis* (a term first coined by St. Jerome) on the one hand, and *conscientia* on the other. Synderesis, for Philip and then later medieval theologians generally, constitutes an infallible grasp of first moral principles, e.g., that good must be done and evil avoided; whereas it is the role of conscience to apply these principles to particular situations. Note, however, that although synderesis remains infallible, conscience is not and can therefore make mistakes.

That is to say, someone might fully understand the foundational moral precepts and nevertheless misapply them in a given instance. Hence he mistakenly believes that he is morally obligated to perform some act that should really be avoided. Consider too that just as conscience can err in its application of the moral principles provided by synderesis, so the will is free to choose whether or not to carry out what conscience dictates. There are, therefore, two stages at which error and sin can enter this process: at the level of an erroneous conscience and then also at the level of the individual's will.¹⁶ This is admittedly a thumbnail sketch, leaving aside such questions as whether conscience is precisely a faculty, habit, or act. These are, however, the basic parameters within which the later medieval theologians discussed the rights and obligations of conscience.

Alexander of Hales had been a secular master at Paris by 1220 before taking on the Franciscan habit in 1236, thereby securing for the order its first magisterial chair. Alexander had reasoned that if an erroneous conscience directed someone not to do what is essentially good, or conversely to do what is essentially evil, that person would not be obliged to follow his conscience in either instance. Because conscience is ultimately subject to God alone, as Alexander notes, one is obliged to set aside an erroneous conscience. Which means it would be a sin to follow one's erroneous conscience in such cases. For it is not sufficient that one's conscience believes an act is good; it must actually be good. Alexander's confrere John of la Rochelle argued similarly, if more elaborately, that an erroneous conscience never obliges one either to engage in essentially evil acts nor to omit acts that are essentially good. The only viable course of action in such cases is to free oneself from such error. If conscience were to dictate that one proceed in ways contrary to the Law of God, said John, that conscience must be put aside: "*Si enim conscientia dictat aliquid faciendum contra legem Dei, deponenda est.*"¹⁷

Saint Bonaventure, a master of theology at Paris by 1254, held the same line as his fellow friars when he maintained that an erroneous conscience would have to be laid aside. Yet his analysis revealed a further wrinkle, for he recognized that even an erroneous conscience appears at the time to be directing one to a moral good. Should one nevertheless proceed against what one genuinely believes to be right? Here Bonaventure has put his finger on a dilemma. For while it is not lawful for me to follow a conscience that directs me to evil, nor should I violate the dictate of conscience that

I take to be correct; consequently, it seems that I would sin in both cases. One sins in violating the dictate of conscience, precisely because one thereby shows contempt for God by deliberately acting against what one believes to be divine law. And yet one also sins by acting in accord with that erroneous conscience, since one would in fact be violating that very divine law, which is a mortal sin. Is this apparent state of perplexity irresolvable? No, says Bonaventure, because one is only perplexed so long as one persists in the state of error. One is never unqualifiedly perplexed, however, since one has a consistent obligation to free oneself from error. Conscience does not oblige in every case, therefore, inasmuch as one is obliged to release oneself from the grip of those acts that are objectively contrary to divine law. If one does not know how to judge the situation correctly, that is because one does not know the Law of God. One should therefore consult those who are wiser, or else pray to God for a change of heart if human counsel is lacking. Bonaventure is clear: there may be instances in which one is obligated to put conscience aside (*ad deponendum eam*). For although conscience is a law of the intellect, it is not the supreme law; it always remains subordinate to the divine law. And what if I am confronted by the commands of an ecclesiastical superior whose directive violates my conscience? Should I follow my conscience and disobey the order? Here Bonaventure advises that the inferior cleric should defer to the wisdom of his superior: "It is also evident that the command of a prelate is to be preferred to conscience when the prelate commands what he can and ought to command." One should therefore emend one's erroneous conscience, bringing it into line with the correct directive, and so avoid having to act against one's (previously erroneous) conscience. In this situation one recognizes a superior authority, and knowing his position, refrains from acting whilst educating oneself in the correct position. If the principles articulated by Alexander, John, and Bonaventure would appear to stifle the very sort of dissent that promotes intellectual progress and moral reform, we should at least take seriously Odon Lottin's assessment of the situation. These Franciscans, observes Lottin, were anxious to safeguard the fundamental moral order and divine law; one could not allow the judgment of conscience, which remains fallible, to serve as the standard of conduct, and so place itself above the divine law. This is why the only solution when confronted with the dictate of an erroneous conscience would be to free oneself from error.¹⁸

The Dominican Thomas Aquinas took a decidedly different tack than these Franciscans. We begin with a disputed question from Thomas's first stint at Paris (1256–1259) in which he argued that a subject should obey his conscience rather than his prelate. Here Thomas observed that conscience is an intrinsic spiritual bond, whereas the office of the prelate is physical and extrinsic, since all of his authority rests upon a merely temporal dispensation that will cease when we reach eternity. Conscience, moreover, binds by way of a divine command, whether written in the Scriptures or perceived as a matter of natural law. Now just as one owes a greater allegiance to a divine command than to that of one's prelate, so the bond of conscience (*ligamen conscientiae*) to that divine command is likewise greater. Conscience will therefore bind the subject even in the face of a prelate's contrary command. For although the prelate ranks higher than his subject, God—by whose command conscience binds—is greater than the prelate.¹⁹

During the quodlibetal session for Lent 1270, Thomas would also examine the demands of an erroneous conscience. Here he addressed the claim that conscience cannot be mistaken, since it is the natural court of justice, which is itself inerrant for being rooted in first principles. Thomas responded first by noting that conscience is the application of our knowledge to some particular act. While it is true that the natural awareness of first principles cannot be mistaken (e.g., that no one should be treated unjustly), particular kinds of awareness can be mistaken in various ways. Sometimes our conclusions are false because the premises were false. And even though there may not be any mistakes in our awareness of first principles in matters of natural law, mistakes are still possible when it comes to the principles of human or divine law, such that one's conscience can err accordingly. Consider, said Thomas, those heretics whose conscience tells them never to swear an oath. Their conscience is mistaken, inasmuch as they wrongly believe that every oath is a violation of a divine precept. They are nevertheless correct in thinking that one should never act in ways opposed to what God has commanded.²⁰

Responding directly now to the argument that an erroneous conscience does not seem to bind under pain of sin, Thomas determined that every human act has the nature of sin or merit insofar as it is willed. Actions are reckoned good or evil to the extent that the actor wills the good; the outcome is not the decisive factor. That is why a hunter who has displayed proper diligence and thinks that he is killing a deer, but instead kills his father, is

not guilty of patricide. Or again, consider something that is not itself against God's law, such as the aforementioned oath-swearing. If someone mistakenly believes that oaths are opposed to God's law, and nevertheless wills to take an oath, his will is thereby directed toward an object that he reckons unlawful. This person shows contempt for God and sins as a result, despite the fact that taking an oath is itself lawful. So it is that conscience is always binding, whether erroneous or not, and no matter whether what it aims at is evil in itself or morally neutral. To act against one's conscience is a sin, therefore, precisely because one is proceeding against what one believes (even if mistakenly) to be good. Having said that, were a person's conscience to tell him to act against divine law, he would sin both by doing it and not doing it. This is the case because ignorance of the law does not excuse from sin, except when the ignorance is invincible (as with the insane who are completely excused from sin). This does not mean that one is left with no permissible options, absolutely speaking. After all, that same person could still correct his erroneous conscience and thus avoid the sin by obeying God's law. No one is ever placed in a position, said Thomas, where sin is the only option. Thomas offered the example of a priest in a state of mortal sin who is under an obligation to say Mass: he will commit a sin if he says Mass, but also if he does not. Absolutely speaking, though, he is not bound to sin in this case, since he could still repent and then proceed to say Mass without sinning.²¹

Thomas's scenario of the sinful priest was well-known to the tradition. In 1208, Pope Innocent III was asked what a priest ought to do were he aware of having committed a mortal sin and yet finds himself in a situation where he must celebrate Mass. Perhaps the priest could fake it by omitting the words of consecration such that he consumes mere bread and wine. This way he could manage to avoid offending God while still satisfying the people's expectation that they had attended Mass. As one might guess, Innocent did not care for this solution. He noted first that false solutions should be rejected when they prove even worse than the dangers they are meant to avert. Innocent was clear that a priest who is aware of his own crime should abstain from celebrating Mass; indeed, he would sin gravely were he to proceed in an irreverent manner. Yet this priest would no doubt sin even more gravely, says the pope, were he fraudulently to simulate consecration. Better, therefore, to proceed with the consecration and then throw himself upon the mercy of God, rather than incur the guilt of mocking God and deceiving the people.²²

When the standard gloss (like its biblical counterpart also known as the *Glossa ordinaria*) addressed this decretal, it basically reiterated Innocent's position that a priest aware of his own mortal sin may not fake the consecration. Priests in mortal sin should not be saying Mass, of course, but we have seen that the thrust of this decretal concerns a priest's obligations when confronted with an unforeseen crisis. Perhaps this priest is suddenly called upon to preside at a funeral Mass; he can hardly shirk his responsibility in this time of immediate need—what should he do? Can a priest in a state of sin consecrate the host in time of necessity if there is no one to whom he can confess at that moment? Yes, he can, said the gloss, just so long as he proposes to render satisfaction later, and then proceeds to confession as soon as possible.²³

The Dominican canonist Raymond of Peñafort addressed a similar scenario in his widely read *Summa de Paenitentia* (c. 1225/1236). In this case the priest is prepared to celebrate Mass, but when he comes to the canon and so should recite the words "*hoc est corpus meum*," it occurs to his conscience that he has committed a mortal sin—what should he do? If he proceeds, he sins mortally by confecting and consuming the sacrament while in a state of mortal sin, thereby eating and drinking to his own condemnation (1 Cor 11:29). If he does not confect, but only pretends to do so, he sins even more gravely, since in failing to honor God, he makes a mockery of the sacrament and deceives the people. And yet if he decides to break off entirely, he will create a great scandal. It would seem that such a priest is perplexed, i.e., he sins no matter what he does. In this situation, Raymond counseled that the best and safest course would be for this priest to repent now with due contrition. Let him therefore grieve for having been so sluggish in correcting himself and propose to confess as soon as he has the opportunity; then he can confect and consume the host.²⁴ Note that the above solutions all seem to presuppose the principle, generally held throughout much of the twelfth and thirteenth centuries, that contrition alone suffices for the divine absolution of one's sins, provided that one sincerely intends to confess to a priest at the next available opportunity.²⁵

Returning to Thomas, we can consider a quodlibetal question for the Lenten session 1257, which asks whether someone faced with various opinions on the correct course of action would sin by following the path that is deemed less safe (*minus tutam*)? For instance, does the cleric who has multiple prebends sin when the masters are themselves divided on whether

this practice is lawful? Here Thomas observed that there are two ways to commit a sin: either to do something that is against God's law; or to act against one's conscience, even if what one is doing is not actually opposed to God's law. Thomas furthermore points out that something can be a sin against conscience, not only when a person does what he believes to be wrong, but also when he thinks that it is probably wrong, although harboring some doubts about it. Now it is clear that to do what is evil is always wrong, no matter that it accords with conscience. Yet, as noted above, to act against one's conscience is also evil, despite the fact that the act itself is not illicit. Where there is opposition to neither there can be no sin. Back to the question of prebend: although one's conscience may not be convinced that holding multiple prebends is wrong, difference of opinion among the masters has made one doubtful; hence the cleric with multiple prebends, who doubts its lawfulness, is at risk and does sin. For here is a case where one loves the temporal gain reaped from multiple prebends more than one's own salvation. Note, however, that one would not be committing a sin if the various magisterial determinations failed to render one more doubtful.²⁶ Pangs of conscience, absent moral certitude, are still sufficient to preclude pursuing a course of action that may in fact be lawful. Such counsel would seem to offer a check against the basic human tendency to convince oneself, despite moral qualms, that what is lucrative or otherwise temporally advantageous, is also the moral course.

Just before taking our leave of Thomas, we turn to the discussion of conscience presented in his *Summa theologiae*. Here Thomas restated his position that everything that runs against conscience is a sin and that this applies, not only when the will is at odds with right reason, but even when it runs contrary to errant reason. This is because errant reason presents its judgments as true and therefore derived from God who is the source of all truth. Confronted with what one believes to be a divine command, one is obliged to consent, which means that an erroneous conscience does in fact bind.²⁷ But does an errant conscience thereby excuse? It does not excuse, according to Thomas, in an instance where one is obliged to know right from wrong, as distinct from an honest mistake regarding immediate circumstances. Willful ignorance provides no legitimate excuse, therefore, as opposed to invincible ignorance wherein someone could not reasonably be expected to have known the truth. Were erring reason to tell someone to commit adultery, for instance, then the will is evil. This is because such an

error stems from ignorance of the divine law, which one is obliged to know. And yet were someone to inadvertently sleep with another's spouse, believing her to be his own, he would not be to blame on this occasion.²⁸

HENRY OF GHENT AND GODFREY OF FONTAINES

Along the lines that we have been following, Henry of Ghent addressed a quodlibetal question which asked whether the will dissenting from erring reason would be evil. It would seem not, since the will that dissents from the command of an inferior authority, which itself dissents from a superior authority, is good rather than evil. This is because the command of the inferior has been rejected for the sake of the superior's command. Such is the case when the will dissents from erring reason, since its error is contrary to the precept of divine law, which amounts to the command of a superior authority to one's own inferior reason. And yet the Apostle Paul says that "everything that is not of faith is sin" (Rom 14:23), which Henry notes the biblical gloss takes to mean against conscience—"quod sit contra fidem, id est, contra conscientiam." And because the will dissenting from erring reason runs against conscience, it must be sinful and evil. According to Henry, the goodness or evil of the will hinges upon reason's presentation of the object to the will, which means that the will that dissents from erring reason is always evil—not on account of the object in its own nature, but insofar as it has been proposed to the will under the mediating judgment of reason. Consequently, if erroneous reason presents to the will as good something that is really evil, the will remains morally obliged to follow it. Placing conscience within the sphere of the will, therefore, Henry determined that the will would sin by way of contempt were it to set aside what it believed was a matter of divine law and choose instead what it did not believe belonged to that law. The will is evil in this case owing to the intention of the agent, not on account of the act itself.²⁹

Henry had also examined the obligations of conscience within the context of the teaching enterprise itself. We have looked at his discussion of magisterial responsibilities, as he determined that the master was duty bound not to lead his students into error. But the students should not be unreflective listeners, absorbing without further ado everything the master tells them. After all, even the best intentioned master could err, sometimes in very serious matters of faith and morals. The students will have to come

to their own decisions on what advice to follow. To be confronted with multiple, sometimes contrary, positions was part of academic life. For as Rudolf Schuessler has observed, "the scholastic tradition accepted a plurality of opinions in nearly all of its subject areas, and did not insist on dissolving this plurality. This led to attempts at managing a variety of opinions, not only by force and interdict, but through an evolving set of guidelines and entitlements which grounded a rich scholastic discourse on the permissible use of opinions." In his *Topics* Aristotle had spoken of "reputable opinions" (*endoxa*), those that are accepted if not by everyone, then by the majority, or at least by the wise. It was in this vein that schoolmen spoke of the *opinio probabilis*. When a proposition was seen to have the support of many people, especially the experts (*sapientes*), there was good reason to believe that the proposition was correct; it seemed probable. Of course, there will be times when one is confronted by multiple opinions, all of which seem probable for having been endorsed by competent authorities. In the late fourteenth century, Marsilius of Inghen could therefore remark: "I have listed these opinions [with respect to whether theology is a science] in detail, so that—given the fact that they are all probable in the minds of those positing them—anyone may choose the opinion which he deems more probable."³⁰

Since there are bound to be contrary opinions among the doctors over a given course of action (cf. Thomas above on the lawfulness of multiple prebends), should one act according to one opinion for which there is no danger of sin, or act according to another opinion for which there is some doubt as to whether it is a mortal sin; and if acting in accord with the latter, does one sin mortally? In such cases Henry counseled that one should make a point of examining the state of the doctors themselves, as well as their arguments. There is a strong moral and personal component to be considered. It is not merely an assessment of intellectual strengths; doctrines are not completely detachable from the people who assert them. Are such doctors trustworthy or mendacious? How do they live? Are they lovers of the truth in both word and deed? Are they knowledgeable in matters pertinent to the questions being determined? First figure this out, and then ask whose arguments seem stronger; whose authorities are clearer on the matter? Of course, not all audiences are the same. Some are erudite and discerning to the point that they can compare the different answers; others comprise simple people who will trust whatever they are told. Either way, those who listen cannot afford to be passive; they are obliged to inform their consciences

to the best of their ability (*tenentur conscientias . . . informare*). What may be a sin for one person is not a sin for another. Hence if the listener is himself an expert, and he knows the state of the doctors who counsel against the dangerous part, and their arguments seem stronger, he would certainly sin mortally by knowingly exposing himself to the dangers of sin. That is because he is not acting on the basis of faith or by conscience but is instead acting contrary to the dictate of conscience and of right reason (*sed contra dictamen conscientiae et rationis rectae*). On the other hand, the simple listener might not know anything about the state of the doctors, and thus cannot determine the strength of the arguments proposed by those who oppose the dangerous path. While he may know those who propose the contrary to be upright men, and presumes their position more trustworthy, that simple person does not sin mortally by exposing himself to danger, since he does not see the danger, however real it might be. Although it should be said that this same person would sin were he to proceed to do what the rule of faith prohibits, even if that prohibition were unknown to him, since ignorance of such fundamental laws provides no excuse. Even here, though, we need to distinguish between principles of the natural law that are clearly laid out in the Decalogue, which no one having the use of free will is permitted to be ignorant of; and those principles which are rationally deduced from them, which a simple person might be permitted not to know owing to some obstacle of invincible ignorance. In the end, Henry concluded that those who act against their conscience, when exposing themselves to the danger of sin, are guilty of a mortal sin when committing a sinful act. Also lapsing into mortal sin are those who proceed rashly against a conscience that reckons some act to be sinful even if it is not.³¹ Neither is excused, therefore, because each in his own way proceeded against the judgment of his conscience.

The secular theologian Godfrey of Fontaines, a Paris master from 1285 to 1304, tracked along lines similar to Thomas and Henry, therefore, when he concluded that acting against one's conscience is sinful, whether or not one's conscience is correct or erroneous. In fact, said Godfrey, the person acting against an erroneous conscience sins more gravely than the one acting in accord with it, since by his actions he is directly rejecting what his conscience dictates. The moral determination, for Godfrey, hinges upon the person's intention; whether he believes what he is pursuing is good or evil. Something that is unqualifiedly good can be apprehended under an evil principle, and for that reason possesses the principle of evil, if only

accidentally. The will that pursues the object under that principle is itself unqualifiedly evil, precisely because it wills the evil—not because the thing is evil in itself, but because the will erroneously takes it for evil and pursues it anyway. Note, however, that the converse does not necessarily exonerate the will. For if the will pursues something unqualifiedly evil, which has been erroneously apprehended under the principle of the good, the will can still be reckoned evil if this error is the result of negligence and thus could have been avoided.³²

WILLIAM OF OCKHAM AND ROBERT HOLCOT

The Franciscan William of Ockham, who had lectured on Peter Lombard's *Sentences* at Oxford (1317–1319), considered the intersection of conscience and merit within a set of quodlibetal questions while at the London convent (1321–1324). Here Ockham reckoned it impossible that any act of the will elicited against conscience (*contra conscientiam*), whether that conscience be correct or erroneous, could be virtuous. This is because, in either case, someone believes himself to be proceeding against a divine precept.³³ Ockham furthermore maintained that in a case of invincible error, which is not culpable inasmuch as it is not within the power of the one who errs, a person can actually perform a meritorious act, since the error does not in itself corrupt the virtue of charity.³⁴ So it is that a right act in the will can stand alongside invincible error in the intellect with respect to the same object. Consider, for instance, that someone holds the universal right reason that “every indigent person in extreme need should be helped lest he perish,” which Ockham takes to be self-evident. He then encounters someone who appears to be indigent, although one cannot know for certain whether this person is genuinely needy. Now it may happen that one errs in the intellect by judging a person indigent who is not, and so judges that he should be helped when he really should not. Be that as it may, says Ockham, this person still acts meritoriously so long as he wills to help the beggar for the love of God. In fact, were one unwilling to help the (apparently) needy person in this case, such a refusal would be morally faulty and demeritorious, inasmuch as it would be an act elicited against (an albeit erroneous) conscience.³⁵

Ockham has therefore fixed the morality of an act upon the intention of the actor. Intentionality is the key to the moral rightness or wrongness, not

the exterior act; and intention rests in the power of the will.³⁶ In this vein Ockham would state in a separate question: “No one acts virtuously unless he acts both knowingly (*scienter*) and freely (*ex libertate*).” For Ockham, as Marilyn McCord Adams notes, “neither the act done mindlessly, nor that done in slavish obedience to another can be morally virtuous. For an agent acts virtuously only insofar as he follows his own conscience.”³⁷ Perhaps what made Ockham’s theory of conscience especially distinctive, however, was his determination that it was not merely excusable to follow the dictate of an erroneous conscience proceeding from invincible ignorance—as Thomas Aquinas had maintained—but that such an act was even virtuous. Believing that one is fulfilling one’s moral obligation, and so proceeding according to divine intention, renders that act meritorious.³⁸

The Dominican Robert Holcot, a regent master of theology at Oxford by 1336, ran close to Ockham in his inclination to ascribe merit to those who honestly proceed according to an erroneous conscience. In one case, Holcot considered whether it is possible that someone might not only enjoy a creature, but even do so meritoriously.³⁹ Drawing on Augustine’s fundamental distinction between enjoyment (*frui*) and use (*uti*), Holcot presented the following scenario. John has erred when it came to discerning the difference between Christ and James, such that he believed James to be Christ. And so, he loved James above all things, enjoying (*frui*) rather than using (*uti*) this creature. John did this because he sincerely believed that James was God and therefore was worthy of supreme love. That all of this is meritorious, says Holcot, is proven by the fact that John’s error was invincible; hence he is unqualifiedly excused. For if the devil transfigured himself into a likeness of Christ, and with God’s permission were to generate a firm faith in the soul of some simple person that he was indeed Christ, this person would worship the devil with suitable latria and enjoy him. Consequently, it could be said that he meritoriously enjoyed the devil and meritoriously worshiped him. In fact, he might even sin mortally were he not to do this, provided that his conscience dictated to him that he must or else sin mortally.⁴⁰ This person, Holcot concluded, can thus be excused, since his erroneously directed love had been the result of an invincible error in the intellect.⁴¹

Holcot took things in a less hypothetical direction when he confronted the very real question of the culpability attached to errors in articles of faith. Heresy was a matter for the ecclesiastical courts where the determination of a defendant’s guilt often rested upon what this person could be expected to

know and his willingness to be corrected. Consider someone who commits an error with respect to an article of faith; some will say that this person cannot be excused. For Holcot, though, there is no mortal sin when such errors are merely the result of a lack of sophistication. An old woman, says Holcot, would not be guilty of heresy if, in her ingenuousness, she believes her bishop as he preaches erroneously about some complex theological principle. To that end Holcot appealed to canon law: *Dixit Apostolus* makes clear that people are not reckoned heretics for innocently falling into error when seduced by others. Even as their statements may be false and perverse, so long as they do not defend them with pertinacious animosity, they can be exonerated. While *Qui in ecclesia* notes that the mark of a heretic is the contumacious defense of error coupled with a refusal to be corrected.⁴² As we will see later in this chapter, and then throughout the book, the principles so succinctly laid out by Holcot with respect to the determination of heresy were long recognized by his fellow schoolmen in the universities and also in the ecclesiastical courts.

Holcot would press these questions even further, though, when he asked whether such people may not only be excused their errors, but even earn merit through a false faith? Here again we meet the proverbial old woman who hears her prelate preach heretically regarding some article about which she is not bound to have explicit faith: for instance, whether Christ was pierced with a lance before or after he was dead. In her ignorance she assents to the prelate's claim that it occurred before death. Owing to her obedience and the good will by which she believes whatever the Church believes, she assents voluntarily, because she thinks that this is what the Church holds. Not only is this woman excused, says Holcot, she even accrues merit through her erroneous faith. This is because she assented through a good will, while she erred by way of an invincible error. Deceived in her simplicity, this error does not endanger her salvation. Actually, this woman implicitly believes the opposite of the heresy, since she believes only what the Church believes to be true.⁴³

Reminiscent then of Abelard's disquisition some two hundred years earlier, Holcot asked what we might say about those people who killed Christ: Did they also not sin? In this case Holcot is not so forgiving. For he finds their ignorance to have been crass and self-inflicted, since they had failed to consider carefully Christ's deeds and teachings, which the good judgment of reason would dictate. As such, said Holcot, they deserved to be blinded

rather than illuminated; which is to say that their ignorance does not excuse them.⁴⁴ Generally speaking, when it comes to infidelity or heresy, Holcot found that one is never going to be led into an error contrary to the faith that is necessary for salvation, unless owing to willful malice. Conversely, and more optimistically, knowledge sufficient for salvation will be infused into all those who do not present an obstacle to divine grace. Faith depends upon the will, said Holcot, and so presupposes good use of the will.⁴⁵

The intersection of law and conscience also appears in Holcot's *Sentences* commentary where he took up the question of whether a criminal who has been justly condemned to death could licitly make his escape? Here Holcot argued that he can, so long as he does so without injury to his neighbor. For it may be that this person was moved by his conscience such that he wished henceforth to become a good person and abstain from vice. Perhaps he planned to enter religious life in order to do penance in the hope of receiving forgiveness for his sins. And so, in light of the prisoner's sincere conversion, Holcot determined not only that he could licitly escape, but that doing so would even be meritorious. This hinges on the fact, as Holcot sees it, that the law never demands that someone be killed except for the common good. Now if that good, or even some greater good, could be achieved without the execution of criminals, it would seem that the law would not dictate the death penalty.⁴⁶ By escaping, therefore, the repentant criminal actually does a greater service to society than by following a statute that would result in his death. Here one can concur with John Slotemaker and Jeffrey Witt that Holcot sees, "conscience as something more than a private preference but a rational faculty that allows an individual to recognize a dimension of the good not accessible from the point of view of the state."⁴⁷ Christoph Grellard similarly finds in Holcot's emphasis upon intention, "the primacy of interiority over exteriority, which is relegated to the legal sphere."⁴⁸ In fact, as we will continue to observe across the breadth of this study, prioritizing the inner recesses of conscience over against formal obligations to prelates and courts constituted a bedrock principle for theologians and canonists alike prior to the fourteenth century and then beyond.

PIERRE D'AILLY

Pierre d'Ailly, a master of theology at Paris by 1380 and later chancellor, considered the following scenario: Someone is cognizant of an obligatory

precept, such as believing in the Trinity, and yet has an erroneous conscience telling him not to adhere to the precept. Should he believe in this article of faith or not? If not, he would sin for having violated the precept; unless one were to say that his erroneous conscience excuses him. And yet if he does force himself to believe in the Trinity, he would be acting against his own conscience, which the doctors say is always a sin. Are we to conclude that an erroneous conscience will excuse one from the guilt ordinarily attached to disbelieving an article of faith and having a firm conviction that one is not bound to believe the Law of Christ? It seems not since that runs contrary to Christ's forthright declaration: "He who does not believe will be condemned" (Mk 16:16).⁴⁹

In this case, d'Ailly determined that in matters necessary for salvation, at least, the rational creature is obliged to put away his erroneous conscience. For example, if a person were to decide that he is not bound to believe Christ's law, this judgment of conscience should be set aside. For, as d'Ailly points out, every genuine law or obligatory rule must, by definition, conform to the First Law, and in that way be consonant with the divine will. No erroneous conscience meets such a standard, however, and so cannot form a law or obligatory rule that one must follow. Just as it is impossible for a created thing to be caused except by the First Cause, so it is impossible that some created thing could function as a law or rule, except by way of the First Law, which is itself an expression of the divine will. And it is clear, of course, that no falsehood can be in conformity to the First Law or the divine will. All of which leads d'Ailly to conclude that just as a rational creature cannot be obliged to accomplish what is impossible, so it cannot be bound to some falsehood that an erroneous conscience dictates to it.

Does this mean that someone should act against his erroneous conscience, and thus do what he believes to be wrong? No, he should not. D'Ailly makes it clear that a rational creature is never obligated to act against his conscience, even an erroneous conscience. The solution, he said, is to put away one's erroneous conscience, so as not to act against it. But how would that actually work? Well, according to d'Ailly, one should be capable of recognizing that the conscience one now has is erroneous, and so should be put away. In so doing, this person will fulfill his moral obligation and avoid sinning, since he would not be acting against his conscience. And yet, just when it seems that d'Ailly has adopted wholesale the old Franciscan position of Alexander and Bonaventure, he then allows that an erroneous

conscience might not only be excused but even merit. To that end he presented a variation on Holcot's example of the uneducated lay Catholic who believes the false teaching of a prelate. This person believes what is false out of obedience to her prelate and out of reverence for the Church; hence she rightly believes in the general truth even if not in the particular. Because this would be an instance of invincible ignorance, the simple Catholic is excused of any sin; in fact, she even merits.⁵⁰ Here we see that, even as d'Ailly made allowances for an erroneous conscience, these allowances were nevertheless coupled to a defense of ecclesiastical authority that demands the absolute obedience of laypeople to their clerical superiors.⁵¹

CENSURE WITHIN THE UNIVERSITY

We have seen in the preceding pages that, almost without exception, the late medieval masters determined that every Christian has an obligation to follow the dictates of his or her conscience when deciding on the right course of action. One was obliged to inform one's conscience, of course, but one's freedom to pursue the good could not be infringed. Some of the examples that we encountered were located in the world that the masters knew best: the lecture halls of the university. The following section, focusing as it does on academic censure, the punishment of errant schoolmen, and the fear of being reported for what one has said in the classroom, might appear to throw a wet blanket on the flames of liberty. But then we must frankly admit that academic freedom did not exist for these medieval masters under the form we know today; the absence of tenure is one notable difference. Although it is also true that not even tenured university professors in the twenty-first century are free to say whatever they like in the presence of their students. Not unlike our medieval forebears, we too recognize the need for boundaries. Tensions existed to be sure, but the foundational principle of free inquiry (*libertas inquirendi*) in pursuit of the truth remained incontrovertible.

The universities functioned as self-governing corporations and did not take kindly to the interference of ecclesiastical prelates. In 1382, the Oxford Chancellor Robert Rygge steadfastly contended that neither bishop nor archbishop could exercise power over the university even in a case of heresy.⁵² Although the masters supervised their own ranks, they were also mindful that if academic discourse was to be conducted responsibly, and thus remain within the confines of orthodoxy, some guardrails would have

to be erected. To that end, Jean Gerson had recommended compiling a list (*schedula*) of previously condemned errors that could then be publicized in the schools so that the masters would know to avoid them. The chancellor, for his part, might further enforce the teaching of sound doctrine by refusing to license those who have been teaching these errors, even if the faculty wished to accept such scholars into their guild.⁵³ Gerson furthermore urged his fellow theologians to be cognizant of their impressionable audiences and adopt a manner of speaking (*forma loquendi*) suitable to the sublimity of the subject matter. As for the incautious among them, Gerson was clear that they may be subject to the appropriate penalties and called upon to revoke their erroneous assertions.⁵⁴

Even the most reliable masters could be concerned that their otherwise orthodox statements might be misunderstood, and perhaps then formally censured by those who were either unwilling or unable to understand what they had meant. This often entailed prefacing one's remarks with expressions of good will and an openness to correction. Yet it is important to bear in mind, as Gerson pointed out, that issuing a general declaration (*protestatio generalis*) or conditional revocation (*revocatio conditionalis*) does not infer that the scholar has in fact erred. A very faithful scholar can sincerely declare that he does not intend to say, nor thinks that he has said, anything contrary to the faith. Although if it turns out that he has done so, he now retracts it. Actually, said Gerson, it is customary for Catholic doctors to issue such conditional revocations in the course of their theology lectures, even when no one has observed any error on their part.⁵⁵

The fact that general declarations of faith were customary only highlights the lingering concern that, despite one's best efforts, there remained the possibility of being reported for some perceived misstep in the lecture hall. Even so mild-mannered an exegete as Nicholas of Lyra, whom no one suspected of heresy, nevertheless felt compelled to protest in the prologue to his *Postilla super totam bibliam* that he had no intention of asserting any position (*dicere assertive*) except in matters that have already been determined through Holy Scripture and the authority of the Church. The rest of his exegetical comments were to be taken as though spoken in the ways of scholastic disputation (*scholastice et per modum exercitii dicta*) i.e., presented for the purpose of shedding further light on complex topics. Lyra pointedly subjected whatever he wrote in his postil to the correction of Holy Mother Church, and so stands ready to revoke anything that might cause offense.⁵⁶

Drawing a line between pre- and post-publication censure (*censura praevia / subsequens*), we find that masters were already practicing a sort of self-censorship in the later decades of the twelfth century, as they requested an examination of their own works prior to publication so as to avoid the possibility of repressive censorship later. There were rote expressions of humility; acts of submission; asking another to correct their errors; and the request for preapproval of one's work so as to enhance its authority once published. Scholars such as Gerhoh of Reichersberg, Godfrey of Viterbo, Herbert of Bosham, and Ralph Niger, went so far as to send their works to the pope for his approval in an effort to immunize themselves against future attacks.⁵⁷ The Benedictine monk Rupert of Deutz submitted his commentary on the Apocalypse for formal approval by his superiors, while at the same time asserting his license to teach (*licentia tractandi*), lest he be deprived of it. Holy Scripture, said Rupert, is an exceedingly spacious field held in common by Christians and no one can be denied the right to work that field so long as the faith is preserved (PL 169:827–28). Rupert was careful nonetheless to secure the *censura praevia*, thereby avoiding Peter Abelard's mistake of proceeding without previous authorization.⁵⁸ In 1215, the Fourth Lateran Council, within its affirmation of Peter Lombard's Trinitarian theology against the attacks of Joachim of Fiore, made a point of noting that Joachim himself had ordered that all his writings be handed over to be approved or even corrected (*approbanda seu etiam corrigenda*) according to the judgment of the Apostolic see; and moreover that Joachim had dictated a signed letter in which he firmly confessed that he holds the faith of the Roman Church.⁵⁹

Here we can revisit a text quoted at the outset of Chapter One. At Paris in November 1364, it was determined that bachelors who were about to lecture on the *Sentences* had to swear before the chancellor that they would teach sound doctrine without professing any opinion contrary to the Catholic faith, the determination of Holy Mother Church, or against good morals, nor take a favorable stand on articles condemned either by the University of Paris or the Roman Curia. In the case of the Franciscan bachelor Denis Foulechat, despite swearing this oath, it was widely known (*publica fama*) that he had uttered many errors and falsehoods when lecturing in the Franciscan schools. Upon report of this offense to the masters, an inquiry was opened, and they proceeded to interview those who were present at the time. The masters then summoned the friar who recanted his errors in

the presence of the theological faculty: "My reverend masters and lords, because I have said in my *principium* for the *Sentences* some things that sounded wrong to the ears of several people (*in auribus nonnullorum male sonaverunt*). . . . I now correct those statements under the following form."⁶⁰

The bachelors of theology had taken broad oaths to uphold the rights, liberties, privileges, and customs of the faculty of theology and preserve the honor of the individual members of the faculty. They were, moreover, to give faithful witness to the knowledge, life, and morals of fellow bachelors; and to conduct themselves honestly among their fellows, using no offensive language, nor creating any sort of scandal.⁶¹ Swearing that one would not present controversial points assertively or pertinaciously (*assertive vel pertinaciter*) but instead simply for the sake of scholarly discussion (*disputabile*), did offer some protection for the bachelors were someone to take issue with what they said, even as it also established grounds for prosecution if they appeared to have violated their oath. Did the risk of formal censure, and thus the need to forestall it where possible, create an atmosphere of anxiety, looking over one's shoulder and weighing every sentence? Could scholars really conduct their research without fear? Luca Bianchi paints a rather grim picture, finding a "constant, subtle and pervasive ideological pressure exerted by the ecclesiastical and academic authorities" upon the Parisian masters of the thirteenth century.⁶² William Courtenay, on the other hand, offers a more positive take on the situation. He finds that the late medieval universities actually provided their masters a good deal of latitude in what they could discuss. Censured propositions were not meant to instill fear so much as to set boundaries. Nor, it should be said, did censure necessarily doom one's career. The condemnation of a proposition did not by itself mean that the master was likewise condemned.⁶³

Ideally, disciplinary measures would be handled within the university walls by the chancellor in consultation with the masters. On occasion, though, matters went further. There were in total four tribunals before which a bachelor or master might find himself, beginning with the consistory of the chancellor and masters of theology; then there was the episcopal court; the papal court; and in applicable cases a forum convened by the minister general of one's own religious order. Only the episcopal and papal courts had criminal jurisdiction, however, while the other two remained purely disciplinary. The process began in the university and often remained there. Before such proceedings at the university level could get underway,

however, there had to be a formal investigation into the alleged errors to determine if any formal proceedings were even warranted. If so, the accused presented himself to the commission, at which point he could either deny that a condemned article was really from his work, or he could defend the proposition. Some defendants claimed that they had not presented the now-suspect statements in an assertive way (*assertive*) as though promoting them as their own, but solely as part of an academic exercise (*disputative*), or had merely recited the remarks of others (*recitative*). Consequently, they could not be held responsible for the substance of the reported comments. On other occasions, the master might argue that his statements had been misunderstood; the subtlety of their point had been lost on the audience. The commissions, however, were typically more interested in the propositions taken just as they sounded or as they lay (*prout sonat . . . prout iacent*), rather than how they had been originally intended. The proposition was seen to possess a life of its own. Hence a master might be able to explain the remarks and thereby clear himself of error or heresy, even as the proposition itself could still be deemed “offensive to pious ears” or “ill sounding” (*male sonat*) and thus be condemned. It was in this vein that the Dominican theologian Meister Eckhart had complained that the judges in his case simply did not understand what he was saying. His propositions, he insisted, were only “false and absurd” in the imagination of his opponents but were nevertheless true when correctly understood. Eckhart therefore conceded in one instance that a statement was false if taken merely as it sounds (*sicut sonat*); but when understood with the proper qualifications it is true. What made this whole process especially vexing, as J. M. Thijssen notes, is that the clear sense of a proposition as it stands or sounds is really just the sense that the examiners have imposed upon it. The examiners, moreover, only needed to prove in what sense the articles themselves were wrong, not that the defendant intended they be taken in that sense.⁶⁴

Consider the case of Nicholas of Autrecourt who was censured at Paris in 1346. Most of the propositions on the list were noted as false and therefore in need of revocation: *falsam et revocandam*. Some, however, were reckoned false and scandalous if taken literally: *falsam et scandalosam prout verba sonant*. This despite the fact that Nicholas made it clear that he had only said such things in the course of disputation and had never pertinaciously asserted them. Indeed, Nicholas stated that he was fully prepared to revoke these propositions at the command of Pope Clement VI: “*Haec omnia dixi*

disputative et causa collationis nihil asserendo pertinaciter, quae paratus sum revocare ad mandatum beatissimi domini nostri Clementis." Nicholas furthermore declared his willingness to throw himself at the pope's feet as a prodigal son pleading for forgiveness.⁶⁵ When Nicholas publicly recanted the following year he looked on as his writings were burned and was furthermore deprived of his magisterial degree. This was no doubt a humbling, if not humiliating, episode for Nicholas—the sort which any master would surely dread. Thankfully, for Nicholas, it did not spell the end of his ecclesiastical career, as he was later able to secure an appointment as dean of the Cathedral of Metz. It is noteworthy, however, that Pierre d'Ailly would later comment that many of Autrecourt's propositions had really been condemned out of envy and were later taught in the university.⁶⁶

D'Ailly's remarks are reminiscent of Roger Bacon's observation that scholars often cling to opinions simply because they are familiar, and so refuse to entertain any new ideas.⁶⁷ They prefer, said Bacon, to defend their own ignorance by reproaching what they do not understand. Many of those who object to novelty fail to realize that all new things, however valuable, were initially met with suspicion. Bacon recalled that for forty years Aristotle's *libri naturali* had been prohibited at Paris (1210), whereas they are now received as useful teaching.⁶⁸ The Cistercian Peter Ceffons was certainly not alone, therefore, when he complained of those who slander what they cannot comprehend, as rational argument is quashed by appeals to authority. Learned scholars, according to Peter, are examined by incompetent judges who, under the guise of zeal, are merely filled with envy. Lest they be seen to have labored in vain, these committees are determined to turn up errors or heresies.⁶⁹

The Augustinian friar Giles of Rome would appeal to 2 Corinthians 10:5, that our intellect should be taken captive in obedience to Christ not men, as he reacted to those who reprove any doctrine that they did not think in keeping with the tradition. Certainly, said Giles, one should not be condemned for presenting what is merely a contrary opinion and poses no danger to the faith. So long as the faith is not endangered, no one should be prevented from thinking for himself, and thereby reexamining problems and proposing new solutions. There can be no warrant, he said, for offering timid reverence to every human authority absent divine revelation. The Dominican Durand of St Pourçain evoked the same Epistle text (2 Cor 10:5) to make the point that no one in the Church, not even the fathers, could be

reckoned infallible. We must not close off avenues of research into the truth and place obstacles to knowledge; the light of reason should not be hidden under a bushel (cf. Matt 5:15).⁷⁰

Finally, in this vein, we note John Wyclif's account of a certain Oxford Franciscan c. 1378 who offered a public recantation of his remarks on apostolic poverty in the Church of the Blessed Virgin (*per modum revocationis confiteretur publice in ecclesia Beate Virginis*). This friar stated, "I do not maintain that the Church Militant suffers any grade of imperfection on account of her present endowment." As Wyclif saw it, however, what this poor friar confessed runs contrary to Scripture, the holy doctors, and the chronicles. Nor, said Wyclif, can it be reckoned a reasonable understanding of evangelical perfection.⁷¹ This Franciscan may not have been forced to issue such a recantation strictly speaking, but the pressure placed upon a solitary friar was undoubtedly intense.

THE TRAVAILS OF TWO FRANCISCANS: OLIVI AND OCKHAM

1. Peter John Olivi

Amid struggles with his order over questions of evangelical poverty, the Franciscan master Peter John Olivi found that he would have to stake out not only his freedom as a theologian within the studium, but more broadly his right to pursue the dictates of conscience. Prior to being formally censured in 1283, Olivi had responded to charges leveled against him from within the order which he then addressed in a letter to a fellow friar. According to its most recent editors, this *Letter to Brother R.* constitutes one of the most important documents relative to the censure. The identity of Brother R. cannot be established with any certainty, although it was possibly Raymond Geoffroi, onetime lector at Marseille and future minister general.⁷² Olivi had to get out ahead of events, mounting a defense and mustering support if he was going to withstand further coordinated attacks: "So that it not be believed that I am a forger of the truth, chiefly in matters pertaining to the Catholic faith, I will offer a sincere confession regarding these articles."⁷³ Olivi's responses often began with a protest to the effect that the charges lack merit and are driven by malicious intent: "I have never believed this, nor do I believe it, for indeed I have written and taught just the opposite"; "I have never written this, although I have sometimes recited this opinion without asserting it"; "I have recited two opinions about this

and never asserted either”; and “This article does not differ from the first, but it would seem that some malevolent people have made many from one. Anyway, I never said this.”⁷⁴

Choosing and paraphrasing just a few examples, we see how Olivi sought to explain and contextualize what he had said in the lecture hall. That virtues are not conferred to children at their baptism: “It is nowhere to be found in my writings, nor have I ever asserted it.” Rather, says Olivi, the question had to do with whether it is necessary for salvation: “And I had said that this is an opinion that should be discussed seriously and solemnly, rather than being rashly disparaged as heretical.”⁷⁵ The reasonable and nuanced discussion that Olivi had hoped for had been met by the very response he feared—the charge of heresy. As for the accident of quantity not differing essentially from the substance that is quantified: “I marvel that this has been ascribed to me, since I only recited it with the hope of discussing the subtleties of metaphysical principles so that they might be more deeply understood.” There was, in fact, a much larger issue at stake here for Olivi, as he explained that his primary intention when reciting various opinions was that people might not place so much trust in Aristotle’s statements as though they were inerrant principles, clinging to the philosopher’s work as if it were the true faith.⁷⁶

Truth be told, Olivi was deeply suspicious of Aristotelian philosophy, which he regarded as undermining the fundamental autonomy of the human will.⁷⁷ It is the free and autonomous nature of the will, according to Olivi, that allows one to choose at every instant in full freedom.⁷⁸ The will can even be said to move itself, and thus will its own acts of willing.⁷⁹ More to the point, as Véronique Decaix has shown, Olivi reckoned that liberty alone confers morality upon actions; and that conscience is rooted in the freedom of the human person who acts. Conscience, for Olivi, is a spontaneous and immediate impulse that moves one to desire the good and reject evil. Such a tendency is not the fruit of rational deliberation after the fact, therefore, but instead a spontaneous sentiment which is naturally inscribed in the human spirit. Olivi’s ethics may thus be said to be rooted in the freedom of the human person and the subjective capacity of moral evaluation.⁸⁰

As Olivi concluded his letter, he presented a schema of authority that not only reaffirmed his commitment to Catholic orthodoxy, but moreover established which areas of theological discourse remain open to reasoned discussion. What follows is a close paraphrase. On a descending scale Olivi

began with all matters of faith that have been explicitly handed down to us through the Roman Church: "These I believe with a firm and explicit faith. As for those things that are matters of faith itself, or at least appear to be, but which have not been explicitly handed down to us, nor clearly interpreted either through the Sacred Scriptures or papal and ecclesiastical traditions, here I will wait for its promulgation before giving full assent. When it comes to human opinions and the contriving of human reason, I might revere these with humble heart, but I will not adhere to them as though they were matters of Catholic faith and divine tradition that one is not permitted to contradict, nor in any way dissent from, nor even mildly dispute."

Indeed, said Olivi, the saints warn against venerating human words as idols. For it is just this sort of misplaced reverence that gives rise to sects and schism: I belong to Paul (1 Cor 1:12), I to Aristotle, I to Thomas. Having thus established these criteria, Olivi responded directly to his opponents who insisted on his pledge of allegiance to what he regarded as merely human opinions. He will not treat any teaching as a matter of faith, unless it meets his aforementioned criteria founded upon Holy Scripture and the sacred tradition of the Church. Olivi made it clear: "I would knowingly obey no man in matters that are contrary to faith. In other matters I would obey to the extent that I can so long as purity of conscience is preserved (*salva conscientiae puritate*), but never against the truth of conscience (*sed contra veritatem conscientiae nullo modo*). For even as these matters might not pertain to faith, I should not lie for any man chiefly in matters of doctrine (*pro nullo homine mentiri debeo et precipue in doctrina*)."

Compelling a person to maintain some human opinion as a matter of faith is to lead him down the pathway to idolatry, unless it were first demonstrated truly and infallibly that the teaching in question is indeed an article of the Catholic faith.⁸¹

Olivi's troubles were just beginning. His opponents had drawn up a list of propositions which they sent to the minister general Bonagratia of San Giovanni, who forwarded them to Olivi's provincial minister. His writings were confiscated in the spring of 1283 pending further review. Bonagratia then convened a commission from the University of Paris consisting of three bachelors of theology and four masters. Bonagratia seems to have given the commission complete editions of Olivi's works from which it excerpted passages deemed suspect. When he was eventually summoned to Avignon, Olivi was presented with the *Letter of the Seven Seals* comprising twenty-two affirmative propositions that the masters and bachelors "firmly

believe, state and hold.” Hence the commission had identified what it reckoned erroneous in Olivi’s teachings and then formulated a set of corrective propositions to which Olivi would be asked to assent.⁸²

Initially upon arriving at Avignon in 1283, Olivi did assent to the *Letter of Seven Seals* in addition to offering a brief response to what he was alleged to have said. He really could do no more, having been denied access to his own works and others by which he might prepare a proper defense. By 1285 however, Olivi was able to present a fuller response to the commission as he was then in possession of the materials he needed.⁸³ The commission had affirmed that marriage is a sacrament of the New Law that confers grace, while to assert the opposite is an error, to sustain it a heresy, and to doubt it altogether illicit. In response, Olivi stipulated not only that he had never denied that marriage is a sacrament, but he had never even called it into doubt. He simply inquired whether it might be unequivocally reckoned a full sacrament along the lines of the other six. Drawing upon a number of canon law texts, Olivi argued that any censure in this case seemed unwarranted inasmuch as it is not necessary to believe that marriage confers grace. Note that Olivi’s point here was not to deny that grace is actually conferred. For his part he did believe that those entering into this state do receive some grace from God, just as those taking on a life of virginity or entering a religious order also receive grace. Olivi merely wanted to show that it is not a necessity of faith to believe grace is bestowed in this case, at least in the way that it is conferred in the other sacraments. Olivi did admit, however, that some of his statements might have been too loosely constructed, so as to give the wrong impression; although he insisted again that he never asserted these things. If there are errors to be found, he said, it is probably because others had made these materials public against his will before he had a chance to carefully correct them.⁸⁴

The controverted question of poor use (*usus pauper*) had also come to the fore when the Franciscan masters declared it erroneous to assert that the poor, or restricted, use of material goods is included in the vow of evangelical poverty. This is an important issue to which we will return in Chapter Six, and so provide only the bare outlines now. Here Olivi said that he actually agreed with this formulation, if the masters were referring to extreme necessity in the sense of dire penury. Taken in that way, said Olivi, he did not believe that he had said anything to the contrary, but would be willing to revoke such a statement if he had. Nevertheless, Olivi did maintain that

so long as one allows for proper latitude depending upon the circumstances befitting different states and offices, poor use can indeed be reckoned as belonging to the vow.⁸⁵ One gets a sense of what is at stake for Olivi, even if he was willing to find common ground with the commission. For he then restated his position that the disqualification of poor use would amount to blaspheming Christ and his Gospel as some inferior form of perfection. And this, he warned, would lead to the wholesale destruction of our order: “I am certain that this is the greatest intention of the devil among all the contradictions and blasphemies leveled against most high poverty.”⁸⁶

By the end of his response to the commission Olivi could only marvel that such a strict process had been initiated against him—so solemn and yet ultimately so unjust and defamatory. Should not these apparently serious men, he asked, first investigate whether he had actually written such things, and then what he meant by what he did write, rather than imposing their own interpretation upon these texts? Here Olivi drew their attention to principles of due process (further discussed in Chapter Four), noting that all laws, whether civil or canonical, are clear in that the defendant should be heard before he is officially condemned, which especially applies in cases touching upon true doctrine and the Catholic faith. In fact, said Olivi, this principle should apply all the more when the defendant has consistently exhibited an ardent zeal for the faith of the Roman Church and the purity of his order and its rule.⁸⁷

In the event, as Olivi tells it, the commission attempted to compel him to consent to the *Letter of the Seven Seals*, as though everything contained therein were pure faith and an authentic determination of the Roman pontiff or a general council. According to Olivi, they had handed him a copy of this letter allowing him scarcely any time to read it carefully and consider its contents. He was being pressed to say that he had assented to the statements of the masters and then to revoke whatever he had said or written to the contrary. Olivi complained, moreover, that although he may appear to have confessed those things excerpted from his writings, he had actually meant something quite different than how they were now being construed. What is worse, for him to concede the erroneous and heretical meanings being imputed to him—meanings that he did not actually hold—would be both deceitful and contrary to conscience. And yet at the same time, if he refused to consent to the letter, he would appear to be denying some of the most foundational components of the Christian faith: “If I wish to flee from

Scylla, I will fall into Charybdis.” The committee had maneuvered him into such a tight spot, said Olivi, that he ultimately had to choose a way in which he might be able to exhibit due reverence for the letter by confessing and accepting some of the statements unqualifiedly as though they were steadfast determinations of our faith, while affirming others under a distinction, thereby intimating that he had only said these things in a certain sense.⁸⁸ In the end Olivi was not charged with heresy. He attended the general chapter meeting at Montpellier in 1287 where his views on *usus pauper* seem to have been well-received by the new minister general Matthew of Aquasparta, who then appointed him lector at the studium in Florence.⁸⁹

2. William of Ockham

Four decades later, another Franciscan, William of Ockham, voiced his contempt for those he believed to have taken the unwarranted step of equating their own opinions with Catholic truth, such that all those who disagree with them are liable to censure. In the academic year 1323–1324 Ockham produced his *Tractatus de quantitate* and *Tractatus de corpore Christi*. It was in the first that he insisted that he had not run afoul of the common opinion of the doctors, if by *doctores* one means those approved by the Roman Church (*doctores approbatos ab Ecclesia Romana*). And so, Ockham challenged his opponents to prove their case against him based upon the authority of these trustworthy sources. He was confident that it was only through a superficial reading of proper authoritative sources that any apparent contradictions would arise. If so, the text would then have to be explained in order to determine its genuine meaning.⁹⁰ Nor is there anything unfitting about having to explain the statements of the saints and those of Holy Scripture which are also in need of exposition. For many of these texts do not appear to be true when read strictly literally (*secundum proprietatem sermonis*), even as they are certainly true if one adheres to their intended meaning (*secundum sensum quem debemus habere sint verissima*).⁹¹

On the other hand, if by *doctores* one is referring to those modern doctors who constantly find fault with one another both privately and in public, then there is nothing unfitting about rejecting their opinions. One is under no obligation, said Ockham, to accept anything they have said unless it can be proven by evident reason, or through the authority of Holy Scripture, or again through the approved doctors. And in that case the authority would not be that of the modern doctors themselves, but rather the sources they

have cited. Ockham went further, though, as he appealed to the freedom of conscience: it would be both dangerous and rash to restrict someone in this way so as to hold his intellect captive (*ad captivandum intellectum*) and force him to believe what reason dictates to him is false. Only if he could be proven wrong upon the testimony of some saint or approved doctor—whom it is impermissible to reject—would Ockham submit his intellect to that authoritative source.⁹²

At the outset of his *Tractatus de corpore Christi*, Ockham presented a profession of Catholic faith, in effect a *censura praevia*, wherein he publicly declared that he was going to assert only what the Roman Church holds and teaches. As for any positions that have not yet been authenticated by the Roman Church, these he would not rashly approve (*temerarie approbando*), but only recite (*recitando*), for the sake of this inquiry into the truth. Ockham assured the reader, moreover, that he planned to explain such things with all humility and modesty and would subject himself to the correction of those who are expert in Catholic and orthodox teaching. He certainly had no desire to profane the ears of the faithful.⁹³

When Ockham declared his allegiance to the faith of the Roman Church, he drew upon the distinction between implicit and explicit faith, as he appealed to Pope Innocent IV's gloss on the canon *Firmiter credimus* i.e., the Fourth Lateran Council's comprehensive statement of faith that formed the opening chapter of the *Decretales Gregorii IX* (aka *Liber extra*). With respect to the Trinity, Innocent IV had determined that so long as one believes what the Church believes, then even were one to hold a false opinion regarding the relationship of the persons of the Trinity, one is still not a heretic, nor does one sin so long as one does not defend this error, and so long as one believes as he does precisely because he thinks this is what the Church itself believes. In that sense one's opinion, wrong though it may be, is nonetheless separate from one's faith since one's faith remains that of the Church. Appealing to this gloss in order to immunize himself from potential attacks, Ockham concluded that if implicit faith is effective enough to excuse someone who errs in ignorance regarding those things which are clearly stated in Holy Scripture, then surely one can be excused for holding an opinion out of ignorance on some matter that is neither clearly stated in Scripture nor found among the doctors approved by the Church.⁹⁴

Ockham remained adamant that his opinions could not be rejected as heretical despite the determination of many "modern doctors." Lacking any

authority to condemn his positions, these men had no standing to render judgment. Only the Roman Church can render a determination on a matter of faith. It would be absurd to think that such difficult questions could be determined by some theologian no matter how famous he might be. Recourse must be had to the papacy, said Ockham, when the answer is not clearly stated (*expressum*) in the canonical Scriptures nor as yet determined by the Roman Church.⁹⁵ As it stands, Ockham would not allow that his intellect be held captive (*meum intellectum captivare*) so as to affirm anything that runs contrary to the dictate of reason unless the Roman Church were to teach that this position must be held. Only then would he concede the point, inasmuch as he recognized that the authority of the Roman Church (understood to comprise the apostles and ancient holy doctors) is greater than the entire capacity of any human intellect.⁹⁶ In other words, Ockham was willing to recant if and when—but only if and when—the sacred wisdom of the Catholic tradition were clearly presented to him, such that his error would then be manifestly exposed.

As we might gather from Ockham's combative tone in the two treatises surveyed above, he was arousing opposition among his confreres. In fact, Ockham had been summoned to the provincial chapter in 1323 to explain some of his more controversial statements. It was about this time that fellow Franciscan John of Reading leveled charges against Ockham at the papal court in Avignon. The former Oxford chancellor John Lutterell was then drawn into the matter when asked by Pope John XXII to draw up a list of Ockham's errors that would form the basis of a formal papal inquiry. It turned out that Lutterell was quite troubled by what he read when reviewing the material. In his letter to the pope he warned that Ockham's teaching was dangerous (*periculosa*) both in its theological and philosophical aspects. Lutterell was convinced that the collected propositions would be offensive to pious listeners (*auris multorum offendunt*) and could lead astray the ignorant. In the end, though, no trial ever took place, nor did the papal commission issue an official condemnation. This would not, however, give way to a time of peace and tranquility. As the Franciscan Order's disputes with John XXII over apostolic poverty intensified, Ockham eventually fled Avignon on 26 May 1328 together with the Franciscan Minister General Michael of Cesena, seeking refuge with the Holy Roman Emperor Ludwig of Bavaria, and then settling in Munich by the following year.⁹⁷

JOHN OF MONZON AND THE IMMACULATE CONCEPTION

Admittedly, there were some cases in which a master could prove almost deliberately provocative, publicly pressing a highly sensitive matter when discretion might dictate a milder approach. At his first magisterial lecture in 1387 the Dominican friar John of Monzon put forward fourteen propositions that deeply distressed the theology faculty at the University of Paris, four of which impugned in the strongest terms the Immaculate Conception of the Virgin Mary. If John had been willing to revoke these propositions when admonished, the whole affair might have blown over. As it was, John sought the support of his superiors in the Dominican Order. Rallying to his defense, the Dominicans protested against the condemnation that had subsequently been handed down by the Bishop of Paris, as well as the actions taken by the university faculty, which at this time had been especially adamant in asserting its status as the supreme ecclesiastical tribunal in matters of faith and morals. In defiance of the judgments passed against him, John appealed to the pope on the grounds that it was for the Apostolic see alone to determine matters of faith. The bishop, said John, had overstepped his duties in this case—putting his sickle to another man's field (as the old expression goes). And yet through all of this, as Henry Denifle notes, had John and his Dominican supporters been content merely to profess that the Blessed Virgin Mary had been conceived in original sin, the proposition would have not incurred censure. For in fact many theologians past and present had said the same thing; nor had the Immaculate Conception been established as an article of faith. What created the uproar was John's intentional provocation, claiming as he did that it was expressly contrary to the faith to assert that the Blessed Virgin Mary was conceived without sin; and what is more, that those who believe this err in faith and sin mortally. It was the sheer temerity of his statements that so offended the greater part of the university in which the Feast of the Immaculate Conception was being celebrated by this time.⁹⁸

In the event, the Paris theology faculty moved swiftly to censure John, demanding that he publicly revoke a total of fourteen propositions. The common thread running through those four that dealt with the Immaculate Conception was John's assertion that this doctrine in one form or another was "expressly contrary to the faith." The masters for their part repeatedly demanded that such propositions be revoked as, "false, scandalous,

offensive to pious ears, and presumptuously asserted.”⁹⁹ What began with an act of fraternal correction on the part of the faculty soon escalated when Monzon refused to accept this correction; only then was the faculty compelled to take this matter beyond the university walls. The Bishop of Paris became involved, therefore, when the accused proved pertinacious, refusing recantation and purgation; once delated to the bishop the offense became a criminal matter.¹⁰⁰

Reflecting upon the fallout of the Monzon affair, Jean Gerson lamented the decline in regular preaching at the University of Paris following the expulsion of the Order of Preachers. Gerson did confirm, however, that the condemnation of Monzon’s errors had been carried out in accordance with both reason and the Catholic faith. He recounted, moreover, that while a bachelor of theology he was among the delegation at the papal court when Monzon had been defended. Now, however, Gerson would desperately like to see some reconciliation between the secular masters and the friars. He had it on good authority that the friars would be open to making peace and returning to the university. Exhorting his fellow secular masters, Gerson reminded them that as Christians we are daily engaged in the school of charity, subject to him who says, “Learn from me, I am gentle and humble of heart” (Matt 11:20). Gerson furthermore related how the friars had been separated from the university when it was decided that those who refused to take an oath condemning the errors of Monzon would thus be deprived of every degree and honor at the university. Although the friars, for their part, pointed out that they had not received permission from their superiors to swear such an oath. Consequently, they did not receive degrees, nor teaching chairs, nor did they give sermons. Actually, Gerson had heard that many friars were ready to take this oath, but as it stood would be forbidden entrance to the university even were they to do so. He wished that the secular masters would put away their grievances, however legitimate they might be, and find some way to make peace, some path forward to fraternal reconciliation. As it was, though, there seemed to be nothing that would satisfy these masters, no act that could make up for the offense the friars had committed against the honor of the university. Gerson was losing patience by this point with those who, he said, can only glory in the mutilation of Mother Church and the mystical Body of Christ. These people do not desire healing, he concluded, but prefer instead to display only cruel anger toward anyone seeking a remedy.

In their demonical impiety they are compelled more toward schism than fruitful union.¹⁰¹

The controversy sparked by Monzon had then prompted Pierre d'Ailly to publish a substantial tract on behalf of the Paris faculty wherein he asserted its authority both to determine matters of orthodoxy and heresy and to proceed against erring masters. More than a rehearsal of the processes of university discipline, d'Ailly's work was an assertion of magisterial authority in the wider ecclesiastical arena. Monzon had appealed to the pope to decide his case, which he believed to fall outside the competency of both the university authorities and the Bishop of Paris. D'Ailly, for his part, affirmed the supreme authority of the papacy, although he cautioned that divine law had also bestowed upon the bishops a governing role in the Church.¹⁰²

It was not episcopal authority, however, that was at the top of d'Ailly's mind. He was most keen to assert the authority of the university theologians, and he did so in sweeping terms. The doctors of theology, said d'Ailly, have the authority to offer doctrinal definitions in all matters pertaining to the faith. To determine such matters falls to those who teach Holy Scripture, which is itself the wellspring of Catholic doctrine.¹⁰³ For as he remarked in another work, the tasks of a Catholic doctor are to preach sound doctrine and refute false teaching. D'Ailly, as a professor of sacred theology at Paris, thereby understood himself called to actively promote the sound teaching that leads to health of the soul and the flourishing of the spiritual life.¹⁰⁴

Along lines that date back to the thirteenth century, d'Ailly envisaged bishops and theologians cooperating in the maintenance of the Catholic faith. When bishops exercise judicial authority within their dioceses, said d'Ailly, they do so in consultation with theologians who have assessed the case; hence the *consilio magistrorum*. Even here, though, theologians should not be taken for simple advisors. For d'Ailly observed that there will be occasions when theologians can also proceed judicially. The Monzon affair served to highlight the fact that the faculty of theology had a duty to proceed against erring masters and bachelors, not only doctrinally, but also in a judicial manner. That this faculty held such power was not simply a matter of human law but was ultimately secured under divine law. Not only are the theologians to doctrinally condemn assertions contrary to the faith, said d'Ailly, but they may also proceed judicially by compelling the offending master to render a public revocation.¹⁰⁵

One cannot lose sight of the fact that, for d'Ailly, theological error is not only contrary to the private benefit of individual masters and bachelors but runs contrary to the good of all Christendom. It is for this reason that theologians must defend the public, first through acts of doctrinal correction, and then, if necessary, by judicially compelling offending schoolmen to correct their errors. If these masters still refuse to obey, they will then be delated to the judgment of the bishop. Ideally, those who publicly propound erroneous teachings in the Paris schools would first be warned in a charitable manner (*caritative*), as they are called upon to correct themselves.¹⁰⁶ In general, therefore, correction should begin with a secret and benevolent warning; hence the formal process of fraternal correction established by Christ in the Gospel of Matthew 18:15–17 (of which more in Chapter Five). Although, as d'Ailly noted, that would not always be necessary, since public sins often require public correction for the greater good of the community (cf. 1 Tim 5:20).¹⁰⁷

D'Ailly was not shy about extending the corrective authority of the theologians to the highest echelons of the ecclesiastical hierarchy. He reminded his readers that the theologians had often been far out ahead of the prelates, rendering decisions on matters of heresy and orthodoxy prior to any official ecclesiastical determination. To that end d'Ailly recounted that Peter Lombard had determined the Trinitarian question on generation and the divine essence decades prior to the Fourth Lateran Council's resolution of the matter. He also recalled that the theology faculty, in keeping with its duty to correct error, had lawfully rebuked Pope John XXII in the matter of the beatific vision (more on this in Chapter Seven). In fact, said d'Ailly, neither the pope nor the canon lawyers can render an authoritative determination in matters of faith without a previous doctrinal determination on the part of the theologians, since in the condemnation of heresy the pope must present some theological rationale for his determination.¹⁰⁸ And when d'Ailly specifically applied the authority of the magisterial office to the resolution of the papal schism, he championed the freedom accorded doctors of sacred theology, who must not be inhibited from scholastic disputation or determination in their efforts to establish Catholic truth and refute error.¹⁰⁹ D'Ailly's claim that the masters possess jurisdiction not only within the university, but may also exercise their corrective oversight in the wider orbit of Christendom, hinges on the magisterial right to subject even the most sensitive topics to formal disputation. It is this magisterial right to dispute that we will take up in Chapter Three.

CHAPTER THREE

THE RIGHT TO DISPUTE

As we have seen, to dispute was not simply to “talk about things.” A topic put forward for formal academic disputation was rigorously analyzed, as participants marshaled a series of carefully crafted arguments both for and against the proposed thesis. When the masters insisted on their right to dispute, it was because they knew that important, and sometimes controversial, topics could only find genuine clarification when placed in the hands of recognized experts. For a prelate to unilaterally declare some matter out of bounds was to short-circuit a vital means of intellectual inquiry that was essential to Christendom’s well-being. It was for this reason that hot topics, whether it be mendicant privileges or prelatival authority, had always to remain within the sphere of magisterial inquiry. It was the latter topic that was especially important, since the restriction of disputation was itself an exercise of the prelate’s authority, perhaps indeed an abuse of such authority. It was very much in the interests of all Christians to know the extent to which their bishop, or even the pope himself, could impose his will upon them. What were the limits of that authority and under what conditions could it operate? The best means to answer those questions was to dispute them in the open forum of the lecture hall.

Godfrey of Fontaines addressed a number of controversial topics in his many sets of quodlibetal questions, some of which tackled directly the fulfillment of one’s magisterial duties in the face of stiff opposition. What if a doctor of theology would rather not find himself in hot water: Could he simply refuse to answer a question put to him—the truth of which he is capable of elucidating—merely to avoid offending some rich and powerful people? Some say yes, since one should avoid whatever could result in various types of injury; when powerful people are offended, they are capable of inflicting a lot of harm. On the other hand, Gregory the Great tells us that it is better that scandal be permitted to arise than the truth be shunted aside. What is more, though, a doctor of theology is obligated to speak the truth in matters of faith and morals, which means that he would sin were

he to refuse to render a determination, especially if failing to do so might lead others to stray from the faith or lapse into moral error. In his response, Godfrey observed that teaching the truth is not something that should be offensive to anyone as such. For it is in clarifying the truth that the human intellect is perfected, and the moral virtues fostered. To teach the truth, said Godfrey, may therefore be considered a morally good act by definition. Although Godfrey cautioned that such teaching should be exercised with discretion, since various external circumstances may have to be considered, he nevertheless emphasized that bringing the truth to light is an act that is ultimately carried out for the good of others. And that is what makes it directly applicable to the magisterial office, inasmuch as the doctor has a duty to teach others the truth. It is, says Godfrey, a matter of distributive justice. In fulfilling that office, the doctor must not show partiality; we must imitate Christ in speaking the truth both to the mighty and to the lowly. Holy Scripture consistently exhorts us to defend the truth; as the prophet Isaiah says, "Shout out, do not cease to be a trumpet" (Is 58:1). Prelates and doctors would thus be reduced to the proverbial mute dogs failing to bark were they unwilling to proclaim what they believe to be right (Is 56:10).¹

Does this mean that a master of theology should speak out against some statement made by his bishop if he believes the opposite to be true? Godfrey allowed that the obligation to teach the truth can be moderated depending upon the circumstances. For he observed that there may be instances when a bishop would have the master refrain from teaching the truth; and the master would be bound to obey his ecclesiastical superior. For example, the bishop might condemn some view that was certainly true or even probably true. Yet so long as the condemnation did not pertain to a matter necessary for salvation, the master should not oppose the bishop openly for fear of causing scandal among the faithful. The theologian should still ask the bishop to revoke the condemnation, however, since it may be impeding genuine inquiry into truth. In this case, therefore, there can be some leeway for the sake of the common welfare of the wider Christian community. When the stakes are raised to a matter necessary for salvation, however, the bishop's error must not be allowed to stand. For in those cases where the truth is clear from the authority of Holy Scripture and truthful reason, an utterly erroneous condemnation or prohibition carries no weight, since a sentence of excommunication containing a manifest error is not binding. Admittedly, it is possible that the master could sincerely believe that the

bishop is wrong when the bishop is actually correct. Even in that case, the master must speak what he believes to be the truth. Here Godfrey furthermore insisted that one must follow one's conscience despite the fact that it might be in error. This is because, as we have seen, one sins more gravely in violating the dictates of erroneous conscience than in acting in accord with that same erroneous conscience: "*semper enim agens contra conscientiam erroneam magis peccat quam agens secundam eam*."² Nothing is worse than failing to confront what one genuinely believes to be evil, even if it turns out that one has misjudged the situation.

Godfrey had been particularly incensed by Bishop Stephen Tempier's condemnation of 219 philosophical and theological propositions on 7 March 1277.³ If Tempier was in the wrong, did the current Bishop of Paris Simon Matifort sin by failing to correct some of the articles condemned by his predecessor? Now, it might be argued that the articles should not be corrected, since they had been issued with the consent of a commission of experts (including Henry of Ghent). On the other hand, given that some of these articles are unintelligible, and others manifestly false or impossible, it seems reasonable that they would be corrected. At stake here in 1296 was more than the truth or falsity of some academic propositions condemned two decades earlier; it was the right to pursue the truth within the university without fear of excommunication. For Godfrey went on to argue that something which proves to be an impediment to the progress of studies, an occasion of scandal among students, and otherwise a hinderance to teaching, must certainly be corrected. It was essential that scholars remain free to explore the truth in those matters that do not constitute a danger to faith and morals. For if these questions are as yet undetermined and continue to elicit various opinions as to their truth—none of which are rashly asserted—inquiry should not be fettered. Binding people to a single opinion, warned Godfrey, can only hinder our grasp of the truth. There will doubtless exist a diversity of views among the experts, but it is precisely through the process of disputation (*per disputationem*) that the truth will have a better chance of being discovered. In fact, said Godfrey, the experts believed that many of the articles condemned as erroneous might not be so wrong after all.⁴

Making matters worse is the occasion for scandal among students and doctors. For it is frequently necessary to explain some of these articles, not to cast doubt upon their truth nor to undermine their intended sense, but

rather to correct the mistakes born of a strictly literal, or superficial, reading. Yet, according to Godfrey, there are some among the less erudite, the nonexperts, who believe that those who attempt merely to explain these articles thereby incur the sentence of excommunication. Their misguided consciences then compel them to delate such explainers to the chancellor or bishop. And now as a result many divisions have arisen among the students. In fact, Godfrey complained, even the most revered and excellent doctor Thomas Aquinas had been defamed on the basis of these 219 articles, such that his otherwise beneficial teachings could not be conveyed to the students.⁵

Bishop Simon Matifort, so Godfrey believed, was in a position to remedy this whole situation. Must he therefore issue a correction if he were not to sin? Godfrey conceded that Simon was an eminent lawyer, well-versed in both civil and canon law, and even had some theological training. Yet because he had not sufficiently studied these articles, and did not have the benefit of magisterial counsel—since the masters themselves were divided—he might be excused from correcting them. But Godfrey did not see how Simon could be excused were he not to lift Tempier's sentence. For this could be easily done without endangering the peace and would actually prove beneficial to many; although Godfrey cautioned that he would not dare to condemn the bishop.⁶

And to the argument that the articles should not be corrected because they had been produced by wise men, Godfrey stated flatly that it now looked like they should. Godfrey was mindful of the circumstances that prevailed in 1277, admitting that these experts might reasonably be excused for publishing the articles, even if they now needed to be corrected, since they had good cause for doing so at the time. Back then, said Godfrey, there were some among the arts faculty who had been pushing these matters to the point of falling into error. It was right to take action, therefore, even if that meant going to the other extreme in an effort to contain the situation. The situation was different now, as greater clarity had been achieved. Hence the time had come to correct these articles, so that they would no longer form an impediment to the truth and be a source of confusion.⁷

Godfrey was on to something here, for there had indeed been some confusion in the wake of Tempier's condemnation. Specifically at issue: Does the human person comprise only one substantial form or many? Some scholars at Paris were under the impression that the unity of form thesis

(as opposed to the more commonly accepted plurality of forms) had been officially condemned in 1277, despite the fact that it had not been numbered among the 219 propositions on Tempier's list. In a note attached to his quodlibet 10, q. 5, Henry of Ghent offered a brief history of events. Here he mentioned that twelve theology masters had signed a letter stating that to their knowledge the unity of substantial form had not actually been condemned as either heretical or erroneous; nor did Henry himself have any memory of such a condemnation. Henry went on to present the history as he knew it. First, between Christmas 1276 and Easter 1277 he attended a meeting of masters convened by Bishop Tempier and papal legate Simon of Brion (the future pope Martin IV) for the purpose examining a set of articles, one of which held that the rational soul is the only substantial form in the human person. Henry reported that with two exceptions the masters declared this to be false. It was around this time that Henry reported a rather disturbing incident, as he was summoned to meet privately with Tempier, Simon of Brion, and the chancellor John of Alleux. When, in answer to Simon's questions, Henry disclosed that he did not fully accept the plurality of forms thesis, Simon set him straight: "We wish and we command that when you publicly determine in your schools (*publice determines in scholis tuis*) you make it clear that there are multiple substantial forms in the human person." Henry then realized that the hierarchy considered this to be a matter of faith (*causa fidei*), not merely a point of philosophy. And so, he was left with the impression that the bishop, legate, and chancellor had condemned the unicity of form, even if not publicly. Note, however, that while Henry was privately admonished, no formal condemnation of the unicity of form theory had been handed down.⁸

As this incident makes clear, masters might not only be pressured to steer clear of certain hot-button topics, but even to suppress their own opinions for fear of generating scandal. But would a doctor or master publicly determining questions, or expounding upon the Scriptures, sin mortally were he to refrain from presenting what he knows to be the truth? It would seem so, since the doctor is, by the very definition of his office (*doctor ex officio*), obligated to explain the truth. Indeed, this is a duty that must not be shirked no matter the threat of scandal, thus in keeping with Gregory's aforementioned counsel that it is better that scandal arise than the truth be suppressed. On the other hand, it would seem that when reprehending vices the truth must sometimes be set aside, lest it make the situation

that much worse. Here, the appeal is to Augustine that the punishment of justice should be set aside if one fears the danger of schism. Henry, for his part, found that the truth can be discussed on those occasions when the doctor knows it will be helpful to his audience; whereas the doctor might refrain in cases where he believes it would be harmful. In the first case, the doctor is bound to explain the truth since he understands it better and is also able to explain it. For it should be remembered that the instruction of his audience is a central duty that belongs to his office; it is not merely a matter of personal convenience. No man should assume the teaching office, therefore, unless he is prepared to instruct the unlearned in order that they may acquire the requisite expertise. There is no way that the master's audience will become learned, Henry observed, unless they arrive at the truth through expert instruction. If the master is content to let his listeners remain ignorant, however, it is clear that he exercises his office purely for his own convenience rather than fulfilling its most basic function. This means, in turn, that the master sins mortally if he conceals the truth either for reasons of fear or ill will. And this applies not only if he leaves the truth unspoken, but also if he assumes the office with no intention of fulfilling his duty to explicate the truth for his audience. When hard questions arise, which he knows that his audience needs to understand, the master will lead them into an abyss if he fails to explain the very truth that would rescue them from this trap. In fact, this master would be guilty of their blood should anything harmful befall them in their error. And if it is a crime to hide the truth, it is that much worse to knowingly present some falsehood to the people in place of the truth. Although Henry would admit that there may be times when it is better to refrain from revealing the truth if some audience members are not yet capable of receiving it. After all, Christ did say to his apostles: "I have many things to say to you, but you are not yet able to bear them" (Jn 16:12–13). Note that by the term audience, Henry explains, one is not only referring to those who were present in the lecture hall, but also those who might later receive this instruction secondhand from those who were present. As for the danger of generating scandal, Henry reckons this a poor excuse for suppressing the truth, since the truth only scandalizes the wicked for whom the truth is hateful. Henry likens the situation to those who had been scandalized by Christ's teachings, even as he elucidated the truth in their presence.⁹ As the above quodlibets make clear, the masters were keenly aware of their public responsibilities. They knew that

they had a duty to the wider Christian society which depended upon their reasoned consideration of important matters of the day—matters that were best handled through the formal process of disputation.

DISPUTATION AND THE LIMITS OF PAPAL POWER

We have seen Godfrey of Fontaines complain that discussion of the 1277 Paris condemnations had been declared off-limits. A similar prohibition surrounded Pope Nicholas III's 1279 constitution *Exiit qui seminat* wherein he had affirmed the evangelical perfection of the Franciscan Order (as we will see in Chapter Six). So concerned was the pope to quell further controversy that he threatened excommunication for anyone who did not faithfully expound this constitution in keeping with its plain literal sense. Glosses were forbidden, therefore, except to explicate the grammatical structure of the text. The pope, moreover, retained sole authority to determine the intended meaning of its contents.¹⁰ Perhaps it is not surprising that this papal bull was known in the schools as "*Noli me tangere*," ironically echoing the risen Christ's admonition to Mary Magdalene (Jn 20:17).¹¹

We bear this papal bull in mind when asking: Should one be excommunicated for reading something from a prohibited book under pain of automatic excommunication (*latae sententiae*)? Some say yes, since the one who issues an absolute prohibition provides for no exception; what is stated unqualifiedly allows for no further addition. By adding no conditions and excepting nothing, he therefore prohibits entirely. On the other hand, it sometimes happens that a book is prohibited because it contains some measure of false content, even as much of its material is quite helpful. And since it would be beneficial to read this good content, it is therefore illicit to prohibit the entire book. When Henry of Ghent responded to this question, he noted that there are two ways in which someone can read something from a prohibited book: either just as it is written in the context of that book; or as it is found apart from that book in some other place. In the first case, Henry conceded that someone knowingly and intentionally reading something from a prohibited book is excommunicated, unless he had received special permission from the prelate who had prohibited it. One would also be excommunicated for expounding upon something drawn from that prohibited book. Here, as elsewhere, Henry cited the threat of excommunication for anyone expounding upon the contents of *Exiit qui*

seminat in a manner that would violate its clearly intended meaning. Following the second route, though, one would not be excommunicated, since the intention of the prohibitor does not, or at least should not, extend to material that can be found apart from the banned text. For instance, one would not be excommunicated for reading a passage in the Gospel that discusses a subject touched upon in the Franciscan Rule. This principle holds even were one to explicate the text in some other way than it is explained in the papal bull, so long as one's own exposition is consonant with the Catholic faith and more clearly stated than in the rule itself.¹² So it is that a secular master like Henry might, from his reading of the New Testament, reach conclusions regarding apostolic poverty and evangelical perfection that would be at odds with what is stated in *Exiit qui seminat*. The bull is a singular document whose authority, and consequent prohibitions, extend no further than itself. It cannot be the last word on all external material that may be in some way related to its contents.

Godfrey of Fontaines was also aware of the threat of excommunication attached to *Exiit qui seminat*. That did not prevent him from addressing a quodlibetal question that asked, "whether now in the Church there is some state more perfect than the state of the apostles." In short, Godfrey determined that the apostles did not observe the sort of poverty practiced by the Franciscans, nor did they forfeit their rights and dominion. It did not, moreover, derogate from their essential perfection to have dominion in temporal goods, since perfect Christians can hold property. As for the *Exiit* prohibition, "With a pure conscience (*pura conscientia*), I can say that I do not believe that I have spoken against the truth nor in opposition to anything contained in that constitution. Hence I am immune from that sentence." This is because the sentence of excommunication, said Godfrey, pertains only to those who know full well that they are determining in the schools or preaching from the pulpit against what was promulgated in this constitution.¹³ In other words, like Henry of Ghent, Godfrey disassociated the larger topic of apostolic poverty from the prohibition attached to specific contents of the bull. Surely, the pope cannot prohibit all discussion pertaining to the life of the apostles.

On 13 December 1281 Pope Martin IV issued the bull *Ad fructus uberes* wherein he praised the zeal and apostolic success of the mendicant orders, while also affirming the right of the mendicants to hear confession. Strictly forbidding any interference in this office, Martin IV added that those who

wish to confess to the friars should also confess to their own parish priest at least once a year in keeping with the *Omnis utriusque sexus* constitution issued in 1215 by the Fourth Lateran Council. In fact, said the pope, the friars should encourage people to do just that. As the mendicant orders read this bull, Martin IV meant that laypeople need only confess to the parish priest those sins that they had not first confessed to the friars; they were under no obligation to reconfess the same sins to their priest.¹⁴ If the mendicants were correct, this constituted a major blow to the standing of the parochial clergy. Spurred to action now, French bishops sought to enlist the support of the secular masters at Paris in their attempt to check the increasingly expansive privileges of the friars.¹⁵

In 1286, as the controversy raged, a magisterial council attempted to dial things back by forbidding masters to dispute contentious questions. Does that mean that a master of theology, who knows that the truth of this question is necessary for salvation, would henceforth be reputed as contentious, such that he should refrain from rendering a determination? Perhaps he ought not to proceed, since one should not determine a question that is contentious or otherwise generates scandal. On the other hand, it seems that a question regarding some truth necessary for salvation most certainly falls to the master of theology to determine. When Godfrey of Fontaines addressed what were by now pressing concerns, he concluded that the truth regarding mendicant privileges was indeed a matter of salvific importance, since it directly pertained to the sacrament of penance. In order for something to be reckoned contentious or generative of scandal, according to Godfrey, it can either be such in principle (*de iure*) or owing to the circumstances (*per causam vel occasionem datam*). In the first sense, a question necessary for salvation ought never be reckoned contentious, which means the master should not recuse himself. Only a fool, said Godfrey, would claim that determining such a vital question is contentious; no genuine master would say such a thing. Just because some people find the truth to be odious does not render the matter contentious in reality; and so, it should not be judged such. Here Godfrey had recourse to the Apostle Paul's warning that "there will come a time when men will not sustain true teaching" (2 Tim 4:3). That said, if the scandal generated by the determination would prove a greater evil than allowing some delay in elucidating the truth, it might be expedient to postpone the discussion to a later time. Still, there is no good reason for entirely setting aside questions pertaining to the

right of mendicants to hear confessions, according to Godfrey, since there is nothing inherently contentious about this topic. The question, therefore, is not whether it is lawful to determine this matter, but rather the proper time and place to do it. Godfrey proceeded to point out that because a doctor of theology is by definition a doctor of truth, he should never speak falsely: “*doctor theologiae qui est doctor veritatis nunquam debet dicere falsitatem.*” Which means that he is prohibited by a negative precept that forbids the teaching of falsehood, which holds at all times without exception (*semper et ad semper*). Whereas speaking the truth falls under an affirmative precept that can take into consideration the time and place, and so holds in general, but not at every moment (*semper sed non ad semper*). Godfrey insisted, though, that when it comes to some beneficial truth that chiefly pertains to the salvation of souls, the master would gravely sin were he to avoid that question for reasons of fear or favor.¹⁶ While discretion in treating such topics may be necessary at times, the master must never lose sight of his obligation to defend the truth.

Would a doctor of theology therefore be within his rights to render a determination even if this matter had been set aside for the pope alone? Put another way, could a member of the theology faculty, having the authority to teach by virtue of his magisterial office (*auctoritas docendi ratione officii magistralis*), determine on matters of doubt that may arise from directives issued by papal authority? It would seem that he cannot, since it is for the pope alone to interpret his own directives. Yet, as Godfrey would point out, it belongs to the province of reason to inquire into doubtful matters, and after such an inquiry, to render some sort of determination. And because directives emanating from the pope can give rise to doubts, the wise man has a duty to use his reason to inquire into these matters (via disputation) and then offer a magisterial determination. Which leads Godfrey to conclude that, since the doctor of theology should be numbered among the wise, he ought to have this right of inquiry.¹⁷

Tensions only increased when a Franciscan was elected Pope Nicholas IV in 1288, prompting the French bishops to reiterate their position that the *Omnis utriusque sexus* constitution was itself inviolable. Would Nicholas IV lapse into heresy by contravening a divine statute were he to endorse the mendicant interpretation of *Ad fructus uberes*? In what might seem a surprising move, Henry of Ghent reprised the position that he had staked out in an earlier quodlibet: there is nothing inherently inappropriate about the

pope granting a privilege that may infringe upon *Omnis utriusque sexus*. For just as it falls within the pope's power to establish such a constitution, so he is also free to revoke it. Nicholas IV would not, therefore, be a heretic were he to side with the friars in this case. That is not to say that *Omnis utriusque sexus* should be revoked to suit the friars; it may indeed be the wrong course of action, but it would nevertheless be lawful. Henry then proceeded to sketch the limits of papal authority. He began with a stern admonition directly applicable to this case: A legislator cannot grant a privilege or establish a statute that would lead inferiors to withdraw reverence and obedience from their superiors or result in the wholesale destruction of the ecclesiastical order. For that would constitute a wrongful act which runs contrary to natural and divine law, against which no legislator may either create a statute or issue a dispensation.

Henry was well aware, therefore, of the argument made by the French bishops that the friars' interpretation of *Ad fructus uberes* would result in just the sort of irreverence toward the divinely established ecclesiastical order that no legislator may ever countenance. That is precisely why the bishops insisted that the pope could not concede such a privilege to the mendicants. Here, though, Henry would draw some distinctions. He noted that a wrongful act can follow from a statute or privilege in two ways: either by the nature of the statute or privilege or owing to some further extrinsic circumstance. By the first way, the wrongful act flowed directly from the statute or privilege itself, which rendered it wrongful by definition and contrary to divine law and the natural order (*inconveniens in se et contra divinum ius et naturam*). But it sometimes happens that a wrongful act follows from some statute or privilege which is actually just and equitable in itself. As for the first sort of statute, Henry is clear that the legislator may not concede a privilege to anyone that would run contrary to the order of nature and divine justice. To that end he appealed to Apostle Paul's admonition to the Galatians: "Even if we or an angel from heaven should preach another gospel . . . let him be accursed" (Gal 1:8), as well as the stipulation of the gloss on the canon *Si papa* (D. 40, c. 6) that the pope may not act so as to endanger the Church.

Of the second sort, though, Henry applied the principle of absolute and ordained power. The pope in this case was acting within the bounds of his absolute power when conceding this privilege to the mendicants, since a wrongful outcome would not necessarily be the result. Nevertheless, the pope would need to weigh up the situation carefully to be sure the privilege

really did serve the greater good of the Church. Henry could be remarkably evenhanded in his analysis, but of central importance for him, as for Godfrey, was that the secular masters remain free to air these matters publicly. Let all this be disputed; do not close off an avenue to truth on the pretense that such things are just too controversial.¹⁸

Rome's patience with magisterial disputation was starting to wear thin. The exasperation was never so vividly expressed as when papal legate Cardinal Benedict Gaetani (later Pope Boniface VIII) confronted the theologians of Paris on 29 November 1290. Rising to his feet, Cardinal Benedict addressed the assembly in the most blistering terms: "With such rash and nefarious audacity [the theologians] have presumptuously assumed for themselves the right to interpret this privilege, imagining that the Roman Curia would have granted the privilege without any serious deliberation. Those so-called masters who imagine that they are reckoned so knowledgeable in our sight are actually more stupid than the stupid, for they have polluted not only themselves but the whole world with their noxious teaching."

Taking offense at this direct assault upon the fundamental prerogative of the theologians, Henry of Ghent asked: "If it is lawful for us to dispute matters pertaining to the Gospel, why can we not also dispute this [mendicant] privilege?" For such a display of temerity Henry was suspended from teaching duties. This humiliating episode prompted one sarcastic commentator to quip: "Look just how mighty and solid are the pronouncements of our masters. Ten years in the making and they collapse upon the word of a single cardinal!"¹⁹

In the event, however, Henry was soon reinstated. For in the following year, he specifically addressed the question of whether it is licit for masters to hold a disputation regarding the power of prelates. Some say no because a disputation that causes strife and discord is illicit. And this is just such a disputation, both for those who wish to restrict the power of prelates and for those aiming to expand their power. On the other hand, it is surely licit for a subject to know in which areas he owes his prelate obedience and which not. After all, the subject is not bound to obey his prelate in all matters. For instance, he could not obey were his prelate to command something that is contrary to God and the divine law. Disputation serves a valuable purpose, therefore, since it enables the subject to better understand the extent of his prelate's power. This is because the disputation allows us to investigate and thereby determine the precise parameters of obedience.

Once more, though, one will need to consider the disposition of the master: What are his motivations? Here, Henry observed that there are three sorts of intention that govern the disputation of prelatical power: the intention to diminish or weaken it; the intention to extend it and make it greater; and the middle course which seeks only to know in which areas, and to what extent, the prelate's power reaches.²⁰

As for those who seek to dispute prelatical power purely for the sake of diminishing it, Henry reckoned this form entirely illicit. He compared this to disputing the power of Christ and God only to denigrate it, like those philosophers who test the ways of God in order to prove that he lacks the power of accomplishing anything in the realm of inferior things except through the motion of celestial bodies (cf. prop. 69 condemned at Paris in 1277). And so, said Henry, to dispute the power of prelates or that of secular princes with such intentions not only fails to cherish the public good, but also opposes the divine order (Rom 13:1–4). On the other hand, there are those who take things in the opposite direction and dispute only with the intention of expanding prelatical power; this too is illicit. For while God did grant power to prelates for the well-being of the Church, it was nevertheless bestowed according to certain limits in keeping with what is good for the Church. Although Henry did concede that this second intention, while problematic, is not as harmful as the first since it is not driven by disdain for clerics so much as a desire for their improvement.²¹

As for the third sort, which navigates the middle course between the two extremes, it is certainly lawful. Just as it is also licit to hold a disputation regarding divine power for the sake of teaching people the truth and refuting heretics. Actually, said Henry, prelates should welcome this sort of disputation. For it is in this way that both they and their subjects will have a clearer understanding of what constitutes the legitimate use of power and what is an abuse. This will determine whether or not the subject should obey in such instances; none of which could be known apart from disputing this topic. Disputation will therefore reveal what pertains to prelatical power by examining precepts to see whether they run contrary to divine law. After all, said Henry, no one thinks that a subject must be so obedient to his prelate as to be forbidden all inquiry, blindly trusting him in everything that he commands. Henry reckoned, furthermore, that prelates who refuse to allow such disputation regarding their power may actually be driven by fear of the truth. He likened this situation to Mohammed worrying that

any investigation into his law would render its claims to truth suspect, and so forbade such inquiries. This is not the case with Christ, however, who wished to open up his law for free disputation among believers and unbelievers alike.²² As Henry saw it, *libertas inquirendi* belongs to the very nature of the Christian religion itself, which calls believers into a new life of freedom. Christians have a right to inquire into the truth of such central matters as prelatial power. Christ, one might say, has authorized this very line of questioning.

More broadly at stake for Henry of Ghent was the need to secure the common good (*bonum commune*) of this Christian society. Already mentioned in earlier chapters and important throughout this study, the common good can be defined as “the good of the whole that transcends but also encompasses the good of individuals.” This foundational principle was frequently invoked by medieval theologians and canonists, forming as it did the criterion by which to measure and thereby constrain the power of secular and ecclesiastical authorities. And so, as we see with Henry, prelates could not demand obedience from their subjects without making it clear to them in what ways the common good would thus be preserved.²³

DISPUTATION CONTINUES INTO THE FOURTEENTH CENTURY

The determination of papal power in particular only becomes more contentious by the time we reach the fourteenth century. In 1302 amidst the struggle between the French King Philip the Fair and Pope Boniface VIII, the Dominican theologian and royal apologist John of Paris addressed the question of whether it is lawful to dispute and render judgments regarding papal actions. In his response, John pointed out that when it is a matter of papal power—what the pope may and may not do—it is surely lawful to inquire into the truth (*inquirere veritatem*), inasmuch as ignorance in this regard will prove to be quite dangerous. For there seems to be some uncertainty surrounding a set of issues, such as whether the pope can dispense in the case of bigamy or whether he can dispense from a solemn vow of celibacy. Indeed, said John, there are countless doubts concerning papal power about which it is helpful to deliberate and then humbly arrive at a determination.²⁴

That the mendicants were themselves willing to contest papal authority over disputed topics was most vividly displayed when the Franciscan William of Ockham launched an assault upon Pope Benedict XII.

On 28 November 1336, Benedict had issued the bull *Redemptor noster* in his attempt to reform the Franciscan Order, just as he had recently issued new statutes to the Cistercians and Benedictines. Every aspect of Franciscan life was covered under the bull's thirty chapters, from the divine office and formation of novices to the course of studies, books, expenses, gifts, elections, and so on. Notable is the chapter devoted to the divisive question of the quality of their habits. Here Benedict directed the friars back to his predecessor John XXII's bull *Quorundam exigit*, which had commanded the more austere friars to comply with the decisions of their superiors. This points up the larger matter at hand in *Redemptor noster*, namely the imposition of discipline upon those friars, "who have withdrawn from the purity and fellowship of the order and, under the feigned appearance of sanctity, presume to teach, preach, defend, and approve heresies condemned by the Holy Roman Church; and otherwise strive damnably to seduce and corrupt the hearts of the simple through their perverse and sacrilegious preaching." Friars were consequently admonished to report to their superiors any among their brethren who were disseminating suspect opinions. Of still greater import, however, was Benedict's directive that all doubtful matters of faith were henceforth to be referred to the papacy for further examination. In the meanwhile, no one should presume to decide these questions; rather, they were ordered to wait patiently for a formal papal determination. As one might imagine, the bull was not well-received, not simply to the extent that the friars found the constitutions unsuitable to their order, but principally because they resented the pope's intrusion into their own affairs. It was for the Franciscans themselves to determine these matters, not the pope.²⁵

Bristling at these prohibitions, which placed theological discussion on hold while everyone awaited the judgment of the pope, William of Ockham immediately recognized the effect this would have upon the masters of theology. In his *Contra Benedictum*, a tract specifically devoted to dismantling the pretenses of Benedict XII, Ockham pointed out that were the pope to have his way, genuine theological experts would be held in check. They would be forbidden to determine or approve matters that they knew to be contained in Sacred Scripture and were thus obligated to believe explicitly. Their magisterial authority stymied, the theologians would be unable to properly fulfill their vocation, thereby depriving the Church of the doctrinal review process that preserves the faith from the ravages of heresy.²⁶

More broadly and most shockingly, however, Benedict had thereby commanded all Catholics to place greater belief in himself as supreme pontiff than in God Almighty.²⁷ For it would now seem, said Ockham, that no one can firmly adhere to any position apart from the express will and judgment of the pope. That being the case, Catholics would not be permitted to place their full confidence in something revealed by God or contained in Holy Scripture, so long as this question has been forwarded to the pope. The pope will henceforth rule unconditionally over the Christian faith, and entirely over Holy Scripture, and indeed over all matters touching the faith. It will now be impossible for the faithful to place their trust in the content of the Sacred Scriptures apart from a papal determination. As a result, the Christian faith, far from being immutable, would be forever in flux pending a ruling from the pope. Ockham could imagine no worse heresy than what Benedict had conjured up in this bull: destroying all the articles of faith together with the entire content of Scripture, Christians would find themselves forced to believe more in the pope than in God's own revelation.²⁸ Yet no one, Ockham insisted, should take his own intellect captive (*captivare intellectum*) against the Catholic truth in obedience to any man; nor prefer the wisdom, will, and statute of a mere mortal to that of Holy Scripture. If someone is certain about a matter of Catholic truth that necessarily and unquestionably follows from Divine Scripture, he must never waiver in maintaining that truth, notwithstanding any human statute, even if issued by the pope himself.²⁹

In a separate work, the *Breviloquium*, Ockham similarly informed his readers that he had a duty to resist a form of papal tyranny that runs contrary to the divine honor, is dangerous to the Catholic faith, and opposed to the rights and liberties conceded to men by God and nature. Here Ockham declared that he would not merely recite as he had done in other works but would steadfastly assert some things (*non tantummodo recitando . . . sed in aliqua asserendo constanter*), in addition to opining in other matters, although refraining from any rash assertions. Having said that, Ockham was at pains to express both his beneficence and his willingness to be corrected, even as he voiced a steadfast commitment to the truth. True to magisterial protocol, therefore, Ockham presented a conditional revocation stating that he would not knowingly say anything that is opposed to the faith handed down from Christ and the apostles. And if in ignorance he had said anything against that faith, he was prepared to be corrected by anyone who

could make the truth clear to him. For Ockham this meant that his opponents would have to prove their case and not merely demand his recantation. Ockham planned, therefore, to inquire into the truth with due caution; and if he were confident that he knew the truth, he would not be ashamed to confess it publicly. If what he uncovered was consonant with the truth, he would make that known so long as that was expedient; although if it proved to be false, he would let himself be corrected by the judgment of someone wiser. Yet when it comes to those things that are shown to be certain, whether through the Sacred Scriptures, evident reason, or by some other means, Ockham adamantly refused to submit to anyone's correction, precisely because those are matters that require neither approval nor correction.³⁰

Having offered his provisos, Ockham then acknowledged the objection that one would incur the crime of sacrilege for daring to dispute the power of the pope. For according to the canon *Nemini est*, no one may pass judgment on the determination of the Roman see, owing to the primacy of the Roman Church which was divinely conferred upon Saint Peter. The gloss, moreover, notes that the Roman Church has primacy and prerogative among all other churches.³¹ In this case (and reminiscent of Henry of Ghent) Ockham maintained that one must be prepared to distinguish between different forms of disputation on the basis of their motives. For it is one thing to dispute in a destructive effort; and another to launch an honest inquiry that makes public what otherwise might remain unknown. Indeed, such an inquiry would be lawful if conducted with pure intention and in a manner respectful of the circumstances. Consider that Peter Lombard's *Sentences* cite Augustine's remark that although it is dangerous to err when inquiring into the unity of the Triune persons, it still remains lawful to study and dispute the Trinity. If Augustine, Hilary, and Richard of St. Victor, along with so many others, have dared to inquire into such lofty topics, it seems all the more legitimate to inquire into the lesser matter of papal power. After all, this is a subject in which it is less dangerous to err, so long as one examines it with pure intentions. Ockham insisted, moreover, that it is surely lawful to dispute matters of faith publicly in the schools, to recite contrary arguments, and to respond to them on the basis of the Catholic faith. This despite Gratian's comments on *Si quis suadente*—based partly upon the Code of Justinian (*De crimine sacrilege*)—that it is not lawful for anyone to dispute the judgment of the supreme pontiff. Ockham

determined that such a prohibition did not really affect him, since what he was proposing was a commendable exercise, provided that the purpose was merely to correct errors regarding papal power.³²

This is especially so when one considers that the overextension of papal power can be so dangerous to the Church. Ockham grounded his reasoning upon the principle that the greater a thing is, the more dangerous any error that infects it, thereby making inquiry all the more pressing. When it comes to papal power, which is already so great, the potential harm to the community of the faithful is all the more lethal. Hence, were the pope to claim the right to interfere in all temporal and spiritual cases, we really must be free to dispute (*disputare*) the topic in order that the truth might be found. And not only found, but then also made public (*publicare*) for those who do not otherwise understand what is at stake.³³ In keeping with a long tradition, therefore, Ockham was adamant that the theologian has an obligation to exercise his own magisterial authority on behalf of all Christians. The expert must wade into such matters, and even take risks, for the sake of simple Catholics; this belongs to the nature of his vocation.

Facetiously perhaps, Ockham then suggested that the pope would actually welcome such inquiries, since it was he who was at once judge, physician, and priest. Of all people, the pope ought to have explicit knowledge regarding the power that he has, or does not have, over others, lest he mistakenly usurp the right to pass judgment upon someone.³⁴ While on the other side of the coin, it would be necessary that subjects of the pope should know the common law pertaining to their own position, which would only be possible when they know precisely how much power the pope legitimately wields over them.³⁵ So it is, then, that if the pope truly wishes to govern by justice, and not as a tyrant, he should rejoice that experts (*periti*) would attempt to investigate the limits of his power. No superior, said Ockham, should be offended if his subjects wish to know the limits of his power over them; and this requires that they inquire into its parameters. As “charity rejoices in the truth” (1 Cor 13:6), if the pope intends to walk by charity with respect to his subjects, he should similarly rejoice with them at this inquiry into his power. Actually, if the pope does not “hate the light,” but instead “wishes to come into the light” (Jn 3:20), he will be gladdened by such disputation.³⁶ Ockham could conclude, therefore, that no one should be subject to the charge of sacrilege for disputing the parameters of papal power, provided that his intention is to arrive at a deeper knowledge of the subject.³⁷

Having established that it is lawful to dispute the power of the pope, it must also be licit for experts (i.e., theologians) to examine these matters and resolve any further controversies. Central to this line of inquiry is distinguishing between the power that the pope has by divine law, and so immediately from Christ's ordination on the one hand; and the power that he has by human law on the other. For there are some areas where the pope's power is not from Christ alone but actually of human origin. It will be for the theologians, said Ockham, to inquire into the sort of power that the pope has received from Christ under divine law. To that end they would turn principally to the Sacred Scriptures wherein we learn of Christ's own way of life, which can serve as a template. Examining the power that derives from divine law really must fall to the theologians (rather than the canonists) precisely because they are uniquely authorized to study these Scriptures.³⁸ Were the pope to assert that his power is derived from divine law, this claim must be tested by Scripture. In fact, such claims should be considered suspect, unless and until they can be defended from Scripture. Papal decretals, for their part, need to be assessed according to their compliance with truth, justice, and the evangelical law. Such decretals will be reckoned weak not only if found contrary to Catholic truth, but also if they are manifestly and evidently contrary to natural reason. At this point Ockham went so far as to say that anyone having the use of natural reason should be able to render an opinion on these questions, thereby expanding the field of inquiry beyond the expert class.³⁹

Ratcheting up the review process a few more notches, Ockham declared it not only lawful to inquire with right intention into the power of the pope, but also to examine the pope's actions so as to judge whether they are manifestly evil, "for by their fruits you shall know them" (Matt 7:20). The pope cannot be excused, Ockham reminded his audience, if he is revealed as a thief, or a fornicator, or has perpetrated some other crime. He must, in fact, be considered a criminal by all who are in a position to recognize such offenses. The pope may even be counted as an infidel were he to operate in ways manifestly contrary to what is sacred. His works are the key to his nature, which means that the pope can be lawfully judged as an unholy man if his misdeeds are revealed.⁴⁰ Even if the language is incendiary at times, Ockham was tapping into some fundamental tenets of canon law which had been established precisely as a check upon papal malfeasance (a topic we will revisit in Chapter Six).

THE TURN OF THE FIFTEENTH CENTURY

Some decades after Ockham, the Oxford master John Wyclif similarly confirmed the theologian's sworn obligation to speak the truth no matter the disruption it may cause. In fact, said Wyclif, if one knows the truth, it would be a sin of omission to remain quiet.⁴¹ Here in 1378, Wyclif insisted that papal determinations must withstand the test of expert scrutiny. In the footsteps of Henry, Godfrey, and also Ockham, Wyclif believed that theologians were to function as a bulwark against papal overreach. He was aware of such canons as *Nemini est* which might appear to prohibit disputation regarding papal power; but that is to misread them, said Wyclif. It is not disputation as such that is forbidden, but only the indiscreet and irreverent treatment of the pope's power and that of other prelates. Much like his predecessors, Wyclif argued that if theologians are permitted to examine the most sacred and infinite power of God, it only stands to reason that they can scrutinize the power of the pope. He recoiled, therefore, at the notion that the papacy could at once ground its claims to power upon Holy Scripture and simultaneously decree that no theologian could venture beyond the strict limits set by the pope for the study of the biblical text. This sort of reasoning, exclaimed Wyclif, "exceeds even the craftiness of Mohammed." In other words, such strictures placed upon pious and reasoned inquiry were unworthy of the Christian faith. As it stands, though, the license to discuss these matters (*licentia tractandi*) has been granted by God. Even as the pope may attempt to muzzle dissent, therefore, the theologian has a duty "to provide a reason for everyone asking about the faith" (1 Pet 3:15).⁴²

A contemporary of Wyclif, the theologian Henry of Langenstein, remarked upon a *quaestio* that had been presented for disputation on 15 June 1381 at the University of Paris. With the schism only in its third year, it was asked whether, in light of the current controversy in the Church regarding the papacy, it would be heretical or schismatic to deny that the man elected is actually pope? This was no idle question, for a month earlier on 17 May, the Bishop of Paris had declared that all who denied that Pope Clement VII was the true pope were heretics and schismatics. Henry reported that when the Parisian doctors met to decide this matter it was agreed that there was no lack of material for heresy on all sides, given the scandals that had arisen and the innumerable dangers besetting the Church. In this case, therefore, the assembly of a council to resolve these matters seemed warranted.⁴³

In the first decade of the fifteenth century, Jean Gerson continued to uphold Parisian tradition when he asserted his right to present the topic of papal power for disputation (*de potentia Petri disputare*). Like his predecessors, Gerson opined that if the masters may rigorously investigate the sacred topic divine omnipotence, then surely the limits of papal authority must be fair game. Just how much power, asked Gerson, does the pope really have over his subjects by divine, natural, and human law?⁴⁴ The freedom to explore these questions was a timely concern for Gerson. Papal power was once more at the center of the seemingly endless quarrel over mendicant privileges, this time erupting at Paris while Gerson was chancellor. On 2 January 1409, the Franciscan Jean Gorrel was ordered to retract inflammatory propositions that he had set forth in his vespers sermon the previous month. Almost certainly intending to provoke his secular colleagues, Gorrel asserted that someone who has duly confessed would not be obligated to confess those same sins again; and that it falls more principally and essentially to the friars than the parochial clergy both to preach and to hear confessions. In response to these incendiary propositions, Gerson quickly assembled regent and nonregent theology masters who determined that Gorrel would have to issue a retraction at his aula ceremony prior to receiving his magisterial biretta. Here, a chastened Gorrel admitted that certain people had been scandalized by his vespers remarks, as was brought to his attention by “my mother faculty of theology.” Wishing therefore, “to remove all scandal and to be a son of obedience and peace, and an assertor of truth, I now state at the direction of my same mother and of my own free will, the following truths.” Gorrel proceeded to affirm that the right to preach and hear confessions is principally and essentially the duty of prelates and curates, whereas these duties fall to mendicants only extraneously by way of a privilege.⁴⁵

The Gorrel affair may have been settled to the satisfaction of the secular masters, but it was not the last they would hear of mendicant privileges. Later that same year, on 12 October 1409, the recently elected Franciscan Pope Alexander V addressed the bull *Regnans in excelsis* to the Paris theology faculty. Grounding his argument in three fourteenth-century papal bulls concerning the right of the mendicants to hear confessions, *Super cathedram* (1300), *Dudum a Bonifacio* (1312), and *Vas electionis* (1321), this friar pope not only confirmed the rights of the mendicants, but threatened stiff penalties for those secular masters who would presume to question the

authority and wisdom of these previous papal rulings. The Paris masters were essentially accused of reviving those errors of the secular theologian John de Pouilly which had been condemned in John XXII's bull *Vas electionis*. Pouilly had equated the pastoral duty of hearing confession established at Lateran IV with the evangelical order set in place by Christ, and so insisted that the pope had no authority to alter it by opening to mendicants what belonged exclusively to parish priests. To this the masters have added, according to Alexander, additional dangerous and erroneous articles which they were not only teaching publicly in the schools but also preaching. Condemned in this bull were assertions that the same sins confessed to a friar must be confessed again to one's parish priest; that Pouilly's condemned articles are sufficiently true and can be maintained if read correctly; that *Vas electionis* is void, since John XXII was himself a heretic; that no pope has the authority to overturn Lateran IV's constitution on confession (*Omnis utriusque sexus*); and to add insult to injury, that the friars are not true pastors but thieves, robbers, and wolves. A sweeping prohibition followed: "If anyone henceforth presumes to assert the aforementioned articles either in the schools or elsewhere; or would gloss, defend, maintain or preach them, let him be reckoned a heretic such that he will incur the sentence of excommunication by that very fact."⁴⁶ There is some irony here that John XXII's allegedly heretical status, owing to his ill-advised sermons on the beatific vision, had actually been a charge leveled by the Franciscans some eighty years earlier in defense of their own life of evangelical poverty. Now some secular theologians were making the same argument to roll back John's affirmation of the mendicants' right to hear confessions in his *Vas electionis*.

On 5 March 1410, the Paris theology masters issued their official response to *Regnans in excelsis*. Gerson, who had earlier given a French sermon in the same vein (*Quomodo stabit regnum eius*), seems to have played a principal role in drafting this document. These professors of sacred theology, zealous to preserve all that pertained to the hierarchical Church, addressed Christ's faithful, wishing them grace, salvation, and peace. Drawing upon the classic hierarchical model established by Pseudo-Dionysius, the masters argued that the order of the Church Militant had been immutably established by Christ according to the celestial exemplar wherein lower things are led back to God through an ascending chain of intermediary stages. It is for this reason that the Church is so frequently referred to in the New Testament as the kingdom of heaven, such that Saint John had seen the New Jerusalem

descending from heaven (Rev 21:2). It is clear, therefore, that no power in heaven or on earth can prevail against this truth; it cannot be destroyed but must instead be built up. It was consequently appropriate, said the masters, that the Apostle Paul should have resisted Peter to his face, daring to say to him: "What are you doing?" (cf. Gal 2:11–14; Job 9:12). Here in this paraphrase of Paul's words rested a direct challenge to exaggerated claims for papal fullness of power. The case was made that not even the pope has the authority to subvert the sacred hierarchy through the exaltation of the mendicants generally, nor undo Lateran IV's *Omnis utriusque sexus* constitution specifically. Not only was it misconceived in its attempts to tamper with the sacred order, Alexander's bull was filled with all manner of unreasonable condemnations and threats. The theologians then took the opportunity to remind their audience that it fell to their office to interpret theological terms and render authoritative determinations. And more to the point, the pope may not prevent them from discussing such serious matters.

This papal prohibition on disputation cut at the very heart of magisterial authority; the rights and duties of the theologians were being trampled upon. The pope had been painting with a very broad brush. Truth be told, said the masters, there were articles condemned in this bull that could be glossed not only free from the threat of heresy or anathema, but truthfully and fittingly. This is especially so in those matters which fall to that office competent to interpret and gloss the Scriptures, as much doctrinally as authoritatively. Theologians are to fulfill their own unique task within the ecclesiastical hierarchy precisely by illuminating the divine word and so granting understanding to the little ones, lest the path be closed to truth and opened up for error. What is more, though, some of the articles condemned here as heresies touched on all manner of things whose truth or falsity had no bearing on matters of faith, and so can remain open to discussion; they should certainly be not shut down under threat of persecution. The masters bristled at the notion that someone could be subject to prosecution for heresy on the grounds of presumption alone. No one, they insisted, can be reckoned a heretic unless depraved through error contrary to the faith; and even then, one would have to persist in obstinance and pertinacity. Simple presumption hardly rises to the level of heresy. After all, one can err without being a heretic. What sort of fairness could there be in the law, asked the masters, if the punishment outweighed the crime, such that someone who is not a heretic would nevertheless be treated as such? Are theologians to

be anathematized for shedding light on the path of wisdom by way of their glosses? This condemnation as it stood was simply intolerable.⁴⁷

About one hundred years after these Parisian masters had asserted their right to dispute mendicant privileges, friar Martin Luther also found himself forced to defend his magisterial right to dispute matters of concern to the Church. In February 1518, Luther wrote to the Bishop of Brandenburg complaining that his *Ninety-Five Theses* were being misunderstood. Luther insisted that he had not formally asserted these propositions, but merely put them forward for academic disputation. Adopting the precise language of the medieval universities, the Wittenberg theologian declared that he was asserting nothing pertinaciously (*nulla vero pertinaciter assero*), and furthermore, submitted everything to the judgment of the Church. Precisely because it was pertinacity that rendered one a heretic, Luther could later declare in an August 1518 letter to Georg Spalatin: "I will never be a heretic. I may err while engaged in a disputation (*errare disputando possum*), but I do not want to assert conclusions."⁴⁸

CHAPTER FOUR

FROM THE INTERIOR TO THE EXTERIOR FORUM

The previous three chapters have focused upon the late medieval masters largely within the confines of the lecture halls. Even keeping in mind the rights and privileges possessed by the universities, we have also seen that they were by no means self-contained entities detached from the larger Christian society. Quite the opposite, in fact, as the masters themselves were quick to assert their right to weigh in on all manner of topics affecting the Christian populace. Add to that the pastoral duties that both secular and mendicant theologians took very seriously, most notably preaching and hearing confessions. The masters had developed principles central to the penitential forum, or forum of conscience, which we will discuss in the first main section of this chapter. To speak of the penitential forum, itself a sort of courtroom, is to distinguish it from the forum of the ecclesiastical courts, which constitutes the second main section. We will see that maintaining a clear distinction between these two fora, the private and the public, was a matter of great concern to theologians and jurists alike. Time and again one finds a respect for the dignity of each Christian's interior life, the space in which conscience operates and cannot be infringed.

It has been said that the twelfth century—the age of such varied geniuses as Peter Abelard and Bernard of Clairvaux—marked a watershed with its “discovery of the individual.”¹ Giles Constable captures this theme more precisely: “In the interiorization of virtue, in the stress on inner responsibility and a direct relation to God, and in the consecration of the way of life of every faithful Christian lay the essence of what has been called the individualism of the twelfth century, which may better described as personalism, since it involved a sense of the importance of the inner *persona* rather than a view of society, in modern terms, made up of distinct units marked by a self-awareness of their differences from other people.”²

It is with this emphasis upon the foundational dignity of the human person in mind that we consider first the penitential forum. Here we will see that every Christian man and woman is taken seriously as a responsible moral agent, capable not merely of distinguishing right from wrong, but as one who is able to plumb the depths of his or her own soul and, by grace, be reconciled to God. Priests were instructed to treat lay penitents with kindness and respect, as fellow Christians rather than subjects, as they offered counsel and assigned penances. No single directive was so indicative of the sanctity of this internal soul-baring forum as the absolute prohibition against breaking the confessional seal. The limits might be tested under extreme circumstances, but the principle held fast: every Christian had a right to his or her private life; a place wherein no earthly power intrudes, a place to be alone with God. For it must be remembered that the confessor was not present to the penitent as a man so much as God. It was God alone who, in his infinite mercy, could forgive the sins of the contrite; no mortal man possessed such authority.

THE REFORMS OF THE FOURTH LATERAN COUNCIL

Convened in November 1215 by Pope Innocent III, the Fourth Lateran Council transformed the landscape of pastoral care.³ Among the seventy-one constitutions instituted by the council were a series that pertained directly to the fitness of the clergy. It was deemed essential to the entire enterprise of pastoral reform that the laity were shepherded by men who faithfully adhered to the sacred doctrine of the Church. There would have to be positive steps taken at the diocesan level to meet the needs of the laity. To that end the council determined that, because nourishment in God's word is conducive to salvation, souls must be fed with spiritual food. Bishops were to appoint suitable men to carry out the office of sacred preaching, men who would edify their charges by word and example. They were also to provide upright priests for the hearing of confessions and other tasks that promote the salvation of souls.⁴ Since the guidance of souls is a superlative skill (*ars artium regimen animarum*), bishops were to see that those promoted to the priesthood were properly educated so that they could celebrate the sacraments correctly.⁵

Perhaps no single constitution proved so consequential to the council's efforts of pastoral reform than the twenty-first, *Omnis utriusque sexus*,

which stipulated that all adults of both sexes and every status should faithfully confess their sins at least once a year to their own priest.⁶ The need for such a canon had long been recognized, as theologians complained that clerics and laypeople alike were neglecting to confess, or did so incompletely, if not dishonestly. Thus, as Alexander Murray puts it, “[Lateran IV] gave universal, authoritative stamp to a duty such people were well aware of. That is why the canon was included. That was why it had effect. It confirmed an existing momentum.”⁷ Efforts to bolster this sacrament were already underway prior to Lateran IV, as attention focused upon the penitent’s inner disposition and the need to reckon honestly with one’s own conscience. In the late eleventh century, and then throughout the twelfth, ecclesiastical councils stressed that true penance would entail genuine contrition and sincere repentance for one’s sins.⁸ Hence we find an eleventh-century North Italian penitential rite that would have the priest pray: “Pour forth into our hearts, through the grace of the Holy Spirit, compunction and a font of tears, so that we might be able to acknowledge perfectly the guilt of our conscience.”⁹ The Fourth Lateran Council “was not legislating in a vacuum,” therefore, but was attempting to set in place for the entire Church some of the best practices already established by statute in various provinces.¹⁰ This momentum then carried over after 1215 as we find in the English Church—nine of whose bishops attended Lateran IV—that almost all the dioceses set about instituting a reform program in keeping with the council’s directives.¹¹

Omnis utriusque sexus was more than a mandate; it spoke thoughtfully to a relationship between priest and penitent built upon trust and compassion. First, the canon called for laypeople to confess their sins, not to just any priest, but to their own priest (*proprio sacerdote*). For most laypeople, the *sacerdos proprius* to whom they should confess was their parish priest who was responsible for the care of souls entrusted to him. This priest would dutifully fulfill his pastoral role as confessor, prudently ministering to penitents like a skilled physician pouring wine and oil over their wounds. He would, as the canon states, carefully inquire into the nature and circumstances of both the sinner and the sin, so that he might better determine what counsel to offer and which remedy to apply. Yet because the council recognized that some pastors could offer only mediocre spiritual counsel, it was determined that people could for good reason (*iusta causa*) confess to another priest, provided that they first received permission from their own

priest; if not, that other priest would lack the power of absolution. Most importantly, perhaps, the canon furthermore maintained that a worthy confessor would not in any way betray the sinner whether by word or by sign (*ne verbo vel signo*). If the priest found himself in need of wise advice, he might cautiously seek it, provided that he never disclosed the identity of the penitent. So serious was the need for secrecy that the priest who revealed the sin disclosed to him in the course of a confession would not only be deposed from his sacerdotal office, but imprisoned in a strict monastery where he would take on a perpetual penance.¹² The council knew that if this sacrament were to be truly effective both as a means of absolving mortal sin and offering pastoral guidance, it was essential that the penitent felt secure in exposing to the light the deepest recesses of his or her heart. We see, therefore, that at the root of this renewal of the *cura animarum* was the recognition of the laity as moral actors with a genuine Christian vocation of their own. Availing themselves of this sacrament, they were in a position to deepen their faith and grow in holiness over the course of their lives.

The sacrament of penance, and thus the requisite confession of one's sins to a priest, was an experience shared by people of all walks of life across later medieval Christendom. More than a sacrament by means of which sins were absolved, the penitential forum came to serve as "the training ground for the Christian conscience,"¹³ as penitents—with the assistance of a skilled priest—carefully examined their own actions and intentions in their greater quest for spiritual perfection. In the event, pastoral manuals proliferated over the course of the thirteenth century, providing priests with detailed instruction in the administration of the sacraments, not least penance, as the priest was seen to function as a "physician of souls," prudently discerning the penitent's maladies and inspiring his confidence.¹⁴ Nor were the laity to be merely passive recipients of pastoral direction; they would be active participants following through on the counsel that they received. For, as Robert Swanson points out, "pastoral care—the cure of souls—involved both teaching and healing. The laity had to be taught how to live Christian lives, to avoid sin, to share in Catholic faith and practices, to take responsibility for their own salvation, and to die fully prepared for the afterlife."¹⁵

Marie-Dominique Chenu has located in the penitential literature of the early thirteenth century a psychological adaptation to the personality of the penitent, as emphasis was placed upon on the values of the person, his intentions, and conscience.¹⁶ This is a shift, as we observed earlier, which had

been underway since the time of Peter Abelard in the middle of the twelfth century. Increased attention was being given to the personal qualities of the penitent, rather than referring to a formal list of sins and their requisite penances. Now the priest was to determine the precise circumstances of the penitent's actions, willingness to repent, intention, and interior consent.¹⁷ A deeply personal encounter, confession was one of the rare instances when priest and parishioner would be alone together. While the penitential manuals offered the priest some guidance, they only went so far. Because every penitent and each confession were going to be unique, the confessor would have to think for himself, evaluating the circumstances and assigning a penance precisely fitted to the particular penitent there before him.¹⁸

These confessional manuals were designed to serve as handy guides to pastoral care for priests who were otherwise unable to keep up on the recent scholastic trends in sacramental and moral theology. Many such manuals clearly stated in their prefaces that they were designed to assist simple priests: "*ad informationem simplicium sacerdotum*." The intention behind these tracts was not to burden penitents with guilt complexes that only the Church could alleviate, but instead, "to allow confessors to see the precise relationship of the law of the Church to [fundamental] beliefs and practices—and this in order that confessors might better educate the conscience of their penitents."¹⁹

While it has been argued that Lateran IV marked the beginning of increased clerical control over consciences through the power of the keys,²⁰ that is to miss the genuinely pastoral concerns of this council. For beyond the pronouncement of absolution, as important as that was, the priest was there to help the penitent along the road of moral regeneration. Some questions might seem intrusive at times and the revelation of one's guilt psychologically taxing, but this speaks to the greater recognition of the unique complexities of every human heart. It was understood that each man and woman had a conscience that they, with the assistance of the clergy, had a responsibility to form correctly—the very conscience they were then obliged to follow.

Although it is certainly true that Lateran IV sparked a proliferation of penitential tracts, we have seen that the council was building upon foundations laid in previous decades. An important forerunner in this respect was the *Liber poenitentialis* produced by the Paris master Alan of Lille in the final years of the twelfth century. Alan set a high bar for the confessor,

who ought to be a man of serious religious life, well-instructed in the administration of the sacrament, and possessing a sufficient knowledge of the teachings and rules of the Church.²¹ More specifically, Alan likened the priest hearing confession to a spiritual physician (*spiritualis medicus*), who like any medical doctor attempts to put his patient at ease with kind words, showing compassion for the sufferer and assuring him that he will again be well. To do so, however, the priest must ask when the illness began and where; he must look into the causes and attendant circumstances. As the confessor attempts to draw out the details of the sin, he should remind the otherwise embarrassed penitent that when confessing he speaks not to a man, but to God (*non homini sed Deo confitens loquitur*). And he should take heart that he will indeed find absolution before the heavenly tribunal (*apud iudicem poli*), since guilt is forgiven by the confession of sin. Let the priest again assure the penitent that the sin which is revealed here in the present age will then be covered over on the day of judgment.²² Or as Alan put it in a separate work, if in this present age you are not your own accuser, you will stand before three accusers on the judgment day: God, your own conscience, and the demons.²³

Again, in his role as *spiritualis medicus*, the priest should enjoin different acts of satisfaction for different sins, just as a medical doctor would prescribe various diets and medicines. Yet, as we noted above, the priest had a duty to warn the penitent that his contrition must be genuine not feigned; one's tears should flow from the fountain of one's heart. The sinner should therefore be instructed to search through the recesses of his conscience (*perscrutetur angulos conscientiae*), leaving no sin unconfessed.²⁴ One finds this call to soul-searching phrased similarly in 1240 when Bishop of Worcester Walter Cantilupe directed priests to teach penitents "how to search their consciences" (*eorum conscientias perscrutari*).²⁵

What if the sinner does not confess and says, furthermore, that he has no desire to repent nor abstain from his sin? In that case, Alan counsels the priest to put the fear of God in the penitent, reminding him that God punishes sinners not only in the future but even in the present; and that while it is human to sin, it is diabolical to persevere in one's sin. Place before his eyes the threat of eternal punishment; for if pricked by at least a servile fear he might then be led to repentance, as his initial fear eventually leads him to charity.²⁶ Tough talk may be necessary at times, but Alan still insisted that when instructing the penitent, the priest should reveal to him the face

of compassion. Remind the penitent that he should not lapse into the sin of despair, but instead place all his trust in God's mercy.²⁷

We need always keep in mind the principal goal of the sacrament of penance: yes, the absolution of sin, but more fundamentally the restoration and well-being of the soul. William of Auxerre believed that the conscience of the penitent and his capacity for spiritual growth could be furthered in the act of confessing one's sins. Not only can the priest help the penitent to recognize his or her sin, but also its gravity. The sense of shame aroused in the revealing of one's sins might then result in a spiritual purgation. The very act of going to confession, even if one's devotion may be lukewarm, can yield tremendous benefits. A person who comes to confession in a state of spiritual aridity may leave fully hydrated. For it is often within the priest-penitent encounter that the person, by the very act of confessing, will erase his sins and receive the infusion of grace. Even someone already possessing grace may find that confessing results in a still further increase of grace.²⁸

John of Kent, who produced his *Summa de penitencia* not long after Lateran IV, observed that each penitent has to be treated differently, depending upon their particular circumstances: "I do not think it easy to instruct priests in matters of this sort, for there are as many customs as there are people, and as many ways as there are heads." And just as no two penitents are alike, so the penances assigned will also vary as the priest determines what is best for this specific person: "Penance should be enjoined according to one's discretion, that is, one's just judgment, after having considered the quality, deed, states, and other circumstances of persons." John was, moreover, careful to emphasize the bond between priest and penitent as fellow Christians: "And finally, let both priest and penitent receive each other in spiritual communion and, in the bond of charity, keep each other in their memory, both in prayers and other petitions."²⁹

The better the priest understood the penitent, the more precise, the more personalized, his prescription for spiritual regeneration. It is by delving into the depths of one's heart, confronting one's sins, that one will attain genuine peace. Even when priests have to ask what might seem like prurient questions about their sexual activity, their goal was to bring penitents to a deeper understanding of their sins and in that way "help them to attain a human dignity."³⁰ Robert Grosseteste, in his c. 1240 confessional tract *Quoniam cogitatio*, made this point quite powerfully when he described confession as "the vomiting up of rottenness and poison; the fulfillment

and demonstration of humility; the removal of the veil that hides God from us . . . [which results in] the revelation that there is truth in us, the coming back to God, the obtaining of forgiveness . . . and the gathering up again of us from dissipation to wholeness.”³¹

The Englishman Robert of Flamborough, who had been a canon at the Abbey of St. Victor in Paris, composed his *Liber poenitentialis* c. 1208–1213 for the Dean of Salisbury Richard Poore who went on to serve as Bishop of Chichester, Salisbury, and then Durham. Poore, it should be noted, would play an important part in implementing the reform statutes of Lateran IV.³² Here we will just remark upon the opening chapters of Flamborough’s work wherein he advised the priest how the penitent should be received. First, the penitent should address the priest: “Receive me, Lord, a miserable sinner.” At which point the priest should assure the penitent that Christ will indeed receive him with infinite mercy; this same Christ who spread out his arms upon the cross to embrace even his persecutors for whom he prayed. “Before all things, son, place your hope in the mercy of the one who, while we were yet enemies, reconciled us to himself” (Rom 5:8). The priest would continue, now asking the penitent to consider the horrendous afflictions Christ suffered to spare us eternal torment, freely taking on a most wretched death. His mercy is boundless and so suffices to swallow up the sins of the whole world, indeed of infinite worlds. Not to be missed, and illustrative of this deeply personal encounter, we see that the priest forms a bond of fellowship with the penitent as he acknowledges himself to be the Lord’s unworthy servant. The two would work together as Christ’s helpers (*coadjutores Christi*) for the salvation of both of their souls: the penitent by openly laying out the sins that he remembers, the priest by carefully probing these open wounds.³³

Eliciting such a deep-rooted, and thus effective, confession requires first the trust of the penitent: trust in the priest to be sure, but above all else trust in God’s mercy. A Dominican confessional manual from the 1220s, the *Summa penitentie fratrum predicatorum*, instructed friar-priests to begin by addressing the penitent with these or similar words: “Brother, the Lord does not wish the death of sinners, but instead that they might be converted and live.” The priest should also put the penitent at ease lest he feel too ashamed to confess his sins, assuring him that “I too am a miserable sinner, and have committed many more sins, or at least heard of many more, than you have committed.” Let the penitent be assured of God’s willingness to forgive: “For

although your sins may be great, they shall nevertheless be washed away in confession by the mercy of God.”³⁴

A similar emphasis upon divine mercy can be found with the fifteenth-century Dominican Johannes Nider who published his *Consolatorium timoratae conscientiae* specifically to guide priests in offering effective counsel to those who found themselves plagued by doubt as they approached the Eucharist, made their confession, or even lay on their deathbed. As a work of pastoral theology, the emphasis was squarely placed upon a well-founded hope in God’s essential goodness. For although lacking the certainty that knowledge (*scientia*) provides, the humble soul can nevertheless place its confidence in the merciful God’s willingness to forgive.³⁵ What can one do when fearful scruples inundate the conscience, such that one is driven to despair under the onslaught of such scruples (*scrupulorum impulsibus*)? Seek rest in the hope of divine mercy, trust in divine assistance, and place one’s confidence in the infinite goodness of God. Rather than letting fearful scruples cast you down, said Nider, put aside the terror of divine judgment. Be confident in the forgiveness of sins, trusting in the words of the Apostle Paul: “If we judged ourselves rightly, we would not be judged” (1 Cor 11:31).³⁶

Jean Gerson had similarly composed a guide for confessors in which he reminded priests that they must devote sufficient time to hear confessions properly if they wished to assist people dealing with scruples of conscience (*conscientiarum scrupulis*).³⁷ In a vernacular work, Gerson counseled anxious souls that peace and tranquility of heart can be found by trusting in God’s mercy. Those who sincerely wish to give their heart and their love to God ought to meditate upon his wisdom, kindness, and even his sweetness. Call upon God as the expansively good and merciful Father, humbly asking for his help as a falling child reaches out for his mother’s hand. Direct the eyes of your heart as you cry out: “Lord, come to my assistance, forgive me, grant me comfort and show me mercy.”³⁸

THE SEAL OF CONFESSION

Finding a confessor who comprised the qualities of discretion and prudence was not always easy, but without recourse to such men the sacramental practice could only break down. We should not be surprised, therefore, by just how much attention theologians and canonists had given to this

matter in the decades leading up to the Fourth Lateran Council. Peter Abelard complained that just as there are physicians who are not competent enough to entrust with care of the sick, so there are priests who blithely reveal the sins of penitents, such that it would not merely be useless to confess to them but even dangerous. Rather than healing the penitent, they end up inflicting fresh wounds upon him and in the process scaring away others who might otherwise have come to confess. Whether for reasons of revenge, or just plain carelessness, these priests scandalize the faithful while exposing penitents to shame, thereby ruining their good name.³⁹

In fact, by the twelfth century there was general agreement that penitents were not obliged to confess to a priest who could not be trusted to keep their sins secret. One penitential tract advised that if the priest is the sort that “leaks like a sieve” and so is unable to keep quiet (*plenus rimarum . . . tacere non potest*), the penitent ought to avoid him like plague: “*Hunc quasi grandam pestem fuge!*” (PL 213:870). Peter of Blois admonished an exceptionally severe abbot who, while not revealing sins by speaking of them directly, nevertheless damaged the reputation of penitents by arousing suspicion through his contemptuous glances: “*utrum voce vel signo, vel quodam vultuoso contemptu*” (PL 207:1091–92). The jurists took the same line, as we see with Anselm of Lucca who included canons in his *Collectio* which held not only that “the confession of a penitent must not be revealed,” but that the priest who exposes the confession of a penitent be removed from office: “*Ut sacerdos, si confessio poenitentis manifestaverit, deponatur*” (PL 149:525).⁴⁰ Note, too, the *Decretum* canon *Sacerdos ante* which threatened not only deposition, but a lifetime of pilgrimage to cleanse the shame of such a breach. Gratian, for his part, commented, “Let the priest beware that he does not reveal to others the sins of the penitent; for were he to do this, he would then be deposed from his office.”⁴¹

The demand for secrecy, essential as it was for preserving the integrity of the sacrament, could be tested under some admittedly difficult circumstances. Even the most diligent priest might find himself in a quandary. The gloss on the aforementioned *Sacerdos ante* canon presented a scenario in which a penitent confessed some crime to his priest; the bishop then threatened excommunication for all those who knew of this crime if they did not reveal the truth. Is the priest thereby obligated to reveal what he

has heard in confession? It would seem that he should not; because the priest cannot prove this crime, he should not speak about it. It was a secret, and so should remain concealed. On the other hand, excommunication is a very serious penalty which is damaging not only to the soul but also the body. There are some who say that the priest may tell his bishop in secret, since the bishop might be able to help the sinner rather than do him harm (*qui prodesse possit, non obesse*). While others say that he must never reveal the confession absent the consent of the penitent himself. Let the priest tell the bishop what he knows as an ordinary man, but not what he knows as God, i.e., in his sacramental role as confessor: “*ut homo . . . ut Deus*.”⁴² As we shall see, the scenario outlined here will appear in one form or another in later decades, as will the crucial distinction drawn between the priest’s sacramental and non-sacramental knowledge of events. Worth noting is that to the extent the penitent’s sin might be revealed, however obliquely, it must only be to those who mean him well. There persists throughout the tradition a genuine concern for the welfare of even the most dangerous penitent; friends rather than enemies are to be enlisted in all attempts at correction.

When canonists and theologians of the later twelfth and early thirteenth centuries examined the requirements and possible exceptions for confessing to one’s own priest (*sacerdos proprius*), they often began with *De penitentia* D. 6 in the *Decretum*.⁴³ Here the canon *Placuit ut deinceps* held that while it is true that one should ordinarily seek the consent of one’s own priest before confessing to another, an exception may be made in cases when the parish priest to whom one first confessed proves to be inept. Gratian had observed that this canon, allowing as it does for the penitent to choose a discerning priest to hear his confession, seems to run contrary to canons stipulating that no priest may presume to judge the parishioner of another. And yet, says Gratian, it is one thing for the penitent to reject his own priest out of animosity, which the canons do indeed prohibit, and quite another to heed the warning not to seek the counsel of the ignorant, lest as the blind lead the blind they both fall into a pit (Matt 15:14).⁴⁴ The gloss for its part confirms that the penitent should first confess to his own priest, although he may later confess to another. What is more, though, the gloss will uphold the right of the penitent to seek out another confessor even without the permission (*sine licentia*) of one’s parish priest if he is too incompetent to offer sound guidance.⁴⁵

SECRECY IN DIFFICULT SITUATIONS

One of the more comprehensive penitential guides had been produced by Thomas de Chobham, a master of theology at Paris before returning to England where he took on the position of vice-dean of the chapter of Salisbury.⁴⁶ In 1216, just a year after Lateran IV, Thomas observed that there are some instances in which a priest may indeed be authorized both by God, and by the *Omnis utriusque sexus* canon, to exercise the power of the keys with respect to someone from outside the parish (*alienum parochianum*). Consider the case of a penitent who has an indiscrete priest and similarly a bishop incapable of providing good counsel, neither of whom will grant permission to confess to a more discerning priest. Here Thomas finds that a penitent, after confessing all his sins to an indiscrete priest, could later seek out a more capable priest who would then possess the authority to hear his confession and grant him absolution for his sins. This would actually be in accord with the precise stipulation of *Omnis utriusque sexus*, says Thomas, inasmuch as the capable priest would thereby become the penitent's proper priest (*in hoc casu efficitur eius proprius*).⁴⁷

In keeping with the tradition, and the recent legislation of Lateran IV, Thomas was similarly adamant that the priest must recognize that the seal of confession requires complete secrecy (*valde secretum*), such that no priest could ever reveal what he has heard. This is because he sits there as God, not as a man (*ut deus non ut homo*), which means that he knows nothing personally of these things. Were the priest to betray the secret of the confession, he must be considered a traitor, with the result that his tongue be spiritually severed. He would be permanently suspended from his office to ensure that he never again could possess the voice of a legitimate man. Which means that he would henceforth be prohibited from testifying or otherwise participating in court proceedings; and he would even be barred from reading or chanting the Psalter in church.⁴⁸

The strict penalties set in place to protect the integrity of the sacrament surely make sense when people are confessing deeply personal aspects of their life with all the attendant emotions of shame and embarrassment. There are nevertheless certain circumstances under which a priest will need to walk a fine line as he navigates his sacred obligations as a confessor and his wider responsibilities both to his superiors and to the community that he serves. Consider a penitent who confesses to his priest that he plans to kill

someone or burn down his home. Indeed, this same man may have already killed someone's father: What is the priest to do? Should he stand by quietly while yet another person is killed and his house set ablaze along with his entire family? The answer, according to Thomas, is no. But even this case must be handled with discretion, since the priest ought always to seek the good of the penitent, not letting him come to harm. If the malefactor has a father, neighbor, or close friend, let the priest say to him: "Your son, your friend, wishes to kill a good man. Reprove him, correct him, restrain him, lest he perpetrate such a dreadful crime. For if you fail to act, you will be reckoned a participant in this criminal homicide." And if the malefactor has no friend or relative to whom the priest can securely reveal the impending crime, he may assume that there are priests or other good men that he can rely upon not to hand this man over to death. With these men present, the priest should then warn his parishioner to desist from this wicked plan. They can also make it clear to him that they will not allow him to proceed with this heinous act. Similarly, were the priest to learn in confession that the penitent was a thief who would often do his lord harm, he could approach that lord to inform him that "your servant does not do well by your household; you should not keep him on." In this way the priest will not be revealing the confession, even as he acts to protect the innocent from injury.⁴⁹

If steps may be taken to stay the threat of imminent bodily harm, what can be done about those doing harm to souls? Here we run into the very real problem of heretics: these people are clearly a danger to the flock, but how can they be stopped if they only reveal their heresy in the course of confession? Raymond of Peñafort proposed a case in which someone confesses to his priest that he has fallen into heresy and other sins. And while he expresses his desire to desist from those other sins, he will not relinquish his heresy. Nor is this person willing to name others whom he knows to be heretics or at least followers and supporters of heretics. Or perhaps he does name them to the priest, but then asks that the priest not reveal them to others. The person says that he does not want to perjure himself, since he has sworn that he would keep the secret; or because it was revealed to him in secret; or again fears that he will be a participant in a homicide if the people he names were later killed. What should the priest do? Some say that he should go to the bishop and warn him: "keep watch over your sheep, for there is a wolf among the flock." Or if he does choose to reveal what this person has said, let it be to those who will do him good rather than harm.

Raymond, however, finds that the priest is not so strictly bound in this case. For not only has this heretic failed to repent, he does not even observe the Catholic faith. Heretics and infidels, according to Raymond, have forfeited any expectation of secrecy.⁵⁰

Despite the genuine dilemma caused by such encounters, Pierre-Marie Gy has effectively argued that Lateran IV never intended that *Omnis utriusque sexus* might be used to uncover heretics on the basis of their confession. To the contrary, this canon reaffirmed the secrecy of the confession; its intent was always pastoral. In this vein Gy furthermore observed that both Saint Bonaventure and Thomas Aquinas had rejected Raymond of Peñafort's advice when dealing with heretical penitents, and so placed the confessor at the service of God rather than the institution of the Church.⁵¹

It was in his *Sentences* commentary (1252–1253) that Bonaventure addressed the question of whether there is any case in which it would be licit to reveal a confession. He noted that there are some who wish to distinguish between two forms of interaction with the priest. On the one hand, there is the penitent who comes to reveal his sins to the priest seeking absolution; in this case the seal of confession (*sigillum confessionis*) allows for no disclosure of what has been said. On the other hand, there are those who have no intention of desisting from their sin and may even discuss their plans to commit perjury or kill someone; here the seal of confession does not preclude revealing the contents of the confession, thereby allowing the priest to speak of it to someone who will intercede for this person's own good. While admitting that the latter solution appears plausible, Bonaventure nevertheless rejected it. First, the mandate of secrecy applies generally to every sin, not just certain kinds. The penitent, moreover, reveals his sin as though to God (*tamquam Deo revelet*) rather than to a man. Bonaventure was adamant, therefore, that the priest must not reveal the identity of the penitent. The seal of confession should be diligently preserved to avoid the possibility of scandal, lest people stay away from the sacrament for fear of being exposed. But what about the heretic who does not wish to repent, and is instead bent on corrupting others; does not the priest have a greater duty to Christ in safeguarding the faith than to the heretic? In this case Bonaventure determined that the priest can, without ever revealing the confession, offer the standard warning to his superior: "Watch over your sheep, for there is a wolf among the flock." As we have seen earlier, this solution

allows the priest to act upon his concern even as he avoids disclosing what has been confessed to him.⁵²

When Thomas Aquinas addressed the question of the confessional seal in his own *Sentences* commentary (1252–1257), he first recounted the position that the priest is not bound in every case to conceal sins that he knows under the seal of confession (*sub sigillo confessionis*). This would be in keeping with the general principle enunciated by Bernard of Clairvaux that what has been instituted for the sake of charity must not then prove an obstacle to charity. We are once more faced with the test case of a priest who encounters a heretic but is unable to convince him to stop leading others astray. Here we need also consider the paramount obligation to safeguard one's own conscience rather than protect the reputation of someone else. Hiding this person's crime might end up injuring the priest's conscience were he called upon to testify regarding a sin that he has learned about in confession. Given that the priest would be compelled to swear that he will tell the truth, is it not permissible to reveal the confession? *Omnis utriusque sexus* is quite clear, however, that the priest must not betray the sinner whether by word or by sign or any other means. Thomas is aware, moreover, of the argument that the priest is only obligated to conceal those sins for which the penitent promised to make amends. He may therefore reveal the rest of what he has heard to those who can help rather than hurt the man—here again concern is shown for the penitent's welfare.

Thomas rejected this argument, however, on the grounds that it would undermine the truth of the sacrament. Confession does not cease to be a sacrament, he insists, just because the penitent has no plans to correct himself, any more than baptism ceases to be sacramental if received under false pretenses. Nor is it contrary to charity to keep the confession hidden, says Thomas, since charity does not compel one to seek a remedy for a sin that one does not know. In this case the sin can be considered as yet unknown, precisely because the priest does not know such things as a man but as God (*nesciat ut homo, sed ut Deus*). What the priest can do, short of revealing the confession, is admonish this penitent, watch carefully over others so that they are not corrupted, and perhaps alert the bishop to keep special guard of his flock. And then, if called upon to testify in court, the priest would appear there as a man, which allows him to swear in good conscience that he does not know about this crime. Note, however, that if the priest were aware of the crime by some other means apart from confession, he does

not have to keep it secret. For then he would know of it precisely as a man (*ut homo*) such that he can state: "I know this because I saw it." He would nevertheless be bound to keep it secret insofar as he knew it as God (*scit ut Deus*), which means that he cannot say, "I heard this in confession." Ultimately, for Thomas, preservation of a confession is rooted in the very nature of the sacrament as having been instituted by divine law (*de iure divino*), which removes it from the realm of human dispensation and command. That is why no one may either be compelled, or given permission, to reveal a confession. Not even the punishment of automatic excommunication, said Thomas, warrants such a breach of the sacrament.⁵³

The Franciscan theologian Duns Scotus lectured on Lombard's *Sentences* at Oxford in 1298–1299 and then at Paris 1300–1304, finally serving as regent master in 1306–1307. In his treatment of penance, Scotus would make the case from natural law that a priest is obligated not to reveal a sin discovered in confession. Specifically, Scotus considered this question from the perspective of natural charity, fidelity, veracity, and mutual utility. First, there is the law of nature regarding fraternal charity, that we are to treat others as we would have them treat ourselves (Matt 7:12), which Scotus connects to Christ's injunction to "love your neighbor as yourself" (Matt 22:39). According to right reason, said Scotus, everyone ought to love his own good name or reputation, and so would want the sins he confesses to remain hidden; which means in turn that his confessor should likewise wish that the sins be concealed. Since the revelation of sins would only serve to destroy the good name of the one confessing, a priest would sin by revealing them. Second, the law of nature dictates that we keep such faith as our neighbor wishes us to keep. Whoever commits a secret to another, therefore, expects it to be kept secret. Third, Scotus notes that everyone is bound by the law of nature to keep a licit promise that he has made. The confessor promises, if not explicitly then at least implicitly, to keep such a secret; for apart from such a promise the penitent would never reveal it.

Finally, we need to consider that each community has a unity proportionate to the mystical body of Christ wherein there exists an ordered relationship of superior and subject, such that the superior is obligated to help the subject, while the subject should perform his work under the superior's direction. And, as Scotus notes here, the Apostle Paul frequently made use of just such a simile with respect to the mystical body of Christ. Now in this case the sinner is an inferior member, while the priest is his superior as he

both counsels and reconciles the penitent. It is of the very nature of this relationship that nothing should prevent the inferior member from having recourse to the superior in his time of need; nor should the superior be prevented from exercising his beneficent influence upon the inferior, since it is in this way that the members prove useful to one another. The revelation of secrets, however, would only prevent the inferior from seeking recourse to the superior when his soul is in need of counsel. It would also prevent the superior member from helping the inferior, inasmuch as no one would turn to someone for such help were he not bound to keep his secrets hidden. Hence Scotus concluded that the same law of nature, whereby one is bound to preserve the unity of the mystical Body of Christ, and so work for the common welfare of others as members of that body, similarly binds the priest to keep the secrets of confession.⁵⁴ Could the pope command that the content of someone's confession be revealed? No, said Scotus, for not even the pope can place himself above the law of nature: "*quod numquam Papa potest supra ius naturae.*"⁵⁵

THE PUBLIC FORUM OF THE ECCLESIASTICAL COURTS

As every human life has its interior and exterior dimensions, so we have seen that medieval Christians were called to the interior penitential forum where they confessed their sins to God in the person of the priest. Yet they were also subject to the external judicial forum of the ecclesiastical courts wherein divine justice was meted out for public crimes. When Alexander of Hales argued that sacramental confession must never be revealed under any circumstances, he furthermore observed that in each human being there exists a sort of double self (*duplex homo*): there is that part of ourselves which keeps its own counsel and remains internal; and that external part known to others. And it is because we live in these two spheres that there are correspondingly two fora. Within the interior forum, i.e., the forum of conscience (*forum interius quod est conscientiae*), a person deals with those things that are to be kept secret; while the external forum pertains to the experiential sphere (*exterius quod est experientiae*) wherein such things should be made manifest. What belongs to this inner forum of conscience must never be drawn into the external experiential forum, Alexander cautioned, which is what would happen were the penitent's confession revealed.⁵⁶

Thomas Aquinas employed the terms “penitential forum” and “forum of conscience” interchangeably to distinguish this private sphere from the public sphere of the ecclesiastical courts. When discussing the power of the keys in his *Sentences* commentary, Thomas noted that in the forum of conscience (*in foro conscientiae*) the case is between man and God; whereas in the forum of exterior judgment (*in foro autem exterioris iudicii*) the case is between human beings. Hence the binding and loosing which obligates a person to God alone pertains to the forum of penance (*ad forum poenitentiae*); whereas the binding and loosing that obligates one to other people pertains to the public forum of external judgment (*ad forum publicum exterioris iudicii*). So it is, said Thomas, that parish priests have jurisdiction over their subjects with respect to the forum of conscience, but not the judicial forum, since their subjects cannot be arraigned before them in contentious cases. These priests cannot excommunicate their subjects, therefore, even as they can absolve them in the penitential forum. And while it is true that the penitential forum is more worthy, greater solemnity is nevertheless required in the judicial forum, for there, satisfaction must be made not only to God but also to human beings.⁵⁷

When the canonists surveyed the parameters of the two fora, they were mindful of the limits of human knowledge and thus the need for manifest evidence within the judicial forum. Stephen Kuttner believes that they may have been influenced in this respect by Peter Abelard’s emphasis on interiority, such that God alone is capable of judging the guilt or innocence of a person’s intentions, which remain beyond the capacities of human judgment. For the earthly judge, unlike the divine, can only render a determination based upon exterior evidence. It is in this sense that the anonymous Bamberg commentator on Gratian’s *Decretum* (ad. pro. D. 50; cf. Friedberg 1:178) distinguished between the true state of someone before God (*apud Deum*) whereupon he stands liable to eternal punishment, and the determination of his state before the Church (*apud ecclesiam*) which can impose such penalties as deposition from office. A hidden mortal sin falls under God’s jurisdiction alone, whereas a manifest mortal sin may be judged both by God and the Church; hence the distinction between *peccatum mortale et occultum* and *peccatum mortale et manifestum*. Canon law, therefore, respected the difference between the heavenly forum and the earthly. Note, however, that when one applies the classic rule that “the Church does not pass judgment on secret matters” (*ecclesia de occultis non iudicat*), this means that

although interior sins and hidden crimes will not be judged in the Church's judicial forum, this deficiency will nevertheless be corrected in the penitential forum which does encompass such secret things. The Church, to which God has given the keys to bind and loose (Matt. 16:19 / 18:18), will represent God's justice in this world one way or the other.⁵⁸

Wolfgang Müller has furthermore noted that this refrain from judging what remains hidden or secret applied not only to those sins revealed to a priest and safeguarded by the confessional seal, but also more broadly to any allegations that could not meet the standards of legal proof in a court of law. Hence the canonist Simon of Bisignano (*Suuma* ad. C. 6, q. 2 c. 2; cf. Friedberg 1:561) had commented that when a bishop realizes that he cannot prove through witnesses a crime that he alone knows, he is thereby prohibited from handing down a sentence.⁵⁹ Consider, too, the canon *Erubescant*, which excludes from promotion to holy orders those who have failed to dismiss their concubines and so refuse to live chastely, but then cautions: "we are speaking of what is manifest, for God alone knows and judges what is secret."⁶⁰ The gloss reinforced this position with reference to the classic adage: "*Ex hoc patet ecclesia non iudicat de occultis*."⁶¹

Some crimes can prove especially resistant to manifest evidence. Even as the bare facts of the case might not be in doubt, interpreting them correctly so as to reach a just verdict may be difficult. In 1207, Pope Innocent III addressed a possible case of simony in which a cleric who turned over his goods to a church was then admitted into a prebendary. If this cleric had struck an agreement with the clergy that he would confer his goods upon them in exchange for a prebendary, he would be guilty of simony. He would not be guilty, however, if there were no such pact. Hence it is not the conferral of goods upon the church that is at issue, but rather the purpose of the conferral. Did this man turn over his property as a condition for receiving the prebendary, effectively offering a bribe; or did he sincerely and unconditionally turn over some goods while humbly asking that he be admitted to the prebendary? And had the clerics of this church demanded these goods; or had they consented to admit him in all sincerity? In short, did the parties involved knowingly conspire in an exchange of goods for a prebendary, thereby committing the crime of simony; or was this simply a goodwill offering gratefully received? The determination of Innocent III stipulated that the court can judge only what has come out into the

open: “*quia nobis datum est de manifestis tantummodo iudicare.*” Absent any hard evidence, the court is in no position to discern the intentions of the clerics relative to the prebendary; the guilt of these men will ultimately be determined by the Searcher of Hearts (Rom 8:27) who knows all that is held in secret.⁶²

The prohibition against judging secret matters actually spoke to the more fundamental principle that within each human being there exists a sacrosanct inner forum accessible to God alone, a private sphere governed by the law of conscience (*lex conscientiae*). If hidden intentions were off-limits in criminal proceedings, the emphasis would have to fall upon establishing manifest facts and effectively punishing those actions that one could prove. A distinction was therefore drawn between sins and crimes: the former were handled in the confessional and the latter in the courts.⁶³ We observe how the canon *Duae sunt leges* contrasted public and private law (*lex publica/lex privata*). Public law, it is said, has been confirmed by the writings of the holy fathers as it is handed down in the law of the canons; whereas private law is inscribed in the heart by the inspiration of the Holy Spirit. This canon is peppered with texts from the Apostle Paul (Rom 2:15; 1 Tim 1:9; 2 Cor 3:17; Gal 5:18) all to the effect that the Law of God is written upon the hearts of those who live by the Spirit. The Spirit can itself be equated with divine law, such that those who proceed by the Spirit of God are therefore guided by the Law of God. In fact, the one who is led by the Spirit may even, in this freedom that he enjoys, contradict his own bishop. “The [external] law is not laid down for the righteous person” (1 Tim 1:9) who lives by the Spirit of God; for indeed, “where the Spirit of the Lord is, there is liberty” (2 Cor 3:17).⁶⁴ To which the gloss added that while the public law (*lex publica*) has been established on account of transgressors, the private law (*lex privata*) may be understood in terms of charity, thus invoking the Augustinian maxim: “love and do as you will.”⁶⁵ This sentiment is in keeping with the “sense of the contrast between internal and the external [which] ran through the religious life and institutions of the eleventh and twelfth centuries and inspired a new awareness of the possibility of inner freedom and knowledge.” In fact, as Constable notes, the aforementioned Pauline refrain, “where the Spirit of the Lord is, there is liberty,” was often cited in monastic and spiritual tracts to the effect that human beings created in God’s image were spiritually free.⁶⁶

DUE PROCESS AND THE RIGHTS OF DEFENDANTS

The effort to shield a person's sacred inner life from wanton intrusion on the part of both secular and ecclesiastical authority belonged to a larger effort to secure the rights, and thus the dignity, of free persons in Christian society. Kenneth Pennington has observed that the medieval jurists conceived of right (*ius*) in much broader and richer terms than they did law (*lex*). Rather than a set of commands and prohibitions, which is the case with law (*lex*), jurists regarded *ius* as "the source of justice, equity, and rights."⁶⁷ It should furthermore be emphasized, as Richard Helmholz has done, that while the medieval jurists did develop theories of natural rights, or basic human rights, they grounded these rights in an objective moral order established by natural and divine law. Unlike modern conceptions of human rights that are based upon principles of human autonomy and worth, the medieval jurists looked to natural law and Christian doctrine to support a whole set of rights.⁶⁸ Brian Tierney has found subjective, or natural, right already asserted by the canonists of the twelfth century. Rufinus and Huguccio could speak of natural right as a kind of force (*vis*) instilled in every person by nature to do good and avoid evil. Hence the right of nature (*ius naturae*) was conceived not only as natural law, but as a faculty inherent to an individual providing a sphere of liberty wherein the person is free to act. For the medieval canonists, natural right (*ius naturale*) was understood as a subjective force.⁶⁹ In fact, they frequently employed right (*ius*) and faculty (*facultas*) interchangeably in order to indicate an individual right. The free exercise of the right to marry, for instance, could be expressed in terms of a power or ability: "*facultas contrahendi matrimonium*." A person had both the right to contract marriage and the right not to be forced into it.⁷⁰ Natural rights apply, therefore, across the spectrum of human life: from the courts to the studia and beyond into married and religious life. We have seen this already and later chapters will provide further context within a complementary framework of Christian liberty.

As regards the courtroom, the twelfth-century canonists had developed a rigorous system of due process (*ordo iudiciarius/ordo iuris*) which was subsequently developed throughout the thirteenth century following the Fourth Lateran Council. Notable is the canon *Deus omnipotens* which warns against any rush to judgment in criminal cases: sentence cannot be passed prior to a rigorous investigation of the facts. By way of an example (later

cited by Lateran IV), we read that God himself had established the proper method of inquiry when investigating the crimes of Sodom (Gen 18:20–21). To paraphrase this canon: The clamor of Sodom's evil had reached all the way to heaven; and yet even as he knew all these things already, God nevertheless chose neither to believe, nor to judge, before diligently investigating the case with the assistance of trustworthy witnesses to whom he listened. And so it is clear that sinful men to whom the hidden judgments of God remain unknown should take care not to judge or condemn anyone before being presented with genuine and just proof.

Upon which Gratian commented that when a crime is known to others but not to the judge, he must not pass sentence before first conducting an examination. This is because, as we have seen, a judge cannot render a verdict on a crime that is otherwise hidden from him.⁷¹ Insisting furthermore on a set of requisite procedures, the canonist Stephen of Tournai insisted that a defendant be formally summoned to trial; be permitted legitimate delays; have the charge presented in writing; and that there must also be witnesses. The verdict itself could only be given following either a confession or a conviction; and it had to be presented in writing. Because jurists reckoned that fundamental components of the judicial process were grounded in natural law, they were in a position to "clearly articulate a subjective, almost inalienable, right of a defendant to have his day in court."⁷²

The canonist Paucapalea (c. 1150) evoked the scene depicted in the Book of Genesis (3:9–12) as proof that the *ordo iudicarius* was already in place in the Garden of Eden. God, although omniscient, had to summon the defendants, Adam and Eve, present the charges against them, and listen to their pleas. If Almighty God had to respect the rights of defendants and grant them the presumption of innocence, so too must human courts. This meant, moreover, that the rights of defendants were ultimately safeguarded under natural law and thus could not be infringed.⁷³ In this same vein, the gloss on Pope Boniface VIII's 1303 decretal *Rem non novam* noted that citation is a matter of natural law, which means that the pope cannot proceed against anyone unless a citation is first issued. Even in notorious cases where due process need not be followed in all its components, it must nevertheless be observed when it comes to citation and pronouncing a verdict. God himself had first wished to prove and to see before he rendered judgment when summoning Cain upon the murder of his brother Abel (Gen 4:10): "What have you done? The voice of your brother's blood cries out to me from the

earth." God, therefore, did not omit the citation and the sentence. The gloss pronounced, moreover, that everyone who appears before the court is presumed innocent until proven guilty: "*Item quilibet presumitur innocens nisi probetur nocens.*"⁷⁴

In keeping with this profound respect for protocol, Thomas Aquinas maintained that a judge's decision should proceed only according to the evidence that he had acquired in his official duties as a public person, not from whatever knowledge he may have acquired privately. His judgment must, therefore, be based on what has been proven in the course of the trial itself.⁷⁵ With regard to the rights of a defendant, Thomas noted that while it is surely a mortal sin to lie in order to cover one's guilt, the accused is only obligated to tell the truth that the judge has demanded of him according to the form of the law. This much the defendant is under obligation to reveal, such that he commits a mortal sin if he refuses to answer or tells a lie. Thomas was careful, however, to stipulate what falls under the order of justice. Withholding the truth and uttering a falsehood are not the same thing; a person is not bound to reveal all truth, but only what the judge may ask of him according to the principles of due process (*secundum ordinem iuris*). The accused may withhold truths that he is under no obligation to divulge. Every defendant has the right to remain silent, therefore, and secure himself against self-incrimination.⁷⁶ That a trial judge may not interrogate the defendant regarding secret matters proved an enduring principle succinctly affirmed by the esteemed fourteenth-century jurist Johannes Andreae: "*Nulla ergo equitas potest movere iudicem ut reum interroget de occultis.*"⁷⁷

At the turn of the fifteenth century Jean Gerson similarly emphasized the principle that prelates may not summon Christians to appear before their judicial forum unless for some manifestly public offense. Judges are in error, according to Gerson, when they presume to question suspects about secret matters as though they were entitled to know these things. For he pointed out that judges only have the authority to bring charges regarding public acts. Criminal proceedings require that the offense be widely known, and the suspect be a person of ill repute (*fama publica et infamis vita*). God, says Gerson, would have public legislators pass sentences on public matters only, leaving hidden matters to his divine judgment. For the same deed that is hidden to the Church will be manifest to God; the Church judges in one way and God in another.⁷⁸

PROCEDURAL REFORM

When the Fourth Lateran Council sought to reform criminal procedure, and in so doing bolster the rights of defendants, it was building upon the solid foundation laid by the twelfth-century canonists. Ancient forms of judicial determination which frequently proved unreliable and ineffective would henceforth be sidelined in favor of procedures that were at once rigorous and fair-minded. Trial by ordeal was formally abolished, as the council determined: "No cleric may decree or pronounce a sentence involving the shedding of blood, or carry out a punishment involving the same, or be present when such punishment is carried out. . . . Nor may anyone confer a rite of blessing or consecration on a purgation by ordeal of boiling or cold water or of the red-hot iron, saving nevertheless the previously promulgated prohibitions regarding single combats and duels."⁷⁹

We should not expect that ordeal would have disappeared immediately after 1215. It was instead phased out over time, faster in some regions than in others. Prior to Lateran IV, though, the twelfth-century canonists had been wary of ordeal even as they struggled at times to reconcile conflicting authoritative sources. Some canonists were willing at least to countenance ordeal where preferred means of proof (e.g., written documents and human witnesses) were lacking, although they still tended to regard these ancient customary proofs as feeble and even superstitious.

Of the canonists it was Huguccio who took the strongest and most uncompromising line against ordeal, while among the theologians Peter the Chanter vehemently rejected this practice, reckoning that both the Old and New Testaments had forbidden such means of putting God to the test (Deut. 6:16 and Matt 4:7). What is more, ordeals often produced false results, which were only discovered too late to save the condemned. No less than Pope Alexander III had lamented a case in which he compelled the wrong man to undergo the ordeal of hot iron for allegedly stealing a precious vase. Of decisive import for the Chanter, and later for the Lateran decree, was the prohibition on clerical involvement in the shedding of blood. No priest could lawfully participate in an ordeal through the blessing of its instruments, since the ordeal inevitably results in bloodshed. And while it cannot be decisively proven, it seems likely that Innocent III had been influenced by the teaching of both the Chanter and Huguccio when coming to a final decision at the council.⁸⁰

It was not only ordeal that would be phased out in the wake of Lateran IV. The council shifted away from the ancient Roman procedure of *accusatio*, whereby an accuser leveled charges against someone before a judge. The fact is that accusation was a cumbersome process in which the accuser not only bore all the costs, but if he failed to make his case could be liable for damages owed the defendant. Perhaps the central difficulty, however, lay in the fact that the standard of “full proof” needed for a conviction was almost impossibly strict, since it required either the testimony of two unimpeachable witnesses or the defendant’s confession. All of which made it extremely unlikely that one could prove crimes such as simony or fornication which were invariably conducted out of public view.⁸¹

The triumph of Lateran IV was its recourse to the more reasonable and effective judicial procedure of inquisition, which was initiated upon common knowledge (*fama*) rather than direct accusation. The constitution, *De inquisitionibus*, drew upon both the Old and New Testaments for examples of the proper mode of inquiry. A parable from the Gospel of Luke tells of the unjust steward summoned by his Lord, “What is this I hear about you? Prepare a full an account of your stewardship, because you can no longer be my steward” (Lk 16:2). While the example from Genesis, already utilized in the aforementioned canon *Deus omnipotens*, presents God inquiring into the misdeeds of Sodom: “The outcry (*clamor*) against Sodom and Gomorrah is so great, and their sin so grave, that I must go down and see whether or not their actions fully correspond to the cry against them that comes to me. I mean to find out” (Gen 18:20–21). In each case, the crimes in question had reached the ears of the superior through outcry or common knowledge (*per clamorem et famam*). These are not slanderous charges leveled by the wicked, but proceed from honest people, and not only once but repeatedly (*nec semel tantum, sed saepe*). The superior, in keeping with the responsibilities of his office, then assumes his role as judge. He is not the accuser; rather it is the *fama* that provides the accusation. The defendant, for his part, must be summoned to court so that he may be present to hear the articles of inquiry and then be given an opportunity to offer a defense. He is entitled, moreover, to know the names of the witnesses and what they said in their depositions.⁸²

To be clear, the *fama* that provided the basis for a formal inquiry was not mere hearsay, which had been ruled inadmissible by the jurists. Rather, it entailed both public knowledge that a crime had been committed and that

the perpetrator himself was also known to the public. Witnesses summoned to testify would, moreover, have to demonstrate how they knew what they were reporting: "*iusta causa et legitima scientia*" were required.⁸³ When Raymond of Peñafort reiterated the Lateran IV canon in his *Summa de poenitentia*, he reminded his readers that the "*clamor et fama*" which initiates an inquiry must arise from honest people and be persistent. Vicious gossip, in other words, will not be indulged by the courts. Only when such criteria are met should the case be brought before a senior ecclesiastical official who can then diligently inquire into the truth.⁸⁴ Having opened the proceedings, the inquisitor should visit the place where the defendant lives to conduct his inquiry, so that he might more effectively inquire into the life and reputation of the accused. And if compurgators are called, they should be honest men who live in that vicinity.⁸⁵ With regard to the form of the oath spoken by the defendant, Raymond advised it be to this effect: "I swear that I have not done that of which I am defamed (*infamatus*), whether by myself, or by commanding someone subject to me, nor having given counsel, nor having authorized it. Nor did I approve that this be done in my name."⁸⁶

Because it was *fama* that generated the inquiry, the *fama* itself would have to be proven to the satisfaction of the potential inquisitor; it could not merely be alleged. We see this in 1307 when two canons of the cathedral of Albi brought a case to Pope Clement V against their bishop, Bernard de Castanet. They argued that Bernard was not only guilty of having committed various crimes, but that he had been publicly defamed (*publice diffamatus*), which is to say that these crimes were widely known within his diocese. The cardinal assigned to the case, Bérengar Frédol, began his inquiry, not by investigating the substance of the charges, i.e., whether or not Bernard had actually committed the alleged crimes, but whether there did indeed exist the ill-repute (*infamia*) that the canons alleged. For only having established that basic fact could a proper inquiry begin. In the event, Clement ended up ruling in favor of the bishop the following year and issued letters decreeing that by his plentitude of power the infamy previously attached to Bernard had been removed and his good reputation (*bona fama*) now restored.⁸⁷

It should be said that, while the presumption of innocence was indeed a firmly entrenched principle of medieval canon law, there were some cases in which the guilt of the accused was understood to be "notorious." According to Raymond of Peñafort, a crime can be considered notorious when it is very widely known, if not to everyone in some locale, then at least to most

people there. In such a case, said Raymond, standard due process (*ordo iuris*) would not have to be observed in all its details. Here he offers the example of a priest whom the whole village knows keeps a concubine in his home or has committed a murder in full public view.⁸⁸ For a crime to be reckoned notorious, therefore, the case would have to be absolutely certain such that no evidence could be produced to the contrary. It was this sort of manifest guilt that allowed the judge to sentence the defendant directly, since the crime and the defendant were already so well-known to the community. In such cases the judge might employ summary procedure to speed the trial along, omitting some of the time-consuming legal wrangling associated with conventional forms of procedure (*de plano et absque iudiciorum strepitu*). Yet because summary procedure could appear to diminish the rights of the accused in the quest for swift justice, jurists most often advised that it be employed only with great caution.⁸⁹ Hostiensis maintained that even when a notorious crime would seem to warrant summary procedure, the judge should nevertheless proceed with a hearing unless doing so posed a risk of scandal or danger to the public.⁹⁰ At no point, though, could the fundamental rights of the defendant be compromised. To that end Pope Clement V, in his bull *Saepe contingit*, clearly stipulated that any such procedural abbreviation must not be to the exclusion of necessary proof and a legitimate defense.⁹¹

Finally, not to be overlooked among Lateran IV's legal reforms is the constitution *De scribendis actis*, which stipulates that courts must keep a written record of trial proceedings. Concern to uphold the right of the defendant to a fair trial is clearly articulated as this canon provides the means for judicial review in cases of overzealous or malicious prosecution:

An innocent litigant can never prove the truth of his denial of a false assertion made by an unjust judge, since a denial by the nature of things does not constitute a direct proof. We therefore decree, lest falsehood prejudice truth or wickedness prevail over justice, that in both ordinary and extraordinary trials the judge shall always employ either a public official, if he can find one, or two suitable men to write down faithfully all the judicial acts—that is to say the citations, adjournments, objections and exceptions, petitions and replies, interrogations, confessions, depositions of witnesses, productions of documents, interlocutions, appeals, renunciations, final decisions and the other things that ought to be

written down in the correct order—stating the places, times and persons. Everything thus written down shall be given to the parties in question, but the originals shall remain with the scribes, so that if a dispute arises over how the judge conducted the case, the truth can be established from the originals. With this measure being applied, such deference will be paid to honest and prudent judges that justice for the innocent will not be harmed by imprudent and wicked judges.⁹²

Revealed here almost in passing, we see the myriad components of a proper trial, most notably the deposition of witnesses and production of documentary evidence, in addition to the defendant's ability to appeal the verdict. All of which reaffirms the aforementioned recognition of certain fundamental rights, protected under the rules of due process (*ordo iudicarius/ordo iuris*), which had always to be respected. In fact, it was the violation of those same rights that could form the basis of an appeal. We should not take for granted this medieval patrimony to which we owe, as James Brundage notes, "the presumption of innocence, the privilege against self-incrimination, and the belief that in a just society everyone, rulers and their agents as well as their subjects, must obey the law or be held responsible should they fail to do so."⁹³

A TEST OF CONSCIENCE: TRUTH WITHOUT EVIDENCE

The fundamental distinction drawn between the internal and the external, designed as it was to protect the rights of defendants and safeguard the dignity of the heart's private recesses, could also result in adverse verdicts handed down on the basis of public rather than private knowledge. One of the more illustrious cases involves a woman in the diocese of Bourges who had left her husband, claiming the marriage was void due to a prohibited degree of consanguinity. At issue was whether or not she must return to him. This woman knows for certain that there exists this impediment to the marriage that prohibits sexual intercourse, although she is unable to prove it. Should she refrain from intercourse with her husband even under pain of excommunication? It would appear that she is perplexed: on the one hand, she ought to render the conjugal debt in keeping with the court's judgment; while on the other, she must not do so, if she is to follow her own conscience (*propter conscientiam*). Addressing this case in his decretal *Literas tuas*, Pope Innocent III determined that if this woman had

knowledge of a grade of consanguinity prohibited by divine law, she could not have conjugal relations with her husband without committing a mortal sin. This is because everything that is not of faith is sin (Rom 14:23); and whatever runs against conscience leads to hell (*et quicquid fit contra conscientiam aedificat ad gehennam*). Better to humbly bear excommunication, therefore, than to obey a judgment that opposes God.⁹⁴

In a separate letter Innocent addressed a similar case in which, once again, the spouse knows for certain that there exists an impediment to his marriage, such that he cannot have sexual intercourse with his wife without committing a mortal sin. Yet he has no way of proving this to an ecclesiastical court (*apud ecclesiam probare non possit*). If he really is certain about this, Innocent thought it better that he humbly accept the sentence of excommunication than commit a mortal sin through sexual intercourse. On the other hand, if he has only probable cause to believe there is an impediment, then he can still render the conjugal debt to his wife, although he cannot demand it himself. For when conscience will not rest, owing to some credible doubt, even apart from manifest evidence, it is better to refrain from asking for sex lest one commit an offense against the judgment of conscience (*contra iudicium conscientiae*). Finally, though, if this fellow's suspicions of an impediment are rather tenuous, his scrupulous conscience getting the best of him, not only may he render the debt but can also demand it.⁹⁵ In the end, though, the inviolability of conscience was once more reaffirmed. The gloss on this canon stated the case very clearly: "It is preferable to endure excommunication rather than commit a mortal sin. No one should ever proceed against conscience (*contra conscientiam*). It is therefore better to follow one's conscience than the determination of the Church when one is certain of one's position. In fact, one should be willing to suffer all manner of evil rather than commit a mortal sin against one's conscience."⁹⁶

When the canonist Nicholas de Tudeschi (aka Panormitanus) commented on this same canon in the fifteenth century he took matters further, determining that no superior should be obeyed, not even the pope, were he to proceed against the law of conscience: "*Contra legem conscientiae non est obediendum superiori, etiam papae.*"⁹⁷

Some five decades after Innocent wrote these letters, Thomas Aquinas addressed a scenario presented by Peter Lombard concerning a man who had left his wife behind in his home country and subsequently married another

woman. Now repentant, this man wished to return to his first wife and end the marriage with the second. Yet the Church, knowing only of this second marriage, and unable to verify the first, threatened him with excommunication should he abandon the second wife. Lombard had determined that because this man sincerely desired to return to the first wife but could not inasmuch as he was compelled by the Church to remain with the second, he might therefore be excused owing to his obedience. For Lombard, it seems that the man's heart was in the right place; it was the threat of excommunication that prevented him from returning to his first wife, and that was enough. Thomas disagreed, and following the thrust of Innocent III's decretals, argued instead that it is, "better to die excommunicated than to be united with a woman who is not his wife, since this would run contrary to the truth of life, which should not be abandoned to avoid generating scandal."⁹⁸

These marriage cases involve private knowledge of exonerating facts that the defendant is nevertheless unable to prove. Within the confines of a courtroom an ecclesiastical judge renders a verdict according to what can be determined on the basis of external evidence. For while it is true that the Church cannot convict on the basis of otherwise secret material, neither can it acquit on the basis of claims that cannot be proven through documentation or witness testimony. Assuming the principle that inward consent is essential for a valid marriage, Thomas considered the case of a man who is proven to have given verbal consent to marry a woman even as he lacked inward consent; this same man then proceeds to contract marriage with a second woman also by verbal consent. If inward consent, i.e., personal intention makes the marriage, it seems that this man was not genuinely married the first time. Specifically drawing a distinction between the *forum conscientiae* and *forum ecclesiae*, Thomas recognized that there are facts one might know to be true but cannot prove. This man knows for certain that the required consent was lacking in the first case, but the ecclesiastical court can only render its judgment based upon what appears outwardly (*iudicat quae foris apparent*). Hence when the court orders this man to return to the first woman, it is not mistaken in the application of justice, even as it is mistaken in the facts. What, then, should this man do? Knowing in his heart what he cannot prove, Thomas advised that he bear the penalty of excommunication rather than return to his first wife.⁹⁹

Although Thomas may not have been directly addressing conscience in these questions, his determinations were nevertheless in keeping with the

sentiments expressed by Innocent III and then confirmed in the gloss. It is precisely because one must not proceed against the dictates of conscience that one is willing to endure ecclesiastical censure. The court is handing down its decision based upon the only evidence at its disposal. It cannot be expected to do anything else. In that sense, such a decision does not amount to a miscarriage of justice, even as the outcome may be very difficult to bear. This is what makes one's patient acceptance of excommunication so heroic.

Litigants are not the only ones who may run up against this dilemma of the truth not coinciding with available evidence. Raymond of Peñafort presented a case wherein a judge knows that the accused is not guilty of the charges leveled against him, even as he sees witnesses prepared to testify against this defendant. The court officials may find themselves in a similar situation, watching a miscarriage of justice take place: Must they obey the command of the judge who orders the hanging or decapitation of an innocent man? This question, Raymond admits, is actually quite perilous. It seems that neither the judge nor any other official should proceed against his conscience (*contra conscientiam*). In a nearly exact quotation of Innocent III's *Literas tuas*, Raymond stated: "The Apostle says that 'everything which is not of faith is a sin,' which is to say that everything someone does that is contrary to conscience leads to hell." Raymond proceeded to note that there are some who say that everyone is bound by precept to rescue the man unjustly condemned to death, even by force if necessary; while others say that this responsibility falls only upon judges and prelates. Raymond, as one might expect, canvassed many texts. Some will cite Ambrose who, following Roman law, maintains that the judge should not render a judgment according to his own private knowledge, but instead according to the laws, allegations, and evidence laid before him. While Huguccio and Alanus maintain that the judge should delegate the case if his conscience cannot be reconciled to the allegations and evidence. Let him turn this case over to another judge who is unfamiliar with the case in the hope that he will issue an unbiased verdict. Still others believe that the judge should remit the case to a superior, telling this superior whatever he knows, in the hope that he will either render a judgment himself or command the lower judge to absolve the accused. As for the court officials and other subordinates, Raymond believed that they should not obey the command if they are certain that they know the truth. If, on the other hand, they harbor

some doubt, they will be excused for proceeding with the execution, since they have acted in accord with the fundamental good of obedience.¹⁰⁰

HERESY IN THE EXTERNAL FORUM

Discussing the process of censure carried out within the confines of the universities, we noted that when matters could not be settled therein by the masters and chancellor, the case would be delated to the bishop who had the authority to open up a full-fledged inquiry into suspected heresy. With the stakes raised from error to heresy, the person under suspicion faced the real possibility that, should he obstinately persist in asserting some set of condemned articles, he would be declared heretical. It thus became a matter of life and death, since a convicted heretic was to be handed over to the secular authorities for punishment.¹⁰¹

Across a broad swath of works, William of Ockham applied his understanding of conscience to the determination of heresy and demands for its abjuration. Should someone issue a formal revocation of his error while still convinced that he is in the right? This is a test for conscience. Ockham first made it clear that no one is obliged to lie, just as no one is obliged to commit a sin. And so, he determined that if an errant person, even while remaining in error, were absolutely and unconditionally to revoke that error, he would be openly lying. That is because he will have revoked an error contrary to the dictates of his own conscience (*contra mentem*). It is for this reason, said Ockham, that such a person must never be coerced into issuing a recantation. Yet following this line, it would seem that a heretic—even an apostate who rejects the Christian faith—should not revoke his error, since so long as his heretical depravity abides, he would openly lie were he to recant. Here, though, Ockham reminds us that it is only for so long as (*quamdiu*) the person remains in error that he must not recant, lest he tell a lie against his own conscience (*contra conscientiam mentiretur*). The fact remains that the heretic is still absolutely obliged to revoke his error and assent to the truth. The obligation to abjure heresy does not disappear. Nevertheless, he cannot meet that obligation so long as he fails to recognize his own error, lest he perjure himself by swearing to something that he does not believe to be true.¹⁰² Because perjury was understood to constitute a mortal sin, swearing falsely in this case would most certainly endanger one's soul. As we will see, this principle proved to be of existential consequence for Jan

Hus when he was pressed to abjure the errors imputed to him at the Council of Constance.

If the accused should not recant so long as he believes that he is right, it might seem that he could thereby avoid the charge of pertinacity. In fact, however, Ockham maintained that someone can be openly convicted of pertinacity, if he has been legitimately corrected but has failed to recant his heresy. What, then, constitutes legitimate correction? For Ockham, it boils down to transparency. It must be clearly demonstrated to the erring person that his assertion does indeed conflict with the Catholic faith. And it falls to experts, i.e., theologians, to determine whether the errant person has been clearly and sufficiently corrected. Proper correction, says Ockham, depends upon the judgment of those who understand these things, such that the defendant cannot deny that he has been legitimately corrected. If, for instance, this person was asserting that Christ's legs had been broken on the cross, proof to the contrary would be elicited from the text of Scripture (Jn 19:32–33) thereby proving to him that his assertion conflicts with the truth of the Gospel. Or were he to assert that Christ comprises two persons, it could be proven from the Council of Ephesus that the Nestorian heresy had there been condemned. There would be no way at this point for the defendant to deny that it had been clearly demonstrated to him that his own statement is contrary to the Catholic truth.¹⁰³

Of principal importance to Ockham was that officials explicate true doctrine so that it might then be transparent to the defendant. This is why he so consistently repeats the adverb “clearly” (*aperte*); there must be clarification rather than the bare demand of recantation. A. S. McGrade has thus observed that Ockham treats the process of correction, “in primarily cognitive terms rather than as an exercise of institutional power.”¹⁰⁴ If clear exposition is the hallmark of legitimate correction, however, it might seem that the defendant could draw out the review process interminably since retraction depends upon demonstrating his lapse into error. What if the defendant were to claim that his correctors had not sufficiently proven to his satisfaction that he had erred? Here Ockham drew an important line: it is not enough for the defendant alone to deny that the matter has been sufficiently demonstrated. He must stand by the judgment of the aforementioned experts. If they are satisfied that the error has been sufficiently demonstrated, he is then bound to revoke it. And yet, what if the experts and masters of theology, and even the pope himself, erred in their determination? Then

they will have, *de facto* at least, condemned an innocent man. At that point, the accused can by law appeal his case. If the appeal is not granted, then nothing remains but to commit himself to divine grace and put aside his fear of being severed from the community by this iniquitous judgment. His conscience remains pure, though, since he will hold to what he believes is right so as not to be blotted out from the Book of Life.¹⁰⁵

The demand for transparency was also grounded in Ockham's conviction that even those at the highest level of the Church (e.g., popes John XXII and Benedict XII) might get things very wrong, and thus cannot demand unquestioning adherence to their decisions. Convinced as he was that prelates can themselves err due to their own ignorance or pertinacity, Ockham maintained that subjects are not bound to revoke their erroneous opinions merely at their command. Again, it must be shown to subjects that these opinions really are contrary to orthodox faith. Some reason must be given before an opinion is revoked. Prelates have an obligation to satisfy the request of their subjects for a sufficient explanation of the matter at hand.¹⁰⁶ As we shall discuss in Chapter Seven, Ockham reckoned that the pope himself is subject to the same principles of legitimate correction. In fact, as Ockham saw it, the pope is probably the last person to be exempted, observing that he is often unlearned and simple, and therefore liable to err against the faith. Because our faith does rest upon the wisdom of the pope, no one is under any obligation to believe him in matters of faith unless he can offer a reason based upon the rule of faith.¹⁰⁷ As it was, Ockham could scarcely contain his disdain for those who so often sit in judgment. Inquisitors and prelates frequently proceed unfairly and unjustly, said Ockham, because they are ignorant men blinded by greed in their ham-fisted attempts to condemn those accused of heresy.¹⁰⁸

Jean Gerson treated some of the same questions surrounding error and heresy that Ockham had tackled almost a century earlier, specifically as they related to conscience. Gerson was clear that someone who errs in a particular matter of faith, and does so explicitly, should seek out the correct faith with genuine diligence, display obedience in his willingness to be instructed, and henceforth believe interiorly what he professes exteriorly. Anything less, said Gerson, fails to demonstrate that one is really prepared to be corrected. The errant scholar must therefore be willing to accept correction from the rule of Scripture—whether the doctrine be formally contained therein or evidently deduced—and in that way set out on the path to

truth. Note that the conditional revocation typically issued at the start of a lecture will not save the scholar were he then to proceed as though he had made no such pledge. Not only can he not be justified, according to Gerson, but he is all the more corrupted for remaining contrary to himself. The man who issues protestations and recantations, while taking no concrete steps to revoke his own error and remove the scandal he caused, has clearly failed to take his intellect captive under God (*captivat intellectum sub Deo*) in obedience to the faith. Rather, his protestation will stand alongside his infidelity, while his scandal rests with his presumptuousness and arrogance. Nothing less than an unconditional confession of faith and abjuration of error will suffice. Gerson likened this situation to the penitential forum where it is not enough to render a conditional confession even as one knows (or ought to know) that one has sinned. Although Gerson does concede that there are situations when the penitent may lack certitude, or is scrupulous, timid, and vacillating, not quite sure if he has committed the act or did so in an evil manner. In that case a conditional confession would suffice since it preserves the truth of doctrine.¹⁰⁹

Yet at this point one might object that the person who does not know that he is a heretic (*de nescienter heretico*) would therefore be lying against his own conscience (*mentiretur contra conscientiam*) were he to revoke his error. That is not necessarily the case according to Gerson, since this person would only be obliged to put aside his conscience (*conscientiam deponere*) if he were already reckoned pertinacious. That is to say, someone who has been legitimately corrected and yet still clings to his error should then set aside his (erroneous) conscience when confronted with the truth. This does not apply, however, if the erring person has not yet been reckoned heretical. At this preliminary stage, he would not be obliged to put aside his conscience; he need only do so after he has been legitimately corrected.¹¹⁰ Hence even as Gerson respected the principle that one should not proceed against conscience, he also believed that upon correction it is time to yield. The way this person can avoid violating his conscience at this point is, according to Gerson, precisely to set it aside.

To be clear, though, Gerson maintained that no one is ever obliged to lie: "*Constat itaque quod nullus mentiri tenetur.*" And so, he recognized that for an unknowingly errant person (*nescienter errans*) to say that he has erred does amount to a lie, since he thereby proceeds against his own conscience. Hence the unconditional revocation of a particular error would not be

necessary in the case of someone who had unknowingly erred in a matter of faith. What saves this person is that having been legitimately corrected, he then readily offers an unconditional revocation of his previous error, e.g., “I spoke rashly”; “This was said without due consideration”; “I do not endorse this position”; or “This does not seem right to me.” There is quite a difference, as Gerson pointed out, between those who knowingly or unknowingly err, and thus between those who are knowingly or unknowingly heretics. Here Gerson appealed to the principles enunciated in the canon *Dixit Apostolus*: those who have been seduced into heresy but are not pertinacious and are prepared to be corrected, should not be reckoned heretics.¹¹¹

Earlier, when discussing the separate fora of conscience and the courts, we saw the ways one might fall through the cracks that run between them. Gerson was well aware that no system of profession and revocation can always capture the truth of the situation. In this vein he observed that a general declaration and conditional revocation will sometimes suffice to excuse a person who lodges his protest in the exterior forum (*apud forum exterior*), even as he is not excused by God in the interior forum (*in interiori foro*); and vice versa. For God judges in one way and man in another. God looks into the heart and knows whether what occurs within genuinely conforms to the outward declaration or is merely feigned. Human judgment, however, looks only upon what appears on the outside, that which can be certified by signs, witnesses, words, and deeds. Yet there may be occasions when someone truly does believe inwardly and explicitly (*vere credens interius et explicit*), although he cannot demonstrate this against the assembled witnesses. While contrarily, someone may actually be a heretic in his heart even as he is absolved by human testimony.¹¹²

Irrespective of what may be cherished deep within the human heart, however, when he is brought to trial a person who persists in error—after having been legitimately admonished or corrected fraternally, doctrinally, or judicially by means of Holy Scripture or evident reason—must then be reckoned pertinacious in his error. He not only espouses heresy, therefore, but is himself a heretic.¹¹³ Gerson adhered to long-established principles: heretical pertinacity consists of depravity of the will manifested in pride. The heretic is rashly tenacious, persisting in an error that he should set aside, and unwilling to seek the truth. The fact that heretics protest that they are Catholics does not excuse them from their heresy. For even when they ask

for some declaration of the truth from experts, doctors, and judges, they will just repudiate the answer they receive.¹¹⁴ Indeed, said Gerson, “daily experience teaches us that fools learn nothing from arguments. Such people reject the very principles by which alone they can, and should, be led back along the way of truth.”¹¹⁵ That Gerson had limited patience with those he had come to view as incorrigible heretics was vividly displayed in his attitude toward the Czech reformers who had to varying degrees adopted the ecclesiological principles of the Oxford master John Wyclif. Consequently, we see that in May 1414, six months prior to the opening of the Council of Constance, Gerson had called upon the Archbishop of Prague Kónrad of Vechta to rid Bohemia of its Wycliffites. If disputation did not settle things, Gerson advised, dispatch these heretics to burn at the stake.¹¹⁶

JAN HUS AT CONSTANCE

The intersection of personal conscience and ecclesiastical law was never so dramatically displayed than in the case of the Czech master Jan Hus, who was convicted of heresy and burned at Constance on 6 July 1415. Hus stood under judgment for undermining the structure and consequent authority of the Catholic Church; the same Church that had been in schism throughout his own lifetime and that of his opponents. Hus had laid out his positions in his *Tractatus de ecclesia*,¹¹⁷ published in 1413. This work was inspired by John Wyclif’s earlier writings but was often subtly argued and thus easily misconstrued. Most notable, though, was the line Hus had drawn between the presently constituted hierarchical Church and the universal Church of the predestined whose faith is known to God alone. The consequent distinction between true and false prelates seemed to strike at the heart of ecclesiastical order and discipline at a time when Christendom was most desperately in need of stability. A list of thirty errors largely drawn from *De ecclesia* was compiled in preparation for Hus’s trial at Constance. Included among these errors, it should be noted, was an assertion that the condemnation of the forty-five errors attributed to John Wyclif had been irrational and unjust.¹¹⁸ Hus, whether fairly or not, was inexorably linked to the now-despised Englishman. Although the proceedings against Hus reached their tragic crescendo at Constance in 1415, the trial before the council fathers actually marked the conclusion of a legal process that had begun already in 1410 and resulted in his formal excommunication by 1412.¹¹⁹

Hus's letters from this tumultuous period reveal a good deal about his understanding of what was being demanded of him and why he could not comply. A consistent theme, integral to his unswerving allegiance to conscience, is that he must at all costs avoid the mortal sin of perjury, i.e., swearing to something that one does not believe to be true—hence a false oath. While in exile in the autumn of 1412, Hus wrote to fellow Prague masters to rally their resolve. Under pressure to abjure their (alleged) heresy, Hus warned them that they would perjure themselves were they to abjure some article under duress all the while retaining the truth in their hearts.¹²⁰ Along these same lines, Hus wrote from the Franciscan prison at Constance that the council insisted that he issue a revocation and undergo penance, thereby abjuring and acknowledging as his own errors which the council had falsely ascribed to him. In so doing, however, he would render himself a perjurer and would moreover scandalize, i.e., lead into sin, the many people of God to whom he has preached.¹²¹ Again from the same prison, Hus wrote: "To abjure means to confess (*abiurare est confiteri*) that I have held errors or an error; and to abandon them and to hold the opposite. God knows that I have never preached those errors which they have concocted, leaving out many truths and adding falsehoods. For if I knew that my articles were contrary to the truth I would most gladly amend and revoke them and teach the opposite."

In the event, Hus was confident that he has taught nothing contrary to the Law of Christ and the sayings of the holy doctors.¹²² While in another prison letter Hus would state: "I have neither revoked nor abjured a single article."¹²³ Hus was adamant that he could not recant for fear of offending God and falling into perjury (*timens deum offendere et timens incidere periurium*). He would not do so if that meant offending the truth and opposing the opinions of the saints.¹²⁴ Letter after letter echoes the same fundamental principle: "I am not willing to declare that every article drawn from my books is erroneous, lest I condemn the opinions of the holy doctors, particularly of the blessed Augustine. Secondly, concerning the articles ascribed to me by false witnesses, I am not willing to confess that I have asserted, preached, and held them. Thirdly, I am not willing to recant, lest I commit perjury (*nolo abiurare, ne periurem*)."¹²⁵

Many people, according to Hus, had been sent to persuade him that he should lawfully recant and subject his will to the Church as represented by the council. Yet, he asks, how can he preserve his conscience (*salvare*

consciencientiam) if by recanting he thereby confesses a heresy that he never actually held? Some say that even assuming that he is innocent, by submitting himself to the Church and confessing himself guilty in all humility, he would thereby accrue merit. Various saints' lives, he was reminded, contain such incidents of accepting guilt for crimes one never committed. A certain Englishman told him that were he in Hus's shoes he would willingly abjure and do so in good conscience, noting that in England many suspected Wycliffites had abjured at the command of the archbishop.¹²⁶ Hus's erstwhile colleague Stephen Pálec had also tried to persuade him that he should not care about the shame of recanting, and that good might even come of it. Yet when Hus put the question to Pálec as to what he would do were he sure that the errors ascribed to him were false, Pálec admitted the difficulty of the situation and had started to weep.¹²⁷ We also learn that a certain doctor had instructed Hus that it would be lawful to admit to whatever the council wished, although he knew it to be untrue. To this Hus replied, "Even if the whole world said that to me, I, having reason which I am now using, could not without harm to conscience say that (*non possem sine repugnancia conscientiae*)."¹²⁸

We mentioned earlier that the Constance trial was only the final stop on a journey that had begun some five years earlier. In a letter of 18 October 1412, Hus claimed to have been gravely wronged by his recent excommunication. Due process, he said, had not been followed as the judge refused to meet Hus's defense team—a breach of order that would not even be permitted against a Jew, pagan, or heretic. Nor, said Hus, did the court take into consideration the good reasons for his absence when they judged him contumacious. It was fear for his own safety, he insisted, rather than contempt for the court, which kept him away. Finally, with seemingly nowhere left to turn, Hus lodged an appeal from his papal condemnation directly to Christ: "I, Jan Hus of Husinec, master of arts and formed bachelor of sacred theology of the University of Prague, and an appointed priest and preacher of the chapel called Bethlehem, make this appeal to Jesus Christ, the most just judge, who knows, protects, and judges, declares and rewards without fail the just cause of every man." Some three years later on 20 June 1415, Hus referenced this appeal, recalling how he had already committed his case to Christ: "*ad Christum Ihesum . . . appellavi, sibi comittens causam meam*."¹²⁹ We might admire Hus's sincere piety, but invoking a divine tribunal in the midst of formal heresy proceedings did not compute; there was no

mechanism in canon law for such an appeal. In fact, as Thomas Fudge notes, this strategy only worked against Hus since it diverted him from mounting an effective legal defense.¹³⁰

While at Constance, Hus consistently protested that all he really wanted was a chance to explain his positions in full; if the council fathers would just hear him out, some measure of reconciliation might be achieved. Did Hus have any right to expect a full hearing and an airing of differences? In his careful study of these events Sabastián Provvidente has observed a fundamental disconnect: Hus had been hoping to discuss his own positions precisely as a university master (*more scholastico*), whereas the fathers were intent on proceeding against Hus as a man under suspicion of heresy, and thus under the procedures of a formal inquisition. While Hus had prepared a *quaestio* to be discussed by way of an academic disputation, the council fathers were determined to proceed in a strictly judicial manner on the grounds that the *publica fama* attached to Hus's heresy allowed for no dialogue between the accused and his judges. Questions from the judges were therefore to be answered with either a "yes" or a "no." The result was that, whereas Hus wished to discuss the meaning (*intentio*) of his own statements, the council demanded that he acknowledge his errors and then recant them. It was because Hus steadfastly refused to recant as a matter of conscience that the council fathers then reckoned him pertinacious.¹³¹

The Prague master Peter of Mladoňovice, serving as secretary to John of Chlum, was an eyewitness to the events that unfolded at Constance.¹³² There is doubtless a hagiographic quality to Peter's account, with Hus pointedly portrayed as an apostolic martyr, even Christ-like in the suffering endured at the hands of his enemies.¹³³ Nevertheless, the fundamental accuracy of his account should not be doubted. If Hus had hoped to clear up any lurking ambiguities or misconceptions, he soon found out that the time for explanations had long past, as he was repeatedly shouted down: "Leave off your sophistry and say 'Yes' or 'No.'" Yet as Hus saw things, it was not only that some of his statements may have been misconstrued, and so were erroneous only in the barest decontextualized sense, some of the charges were just flat-out wrong. So it was that Hus had called upon God and his conscience to witness when replying that he had never maintained the eucharistic heresies that were being attributed to him. This despite a series of witnesses who were summoned to testify that Hus had asserted the substantial remanence of the consecrated bread. Francesco Zabarella pointed out to Hus that there

were some twenty witnesses, many of whom were prelates and doctors, all attesting to these statements: Would Hus oppose them all? Prompting Hus to answer, "If the Lord God and my conscience are my witnesses (*et si dominus deus et conscientia mea mei testes sunt*) that I have neither preached nor taught those things they depose against me, nor have they entered my heart . . . what can I do?" To which Pierre d'Ailly responded by marking a clear distinction between the private and public sphere, the internal and external forum, that has been discussed above: "We cannot judge according to your conscience, but according to what has been proved and adduced here." D'Ailly was correct: an ecclesiastical tribunal is unable to render judgment on secret matters (*ecclesia non iudicat de occultis*), but must proceed solely upon the basis of evidence presented in open court. Before Hus was led away, d'Ailly pointed out to him that not long ago he had said that he would submit humbly to the judgment of the council. D'Ailly advised that Hus entangle himself no longer in these errors, but instead submit to the council. For the council, d'Ailly assured Hus, would then deal with him mercifully.¹³⁴

D'Ailly wanted, moreover, to make clear to Hus that there were only two paths before him now; he would have to choose one. Rather than prove himself pertinacious, Hus could throw himself upon the mercy of the council. This would entail humbly acknowledging his errors within the articles he has hitherto held; recant those articles and swear never to teach or preach them; publicly revoke those articles and retract the ones that had been proven against him; and finally, expound, hold, and preach their opposite. As Hus saw it, however, this amounted to a trap that would doom his eternal soul. "I pray for God's sake that you desire not to lay a snare of damnation for me, that I be not forced to lie and abjure those articles (*ut non cogar mentiri et abiurare*) of which—God and conscience are my witnesses—I know nothing." As in so many of his letters, so also here, Hus insisted that because he had never actually held many of the articles ascribed to him, abjuring them would run contrary to conscience (*contra conscientiam*) and amount to lying. The council fathers reminded him, however, that it was just possible that he really was in error: "Perhaps your conscience has never told you that you have erred or still do err? (*forte tua conscientia numquam dictaret te errasse vel errare?*)" King Sigismund reminded Hus, moreover, that he had been repeatedly told that he had only two choices, which allowed for no further discussion. Hus nevertheless declared that he did not wish to hold any error and would indeed submit to the council's decision:

"Only I pray that I may not offend God and my conscience (*solum quod deum et conscientiam non offendam*), nor say that I have held those errors that I never held nor did ever enter my heart."¹³⁵

It would appear that Hus's appeal to conscience did find some sympathy during these proceedings. Lord John of Chlum had counseled Hus, "If indeed, you do not feel guilty of those things that are charged against you, follow the dictates of your conscience. Under no circumstances do anything against your conscience or lie in the sight of God (*nullo modo facias contra conscientiam tuam, nec in conspectu dei mentiaris*)." Hus, in tears, responded, "I have ever desired to be shown better and more relevant Scriptures than those that I have written and taught. And if they were shown me, I am ready most willingly to recant." To which one of the bishops present asked, "Do you wish to be wiser than the whole council?" Again, Hus asked that the council produce more convincing scriptural evidence, which the assembled bishops regarded as only further proof of Hus's obstinance in heresy: "*Ecce quam pertinax est in heresi sua!*" Here again at this session, any attempt by Hus to qualify propositions drawn from his writings was met with much the same response, as the council fathers grew weary of these impertinent requests for further discussion. At this point, the condemned propositions were to be read, and when all had been laid out, Hus would have the opportunity to revoke them; there was to be no further discussion as to their accuracy. The otherwise fair-minded Zabarella could no longer brook Hus's interruptions of the proceedings: "Be silent now. For we have already heard you enough!" As it was, Hus sought not only to explain the truncated excerpts from his works, but he also denied the charges of obstinance, asking only for more pertinent instruction from the Scriptures. "Behold, these bishops exhort me to recant and abjure. But I fear to do so, lest I be a liar in the sight of the Lord, and also lest I offend my own conscience and the truth of God." Again, though, as far as the council fathers were concerned these amounted to evasive tactics on the part of the defendant and thus further evidence of his guilt: "We see now how obdurate he is in his wickedness and pertinacious in his heresy."¹³⁶ It is the unwillingness to recant in the face of correction, the bloody-mindedness when confronted with the truth, that is the true mark of the heretic.

Hus ultimately faced an awful choice: he could recant and receive a miserable penance, or he could go to the stake. Two versions of the verdict

had been prepared: one in case Hus did at last recant and one if he refused. It really does seem to have been the council's hope that Hus would at the last moment change his mind. Because he did not, however, the formal process would begin: a reading of the verdict, his degradation from the priesthood, the burning of his books, and his handing over to the secular arm. Had Hus chosen in the end to issue a recantation, he would still have been sentenced to lifetime imprisonment.¹³⁷ Hus did not recant, of course, and so was taken away to be burned at the stake.

We naturally recoil from the horror of such a punishment. Jan Hus was undoubtedly a good and pious man, but Pierre d'Ailly and Francesco Zabarella were also good men. Acting as they knew best to secure the greater welfare of Christendom during especially perilous times, they took no delight in the death of a fellow priest and scholar. The council fathers were not fanatics indifferent to human suffering. The historian K. B. McFarlane spoke insightfully in this vein when addressing English efforts to suppress heresy in the decade preceding Constance: "That a man should be burnt for a refusal to accept the Church's teaching as authoritative, we may all now agree, is monstrous. But it was possible to think differently in 1401 without being a monster."¹³⁸

It should be remembered, moreover, that although the outcome of the Constance trial is certainly heartrending, the proceedings themselves were not unlawful. Hus and his judges were clearly at cross-purposes, but that does not mean that because Hus was not granted the sort of forum that he wanted, he was therefore treated unfairly. He did receive a fair trial according to the legal standards in place at the time.¹³⁹ The council, as Thomas Morrissey observes, was genuinely committed to following proper legal procedures. If due process ever did break down at times, this was not on account of indifference or disregard for fundamental rights. Even Peter of Mladoňovice made a point of noting that Cardinal Zabarella had insisted that the notaries preserve a careful record of Hus's responses during the interrogation for any future reference. In fact, Zabarella continuously sought some compromise statement that Hus could sign and the council would accept.¹⁴⁰ It does seem fair to say, moreover, that in spite of the final outcome, Hus's multiple appeals to the authority of conscience did not go unheeded by the council, as though this assembly of theologians and jurists was oblivious to this principle and knew only brute authoritarianism. Rather, they determined that the time for such appeals had passed; the corrective

process had reached its conclusion. It may be that Hus had actualized Ockham's otherwise hypothetical scenario wherein the man of conscience entrusts himself to God's grace and, remaining steadfast in what he believes to be right, hopes to find his name written in the Book of Life.

CHAPTER FIVE

TO SWEAR, CORRECT, AND OBEY

The medieval Christian was part of a community whose well-being he or she was expected to honor. Yet, as we have seen in previous chapters, there existed within this corporate sensibility a profound respect for the rights of the individual whose own conscience would direct him or her toward the truth. This chapter examines three interlocking components of medieval Christian society: oaths and vows; fraternal correction; and obedience. We will find that, in one form or another, the three frequently overlap. This might be expected, since they all implicate the individual within a larger network of relationships determined by a series of rights and responsibilities. All relationships, in turn, place certain limits upon the parties which must be respected. Sometimes the boundary markers are not so easy to determine, however, as one is torn between corporate obligations on the one hand and maintaining one's principal commitment to God on the other. This chapter will serve as a bridge that connects the previous four chapters to the final two, while further elucidating the central theme of Christian liberty that runs throughout this entire book.

OATHS AND VOWS

Gratian devoted eighty-five canons to oaths and vows in *Causa 22* of his *Decretum*, fifty-eight of which were drawn from ecclesiastical authors such as Jerome and Ambrose, and most notably Augustine who contributed more than thirty canons. Such substantial reliance upon the church fathers served to emphasize that oaths and vows were above all religious in nature.¹ Oaths invoke God as a witness to what one promises to fellow human beings, while vows are made directly to God himself.² Speaking of the latter, Alain Boureau observes that "the Christian vow was an individual spiritual act, regulated in principle by an individual conscience that could be at most aided by counselors. However, in a very short time it became a legal object embedded in communities. . . . The individual was considered a social

being through the words that he expressed out loud and not in soliloquy.”³ Whether these were oaths sworn to one’s feudal lord or vows made upon entry into religious life, the Christian stood first before God to whom he ultimately committed himself. This is why perjury, swearing falsely, was an especially heinous and soul-endangering act; it was a direct breach of a divine command (Lev 19:12). It is no wonder that there was so much discussion surrounding the breaking of oaths and the release from vows, as jurists and theologians attempted to determine the extent of one’s obligation to fulfill what had been promised.

First, though, a society steeped in oath-taking would have to make its peace with Christ’s seemingly unconditional prohibition: “But I say to you not to swear at all” (Matt 5:34); which is then reaffirmed in the Epistle of James: “Above all things, my brothers, swear not” (Jas 5:12). In a series of canons, often drawing upon the wisdom of Saint Augustine, Gratian had determined that an oath in itself does not violate the divine precept, which means that swearing an oath is not a sin. It is perjury, rather than swearing, that constitutes the sin (*peierare peccatum est non iurare*). Despite the prohibitions of Christ and James, therefore, freely swearing an oath to assert one’s innocence, confirm a peace treaty, or otherwise persuade listeners of one’s good faith, can be quite helpful. It is only the rash or false oath that must be avoided.⁴

The Old Testament prophet Jeremiah provided the three fundamental criteria of any licit oath: “And you will swear, ‘As the Lord lives,’ in truth, in judgment, and in justice; Then the nations will bless themselves in Him, And in Him they will glory” (Jer 4:2). It was on this basis that the oft-cited canon *Animadvertendum* maintained that where truth, judgment, and justice are lacking there will be no oath (*iuramentum*) but instead perjury (*peirium*). In his own comments on this canon Gratian noted that the one who swears to a falsehood lies; and by lying thereby commits perjury. Although Gratian proceeded to distinguish between swearing to what is false as such and doing so deceitfully. Not everyone who fails to fulfill a promise swears deceitfully. For although the Apostle Paul did not make good on his promise to the Corinthians when he told them: “I will visit you” (1 Cor 16:5), he nevertheless had not sworn deceitfully nor promised mendaciously. The distinction rests in the intention of the oath-swearer: the duplicitous person has no intention of fulfilling his oath; whereas an honest person can sincerely promise what may later turn out to be false.⁵ Nevertheless, one

must be very careful, since an oath always involves the invocation of God to bear testimony to what one has sworn. Calling upon God to witness a mendacious assertion is especially wicked, according to Thomas de Chobham, since it attempts to entangle God in one's own dishonesty.⁶

While perjuring oneself is clearly wrong, there are some cases in which one should not make good on one's vows. Gratian was clear that illicit vows should not be observed.⁷ And a set of canons speak to the same effect: It is better not to fulfill a foolish vow than to commit a sin; wicked vows are not to be observed, for what you incautiously vowed you ought not to fulfill; it is more tolerable not to fulfill an oath than to carry out a wicked deed; the wise person revokes what he should never have said; the oath by which evil was incautiously promised should not be kept; and oaths which are contrary to divine commandments should not be observed.⁸ Raymond of Peñafort similarly allowed for various situations in which one could refuse to fulfill an oath without committing perjury. To that end he evoked the classic madman scenario. Perhaps you have deposited your sword with me, and I have sworn to return it when you ask for it back; but you are in a fury when you come to ask for the sword. In this case, I am not bound by my original oath; in fact, I should not give you back the sword until you recover your senses, lest you kill yourself or someone else. Or consider a case in which I had generally agreed to fulfill your commands to make up for some injury that I had done to you. In the event, however, you order me to do something dishonest, or perhaps something extremely difficult or distasteful, the sort of thing I never would have sworn had it been specified in advance. Here, too, I would be released from my obligation to observe what I had sworn.⁹ Even having sworn an oath, someone can still reflect upon the moral consequences and, as conscience dictates, refuse to fulfill what had been promised, precisely because its execution would result in evil rather than good. Conscience is not taken captive to the oath itself, but always remains at liberty to fulfill one's ultimate obligation to serve God.

Free will was considered an essential component of both oaths and vows. In his *Sentences*, Peter Lombard had defined a vow as, "an attestation of a voluntary promise which should be properly made to God regarding those things that pertain to God."¹⁰ When Thomas Aquinas commented on this passage, he similarly affirmed the central role of free will: "a vow expresses a certain obligation that is freely made (*ex voluntate*)."¹¹ Thomas continued along these lines as he observed that "no one can be obliged in his will to

anyone apart from the 'Searcher of Hearts' (Rom 8:27), who is God alone." Thomas then summed up Lombard's definition of a vow noting its most salient points. First, it is a promise, which is the very essence of a vow; it pertains to the free will of the person making the vow, which thereby obligates him to what he has vowed; and finally, it must be made to God regarding the things of God.¹¹

Thomas de Chobham noted the distinction that obtains between different sorts of vows, which can be considered necessary even if in different ways. Some are vows of principal necessity, such as those taken in baptism. Whatever is promised to God in this foundational sacrament is unshakeable, e.g., to renounce Satan and all his works; keep the Catholic faith, and all that is essential for salvation. Other vows of secondary necessity are those made later and freely, such as the vow to fast or to go on pilgrimage. These vows are at first voluntary, although once made they become obligatory and therefore should also be fulfilled.¹²

Thomas furthermore marked three basic components of these vows: habit, continence, and the renunciation of property. Other aspects pertaining to these vows such as silence, place of residence, time of eating and drinking, sitting and standing, waking and sleeping, are all accessories to the vows, but do not belong to their substance. This means that if one were to violate such rules, unless out of contempt, one would not sin mortally, although it may constitute a venial sin.¹³ If ordinarily a vow once taken is binding, it is also true that a lesser vow can be dissolved by a subsequent greater vow. This would be the case were someone to make a vow of pilgrimage, only later vowing to enter religious life. The basic principle here is that whatever pleases God most should be done. Consequently, someone entering a religious order is released from all lesser vows and is now obliged to follow the customs of the order that he has entered. In fact, the vow of religion binds more than any other vow, since the one vowing to enter a religious order transfers his whole will to another in the person of his superior. One could go so far as to say, according to Thomas, that the religious has no will contrary to the will of his abbot or prior; a statement he immediately qualifies with the standard cautionary note: provided that these superiors do not command anything in opposition to God.¹⁴ One's commitment to the divine law was understood to be absolute; there were no conditions or qualifications that could ever justify serving man at the expense of God, even if that meant forfeiting one's life.

COERCION APPLIED TO OATHS AND VOWS

We have seen that oaths and vows were supposed to be made freely, as an honest attestation to what one believes to be the truth, or as an expression of one's heartfelt devotion to a way of life. In fact, though, people did find themselves in situations where they were coerced into making what might be life-altering commitments. The application of coercion in one form or another was not uncommon. The Roman jurists were well aware of this reality, and so had taken into consideration fear (*metus*) when determining the legality of various actions. To gauge the measure of intimidation, they applied the standard of the *homo constans*, i.e., a reasonable and steadfast man.¹⁵ These basic principles carried over into the deliberations of the medieval canonists as they adjudicated cases of coerced oaths and vows, which had special bearing upon the sacraments of marriage and baptism. As we proceed, though, we need always bear in mind that the canonists and theologians were at no point attempting to justify coercive practices. Grappling with the world as they found it, these men were endeavoring to impose a measure of order upon the sort of real, and admittedly unfortunate, situations that continually arose in a variety of forms.

When Rufinus of Bologna discussed oaths in his *Decretum* commentary at the close of the twelfth century, he drew some important distinctions which extended well beyond this single subject. Here Rufinus observed that coercion can either be moderate or violent. Violence, in its turn, can be either absolute or conditional. An act of moderate coercion, according to Rufinus, does not involve an actual assault, but rather a threat. For instance, someone might say, "Unless you swear, I will burn down your house tomorrow." Fearful of this possibility, one might then consent to swear the oath. Whereas violent coercion in its absolute form allows for no consent at all, as when someone's hand is forcibly placed upon the altar of an idol to offer incense. Violent coercion might also be of the conditional sort, however, such as a furious man holding a sword to your throat and saying: "I will kill you right now, if you do not swear." Rufinus determined that someone compelled by absolute coercion (*coactio absoluta*) does not really act but is instead acted upon (*non facere sed pati*); in that sense he is passive. This person cannot, therefore, be reckoned accountable for what happened. On the other hand, the person who submits to conditional coercion (*coactio*

conditionalis) is not really passive. For although subjected to fear (*metum quidem patitur*), this person does take some action lest he suffers what he fears. Consequently, said Rufinus, if under conditional coercion someone swears to be true what he does not believe, then no matter that he had been compelled (*quamvis si compulsus*), he still sins criminally. He would have done better to submit to death so as to avoid perjury than to swear falsely and so proceed against the dictate of his own conscience (*ex adverso conscientiae surgere*).¹⁶ It is worth reflecting on this determination relative to the case of Jan Hus, who (as we saw) recognized that even the threat of being burned at the stake would not be sufficient to exonerate him of the crime of perjury.

At Paris in 1266, the secular master Gerard of Abbeville addressed the question of whether a vow made by subjects to their prince must be observed if it had been obtained through violent measures (*per violentiam*). Some argue that it must, since all vows that do not involve mortal sin should be observed. This would be in keeping with the canon *Qui exigit*, which maintains that although it is a sin to compel another to swear an oath if one knows that he will swear falsely, it is no sin if one does not realize that he will give false testimony. On the other hand, if it is true that consent obtained through violence invalidates a marriage contract, then by the same reasoning violent consent cannot be the basis of a binding oath. Here Gerard responded (*dic quod . . .*) that every lawful vow must comprise the three fundamental components noted above: truth, judgment, and justice. Where these are lacking there will be no oath, but rather perjury, as Gerard cited the aforementioned canon *Animadvertendum*. One must genuinely intend to carry out what one vows; approach the vow with all due discretion; and what one vows to undertake must itself be just and lawful. The case under review here involves the right of King Louis IX to mint his own coins and demand that everyone within his jurisdiction swear an oath to use those coins. Gerard believed the king to be within his rights to enforce compliance, firstly because Scripture counsels obedience to kings (Matt 22:17; Rom 13:1–7; and 1 Pet 2:13) as belonging to the divine ordering of society. Canon law also recognizes the surpassing power of the French king, as stated in Innocent III's 1202 decretal *Per venerabilem*: "the king recognizes no superior in temporal matters." That such a vow could be extracted from the citizens of Paris or from other subjects through violence on the king's part runs contrary neither to divine nor human law. Furthermore,

said Gerard, such control over coinage is a matter of public utility, rather than private convenience. In fact, Gerard was quite clear that in order for the king to act lawfully here, it must be for the sake of the commonweal, thus proceeding from charity rather than cupidity. To that end, he cited at length a passage from the Book of Wisdom that warns kings to exercise their power justly (Wis 6:2–7). Does this mean that ecclesiastics are also bound to observe such an oath? It would seem so, for if the end result of an oath does not endanger one's eternal salvation it should be observed. Hence the king should be able to compel ecclesiastics to take such an oath for the sake of the public good, inasmuch as the king has complete dominion over monetary policy in his kingdom. Gerard admitted, however, that he was wary of saying too much on such a fraught topic, which should probably be left to the pope to determine.¹⁷

As Thomas de Chobham saw it, someone who coerces another to swear cannot lawfully demand fulfillment of the oath, inasmuch as he has disqualified himself through his own act of violence. To that end he appealed to the stipulation of Roman civil law that an act performed on the basis of fear is not valid (Digest 4.2.1).¹⁸ Thomas qualified his position with reference to the proverbial “steadfast man” (*constans vir*): if anyone is coerced into swearing an oath, causing such fear as would rattle a steadfast man (*qui posset cadere in virum constantem*), he would not be obliged to fulfill that oath. Fear of harm must be well-founded, however, if one is to evade one's obligation. Where there is no effective menace, one cannot claim to have been genuinely coerced. Frantic reactions to tepid or veiled threats will not get one off the hook; the oath must still be honored.¹⁹ And yet Thomas also recognized that the threshold of intimidation can vary from one person to another, here recounting the case of a young girl whose parents had compelled her to marry a young man at the entrance of a church. When it came time for her to speak the necessary words of consent, “I accept you for my own,” she wept bitterly even as she did manage to utter the phrase. Later on, as the girl was to be led into the home of the young man, she fled. According to Thomas, a decretal issued in response maintained that her tears constituted sufficient proof that violence had been done to this girl. This is because the menace necessary to intimidate a fragile person of tender age is less than would be required to frighten a man in the prime of life.²⁰

COERCION AND MARRIAGE

That coercion was often discussed within the context of marriage is not surprising given the pressure that could be placed upon young people to marry those whom their parents or lords had chosen for them. In his *Decretum* Gratian had presented an array of texts on the requisite criteria of a valid marriage, some of which held that consent alone was sufficient, while others held that there must also be subsequent sexual intercourse. Gratian seems to have favored the latter opinion.²¹ Yet even as there was some debate in the twelfth century as to whether consent was sufficient for a valid marriage, apart from sexual intercourse,²² no one doubted that consent was necessary; there could be no marriage without consent. Hence, when the canon *Matrimonium* held that “sexual union does not make a marriage but the will,”²³ the gloss added that consent of the will should be expressed with legitimate words; and that such consent must be voluntary, not coerced (*consensus sit voluntarius, et non coactus*).²⁴ To the same effect Gratian elsewhere stated: “It is evident that no woman should be married to anyone except by her free will (*nisi libera voluntate*).”²⁵

“By way of an oath taken by her father, a girl cannot be compelled to marry someone to whom she has never offered her consent.” Thus reads the rubric for a canon comprising a letter from Pope Urban II to his legate. The case concerned Prince Jordan of Capua who had been asked to betroth his infant daughter to the Duke of Gaeta Renaud Ridel. In the event, Jordan refused to let his daughter marry Ridel on the grounds that he had been coerced (*allegens coactionem*) into marrying off his utterly unwilling daughter. Urban informed his legate that if, in spite of the original coercion, Jordan and his daughter were now willing to proceed, the marriage could be performed. If they are still unwilling, however, the legate ought to hear from both parties. Should Jordan prove his case, and his weeping daughter really does not wish to marry Renaud, she would then be released from this contract with papal permission to marry whomever she wishes.²⁶ Another letter of Urban similarly annulled the forced marriage of the niece of Sancho Ramirez, king of Aragon-Navarre, on the grounds that no one can be compelled unwillingly to marry another (*nulla invita est copulanda alicui*). For as the pope reasoned, since the two shall be united as one body, so they should also be of one mind.²⁷ Other canon law collections soon followed Gratian’s lead, as the *Summa Parisiensis* stated that in no way can someone be com-

pelled to marry against her will (*nullomodo cogatur eidem invita copulari*); and the *Summa Induent Sancti* stated that a coerced marriage was invalid (*inefficax*); marriages must be free (*libera enim debent esse matrimonia*).²⁸

When Peter Lombard addressed the matter of coercion in his discussion of marriage, he stated flatly that “conjugal consent must be free from coercion. For in fact, coerced consent, which cannot really be called consent, does not make a marriage.” In support of this principle, he quoted at length the aforementioned letter of Pope Urban II to Sancho Ramirez. As Lombard proceeded, however, he noted that while it seems that marriage ought to occur between freely consenting people rather than the unwilling, we need to broaden our notion of consent. Some couples may have been coerced into marriage at the start; but if they have since lived together in harmony, they would appear now to consent. In that sense, subsequent consent can be said to supply what earlier coercion had abrogated. Consent might also be given tacitly, insofar as someone is proven to consent who does not clearly object (*consentire autem probatur qui evidenter non contradicat*). Here Lombard would appeal to texts of Roman civil law regarding betrothals which held that, although the consent of the parties is certainly required, the daughter who does not expressly reject her father’s wishes is understood to consent.²⁹ As we shall see later in this chapter, the principle that silence equals consent could also be applied when assessing liability to criminal prosecution.

In a series of decretals, Pope Alexander III (1159–1181) examined various conditions for establishing a valid marriage, among which was the free consent of the parties themselves.³⁰ In the decretal *Veniens*, Alexander addressed the case of a young man compelled to propose marriage to a girl after her father found them together in bed. Alexander allowed that such a marriage might be valid, but not if the young man’s fear had been intense enough to rattle a steadfast man: “*nisi metu coactus qui posset in virum constantem cadere*.” To which the gloss added, “For then the marriage would be void, since the one who consents ought to do so freely”: “*quia libertatem debet habere qui consentit*.”³¹ In *De illis qui* Alexander ruled that the betrothal of children was invalid if they were forced into it by violence.³² In this same vein, the oft-cited *Cum locum* stated, “Consent has no place where fear or coercion (*metus vel coactio*) intercede. Hence it is necessary that where common consent is required, the matter of coercion must be excluded. For marriage is contracted only by consent (*solo consensu*).” The gloss on *Cum locum* summarized the dilemma: A girl so fears a violent

reaction from those insisting that she get married that she will say whatever pleases them no matter how much she loathes the prospect of marriage. Hence the canon's stipulation that the judge find a place for this girl where she feels safe until the case is decided. The gloss furthermore made a distinction that we have seen earlier, which takes into consideration the appropriate threshold of fear, which is lower in this case for a woman than for a man.³³ This would be the standard papal line by the late twelfth century. Pope Urban III (1185–1187) ruled that the betrothal of a young girl was void if she had been compelled by the threats of her parents: “*nolens et invitaminis parentum impulsam*.”³⁴ In cases where women assert that they never truly consented to marriage but were compelled by fear to utter words of consent, even while dissenting in their mind, Honorius III (1216–1227) ordered that such allegations of fear be investigated to ascertain whether there had been genuine compulsion. If so, the marriage would be nullified.³⁵ Gregory IX (1227–1241), for his part, believed that coercion extended beyond acts or threats of violence to include even financial penalties, making it clear that marriages ought to be free: “*libera matrimonia esse debeant*.”³⁶

In his *Sentences* commentary Thomas Aquinas had quoted Alexander III's *Cum locum* directly, as he determined that mutual consent is required in marriage. He noted as well that, inasmuch as the sacrament of marriage signifies Christ's union with the Church, which comes into being through the freedom of love (*secundum libertatem amoris*), it must be free and thus cannot occur through coerced consent.³⁷ Here, Thomas addressed the scenario of a father attempting to compel his son to contract marriage with a girl his parents had chosen for him. Thomas determined that if the son really were bound to obey, that would mean a betrothal contracted by parents is immutable; but that runs contrary to canon law. Likening marriage to a sort of perpetual servitude, Thomas argued that a father cannot compel his son to marry by his command, since the son is himself in a state of liberty. The father can, however, make the case to his son why this command is reasonable; in that way the son might then be swayed to obey his father.³⁸

THE COERCION OF NONBELIEVERS

The question of coercion was also raised with respect to the sacrament of baptism, sometimes with fateful consequences. We find this topic broached amid the marriage discussion when Thomas Aquinas responded to the

objection that coerced consent should not invalidate a marriage, here drawing a parallel between marriage and baptism; the first requires consent and the latter intention. It is argued that if those coerced by fear (*coactus timore*) into accepting baptism receive the sacrament, so those coerced by fear into consenting to marriage are likewise obligated to keep their vow. Thomas rejected this analogy, however, on the grounds that intention is not the efficient cause of the sacrament in the case of baptism, whereas consent is the efficient cause in marriage and so must be present. Marriage, moreover, must be thoroughly voluntary (*voluntarium complete*) and therefore cannot be subject even to conditional violence.³⁹ This exchange in Thomas's *Sentences* commentary illustrates the generally accepted position that, although the principle of Roman civil law that "coerced consent is still consent" applies in case of baptism, it is not so for marriage wherein a "direct and spontaneous consent" is still required.⁴⁰

Here we need to pause and admit that, sacramental distinctions aside, the admirable respect for personal freedom exhibited in the discussion of marriage was liable to break down when it came to baptism. For even as coercion was likewise condemned, and liberty in matters of religion recognized, the level of violence countenanced in the application of this sacrament, with its irreversible effects, may well be unjustifiable. How does one account for the different standards applied to the two sacraments of marriage and baptism? It may be, as Richard Helmholz has opined, the canonists generally agreed that coerced marriages could end up very unhappy, whereas they did not see how the same could be said for baptism, which is an unmitigated good. If the ultimate purpose of canon law was to better enable all human beings to achieve their supernatural end, then ensuring that they honored the baptismal covenant seemed proper. For all that, however, the canon law of baptism still seems to have "led to results that are quite incompatible with a law founded upon the recognition of individual rights."⁴¹

The dilemma of forced conversion had been with the Church for some time, evinced in a decree issued by the Fourth Council of Toledo in 633, and later incorporated into the *Decretum* as the canon *De Iudaeis*, which held that Jews must not be compelled to accept the Christian faith. The decree goes on to say, however, that if any Jews have been so coerced, they must henceforth be compelled to remain in the Church. For although it is true that people ideally should be persuaded to convert of their own free will rather than by force (*non vi sed libera arbitrii facultate*), if they have

been coerced and thus receive the sacraments of baptism, chrism, and the Eucharist, they are now bound to observe the Christian faith lest Christ's name be blasphemed and the faith exposed to ridicule.⁴² The gloss on *De Iudaeis* maintained that the coercion mentioned here is of the conditional sort (*coactio conditionalis*) which does not impede the sacrament of baptism; whereas it does present an impediment to the sacrament of marriage, here citing Alexander III's *Cum locum* on this point. The gloss does note, however, that conditional coercion ought to be distinguished from the sort of unqualified coercion (*absoluta coactio*), or sheer violence, by which the sacramental character would not be impressed.⁴³

The gloss reflects an earlier tradition laid out in some detail by Huguccio in the concluding decades of the twelfth century when he commented on *De Iudaeis*: "If someone were baptized with coercion reckoned absolute—one person held him bound while another poured water over him—unless he consented thereafter, he should not be compelled to keep the Christian faith. However, he is still baptized and receives the sacrament, because whether willing or unwilling, awake or asleep, whoever is baptized in the manner of the Church receives the sacrament. But if one is baptized by conditional coercion—I will strike you or despoil you, destroy or injure you, unless you are baptized—he should be compelled to keep the faith because through such coercion, he is made willing from unwilling, and the willing are baptized. A coerced will is still a will and causes willingness."⁴⁴

Hence, even as the widely cited decretal *Sicut Iudaei* had also made it clear that Jews may never be coerced into accepting Christian baptism unwillingly (*non invite . . . nec cogendi*), we find the aforementioned qualifications applied to its interpretation. This papal mandate had as much to do with acknowledging Christian faith as an intrinsically free act of the will as it did with honoring the fundamental natural rights that Jews possessed. For, as the decretal continues, no one is believed to possess the faith of Christ unless he comes to Christian baptism of his own free choice (*spontaneus*), rather than through unwilling compulsion (*invitus cogitur*).⁴⁵ The gloss on *Sicut Iudaei* made a point of affirming that "no one may be coerced into accepting the faith" (*nullus ad fidem cogendus est*). It then drew a distinction along the lines that we have discussed above. If persons are "compelled simply and unqualifiedly" (*simpliciter et absolute compellantur*), they do not receive the sacramental character through this forced baptism. But if they are "conditionally compelled" (*conditionaliter compellantur*), then they

do receive the character, which means that they can also be constrained to observe the faith that they have received.⁴⁶

This tension between baptismal freedom and coercion was treated at length in a wide-ranging letter of Pope Innocent III to the Archbishop of Arles in 1201. Here, in the decretal *Maiores ecclesiae*, the pope was concerned with establishing the precise conditions of a valid baptism, which is to say, a baptism that confers the indelible sacramental character. Thus, the more specific question of coercion was treated within this larger theological context. While it is true that sacraments were understood to have an objective validity (*ex opere operato*), the question was whether there might be some conditions in which a baptism performed under the correct form is nevertheless invalid. For instance, is a baptism performed on the sleeping or the insane just as valid as that performed on an infant? None of these baptized persons, after all, appears capable of rendering fully informed consent. There are some, according to Innocent, who say that not only do the insane and the sleeping receive the sacramental character, as in the case of infants, but even those who are unwillingly baptized. The decretal noted the distinction between receiving the distinctive mark upon the soul (*character*) which confirms the validity of the baptism and receiving the spiritual reality (*res*) which renders it effective for salvation. Nevertheless, the fact remains that the person who has received the sacramental character is thereby incorporated into the Body of Christ and thus subject to the Church's jurisdiction. Innocent agreed that it is contrary to the Christian religion to compel someone who is entirely unwilling to adopt the Christian faith. He then noted, however, that some people correctly distinguish between different levels of unwillingness and coercion (*invitum et invitum, coactum et coactum*). In keeping with the discussions of conditional and absolute coercion reviewed above, Innocent maintained that those who consent to baptism even through fear or torture do receive the impressed character of Christianity. And because such people receive its character by means of the sacrament of baptism, they are now compelled to observe the Christian faith.⁴⁷ Raymond of Peñafort followed along these same lines when he observed that, while conditional coercion (*coacti conditionaliter*) may involve threats, confiscation of property, or even blows, those who receive the sacrament of baptism and later recede from the Christian faith must nevertheless be compelled to return. Being absolutely coerced (*absolute coacti*), however, entails being

physically seized upon and violently dragged to the baptismal font; under these conditions the sacramental character would not be conferred.⁴⁸

With respect to the related issue of whether the children of Jews should be baptized against the will of their parents, there was some debate among the canonists. Huguccio noted that there are those who contend that when both parents are Jewish, the child may be taken from them and baptized. For although this is not licit in the case of adults, since no one should be compelled to accept the faith, precisely because no one can be saved against his will (*nullus cogendus est ad fidem, cum nullus possit salvari invitus*), it is nevertheless acceptable in the case of infants. Huguccio, for his part, rejected this line on the grounds that forcible baptism of these infants would violate the rights of their parents. Later canonists were not necessarily convinced by an argument based upon parental rights, since it was unclear just how far the civil rights of Jews actually extended.⁴⁹ The theologians also debated this question. In the early fourteenth century, the Franciscan Duns Scotus and Dominican Durand of Saint-Pourçain made the case for such forcible infant baptisms, whereas the Carmelite Guido Terreni adopted a position closer to Thomas Aquinas.⁵⁰

When Thomas took up this question, he had to meet the objection that infants ought to be rescued from unbelievers in an effort to save them from eternal death, even if against the wishes of their parents. This was doubtless a position generated by genuine pastoral concern for the souls of these children. Thomas, however, specifically cited the aforementioned canon *De Iudaeis* to the effect that Jews must not be forced to believe or be saved against their will. Now, if the Jewish children are old enough to have the use of reason and wish of their own accord to be baptized, then they may be baptized even against their parents' wishes. But if they do not yet have the use of free will, then by natural right (*ius naturale*), they remain under the care of their parents. In fact, said Thomas, it would be contrary to natural justice (*contra iustitiam naturalem*) if such children were baptized against their parents' will, just as it would be to baptize a rational adult against his will. Thomas's argument turned both on the rights of Jews under natural law and on the principle that acceptance of the Christian faith is at once a free and a rational decision. The human person is ordained to God through his reason, according to Thomas, the very reason by which he can know God. This central principle, in turn, secures the rights of the parents since

a child, prior to having the use of reason, is ordained to God by a natural order through the reason of its parents in whose care the child remains.⁵¹

There is one final question to consider in this vein. Although Thomas made it clear that those who have never been Christians “must in no way be coerced into accepting the faith” (*nullo modo sunt ad fidem compellendi*), he nevertheless maintained that those who have accepted the faith are subject to coercion. Not unlike keeping a vow, said Thomas, accepting the faith is a matter of the will and holding to that faith a necessity. Consequently, heretics should be compelled to keep the faith and be submitted even to bodily compulsion (*corporaliter compellendi*) to ensure they fulfill what they have promised. This furthermore means that while Jews cannot at first be compelled to accept the Christian faith, if they have accepted it at some point, they should henceforth be compelled to keep it. For while it is true that the Church has no right to exercise spiritual judgment over pagans and Jews, once someone has been joined to the Church, he remains forever subject to her spiritual jurisdiction. Although the Church does not exercise coercive power over non-Christians in matters of belief, it can nevertheless coerce the baptized precisely on the basis of their baptismal obligations.⁵² Understandably, perhaps, Eric D’Arcy expressed “substantial disappointment . . . with St Thomas’ failure to study any connection with his own earlier principles concerning the obligation to follow one’s conscience.”⁵³

It is indeed regrettable that Thomas, along with contemporaries among the ranks of theologians and canonists, did not meaningfully extend their noble principles of conscience to the forcibly baptized or to obdurate religious dissenters. It is nevertheless understandable to some degree when one considers the larger concerns for societal cohesion. Baptism drew people within the orbit of that ecclesiastical authority which preserved the social fabric. To renounce one’s baptism was to tear at that fabric, excepting oneself from the complex network of relationships that held the community together, not to mention endangering one’s immortal soul which had been placed under the care of the Church. Those deemed heretics and schismatics likewise tore at these bonds. We should not underestimate the fear of some great unraveling were such dissent to go unchecked. Charles Taylor put it very well: “Turning ‘heretic’ and rejecting this power, or condemning the practice as idolatrous, is not just a personal matter. . . . This is something we constantly tend to forget when we look back condescendingly on the intolerance of earlier ages. As long as the commonweal was bound up in

collective rites, devotions, allegiances, it couldn't be seen just as an individual's own business that he breaks ranks, even less that he blaspheme or try to desecrate the rite. There was an immense common motivation to bring him back into line."⁵⁴

None of which is to suggest that tolerance and respect for conscience did not therefore genuinely exist at this time. As we have seen, the natural rights of religious minorities were to be respected, even as certain civil liberties were curtailed in an effort to secure the greater good of the Christian commonwealth. The political theorist Rainer Forst is surely right, therefore, in recognizing the need "to contradict the widespread notion that toleration is a child of modernity, whereas antiquity and the Middle Ages represent nothing more than a prehistory of minor importance."⁵⁵ There were limits to such toleration, of course, just as there are today; but the fundamental principles were in place. Finally, it should be remembered that no one, not even the pope, was exempt from the prevailing standard of faith and morals. The pope (as we shall see) was subject to correction by fellow Catholics and could be removed from office if it came to that.

FRATERNAL CORRECTION

The principle of fraternal correction begins with the Gospel of Matthew wherein Christ had laid down for his disciples a procedure for dealing with errant brethren: "If your brother sins, go and tell him his fault between you and him alone. If he listens to you, you have won over your brother. If he does not listen, take one or two others along with you, so that every fact may be established on the testimony of two or three witnesses. If he refuses to listen to them, tell the church. If he refuses to listen even to the church, then treat him as you would a Gentile or a tax collector" (Matt 18:15–17).

According to a fairly substantial treatment in the biblical gloss, this precept directs us to avoid scandal and refrain from doing injury. We are to correct the sinner with the zeal of justice, while extending mercy to the penitent. In fact, given one's duty to correct an erring brother, it would be a sin to remain silent when observing his transgression. Although it is also true that one sins by not offering an opportunity for repentance. The gloss notes as well that public and private sins call for different forms of correction. The former requires public correction in keeping with 1 Timothy 5:20, "Those who continue in sin, rebuke in the presence of all, so that the rest also will

be fearful of sinning"; while those who sin secretly should be corrected in secret. In the latter case, the process moves to the wider Church only if the sinner could not be first saved in his shame; let him then be saved by rebuke. All the while, though, the sinner's salvation must not be neglected; for even as the Gentiles and tax collectors are not numbered among our brethren, we nevertheless seek their redemption.⁵⁶ First and foremost, fraternal correction was understood to be an act of charity; emendation not condemnation was its goal.

When Nicholas of Lyra commented on this Matthean text in his *Postilla*, he began by observing that we ought to be generous to our neighbor, first by correcting his fault charitably and then mercifully forgiving his offense. Correction itself, said Lyra, is twofold. On the one hand, there is the punishment of sins for the sake of maintaining justice; this sort of correction does not pertain to everyone, but rather to judges who have the responsibility to preserve a just state of affairs within society. On the other hand, there is the sort of correction which aims at the betterment of a sinning brother; this is an act of charity that pertains to all Christians. As everyone is bound to love his neighbor as a matter of charity (*ex caritate*), so one is also obliged to correct his fault charitably (*caritative*) in the hope that he makes amends; although this only holds if one reckons it likely that the act of correction will be effective. Because fraternal correction remains an act of charity (*actus caritatis*), it should at first be carried out privately in the case of secret sins. Correcting the sinful brother in private is regarded as charitable, since it enables him to preserve his reputation. Lyra was quite insistent that to whatever extent possible, the corrector avoids damaging the sinner's good name. It is only when the corrector comes to the realization that he cannot salvage the man's good life without damaging his reputation that he brings this sin to the attention of others in the hope that they might be able to correct him. Finally, if this step were also to fail, one may then publicly denounce the sinner to his prelate, at which point the same witnesses of the secret correction will be summoned to present evidence of the crime. Were the sinner to reject even the commands of his prelate, he would then be separated from his brethren through excommunication and ecclesiastical censure.⁵⁷

Lyra's insistence upon preserving the reputation of those who have sinned was already well-established in the tradition. The *Decretum* canon *Si peccaverit*, drawing upon Saint Augustine, had stipulated that if your

brother sins against you alone, such that you are the only one who knows of the sin, you must not correct him in front of others; for to do so would be an act of betrayal rather than correction. Here it is Saint Joseph who serves as the principal example of proper procedure. Joseph was a righteous man who suspected his betrothed of a crime, although he did not know for certain. Consequently, he did not wish to divulge the suspected crime, and so planned to dismiss her privately (Matt 1:19). His actions in this case underscore the fundamental principle that only those who commit their sins in the presence of all are to be publicly corrected, whereas those who sin secretly should be corrected in secret. We have a duty to correct sin, but at the same time we must be careful not to betray the sinner by immediately publicizing his crime. The most charitable course would be to confront the sinner privately, placing before his eyes the judgment of God, thereby frightening his bloodstained conscience and persuading him to repent.⁵⁸

Chapter ten of the Franciscan Rule (1223) presents an ideal example of fraternal correction. For it not only places substantial emphasis upon the humble and kindly disposition of the corrector, but also insists that the order's superiors confine their correction to what falls under the vow: no friar should ever be pressured to act against his conscience or the rule itself: "Let the brothers who are the ministers and servants of the others visit and admonish their brothers and humbly and charitably correct them, not commanding them anything that is against their soul and our rule (*contra animam suam et regulam nostram*). Let the brothers who are subject, however, remember that, for God's sake, they have renounced their own wills. Therefore, I strictly command them to obey their ministers in everything they have promised the Lord to observe and which is not against their soul or our Rule. Wherever the brothers may be who know and feel they cannot observe the Rule spiritually, they can and should have recourse to their ministers. Let the ministers, moreover, receive them charitably and kindly (*caritative et benigne*) and have such familiarity with them that these same brothers may speak and deal with them as masters with their servants, for so it must be that the ministers are the servants of all the brothers."⁵⁹

CORRECTING ONE'S SUPERIORS

Thomas de Chobham took up a question of great practical import when he asked whether fraternal correction is a general precept that applies to

all people. For if it really did apply across the board, it would seem that any peasant would be obligated to correct a king, bishop, or prince; of course, no one does that, nor can it be done. Christ's words, according to Thomas, do form a general precept that applies to all people at all times, provided that they actually have the means and the capacity to correct an errant brother. The servant is only obligated to correct his lord, therefore, if he really is in a position to do so effectively. Thomas, even in his concise sketch of the question, seems to be aware of the practical impediments to fulfilling this general precept: How many subjects could even attempt to correct their superiors, let alone do so with any hope of success?⁶⁰ Note that when Thomas delivered his inaugural magisterial lecture at Paris in 1220, he pointedly declared that a theologian was obliged to correct his ecclesiastical superiors when necessary. If John the Baptist was not afraid to confront Herod for taking his brother's wife (Mark 6:18), nor can the theologian afford to be timid in the face of wrongdoing. He must be willing to call to account the wicked doctor or prelate, informing them that it is sacrilege to adulterate the Word and Bride of the Father.⁶¹ Thomas's admonition is a further reminder of the breadth of magisterial duties, extending as they did beyond counsel to the correction of even the most highly placed prelates.

In his *Sentences* commentary (c. 1223–1227), Alexander of Hales had pointed out that the very form of this precept implies parity among the faithful for the very fact that Christ himself had employed the term "brother" (*frater*) in his directive. Yet Alexander then proceeded to distinguish between correction carried out as a matter of one's official duties (*ex officio*) and correction motivated by love for one's brother (*zelo caritatis*). The first applies only to prelates, while the second applies to all Christians. And while all are bound to observe the precept of fraternal correction, said Alexander, this does not apply to everyone and in every case. Subjects are not ordinarily expected, or even supposed, to correct prelates. Although if the faith were imperiled, or the crime is heresy, even a subordinate may proceed to correct a superior, albeit with discretion.⁶² In this sense the communal obligation is never lost; it remains first and foremost a Christian responsibility to defend sacred doctrine.

According to Thomas Aquinas, correcting a sinner is a spiritual alms deed, which makes fraternal correction an act of charity. It is born of forbearance, since one retains good will toward the sinner as one strives to make him better.⁶³ Thomas would appeal to the canon *Tam Sacerdotes*, which held

that not only priests, but all the rest of the faithful, must be prepared to rebuke sinners so as to induce their repentance; whereas those who remain incorrigible should be cut off from the Church. Insofar as it is an act of charity to rescue an erring brother by means of a simple warning, so the responsibility to administer such correction rests with everyone in a state of charity, whether subject or prelate. As an act of justice, however, correction that is directed toward the common good and involves punishment is reserved for prelates.⁶⁴

Whether every Christian really is obligated to correct an erring prelate remained a live question, inasmuch as it tested the durability of the fraternal ideal of the Church. In keeping with the distinctions drawn above, Thomas determined that a subject is not competent to administer correction as an act of justice through coercive punishment. Fraternal correction performed as an act of charity, however, is within the competency of every Christian. Note, however, that when a subject does take it upon himself to correct a prelate, he should proceed with gentleness and respect. To rebuke anyone in public, as the Apostle Paul had confronted Peter at Antioch (Gal 2:11–14), exceeds the mode of fraternal correction. Generally speaking, a subordinate should correct a superior privately and reverently. Although if the faith really were endangered, said Thomas, the subject might have to do so publicly. That is why Paul, who was otherwise subject to Peter, rebuked him in public, owing to the imminent danger of scandal concerning the faith. And then Peter, to his credit, provided an example to superiors that they should accept the correction of their subjects if found straying from the straight path.⁶⁵ We have seen already, and will see several times more throughout this book, that the Antioch incident provided an unimpeachable warrant for Christians to correct their superiors, even if hedged by certain protocols.

John Wyclif, who harbored no qualms about correcting ecclesiastical prelates, determined that Christ's precept handed down in the Gospel of Matthew should serve as a comprehensive law for the governance of the entire Church Militant. Professors of Scripture, as well as bishops or prelates, would do well to solemnly defend and foster this law, since it works for the greater good and brings peace to the larger society.⁶⁶ We see, moreover, that Wyclif was deeply concerned about the charitable aspect of correction. Christians under the New Law of God will demonstrate their love for God by seeking the conversion of their brothers. Indeed, all love of neighbor

ought to be based upon Christ's own example, such that everyone who perfectly loves his sinful neighbor should be ready to correct him.⁶⁷

In a November 1376 sermon Wyclif followed the traditional line that we are to correct at first leniently so as to avoid scandal. Yet those who fail to correct their errant brethren, showing favor with flattering words, and even defending sinners, prove themselves not only prevaricators doing injury to God and neighbor, but thereby share in the sins of another by their consent.⁶⁸ And so Wyclif advised that we proceed prudently in keeping with our desire for the salvation of the one corrected, in addition to our zeal for the good of the Church and the honor of God. When it comes to the final stage of fraternal correction, however, Wyclif did not think it necessary to defer to one's superior; the sin may be revealed to any member of the congregation of the faithful. This is because, with the authority they have received from Christ, healthy members of the Church retain a higher standing than the sick member. For just as it runs contrary to nature that a healthy human body would lack the power to help an individual sick member, so God would not have deprived the Church of the power to correct one of its infirmed members, even if that member be the head (i.e., the pope). In fact, said Wyclif, it might even be necessary to excommunicate or suspend this member lest he infect the rest of the Church, just as Peter had anathematized Ananias and Saphira (Acts 5:1–11).⁶⁹

Although Wyclif did believe that the responsibility to correct sinners rests chiefly with the magnates and prelates of the Church, he adopted the traditional line that the law of fraternal correction obligates all Christians to act when they have the requisite power and knowledge to correct their sinful brethren. No matter that this corrective action might disturb the peace of the Church, since a Church already so infected could not possibly be at peace anyway. Beware, therefore, those who sophistically chant: "Peace, peace, when there is no peace" (Jer 8:11).⁷⁰

Essential to Wyclif's reform program, moreover, was not only that subjects who know their superiors to be notorious sinners are obliged to correct them, but that one actually consents to their wrongdoing by failing to do so. Providing any such comfort to men in their sins, said Wyclif, constitutes an offense against the evangelical law. Only by correcting sinners does someone demonstrate that he truly loves Christ more than mother and father (Matt 10:37–38).⁷¹ For inasmuch as the Church constitutes the communion of the saints, so Wyclif reckoned it impossible that any member

of the Church could sin against another person without sinning against God. Every Christian is a brother to every other Christian, with God for one's Father, and the Church for one's Mother. And it is precisely because all Christians are brothers that there can be no jurisdiction which exempts anyone, no matter how highly placed, from fraternal correction. Indeed, said Wyclif, since no privilege exists except to the extent that it resonates with the good, even the pope may have to be corrected.⁷²

Jan Hus was similarly unafraid to take his superiors to task. On several occasions Hus accordingly appealed to the Antioch confrontation, recorded the Epistle to the Galatians (2:11–14); in one case to extol Peter as a model prelate. For even as Peter had been sharply corrected by Paul, he humbly accepted this admonition. Such forbearance was typical of Peter who set aside worldly glory to take on the burden of Christ's law in all obedience and humility.⁷³ This passage had further ramifications, however, as Hus also employed it to demonstrate that even lay subjects may judge the actions of their ecclesiastical superiors.⁷⁴ In fact, every wayfarer who sins should be corrected by his brethren in keeping with the Law of Christ. Even for a rather mild transgression Paul was willing to resist "Pope Peter" to his face (*in facie restiti Petro papae*). And he then left a written record of the event for posterity, so that others might follow his example. For, according to Hus, it would be perfidious to assert that a prelate cannot be corrected by some subject who stands as his moral superior (*superiori in moribus*). So long as the rule of charity is observed (*ex regula caritatis*), a son can licitly correct his father, a daughter her mother, a subject his prelate, and a disciple his master.⁷⁵ Like Wyclif before him, therefore, Hus placed a great deal of emphasis upon the moral standing of the corrector; his own virtue gives him the authority. Spiritual power, according to Hus, is a common power (*potentia communis*) which every Christian possesses when exercising spiritual works of mercy; hence to teach, counsel, admonish, console, forgive, bear, and pray. Having received Christ in faith, all Christians possess the power to become sons of God (Jn 1:12). This is what makes it licit for the faithful to guide both themselves and their brethren along Christ's pathway, even by charitably correcting (*caritative corripendo*) them as needed, in keeping with Christ's admonition: "If your brother sins against you . . ." (Matt 18:15–17).⁷⁶

While Hus observed that fraternal correction can be exercised by any faithful Christian for the good of the Church, he also recognized that such

principles can be abused by ecclesiastical magnates. Hus pointed to the exemplary life of Christ who had piously tended to the errant and those oppressed by the devil, not by summoning them, nor excommunicating, incarcerating, or burning them. The charitable process that Christ commanded Peter to follow must then also hold for each of his vicars.⁷⁷ It is in this vein that Hus insisted that excommunication be medicinal in its application. Let it serve as a remedy to secure spiritual health, return the sinner to the sheepfold of Christ, putting him back on the path to eternal life. When it comes to dealing with a notorious sinner, therefore, one should abide by Christ's original precept designed for handling people who commit genuine offenses in need of correction. Only if the sinner proves to be incorrigible following the third correction, should he be treated as a "Gentile and a tax collector," i.e., excommunicated. The point is that excommunication is meant for serious offenses; it should only be employed as the last resort when all other efforts at correction have failed. At any rate, as Hus observed, everyone who sins mortally has already been excommunicated by God. It is this divine sentence that Hus confessed to fear more than any of those inflicted upon him by prelates. In this vein Hus, who had been excommunicated in 1412, sounded a word of caution: before excommunicating someone unjustly an ecclesiastical judge ought to consider the maximum excommunication handed down by Christ when he sits in judgment before all the angels. The judge who excommunicates for temporal profit, to vindicate his own honor, even as he may be fully aware that there is no evidence of a crime (*scienter sine causa criminis*), will end up excommunicating himself. In tune with God's own sentence of excommunication, this judge should only excommunicate someone for real crimes that he knows were committed, and then only after the third warning. It is in this way that the process of correction will genuinely observe the rules of charity (*ex caritate*) and be carried for the honor of God and the salvation of the sinner.⁷⁸

In a tract devoted specifically to fraternal correction, Jean Gerson carefully laid out the steps of the process. Here he advised that if one is to go forward, there must first be genuine knowledge of sin, not merely suspicion; and the sin must be mortal not merely venial. The corrector should proceed gently, said Gerson, since correcting with wrath may only provoke the person to still worse behavior. There should also be a reasonable hope that correction will be effective; better to refrain if one fears it will only

make things worse. Ordinarily, the process of secret correction or admonition ought to precede denunciation. There are cases, however, in which one might forego this first stage and proceed immediately to denunciation. For instance, when one fears that secretly correcting a brother will push him to be that much more wicked; or when a delay might even be dangerous. And because the goal of correction is ultimately the improvement of the sinner, it may be that the errant brother could be more effectively corrected by another who is better suited for the task. Here, therefore, Gerson allows that one could divulge the brother's crime to a prelate even apart from secret admonition. This apparent breach of the precept is permissible in this instance, since the prelate would be functioning not in the role of judge so much as a friend whose intervention could be especially effective in bringing about the sinner's conversion.⁷⁹

If Gerson had neatly outlined the process, that is not to say that he found it easy to implement when push came to shove. For he admitted that in his role as chancellor he often found himself compelled either to remain silent against his own conscience (*tacere contra conscientiam*) or else put himself at considerable risk if he attempted to correct those scholars who had gone astray. Gerson complained, in fact, that he found that he could only correct them if their supporters allowed it. The powerful inevitably become angry when they are told what they do not want to hear. As a result, theologians and preachers, although they should be speaking truth to power, lose their nerve and act like court jesters as they alter their teachings in an effort to please these magnates. All of this left Gerson filled with scruples and dread (*scrupulosa . . . formidolosa*), easily upset, and fretting over the ways that he was forced to compromise himself. The Christian life is measured out not by popular rumor, he recalled, but in simplicity of conscience.⁸⁰

THE FAILURE TO CORRECT

Closely related to the positive principle of fraternal correction was the sin of omission by failing to act when one could, and thus appearing to consent to the sin that one did not correct. In his Epistle to the Romans, the Apostle Paul spoke of those "who having known the justice of God, did not understand that they who do such things, are worthy of death; and not only they that do them, but they also that consent to them that do them" (Rom 1:32), upon which the biblical gloss commented that "to consent is to

remain silent when you could refute.”⁸¹ As a matter of law, Pope Innocent III had established that those who knowingly participated in a crime with an excommunicated person should also incur excommunication as determined by the principle that the same penalty constrains both the one doing wrong and the one who consents to it.⁸² In this case Innocent was echoing the canon *Omnes ecclesiae*, which held that those who alienate the faculties of the Church are judged sacrilegious; and not only them, but all those who consent. The same penalty must be applied to both to the perpetrators and the consenters.⁸³ Innocent went further in another decretal when he stated that excommunication applied not only to those who assault a cleric, but those who could have prevented this crime and yet failed to take action.⁸⁴ Innocent was applying the principle that had already been established in the canon *Error cui non resistitur*: “The error that is not resisted is approved, and the truth that is not defended is suppressed. Failing to disturb the wicked when you are able is nothing other than to show them favor.”⁸⁵ Innocent was, moreover, explicitly extending a duty typically reserved for clerics to all Christian people. He may have been taking his lead from both Huguccio and Peter the Chanter, who had argued that all Christians bore a responsibility to oppose the sins of others and set them on the path to repentance.⁸⁶ The gloss on *Error cui non resistitur* similarly maintained that someone who could resist the errant and disturb the wicked, and yet fails to do so, would seem to approve of their evil through his consent. This person is thus a collaborator in the other’s crime for having not obstructed it.⁸⁷

Prior to Innocent III, and along the same lines, we find a letter sent by Pope Alexander III to the Bishop of London. Here in the decretal *Quia quaesitum*, Alexander informed the bishop that a papal delegate has the authority to act not only against those who have committed an offense, but also against those who impede the judicial inquiry. Those who consent to the crime, said Alexander, are deserving of the same punishment as those who have committed that crime. Hence, if supporters of the malefactors are found to manifestly impede justice, the bishop may coerce them by way of ecclesiastical sanction.⁸⁸ The gloss on *Quia quaesitum* addressed four types of illicit consent. First there is negligence, wherein the one who consents does sin, but to a lesser degree than the one committing the crime, unless his negligence was exceptionally gross. The second sort pertains to the one giving counsel, who is to be punished less than the actual criminal, but still more than the one who is simply negligent. A third form of consent is

cooperation; here one sins just as much as the principal malefactor. And all the authorities agree, says the gloss, that this person is deserving of equal punishment. Finally, and worst of all, is the person who consents by authorizing or defending criminal behavior. In this case the one consenting commits an even greater sin than the original perpetrator by using his authority to shield him; this person should be punished all the more. The gloss then points to two canons in support. There is *Qui aliorum*, which holds that those who defend the error of others are more deserving of condemnation than those who err, precisely because they not only err themselves, but also set up a stumbling block for others, confirming them in their error. This is why the teacher of error is not only reckoned a heretic, but even a heresiarch. And the canon *Qui consentit* maintains that the one who gives his consent to those who commit sins, and furthermore defends the delinquent, stands cursed before God and man, and so should be severely punished. In fact, the one who defends a sinner ought to be punished more harshly than the sinner himself. While he who consents to another's error ought to be judged equally culpable.⁸⁹

We have seen that Wyclif's treatment of fraternal correction often veered into the related matter of consent. In his 1379 mirror for princes, *De officio regis*, Wyclif had appealed to the above gloss on *Quia quaesitum* when laying out his own six-part schema of consent, which comprised cooperating with the malefactor; defending him; providing him with advice; authorizing his crimes; refusing to assist the correctors; and failing to rebuke.⁹⁰ In a later sermon, Wyclif again addressed these six types of consent to sin. Here in his characteristically sweeping way, Wyclif began by noting that every person—whether among the foreknown or predestined—who commits evil acts, thereby consents to all the sins of the world. Each unjust person becomes a participant in collective sin and does injury to the whole of creation. To commit a crime, said Wyclif, is to cooperate with every other criminal act wherever it occurs, and so function as one body with the Father of Lies. Then there are those who attempt to defend sinners. This practice is so prevalent that schoolmen, according to Wyclif, will find few allies when they attempt to reprove these sins in the course of their work. But as we have seen, those who consent end up participating in all the world's sins. Like a wagon under the yoke of the devil, each can be said to simultaneously pull the whole cart while pulling his own share of the load. God alone knows the gravity of sin and the extent of one's participation in

good or evil acts. Some by their evil actions provide an example to others as though promoting their own evil. Others, often prelates, consent to evil by authorizing and defending sinners.⁹¹

There are also those who refuse to assist others in their righteous struggle, withdrawing the help they are obligated to extend. Bear in mind, said Wyclif, that we are commanded by God to offer assistance to our neighbor, and in this way bring to effect the chain of love that binds us to our fellows. If it is true that one fails to love a neighbor in physical danger by withdrawing one's hand, it is that much worse when allowing him to lapse into damnation for want of spiritual assistance. And then there are those who meekly keep quiet when they could take action to destroy the evil of sin. Everyone has a duty to rebuke sinners; those who only feign correction, are thereby consenting to sin.⁹²

OBEDIENCE

We have seen that Christians should not be forced into swearing oaths or taking vows and must not fulfill those that run contrary to divine law. We have furthermore observed that Christians have a duty to correct their errant brethren, no matter how powerful, and might even be held liable for their silence in the face of malfeasance. Finally, we will see that Christians could not be pressed by their superiors to obey commands that violated their sacred obligations to God and to neighbor. No single text was so frequently quoted by later medieval theologians when discussing the parameters of obedience than Bernard of Clairvaux's *De praeceptione et dispensatione* (c. 1141–1144), which he wrote in response to queries received from two Benedictine monks at Saint-Père near Chartres, seeking clarification on points of obligation in the rule.⁹³ As Jean Leclercq has summarized their concerns, they “were seeking some way of narrowing the field of difficult obedience or reducing it to that minimum below which conscience cannot go without sinning.”⁹⁴ Bernard had addressed such issues on other occasions, as we see in a letter written to a monk who had left his monastery along with his abbot. Although this action was in violation of his vow, the monk claimed that he was acting under obedience. Bernard pointed out to him that his vow was not made to the abbot, but to God who was a witness to his profession: “If my abbot, or even an angel from heaven (cf. Gal 1:8), were to command something contrary to this, I would unhesitatingly

excuse myself from an obedience of this kind (*libere recusabo huiusmodi obedientiam*) which would make me break my vow and perjure the name of God. . . . I have resolved then always and everywhere to follow my abbot as master in such a fashion that I should never in any way deviate from the teaching of the rule which, with him as witness, I have sworn and determined to keep.”⁹⁵

Here, in his *De praecepto et dispensatione*, Bernard pointed out that the spiritual precepts of the rule are not in the hands of the abbot. Indeed, the abbot is not above the rule, having once also made his vow to observe it. Only the rule of charity itself stands above Benedict’s monastic rule. “Let the letter of the rule give way then, for a time, to charity when need arises, but God forbid that it ever bow to any mere man’s will.”⁹⁶ The abbot does indeed have discretionary authority in the application of the rule to the life of the monks within the monastery, but he cannot make any arbitrary alterations. In fact, says Bernard, the monk and the abbot have entered into a contract, such that the monk vows obedience and the abbot care for his charges. To the extent that the superior does have a certain freedom, it is nevertheless circumscribed by the fact that the subject has not vowed unqualified obedience, but rather a specific obedience to the rule. Consequently, said Bernard, if the abbot attempts to impose something upon me that is not in accord with the rule (*secundum regulam*) I am not obliged to conform. I am only obligated to do those things that I have promised when I professed the rule.⁹⁷ It is in this vein that Bernard speaks of the limits of obedience (*oboedientiae limites*): “If the measure of obedience be the tenor of the profession, the power of the one who commands can extend no further. . . . Let superiors then hold their subjects to what they themselves have promised rather than to their own whims, and let them urge rather than force them to better things.”⁹⁸

Bernard’s treatise proved to be of enduring value to later generations precisely because questions of conscience often manifested themselves in concrete situations, as clerics found themselves torn between their sworn vows and the immediate directives of their superiors. When discussing the Franciscan Rule’s treatment of fraternal correction, we noted that the brothers were certainly under obedience, but such obedience was limited to the rule they vowed and must not violate their conscience: “Therefore, I strictly command them to obey their ministers in everything they have promised the Lord to observe and which is not against their soul and our rule (*non*

sunt contraria animae et regulae nostrae).⁹⁹ As a Dominican friar Thomas Aquinas also lived under a rule and likewise determined that the vow taken by a religious obligates him only to obey the rule itself; he is not under obligation in indifferent matters. Here Thomas had recourse to Bernard's aforementioned *De praecepto et dispensatione*: my superior may not command me to do anything that I have not promised to do, nor forbid me from doing anything that I have promised. Now everyone agrees, says Thomas, that a religious is not bound to obey his superior in matters that are opposed to the Law of God or run contrary to the rule (*contra Deum et contra regulam*). And it is also agreed that the religious is not obligated to do more than the rule requires, although obeying in such cases may be a matter of perfect obedience. Ultimately, however, obedience only extends as far as the superior's jurisdiction or authority, which is limited to the rule.¹⁰⁰

The principles of obedience and fraternal correction can sometimes intersect in ways that highlight the distinction between the private and public fora. Consider a situation in which a religious is commanded by his prelate to tell him if he knows of anything that requires correction. In light of the obedience owed one's superior, is one obliged to comply even prior to the requisite secret admonition of the sinner? Thomas Aquinas was clear, first of all, that a prelate should not be obeyed if his command runs contrary to a divine precept, thus in keeping with Acts 5:29: "We ought to obey God rather than men." Hence the command would only be licit, said Thomas, so long as the proper order of fraternal correction were preserved, such that secret admonition precedes any public denunciation. Were the prelate to issue a command in express opposition to the order instituted by Christ (Matt 18:15–17), not only would the commanding prelate be committing a sin, but so also the subject who obeyed his unlawful order. In this case, therefore, the prelate should not be obeyed, for the very fact that he is not the judge of secret things; that is for God alone. The prelate does not have the power to command anything pertaining to hidden matters except to the extent that they are subsequently brought out into the open by manifest signs such as ill-repute (*infamia*) or other suspicions. Only when the crime has passed into the public sphere, therefore, might the prelate command that information be divulged, just as a secular or ecclesiastical judge can bind a man under oath to tell the truth in cases involving public crimes.¹⁰¹

Thomas also addressed this theme in a quodlibetal question that asked whether a member of religious order is obliged to reveal a secret fault of

another brother to a superior who commands him to do so? Here it is pointed out that a religious superior presides over a chapter like an ecclesiastical judge in courtroom (*iudex ecclesiasticus in foro iudiciali*) and can therefore command and oblige his subordinates to reveal things to him for same the reasons that the judge can require sworn testimony. In his response, Thomas insisted that the proper order of correction be followed. The purpose of denunciation is to correct the offender. Charity requires that one make every effort to correct the conscience of the erring brother in a way that preserves his good name; hence by correcting him privately at first, then with two or three brothers, and as a last resort bringing him before an ecclesiastical tribunal in order that his conscience might finally be corrected. Only when one realizes that the prior private warning has not led this brother to mend his ways may one then reveal the sin. Generally speaking, though, it would be a sin to reveal the sin at the superior's command. This is because, as Thomas clearly stipulates, one always has a greater duty to obey the Gospel than one's superior: "*quia plus tenetur obedire Evangelio quam praelato.*"¹⁰²

Along similar lines, Henry of Ghent was asked whether a subject who has committed a secret sin, of which he is nevertheless suspected by his prelate, is then bound to tell that prelate the truth when interrogated under oath. In this case Henry applied the principle of charity, governing the correction of others, to the person himself. Just as one is obligated to love one's neighbor, so also should one love oneself, which entails exercising works of charity toward oneself. Now it is an act of charity to exhort a neighbor who has sinned in secret to correct his transgression in secret. One is never to reveal the neighbor's sin publicly, however, since one would then be the denouncer of a crime rather than its corrector. The same applies to oneself: correct your own secret sin secretly. Not disclosing the sin amounts to an act of charity toward oneself. Consider furthermore, said Henry, that commanding someone else to act in ways contrary to charity is itself opposed to charity. To command a subject, under a vow or not, that he openly confess his secret sin surely runs contrary to charity. After all, as Henry pointed out, at this stage it remains a secret sin with no infamy attached to it, nor even enough suspicion to warrant the opening of a formal inquisition. No matter how obedient one should be to a prelate, therefore, in this case one should not obey a command that by definition runs contrary to charity. Henry was adamant that the prelate may not demand of the subject that he publicly

confess his secret sin. In fact, the prelate would sin gravely by forcing this upon a subject who is only suspected of a crime. As for the subject himself, he would be under no obligation to obey his prelate in this case. This is because the precept of a superior—God in this instance—blocks the precept of an inferior, i.e., the prelate whose own precept stands condemned.¹⁰³ Simply stated, one's principal duty to serve God (as conscience dictates) brooks no interference on the part of ecclesiastical prelates.

A question in this same vein, but with a new wrinkle, asks whether a religious subject who learns something in secret, which causes no harm to anyone, would still be obligated to reveal that secret to a prelate who asks of it. Some, according to Henry, argue that the subject should not reveal the secret to his prelate; for this is expressly opposed to virtue inasmuch as it runs contrary to fidelity, which is part of justice. On the other hand, it seems that the religious who professes a vow commits himself totally to his superior and holds back nothing, which means that he should do as his prelate wishes. Here again, though, we encounter the foundational principle that a religious never commits himself to any act reckoned illicit by the very rule that he has professed. Only with respect to the statutes, and to these alone, does one owe obedience to one's superior. If the superior were nevertheless to command what is illicit, contrary to divine law and opposed to virtue and good morals, one's first obligation is always to God rather than to a mere man. Actually, in this case, by refusing to obey one's human superior, one more truly obeys one's divine superior. Because revealing a secret committed to one in confidence runs contrary to virtue, the subject is thereby relieved of any obligation to obey his human superior's command if this means betraying that confidence. As for the principle that the religious retains nothing for himself, Henry determined that this holds true only with regard to those things that pertain specifically to his profession and obedience. All the rest remains within the domain of his own free will (*voluntati suae liberae*), the use of which determines his salvation or damnation. His prelate has no jurisdiction in that realm.¹⁰⁴

Godfrey of Fontaines was similarly asked whether a religious, at the command of his prelate, must reveal a secret committed to his confidence or some other hidden sin of his neighbor. It would seem that the religious is bound to obey in those matters that pertain both to the good of his neighbor and to the good of his community. For by revealing such things, his prelate would then be in a position to correct the errant neighbor. On the

other hand, however, we must remember that the prelate has no authority to judge secret matters outside of the penitential forum, which means one is under no obligation to reveal these things. As we might expect, Godfrey maintained that no one is obligated to reveal a hidden sin to his prelate simply at the prelate's command. Godfrey did allow, however, that one may sometimes be obliged to reveal the secret to one's prelate insofar as he is a good man; but not insofar as he is a prelate. In other words, one might reveal a secret in the furtherance of charity, but never simply in response to a command. Because a hidden sin does not belong to the public forum, it will not fall under the prelate's jurisdiction within that forum, which is reserved for notorious sins. What is more, revealing the secret in this way would be opposed to the precept of charity, which dictates that we preserve the reputation of the sinner wherever possible. Certainly, no one is bound to obey the command of a prelate that stands opposed to charity—the very charity that obligates one to preserve the reputation of his brother. On the other hand, if one believes that the prelate's correction would be effective, then the prelate could be approached in his capacity as a good man who might help this errant brother. In this way one would still preserve the brother's reputation in keeping with the order of charity.

Note, however, that if that hidden sin may result in harm to others, it is no longer merely a private sin; in that case, it would be right to inform the prelate. For it now extends beyond fraternal correction, since it pertains to the virtue of public justice, which means that the prelate will be acting for the common good. And yet even here one would not be following the command of the prelate per se, so much as observing the divine precept that would preserve public justice. In the end, therefore, Godfrey determined that one is not obligated to reveal a sin to his prelate unless, concerned for the common good, one fears that harm may come to others were it not revealed.¹⁰⁵

If we are not obliged to obey a prelate's command to reveal hidden sins, might we still be obliged to denounce these sins to an upright man? That seems like a reasonable course if conscience dictates it would result in the sinner's salvation, and in that way be an act of fraternal correction born of charity. On the other hand, to betray someone is itself a sin, and revealing another person's hidden sin is an act of betrayal. What then to do about one's conscience? After all, as Godfrey notes, if acting against conscience leads to hell (*Literas tuas*, X 2.13.13), one would sin by failing to denounce the sinner inasmuch as one proceeds against one's own conscience. Here, as

in the previous question, Godfrey determined that when it comes to fraternal correction, we need to consider whether the brother's sin might cause harm to others. The welfare of the whole community will always remain a principal concern when considering such questions. Will the sinner end up endangering other people unless precautions are taken? If these precautions cannot be taken unless there is prior knowledge, then the love that pertains to the common good (as opposed to just one person) would demand that even a hidden sin be revealed to those who are in a position to prevent the harm. Even here, though, an effort should be made to preserve the reputation of the sinner to the extent that this is possible. For Godfrey pointed out that, in keeping with the basic principles of due process, a prelate cannot proceed to inquisition against someone unless the crime is either well-known or the sinner has already been defamed among many people. And so, it would seem that a hidden sin could not be denounced to the prelate. This is because denouncing the neighbor would create a scandal and serve no good purpose, since the prelate would not be in a position to open an inquiry. When it comes to hidden sins, therefore, the prelate has no standing as a corrector; he remains on the level of brother and coequal.

Consequently, if someone's sin must be revealed it will not be on account of any obligation owed to a human being. Rather, it will be done in obedience to God alone under the precept of charity, as one reveals the brother's sin for the sake of his betterment. In the end, Godfrey made it clear that a prelate who commands that a hidden sin be revealed should not be obeyed. Although, as we have seen, Godfrey will allow that the sin be revealed to a prelate only insofar as he is a good man and pious brother, but never insofar as he is a demanding prelate. In this way, the sin still remains secret and does not injure the reputation of the brother. All along charity must be one's guide, such that one protects the reputation of the sinner while at the same time seeking his spiritual restoration. One acts for the good of one's neighbor, says Godfrey, out of the love of charity.¹⁰⁶

To conclude this chapter, we enter the Paris convent of the Celestine monks c. 1400. It was here that Jean Gerson had agreed to take part in a set of quodlibetal questions together with Pierre Poquet, a jurist by training who had served as prior and provincial of the order. Although Gerson might have harbored misgivings about these sorts of academic exercises, marked as he saw them by pride, vain curiosity, and strife, this engagement with the

Celestines (whose ranks included two of Gerson's brothers) turned on matters of profound importance to the religious life. Gilbert Ouy, who edited this set of questions, has noted the principal place of conscience, as these monks contended with the innumerable dilemmas that the morally diligent face in the course of religious life. Such difficulties would have been all the more acute in the case of the Celestines, a rigorously observant order whose life of demanding asceticism provoked a corresponding scrupulosity.¹⁰⁷ Gerson was well-positioned to offer advice in these matters, for while not a religious himself, he had the same deep propensity for self-examination. In fact, Gerson "ceaselessly questioned his own motives and criticized himself for not living in accord with the ideals in which he believed."¹⁰⁸ Of special interest for our purposes will be Gerson's insistence that one's ecclesiastical superiors have no right to force purely private matters into the public sphere. Which means, according to Gerson, that these prelates can be legitimately resisted when pressuring their subjects to reveal such things.

When Gerson addressed the question of whether everything that is said in the course of a confession is covered under the confessional seal, he replied that the sins and their circumstances, along with tangential material by which the sins might be revealed, all fall under the seal of confession, and so are necessarily concealed.¹⁰⁹ Yet what of those sins one learns about outside of the confessional: Can someone reveal a secret sin for sake of the sinner's betterment? Would it be permissible to disclose that sin to someone in a position to correct this sinner or otherwise help secure his salvation? In this instance Gerson responded that one can disclose the sin, provided that the one to whom the sin is revealed keeps it quiet and only corrects the sinner secretly; for in this way he might be able to help the sinner without harming or betraying him.¹¹⁰

Now consider a monk who has committed a hidden sin that may have scandalized the community: Is he obliged to publicly reveal himself? In this case, Gerson determined that if the sin itself were a matter of public knowledge, even as the identity of the sinner remains unknown, then were the monk asked by his superior to speak the truth about it, he should. In so doing he does not betray himself, but instead obeys the Law of God as well as his superior. Although were he interrogated by his superior in public, the guilty man might say: "Lord, I am prepared to tell you what I know in private." In a similar vein, if the monk were publicly defamed or accused of a sin that he had hoped to conceal, he would also be obliged to answer to

his superior. For in each case his actions had passed from the purely private sphere into the public domain, thus becoming a matter of concern for the whole community.¹¹¹

The situation is very different, however, if the sin had always remained hidden; in that case the monk would be under no obligation to reveal himself when interrogated by his superior. He could say, "Lord, you should not interrogate me about such things concerning which I have neither been defamed nor denounced." And so, were the superior to have him swear an oath under pain of excommunication, this monk would not be bound to obey, nor should he fear the penalty. As for a sin known only through confession, Gerson pointed out that the doctors were in agreement that the confessor could without scruple (*absque scrupulo*) swear: "Lord, I know nothing about these matters." Hence in keeping with the distinction between what the priest knows as an ordinary man (*ut homo*) and what he knows precisely in his role as confessor (*ut Deus*), it is understood that he knows nothing by virtue of hearing the confession, and so has no such knowledge that would allow his superior to question him.¹¹² Finally in this vein, would one be obliged to obey a prelate who demanded that those monks who knew of a secret sin come forward to accuse the sinner publicly? No, said Gerson. In fact, any superior who opened an investigation into purely secret matters would sin gravely and should be reprimanded. For in this instance, he is exceeding the authority of his office as he trespasses upon the jurisdiction of God to whom alone is reserved the punishment of secret sins.¹¹³

CHAPTER SIX

PAPAL POWER AND THE RELIGIOUS LIFE

To what extent can the pope alter, or otherwise intervene in, the religious life of Christians? Answering this question first requires a concise analysis of how papal power was generally understood in the late Middle Ages: What were its limits; and what could be done if the pope exceeded those limits or in some manner abused his authority? From there we will look briefly at the application of papal authority to the religious life: What could the pope amend and what remained beyond his authority to change? The bulk of this chapter, however, is devoted to the role that the papacy played in determining the specific vocation of the Franciscan Order. The Order of Friars Minor is reserved a special place both in this chapter and the next. These two chapters are connected in part by the order's relationship to the papacy—at first harmonious and later fractious. We devote as much space to the Franciscans as we do for the fact that this order claimed from its inception to have embraced the highest form of the Gospel. The friars' vocation, embodied in the rule they vowed to keep throughout their lives, was to live in the ways of evangelical perfection. Conscience, vows, obedience, and then correction coalesce in this medieval religious phenomenon birthed by Saint Francis of Assisi, when the inalienable Christian right to live according to the Gospel would be tested by the principles of both Holy Scripture and canon law.

PAPAL FULLNESS OF POWER

When the popes of the thirteenth and fourteenth centuries claimed jurisdiction in hearing cases, confirmed privileges or granted dispensations, they were often said to be acting out of their "fullness of power" (*plenitudo potestatis*). The phrase itself can be traced back to a letter sent in 466 by Pope Leo the Great to the Bishop of Thessalonica: "We entrusted your charity with our office, such that you were called to share in our pastoral responsibility, not in the fullness of our power" (*ut in partem sis vocatus sollicitudinis, non in plenitudinem potestatis*). Leo wanted to impress upon

this bishop that he was a vicar in the strictest sense, such that the power he exercised was understood to be delegated; it had been conceded to him by the authority of the Apostolic see (*apostolicae sedis auctoritate concessa*). This sort of derivative power was limited in its exercise and always subordinate to the superior rights of the pope. What began in the singular case of Leo's dealings with this bishop would, by way of Pseudo-Isidorian decretals, be applied as a general principle that upheld the universal authority of the Roman Church. By the early thirteenth century Pope Innocent III had linked papal fullness of power to that *plenitudo potestatis* which Christ had originally bestowed upon Saint Peter, thereby surpassing the authority granted to the other apostles.¹ Then in 1274 at the Second Council of Lyon, it was formally determined that the Apostle Peter had received from Christ the fullness of power that now inheres in the Roman pontiff. Such is Rome's fullness of power that the other churches are admitted only to a portion of that responsibility.²

The foundational text induced to support such expansive claims was to be found in the Gospel of Matthew wherein Christ said to Peter: "I will give you the keys of the kingdom of heaven; and whatever you bind on earth shall have been bound in heaven, and whatever you loose on earth shall have been loosed in heaven" (Matt 16:19). According to the biblical gloss on this passage, because Peter was the first of the apostles to confess Christ, so he was given the keys before the rest, identified here as the penitential keys of knowledge (*scientia*) and power (*potestas*). Although the gloss also confirmed that the other apostles possessed the same judicial power to forgive sins with their reception of the Holy Spirit following the Resurrection (Jn 20:22–23). Yet even as all bishops and presbyters have this same power, the gloss determined that Peter received it in a special manner. This was in order that everyone might understand that whoever separates himself from Peter's faith and fellowship can neither be absolved of his sins nor enter into heaven.³ By the time the Dominican theologian Albert the Great commented on the Matthean text in the middle of the thirteenth century, Peter's unique authority had been firmly entrenched by several decades of papal decretals. For even as Peter was not the only apostle to receive the keys, he was the only one who received them in the fullness of power, and so it is for Peter's successors. Other ecclesiastics have only a share in that power insofar as they are called into a portion of the Petrine responsibility. While it is true that Christ had granted all the apostles the authority to forgive sins,

said Albert, they received such authority only in a derivative sense.⁴ Fellow Dominican Thomas Aquinas determined that Peter had been uniquely appointed Vicar of Christ. Standing above his fellow apostles, Peter received the keys immediately from Christ, whereas the others received them only secondarily from Peter. In this vein, it is the pope who—in the place of Peter—maintains the plenary power (*plenaria potestas*) from which the other bishops draw their own.⁵

Already in the twelfth century the canonists had presented various iterations of papal supremacy that permitted the pope to depose, restore, and move bishops; dispense in matters of consanguinity; absolve crimes of sacrilege; interpret canons; approve religious orders; and canonize saints. The pope was reckoned the “*iudex ordinarius omnium*,” which in Roman law referred to the judge who exercised his office by his own right (*suo iure*) rather than by way of delegation. Because the pope held the fullness of power, he was thus considered the universal ordinary, with the result that appeals could be made directly to him. It also meant that as Vicar of Christ he had all power at his disposal to secure the welfare of the Church. With far-reaching authority to act for the common good, the pope was in a position to supply for any and all deficiencies in the legal system, and so could intervene in cases as he saw fit: “*plenitudo potestatis omnia supplet*.”⁶ Innocent III would famously encapsulate these principles of sovereignty when he spoke of the pope as Vicar of Christ and successor of Peter, constituted between God and man, below God but above man, lesser than God but greater than man, who judges all and is judged by no one: “*vicarius Iesu Christi, successor Petri . . . inter Deum et hominem medius constitutus, citra Deum, sed ultra hominem, minor Deo, sed maior homine: qui de omnibus iudicat, et a nemine iudicatur*.”⁷

Like Innocent III and Innocent IV before him, the canonist Hostiensis rooted the fullness of power in the pope’s position as Vicar of Christ. God is believed to be at work in whatever the pope does; the acts and dispensations of the pope are not of man but of God; and with the exception of sin, the pope can do all things by right as God. Under this schema the pope held both an ordered power (*potestas ordinata*), as he acted according to established law, and an absolute power (*potestas absoluta*), when he transcended existing law by way of his fullness of power. Such claims to absolute power were grounded in the principle that the pope was bound by no law. As sovereign, the pope was free to act outside of the law when

he determined it was best. It must be stressed, however, that Hostiensis by no means regarded such expansive power as an invitation to capricious or self-serving action. The pope had received this power for the good of the Church. He could not dispense against the general welfare of the Church, since that would amount to a subversion of the Catholic faith itself.⁸ And so, even were one to go so far as some canonists in saying that the pope was above the law (*supra ius*), he was nevertheless constrained to act with good cause for the sake of the common good and without damaging the state of the Church.⁹

The canon *Sunt quidam dicentes* provided a classic formulation of the scope of papal power relative to the sacred constitutions of the Church. It began by affirming that the pope is entitled to make new laws so as to provide for the Church's overall well-being. It proceeded to warn, however, that in those instances where Christ, the apostles, or holy fathers have already clearly defined something, the pope cannot pass any new law, but rather must defend these precedents. And what is more, were the pope to attempt to undermine apostolic doctrine, his error would deprive his judgement of any force. In this vein, the Apostolic see has no authority to concede or change anything against the statutes of the saints. Nothing may be permitted to stand against evangelical and prophetic doctrine or custom, since salvation consists in not deviating from the statutes of the fathers and preserving the rule of faith.¹⁰

The sentiments expressed by *Sunt quidam dicentes*, which often served as a touchstone in discussions of papal authority, were generally shared by the twelfth-century canonists. The *Summa Parisiensis* determined that canons pertaining to the articles of the faith were immutable. Rufinus noted that although not all conciliar decrees were unchangeable, the pope had no authority to alter the ancient statutes promulgated to maintain the state of the Church. Similarly, the *Summa Elegantius in iure divino* held that while the pope had some leeway in abrogating old canons and passing new ones, he may never presume to act contrary to the faith nor offend the Church. Simon de Bisignano said that although the pope is permitted to act contrary to human statutes, he may never proceed against those that have been instituted by Christ and the apostles. The *Summa Tractaturus magister* noted that the pope was prohibited from altering statutes essential for salvation and the state of the Church. And Huguccio maintained that the pope could not change precepts pertinent to salvation found in the Gospel, Law, and

Prophets. Nor may he dispense in matters pertaining to the state of the Church, whether sacraments or articles of faith.¹¹

The authority conceded to Holy Scripture and apostolic teaching was regarded as so inviolable that the gloss on the aforementioned *Sunt quidam dicentes* asserted that were the pope to issue a statute that contravened the Gospels, apostles, or prophets he would stand convicted as a heretic.¹² The possibility of papal heresy appeared to be anchored in ecclesiastical history. The canon *Anastasius* recounts how Pope Anastasius II (d. 498) had been tainted with heresy by communicating with Photinus, a deacon in Thessalonica, who had himself been in communion with Acacius the patriarch of Constantinople, a man reckoned by the Roman Church to be a heretic. After the death of Acacius, Pope Anastasius saw fit to give communion to Photinus without first consulting with a clerical council. He, moreover, had wished secretly to rehabilitate Acacius who had died in his heresy, ordering that prayers be said for him in church. It was for this reason that many Roman clerics withdrew their obedience from Anastasius, who was subsequently struck with leprosy.¹³ The gloss on *Anastasius* noted that while it is ordinarily true that the clergy cannot withdraw obedience from their bishop before sentence has been passed, in this case they had not actually withdrawn their obedience prior to the sentence, for the very fact that someone who lapses into heresy is already condemned.¹⁴

The canonists generally agreed that by lapsing into heresy the holder of the papal office had *ipso facto* ceased to be the pope, even if it remained unclear who was in a position to pass sentence upon him. It would certainly be easier to determine his guilt if he propounded an ancient heresy that had been officially condemned and so was automatically excommunicated. According to the *Summa Reverentia sacrorum canonum*, a pope who lapsed into heresy stood self-condemned. While the *Summa Duacensis* maintained that someone could not simultaneously be pope and a heretic; by lapsing into heresy a pope would automatically forfeit his power of jurisdiction. A pope persisting in a heresy condemned by the Church had by definition ceased to be pope, thereby leaving the Church free to proceed against him. That he could be judged rested upon the fact that a heretical pope, by virtue of his heresy, was now "less than any Catholic" and had therefore forfeited his previously exalted status. Alanus made the point succinctly: "If [the pope] is a heretic, he is not the head of the Church (*si hereticus est caput ecclesiae non est*)."¹⁵

The canonists met the possibility of papal error clear-eyed. Hence the gloss on *A recta fide ergo* declared it a settled matter that the pope can err (*certum est quod papa errare potest*). That such a possibility could be freely acknowledged owed to the fact that the Church is not defined by the papacy. It is the Church, understood as the *congregatio fidelium*, that can never cease to exist.¹⁶ When the canon *Si papa* stated that the pope may be judged by no one, it then added the proviso: “*unless* he is found to have deviated from the faith.” The gloss on *Si papa* took things further as it concluded that the pope can be accused if found to be involved in a notorious crime that scandalizes the Church, and yet remains incorrigible. The pope may also be accused of secret heresy, said the gloss, although not for some other secret crime. Finally, and importantly, it was also noted here that the pope may not pass a law that would immunize him from accusation, inasmuch as that would endanger the whole Church.¹⁷

Extreme cases notwithstanding, the pope’s authority relative to ecclesiastical law and precedent was constantly being negotiated. According to the canon *Ideo permittente*, he who proceeds against the statutes of the holy fathers has thereby failed in his duty to preserve them intact.¹⁸ This seemingly straightforward maxim elicited a long explanation from Gratian as he sought to demonstrate that, while this principle is true so far as it goes, the canon must not be read to the detriment of papal authority. Here Gratian determined that the Holy Roman Church imparts right and authority to the sacred canons, even as it is not bound by them. This means that Rome maintains the right (*ius*) to make canons, as the head and the hinge of all the churches, from whose rule no one may lawfully dissent. Indeed, it is because the Roman Church bestows authority upon the canons that it does not subject itself to them. At the same time, however, Rome shows all due respect to these canons and customs. Consider, says Gratian, that although Christ had given the law, he then fulfilled that same law over the course of his earthly life (circumcised on the eighth day, presented at the Temple with sacrifices, etc.) in order that he might sanctify the law in himself. On the other hand, Christ would later show himself to be Lord of the law when he cleansed a leper by his touch contrary to the letter of the law, and when permitting the apostles to pluck grain on the Sabbath. Jesus taught as one having power, revealing himself as the law’s Lord, as he commuted the shadow of figures into the light of spiritual understanding. In this way he was unlike the scribes who

remained absolutely bound to the law, and so would not dare make any additions or changes.

The authority of the Roman pontiffs with respect to the canons tracks closer to Christ: they command, define, and render determination, even taking action apart from established precedent, in this way confirming that they are the lords and creators of the decrees. Again, though, like Christ himself, they nevertheless observe the sacred canons, thereby setting an example for others lest the canons be held in contempt. For we recall that Christ, who had commanded that the Church keep the sacraments, also took them upon himself to sanctify them. It is only fitting, therefore, that the principal see would observe those things which it commands, not under necessity of compliance, but rather through its authority to impart them. Consequently, according to Gratian, it is lawful for the pope to permit special privileges against general decrees and also concede by special benefit what may be prohibited by those same decrees. All the while, though, the pope diligently considers the intention of the sacred canons and never takes any action that runs contrary to their authority. Nevertheless, the authority to interpret these same sacred canons is reserved to the Holy Roman see, since authorized interpretation rests solely with those who have the right (*ius*) to make the canons. Even the chapters of those councils which have determined what must be observed include, according to Gratian, some sort of caveat: “unless the authority of the Roman Church determines otherwise”; or “with due reverence to the right of the Roman Church in all matters”; or again “respecting the apostolic authority in all matters.”¹⁹

We see that for Gratian, and then for the later canonists, the Roman pontiff claims the right to dispense in his unique role as “lord of the canons.” He alone has the power both to make and change the law in addition to interpreting the law and granting exceptions.²⁰ Although the canonists deduced from the pope’s supreme legislative power his authority to dispense, we have seen that they also acknowledged certain limits. The pope could not change or relax the law arbitrarily or without cause, nor could he do damage to the fundamental order and well-being of the Church, otherwise known as the *status ecclesiae*. And so, while the gloss on the canon *Requiritis* allowed for relaxation of the common law done with knowledge by the one who has the right to dispense, it also insisted that no dispensation might be permitted that would deform the state of the Church.²¹

Such strictures were broadly drawn, however, and so had to be squared with reality on the ground as popes granted various dispensations that might appear to contradict Scripture and apostolic tradition. For were it really the case that the pope could not dispense against the Apostle Paul or the Lord, as the canon *Sunt quidam dicentes* stipulates,²² we would need to account for Pope Martin I dispensing against the Apostle Paul's prohibition of twice-married clerics (1 Tim 3:2), recorded in the canon *Lector*. In fact, the pope also appears to have dispensed against the Lord when releasing subjects from their oaths and vows in the canon *Iuratos*, even as Holy Scripture says, "You shall fulfill your vows to the Lord" (Ps 76:11). Weighing it all up, the gloss on *Sunt quidam dicentes* concluded: "The pope does dispense against the Apostle, but not in matters that pertain to the articles of faith. And in the same manner he dispenses with respect to the Gospel by interpreting it."²³ In that sense the integrity of the sacred tradition is upheld, inasmuch as the pope exercises his power around the edges as it were, confining himself to matters of discipline when it comes to the Apostle Paul's Epistles and exegetical application in the case of the Four Gospels.

The parameters laid down in the gloss represent the mainstream thinking of the canonists. Consider the decretal *Quanto Personam* of 1198 wherein Innocent III had declared that the pope alone could approve an episcopal translation on the grounds that only God could dissolve the bond of marriage between a bishop and his flock, and that this authority had been granted by Christ to Peter and his successors. For according to Innocent, "the pope has this authority because he does not exercise the office of man, but of the true God on earth (*sed veri Dei vicem gerit in terram*)."²⁴ When Goffredus of Trano glossed *Quanto Personam*, he determined that as God's vicar, the pope stands above the law, which renders him free to dispense against the Apostle Paul (*ipse dispensat contra apostolum*).²⁵ Raymond of Peñafort similarly stated that the pope does have the authority to interpret the Gospel and dispense against the Apostle Paul. In fact, the pope can dispense against the saints, even altering their pronouncements, except in cases—and this is the key—where the saints have addressed articles of faith.²⁶ Innocent IV, an expert jurist in his own right, claimed that the pope could dispense from the obligations of the Gospel, although only according to the letter, not its intention. While Guido de Baysio said that the pope could dispense from the evangelical counsels, although not the evangelical precepts and prohibitions. Even here, though, the canonists did agree

that the pope would still need good reason to dispense in such instances. Moderate canonists admitted that the pope as successor of Peter was not really free to dispense against all the statements of the apostles. Dispensing against apostolic ordinances was only licit if these ordinances did not constitute articles of the faith, which must be exempt inasmuch as they are essential for salvation. It was for this reason that the pope could not dispense against the first four ecumenical councils, since they contained articles of faith. Nor could he dispense against the Ten Commandments, for they too were essential for salvation. It is important to remind ourselves, therefore, that the canonists did not grant the pope license to run amok; his power of dispensation was grounded in necessity and usefulness.²⁷ Hence, even as Bernard of Parma maintained that the pope could dispense in all matters, this again assumed that he would not be acting against the articles of faith and the general state of the Church. Innocent IV took matters further perhaps when he declared that the pope can even dispense against the general state of the Church, but then qualified this audacious claim with the proviso that it be for some just cause.²⁸ The canonists therefore sought at once to grant the pope maximum discretionary latitude when dealing with new and complex situations as they arose, while at the same time acknowledging a set of systemic constitutional principles that would regulate his actions.

As the canonists would not permit the pope to exercise his considerable authority capriciously, neither did they expect him to make important decisions in isolation. Over the course of the twelfth century the principle was affirmed that the pope ought to seek the advice (*consilium*) of his cardinals when rendering important judgments. By the early thirteenth century, Innocent III reckoned in his *Per venerabilem* (1202) that the cardinals could be considered assistants or fellow helpers of the pope, likening them to deacons assisting the priesthood.²⁹ In this way Innocent at once emphasized the importance of the cardinals' participation, while confirming their submission to the judicial and sacerdotal power of the pope. The question that remained was whether the pope was actually obligated to seek the counsel of his cardinals. Gregory IX maintained that the pope ought to do so, but did not reckon it necessary; and Gregory X maintained that he should seek such counsel, although only in doubtful cases. Canonists, for their part, were split. Whereas Hostiensis had determined it was not fitting for the pope to act without the counsel of his brethren (*nil decet papam facere sine consilio fratrum suorum*), Guido de Baysio determined that although

seeking such advice might be expedient, it is not obligatory. Lawrence of Spain, on the other hand, declared that a pope cannot promulgate a law relative to the universal church apart from the cardinals.³⁰

PAPAL DISPENSATION FROM VOWS

Having previously discussed both the durability and flexibility of sworn oaths and vows, even those that might be coerced, we can now consider the extent to which papal power could interpose itself within the sacred territory of the religious vow. In keeping with some of the same basic principles that we reviewed in the previous chapter, Pope Alexander III had decreed that a vow of pilgrimage might be rescinded and then commuted into something else, so long as it was for just cause (*ex iusta causa*). The canonist Alanus said that the pope could dispense in the case of any voluntary vow, inasmuch as all such vows allow for exceptions that can be granted by papal authority. Neither Huguccio nor Robert of Flamborough allowed for papal commutation of a vow of continence or religion, however, since nothing equal or greater can be found to take their place. Although both conceded the commutation of a voluntary vow such as pilgrimage. The early decretalists generally allowed for the commutation of voluntary vows, therefore, but not chastity and religion. The vow of perpetual chastity was generally regarded as impossible to dispense. Tancred likewise concluded that the vow of continence could not be commuted, since nothing better can be found. When Innocent IV had commented on the *Decretales* he allowed for dispensations in the case of voluntary vows, but he also would exclude the vow of chastity. Goffredus offered a concise rationale for why the pope cannot dispense in vows of necessity: because that would entail dispensing both against God and against the faith, which was generally recognized as illicit. Likewise, Vincent commented that the pope “can dispense in all things that are not contrary to the faith.” Hostiensis phrased it the other way around to the same effect: “Although the pope cannot proceed against the faith, against which there can be no dispensation, the pope can nevertheless say and do whatever he pleases.”³¹

Regarding papal authority to dispense in the realm of holy orders and solemn vows, Thomas Aquinas had determined in a quodlibetal question that the pope cannot dispense from matters of divine or natural law, since their force derives from having been established by God. The divine law,

said Thomas, pertains to the Old and New Testaments. It is for the Old Law to determine ceremonial commandments related to divine worship and judicial commandments dealing with justice among human beings. Whereas the New Law is one of freedom and does not determine such things; rather, it consists of the moral commandments of the natural law, the articles of faith, and grace of the sacraments. Other matters related to the determination of human judgments, or the regulation of divine worship have been left free by Christ—who is himself the legislator of the New Law—for the Church’s prelates or Christian rulers to determine. All of which is to say that while the pope can dispense from such determinations of the human law, he cannot dispense against the natural law, the articles of faith, and the sacraments of the New Law. In the case of a twice-married man (1 Tim 3:2), the fact that he cannot be elevated to the episcopacy is not a matter of natural law, according to Thomas, nor does it pertain to the articles of faith or the necessary conditions of the sacraments. Rather, this stipulation pertains to the regulation of divine worship, which means that the pope is free to dispense in this case, just as he could dispense a priest from having to wear sacred vestments to celebrate the Mass. Although, as we would expect, Thomas then cautioned that the pope should only do so for some serious and evident reason—hence the classic *ex causa* proviso. As for the authority of Apostle Paul, Thomas distinguished between those cases in which Paul was teaching matters of divine law and those when he taught simply on his own authority. In the end, Thomas was left to conclude that the elevation of the bigamist is not a matter of divine law, but rather an institution of human authority conceded to man by God, thereby leaving the pope free to dispense in this case.³²

To what extent can the pope intervene in the lives of the professed religious? Innocent III, as recorded in the canon *Cum ad monasterium*, established certain limits: “Nor do we think that one could dispense a monk in the case of private property. Abdication of property, just like the preservation of chastity, is integral to the monastic rule, such that not even the supreme pontiff could grant a dispensation (*licentiam indulgere*) in this case.”³³ The gloss furthermore determined that the pope in many instances cannot dispense beyond the articles of faith, which here means allowing a monk to hold private property. This is because the abdication of property and preservation of chastity constitute the very substance of

monasticism. Other commentators, Vincent and Johannes, were cited on this question to the effect that the pope cannot dispense so that a monk would have property while remaining a monk; although he can make it such that a monk is no longer a monk. Some jurists took matters further, contending that by his plenitude of power the pope can dispense such that the monk would have property, inasmuch as the pope can take away the substance of a thing and also make something from nothing—“*potest auferre substantiam rei et de nihilo potest aliquid facere.*” And so, when the canon says that the pope cannot grant such a dispensation, this means only that it would be unfitting for the pope to exercise his power to that end. Questions of property aside, when it came to the monastic vow of chastity, the gloss determined that the pope cannot grant a dispensation against this vow. This is because, as we have seen, there is no equal good into which it could be commuted, since there is nothing better than continence.³⁴

As Thomas Aquinas believed that the pope could dispense in matters of bigamy, so too when it came to vows, he also acknowledged that there are situations in which someone could be dispensed. For while vows fall under the natural law, so does obedience to a superior who may have good reason for dispensing from the vow. Vows are likened to laws, which in a given circumstance might not be observed for the sake of some greater good (thus in keeping with the basic principle of *epikeia*). In fact, says Thomas, our fidelity to God does not entail keeping unjust or useless vows, nor those that prove an obstacle to some greater good. It should be noted, however, that not all dispensations are quite the same. For it could be that one is dispensed outright from a vow, while in other cases some suitable alternative to the vow might be found, in which case the vow will be commuted. Although the first is more drastic than the second, Thomas maintains that both fall within the authority of the Church.³⁵

Even though Thomas agreed that dispensing from vows is generally licit, there are still some vows from which there can be no dispensation. Thomas was clear that there could be no dispensation from a solemn vow of chastity. It does not matter that the dispensation might be granted to further the common good, for instance the restoration of peace through a contracted marriage. For that would be to misunderstand the nature of this solemn vow. The solemnity of a vow, said Thomas, is a sort of consecration of the person who takes the vow. No prelate can undo that consecration,

precisely because whatever has been consecrated cannot be unconsecrated. The sanctified object cannot lose its sanctification: a priest could not unconsecrate a chalice having once consecrated it. Not even the pope, according to Thomas, can make a man who has taken a solemn religious vow a nonreligious—despite what some ignorant jurists may have said!³⁶

Around the years 1266–1268, a quodlibetal question put to Thomas's contemporary, the secular theologian Gerard of Abbeville, specifically asked if the pope could grant a dispensation releasing a woman from her solemnly professed vow of virginity. Consider the following scenario: a Saracen emperor intends to destroy the Christian faith and oppress all the faithful unless the Church agrees to let him marry this young woman. Yet it is pointed out that canon law seems to prohibit the pope from granting dispensations in the case of a solemn profession, as for instance in the aforementioned canon *Cum ad monasterium*. Note as well that there is nothing equally good into which this vow could be commuted, since there is nothing so worthy as continence. On the other hand, Bernard of Clairvaux had said in his oft-cited *De praecepto et dispensatione* that what was instituted for the sake of charity must not itself become an obstacle to charity. Surely, it is an act of greater charity to preserve the Christian faith and the lives of all believers than for just one person to keep her vow of chastity. In his response Gerard pointed out that the vow of virginity is a vow of the will not of necessity, and so should allow for relaxation; whereas the vow of faith is a matter of absolute necessity, inasmuch as it remains essential for salvation. Bernard is once again cited, this time from his letter to Pope Eugene III, *De Consideratione*: where necessity makes a demand, a dispensation is excusable; and where usefulness summons, a dispensation is praiseworthy, provided that the dispensation pertains to some matter of the common good, rather than merely private advantage. Furthermore, said Gerard, the dispensation that the pope would be granting in this case amounts to a commutation into something better, not for this particular woman who loses her chastity, but instead owing to the fervor of charity that compels one to secure the common good and the salvation of all the faithful. Gerard came to the conclusion that the pope can by his plenitude of power release this young woman from her vow, given the urgency of the situation and the great benefit that will accrue to the overall welfare of the Church.³⁷

PAPAL AUTHORITY AND THE FRANCISCAN RULE

The opening chapter of the Franciscan Rule of 1223, the so-called *Regula Bullata*, directly equates the rule and life of the Friars Minor with the observation of Christ's Holy Gospel: "*Regula et vita Minorum Fratrum haec est, scilicet Domini nostri Iesu Christi sanctum Evangelium observare.*" Such an equation of rule and Gospel would seem to render the rule itself unalterable, since it is here conceived as a divinely revealed expression of Christian perfection. Chapter six of the rule would then lay out the evangelical foundation of the precarious state that these *fratres minores* have adopted: appropriating nothing for themselves, neither house, nor place, nor anything at all. They will live as pilgrims and strangers (*peregrini et advenae*) in this world serving the Lord in poverty and humility (*in paupertate et humilitate*), confidently seeking alms. They should not be ashamed, for the Lord made himself a poor man (*pauper*) in this world for our sake. This is the sublime height of most exalted poverty (*celsitudo altissimae paupertatis*) which has made you heirs of the kingdom of God, poor men in temporal things but exalted in virtue.³⁸

Something stupendous was understood to have taken place in the creation of this new order. Francis of Assisi—*Il Poverello*—had stepped into the breach at the end-time to renew the evangelical life. Jacques de Vitry, who had encountered "those whom we call *fratres minores*" while traveling through Italy in 1216, would soon thereafter extol this order in clearly eschatological terms: "Thus, in the twilight of this world that is tending to its end, at a time when the son of perdition is soon to arrive, he might prepare new athletes to confront the perilous times of the Antichrist, fortifying and propping up the Church. . . . They diligently strive to renew in themselves the way of life of the primitive Church, its poverty and humility. They drink in the pure waters of the fountain of the Gospel (*puras evangelici fontis aquas*) with such thirst and ardor of spirit that they work hard at carrying out not only the evangelical precepts but the counsels as well, thus imitating more explicitly the life of the apostles."³⁹

At the canonization of Francis in 1228, Pope Gregory IX promulgated the bull *Mira circa nos*, which likewise fixed this new saint within a distinctly eschatological framework: "For behold at the eleventh hour [the Lord] raised up his servant Blessed Francis, a man truly after his own heart

(1 Sam 13:4). He was a beacon whom the rich viewed with contempt, but whom God had prepared for the appointed time.”⁴⁰

From the beginning in 1209, when Francis and the first brothers had received oral approval of their *propositum vitae* from Innocent III, the order would be deeply intertwined with the papacy.⁴¹ Throughout the thirteenth century the Franciscans had constant recourse to a series of popes who secured their way of life. Consequently, when defending the order against the attacks leveled by secular clerics,⁴² Saint Bonaventure, who held the post of minister general from 1257 to 1274, made it clear that to impugn the Franciscan way of evangelical perfection is not merely an attack upon the order itself, but an assault leveled against the papacy which has approved this way of life. Extolling papal authority as the legal backbone of the Franciscan Order, Bonaventure reminded the mendicants’ secular opponents that, with the promulgation of *Solet annuere* in 1223, Pope Honorius III had officially approved the rule which allows the friars to beg for alms. To suggest that the pope erred in so doing would be tantamount to claiming that the whole Church had erred when she accepted this papal decree. And yet who would dare question the Apostolic see which only God can judge? Indeed, to assert that the friars cannot be sent out by the authority of the pope is to deny him his rightful fullness of power, the one and supreme head of the Church Militant, the very image of Christ to whom every knee on earth should bow. No matter the earlier ecclesiastical decrees and customs; nothing can constrain the authority of popes such as Innocent III, Honorius III, and Gregory IX, who have all approved of the Franciscan life.⁴³ In this vein, the English Franciscan John Pecham went so far as to reckon as heretics all those who presume not only to refute, but impiously condemn, the papal statutes on the state of poverty.⁴⁴

On 14 August 1279, Pope Nicholas III issued the momentous constitution *Exiit qui seminat*, which defined in great detail the Franciscan relationship to material goods. The friars had forfeited not only dominion and ownership, but even the right to use material goods (*ius utendi*), and so remain content with the simple factual use of life’s necessities (*simplex usus facti*). What is most striking about *Exiit*, however, is that it declared in no uncertain terms the Franciscan way of life to be the most perfect expression of the Gospel, thereby reaffirming the first chapter of the rule. Invoking the parable of the sower (Matt 13:3–8), Jesus Christ the Son of God has gone out from the bosom of his Father to sow the word of the Gospel. It is this *verbum evangelicum* that has been received by the Friars Minor, rooted as they are in the

poverty and humility of their founder Francis. Here is the immaculate religion that descends from the Father of Lights through his Son and has been handed down to his apostles by word and by example. And now at last it has come down through the Holy Spirit to Saint Francis, as though containing in itself the testimony of the Trinity. That the perfection of their rule, and thus their way of life, must once again be extolled and defended, is laid at the feet of the devil himself who has launched an attack upon the Friars Minor. Satan now incites their envious rivals to harass the friars, attacking their rule as illicit, unobservable, and divisive. This despite the fact that this same rule has been confirmed by the Apostolic see and fortified by so many divine testimonies. That there may be no further confusion, Nicholas declared that the present constitution be observed precisely and inviolably by the friars for all time. Not only is the rule lawful, but it is holy, perfect, and observable. Of great import for the Franciscans in later disputes, Nicholas declared that having been approved by the fullness of apostolic power, *Exiit qui seminat* is perpetually valid. And lest, under the guise of clarifying this constitution, some will attempt to distort it with their commentary, Nicholas determined that—under pain of excommunication—this constitution must be faithfully expounded to the letter (*fideliter exponatur ad literam*), such that no expositors will introduce variant interpretations. As noted in Chapter Three when discussing the right to dispute controversial topics, Nicholas had forbidden future glossing of the constitution (*glossae non fiant*), with the possible exception of grammatical clarification for the sake of making the letter of the text more intelligible. Nicholas furthermore prohibited anyone of any rank to teach, write, criticize, or preach against the rule whether in public or in private. All further questions regarding the precise meaning of the text must henceforth be submitted to the Apostolic see for review, which alone has the authority to determine its intention.⁴⁵ As we saw, however, this sort of sweeping prohibition, which could close off all subsequent disputation, had generated consternation among the secular masters at Paris; hence the *Noli me tangere* moniker they attached to this bull.

POOR USE AND THE FRANCISCAN VOWS

That the original vocation of the Friars Minor was being subtly undermined seems to have been a concern almost from the beginning. We see this in Francis's own Testament of 1226 wherein the saint had sternly warned the

friars that they were to receive neither churches nor poor dwellings unless they were in accord with the holy poverty promised in the rule; and even then, they were to live in them merely as pilgrims. The friars were not, moreover, to ask for anything from the Roman Curia. And while assuring the brothers that his Testament was not another rule, he ordered that it nevertheless be read along with the rule. Clearly anxious for the fate of his order and its commitment to the evangelical life, Francis also warned them against glossing the rule (*sine glossa*), i.e., providing seemingly helpful explanations that would mitigate the rigors of holy poverty.⁴⁶

The Provençal Franciscan Hugh of Digne complained in 1252 that, despite the explicit admonition of their founder, some friars were indeed placing new glosses on the rule which go beyond the rational sense of the letter, as though Francis would have handed down one thing while intending another.⁴⁷ Yet the most holy creator of this rule desired to follow assiduously in the footsteps of Christ and the evangelical life, such that his profession would itself constitute the observation of the Gospel. That the brothers were the *minores* of the world (cf. Matt 25:40) signaled not only their poverty, but their desire to live a life marked by holy humility. Humble both in name and manner of life, humility remains inseparable from the state of the *fratres minores*.⁴⁸ Hugh reminded his confreres that it was with an astounding fervor that Saint Francis had restored the state of evangelical perfection, which is not simply a matter of possessing nothing, but not wishing to possess anything. Poverty is not in itself a virtue, Hugh cautioned; rather, it is the love of poverty that is virtuous. The truly poor man not only bears his penury with equanimity as it befalls him, but consistently adopts a life of parsimonious use and sober comportment. Those who are intent upon feasting from morning to night in secular abundance cannot be true religious; they are instead apostates, hypocrites under a habit of sanctity, who have rejected the virtue and merits of holy poverty. More the pity, therefore, that the miserable life of such men confounds and dissipates the order.⁴⁹

Hugh, who would later be extolled by Ubertino da Casale as a *zealator paupertatis*, had also tackled the critical intersection of obedience and conscience, as he proclaimed the inviolability of the vow that the friars had sworn. Here in a specifically Franciscan context, Hugh insisted that no one, however great his authority, has the power to dispense for any reason from the solemn vow of continence or poverty. Hugh determined, moreover, that a vow to one component of the rule is simultaneously a vow to all of its

parts, without which the rule cannot be fulfilled. Since the vow to renounce all things cannot exist alongside any right to acquire or to alienate property, the one who pledges himself to extreme poverty must not be involved in any form of ownership. The Friars Minor have vowed both collectively and individually to observe this extreme poverty; this is a vow that cannot be dispensed.⁵⁰

We encountered Peter John Olivi in Chapter Two when examining his appeal to conscience in the face of censure. One of the central points of controversy in Olivi's career was his insistence that all Franciscans embrace not merely the simple use that is devoid of ownership, but also the poor use of goods (*usus pauper*). In an effort to more clearly define the tenets of the Franciscan life, Olivi had produced his *Quaestiones de perfectione evangelica*. Seventeen in total, these academic questions are variously ordered in different manuscripts, and it could be that the collection was not originally intended to stand as a single work. Whatever the case, David Burr has observed that taken together they, "offer a vision of the Christian life as Olivi aspired to achieve it, and they deal with poverty as part of that totality."⁵¹

Question nine was devoted to the topic of poor use as it related to the Franciscan vow of poverty. It is important that we not lose sight of the vow itself, its sacredness and inviolability; that, more than one's precise handling of material goods, formed the crux of the debate. How could a friar live honestly according to the solemn vows that he has sworn? Composed in 1279, although prior to the promulgation of *Exiit qui seminat* in August of that same year, Olivi would argue in this question that poor use did indeed fall within the vow of evangelical poverty taken by each Franciscan upon entrance into the order. In keeping with the academic nature of this *quaestio*, Olivi first laid out the arguments against the inclusion of *usus pauper*. For all the practical difficulties that vowing poor use might entail, there seems to be no more important consideration than the conscience of the individual friar. Olivi's opponents argued, not without reason, that nothing which provokes the danger of transgression and sin is compatible with the way of perfection; nor can it in any way belong to the evangelical counsels or vows. And yet (they say) that is exactly what a vow of poor use would involve, inasmuch as it vows that nothing may be received or held unless demanded by present necessity. Every time a friar accepted more than was necessary, he would end up transgressing the vow. Sincere friars would therefore find themselves in a constant state of anxiety. Every

day will bring with it yet more worry over whether they have exceeded the bounds of necessity, thereby breaking their vow, and lapsing into mortal sin.⁵² We encountered the problem of scrupulosity when discussing penitential confession; here we find it at the heart of a debate over what it means to live as a faithful friar.

As we noted when discussing his censure, Olivi maintained that the poor use he envisioned was not so draconian as his opponents might imagine; nor will friars' consciences be sorely tested. Exercising some common sense, allowing for reasonable leeway to meet individual circumstances, friars could indeed achieve the evangelical perfection to which poor use was integral. Olivi was not taking aim at the small, practical decisions that a friary had to make about how much wheat they needed to store in the cellar to feed the brothers. Rather, he had set his sights on the splendid lifestyle that some Franciscans had adopted and to which they had grown accustomed. More to the point, though, Olivi recognized that there can be no real humility when one is decked out in gorgeous clothes, living in magnificent estates, sharing all the trappings of the rich and powerful. The friar must be content instead to wear the sort of cheap garments that the moneyed elite despise. Only by embracing poor use (*usus pauper*) can the friar genuinely deny himself, and even annihilate his own ego, his sense of self-importance. Friars who have vowed a life of most high poverty will never achieve Christ-like humility so long as they indulge in the rich use (*usus dives*) of things. Apart from poor use, Olivi insisted, the highest form of poverty cannot be attained.⁵³

Most high poverty, according to Olivi, is not only compatible with the life of Christ, genuine conformity to Christ cannot be achieved apart from poor use. Christ's whole life had been marked by poor use, from his birth in a manger (Lk 2:12) to his entrance into Jerusalem upon a donkey (Matt 21:5–6); all the while despised and rejected (Is. 53:3). Then it fell to Francis, the chief renovator of Christ's poverty, to observe poor use with the utmost zeal. We read of the fervor with which the saint had rejected opulence, dominion, and sumptuous dwellings.⁵⁴ Consequently, it would not merely be false, but even heretical, to assert that there could be some form of poverty more perfect than the evangelical poverty practiced by Christ and Francis. The integrity of the vow itself is at stake, since the poverty which vows poor use, along with the abdication of any right, must surely be greater than a form of poverty vowing only the second apart from the first.⁵⁵ The

evangelical confessor of poverty, acquiring for himself only what is necessary, lives in a way that savors of the highest humility, simplicity, tranquility, and peace. It is a life that is not marred by avarice or an immoderate and anxious care for the things of this world.⁵⁶ As David Flood has observed, for Olivi, the vow of poverty and *usus pauper* go together; to take the vow is to treat natural things as they ought to be treated. The man of an upright will seeks only those things necessary for his sustenance. Poor use, which purified poverty, was essential to the Franciscan mission. Their poverty was oriented to the end-times, setting things in right order, spreading the Gospel to the whole world.⁵⁷

In fact, the struggle over poor use soon took on apocalyptic dimensions. In his *Tractatus de usu paupere* (composed sometime after *Exiit* and before his censure in 1283) Olivi lamented that a cunning servant had arisen in recent times attacking the evangelical poverty that had been bestowed upon the order by the Seraphic Confessor of Christ, Saint Francis. Apparently, there are some who say that the Franciscan Rule of poverty is neither evangelical, nor apostolic, nor perfect, but rather dangerous, unobservable, imperfect, and foolish. Pseudo-apostles in the schools, even among the Franciscan Order itself, now claim that poor use does not fall under the profession and vow of the rule. It does not belong to the rule's substance, they claim, but remains only accidental. They go so far as to assert that Christ had never imposed poor use upon his apostles under a precept or binding vow. Yet if this were really the case, Olivi warns, not only would the Franciscan profession of poverty be rendered pointless, one would thereby blaspheme Christ's own life and his Gospel, undercutting the sublimity of the apostolic state.⁵⁸

That Olivi could frame the issue in such stark terms is not so surprising, given that he already shared Bonaventure's eschatological conception of Francis and the Friars Minor. It was Bonaventure who had first equated Francis with the angel of the Apocalypse, bearing as he did the seal of the living God, the crucified Christ, on his body (Rev 7:2).⁵⁹ Bonaventure had also determined that any claim that Francis had erred in his observance of the evangelical life constituted not only an attack upon the saint and the Church that had canonized him in 1228, but was tantamount to an assault upon the very teachings and life of Jesus Christ himself.⁶⁰ Olivi took things further in his 1297 *Lectura super Apocalypsim*, a work that would be condemned by the Franciscan general chapter at Lyon in 1299 and then

again by Pope John XXII in 1326.⁶¹ It was here that Olivi observed that the Franciscan Rule, having received the confirmation of the Roman Church, had been officially recognized as the evangelical rule that Christ himself had followed and then enjoined upon his apostles. Of special import was Olivi's insistence that it was not simply Rome's approbation that secured the rule's validity; the superlative holiness and many miracles of Saint Francis had also borne witness to its truth. Nothing so perfectly testified to this life of evangelical perfection as Francis's reception of the stigmata, marking the saint as the angel of the sixth seal in the Apocalypse (Rev 7:2), and signaling the saint's total configuration to, and transformation into, Christ.⁶² As Olivi saw it, Rome could only attest to what heaven had already ratified. The Franciscan Rule did not ultimately depend upon a papal bull, therefore, nor did it require various papal interventions or interpretation. What is more, if Francis's rule were itself the perfect expression of Christ's Gospel, no pope could possibly dispense from it.

In the event, said Olivi, Francis's rule has been viciously attacked and sophistically condemned by a proud and carnal Church, just as Christ himself had been condemned by the reprobate synagogue.⁶³ Perhaps, though, this persecution will yield to a spirit of renewal. Olivi proceeded to recount what he had heard from a certain "spiritual man" (likely Conrad of Offida), who was a close friend of Brother Leo and a credible source. Although not asserting this himself, Olivi relates that this spiritual man had come to understand that Francis would rise again in glory following a period of tribulation in which his rule would be crucified. For just as Francis in his own lifetime had been uniquely conformed to the crucified Christ with the reception of the stigmata, so he would be conformed to Christ in his resurrection.⁶⁴ In the meanwhile, however, the Babylonian church of the reprobate will lay siege to the truth of the evangelical life.⁶⁵ In fact, Olivi has heard from trustworthy people that the holy father Saint Francis had on many occasions predicted this temptation, noting ominously that it would be carried out chiefly by professed members of the evangelical state.⁶⁶ Among the errors that will be planted in the Church are laxity and the desire for riches, which will overcome even those who claim to have renounced property. They will feign adherence to the Gospel life, while insisting that poor use should be excluded from the vow of evangelical profession. Falling away from the rule as it had been originally instituted, these false brethren will seek all manner of dispensations from its restrictions.⁶⁷ Yet, for Olivi, some

components of the evangelical life which the friars have vowed are literally “indispensable,” inasmuch as they belong to its very essence.

POVERTY AND PAPAL AUTHORITY

We return now to the *Quaestiones de perfectione evangelica*, a number of which speak to the limits of obedience and the parameters of papal authority. Question eleven was specifically devoted to the subject of evangelical obedience. Here Olivi maintained that the vow of obedience taken by a Franciscan friar does indeed belong to the substance of evangelical perfection, inasmuch as it constitutes one of the principal counsels of Christ. Making use of their evangelical freedom, said Olivi, the Franciscans are able to licitly abdicate all possession and lordship.⁶⁸ What the Franciscans have vowed is deemed essential to their Christian quest for salvation. For it should be remembered that every sin not only opposes the will of God, but also impedes the soul’s spiritual benefit. Sin furthermore opposes the perfection of grace and the virtues and sets itself against perfect innocence. And so, it stands to reason, said Olivi, that God would never ordain some counsel or vow that ran contrary to these perfections. Indeed, any vow that undermines a spiritual good is clearly illicit and void.⁶⁹

At this point, the argument takes a turn toward the greater question of obedience and, therefore, its limits. According to Olivi, no one who seeks the salvation of his own soul and wishes to honor God would knowingly expose himself to the danger of mortal sin by offering obedience to any other sort of good. And because manifest impurity and imperfection diminish the purity of evangelical perfection, no one is obligated to obey a precept that might endanger that purity. Here, taking his stand on long-established precedent regarding obedience owed to superiors, Olivi insisted that prelates have no power to command anything unless it belongs to the rule; nor may they command anything that is contrary to the truth of the rule or would in any way sully the purity of that rule. And since Olivi equates evangelical perfection with the Franciscan Rule, anything which serves to diminish the purity of evangelical perfection must by definition be opposed to the rule. The power of prelates, he would insist, does not extend so far that they might inhibit a friar’s obedience to this rule. What is more, because the friars’ chief obligation is to observe the purity of their rule, they may even disobey the order of a superior if that is what true observance

requires. Do not think, cautioned Olivi, that it is lawful for the ministers to govern the friars in such a way that might compromise their commitment to the evangelical perfection embodied in the rule. In fact, the order's ministers should—as the word *minister* suggests—conduct themselves as servants of the brothers. To that end Olivi reminded them of the Apostle Peter's willingness to receive Paul's rebuke at Antioch as servant might from his lord (Gal 2:11-14).⁷⁰ Obedience, as Olivi went on to say, does not diminish one's freedom to pursue the good, but rather promotes it. The power that prelates possess over their brothers must therefore serve their good. Seen in that light, Olivi proposed that prelates really function more as servants of the friars than their lords. Servitude, rather than lordship, rests at the very heart of the prelate's office. In this instance, Olivi appealed to the gloss on Matthew 3:13, wherein Christ had submitted to the baptism of John, and so exhibited perfect humility, which stands as an example for superiors who ought to submit themselves to their inferiors.⁷¹

As Olivi outlined the ideal relationship of the friars and their superiors, he would also address the very real possibility of conflict. In fact, the counsel that Olivi offered does not shrink from the likelihood of confrontation. Faced with the sort of unjust demands that might otherwise compromise his principal obligation to the rule, the friar may not only refuse obedience to his superior but may then proceed to correct him. For Olivi pointed out that because the principle of fraternal correction demands that one inform the Church of a brother's evil, he is obliged to denounce any corruption of the faith. Olivi goes as far as to say that a prelate who corrupts the sheep, not only by his own words and deeds but also by his commands and edicts, is even worse than a simple heretic. No can one stand idly by in the face of this malfeasance. With recourse to the basic principles of consent that we have seen laid out in such canons as *Error cui non resistitur*, Olivi contended that those who fail to report such a prelate to his superiors can be reckoned to support his crime. Olivi believed that Francis had already laid all of this out in chapter ten of the rule: subjects should recur to their ministers when they reckon it impossible to observe the rule in all its spirituality and purity.⁷²

Inasmuch as the *usus pauper* controversy ultimately extended beyond the environs of the Franciscan Order all the way to the papacy itself, Olivi saw fit to devote four of his evangelical questions (12-14, and 16) to the parameters of papal authority. We will begin with question fourteen since it most directly relates to the question of evangelical obedience discussed

earlier.⁷³ As Olivi treated the pope's authority to dispense from evangelical vows, he first presented the supporting argument that if the privileges of princes should be interpreted broadly, all the more those privileges granted by God to Peter and to the Roman Church in Matthew 16:18–19. Not only may the pope absolve sins, therefore, but he may also release people from their vows.⁷⁴ Another argument notes that whatever has been introduced by human agency can be abolished by the pope, inasmuch as he stands above all positive and human law. As we have seen, this prerogative falls under the pope's general freedom to dispense in keeping with the fullness of his power. And because this issue remains a matter of doubt among the masters—so the argument runs—it is safer to defer to the pope and abide by his decision. Hence vows should be set aside whenever the pope dispenses from them.⁷⁵

Against such an expansive reading of the papal authority, Olivi maintained that the pope cannot unqualifiedly release anyone from a lawful vow. Although when it comes to vows which are not specifically evangelical, Olivi admitted that he can dispense for some reasonable cause. Such authority does not extend to evangelical vows, however, as Olivi remained adamant that the pope can neither absolve nor dispense, much less command the contrary, in the case of an evangelical vow.⁷⁶ When considering evangelical vows, said Olivi, there are two components we need to bear in mind: on the one hand, the evangelical state and profession; and on the other, papal power. The evangelical state, Olivi insisted, is wholly immutable and insoluble since it constitutes a union between God and the one making his profession to God. If we maintain that the marriage vow between man and woman is insoluble, then surely the union of God and man created by a religious vow must be incomparably greater and more spiritual. Marriage symbolizes the indivisible union of the human soul with God; and since the evangelical vow comes even closer to the truth signified than does marriage, it is all the more insoluble. The bond of the evangelical profession is already spelled out, according to Olivi, in Luke 9:62: "No one who puts his hand to the plow and looks back is fit for the kingdom of God." The power of Christ's statement, Olivi observed, had been later renewed through Saint Francis, and then formally approved by Pope Honorius III in chapter two of the *Regula Bullata* (1223), which draws upon these same words of the Gospel.⁷⁷

Olivi then widened his scope of inquiry as he proceeded to discuss papal power generally, noting first the commonplace that such power can never

be wielded for destruction, but only edification (2 Cor 13:8). Second, and again axiomatic, papal power depends upon the power of Christ and therefore remains subject to his laws and statutes. Third, the spiritual Church cannot act so as to diminish itself. Finally, and perhaps most importantly, papal and ecclesiastical power cannot so extend itself as to directly intrude upon those matters which God has determined should remain in the sphere of personal freedom; it is this principle that exempts the individual Christian from external compulsion: “*Deus sic voluit esse in libertate uniuscuiusque quod non posset cogi ad illa.*”⁷⁸ Olivi was then able to fit the specific contours of Franciscan poverty within a framework already laid in place by the canonists, who had consistently prohibited the pope from taking any action that might undermine the *status ecclesiae*. For here Olivi reasoned that if the pope’s power were really so extensive that he could abolish the evangelical state and recall men from the state of perfection, he would be able to destroy the Church and proceed against the truth of the evangelical counsels. None of that could happen, however, unless God had subjected the evangelical state to papal power, which he clearly has not done.⁷⁹ As the Gospel remains free from papal control, so too must the Christian’s right to freely embrace the Gospel and live according to its principles.

Olivi further grounded the unshakeable obedience owed to the evangelical state in principles that he terms the “laws of Christ” (*leges Christi*). These laws are laid out clearly in Holy Scripture to be sure, but they have also been instilled by the Holy Spirit in the hearts of the faithful. Since the pope remains an inferior power to Christ—as even the most ardent canonist knew very well—it stands to reason, according to Olivi, that the pope can never contradict the precepts and counsels of Christ, whether by way of absolutions, dispensations, or decrees. In fact, the pope is obliged to abide by Christ’s law when rendering his own judgments. For the pope to wield his authority in ways that run contrary to Christ’s own dictates would amount to usurping a power that he does not possess.⁸⁰ Indeed, said Olivi, if the pope could compel someone to do the very things which God permits to each person in complete freedom (*in plena libertate*), he could thereby compel men to observe the counsels of poverty and chastity. Everyone would have to obey the pope in all such matters that otherwise would be left up to their own free will. As a result, no one could enter into marriage, nor make any sort of contract, without first securing the pope’s consent. This cannot be the case, however, precisely because God has left such decisions open to human

beings as matters of permission rather than compulsion; they are neither to be constrained nor compelled in these areas. All such decisions, says Olivi, remain within the sphere of the human person's full liberty and thus are not subject to anyone else's consent. Every person is free to hand himself and all that he possesses over to God through his vow of profession, since this remains principally within his liberty apart from papal consent. By no means can this free donation of the self to God be revoked by the pope.⁸¹

Having laid this groundwork, Olivi proceeded to insist that the pope can neither dispense nor absolve, much less issue a command, against evangelical vows. It is in the nature of a vow as freely taken that protects it from subsequent infringement. For just as the pope cannot compel one to make the vow in the first place, nor can he compel anyone to act against that vow after having made it. As we have seen, it is not within the pope's power to command someone who has not vowed chastity to take a wife, since this is one of those matters that God has left up to our own liberty; much less could the pope command this of someone who has vowed a life of sanctified virginity. If this were not the case, Saint Peter (the first pope) could have commanded the Blessed Virgin, Mary Magdalene, or Saint Paul to get married—which is clearly a nefarious thing to suggest. Olivi furthermore determined that limitations placed upon the pope with respect to each person's freedom to take (or not take) vows, are also applicable to the pope's authority to dispense from vows. For if the pope has no authority to compel, nor may he issue a dispensation that would have someone descend from a more perfect state to a less perfect state. The pope certainly cannot dispense against the evangelical state, therefore, which Olivi reckoned synonymous with the very state of Christ himself: "*de statu evangelico, qui proprie est et dicitur status Christi.*"⁸²

To be clear, said Olivi, the power of the pope does not extend to those things which by natural, divine, and human law have been conceded to the sphere of human liberty. Making a vow to God belongs to this category, which means that it does not require another's consent.⁸³ Through the evangelical vow, which is wholly immutable, the rational person is consecrated to God and dedicated to his spiritual worship, which is most genuinely celebrated inwardly and spiritually through an act of love. This is the highest state, even greater than marriage, and for that reason cannot be commuted into anything better.⁸⁴ We have seen this principle of incommutability applied to the vow of chastity; here it is applied to perfect poverty. In the event, Olivi was left to decry the relaxation of the rule and obfuscation of

the state of poverty, from which can only follow the wholesale denigration of the Christian faith, the introduction of antichrist, the final temptations, and the dissipation of the perfect good.⁸⁵

The above discussion of vows notwithstanding, Olivi actually had a rather high estimation of papal power, even while acknowledging some very clear redlines. He could state that the Scriptures and the canons testify that the pope must be believed and obeyed when settling any doubts pertaining to Christian law and faith, unless—again the classic proviso—his decision were evidently contrary to the faith and Law of Christ. At issue for Olivi in the thirteenth question on evangelical perfection was whether it is lawful for the pope, in this case Celestine V, to resign his office. Here Olivi reasoned that because renunciation of the papacy is neither contrary to an article of faith nor opposed to some precept of Christ, it must therefore be licit. The pope, moreover, is within his rights to create a new law on this matter and to explicate it in the face of any doubts, with the result that the whole Church must assent to and obey his determination.⁸⁶ It is the pope's fullness of power, according to Olivi, that enables him to ordain a procedure that will allow him to create a successor, thereby exercising this power in a manner that is both useful and necessary for the Church. In fact, if the pope could not renounce the papacy, this would be a blow to the very fullness of power by which he preserves the well-being of the Church.⁸⁷ Celestine V, champion of the Spiritual Franciscans, had therefore been within his rights when he abdicated in 1294. This is because (as we have seen) the pope has both the power to create new laws and to explicate what was hitherto implicit, so long as his determination does not run contrary to the Law of Christ.⁸⁸ Note, moreover, that papal power as such is not destroyed, even were some pope to exercise his freedom to sever that power from his own person by renouncing the papal office. In fact, said Olivi, the pope might even decide to do so for the common good of the Church.⁸⁹

Papal renunciation was also the subject of Olivi's letter to Conrad of Of-fida in 1295, when he discussed those Spiritual Franciscans who were distraught over the loss of their protector Celestine. These friars had argued that Celestine's abdication was invalid, precisely because the pope cannot renounce the papal office and dignity, nor find a substitute for himself while he is still alive. This meant in turn not only that his successor Boniface VIII could not be a genuine pope, but that all those who recognize and obey Boniface constitute a synagogue of Satan outside the one true Church of

Jesus Christ. At the root of their position is the notion that the papacy is something indelible and inseparable from the human substance of the person who has assumed the papal office. Drawing on the eucharistic principle that Christ's body remains present in the consecrated host for as long as the bread's accidents are intact, these friars argued that so long as the pope's humanity remains, Christ's papacy will remain within him sacramentally. Olivi's response is important for the distinction that he makes between the man and the office, such that the former may falter while the latter endures. He pointed out that the arguments presented above would lead us to conclude that no pope, however much he may be a public heretic, destroying the faith and undermining the Church, would be subject to deposition; nor could a substitute be found for this pope so long as he was still alive. Yet these same friars would no doubt concede that a man can be removed from the papal office for manifest heresy—itsself a staple of canon law. If so, they would also have to admit that the papacy is neither indelible nor is it inseparable from the person of the pope himself.⁹⁰ Thus when we say that the pope bears the image of Christ (as these friars stipulate), we must be careful not to press this principle too far. After all, no one in his right mind would say that the pope is uncreated, impeccable, infallible, and omniscient.⁹¹

By acknowledging a clear distinction between the office and the man, Olivi would therefore be in a position to argue that one might disobey the pope were he to command something contrary to the evangelical vow, since no genuine papal command can contradict Gospel law. An apostate pope can be removed; and he is certainly not to be obeyed. This principle was displayed more strikingly when Olivi specifically addressed papal infallibility in the twelfth question: "Whether the Roman Pontiff in matters of faith and morals must be obeyed by all Catholics as though he were an inerrant rule." No less than thirteen arguments were canvassed which opposed this proposition. The first, and one of the most cogent, contends that there is nothing in Holy Scripture, nor in any statement of Christ himself, that commands that everyone should be obedient to the Roman pontiff or that he possesses universal authority. Other objections are drawn from the New Testament where it is recorded that the apostles received their authority directly from Christ; Paul specifically states that his authority is not from human beings (Gal 1:1). As it was, neither Peter nor Paul had universal authority over all people, since to the former was given the mission to the Jews and to the latter the Gentiles (Gal 2:7–8). In fact, this would imply that Paul's authority

was even greater than, or at least equal to, that of Peter. What is more, Paul had seen fit to correct Peter when he was not walking according to the truth of the Gospel (Gal 2:11–14). It only stands to reason, therefore, that one could also correct Peter's successors. For as one objection pointed out, it is precisely because the Roman pontiff can err in faith and morals, that he cannot be regarded as an inerrant rule. The classic canon *Anastasius* was invoked as an instance of the pope showing support for a heretic, thereby making it clear that he was not to be obeyed as though incapable of error.⁹²

It bears repeating that Olivi had taken up the topic of papal infallibility as part of his larger inquiry into the life of evangelical perfection. And so one might ask whether promising obedience to the pope in all matters belongs to such a state of perfection.⁹³ Olivi provided at least a partial answer when he stated that all Catholics are bound to obey the pope in matters of faith and morals.⁹⁴ If that is the case, one might expect that the pope would not be liable to error. In fact, Olivi argued that it would be impossible for God to grant someone full authority to define doubtful matters of faith and divine law were this same person then permitted to err. Rather, this person would have to function as an inerrant rule; and so it was that God gave this authority to the Roman pontiff. Canon law seems to support this claim, as *Multis* states that major and difficult questions should always be referred to the Apostolic see. While Pope Innocent III likewise determined in the 1201 decretal *Maiores causae* that major ecclesiastical cases, especially those pertaining to articles of faith, should be decided by the see of Peter. For it was Peter who confessed Jesus to be the Messiah (Matt 16:16) and it was for Peter that the Lord prayed his faith would not fail (Lk 22:32). Other texts are cited to this effect, such as *In sede*: "In the Apostolic see the Catholic religion has always been preserved immaculately."⁹⁵ It only makes good sense, moreover, that a single head of the Church will provide unity and stability, inasmuch as a single leader can issue determinations, establish statutes, and correct the vices of prelates.⁹⁶

Drawing on Innocent III's classic formulation of Christ's triple bestowal of authority upon Peter,⁹⁷ Olivi found that Christ had granted primacy to Peter over the whole Church following his Resurrection when he said to him: "Feed my sheep" (John 21:16); prior to the Resurrection, "You are Peter" (Matt 16:18); and during his Passion, "I have prayed for you" (Lk 22:32). Here, though, Olivi made a key distinction when he determined that Christ's words did not pertain so much to the person of Peter as to the office

that Peter held. Moreover, Christ's granting of authority to Peter was not for Peter's own sake, but for the greater stability of the universal Church; and the same applied to Peter's Roman successors.⁹⁸ Olivi further delimited Petrine authority by placing it firmly within the context of the Church's own infallibility. The Church itself has never erred, nor will it ever err, since that possibility would deprive the Church of any legitimate claim to authority, with the result that the Church could not be believed. Christ had furthermore promised to be with the Church until the end of the age (Matt 28:20). This promise to the whole Church means that Christ was addressing Peter *in persona ecclesiae* when he assured him that "I have prayed for you that your faith would not fail" (Lk 22:32).⁹⁹

Yet Olivi was not merely interested in defending the indefectibility of the Catholic Church, which was hardly controversial. He wished to make the case for the specific inerrancy of the supreme pontiff. Olivi believed he could do this, provided that one is careful to distinguish between different sorts of error. Personal error that concerns only oneself is distinct from common or magisterial error that affects others. We will also need to distinguish between error directly at odds with the Catholic faith and that error which pertains to merely human matters. Finally, it must be determined whether a serious theological error is pertinaciously held or open to correction. With these categories in place, Olivi drew a distinction between the Roman see in truth, and that see which may exist in name or appearance only. Olivi determined the true pope and head of the Church cannot pertinaciously err in the faith, at least in the aforementioned common or magisterial sense, as opposed to a merely private error. In saying this, Olivi was reiterating a classic position formulated by the canonists: an incorrigible heretic cannot be the head of the Church. Olivi then pressed this point. Granting the common principle that the Catholic Church herself cannot err, Olivi concluded that the Church could not be united to a false or errant head. Which means that a pope who did err in his public capacity as teacher of the faithful, not merely personally, would thereby prove to be an errant head. As we have seen, however, it is impossible for an errant pope to be a true pope and head of the Church. For according to the Church's own laws, no public heretic has the power of blessing and cursing in the Church, since every faithful person is greater than such a man. The canon *Audivimus*, cited here by Olivi, states that no excommunicated prelate has the power to excommunicate someone else; while Gratian added that heretics, schismatics,

and excommunicates have no power to bind and loose. The gloss noted in support of this principle that only true priests, not false, have received the power from God to bind and loose. There are three reasons why this is the case: heretics do not have the Holy Spirit; those who are outside the Church cannot condemn anyone; and the one who blesses and curses is greater than the one blessed and cursed; consequently, the heretic cannot pass sentence upon a Catholic as though his superior.¹⁰⁰

The limits of papal power, and thus the parameters of obedience, again came to the fore in a quodlibetal question which asked if the pope really does possess universal power. Here Olivi's first task was to account for what Pope Innocent III had laid out so starkly in his 1201 letter to the emperor Alexius of Constantinople. Here Innocent had reminded the emperor that when Christ committed his sheep to Peter he did not distinguish between "these" or "those" sheep as if there were different flocks. Rather, he plainly stated that anyone who fails to recognize Peter and his successors as teacher and shepherd is thereby estranged from the sheepfold of Christ. And just so it was clear how far Petrine jurisdiction extended, Innocent pointed out that Christ had chosen his words carefully when he promised Peter that "whatsoever you bind on earth will be bound in heaven," (Matt 16:19): "whatsoever" (*quodcunque*) admits of no exception (*nihil excipiens*). This letter then entered into canon law under the title *Solitae*.¹⁰¹ Christ's promise to Peter, and by implication his successors, would therefore seem to have universal application. On the other hand, there is another text of Innocent that appears to place limits upon papal power. For as we have seen in *Cum ad monasterium*, Innocent maintained that certain components of the monastic life, such as the abdication of property and the maintenance of chastity, are so integral to the rule the monks have vowed to observe that not even the pope could grant an indulgence against them.¹⁰²

Laying out his own position, Olivi began with the observation that there are some things which are essentially, unqualifiedly, and necessarily just or unjust, good or evil. No one, not even God, can make evil things good and licit, nor the good evil and illicit. And so, were the pope to command what is a lie or determine that what is false be taken as true, his command would be void; these things would remain false and evil. One notch below these immutable moral categories are the divine precepts which can only be dispensed by God himself. This second category also includes the authentic dogmas of the Catholic Church which are written in the Holy

Scriptures and maintained by the Catholic Church as matters of certain faith. The pope, therefore, would have no authority to revoke or relax the divine commandments nor infringe upon or falsify Catholic dogmas. Nor, as Olivi would reiterate, can the pope dispense when it comes to the evangelical counsels and vows, inasmuch as they are (for Olivi) immutable by nature. To that end Olivi invoked Bernard of Clairvaux's letter to Pope Eugene III, *De consideratione*, wherein Bernard reminded the pope that while he did have the authority to dispense, he was not permitted to dissipate; his actions must build up, not destroy (2 Cor 10:8). And once more there is recourse to the classic canon *Sunt quidam dicentes* which obligated the papacy to uphold and defend the teachings of Christ, his apostles, and the holy fathers. Olivi located a third category of exemption from papal authority, namely infidels who have not yet been baptized. Here, according to Olivi, the pope does not enjoy the sort of direct ordinary jurisdiction over nonbelievers that he holds over the baptized (1 Cor 5:12-13). Olivi did concede that pope possesses universal power with respect to the correction of sinners, absolution of the contrite, and the general governance of ecclesiastics. Although we find the standard caveat that the pope may not abuse these powers in ways that might result in the destruction of Church. As Olivi concluded this question, he noted that if the pope really did possess the sort of universal power that excepted nothing (as the hyperbole of the canonists might suggest) we would have to conclude that the Lord committed to him all the power that belongs to Christ himself. But this would lead to the absurd notion that the pope could abolish the sacraments and create new ones, while dispensing like God against the divine precepts. And so, even as Olivi granted that the pope is indeed universal vicar, there must always be strict limits to his authority over both the faithful and the nonfaithful alike.¹⁰³

Finally in this regard, we can consider the sixteenth question on evangelical perfection. Although this question was principally devoted to the form in which donations might be made to the order so as not to compromise poor use, it contains one of Olivi's most forceful statements on the limits of papal authority relative to the religious life.¹⁰⁴ Of the twelve arguments surveyed throughout this question, it was the final article that prompted Olivi to lay out the parameters of obedience to the papacy. The argument to which Olivi responded seemed to be a rather standard affirmation of papal discretionary authority, namely that the pope can alter certain statutes of religious life as he reckons most expedient for the greater good of the whole

Church. Taken in itself Olivi had no quarrel with this assertion. In fact, he responded that no sane person would deny that the pope has the authority to establish policies designed to meet the needs of the present situation, and that his statutes must be humbly obeyed. All well and good, but were the pope to implement some policy that runs contrary to the counsels and examples of Christ and the apostles, or in any way opposes the most esteemed witness of that angelic man Francis who was conformed to Christ in the reception of the stigmata, and so dare to subvert the whole evangelical state by attempting to introduce some profane novelty, then it will become clear that such a pope proceeds not as the Vicar of Christ, but rather as a noonday demon. And for this reason, he must not be obeyed under any circumstances, but instead strenuously resisted as one would combat Lucifer himself, when he attempts to destroy the Gospel of Christ by introducing some new and horrendous heresy into the world. Olivi insisted, therefore, that disobedience to the pope in this case is the only righteous course of action. Let there be no scruple of ambiguity for everyone of pure and upright conscience, those who love and are zealous for the purity of the Gospel. The observance of evangelical poverty must never be compromised, for it is the only true means of preserving oneself. When faced with so great and manifest a danger, no one is bound by necessity to obey the pope, nor on account of a papal edict expose his soul to such peril. The resisting friar should remain steadfast even in the face of disciplinary action, Olivi counseled, reckoning any writ of excommunication worthless and carrying no weight before God.¹⁰⁵ One can therefore confirm Marco Bartoli's assessment that, for Olivi, the evangelical vow is not simply the place for the renunciation of one's own liberty, but also the point of departure for a new liberty. Only the person who has renounced his own will can become free to fully obey the Gospel. It is this freedom that the pope has no power to infringe.¹⁰⁶

POOR USE AND THE VOW: UBERTINO DA CASALE AND POPE CLEMENT V

The *usus pauper* controversy did not die with Olivi. In fact, it would take a more volatile turn in the succeeding decades, eventually drawing in the papacy. As noted, though, this issue takes on a special import relative to vows, obedience, and ultimately conscience. In a series of tracts composed between 1309 and 1312, the Spiritual Franciscan Ubertino da Casale presented

a thorough and vigorous defense of poor use as he labored to rescue the order from the demonic darkness into which he believed it had fallen. This meant taking his stand against the order's leaders while at the same time trying to win the pope to his side. The Franciscan minister general and masters of theology residing at the papal Curia had determined that only the abdication of dominion and property as laid out in the rule itself, as well as in Nicholas III's *Exiit qui seminat*, fell under the vow of poverty. Penury and restricted use, on the other hand, even if befitting the friars' general state of life, did not belong to the vow. As we have seen during Olivi's own *usus pauper* debates, the chief problem was indeterminacy. Not surprisingly, the argument advanced by the community runs along the same lines in the first decade of the fourteenth century as it had when Olivi debated the issue thirty years earlier. It was once more reiterated that what falls under the vow must apply always and everywhere; it cannot vary from place to place. This is deemed to be of vital importance, for whenever a friar transgresses the vow he lapses into mortal sin. If poor use really did belong to the vow, this argument runs, a friar would be fearful of committing a mortal sin anytime he sat down at the dining table of a prelate. Indeed, it would be almost impossible to determine from one moment to the next just how far poor use extends. The strength of the rule, though, is that it remains constant, inasmuch as it calls for something that can be clearly determined, namely the abdication of dominion and property. Poor use achieves no such clarity, however, and so cannot fall under the vow.¹⁰⁷

It must be admitted once more that the conventuals have made a strong case, especially when it comes to protecting the consciences of scrupulous friars. Ubertino, for his part, will not be moved: poor use is essential to the vow and remains inseparable from it. This is made clear, he said, from the very words of the Gospel: "Do not take a sack and do not be anxious about tomorrow" (Matt 6:34) and "Sell all that you have" (Matt 19:21). These are the very evangelical words by which Christ imposed upon the apostles the correct form of life; and he meant these words to be taken literally (*ad litteram*). By not taking stores for the next day, the disciples were content to rely entirely upon divine providence. And by putting away all concern for the future they manifested the perfect life of the Gospel in the restricted and poor use of things.¹⁰⁸ If the form of life that Christ imposed upon the apostles contained within its very essence poor use, then the rule of Saint Francis laid down for the Friars Minor must likewise observe Jesus Christ's

Holy Gospel. Ubertino would go so far as to say that the rule apart from poor use would be rendered void.¹⁰⁹ And so, like Olivi before him, Ubertino insisted that apart from poor use the highest form of evangelical poverty cannot be preserved.¹¹⁰ Poor use remains integral to the true Franciscan life, which is marked by most high poverty and humility, as the friars consign themselves to live as pilgrims in this world.¹¹¹

For Ubertino, evangelical poverty is a way of crucifying the flesh while one walks with bare feet, wears cheap clothing, and subsists on little food. In this way friars seek to imitate the first Franciscan fathers, and Saint Francis himself, who wore meager habits and had eschewed even sandals. With recourse to illustrious thirteenth-century leaders of the order, Ubertino recalled that Hugh of Digne's commentary on the rule speaks of poverty precisely as penurious. While Bonaventure said that the friars are to live as truly poor men, observing the form of extreme and indigent poverty. Which means, according to Ubertino, that the vow of poverty involved not only the abdication of dominion, but also the observance of poor use. The brothers are supposed to live as itinerant wayfarers, but such a life is impossible apart from the poor use of things. Franciscan poverty must be synonymous with Christ's own poverty. For if the vow of poverty only excludes dominion and not the opulent use of things, a brother might just as well wear silken tunics, ride on palfreys, eat from gold and silver vessels, and reside in expensive dwellings. And just so long as this friar acknowledges that all dominion remains with the pope, he could continue to call himself a true evangelical pauper who observes the rule of poverty. Yet this sort of casuistry, Ubertino exclaimed, is the very height of insanity! These appeals to the pope's putative ownership of Franciscan goods (*Quo elongati*, 1230) constitute a grave error that is injecting deadly poison into the poverty of the evangelical rule. Our Franciscan fathers and masters of old, so Ubertino cried, would be horrified at the way the rule has been distorted.¹¹² It has reached the point that the Church itself is in grave danger when the perfect imitators of Christ, these little poor men of Christ who follow poor use, are being persecuted and thrown into prison.¹¹³

The only remedy, as Ubertino saw it, was for the order to return once more to Francis who had borne the testimony of Christ the supreme priest; Christ who marked Francis with the stigmata as a seal on that holy rule which he had bestowed upon the saint. Lest the intention of Jesus Christ himself be defrauded, therefore, the rule must be observed according to

the intention and exposition of Saint Francis, guided as he was by the Holy Spirit.¹¹⁴ Francis was the lawgiver who presented the rule by the inspiration of the Holy Spirit, the same rule that was subsequently authorized by the papacy (*Solet annuere*, 1223). Then in his final Testament (1226), as he drew near to the eternal light, the saint instructed his brothers to live as poor men in poor dwellings. Ubertino repeatedly appealed to the clear intentions of Francis and what he commanded in his Testament. Fully cognizant of future dangers, holy father Francis, filled with the Holy Spirit, had stipulated in his Testament that the rule be observed without gloss.¹¹⁵ For Ubertino, it is Francis, this *alter-Christus* caught up in the Holy Spirit, who remains the ultimate authority on what it means to live the Gospel authentically. Francis, not the pope, and certainly not the minister general, will have the final word on evangelical perfection.

One of the most striking aspects of Ubertino's sustained lament over the break down in his order's commitment to evangelical perfection is his evident distrust of the papacy. There is some irony in this, since it had been the papacy which had consistently supported the Franciscans, and to which the order had repeatedly turned for assistance in their perennial battles with the secular clergy. By Ubertino's reckoning, however, there had been a series of popes who had actually done the order more harm than good. These men may have been filled with the best of intentions, Ubertino admitted, but they doled out all manner of privileges that are positively destroying the evangelical way of life. The blame cannot solely be placed at the feet of the papacy, of course; it is the Franciscans themselves who are endlessly litigating these same privileges, and thereby ceasing to conduct themselves as poor men. What is worse, because the papacy has codified these many privileges, dissent from this legislation has become increasingly perilous. Any brother who dares to protest the laxity that is overtaking the order is reputed disobedient, merely because he refuses to obey precepts that run contrary to the rule. Those who resist the impurities that are infecting the life of poverty now face severe disciplinary measures. Denounced to prelates as heretics, these poor friars wish only to observe the rule in its purity; it is for this reason that they cannot submit to conditions that would place them in state of mortal sin for breaking their vow.¹¹⁶ These brothers are, in other words, being punished for insisting that their obedience extends only to the rule that they have vowed to keep; and that what they have vowed cannot be compromised. If the order's superiors are worried about the

conscience of friars living by poor use, Ubertino is all the more concerned with the salvation of those friars who are being coerced into accepting a manner of life that tramples upon their right to follow the perfect way of the Gospel established by Jesus Christ and renewed in Saint Francis.

There was a measure of resolution to the poor use controversy when on 6 May 1312 Pope Clement V promulgated the bull *Exivi de paradiso*. Clement was not unsympathetic to Ubertino's complaints about the excesses that were indulged in some quarters of the order, and he took some positive steps to rein them in. The pope did not go so far, however, as to concede that poor use belonged to the Franciscan vow. The bull begins by extolling the heavenly form of life laid down in the rule composed by that excellent Confessor of Christ, Saint Francis, which he intended to be observed by his sons. Clement proceeded to note that over the years many of his predecessors had been called upon to clarify points of the rule in order to dispel doubts, so that the friars might then proceed with full clarity of conscience. In fact, it seems fair to say that the issue of conscience formed the most important component of this bull; this explication of the rule was designed to set the consciences of the brothers at ease. For it frequently happens that even when there is no fault, "frightened consciences" still fear any deviation from God's path. Scrupulosity has taken hold in some quarters, while Clement admits that previous papal interventions have not always been successful in alleviating the qualms of the friars. Again and again, it seems, doubts arise regarding the faithful observance of the rule. It has now fallen to the pope to provide a remedy for the misgivings that have already arisen and may also in the future.

Because the rule that the friar professes obliges him to take on the poverty, humility, and Holy Gospel of Jesus Christ, the question has arisen whether this renders him bound not only by the evangelical precepts but also the counsels. Some say that the friars are so bound, while others that they are obligated to obey only the three counsels of obedience, chastity, and lack of property, and those things which are proposed under obligatory words in the rule. For this reason, says the pope, it is essential that the contents of a vow be clearly determined, so that the one who makes the vow can be certain of what he is obliged to observe. The friar cannot be bound to observe evangelical counsels that are not mentioned in the very rule that he has vowed. If Francis had meant for all the counsels to be observed, he would have stipulated this in his rule; but in fact, he specifically included

some counsels while omitting others. Consequently, the friars are only bound to those evangelical counsels that are explicitly stated in the rule itself. And so, with all regard for “sincere consciences,” Clement determined that it was the more certain part of the rule that must be held so as to avoid grave remorse of conscience. This is not to say, however, that poor use has no place in Franciscan life.

Clement firmly instructed the friars that they are to wear cheap clothing. Although even this stipulation had to be qualified since the cheapness of habits and tunics should be calibrated to the customs and conditions of the regions in which the friars operate. And since such determinations are bound to vary, precisely what constitutes cheapness in each case will be left to the order’s superiors. It is the responsibility of the Franciscan provincial ministers to settle these matters for the sake of anxious consciences. Obedience is reckoned essential, therefore, if there is to be both peace of mind for the individual friars and peace for the order as a whole. Finally, the bull addressed the topic of scrupulosity (*scrupulosa quaestio*) that really crystallizes the whole affair: Does profession of the Franciscan Rule oblige friars to observe the poor use of things? Some have said that as the strictest abdication of dominion belongs to the vow, so also the greatest strictness and meagerness in the use of things. Whereas others assert that their profession does not oblige them to observe poor use, which is not expressed in the rule; although friars are bound to use things in due moderation. Then in an effort to “quiet consciences” and bring an end to this controversy, Clement declared that the Friars Minor, by the profession of their rule, are specifically obligated to observe the restricted or poor use of things only where their own rule dictates such restriction.

A victory for the conventuals it would seem, except that Clement insisted that both sides tamp down the accusations. All the friars were henceforth forbidden from asserting either that it was heretical to hold that poor use is included under the vow of evangelical poverty, or conversely that poor use is not included. This sort of damnatory invective would be reckoned by the papacy as rash and presumptuous, which is to say, subject to disciplinary action.¹¹⁷ Clement’s bull brings into focus a central theme articulated by both sides of the poor use controversy: an allegiance to one’s conscience even to the point of scrupulosity. Hence the anxiety which can so often accompany the sincere quest for evangelical perfection. Both those who are scandalized by religious life apart from poor use, and those who fear what its inclusion

in the vow would mean for the state of one's soul, earnestly desired some effective means by which they could remain true to their conscience.

Five years later, on 7 October 1317, Pope John XXII issued the bull *Quorundam exigit* wherein he displayed little of the paternal concern shown by his predecessor Clement V, who had seemed genuinely attentive to the moral struggles of the Spirituals. For his part, John curtly dismissed these men as cranks wallowing in fruitless scrupulosity (*caecae scrupulositatis ambiguum*), impudently clinging to their own contrivances under the veil of conscience (*sub conscientiae velamento*) when they should instead be obeying the orders of their superiors. Poverty may be a fine thing, said the pope, but obedience is greater still. Reminding these recalcitrant friars that obedience lay at the very heart of religious life, it would fall to the order's superiors to determine the quality of habits and the necessary storing up of provisions. Which in turn meant that the friars must be willing to set aside their conscience in the face of an authoritative determination to the contrary.¹¹⁸

Obedience to one's ecclesiastical superiors had become the central issue, with the result that the disobedient would henceforth be treated as heretics. To that end the minister general Michael of Cesena forced friars in Narbonne and Béziers not only to answer whether they would obey him, but whether they agreed that the pope had the power to command what he did in this bull. Soon thereafter, following a formal inquisition begun in November 1317, four Spirituals were burned at Marseilles on 7 May 1318. According to the Beguine Raymond du Bosc, these friars were concerned that the dispensation on granaries laid out in *Quorundam exigit* was unjust. Consequently, they should not have to obey the pope in this matter and would actually sin if they did. They argued that the pope had no authority to dispense the Franciscans to have granaries and cellars, since that ran contrary to their vow of poverty: "*contra votum paupertatis fratrum minorum*." In fact, some believed that John's error of dispensation rendered him a heretic.¹¹⁹ Here we should heed the assessment of David Burr who reminds us that these four men did not give their lives in defense of some abstract principle of papal authority. They went to the stake because they could not in good conscience obey a command that would force them to compromise their vow to obey the Franciscan Rule, of which poor use (they believed) was an essential element.¹²⁰

CHAPTER SEVEN

CHRISTIANS MAY CORRECT THE POPE

When the pope, putative Vicar of Christ, proves to be an obstacle to the Christian life as revealed in the Gospel, and even a danger to the Body of Christ itself, fellow members of that same body have an evangelical obligation to correct him. This is because the pope is himself a brother in Christ, and like the rest of his brethren, remains subject to the sacred faith and tradition of the Church. In Chapter Three we observed the Dominican theologian John of Paris making the case for disputing matters relevant to papal power and thus inquiring into the truth of its parameters. When treating the topic himself, he had to tackle a thorny question: Who will judge the pope to be a heretic? To which John offered a twofold response: were the pope to endorse some teaching that runs contrary to the profession of faith approved by the Church, then he stands already judged; for “he who does not believe has been judged already” (Jn 3:18). When, on the other hand, it is a matter of abuse of power and personal defect, John maintained that it was not lawful to judge the pope if it remains unclear whether what he is doing is for the common good or only for his own personal gain. Yet if he is manifestly doing wrong, for example, depriving churches of their rights, dispersing the Lord’s flock, or acting in ways that scandalize the Church, then he can be judged and censured by anyone at all; if not by virtue of their office (*ex officio*), then by the fervor of their charity (*ex caritatis zelo*). In fact, said John, every Christian is bound under the obligation of charity to perform this act of fraternal correction (*ad correctionem fraternam ex caritatis zelo*), since the pope is no less owed the compassion of charity despite his exalted status. So it was that when Peter came to Antioch, Paul resisted him to his face for the very fact that he was blameworthy (Gal 2:11-14). And to those who claim that no one may proceed in this way so as “to touch the sacred mountain” (Ex 19:12) or “set their mouth against heaven” (Ps 72:9), John replied that when the pope commits a manifest offense that is not heaven; nor when he is corrected has one’s mouth been set against him; rather, it is for his own good.¹ Reining in papal malfeasance, or even just overreach,

was clearly a matter of principal concern. More broadly, though, there was an effort underway in the fourteenth century to realign the pope's position within the Church, emphasizing his standing as a brother rather than an overlord; and a self-sacrificing shepherd rather than a mercenary.

FRANCISCANS CORRECT POPE JOHN XXII

When John of Paris took up the cause of Philip the Fair in 1302, he had the ill-fated Pope Boniface VIII in his sights. Two decades later, another pope came under fire when many within the Franciscan Order concluded that the possibility of papal heresy, mooted earlier by their confrere Peter John Olivi, had been actualized in the person of Pope John XXII. In the previous chapter we saw this pope wading into the fraught disputes over poor use that were racking the Friars Minor. It was not long until John began issuing a series of bulls striking at the heart of Franciscan identity as he sought to reconfigure the order's relationship to the papacy. John laid the groundwork for his program of revision with the bull *Quia nonnunquam*, promulgated 26 March 1322. Here he presented the apparently modest proposal that it is within the scope of papal authority to revoke, modify, or suspend previous canons, whether issued by himself or a predecessor, if he finds that they are doing more harm than good. And, of course, he had a point: Was not the pope's authority to intervene for the Church's greater welfare a commonplace of ecclesiastical governance amply affirmed in the canon law tradition?

A professional jurist himself, John XXII knew that he had a fine line to walk. Cognizant of Nicholas III's prohibition against glossing *Exiit qui seminat* except for reasons of clarifying grammar and explaining the sentence structure, John protested that he had no desire to abrogate this bull, but only to better explicate the truth therein. For it often happens that the same text can yield multiple meanings (*sub eadem littera saepe multiplex intellectus*), which are difficult to grasp and thus in need of further elucidation. Hence, in an effort to avoid errors and allay any doubts that may arise, it makes sense to suspend this prohibition on discussing the bull. The pope would therefore allow for a period of discussion and disputation (*conferre . . . et disputare*) regarding *Exiit's* contents, to be conducted by a panel of experts in both law and theology. In fact, this was the very disputation that the secular masters at Paris had been calling for some forty years earlier,

aggrieved that this decretal had been ruled off-limits. John was nevertheless careful to stipulate that this suspension was not to be interpreted as a license for anyone to determine or write against the Franciscan Rule itself.²

Just a few months later, in June 1322, the Franciscans held their general chapter meeting at Perugia.³ Concerned that John may have been laying the groundwork to overturn *Exiit qui seminat*, a group of Franciscan masters and bachelors of theology specifically addressed the question of whether it would be heretical to assert that Christ and the apostles had no property either individually or in common. To which they confessed that in showing us the way of perfection Christ and the apostles had nothing by right of ownership, right of dominion, or right of appropriation either individually or in common. Far from being heretical, they said, this doctrine is sound and Catholic.⁴ As they proceeded, these theologians determined that no assertion can be reckoned heretical if founded upon multiple determinations and confirmations of the Holy Roman Church. And because the assertion that Christ and the apostles had no private or common property is founded in just that way, it cannot be heretical. Warding off John's attempt to dismantle the legislative determination of his predecessor, the friars further pointed out that *Exiit qui seminat* states that abdication of the ownership of all things individually and in common for the sake of God is meritorious and holy. Clement's *Exivi de paradiso* makes the same point, they noted, as does John's own decree *Quorundam exigit*. In other words, this definition of evangelical perfection had been approved and elucidated on many separate occasions by the Church over a span of some decades, and so remained unalterable.⁵

The Franciscans concluded with an appeal to the most foundational components of orthodoxy, pointing out that no proposition can be reckoned heretical whose opposite is not clearly described in Holy Scripture, nor found in the exposition of the saints, or otherwise determined by the Church. That Christ and the apostles lacked all common and private property, undoubtedly meets this test.⁶ Nowhere in the New Testament are the apostles shown to have exercised dominion; instead, we find only simple factual use.⁷ The clear depiction of evangelical poverty presented in the Gospels has been confirmed by the sacred tradition, according to the friars, thereby forestalling any attempt at reinterpretation.

Our purpose here is not recount the back and forth between the pope and the friars, but to examine the role that Scripture and tradition played

in this debate over the parameters of papal authority with respect to the religious life. For the extent to which Franciscan poverty was, or was not, grounded in a sacred and immutable apostolic deposit would determine the limits of papal legislation. We see that the Franciscans were adamant that their Christ-like way of life had been clearly laid out in the Gospels and, as a matter of divine law, was not subject to alteration. John for his part insisted that it was precisely because these questions of dominion and use did not fall under this sacred rubric that they could be altered upon further consideration. And so, when John fired back at the order on 8 December 1322 with his bull *Ad conditorem canonum*,⁸ he reiterated his previous point that the pope is within his rights to emend the statutes of his predecessors if he determines that they are doing more harm than good. John began by noting that Nicholas III had confirmed the order's rule that the brothers appropriate nothing for themselves, and that Gregory IX had said that the order was to have nothing individually or in common. Dominion and ownership of goods had been transferred to the Roman Church while use alone remained with the order. And yet upon further reflection, John observed, this arrangement had not actually been very helpful to the Franciscans, as experience bears witness. This reservation of dominion had not contributed to the brothers' quest for the state of perfection. For perfection in the Christian life consists chiefly in charity (Col 3:14), whereas the expropriation of the order had neither lessened the friars' anxiety nor contributed to the perfection they were seeking. Truth be told, said John, the dominion supposedly held by the Roman Church was merely a fiction, no matter that the order claimed for itself only simple use.⁹

If that were not enough, John revived the contention, already voiced by Gerard of Abbeville during the secular-mendicant debates of the thirteenth century, that the use of consumables cannot be separated from ownership and dominion. Nor, John said, did his predecessors ever intend to reserve for the Roman Church dominion over consumable items. What sane person, John asks, really believes that it was Nicholas's intention that the Roman Church would claim dominion over an egg, a piece of cheese, or a crust of bread while granting use alone to the friars? John therefore stuck to the legal principle that whatever cannot be recovered in things consumed by use is inseparable from dominion.¹⁰ Significantly, John would furthermore contend that there can be no simple use (*simplex usus*) apart from right of use (*ius utendi*), since that would preclude the just act of using something.

Nicholas surely did not intend to reserve to the friars a form of use that was unjust, and thus not in accord with the state of perfection that the friars seek.¹¹ This bull would seem to have struck a heavy blow against the entire legal structure that had been set in place to safeguard the Franciscan way of life.

The promulgation of *Ad conditorem canonum* was met with a substantial appeal to sacred precedent penned by the Franciscan Bonagratia of Bergamo, who was himself a jurist and thus well-suited to meet John's legal challenges.¹² Here in his *Appellatio*, Bonagratia invoked a series of papal bulls to the effect that these matters had been settled once and for all. Nicholas III's predecessors, Alexander IV, Gregory IX, Gregory X, and Innocent IV had determined on multiple occasions that the Franciscans live a life of poverty, having nothing individually or in common, thereby following naked after the naked Christ. Francis had himself been guided by divine inspiration when preparing the way of perfect righteousness in the desert of most high poverty. Alexander IV, in his bull *Non sine multa*, could thereby affirm that those who profess the Franciscan Rule have embraced the state of evangelical perfection and so are worthy of eternal glory.¹³ The Franciscan refrain would remain consistent: because their vocation belonged to the sacred tradition authorized by the Holy Spirit, any attempt by the present pope to overturn its core principles constituted a grave error.

Bonagratia then reaffirmed the principle that ownership and dominion over all donations made for the sake of God to the Franciscan Order, who have themselves renounced ownership of all things, remain with the Roman Church. To make sense of such an arrangement, Bonagratia described the Franciscans as special sons of the Church, who live as small children in the power of their father, such that all goods conferred upon them are transferred to the Roman Church. He furthermore likened the Franciscan situation to a gift given to a monk: no matter the intention of the giver, this gift will not pass into that monk's own dominion, but by law passes into the monastery where it remains subject to the dispensation of the abbot. So it is that the pope functions as the universal dispenser and administrator of everything offered to the order, which he then provides to these poor men as he deems expedient.¹⁴ And because the pope receives goods offered to the Franciscans, not as a man but as the Vicar of Christ in the place of God, all dominion belongs to God and the Roman Church. As we have seen, Bonagratia was anxious to show that all of this had long been settled, and so

hardly required further inquiry on John's part. Nicholas III, Bonagratia insisted, had attended to these matters in consultation with many masters of theology and jurists gathered at the Curia, where such issues were subjected to long and diligent examination. There was no need, therefore, for John's own experts to review this all again. More to the point, though, tradition was on the side of the Franciscans. Nicholas was simply treading in the footsteps of his predecessors, not establishing a new law, but clarifying what had already been approved.¹⁵

As he continued, Bonagratia pointed out that Nicholas had also confirmed that Franciscan simple factual use pertains both to consumable and nonconsumable items. This sort of factual use requires that ownership and dominion can be separated from use, therefore, even in the case of consumable items. Contrary to the claims of John XXII, this principle is grounded not only in divine and natural law, but also canon and civil law, as well as reason itself. John, therefore, can only be in error on this matter. *Exiit qui seminat* expressly states that the brothers are conceded simple factual use alone of those things necessary for sustaining life and the performance of their duties, while dominion rests with the Roman Church. There can be no doubt, said Bonagratia, that what is consumed by eating, drinking, and wearing are precisely those things deemed necessary to sustain human life. Hence when Nicholas III addressed what the brothers can use, he was thinking about just those sorts of things; simple factual use must therefore extend to victuals.¹⁶

Having made his case so far on the basis of previous papal legislation, Bonagratia's argument took a turn toward more foundational principles, as he contended that both natural and divine law stipulate that use is not annexed to dominion even in the case of items consumed by use. This is because natural and divine law maintain that everything pertaining to human use is common to all men. By natural law, no one can say "this is mine and that is yours." The distinction of mine and thine, according to Bonagratia, is solely a product of postlapsarian human law that accommodated man's subsequent wickedness and cupidity. Whereas under divine and natural law there ought to prevail the common use of all things in this world. Hence the factual use of those things that pertain to the preservation of one's life falls under divine and natural law, which do not make provision for distinct spheres of dominion. Bonagratia would thus conclude that, under divine and natural law, the use of things consumed in their use really can be

decoupled from the “mine and thine” of dominion.¹⁷ John XXII, in other words, has no authority to alter the divinely established order of prelapsarian righteousness. Nor can he prohibit the friars from pursuing a vocation that seeks only that same righteousness.

The Franciscans were seen, therefore, to be exercising their evangelical freedom to live as God and nature had intended, unencumbered by dominion in their simple use of life's necessities. No pope could possibly have the authority to infringe upon this divinely bestowed liberty. For according to Alexander IV's aforementioned *Non sine multa*, the brothers would receive their heavenly reward, following Christ and his apostles on the way of perfection. By abdicating ownership, dominion, and civil rights in all matters, the brothers have thereby renounced the power to litigate in court over temporal things. This forfeiture of litigation is essential to the evangelical life, following the way of perfection that Christ counsels in Matthew 5:40: “If anyone wants to sue you and take your coat, give your cloak as well.”¹⁸ Here, then, is the path to salvation which the Roman Church has consistently safeguarded for the Franciscans. She has adopted them into the spiritual sonship of the Church, and so retains all dominion over what the friars use. This is not a sham, some verbal fiction or accounting trick; it is efficacious and real, offering eternal merit and an opportunity of salvation to many of the Church's sons. Nor does this arrangement benefit the friars alone. For just as it works to the good of the paterfamilias who retains dominion over the patrimony (*peculium*) that he permits his son to use, all the more does it benefit Holy Mother Church and the friars' spiritual father, the supreme pontiff, to whom the care of these poor men is committed.¹⁹

It was William of Ockham, however, who presented the Franciscan position on right of use most effectively. In response to John's claim that there can be no just use without the right of use, Ockham drew a fundamental distinction between a natural right of use (*ius utendi naturale*) and a positive right of use (*ius utendi positivum*). The Franciscans have only the natural right of use, said Ockham, which is common to all men inasmuch as it is possessed by nature (*ex natura*) and not by any supervening constitution.²⁰ Along these same lines Ockham further distinguished between the right of the courts (*ius fori*) which has been established by human ordinance and the right of heaven (*ius poli*) which is otherwise known as natural right (*ius naturale*), since every natural right pertains to the right of heaven. Hence when *Exiit qui seminat* speaks of Franciscans having no right of

use, Pope Nicholas III was denying to them the sort of right one can claim when litigating in a court of law (*in iudicio litigare*). Nicholas had, however, expressly conceded to the Franciscans the right of heaven. Everything that is done rightly, even if not by right under the law of the courts, is nevertheless accomplished by the right of heaven. Consider that every person in a situation of extreme necessity has the use of what he needs to survive by the right of heaven, thereby making use of things by a natural right that he cannot licitly renounce. This is the right that Nicholas had in mind when he explicitly acknowledged that the Franciscans, like anyone else, have the use of goods to sustain life by the right of heaven, i.e., by natural right. Ockham believed this principle to have been affirmed by tradition, here citing the canon *Ius naturale*, which established the common use of all things as a matter of natural right. So it is that when an owner grants someone permission to use something, the recipient may use that thing by the right of heaven. The permission merely allows the recipient to exercise his natural right over a thing by removing an impediment to exercising that right; it is not the conferral of some new right. This means, moreover, that the user would not be able to litigate in court over this thing were the permission later rescinded. That is because the recipient never possessed a civil right of use under the law of the courts, but only a natural right under the law of heaven.²¹

THE POPE AS AN ENEMY OF THE GOSPEL

On 12 November 1323, with the publication of his bull *Cum inter nonnullos*, John XXII took aim at the most axiomatic principle of the Franciscan way of life: that Christ was a genuinely poor man. The New Testament, the pope argued, does not actually say what the Franciscans claim that it says; in short, there is no scriptural basis for their version of evangelical perfection. John went further, however, as he maintained that it is was nothing short of heresy to assert that Christ and the apostles did not possess anything either individually or in common, nor have any right of using or consuming. In point of fact, said John, there are numerous texts in the Scriptures which can be adduced to confirm that they did possess things. To assert that they did not expressly contradicts the very same Holy Scripture through which the articles of the orthodox faith are proven (*contradicat expresse ipsamque Scripturam sacram*). To that end the pope declared that the pertinacious

assertion of the Perugia council would henceforth be reckoned not simply erroneous, but even heretical.²²

By 1324, the friars were convinced that Pope John XXII was intent upon their destruction. The *Appellatio de Sachsenhausen*, issued in the name of Ludwig of Bavaria, charged John XXII with being an enemy of the peace who sowed discord and scandal not only in Italy, but throughout Germany as well.²³ John had been revealed as a false pope who undermined the very teaching and life of Christ. Acting in opposition to God, the Catholic faith, Sacred Scripture, truth, and justice, this man was now openly contradicting the statutes and canons of the holy fathers.²⁴ All of which, if true, would render John a notorious heretic. In fact, the pope's Franciscan opponents did find that his assertion in *Cum inter nonnullos*—namely that Christ and the apostles possessed temporal goods in common like a college—met the standards of notorious heresy, precisely because it runs contrary to the sacred text of the Gospel. John's own exegesis notwithstanding, there are innumerable statements of the saints testifying that Christ maintained most high poverty, which consists in possessing nothing civilly in this world. This way of perfection was then renewed by that seraphic man Francis. It was to this blessed confessor of Christ and father of the Franciscan Order that Christ himself had revealed the rule that was approved by Holy Mother Church, and then repeatedly endorsed by a succession of popes.²⁵

This rule, according to the friars, was essentially synonymous with the rule that Christ had taught his apostles and confirmed by his own example. Francis was then deigned worthy to be sealed with the stigmata of Christ's own sacred passion. As we have seen, the direct equation of their rule and the Holy Gospel was, according to the Franciscans, immutably ratified in *Exiit qui seminat*. This bull was to serve as an unshakeable foundation for the life of evangelical perfection. For as the friars never tired of pointing out, Nicholas explicitly equated the Franciscan Rule with the poverty practiced by Christ and the apostles. In the issuance of this decretal, John had thereby revealed himself as an oppressor of the poor and enemy of Christ's own way of life, as he attempted to strip the brothers of their highest poverty and invalidate their evangelical life through his own deceit and poisonous lies. *Ad conditorem canonum*, it was charged, had vilely, ineptly, and irreverently attacked not only the order, but also Saint Francis, that professor of most high poverty, as it heretically contradicted the constitution of Catholic faith so clearly stated by Pope Nicholas III in *Exiit qui seminat*.

In his assault upon the life of the Friars Minor, John had thus contradicted none other than the supreme legislator Jesus Christ who taught this same life by word and example. Attempting to annul this way of life must surely be reckoned heretical for the very fact that John was attempting to overturn a divine precept which, of course, is forbidden to any pope. Overly reliant upon worldly legal principles, said the friars, John was blind to the fundamental tenet that all human law must remain subject to the counsels of Jesus Christ (*omnis lex humana Christi consiliis est subiecta*).²⁶ That John was a jurist by training, rather than a theologian, was a persistent criticism: out of his depths in these matters, the pope was making a series of theological mistakes that were endangering the very truth of the Gospel.

To further bolster the immutable quality of Franciscan poverty, the Sachsenhausen Appeal presented a new argument rooted in St. Peter's reception of the twin keys of knowledge and power (Matt 16:19). Here the friars proceeded to argue that Nicholas and his predecessors, in their role as supreme pontiffs, had rendered their determinations on the Franciscan life by the key of knowledge. Affirming by their supreme teaching authority that the poverty of Christ and the apostles consists in the expropriation of all forms of civil dominion and the adoption of simple factual use of life's necessities, these popes had handed down an irrevocable determination of Catholic truth. John XXII, by contradicting the determination of his predecessors, thereby revealed himself as an inveterate heretic cut off the from the Church and the true faith, and thus incapable of holding the papal office. By promulgating manifest heresies in his constitutions, John might therefore be considered a pertinacious heretic who contradicts the Gospel of Christ, the holy apostles, the ancient doctors of Holy Scripture, and the definitions of the supreme pontiffs.²⁷

It should be abundantly clear by now that a central plank in the Franciscan argument was the inviolability of sacred tradition. Hence their contention that whatever the Roman pontiffs had determined once and for all in matters of faith and morals through the key of knowledge remains immutable. This is based upon the tenet that the Roman Church is inerrant in matters of Catholic faith, and so could not possibly sanction a false or evil rule. Nor can the judgment of the Roman Church ever be found contrary to itself, lest its teaching be subject to constant vacillation. Consequently, whatever these Vicars of God have defined through the key of knowledge (*per clavem scientiae*) as belonging to the truth of faith cannot be revoked or

called into doubt by a successor. In fact, anyone attempting to do so would *ipso facto* be reckoned a manifest heretic. The Sachsenhausen Appeal does, however, draw a distinction between this key of knowledge and the key of power (*scientiae/potestatis*). For when it comes to those things that are established by the latter, it may indeed be expedient to permit and prohibit certain acts depending upon the circumstances. The fatal mistake that John made was in confusing the keys: he attempted to annul what had been immutably determined under the key of knowledge as though such things fell under his discretionary power.²⁸

Responding to the Sachsenhausen Appeal with the bull *Quia quorundam*, John not only dismissed the friars' novel application of the knowledge-power distinction, but also insisted that the apparently simple factual use of Christ and the apostles was not actually relevant to Catholic faith and morals. Such usage is not itself an article of faith, said John, nor does it fall under any other article of faith. And if that is the case, John remained free to legislate on these questions as he saw fit. John then reiterated his position in *Cum inter nonnullos*, as he rejected the Franciscan claim that Christ's lack of dominion could be deduced from Sacred Scripture, such that to deny it would call into doubt the whole of Scripture and the articles of faith contained therein. Not only can this position not be found in Scripture, said John, but Scripture actually maintains the contrary. And no matter their appeals to *Exiit qui seminat*, it was false to assert that Nicholas III could place questions of Franciscan poverty and simple factual use off-limits, thereby tying the hands of his successors. John declared himself no more bound by Nicholas's decree than Nicholas himself had been bound by the decrees of his predecessors. Of central importance here, though, is John's insistence that these principles of dominion and use had no foundation in either the creeds or the New Testament. Despite Franciscan claims to the contrary, therefore, they do not belong to the apostolic deposit of faith which would otherwise obligate John to adhere to them.²⁹ Here is the crux of the debate. John, no less than the Franciscans, was committed to securing the Church's sacred tradition. As John saw it, however, the Franciscans were attempting to introduce new and alien teachings into that same tradition under the semblance of antiquity.

Brian Tierney, in his classic *Origins of Papal Infallibility*, had traced the doctrine of papal infallibility back to Peter John Olivi and then to his Franciscan successors who were anxious to secure the immutability of *Exiit qui*

seminat against any future alterations. It was Tierney's contention, moreover, that papal infallibility was foreign to the traditions of the canonists. John XXII, an experienced canonist himself, immediately recognized the novelty of the proposal laid out in the Sachsenhausen Appeal and its calamitous repercussions for ecclesiastical governance. Papal sovereignty would be severely undercut if each pope were bound by the infallible decrees of his predecessors.³⁰ Tierney, in a response to Alfons Stickler, summed it up this way: "The canonists did indeed insist very strongly on the juridical primacy of the Roman See and of the pope as its head. They often declared that a disputed matter of faith had to be referred to the Roman See for a definitive decision. But they did not teach that the pope was infallible when he promulgated such decisions."³¹ James Heft, in his study of John XXII, laid out some of the principal objections leveled against Tierney's thesis. Specifically, that John XXII had not opposed sovereignty to infallibility, since it was already a commonplace among the canonists that the pope could not change the articles of faith, matters necessary for salvation, and the *status ecclesiae*. Sovereignty, which was exercised in matters not touching the faith, concerned those things that could change, while infallibility those that cannot. Tierney, it is argued, had posed a false choice between sovereignty and infallibility.³² For our purposes, and so prescinding from broader considerations of papal authority, it seems that at the very least John believed that his sovereign authority extended to the regulation of Franciscan poverty, precisely because it did not, in his estimation, constitute an immutable article of faith.

Whatever John XXII may have asserted, and however right he may have been, the Friars Minor saw things from an entirely different perspective: their form of poverty was immutably sacrosanct for having been founded by Jesus Christ himself and therefore could not possibly be subject to revision. Rebellion against the pope would now reach to the highest levels of the order. Michael of Cesena, whom John had only recently deposed from his position as minister general, wrote a letter from Pisa on 9 July 1328 wherein he spelled out the parameters of proper obedience. Here Michael observed that, on the strength of divine and human law, the friars were under no obligation to obey the Roman pontiff were he to command what is contrary to God or to the faith of the Holy Roman Church. Were the pope to contradict what the holy fathers had defined in matters of faith and morals, the friars would therefore be obliged to withdraw their obedience

from him (*ab eius oebedientia recedendum*). Now the fact is, said Michael, that the Roman Church had frequently determined that the abdication of all private and common property for the sake of God was meritorious and holy, since Christ had revealed this to be the way to perfection. Proclaiming here that “I have resisted Lord John to his face” (cf. Gal 2:11), Michael contended that John had implicitly accused his predecessor Nicholas III of heresy. The result was a cascade effect that implicated the Roman Church in heresy, while rendering Francis—whom the Roman Church counts among her saints—a heretic. Indeed, all the members of the order who had ended their days professing the rule and consenting to *Exiit* must also have been heretics. Of course, this is patently impossible, since contained in that article of the creed, “I believe in the one, holy, catholic and apostolic Church” is the principle that the Roman Church cannot err in the faith, as established by Christ’s prayer for Peter in the Gospel of Luke (22:32). It is John, therefore, who was found in a state of manifest heresy, having been (supposedly) deposed in 1328 by Ludwig of Bavaria with the consent of the Roman clergy and people. As a result, said Michael, John can no longer be obeyed, since to obey him would amount to condemning one’s own soul and confessing oneself to be a heretic. Michael would once more exhort his readers to disobey all commands issued by the heretical John XXII, who had been duly deprived of all authority and power as stipulated (Michael said) by the law and canonical sanctions.³³ If Michael were right, that John was a pertinacious heretic, then the withdrawal of obedience would indeed be the correct course, since his heresy would result in the forfeiture of any claim to the allegiance of the faithful.

The Franciscans would consistently hammer home the contention that John meets the textbook definition of a notorious heretic, since he had publicly promulgated heretical constitutions which he made no effort to deny. In other words, his heresy was self-evident and therefore not in need of further inquiry. For, as Michael also notes, John never exhibited any desire be corrected; instead, he chose to cling pertinaciously to his own heresies. It was his own recalcitrance, therefore, that made it unnecessary to lodge a formal accusation of heresy against this pope, nor present further proofs, precisely because his heresies were manifest and had never been retracted. In the course of this work Michael cited a litany of canons to the effect that John should be deemed an *apostaticus*, rather than an *apostolicus*, for publicly dogmatizing heresy and occupying the papal see as a tyrant. *Dicimus*

omnino makes it clear that heretics and schismatics hold no power or right. While Gratian comments on *Audivimus* that a prelate who falls away from the Catholic faith loses the power to bless and curse, and so cannot pass sentence on any Catholic. Appealing then to the fundamental principle articulated in the gloss on *Achiatus non est* that a heretical pope is reckoned less than any Catholic, Michael called upon laymen and clerics alike to expel this illegitimate usurper from the Apostolic see. Christians have a duty to resist a public heretic who openly proclaims his heresy. All those who are aware of the situation must withdraw their obedience and henceforth cease to be in communion with him (*oboedientia et communione recedere*). In fact, as Michael warned, were subjects not to subtract their obedience from a manifest heretic, they would appear to consent to his errors. Withdrawal may not even be enough; they must also resist lest they be considered supporters of this heretic. To that end Michael invoked the classic canon *Error cui non resistitur*: “The error that is not resisted is approved, and the truth that is not defended is suppressed. Failing to disturb the wicked when you are able is nothing other than to show them favor.”³⁴

JOHN XXII FALLS FURTHER INTO HERESY: THE BEATIFIC VISION CONTROVERSY

If John's troubles with the Franciscans were not enough, his fitness for office would be called into question on an entirely separate matter. All questions of evangelical poverty aside for the moment, what would it mean for the pope to blunder into a theological error that the magisterial class roundly condemned? Seemingly out of the blue, the pope had shocked many among the Christian faithful when he delivered a sermon which denied that the saints currently enjoy the fullness of the beatific vision; they are content at this time to contemplate Christ in his humanity but not yet in his divinity. What made this pronouncement especially stunning was that John's previous sermons had given no hint of such a position. In fact, in the 1317 bull of canonization for Louis of Anjou, *Sol oriens mundo*, John had freely affirmed that the face of God was now revealed to this Franciscan saint.³⁵

It was in a sermon for All Saints' Day 1331 that John constructed his proposal on the strength of Bernard of Clairvaux's own fourth sermon for that holy day, the key text being Revelation 6:9: “I saw under the altar the souls of those who were slain for the word of God.” According to John, who did

not see himself as proposing anything novel, it was Bernard's position that following Christ's advent, passion, and ascension, the saints enjoyed their reward "under the altar of God" up until the day of judgment. For Bernard and the other holy doctors, said John, the altar refers to Christ in his human nature. The souls of the righteous will therefore remain under the protection of Christ's humanity prior to the judgment. Following the judgment, however, they will then be raised above the altar, i.e., above Christ's human nature. It is at this point that the saints will contemplate Christ not only in his humanity, but also in his divinity, as he is in himself. Now they will see the Father and the Son and the Holy Spirit.³⁶

John XXII, it should be recalled, was not a theologian by trade. Jacques Duèse had trained as a jurist and had been a professor of canon law at Toulouse. He did study some theology at Paris, but never took a degree.³⁷ Conscious perhaps of his lack of theological credentials, with no claim to magisterial authority, John had intentionally presented his teaching in the form of sermons, hence a pastoral genre rather than the exacting and formal method of the schools. The pope was attempting to engage in a more straightforward biblical theology that was free from what he regarded as the pedantic theologizing of the late medieval universities. In the eyes of the professional theologians, however, John was a rank amateur, uninformed and behind the times. Actually, the masters did not at first declare John's teaching heretical because it contradicted an article of faith (it did not), but because it diverged from established magisterial interpretation. For even as the doctrine of the beatific vision had not been formally defined by the Western Church as a matter of dogma, the Church had nevertheless been advancing toward a common position. The pope, as these masters of theology saw it, lacked the requisite theological expertise to disrupt this consensus.³⁸ That the masters themselves were recognized as uniquely qualified to render a determination on this question would then be amply demonstrated. Here we recall Pierre d'Ailly's observation some fifty years later that the theology masters had lawfully rebuked Pope John XXII in the matter of the beatific vision.³⁹

On 19 December 1333, the Paris theology faculty was summoned to the Vincennes manor of the French King Philip VI in an effort to resolve this controversy. In a letter of the faculty dated 2 January 1334, the masters recounted that they had been asked by the king to offer a candid response to two questions: 1. Whether sanctified souls in heaven behold the divine

essence face-to-face prior to taking up their bodies and before the final judgment; 2. Whether the vision of the divine essence that they currently enjoy will cease on the judgment day to be succeeded by another (superior) vision. Before offering their determination, the masters were careful to extol the French king as their most beloved lord, founder and guardian of the university and of their own theology faculty, to whom they owe reverence and obedience. At length, these theologians presented a statement which had received their unanimous approbation. Here they determined that the souls of the faithful, which have either been purified in purgatory, or had no need of further purification, do currently enjoy a clear and immediate vision of the divine essence and the Holy Trinity, which Saint Paul had described as “face to face” (1 Cor 13:12). Furthermore, that vision will not be replaced with any other vision when these souls recover their bodies; it will perpetually abide. To their statement the theological faculty then attached its official seal.⁴⁰ On that same January day, the masters then sent a letter to Pope John recounting the formal response they had presented to Philip. They could attest with certainty, moreover, that all the doctors who had preceded them at Paris had maintained and taught the very position that these masters formally articulated. What they asked of John was that he now render an apostolic determination that would officially confirm that the devotion all Christian people have thus far fostered is in fact true.⁴¹

On 3 December 1334, John did issue a revocation of sorts wherein he allowed that purified souls in heaven do enjoy a clear vision of the divine essence “face to face,” albeit to the extent compatible with their state and condition as souls still separated from bodies. It is noteworthy here that John would employ the very sort of careful academic language that we have seen the university masters invoke to immunize themselves against censure. The pope, who had originally sought to sidestep the schools, was now forced to speak their language. Here John protested that when treating this issue, he had merely been reciting (*recitando*) Sacred Scripture and the sayings of the saints. If perhaps his sermons had been understood in ways contrary to what he had intended, it was nevertheless his intention always to speak in accord with the Holy Catholic Church. Hence he affirms whatever he had said on matters concerning the Catholic faith, and what was in keeping with Sacred Scripture, the determination of the Church and good morals; while rejecting whatever might have been in disagreement with such authorities.

All that he has said or written, he submits to the determination of the Church and his successors.⁴²

It was left to John's immediate successor to present a formal papal determination of this matter, which appeared on 29 January 1336 when Pope Benedict XII issued the bull *Benedictus Deus*. The prevailing magisterial opinion now received its apostolic ratification: "Purified souls see the divine essence with an intuitive vision and even face to face (*etiam faciali*). . . . The divine essence immediately manifests itself to them, plainly, clearly and openly, and in this vision they enjoy the divine essence. . . . And after such intuitive and face to face vision and enjoyment has or will have begun for these souls, the same vision and enjoyment has continued and will continue without any interruption and without end until the Last Judgment and from then on forever."⁴³

OCKHAM HOLDS JOHN XXII TO MAGISTERIAL STANDARDS

In his 1334 letter to the Franciscan general chapter meeting in Assisi, William of Ockham cataloged a series of statements drawn from John XXII's bulls that were deemed contrary to Holy Scripture and natural reason. John was a manifest heretic and false pope, concluded Ockham, against whom he has set his face like flint (Is 50:7).⁴⁴ It was not only John's assault upon the Franciscan way of life that revealed him as a *pseudo-papa*; his controversial teachings on the beatific vision cemented this judgment. In 1335, the year after John had died, Ockham dedicated an entire work, his *Contra Iohannem*, to unraveling any and all attempts to salvage the deceased pope's reputation. Here the retractions that John had issued on his deathbed were dismissed as too general, and too conditional, to exonerate this pope of his heretical depravity.⁴⁵

No matter the pope's claims to the contrary, Ockham determined that when John had publicly preached on the topic of the beatific vision, he was not merely reciting the theories of others, but asserting and affirming what he believed and, moreover, what should be believed by others. Seizing upon phrases such as *dicimus, dico, tenemus, non possumus aliter intellegere nec sentire*, and *non possum ego tenere contrarium*, Ockham located the words of someone who was positively asserting theological positions. No one in his right mind would think, said Ockham, that such phrases were the words of someone merely reciting the opinions of others. Applying the very rules

of the academy that he himself had once suffered under, Ockham noted that this pope never made clear at the time that he was simply reciting what previous saints had said; only later as he backtracked did he invoke such a defense.⁴⁶ What is more, as Ockham saw it, this case had broader ramifications beyond this single pope; letting John off the hook would open the floodgates. Now any heretic having previously made statements contrary to the Catholic faith, could later excuse himself on the grounds that he had only been reciting such things. As it is, though, John's assertive manner of speaking at the time betrayed his real intentions. He is therefore left without excuse.⁴⁷

As Ockham saw it, John should have revoked his many errors purely, simply, and absolutely with no conditions attached. Tepid declarations of one's willingness to be corrected are insufficient. Nor can conditional revocations excuse him of heretical depravity. Rather, the person who asserts errors contrary to Catholic truths, which he is obligated to believe explicitly, can only later be reputed a faithful Catholic if he revokes those errors unqualifiedly.⁴⁸ That John insisted upon speaking conditionally (*si vero ...*) leads one to conclude that John never really wished to confess that he had erred in this matter. Taken as it stands, his confession seems feigned, simulated, and for that reason worthless.⁴⁹ As Ockham pursued this theme of an unrepentant pope, he invoked the canon *His qui* and its gloss to the effect that those who have sinned against God by falling away from the faith cannot be received back into the fold apart from solemn reconciliation and a sworn vow. As a canonist, noted Ockham, John XXII must surely have recognized his duty to abjure the heresy into which he lapsed had he been formally convicted in court. Had he been too infirmed, he should have at least indicated that he was prepared to abjure whenever the Church might render judgment. That John was never convicted of heresy at trial only means that he was not *de facto* bound to abjure these heresies, even as he should have prepared himself to do so. As it was, according to Ockham, this pope never offered any indication, whether by word or other recognizable sign, that he was prepared to revoke his heresy. Again, therefore, his conditional recantation could not save him.⁵⁰

Even were one to grant that John had merely been reciting this position while firmly believing the contrary—which Ockham reckons an unlikely scenario anyway—this would still render the pope a cognizant supporter of heresy: “The wicked often defend with their mouth what they reject in their

heart" (Ps 16:3). This takes us back to one of the central themes of Christian responsibility vetted since the late twelfth century: a person who does not resist when he can is reckoned to consent. Because John specifically failed to resist this heresy regarding the beatific vision when he had the opportunity, one can only assume that he knowingly supported it. Ockham's recourse to the classic canon *Error cui non resistitur*, as well as *Ostendit*, drives home the point: failure to oppose evil can be taken as consent to that very evil. As the pope, John was in a position to prohibit and impede this heresy, such that it might not be publicly preached. If this pope with full knowledge chose to remain silent, and so failed to resist a manifest heresy, one may reasonably conclude that he thereby supported it. Ockham, across his many works, would marshal a plethora of canon law texts to wield against this pope.⁵¹

What if, on the other hand, John had not recognized the heresy into which he had fallen? He cannot be absolved on that account either, said Ockham. Someone who asserts a heresy contrary to a Catholic truth which he is obliged to believe explicitly—since it is widely promulgated among even simple Catholics—cannot be excused; this person will immediately be reputed a heretic. For just as ignorance of a widely promulgated human law does not excuse, this holds all the more regarding those doctrines that every Catholic must maintain.⁵² John is undone precisely because the saints' apprehension of the beatific vision is a teaching that has been widely promulgated among all sorts of Catholics down to the least educated layman. Ockham was appealing to the principle of the *sensus fidelium*, i.e., universally shared comprehension of true doctrine to which all faithful Catholics consent. It is because this truth (and thus its opposite heresy) is so well known that no further proof against the pope is required. For if one were to ask simple lay Catholics, even the illiterate, they would doubtless respond that they had always heard—whether proclaimed in sermons or mentioned in private conversations—that the blessed souls already experience the beatific vision. After all, said Ockham, it is a matter of common knowledge.⁵³ Put negatively, because everyone knows that denial of the beatific vision is a heresy, anyone who asserts it publicly is automatically revealed to be a notorious heretic; his crime is self-evident.

The consistory report of January 1334 defended John, claiming that the pope had never intended to issue a formal definition regarding the beatific vision, but only wished to provide for further study of this matter among the

court theologians.⁵⁴ In this vein, Ockham recounted that John's advocates sought to distinguish between asserting and reciting a theological proposition. Surely, they said, it must be lawful for the pope to subject such a question to disputation in an effort to uncover the truth—which is precisely the point of the *disputatio*. As a theologian, one might expect that Ockham would be sympathetic to the principle of *libertas inquirendi*, so dear to the bachelors and masters in their lecture halls. In fact, though, Ockham dismissed such an appeal as entirely frivolous. First, he noted, it is not lawful for biblical experts (*in sacra pagina eruditi*) to be ignorant in matters pertaining to the faith which are commonly known by the laity. Furthermore, if it is impermissible for theologians and preachers to remain ignorant of such a truth, then to dispute by way of offering opinions contrary to that truth must also be prohibited. In other words, John should never have been supporting a public disputation on this topic in the first place, just as no bishop would allow the publication of heresy in his diocese.⁵⁵

In John's defense, though, it might be pointed out that a general council had not yet provided a formal determination of this matter. This too was dismissed by Ockham, since a council is only a part of the universal Church, and every part is lesser than its whole; in this case the whole Church had already reached a verdict. That is to say, a council only ratifies those doctrines that the universal Church has settled upon. This matter had been decided; the time for disputation was over. Even experts in theology, as Ockham again pointed out, may not in their public disputations assert a contrary opinion on matters that have been previously approved, disproved, or condemned. Disputation is a method designed to further explicate an otherwise unresolved point of doctrine, not to contest Catholic truths. That blessed souls do behold the divine essence has already been approved and received as Catholic truth by the universal Church, thereby ruling out any further public disputation of this matter, even among the experts. Inasmuch as Pope John apparently reckoned himself an expert in theology, at least according to Ockham, it would have been unlawful for him to engage in any disputation that called into doubt such a well-established doctrine.⁵⁶ As it was, though, Ockham was contemptuous of John's supposed theological expertise. Having spent his whole career in worldly litigation, said Ockham, this lawyer should have confessed that he did not understand the Scriptures. In his temerity, however, John presumed to define difficult theological questions and wound up publicly rejecting a truth held by all Catholics.⁵⁷

If John XXII was indeed a heretic, as Ockham claimed, then surely no faithful Catholic should come to his defense. And yet this seems to be just what his successor Pope Benedict XII did when attempting to salvage the reputation of his heretical predecessor. In Chapter Three we saw how Ockham took Benedict to task for shutting down debate on matters that the papacy had reserved for itself to determine. Ockham would also confront this pope for his attempted defense of his predecessor. Elected to the papacy on 20 December 1334, Jacques Fournier was a Cistercian monk, master of theology, and veteran inquisitor. Since 1319 Fournier had also been a valuable advisor to John XXII and then court theologian when named a cardinal in 1327. What is more, though, Fournier had earlier rejected the Franciscan conception of evangelical perfection, laying out his arguments at length in his deeply learned commentary on the Gospel of Matthew.⁵⁸

As far as Ockham was concerned, however, Benedict's status as both a religious and a theologian only rendered him that much more culpable than his predecessor. If this pope wished to be counted as a master of theology, he should be defending the ways of Christ and the apostles, rather than coming to the aid of a contentious litigator (*brigosus causidicus*) who was wholly ignorant in the ways of theology. What is more, as a Cistercian monk, Benedict ought to have been sympathetic to the Franciscans, since his own monastic vocation also imitates the special rule of life that Christ had handed down to the apostles in the renunciation of at least private property.⁵⁹

In his 1337–1338 *Contra Benedictum*, Ockham saw fit, therefore, to accuse this sitting pope of being a supporter of heresy. To that end Ockham appealed to the canon *Qui aliorum* which (as we have seen) determined that someone who defends an error incurs greater condemnation than the errant person himself. Ockham was picking up again on the fundamental principle that errors and crimes must never be even tacitly accepted; while those who actually defend the heresies of others should likewise be reckoned among the heretics. In fact, said Ockham, these supporters are even worse than the original offenders, since they not only err themselves, but also confirm others in such error. Ockham would here again invoke *Error cui non resistitur*: “The error that is not resisted is approved, and the truth that is not defended is suppressed. Failing to disturb the wicked when you are able is nothing other than to show them favor.” That Benedict XII did not resist the heretical errors dogmatized in John's anti-Franciscan constitutions, even when

in a position to do so, could only mean that he supported them and furthermore participated in his predecessor's crimes. It gets worse, however, now that Benedict has gone so far as to compel some Franciscans to swear that the contents of these bulls should be maintained as Catholic truths. To coerce another into abjuring the Catholic truth, as Benedict has coerced so many friars, only proves that this pope is himself as pertinacious heretic.⁶⁰ Whatever the merits of Ockham's case, his attack upon a sitting pope for fostering heresy was built upon a consistent principle upheld by canonists and theologians alike, that the responsibility to defend true doctrine and morals exempted no one; and furthermore, that every Christian was within his rights to correct the error of his superiors.

OCKHAM: SUPPORT FOR CORRECTORS

As Ockham led the charge against papal heresy he expected some assistance in his righteous cause; at the very least no one should stand in his way. He made it quite clear that those who persecute, or even obstruct, opponents of heretical depravity must themselves be reckoned pertinacious heretics for preventing the disclosure of Catholic truth. Actually, for Ockham, this honorable struggle is itself an expression of evangelical liberty. Every Christian, he insisted, should have the freedom to defend and confess Catholic truth, and likewise castigate instances of heretical wickedness. Consequently, the person who is willing to put his neck out for the cause of righteousness should not have to endure any subsequent persecution unleashed upon him by fellow Catholics.

It is not simply a matter of refusing to side with a heretical pope, therefore, or even resisting him personally. One must also be willing to come to the defense of those who are brave enough to oppose such a wayward pope. Catholics have an obligation, said Ockham, to defend those who take up the cause of all the faithful, provided that they pursue their case in a proper and legal manner. After all, those who perform another's business deserve that person's support. Defense of our fellow Catholics is essential for assuring that these otherwise righteous advocates do not suffer for their opposition to heresy. For as St. Ambrose reminds us in his *De officiis*, someone who fails to prevent his comrade from being harmed even as he is able to do so, thereby participates in the same crime as the one who inflicts the injury. If this is the case, said Ockham, so much more ought the Catholic rally to

defend opponents of heretical depravity lest they suffer injury. It is really a matter of love for God, in keeping with Christ's admonition: "Whatever you have not done to the least of these brothers of mine, you did not do to me" (Matt 25:45). Which is to say that failing to provide such a defense is tantamount to not defending God's honor, and so not loving God. It is moreover a matter of loving one's neighbor, since failing to assist a neighbor in time of need is to deny him love. Ockham consequently insisted that a Christian must come to the aid of another who is suffering, and so assist a fellow member of the Body of Christ when that member is in peril. Works of mercy are owed to all; and defense is a work of mercy. Just as a person who has the means to do so must give alms to the needy in cases of clear necessity, so he must also defend those opposing a heretical pope. Anything less constitutes a lapse into mortal sin and the abetment of heresy. If one really does love Christ, therefore, one must be willing to demonstrate such love by defending Christ's disciples as they proclaim the Catholic truth in opposition to a heretical pope.⁶¹

It is not easy for one lonely friar to stand up to the Vicar of Christ; he will need the support of other good people committed to the cause of justice. In fact, to abandon a righteous man to his enemies is itself an act of injustice. Stating the situation in this way, Ockham was alluding to the Ciceronian principle that there are two sorts of injustice: the first pertains to those who inflict injustice, while the second "those who do not protect victims from injury when they have to power to do so." It was in this vein that Ockham declared: "He who does not defend when able those who oppose the pope for his heretical wickedness, thereby provides an opportunity for persecution or harm." Saint Ambrose was again invoked here by way of the canon *Pasce*: "If you might have saved a man by feeding him, you killed him if you did not provide nourishment." While the canon *Si Culpa* similarly states that if your own negligence or incompetence causes harm to another, this does not relieve you of responsibility. For you ought to have known the sort of harm that might ensue. In other words, negligence alone is enough to render one culpable. The person who provides an opportunity for loss or injury through his failure to act, can be said to cause this damage, and so is reckoned guilty.⁶²

Ockham had been seeking the support of the faithful as he took up his righteous cause. Yet he was also anxious to forestall the attacks of people who would impute base motives to those who have summoned the courage

to resist papal heresy. Do not presume, said Ockham, that the opponent of a heretical pope acts out of envy or malice; for he may actually be motivated by a zeal for the common good. In fact, unless there is evidence of wicked intent, one should assume that the accusation is motivated by charity. This is especially the case when the accuser has hitherto been a person of good reputation. Why else would he be willing to expose himself to danger by charging the pope with heresy unless he were spurred to do so by his conscience (*nisi conscientia urgeatur*)?⁶³

In asking others not to rush to judgment, but instead allow him some breathing space as he pursued his case, Ockham had likened his situation to someone who lodges an appeal from a judicial determination. Canon law did permit the appeal of any judicial sentence handed down by an ecclesiastical judge, and furthermore stipulated that while the appeal is underway the original judge is prohibited from further participation in the case.⁶⁴ It was in this vein that Ockham argued that while the appeals process was underway—and so unless and until it had been shown that the cause is false—we must defer to the appellant. For if we did not offer such deference, the pope might no longer fear facing strict judgment, thereby emboldening him to corrupt the faith. Appellants are owed the benefit of the doubt, Ockham insisted, given the unlikelihood of anyone exposing himself to such shame and punishment unless he really believed that he had a solid case.⁶⁵ And then, in light of the provision in canon law that the original judge recuse himself so long as the appeal is underway, Ockham argued that the authority of the pope was to some extent suspended with respect to the appellant. What was certain was that he could not exercise his authority over the appellant in any way that might prejudice the appeal. Ockham reckoned this a principle of natural law that is dictated by natural reason: the appellant must be free from the initial judge's interference so that he can be assured a fair hearing of his case.⁶⁶ In fact, if the pope failed to honor the appeal, he would exercise neither justice nor mercy, but rather display sheer lordship and power over the appellant, thereby contradicting the admonition of Saint Peter: "Not lording it over those entrusted to you." (1 Pet 5:3).⁶⁷

OCKHAM: THE POPE AS SERVANT

At this point we can begin to see Ockham's greater conception, or reconceptualization, of the papacy. The pope has received an office of servitude

(*ministerium*) not mastery (*dominium*); it is an authority meant to be exercised not for his own sake but for the good of the faithful.⁶⁸ The pope must therefore seek the common good (*bonum commune*) of his subjects, not the selfish private advantage which characterizes a despotic (*dominativo*) regime. For when Christ told Peter, "Feed my sheep" (Jn 21:17) it was as if to say: "I have constituted you over my sheep, not so that you may take from them their wool and milk, but so that you might feed them." This is the sort of authority that Christ had promised to Peter when he told him to build up his Church (Matt 16:18-19), rather than rule over it. The apostolic principate, no less than the secular, was instituted for the common flourishing of the faithful. The power granted to Peter was for building up rather than tearing down (2 Cor 13:10). Consequently, whatever authority the Apostle Peter had received from Christ, it was for sake of the flock entering into the kingdom of heaven; any and all precepts must serve that end. Christ certainly did not bestow upon Peter the sort of power that might destroy the rights and liberties that the faithful had been granted by God and by nature. This means, in turn, were Peter to have commanded anything that infringed the rights and liberties of the faithful (*iura et libertates fidelium*), except in those rare cases of pressing urgency, they would have been under no obligation to obey his order. Indeed, any sentence that Peter might have passed against those who refused to obey would be reckoned to be void for having exceeded his authority and jurisdiction. This is in keeping, said Ockham, with Rule 26 located at the end of the *Liber sextus*: "Those things done by a judge which do not pertain to his office have no force." Ordinarily, that would mean that a subject is free to refuse the precepts of a prelate which inhibit the freedom granted to him by the higher authority of the pope. And if that is the case, then it must apply all the more were Peter to demand something of a subject that infringes upon the freedom conceded to him under both divine and natural law; for then Peter would have exceeded the limits of his own jurisdiction.⁶⁹

More fundamentally, Ockham wished to secure what he referred to as "natural equity" (*aequitas naturalis*) which conforms to right reason and thus can neither be false nor fail to be upright. Janet Coleman has described this natural equity as, "a [postlapsarian] power of reasoning which serves as a rational readjustment for human weaknesses and men's experiences of them." And against such natural equity, said Ockham, the pope can do nothing. In fact, were the pope to proceed against this natural equity, which

is itself a natural right (*ius naturale*), his action would automatically invalidate itself. To that end Ockham had recourse to the canon *Cum Tanto sint*, which holds that custom must not derogate from either natural or divine law, the transgression of which leads to sin; nor even from positive law, unless this custom be reasonable and has gained force through the passage of time.⁷⁰ Right reason dictates that each person act for the common good. The papacy's abuse of its fullness of power infringes upon the believer's right to act in accord with right reason and in that way became virtuous.⁷¹

It was to this greater end that Ockham wished to see the papacy rediscover its original and sacred mission, a mission that was marked by humility and service. Because Christ had entrusted Peter with the guidance of the Church that Christ had acquired for himself with his own blood,⁷² so papal power must be exercised in a manner consistent with Christian charity and forbearance. The pope is a father to the faithful, Ockham insisted, not a despot. Yet as fathers refrain from exercising the fullness of power over their children, the pope must likewise carry himself in a paternal way rather than reducing his faithful children to mere slaves. Or were we to compare the pope to a bridegroom, we see again that the groom does not exercise fullness of power over his wife, since she is not his handmaid but his equal.⁷³ Jesus Christ, the very author of the New Law, expresses not only in words, but also deeds, the ways of correct papal conduct. If Peter and his successors are to be true *apostolici*, rather than *apostatici*, they must imitate the suffering Christ.⁷⁴ In this way Christ presents himself as the ultimate exemplar. For in his divine nature, he is lord and judge of all things, thereby truly possessing the fullness of power. In his human nature, however, he is passible and mortal; inasmuch as, "the Son of Man came not to be served but to serve" (Matt 20:28). Without either lordship or property, if Christ had wished to abdicate fullness of power in all temporal affairs from the time he came to serve, it follows that his own vicar would likewise relinquish any such claim.⁷⁵

If the pope were going to exercise any meaningful claim upon the title *Vicarius Christi*, therefore, he would have to be mindful of the one whom he represents. Christ made himself a servant of all, beckoning people into his fellowship: "I have not called you servants but friends" (Jn 15:15).⁷⁶ Hence while Ockham conceded that the pope was not obliged to conform to the original apostolic life in all respects, it was also the case that Christ conferred no authority upon him that would derogate from this apostolic life.⁷⁷ As Christ's vicar, the pope should assume the role of servant to his fellow Christians,

thereby embracing the lowly status of the *minor*. Here Ockham could cite a series of Gospel texts wherein Christ had established this principle: “You know the rulers of the Gentiles lord it over them . . . it will not be so among you; but whoever wishes to be great among you must be your servant” (Matt 20:25–27); “The greatest among you will be your servant” (Matt 23:11); and “Whoever wants to be first must be last and servant of all” (Mark 9:35). The pope, insofar as he maintains a spiritual primacy among Christians, takes his place as “*minor et minister et servus*,” thereby declining to lord his power over the faithful.⁷⁸

CHRISTIAN FREEDOM UNDER THE NEW LAW

If someone were to consult his own conscience, said Ockham, he would see that no mortal law should be upheld to the subversion of divine law, which means in turn that Christian law (*lex christiana*) stands above any mortal man. It is for this reason that any papal precept that would detract from or subvert Christian law must not be obeyed.⁷⁹ While such an affirmation may seem axiomatic, Ockham believed that fundamental Christian rights and liberties were threatened by an overweening papacy. We have seen how Ockham, in his attempt to reset the scope of papal authority, had confirmed the rights of Catholics under divine and natural law such that they cannot be infringed by the pope. Yet he could also appeal more specifically to the New Law, i.e., the evangelical law, that secures Christian liberty. In doing so Ockham was tapping into a larger exegetical tradition.

The gloss on James 1:25 had set the tone for future discussions of evangelical freedom: “But one who looks intently at the perfect law of liberty (*legem perfectam libertatis*), and abides by it, not having become a forgetful hearer but an effectual doer, this man will be blessed in what he does.” This perfect law of liberty, according to the gloss, is the very grace of the Gospel, which renders the Christian perfectly free from fearful servitude. The Gospel is a unique font of charity bestowed in Christ.⁸⁰ It was along these lines that Thomas Aquinas equated the Law of the Gospel (*lex evangelica*) with the New Law (*nova lex*), which is itself the Law of the New Testament that is instilled in our hearts (Heb 8:10; Jer 31:31–33). This New Law, according to Thomas, is chiefly the grace of the Holy Spirit that is given to those who believe in Christ. There is a Law of Grace (*lex gratia*) that belongs to the New Testament. Thomas will also speak of the Law of the Gospel (*lex evangelii*)

that is able to justify.⁸¹ And so, whereas the Old Law was a pedagogue (Gal 3:24), the New is the law of perfection, inasmuch as it is the law of charity (*lex caritatis*). Compared with the burdensome Old Law with its numerous ceremonies to be performed, the New law is comparatively light, since Christ and the apostles added very few precepts to those already belonging to the natural law.⁸²

It was in this same vein that Ockham juxtaposed the Old and New Law, pointing out that the high priest of the Old Law had no authority to impose upon the Jewish people ceremonial, sacramental, and judicial demands that were not expressly laid out in the Law of Moses; nor could he could command that the people observe onerous new traditions. By analogy, therefore, the Church's supreme pontiff is prohibited from imposing arduous novelties upon Catholics beyond what has been expressly laid out in the New Law, lest this New Law be transformed into one of even greater servitude than the Old. For, as we have seen, the pope cannot command someone to adopt a life of virginity, since that remains a work of supererogation, which is not necessary for salvation. Hence we find in Christ's rebuke of the Scribes and the Pharisees ("You impose on people burdens hard to carry." Lk 11:46; Matt 23:4) a clear admonition against not only the multiplying of difficult works of supererogation, but even those wholly indifferent actions that belong neither to the divine or natural law.⁸³ There must, in other words, be a sphere in which the Christian, precisely insofar as he is a Christian, will be free to act as his own conscience leads him, free from the intrusive directives of ecclesiastical authority.

Ockham planned to curtail papal legislation by placing the burden of proof on the pope to demonstrate how precisely this or that precept really was necessary under present circumstances or constituted a boon for the commonweal. Absent such evident necessity, the Christian was at liberty to seek the good that the Gospel promises apart from any further papal interference. It is along these lines that Ockham appealed to that staple text: "Where the spirit of the Lord is, there is freedom" (2 Cor 3:17). Here the Apostle Paul speaks not only of freedom from the servitude of the Mosaic law, but more generally liberty from all servitude with respect to exterior works. Recall that this passage had been cited in the canon *Duae sunt leges* to the effect that whoever is led by the spirit may even contradict his bishop, since the law is not laid down for the just.⁸⁴

The Epistles of Paul provided Ockham with the most ammunition: "Our freedom that we have from Christ" (Gal 2:4); "We are children of the free woman" (Gal 4:31–5:1); "You were called for freedom" (Gal 5:13); and "Where the spirit of the Lord is, there is freedom" (2 Cor 3:17). Peter's speech at the Jerusalem conference is also cited, as this apostle decried placing a burden upon Christians that the Jews had been unable to bear (Acts 15:10). And, as one might expect, there was no single text so often quoted as James 1:25: "But one who looks intently at the perfect law of liberty (*legem perfectam libertatis*)," providing as it does the key phrase itself. Ockham marshaled these New Testament texts so as to construct an unimpeachable foundation to withstand papal claims to comprehensive control over Christians. If Holy Scripture has steadfastly asserted that Christian law is a law of freedom, then it cannot possibly render Christians the servants of some mortal man. The evangelical law guarantees the freedom of Christian people to live according to the Gospel.⁸⁵

CORRECTING THE POPE IN THE TIME OF THE GREAT SCHISM

Attempts to correct the pope were sometimes met with the retort that his sovereignty, not unlike that of God himself, was such that no one was in a position to say to him: *Cur ita facis?*—What are you doing? (Job 9:12). The 1395 *Epistola Parisiensis*, produced by theologians at Paris in an attempt to resolve the papal schism, noted that "according to the teaching of many jurists, which has often been cited against us, the pope is the supreme judge of the Church, who adjudicates all matters and can be judged by no one, and to whom no one can say 'What are you doing?'" This was a stock phrase for the canonists, as we see when Tancred asserted the pope's fullness of power in his gloss: "*Nec est qui dicat ei, cur ita facis?*" Alvarus Pelagius, for the whom the pope is like God on earth (*quasi deus in terris*), maintained that as successor of Peter and Vicar of Christ, the pope can do all things and speak as he pleases; for there is no one who can in turn say to him: *Cur ita facis?* Hostiensis had said the same, "*Potest facere et dicere quicquid placet, auferendo etiam ius suum cui vult, quia nec aliquis audet ei dicere, cur ita facis?*"⁸⁶ Painted with such bold strokes, these assertions of papal sovereignty would seem to exempt the pope from the process of fraternal correction. Although (as noted in the previous chapter) the canonists made numerous provisions for papal malfeasance that included both

correction and the withdrawal of obedience. Late medieval theologians seemed content to cite such an audacious claim, however, precisely so that they could refute it.

PIERRE D'AILLY: A RESPONSE TO *CUR ITA FACIS?*

Amid his efforts to resolve the papal schism, Pierre d'Ailly echoed the sentiments of theologians and jurists before him that if the pope lapses into manifest heresy or some other notorious crime, there must be some legal means (*via iuris*) by which to prosecute his offense. If such recourse were reckoned impossible on the grounds that no one may say to him: *Cur ita facis?*, the pope would thereby possess an authority that is not exercised for the Church's edification, but rather its destruction. Consider, says d'Ailly, that the Apostle Paul had acted "in accordance with the authority which the Lord gave me for building up and not for tearing down" (2 Cor 13:10), and then confirmed this principle when he resisted Peter to his face (Gal 2:11–14). This was perfectly reasonable, according to d'Ailly, since Peter had not been walking according to the truth of the Gospel. On this point d'Ailly was careful to point out, moreover, that neither the Galatians text nor the biblical gloss, claim that Peter was a heretic or that he had lapsed into heresy. Which means that the pope can in fact be rebuked and corrected even in cases that do not directly involve heresy.

The canon *Si papa* makes this point, according to d'Ailly, when it speaks of deviating from the faith (*a fide devius*). The pope deviates from the faith, d'Ailly explained, whenever he fails to walk rightly according to the truth of the Gospel, since the evangelical truth is identical with right faith. With an expansive view of "right faith" that takes into account moral conduct, d'Ailly argued that there are many crimes apart from heresy for which the pope can be corrected, accused, and judged, such as scandal disturbing the Church or bringing about its manifest destruction. Here d'Ailly was merely recounting a legal commonplace. But he built upon this principle to the effect that the universal Church under Christ's authority may convene a general council in cases of necessity, thus in keeping with the promise that Christ had made to the Church: "Where two or three have gathered in my name, I am there is their midst" (Matt 18:20). D'Ailly then drew out the fuller implications of this passage to provide Christ's intended meaning: "Gathered in my name, not the name of Peter or by the authority of the pope, but by the name of

Jesus the Savior." It is in Christ's name, therefore, that we petition the Father to gather such a congregation for the salvation of the faithful.⁸⁷

D'Ailly furthermore determined that when Christ singularly gave the keys to Peter, he thereby signified his desire that the Church be unified. Here d'Ailly appealed to the gloss on Matthew 16:19, noting that Peter was the first to confess consistently and openly that Jesus was the Christ. This is why Peter was the first to receive the keys and may also be honored for his actions as he set an example for the rest. And yet, said d'Ailly, there is no reason to believe on this account that Peter was thereby rendered impeccable. For as long as he remained a wayfarer, he was capable of error and sinning by his own free will. After all, it is apparent that he not only denied Christ (Matt 26:69–75), but again that he failed to walk rightly according to the faith of the Gospel (Gal 2:14). The canonists are therefore mistaken, according to d'Ailly, that once a man assumes the papal office, he is thereby rendered holy no matter what sort of person he had been before. A heretic or criminal is not automatically sanctified by assuming the papacy; let him prove with his works that he is now holy, not just claiming to be such.⁸⁸

Central to d'Ailly's argument was that papal judgments remain subject to error, as he once more recalled Paul's rebuke of the erring Peter (Gal 2:11–14). The subordination of the body of the Church to the pope is only accidental, therefore, while its subordination to Christ is essential. For it was immediately from Christ that the Church received both its authority and the unique privilege of inerrancy in matters of faith.⁸⁹ It was the Church, moreover, that received confirmation in the faith, and so the immunity from error, according to Christ's promise, "I have prayed for you, Simon, that your faith may not fail" (Lk 22:32). Such inerrancy does not reside in the pope, d'Ailly averred, because this was not said of Peter's personal faith. Christ could not have been speaking of Peter's personal faith here for the very fact that Peter was liable to error. He must therefore have been referring to the faith of the Church of which Christ had also promised that "the gates of hell will not prevail against it" (Matt 16:18); note that the text does not say "against you, Peter." Rather, inerrancy in matters of faith remains a special privilege and the singular authority of the Church. D'Ailly did note that some extend this privilege to the Roman Church, and some to the general council, while others restrict it to the universal Church; no matter, it cannot be extended to the pope.⁹⁰

Along these same lines, d'Ailly furthermore stipulated that the Church ought to obey the pope only to the extent that his authority is exercised for the sake of edification rather than destruction (2 Cor 13:10). Admittedly, this was a constant refrain that no one, certainly no canonist, would have disputed. To be clear, d'Ailly was not contesting papal authority as such. He freely admitted that when the pope employs his power so as to build up the Church, he does indeed possess many spiritual privileges that are uniquely suited to him. Yet the canons do assert that such privileges cannot be exercised destructively, as we see in *Cum ex illo* on the translation of bishops. While the canon *Si ea destruerem* determined that were the pope to tear down what the apostles had established, he might justly be reckoned a destroyer rather than a builder. This would be in keeping with Christ's admonition that "every kingdom divided against itself will be laid waste" (Mk 3:24), even as all knowledge and law divided against itself will likewise be destroyed.⁹¹

WYCLIF AND HUS: FROM CORRECTION TO RESISTIVE OBEDIENCE

In Chapter Five we examined John Wyclif's fairly extensive meditation upon fraternal correction. We now return to Wyclif to see how he applied corrective principles specifically to the pope. In one of his most important political works, the 1376 *De civili dominio*, Wyclif made the point that no layman, cleric, or pope, not even Christ's chief apostle Saint Peter, is exempt from the law if he remains pertinacious in his sin. Such an errant prelate would have to be corrected by the rest of the Church. Although Wyclif did caution that this process not be carried out impetuously, but instead moderately in the ways of fraternal charity, both for the prelate's own good and that of the universal Church. Significantly, though, Wyclif added that such a pope would not be corrected as the "head of the Church," since apart from grace he is not even a member of the Church.⁹² Here Wyclif, albeit rather expansively, was echoing the established principle of the canonists that a heretic *ipso facto* ceases to be pope; and that by his heresy he has effectively excommunicated himself.

Wyclif had also appealed to the gloss on *Si papa* to make the point that the pope subjects himself to correction by virtue of the fact that he has sinned. In fact, as the gloss states, the pope can be legitimately accused of

any notorious mortal sin so long as he is incorrigible and scandalizes the Church. Yet it is also true, according to the gloss, that the pope should not be denounced to the Church unless he can then be accused. Wyclif concedes this point and agrees that, when dealing with a pope, the proper form of correction should be diligently observed. One must be able to offer clear proof, inasmuch as the pope is expected to be the holiest of all wayfarers. Yet even as Wyclif believed that fraternal correction properly practiced should proceed from charity, he allowed that the form of fraternal correction specifically outlined by Christ (Matt 18:15–17) need not be followed to the letter if it looks like a triple correction will be resisted. For instance, Saint Peter, knowing that Ananias and Saphira had to be condemned, issued a final sentence on the spot (Acts 5:1–5). Hence when it looks like private correction will not work, one can proceed immediately to the Church, although one must do so prudently.⁹³

Still working within the framework presented by the gloss on *Si papa*, Wyclif invoked its stipulation that the pope cannot exempt himself from the accusation of heresy by declaring it illegal, since he would thereby endanger the whole Church. To which Wyclif added that not even Jesus Christ in his human nature could legally exempt himself from punishment were he to sin. To except any wayfarer from the possibility of correction, therefore, one would first have to establish him in a state of impeccability (which is impossible). On a brighter note, though, Wyclif affirmed that there is good reason to trust in the effectiveness of correction since—apart from the sin against the Holy Spirit—the inclination to sin can be effectively remedied and emended.⁹⁴

It was clearly important for Wyclif that every Christian of whatever rank reckon himself capable of correcting an errant brother, owing precisely to the fraternity of all Christians among whom the only meaningful mark of status is virtuous moral conduct. His 1379 *De potestate papae*, written one year into the papal schism, carefully analyzed the pope's legitimate exercise of power. Citing the example of Paul resisting "Pope Peter" even for a relatively light fault (Gal 2:11–14), Wyclif asserted that the more virtuous Christian might always correct a morally inferior brother despite the latter's superior rank. To say otherwise would endanger the Law of Christ itself, which has established that every Christian prelate is capable of sinning, and so must be corrected when he does (citing here Matt 18:15–17). Such emphasis upon Christian fraternity led Wyclif once more to invoke an otherwise

impossible scenario: Were Christ himself to commit a sin, he would have to be corrected by the Church, since he too is our brother (Heb 2:11). So it is, according to Wyclif, that every wayfarer who sins must be subject to the correction of his brethren.⁹⁵

Correction and withdrawal of obedience converged for Wyclif when he addressed unlawful papal determinations. Because Wyclif maintained that only those laws which are in conformity with Holy Scripture, and thus the Law of Christ, were legitimate, he concluded that Christians must not follow any laws that breached that sacred law. By Wyclif's theory of rightful obedience, whenever prelates command something that is in conformity with the will of Christ, they are to be obeyed. That is because by obeying the prelate in this instance one is chiefly obeying Christ in fulfilling this command. Were these prelates to issue an unlawful command, however, they were to be resisted. For Wyclif, Saint Paul's resistance of Peter (Gal. 2:11–14) provided an example of what he termed "resistive obedience." The Christian's obedience to Christ will therefore manifest itself in resistance to the unjust demands of one's earthly superior.⁹⁶

Applying these principles at the highest level, Wyclif maintained that all papal commands must be tested against divine law. If the command is in conformity with this law, then it ought to be executed principally out of reverence for Christ. In this sense the pope, as one's human superior, is obeyed only indirectly, inasmuch as one's first allegiance is always to God's law. And so, in keeping with what we have just discussed, were the pope to command something contrary to divine law, one should obey God by resisting the command, since it is one's duty to resist injustice even unto death. Again, this may be called "resistive" or even "indirect obedience," inasmuch as one is obeying God indirectly by resisting what is contrary to divine law. Wyclif was clear that no Christian should follow any novelty that is not founded in Scripture, precisely because such newly invented laws are seen to violate the freedom that has been guaranteed to the Christian under Christ's evangelical law. This means, furthermore, that the faithful ought to never imagine that something must be done in obedience to God simply because the pope commands it. And were the pope to decree something contrary to divine law, Wyclif counseled obeying God precisely by resisting that decree, since one has a duty to resist injustice even unto death. Wyclif actually credited Robert Grosseteste with this

understanding of obedience.⁹⁷ Although he does not say so, he may have had in mind a letter that Grosseteste had written as Bishop of Lincoln in which he refused to obey Pope Innocent IV's command to grant a benefice to his nephew. Here Grosseteste argued that obedience to the Apostolic see itself prevented his implementation of such a command, inasmuch as, "apostolic commands are not, and cannot be, contrary to the teaching of the apostles and their Lord Jesus Christ."⁹⁸ Most fundamentally, however, Wyclif viewed high-handed papalism as an assault upon the very Christian freedom that the theologian is duty bound to defend. The merit of Jesus Christ has established a zone of evangelical freedom, a law of perfect liberty (*legem perfectae libertatis*), that has been revealed most perfectly in the New Testament. Not even the pope, Wyclif insisted, can encroach upon this sacred territory.⁹⁹

Jan Hus adopted a similar line when, relying upon the Augustinian principle that all truth is contained in Scripture (*De doc. chr.* 2.42.63), he determined that no precept harmful to Christ's Church can possibly be contained in Scripture, whether explicitly or implicitly. If this seems axiomatic, then the conclusion naturally follows: no subject is under any obligation to fulfill an unjust command issued by his prelate. Note, however, the specific reason that Hus gives: the unscriptural command offends against the liberty which is inherent in the Law of Christ (*in libertatem legis domini*). Such liberty is not license, however, since Hus also conceded that subjects are bound to carry out the precepts of even wicked prelates, so long as these are genuine commandments of Christ. Adopting a decidedly anti-Donatistic stance here, for Hus it is the nature of the command itself, not the moral status of the prelate who issues the command, which makes all the difference.¹⁰⁰ Hus determined, moreover, that if a subject clearly discerns that a command is detrimental to the Church and runs contrary to the worship of God and the salvation of souls, he should resist the command of his superior. In fact, such resistance would actually constitute true obedience (*talis resistencia est vera obediencia*), not only to God, but even to one's superior, since no superior ought to command anything except what is good. More importantly, from the perspective of conscience, Hus made it clear that no subject can be excused from sin if he proceeds to obey his superior in an unjust command.¹⁰¹ First and last, one owes obedience to God; no earthly superior can divert one from this principal obligation.

SIMON DE CRAMAUD: CORRECTION AND THE
WITHDRAWAL OF OBEDIENCE

When the canonist Simon de Cramaud published his *De subtraccione obediencie* in 1396–1397, he presented the case not only for fraternal correction of the pope, but for the withdrawal of obedience from the rival claimants to the papacy. Not surprisingly, perhaps, Simon believed it was the academy, the world of the masters, which could show the way forward. Or more precisely, it would be Paris to which Christendom could turn for guidance, here likening the University of Paris to a radiant lamp (*lucerna fulgoris*) that illuminates God's Church. "For God knows that this blessed university, beyond all other colleges in the world, has with all sincerity of soul been continuously seeking and struggling for the union of the Church."¹⁰²

Simon reminded his readers that Christ had established fraternal correction as a general precept, an act of charity that falls upon all Christians, not only those whose office requires such action. Kings, princes, and major prelates, who would conserve the proper order of the Gospel (*forma evangelii*) spelled out in Matthew 18:15–17, should therefore regard Paul's correction of Peter as a charitable act (Gal 2:11–14). Which is to say that they have a distinctly Christian obligation to correct an errant pope. Should the pope refuse to be corrected, Simon pointed his audience to the canon *Tam sacerdotes* which stipulates that the incorrigible should be excommunicated.¹⁰³ Lest the powers that be drag their feet, Simon (like Ockham before him) invoked St. Ambrose's dictum that the one who fails to prevent harm being done shares in the same crime. This means that kings, who have the capacity to pacify the Church and end the schism, sin gravely if they fail to take action.¹⁰⁴ In this vein, Simon cited Johannes Andreae's comments on the decretal *Cum non ab homine*, dealing with incorrigible clerics: if a secular judge were to witness a cleric in the midst of a crime, he could without fear of excommunication seize him apart from recourse to his bishop. Over the course of just a few pages, Simon drew upon many of the classic canons, including *Error cui non resistitur* and *Consentire*, both of which equate the failure to resist error with its approval.¹⁰⁵

Fraternal correction does not necessitate the withdrawal of obedience; in fact, the hope is that effective correction would forestall such a step. It is only when the attempt at correction has failed that Christians must then consider severing ties with a sinful superior who can no longer command

the allegiance of the faithful. As we have seen, the Franciscan Michael of Cesena made this case in the early fourteenth century when he exhorted fellow Catholics to withdraw their obedience from John XXII on the grounds that he persisted in his heresy when refusing to accept correction. By the final decade of this century, with Western Christendom facing an unprecedented crisis, the withdrawal of obedience offered the promise of resolution. As Bénédict Sère has pointed out, the withdrawal of obedience under such dire circumstances was actually considered a virtuous act. The canonist Pierre le Roy asserted that it would be licit to resist the pope for the sake of acquiring the union of the Church. Pierre Plaoul, for his part, argued that the truly obedient are those who first obey their conscience with respect to both God and man. So it is, therefore, that “to withdraw obedience from rival claimants to the papacy is itself a greater act of obedience to the Apostolic see and its office.”¹⁰⁶

Returning then to Simon de Cramaud, we find him lamenting that this woeful schism is at once subverting the *status ecclesiae* and endangering countless souls. Hence his appeal to the axiomatic principle that were the pope to notoriously scandalize the Church or imperil souls he must not be obeyed. In fact, such a pope would have to be resisted: “*non est obediendum, ymo de facto resistendum.*” This principle holds all the more, according to Simon, when there are rival claimants who would rather tear the Church apart so as to retain it for themselves than see it preserved whole under another’s rule.¹⁰⁷ If obedience would lead to the veritable destruction of the whole Church, while refusing to obey results in its reparation, we are obliged to withdraw our obedience.¹⁰⁸ Withdrawal of obedience would clearly be expedient in ending the schism and preserving the common welfare of the Church which must always take precedence.¹⁰⁹ As one might imagine, Simon was not swayed by the argument that no one is in a position to say to the pope: “*Cur ita facis?*” That, according to Simon, cannot apply in cases when the pope notoriously scandalizes the Church and thereby renders offense against God. For at that point, owing principal allegiance to our heavenly pope, we must show obedience to God.¹¹⁰ Simon was confident that were Saint Peter alive today, and a division arose in the Church which could only be resolved by his abdication, even Peter would have to be compelled through the withdrawal of obedience (*ipse deberet cogi cedere per substraccionem obediencie*). Actually, as Simon noted, we read in the gloss on the canon *Si Petrus* that Peter’s successor Clement had

renounced the papacy owing to an account of scandal surrounding his own election.¹¹¹

Inaction at this point is simply not a viable option. One can hardly stand by and watch such a catastrophe unfold; no sane person would obey his violent father as he attempted to chop up his beloved mother! Yet those who strive to retain the papacy at all costs are maximally scandalizing the universal Church to the point of its subversion, as they refuse the route of abdication (*via cessionis*) which alone will end the schism. Among the many canons and glosses invoked to secure his point, Simon called upon *Sunt quidam dicentes*, pointing out that the doctors all agree that the pope cannot lawfully exercise his power contrary to the divine order. Simon also cited here Peter Bertrand's commentary on the *Clementines* canon *Ne Romani*, addressing the possibility that the pope might scandalize the Church through some act of gross nepotism, thereby necessitating that he be resisted to his face as Paul had confronted Peter (Gal 2:11–14). The problem is only that much worse in our case, Simon lamented; here invoking the widely cited gloss on *Si papa* that a pope who scandalizes the Church and refuses to desist must be reckoned a heretic, since he has revealed himself to be contumacious. If resistance is lawful when there is but one pope, wrote Simon, it must be all the more so when two contestants are generating scandal and imperiling the souls of the faithful. For when a pope attempts to rule as a tyrant, like the Gentile kings who lord it over their subjects (Matt 20:25), he is thoroughly abusing the power of his office. Such a pope will have forgotten, as Bernard of Clairvaux reminded Eugene III, that the Roman Church is the mother of all churches, not their mistress.¹¹² It was fitting, therefore, that Gregory the Great had taken for himself the title *servus servorum dei* which would subsequently be adopted by his successors.¹¹³ If the papacy was going to be redeemed, the popes would need to align their behavior with the true nature of their office, henceforth adapting themselves to vocations of servitude rather than lordship.

Note that Simon was not denying that the pope enjoys the fullness of power with respect to all the temporal and spiritual goods of the Church. But, even granting this basic principle, the pope must nevertheless exercise such authority not as master (*dominus*), but as the servant and dispenser of his principal Lord. Consequently, the pope is obliged to act in accord with the judgment of right reason; in fact, by so doing he acts virtuously and thereby accrues merit. Those who work against the peace of the Church, on

the other hand, should be stripped of their dignity and deprived of their assets.¹¹⁴ Not only ought the pope conduct himself with all due humility, but both divine and canon law dictate that the true pope is bound to yield the office if that puts to an end so great a scandal. In this case, one cannot fall back on Christ's scandalizing of the Pharisees, and so evoke the old adage drawn from Gregory the Great, that it is better to allow scandal to arise than the truth be suppressed. That may indeed be applicable in matters of the faith, Simon noted, but this case concerns only the presidency of a certain person. Here it is obstinance that is at issue: if the well-being of the Church can be preserved through someone else, then a prelate can be compelled to step down. Every pontiff elected by his fellow men reigns for their sake not his own (Heb 5:1). Let the pope heed Christ's own word when considering the great scandal that his own intransigence is generating: "If anyone should scandalize one of these little ones" (Matt 18:6).¹¹⁵ Hence a pope who is obliged to yield in order to alleviate such a grave scandal, and yet refuses to do so, thereby violates canons which are founded upon divine law. And in that way, he mortally offends God, as *Violatores* holds: "Those who willingly violate the canons are judged by the holy fathers and are condemned by the Holy Spirit. They can even be said to blaspheme the Spirit."¹¹⁶

Finally, though, it might seem capricious, or even self-serving, to withdraw one's obedience all of a sudden. Some were protesting that, having obeyed the Avignon pope Clement VII, and now his successor Benedict XIII, as true pope and Vicar of Christ, it would be illicit at this point to claim that Clement's 1378 election had contravened divine law (*contra fas*). Simon's response was a pointed appeal to the principles of conscience. There are many things patiently tolerated until such time as the truth is revealed and it becomes clear that they can no longer stand. Hence, if in good conscience (*bona consciencia*) I have obeyed up until this point, I can still withdraw my obedience (*obedienciam subtrahere*) now that I have come to see the right path. Here, with reference to principles of conscience established two centuries earlier by Innocent III when addressing illicit marriages, Simon presented the example of a husband who remains with his wife, believing all the while there is nothing unlawful about the marriage. When some canonical impediment later comes to light, however, he must stop rendering the conjugal debt.¹¹⁷ No matter how long one has served a cause that seemed to all intents honorable, conscience demands a change

of course when previous arrangements are no longer tenable. One is not merely free to make this break with the past, one is actually obliged to do so.

JEAN GERSON: POPE AS PASTOR, BROTHER, AND SERVANT

When Jean Gerson addressed the intransigent Avignon pope Benedict XIII (Peter de Luna) he had appealed to Christ's instruction on fraternal correction (Matt 18:15–17), specifically as a matter of evangelical law which itself forms the foundation of the Church's supernatural power.¹¹⁸ Benedict XIII had claimed that he was not subject to the judicial correction of the Church even if the earlier fraternal correction had not sufficed. For Gerson, however, such reasoning was plainly heretical for the very fact that it ran contrary to the evangelical law that had been explicitly laid down by Christ himself. Fraternal correction means just that: every Christian is our brother, even the pope, who also continues to pray the Our Father. Gerson did not discount the primacy that the pope enjoys among his brethren, but for all that he insisted that the pope still remains subject to the immutable evangelical law. Thus, if the pope sins against his brothers, he must remain open to fraternal correction; if that fails, he is to be treated as a Gentile and tax collector, which is to say he would be excommunicated. The Church, according to Gerson, is the judge of the pope when he sins publicly and is denounced to the Church. She can now proceed to the judicial phase and excommunicate Benedict XIII, therefore, since he has proven himself perzinacious through his unwillingness to accept earlier fraternal correction.¹¹⁹

Along very similar lines, when arguing that one can appeal from the pope in matters of faith, Gerson contended that the pope always remains subject to divine or evangelical law, which was generally and without exception promulgated by Christ in Matthew's Gospel (18:15–17). Here again Gerson has recourse to the fraternal nature of Christian society. For were the pope not our brother—and thus subject to correction—nor could he recite with us the *Pater Noster*. As it is, though, the pope is liable to sin, and therefore can be corrected. Gerson reckons this to be a basic principle of divine law ratified by the Apostle Paul's corrective action taken at Antioch (Gal 2:11–14). Gerson then extrapolated from this episode to establish the magisterial authority to correct errant prelates. Because doctors of theology stand as the successors of Paul in the preaching office, they are within their rights to rebuke popes who succeed Peter in the apostolate. Gerson

furthermore concluded that since the pope is himself a member of the Church just as other men, if he scandalizes the whole body, he will have to be removed in order that the body be cleansed. This, Gerson maintained, is in keeping both with the natural law and the evangelical teaching of Christ.¹²⁰

In a sermon delivered on 1 January 1404, Gerson admonished Pope Benedict XIII, this time by means of a lengthy recounting of the Antioch incident (Gal 2:11–14). Paul had resisted Peter to his face, Gerson noted, despite the fact that he himself had also circumcised some people. By what arrangement could Paul rebuke Peter for what he himself was also doing, especially when one considers that Peter was his superior in authority, senior in his apostolate, and confirmed by grace at Pentecost? How was it that Paul reprimanded Peter and judged that he was not walking according to the truth of the Gospel? Here, said Gerson, we must distinguish between three stages of circumcision: its usefulness prior to the time of baptism; the concession made to Jews up until the Gospel had been widely promulgated; and finally, among the Gentiles and all people, when its observation was even harmful. In fact, both Peter and Paul had licitly circumcised some from among the Jews during that middle period. The problem was that when the Jews arrived at Antioch, Peter's actions scandalized the Gentiles by intimating that they too had to be circumcised. Paul, the teacher of the Gentiles, turned Peter away from this course; and Peter then complied with all due humility. In the event, said Gerson, neither man sinned, at least not mortally. Now one might ask, if Peter did not err in the faith, how could Paul say to him: What are you doing (*cur ita facis*)? It was because Paul spoke on the authority of divine law which enjoins fraternal correction upon every Christian. And yet, hypothetically, what if Peter had turned around and resisted Paul to his face, unwilling to acquiesce? Would Paul have withdrawn from him, refusing to obey? And would he not have been able to appeal his case to a Church council? Gerson continued down this line at some length to the effect that Peter had to be stopped one way or another from persisting in his error to the detriment of the Church. Paul took the necessary steps at that time; and Gerson believed that theologians, Paul's successors, may take such actions now.¹²¹

In a stirring sermon, *Ambulate dum lucem habetis*, delivered at Constance on 23 March 1415, Gerson addressed fraternal correction in the context of the Church's union to the one head Jesus Christ through the loving

cord of the Holy Spirit. From that life-giving seed instilled within her by the Holy Spirit, the Church has the power to maintain herself in integrity and preserve the unity of its members. United to Christ, her indefectible bridegroom, there can be no bill of divorce. The matrimonial cord connected to the genuinely infallible Vicar remains insoluble. Continuing, Gerson observed that the Church as a whole, and so also the general council representing her, is guided by the Holy Spirit handed down by Christ. As a result, everyone of whatever status, even the pope, is bound to obey her. Note that even here Gerson confirmed that neither Church nor council could abolish the fullness of papal power that has been supernaturally and mercifully conferred by Christ. What she can do, however, is circumscribe the application of that power by means of certain rules and laws which promote the edification of the Church. Cognizant of the right of the Church to preserve her own well-being, therefore, Gerson determined that the Church may convene a general council without the express consent or mandate of the pope. Let the pope listen to the Church in accordance with the evangelical law (*iuxta evangelicam legem*) to which he, like any other Christian, remains subject.¹²²

Presented at Constance on 6 February 1417, Gerson's *De potestate ecclesiastica* addressed the nature of papal authority. He spoke at first broadly of ecclesiastical power as that "power which was supernaturally and specifically conferred by Christ upon his apostles and disciples and also upon their legitimate successors until the end of the world for the edification of the Church Militant in keeping with the evangelical laws for the attainment of eternal happiness."¹²³ Yet Gerson's fundamental respect for the papal office remained intact even at this point; for he went on to affirm that ecclesiastical power in its fullness resides formally and subjectively in the Roman pontiff alone. This fullness of power, which belongs both to order and jurisdiction, had been supernaturally conferred by Christ upon Peter as his vicar and henceforth upon his legitimate successors.¹²⁴ This is not to say, however, that the fullness of ecclesiastical power does not also rest in the Church even if under another form. As Posthumus Meyjes has observed, Gerson understood the principle of *plenitudo potestatis* from two perspectives: on the one hand, all ecclesiastical authority derives from the papacy; while on the other hand, this power has been committed to the whole ecclesiastical hierarchy in which the papacy itself participates together with the other offices of the Church. By this configuration Gerson could at once affirm the

hierarchical status of the papacy while at the same time present an alternative to papal absolutism.¹²⁵

The Church retains the right to regulate the papacy's use of this power, therefore, and to see that it is not abused. This is because the fullness of power, while given by Christ to Peter, was always intended for the edification of the Church.¹²⁶ And so, even as the supreme pontiff holds the fullness of power subjectively, as a mortal man he still remains liable to error (*peccabilis*), which means that he could potentially convert this same power to the destruction of the Church. It is under such dire circumstances that the pope can be both judged and deposed by the council which, on behalf of the whole Church, has the authority to supervise the use of this power. As it turns out, according to Gerson, someone may indeed say to the pope: *Cur ita facis?*¹²⁷

Like Ockham, and then Simon, Gerson sought not only to curtail the seemingly untrammelled exercise of papal power, but to recast the papal office as one of humble servitude. After three decades of schism, the Church desperately needed a pastor not an oppressive autocrat. Gerson would consequently emphasize the requisite selflessness of the pope, who of all people should exemplify a life of Christian service. In doing so, Gerson was drawing upon an exegetical tradition that placed humility and self-sacrifice at the heart of the *cura animarum*. The Gospel of John 10:11–18 provided the Church with a blueprint for pastoral care that was applicable to every clerical rank, from the humblest parish priest to the pope himself. It was here that Christ had declared: “I am the good shepherd; the good shepherd lays down his life for the sheep” (Jn 10:11). According to the gloss on this Johannine text, when Christ spoke of laying down his life for the sheep, he was stipulating the proper conduct for any good shepherd. Offering his life was proof of both Christ's love for the Father and for his sheep. This verse is then connected directly to John 21:17, noting that when Peter confessed his love for Christ, he had been commanded not only to feed the sheep but to die for them. The gloss on John 21:17 then paraphrased Christ's intentions: “If you love me, feed my sheep. Seek my glory not your own; my advantage not yours.” This admonition, according to the gloss, owes to the fact our love for God is demonstrated by our love of our neighbor; while feeding the Lord's sheep constitutes a duty of love.¹²⁸

Gerson similarly determined that genuine pastoral governance obligates the shepherd to lay down his life for his sheep (Jn 10:11). The spiritual shepherd

must not flee when the faith and religion of his subjects is threatened.¹²⁹ Not only should the pope exhibit the requisite bravery to stand in the breach for the sake of his flock. Fraternal charity compels him to forego even what is lawfully his for the sake of others; here citing Saint Paul's example of refraining from food offered to idols even as he had a right to eat (1 Cor 7:12–13). This means a papal claimant, however just he reckons his cause, may have to surrender his spiritual jurisdiction if retaining it proves a scandal to others. One who is truly committed to Christian service will recognize that the benefice he holds was granted not for personal advantage, but so that he may fulfill his pastoral duties. This, according to Gerson, is a matter of divine and human law that is rooted in natural virtue and presupposes the truth of faith. If it turns out that the retention of one's jurisdiction proves a hinderance to these very duties, then it is no longer serving the purpose for which it was intended. That is because spiritual jurisdiction has been instituted for the sake of faith, charity, and the common good; it must never work against them.¹³⁰ So it was that Gerson asked the rival popes to consider the full ramifications of their claim to be that shepherd to whom Christ had committed his flock. And he reminded them of the good shepherd who lays down his life for the sheep by uniting and preserving them. This is a principle of divine law, according to Gerson, and thus remains immutable and eternal.¹³¹ "If you call yourself a shepherd, you must have the unity and well being of the Church foremost in mind. You have been called to feed the sheep, not desert them."¹³²

Gerson had no plans to strip the office of the papacy of its divinely commissioned authority, but only wished that such authority be exercised in the manner befitting a pastor rather than a tyrant. To that end he pointed out that the power of a superior can establish nothing that is opposed to the truth of divine and natural law, inasmuch as this power was bestowed solely for the common good; or as the Apostle Paul famously expressed it, "for building up, not tearing down" (2 Cor 13:10). Thus, having assumed the power of the papacy, the pope takes upon himself a life of service, since there can be no domination in any sphere apart from the proportional obligation of servitude. For although it is true that the pope may be considered the superior of all, so also might he be regarded as the servant of all. This is not feigned humility, Gerson insisted, but is grounded in metaphysical, moral, and theological truth: "To the extent that one boasts, let him boast in the Lord" (1 Cor 1:31). Lest the pope be swelled up by power, therefore, let him show reverence to God by joining that power to servitude.¹³³

CONCLUSION

Chapter Seven concluded in a period of conflict and division. Even the resolution of the near forty-year schism in 1417 did not usher in a period of religious tranquility, to say nothing of what awaited Christendom in 1517. In some ways this book may appear to have dwelt upon conflict: masters versus prelates; seculars opposed to mendicants; friars against one another and then against the pope; and so forth. It seems that questions of conscience, rights, and evangelical liberty were often forged in the midst of, and even as the result of, sometimes bitter struggles. Perhaps, however, what made these episodes so contentious were the common foundational principles that all sides would have recognized, beginning with evangelical freedom, that “perfect law of liberty,” divinely bestowed upon all Christians.

The conflicts played out in myriad ways, but in every case, there was much shared ground. Prelates were not opposed to academic disputation as such; many were university trained themselves and held magisterial degrees. There were times when they asked only for a break in the action, a cooling-off period, when disputation seemed likely to produce neither clarity nor consensus. Although it is also true that the papacy sometimes wished to curtail further dissent from its own rulings and reserve final determination for itself. The reigning masters deeply resented such restrictions, of course, frequently responding that the pope had no such authority over their activity within the universities. Through it all, though, the fundamental principle of *libertas inquirendi* was never itself called into question. Similarly, the sacredness of vows and the principal obedience owed to what one had vowed, was constantly affirmed. The friction arose when determining precisely how these vows could be honored within the larger context of community life. That Franciscans should be poor was obvious to everyone, even if the exact form their poverty took might be debated. The list could go on: the confessional seal was sacrosanct; defendants had rights; all Christians were subject to fraternal correction; the pope was not above the law. And perhaps at the top of the list, it was never permissible to act against the dictates of one’s conscience.

We need to be sober in our assessments, however, lest we obscure some genuine failings in late medieval society. Heretical Christians (i.e., those who remained obstinate in their dissent from the orthodox consensus) were subject to the death penalty. As we have discussed, four Franciscan friars were burned at the stake at Marseilles in 1318 when their conscientious disobedience was reckoned heresy. Approximately one hundred years later, the Prague master Jan Hus met the same fate at Constance, all the while protesting his willingness to be corrected. This is to say nothing of Jews living within the boundaries of Christendom who, while enjoying certain rights and legal protections, were nevertheless subject to harassment. We have even seen how the general prohibition against coerced baptism could be effectively sidestepped through subtle distinctions that were no doubt lost on the coerced themselves. The truth is that no society, not least the supposedly enlightened modern West, is free from contradictions which are often obvious to everyone but itself.

The transgressions were real, therefore, but not wholly definitive. The achievements that we have traced throughout this book were in fact substantial and enduring. Theologians were quick to remind their fellows not only of their rights, but also their responsibilities, chief among them to confront evil lest in their silence they appear to support it. At the root of these discussions of correction, obedience, and authority was a shared belief that each person had a moral obligation to defend the truth and so uphold the common good. Nor need anyone apologize for confronting the powerful when they were found to be in error, even if doing so discreetly at times depending upon the immediate circumstances. What was never permissible under any circumstances was false speech. No matter the powers arrayed against one, the truth as conscience presents it must never be compromised.

This volume began with the claim that Martin Luther's appeal to conscience at Worms in 1521 was by no means revolutionary but was instead very much in keeping with late medieval principles of Christian freedom, especially with respect to ecclesiastical authority. To leave it there, however, would present an incomplete, and thus inaccurate, picture of the situation. For while it is true that Luther's refusal to proceed against the dictates of conscience was certainly not new, his subsequent reorientation of conscience with respect to faith and works took things in a different direction than his medieval forebears. Luther's understanding of a free conscience was integrally connected to his foundational conception of Christian

freedom as liberation from the tyranny of the law and its demand for good works. Conscience apart from Christ, according to Luther, brings only despair under the accusations of the law. Christian, or evangelical freedom, is therefore understood as a freedom of conscience (*libertas conscientiae*) that liberates one's conscience from all of the anxieties attached to meritorious works, such that one comes to rely completely upon the divine promise of mercy revealed in Jesus Christ.¹ This understanding of conscience, rooted in a soteriology that reckons sinners presently righteousness before God solely through their faith in Christ, does constitute a decisive break with medieval tradition.

We draw this study to a close with a brief foray into the nineteenth century, turning now to John Henry Newman's *Letter to the Duke of Norfolk*.² It was here that Newman addressed the relationship of conscience and authority in terms that would have been readily understandable to the late medieval masters. That these theologians and canonists could have agreed with the substance of much that Newman had to say, indicates a remarkable continuity across the centuries. Written in 1875 in response to William Gladstone's claim, following Vatican I, that the consciences of English Catholics were shackled by obedience to the papacy, Newman demonstrated how freedom of conscience need never be at odds with papal authority when both are properly understood. Conscience, for Newman, was not to be confused with the mere "right of self-will," but was instead—as it was for the medieval theologians—a sacred space wherein one listened to the voice of God. "Conscience is not a long-sighted selfishness, nor a desire to be consistent with oneself; but it is a messenger from Him, who both in nature and in grace, speaks to us behind a veil, and teaches and rules us by His representatives. Conscience is the aboriginal Vicar of Christ."³

Newman, moreover, believed this understanding of conscience to have prevailed throughout Christian history. When addressing the inviolability of conscience, it is striking that his quotation of the nineteenth-century Cardinal Thomas-Marie-Joseph Gousset would include the cardinal's own reference to Innocent III's steadfast principle enshrined in the decretal *Litteras tuas*: "The Divine Law is the supreme rule of actions; our thoughts, desires, words, acts, all that man is, is subject to the domain of the Law of God; and this law is the rule of our conduct by means of our conscience. Hence it is never lawful to go against our conscience; as the Fourth Lateran Council [*sic*] says, '*Quidquid fit contra conscientiam, aedificat ad gehennam*.'"⁴

Newman understood that pitting conscience against papal authority is a false choice, inasmuch as no true pope would seek to denigrate “the right and the duty of following that Divine Authority, the voice of conscience, on which in truth the Church herself is built. So indeed it is; did the Pope speak against Conscience in the true sense of the word, he would commit a suicidal act. He would cut the ground from under his own feet. . . . On the law of conscience and its sacredness are founded both his authority in theory and his power in fact.”⁵

In this respect Newman would have encountered no argument from his secular and mendicant medieval predecessors. Not only would Thomas Aquinas have found Newman’s position amenable, but also Ockham, Gerson, and for that matter Hus, none of whom yearned for a Church without a pope. Perhaps they would have even nodded in agreement when this saint remarked: “Certainly, if I am obliged to bring religion into after-dinner toasts, (which indeed does not seem quite the thing) I shall drink—to the Pope, if you please,—still, to Conscience first, and to the Pope afterwards.”⁶

NOTES

PREFACE

1. *Christianity and Freedom: Historical Perspectives*, ed. Timothy Shah and Allen Hertzke (Cambridge: Cambridge University Press, 2016), 149–75; See also Wilken's own volume, which focuses primarily on the Reformation era. *Liberty in the Things of God: The Christian Origins of Religious Freedom* (New Haven, CT: Yale University Press, 2019).

INTRODUCTION

1. WA 7: 838–40. See also Martin Brecht, *Martin Luther: His Road to the Reformation: 1483–1521* (Minneapolis: Fortress Press, 1985), 433–76.

2. Famously, Roland Bainton's *Martin Luther: Here I Stand* (New York: Abingdon-Cokesbury, 1950); and recently Eric Metaxas, *Martin Luther: The Man Who Rediscovered God and Changed the World* (New York: Viking, 2017), 216–17. Luther historiography is a vast field, but see the concise analysis of David Whitford, "Martin Luther and the Reformation: A Reflection on the Five-Hundredth Anniversary," *Horizons* 44 (2017): 137–47.

3. Heiko Oberman, *Luther: Man between God and the Devil* (New York: Doubleday, 1992), 203–04.

4. Bernhard Lohse, "Conscience and Authority in Luther," in *Luther and the Dawn of the Modern Era*, ed. Heiko Oberman (Leiden: Brill, 1974), 158–83, quote at p. 183.

5. Charles Taylor, *A Secular Age* (Cambridge, MA: Harvard University Press, 2007).

CHAPTER 1: UNIVERSITY MASTERS AND THE COMMONWEAL

1. Alain Boureau, "Intellectuals in the Middle Ages, 1957–95," in *The Work of Jacques Le Goff and the Challenges of Medieval History*, ed. Miri Rubin (Suffolk: Boydell Press, 1997), 145–55; See also Ian Wei, "The Self-Image of the Masters of Theology at the University of Paris in the Late Thirteenth and Early Fourteenth Centuries," *Journal of Ecclesiastical History* 46 (1995): 398–431.

2. Guy Lobrichon, "The Early Schools, c. 900–1100," in *New Cambridge History of the Bible*, 4 vols., ed. James Carleton Paget et al. (Cambridge: Cambridge University Press, 2013), 2:536–54.

3. Pierre Riché, "Les conditions de la production littéraire: maîtres et écoles," *Mittellateinische Jahrbuch* 25/26 (1989/90): 413–22.

4. CUP 3:120; no. 1299.

5. WA Br 1, Letter 48, p. 112. See Bernhard Lohse, “Luthers Selbsteinschätzung,” in *Martin Luther: “Reformator und Vater im Glauben,”* ed. Peter Manns (Stuttgart: Franz Steiner Verlag, 1985), 118–32.

6. CUP 1:136–139, no. 79. See Herbert Grundmann, “Sacerdotium-Regnum-Studium: Zur Wertung der Wissenschaft im 13. Jahrhundert,” *Archiv für Kulturgeschichte* 34 (1951–52): 5–21.

7. CUP 1: 90–93; no. 32. See Gérard Giordanengo, “Résistances intellectuelles autor de la Décretale *Super Speculam* (1219),” in *Histoire et Société: Melanges offerts à Georges Duby* (Aix-en-Provence: Publications de l’Université de Provence, 1992), 141–55.

8. Spencer E. Young, *Scholarly Community at the Early University of Paris: Theologians, Education and Society, 1215–1248* (Cambridge: Cambridge University Press, 2014), 28–31.

9. Letter 6, To the Masters of Navarre (Bruges, May–September 1400), in *Oeuvres Complètes de Jean Gerson*, 10 vols., ed. P. Glorieux (Paris: Desclée, 1960–73), 2:36–38.

10. *Ambulate dum lucem habetis*, ed. Glorieux 5:39–50, quote at p. 40.

11. Henry Denifle, “Quel livre servait de base à l’enseignement des maîtres en théologie dans l’Université de Paris?,” *Revue Thomiste* 2 (1894): 149–61.

12. *Peter Aureoli Scriptum super Primum Sententiarum, Prooemium* 3–4, ed. Eligius Buytaert (Saint Bonaventure, NY: Franciscan Institute Publications, 1952), 135–37.

13. Olga Weijers, *Terminologie des universités au XIII siècle* (Rome: Edizioni dell’Ateneo, 1987), 134–35.

14. Yves Congar, “Bref historique des formes du ‘Magistère’ et de ses relations avec les docteurs,” *Revue des Sciences philosophiques et théologiques* 60 (1976): 98–112.

15. Roger Gryson, “L’autorité des docteurs dans l’Église ancienne et médiévale,” *Revue théologique de Louvain* 13 (1982): 63–73.

16. *De examinatione doctrinarum*, ed. Glorieux, 9:462. Cf. CUP 2:683; no. 1185.

17. William Courtenay, “Magisterial Authority, Philosophical Identity, and the Growth of Marian Devotion: The Seals of the Parisian Masters, 1190–1308,” *Speculum* 91 (2016): 63–114.

18. Antoine Destemberg, *L’honneur des universitaires au Moyen Age* (Paris: Presses Universitaires de France, 2015), 268–89.

19. *Epistola Magistri Stephani de .x. plagis* 1–11, in *Selected Sermons of Stephen Langton*, ed. Phyllis B. Roberts (Toronto: Pontifical Institute of Mediaeval Studies, 1980), 17–23.

20. *Epistola Magistri Stephani de .x. plagis*, 12–16, 23–25.

21. *Epistola Magistri Stephani de .x. plagis*, 26–30, 31–34.

22. Destemberg, *L’honneur des universitaires au Moyen Age*, 122.

23. Nancy Spatz, *Principia: A Study and Edition of Inception Speeches Delivered before the Faculty of Theology at the University of Paris CA. 1180–1286*. PhD Dissertation (Cornell University, 1992), 29–34; Thomas Prügl, “Medieval Biblical *Principia* as Reflections on the Nature of Theology,” in *What is ‘Theology’ in the Middle Ages?*, ed. Mikołaj Olszewski (Münster: 2007), 253–75.
24. *De commendatione sacrae scripturae*, in *Opuscula Theologica*, 2 vols., ed. R. Verardo (Turin and Rome: Marietti, 1954), 1:441–43.
25. Destemberg, *L’honneur des universitaires au Moyen Age*, 115–18. See CUP 2:676, no. 1185; and CUP 2:206, no. 747.
26. CUP 1:182; no. 144; and CUP 1:392–395, no. 343. See Astrik Gabriel, “The Ideal Master of the Medieval University,” *Catholic Historical Review* 60 (1974): 1–40.
27. Père Mandonnet, “Chronologie des Questions Disputées de Saint Thomas D’Aquin,” *Revue Thomiste* 23 (1928): 266–87; Olga Weijers, *Terminologie des Universités au XIII Siècle* (Rome: Edizione dell’Ateneo, 1987), 336–48; and B. C. Bazàn, “Les Questions Disputées Principalement dans Les Facultés de Théologie,” in *Les Questions Disputées et Les Questions Quodlibétiques dans Les Facultés de Théologie, de Droit et de Médecine*, eds. B. C. Bazàn, G. Fransen, D. Jacquart, J. Wippel (Turnhout: Brepols, 1985), 21–149. See also Alex Novikoff, *The Medieval Culture of Disputation: Pedagogy, Practice, and Performance* (Philadelphia: University of Pennsylvania Press, 2013), 133–71.
28. Letter 5, To the Masters of Navarre (Bruges, April 29, 1400), ed. Glorieux 2:34–35; Brian Patrick McGuire, *Jean Gerson: Early Works* (New York: Paulist Press, 1998), 182–84.
29. Novikoff, *The Medieval Culture of Disputation*, 146.
30. Jacqueline Hamesse, “Theological Quaestiones Quodlibetales,” in *Theological Quodlibeta in the Middle Ages: The Thirteenth Century*, ed. Christopher Schabel (Leiden: Brill, 2006), 17–48.
31. John F. Wippel, “The Quodlibetal Question as a Distinctive Literary Genre,” in *Les Genres littéraires dans les sources théologiques et philosophiques médiévales: définition, critique et exploitation*. Actes du Colloque international de Louvain-la-Neuve, 25–27 mai 1981 (Louvain-la Neuve: Université Catholique de Louvain, 1982), 67–84.
32. Quodlibet 4. q. 9, a. 18; *Opera Omnia*, 34 vols., ed. S. E. Fretté and P. Maré (Paris: Vivès, 1871–80), 15:444–45. For the dates of Thomas’s career and works see Jean-Pierre Torrell, *Saint Thomas Aquinas: The Person and His Work*, 2 vols. rev. ed., trans. Robert Royal (Washington, D.C.: Catholic University of America Press, 1996/2005), 1:327–61. And then more specifically, *Thomas Aquinas’s Quodlibetal Questions*, trans. and intro., Turner Nevitt and Brian Davies (Oxford: Oxford University Press, 2020), xxiii–xxvii.
33. Elsa Marmursztejn, *L’Autorité des Maîtres: Scolastique, normes et société au XIII siècle* (Paris: Les Belles Lettres, 2018), 265–75; and Marmursztejn, “A Normative

Power in the Making: Theological *Quodlibeta* and the Authority of Masters at Paris at the End of the Thirteenth Century,” in *Theological Quodlibeta in the Middle Ages: The Thirteenth Century*, 345–402.

34. Leonard Boyle, “The Quodlibets of St. Thomas and Pastoral Care,” *The Thomist* 38 (1974): 232–56.

35. P. Glorieux, “Les Quodlibets de Gervais du Mont-Saint-Éloi,” *Recherches de théologie ancienne et médiévales* 20 (1953): 129–34.

36. Emily Corran, “‘Better to Let Scandal Arise than to Relinquish the Truth’: The Cases of Conscience of the Masters of Paris in the Thirteenth Century,” in *Individuals and Institutions in Medieval Scholasticism*, ed. Antonia Fitzpatrick and John Sabapathy (London: Institute of Historical Research, 2020), 217–34.

37. *Verbum Abbreviatum*, 1.1; ed. M. Boutry (Turnhout: Brepols, 2004), CCCM 196:9.

38. Jean Leclercq, “Le Magistère du Prédicateur au XII Siècle,” *Archives d’histoire doctrinale et littéraire du Moyen Age* 15 (1946): 105–47, quote at p. 147.

39. Siegfried Wenzel, *Medieval Artes Praedicandi: A Synthesis of Scholastic Sermon Structure* (Toronto: Medieval Academy of America, 2015), 45–86, quote at p. 59.

40. Randall B. Smith, *Aquinas, Bonaventure, and the Scholastic Culture of Medieval Paris: Preaching, Prologues, and Biblical Commentary* (Cambridge: Cambridge University Press, 2021), 412–26, quote at p. 425.

41. *Opus Tertium* 75; in Rogeri Bacon *Opera quaedam hactenus inedita*, ed. J. S. Brewer (London: Longman, Green, Longman, and Roberts, 1859), 304. See also Timothy Johnson, “Preaching Precedes Theology: Roger Bacon on the Failure of Mendicant Education,” *Franciscan Studies* 68 (2010): 83–95; and Amanda Power, *Roger Bacon and the Defense of Christendom* (Cambridge: Cambridge University Press, 2013), 164–208.

42. Quodlibet 9, q. 6; edited by Stephen Metzger, *Gerard of Abbeville, Secular Master, on Knowledge, Wisdom and Contemplation*, 2 vols. (Leiden: Brill, 2017), 1:61–62. Cf. the canon *Mandamus*, X 1.23.6; Friedberg 2:151. See also Chris Schabel, “The Early Career of Gerard of Abbeville,” *Vivarium* 55 (2017): 340–59.

43. Quodlibet 1.7.14; *Opera Omnia* 15:370–71.

44. Jean Leclercq, “L’Idéal du Théologien au Moyen Age,” *Revue des sciences religieuses* 21 (1947): 121–48, see 123–25.

45. Quodlibet 1, q. 35; *Henrici de Gandavo Opera Omnia* 5, ed. R. Macken (Leiden: Brill, 1979), 195–202, see 195–97.

46. Quodlibet 1, q. 35; *Opera Omnia* 5:200–201.

47. Quodlibet 2, q. 12; *Henrici de Gandavo Opera Omnia* 6, ed. R. Wielockx (Leuven: Leuven University Press, 1983), 78–79.

48. *Verbum Abbreviatum*, 1.3; CCCM 196:15–22.

49. *Verbum Abbreviatum*, 1.78; CCCM 196:532.

50. *Verbum Abbreviatum*, 1.78; CCCM 196:533–34.

51. *Verbum Abbreviatum*, 1.78; CCCM 196:535.

52. *Verbum Abbreviatum*, 1.6; CCCM 196:34–45.
53. *Summa* 10.14; quoted in Peter Baldwin *Masters, Princes, and Merchants: The Social Views of Peter the Chanter and His Circle*, 2 vols. (Princeton, NJ: Princeton University Press, 1970), 2:89. For a broader discussion see 1:130–37.
54. Destemberg, *L'honneur des universitaires au Moyen Age*, 84–85.
55. Quodlibet 1, q. 34; *Opera Omnia* 5:193–94.
56. Quodlibet 12, q. 16; *Henrici de Gandavo Opera Omnia* 16, ed. J. Decorte (Leuven University Press, 1987), 91–92.
57. Quodlibet 12, q. 19; *Opera Omnia* 16:134–35.
58. Letter 3, To Pierre d'Ailly (Bruges, 1 April 1400), ed. Glorieux 2:26–28; McGuire, *Early Works*, 168–71.
59. Letter 5, To the Masters of Navarre (Bruges, April 29, 1400), ed. Glorieux 2:30–33; McGuire, *Early Works*, 176–81.
60. Daniel Hobbins, *Authorship and Publicity before Print: Jean Gerson and the Transformation of Late Medieval Reading* (Philadelphia: University of Pennsylvania Press, 2009), 40–49.
61. Brian Patrick McGuire, “In Search of Jean Gerson: Chronology of his Life and Works,” in *A Companion to Jean Gerson*, ed. Brian Patrick McGuire (Leiden: Brill, 2006/2011), 1–39, quote at p. 14.
62. *Contra curiositatem studentium*, ed. Glorieux 3:226.
63. *Contra curiositatem studentium*, ed. Glorieux 3:230.
64. *Contra curiositatem studentium*, ed. Glorieux 3:247.
65. *Contra curiositatem studentium*, ed. Glorieux 3:249.

CHAPTER 2: CONSCIENCE AND CENSURE

1. John Marenbon laments that “Abelard has been almost entirely neglected in discussions and analyses of the idea of conscience in medieval thought . . . [despite the fact that] by treating conscience as the ability to apply general rules to particular situations, Abelard anticipated the later medieval discussion.” *The Philosophy of Peter Abelard* (Cambridge: Cambridge University Press, 1997), 275, n. 30.
2. David Luscombe, ed. and trans., *Peter Abelard's Ethics* (Oxford: Oxford University Press, 1971), xxx–xxxvii. On the broader turn to an interior piety and self-knowledge in the twelfth century see Giles Constable, *The Reformation of the Twelfth Century* (Cambridge: Cambridge University Press, 1996), 257–95.
3. *Scito te ipsum* 1.10; in *Petri Abaelardi Opera Theologica*, vol. 4, ed. Rainer M. Ilgner (Turnhout: Brepols, 2001), CCCM 190:9–10; Luscombe edition, 16–17.
4. *Sententiae*, no. 269; *Opera Theologica*, 4:140.
5. *Scito te ipsum* 1.30; *Opera Theologica*, 4:30–31; Luscombe edition, 44–45.
6. *Scito te ipsum* 1.36; *Opera Theologica*, 4:36; Luscombe edition, 54–55.
7. Jean Porter, “Responsibility, Passion, and Sin: A Reassessment of Abelard's Ethics,” *Journal of Religious Ethics* 28 (2000): 367–94.

8. *Scito te ipsum* 1.37; *Opera Theologica*, 4:36; Luscombe edition, 54–55.
9. Marenbon, *The Philosophy of Peter Abelard*, 265–81.
10. *Scito te ipsum* 1.42; *Opera Theologica*, 4:41; Luscombe edition, 62–63.
11. *Scito te ipsum* 1.45; *Opera Theologica*, 4:44; Luscombe edition, 66–67. Cf. *Commentaria in Epistolam Pauli ad Romanos*, 4.14.23; ed. Eligius Buytaert (Turnhout: Brepols, 1969), CCCM 9:306.
12. Denzinger, *Enchiridion Symbolorum*, 729–30. See Vim Verbaal, “The Council of Sens Reconsidered: Masters, Monk, or Judges?,” *Church History* 74 (2005): 460–93, who notes that in the lead-up to the council Bernard of Clairvaux had made a point of following the process of fraternal correction, first meeting privately with Abelard, asking him to correct his suspect teachings and no longer publicize them. It was only after Abelard persisted in his errors that Bernard took the step of formally denouncing him to the French ecclesiastical authorities. See also Constant Mews, “The Council of Sens (1141): Abelard, Bernard, and the Fear of Social Upheaval,” *Speculum* 77 (2002): 342–82.
13. David Luscombe, *The School of Peter Abelard: The Influence of Abelard’s Thought in the Early Scholastic Period* (Cambridge: Cambridge University Press, 1969), 281–98. See also David Luscombe, “The School of Peter Abelard Revisited,” *Vivarium* 30 (1992): 127–38.
14. *Oeuvres de Robert de Melun*, 4 vols., ed. Raymond M. Martin (Louvain: Spicilegium Sacrum Louvaniense, 1932–52), 2:245. For the gloss on this Romans text see *Biblia sacra cum Glossa ordinaria novisque additionibus*, 6 vols. (Venice: 1603), 6:177–78.
15. *Oeuvres de Robert de Melun*, 2:245–46. Cf. Jerome, *Comm. in Epist. ad Galatas*, PL 26:339–39; and Augustine, *Expositio ad Galatas*, CSEL 84:70.
16. Timothy Potts, *Conscience in Medieval Philosophy* (Cambridge: Cambridge University Press, 1980), 12–31; Marcia Colish, “Synderesis and Conscience: Stoicism in Its Medieval Transformations,” in *From Knowledge to Beatitude: St. Victor, Twelfth-Century Scholars, and Beyond*, ed. E. Ann Matter and Lesley Smith (Notre Dame, IN: Notre Dame University Press, 2013), 229–46; O. Lottin, “La Nature de la Conscience Morale: Les premières spéculations au Moyen Age,” *Ephemerides Theologicae Lovanienses* 9 (1932): 252–283.
17. See the comprehensive analysis of Odon Lottin, “La valeur normative de la conscience morale,” *Ephemerides Theologicae Lovanienses* 9 (1932): 409–31.
18. *Sententiae* 2.39, a. 1, q. 3; *Opera Omnia*. 10 vols. (Quaracchi: Ex Typographia Collegii S. Bonaventurae, 1882–1902), 2:905–7. See Lottin’s above cited article, “La valeur normative de la conscience morale.” See also Douglas Langston, “The Spark of Conscience: Bonaventure’s View of Conscience and Synderesis,” *Franciscan Studies* 53 (1993): 79–95. More broadly: M. V. Dougherty, *Moral Dilemmas in Medieval Thought: From Gratian to Aquinas* (Cambridge: Cambridge University Press, 2011); and Jean-Luc Solère, “Le droit à l’erreur: contrainte extérieure et obligation de conscience dans la pensée chrétienne,” in *Le Penseur, La Violence, La Religion*, ed. Alain Dierkens (Bruxelles: Editions de l’Université de Bruxelles, 1996), 137–49.

19. *Quaestiones disputatae: de veritate*, q. 17, a. 5, *Opera Omnia*, 34 vols., ed. S. E. Fretté and P. Maré (Paris: Vivès, 1871–80), 15:78–79.
20. Quodlibet 3, q. 12. a. 26; *Opera Omnia*, 15:425–26.
21. Quodlibet 3, q. 12. a. 27; *Opera Omnia*, 15:426–27.
22. *De homine*, X 3.41.7; Friedberg 2:640.
23. *Corpus juris canonici emendatum et notis illustratum*, Gregorii XIII. pont. max. iussu editum, 3 parts in 4 vols. (Rome, 1582), 2:1374.
24. *Summa de Paenitentia*, 3.30.6; ed. Xavierio Ochea and Aloisio Diez (Rome: Commentarium pro Religione, 1976), 705. On the dating of the two editions that Raymond produced see pp. lxxviii–lxxxi.
25. Cf. Peter Lombard, *Sententiae in IV libris distinctae* 4.17.1.13, ed. Ignatius Brady, 2 vols. (Grottaferrata: Editiones Collegii S. Bonaventurae, 1971–81), 2:346.
26. Quodlibet 8, q. 6. a. 13; *Opera Omnia* 15:540–41.
27. *Summa theologiae* 1.2, q. 19, a. 5; *Opera Omnia*, 2:188–90.
28. *Summa theologiae* 1.2, q. 19, a. 6; *Opera Omnia*, 2:190–91.
29. Quodlibet 1, q. 18; *Henrici de Gandavo Opera Omnia* 5, ed. R. Macken (Leiden: Brill, 1979), 150–55. See the helpful analysis of Ilkka Kantola, *Probability and Moral Uncertainty in the Late Medieval and Early Modern Times* (Helsinki: Luther-Agricola-Society, 1994), 85–94. For the gloss on Romans 14:23 see *Biblia sacra cum Glossa ordinaria novisque additionibus*, 6:177–78.
30. Rudolf Schuessler, *The Debate on Probable Opinions in the Scholastic Tradition* (Leiden: Brill, 2019), 25–42.
31. Quodlibet 4, q. 33; *Henrici de Gandavo Opera Omnia* 8, ed. G. Etzkorn and G. A. Wilson (Leuven University Press, 2011), 420–22.
32. Quodlibet 12, q. 2; in *Les Philosophes Belges*, vol. 5, ed. J. Hoffmans (Louvain: L'Institut supérieur de philosophie, 1932), 91.
33. Question 8; in *Opera Theologica*, ed. Gedeon Gál et al., 10 vols. (Saint Bonaventure, NY: Franciscan Institute Publications, 1967–1986), 8:411.
34. Question 8; *Opera Theologica* 8:422.
35. Question 8; *Opera Theologica* 8:423–24.
36. Peter King, “Ockham’s Ethical Theory,” in *The Cambridge Companion to Ockham*, ed. Paul Vincent Spade (Cambridge: Cambridge University Press, 1999), 227–44.
37. Question 7; *Opera Theologica* 8:362. For a broad and insightful analysis see Marilyn McCord Adams, “The Structure of Ockham’s Moral Thought,” *Franciscan Studies* 46 (1986): 1–35, quote at p. 16.
38. Peter Eardley, “Conscience and the Foundations of Morality in Ockham’s Metaethics,” *Recherches théologie et philosophie médiévales* 80 (2013): 77–108.
39. *Die ‘Conferentiae’ des Robert Holcot O.P. und die Akademischen Auseinandersetzungen an der Universität Oxford 1330–1332*, ed. Fritz Hoffmann (Münster: Aschendorff, 1993), 108–27. Cf. *Quattuor Libros Sententiarum* 3, q. 1. a. 5–6; (Lyons: 1518; reprint, Frankfurt: Miverva GMBH, 1967), unpaginated.
40. *Conferentiae*, 108–9.

41. *Conferentiae*, 113.
42. *Conferentiae*, 113. Cf. *Dixit Apostolus*, C. 24 q. 3 c. 29; Friedberg 1:998; and *Qui in ecclesia*, C. 24 q. 3 c. 31; Friedberg 1:998.
43. *Sententiae* 3, q. 1. a. 6; *Quattuor Libros Sententiarum*, unpaginated.
44. *Conferentiae*, 124.
45. *Conferentiae*, 125.
46. *Sententiae* 3, q. 1. a. 4; *Quattuor Libros Sententiarum*, unpaginated. Cf. Henry of Ghent's classic treatment of the escaping prisoner understood from the perspective of subjective right: *Quodlibet* 9, q. 26; *Henrici de Gandavo Omnia* 13, ed. R. Macken (Leuven University Press, 1983), 307–10.
47. John Slotemaker and Jeffrey Witt, *Robert Holcot* (Oxford: Oxford University Press, 2016), 200–5, quote at p. 204.
48. Christoph Grellard, *La possibilità dell'errore: Pensare la tolleranza nel Medioevo* (Rome: Aracne, 2020), 45–48.
49. *Utrum conscientia erronea excuset a culpa*; *Opera Iohannes Gerson*, ed. L. E. Dupin, 5 vols. (Antwerp: Sumptibus Societatis, 1706), 1:636–37.
50. *Utrum conscientia erronea excuset a culpa*; Dupin 1:638–41.
51. Christoph Grellard, *La possibilità dell'errore*, 87–89.
52. *Fasciculi Zizaniorum Magistri Johannis Wyclif cum Tritico*, ed. W. W. Shirley (London: Longman, Brown, Green, Longman, and Roberts, 1858), 299.
53. Letter 3, To Pierre d'Ailly (Bruges, 1 April 1400), in *Oeuvres Complètes de Jean Gerson*, 10 vols., ed. P. Glorieux (Paris: Desclée, 1960–73), 2:26–28; Brian Patrick McGuire, *Jean Gerson: Early Works* (New York: Paulist Press, 1998), 168–71.
54. *De sensu litterali sacrae scripturae*, ed. Glorieux 3:336–37.
55. *De protestatione circa materiam fidei*, ed. Glorieux 6:155–65, 155–56.
56. *Prologus Secundus: De intentione auctoris et modo procedendi*, PL 113:30d–31a.
57. G. B. Flahiff, "Ecclesiastical Censorship of Books in the Twelfth Century," *Mediaeval Studies* 4 (1942): 1–22.
58. Peter Godman, *The Silent Masters: Latin Literature and Its Censors in the High Middle Ages* (Princeton, NJ: Princeton University Press, 2000), 22–27.
59. C. 2, *De errore Abbatis Joachim*; Tanner 1:233.
60. CUP 3:114–122; nos. 1298–99.
61. CUP 2:705; no. 1190.
62. See Luca Bianchi, "Censure, Liberté et Progrès à L'Université de Paris au XIII^e Siècle," *Archives d'histoire doctrinale et littéraire du Moyen Âge* 63 (1996): 45–93.
63. William Courtenay, "Inquiry and Inquisition: Academic Freedom at Medieval Universities," *Church History* 58 (1989): 168–81.
64. J. M. M. H. Thijssen, *Censure and Heresy at the University of Paris: 1200–1400* (Philadelphia: University of Pennsylvania Press), 1–39; and Bernard McGinn, *The Mystical Thought of Meister Eckhart: The Man from Whom God Hid Nothing* (New York: Crossroad, 2001), 15–16.

65. CUP 2.1:576–579; no. 1124
66. Thijssen, *Censure and Heresy at the University of Paris*, 89.
67. *Compendium Philosophiae* 1.2; Rogeri Bacon *Opera quaedam hactenus inedita*, ed. J. S. Brewer (London: Longman, Green, Longman, and Roberts, 1859), 39–47.
68. *Opus Tertium* 9; Rogeri Bacon *Opera quaedam hactenus inedita*, 25–28.
69. L. Eldridge, “Changing Concepts of Church Authority in the Later Fourteenth Century: Peter Coffins of Clairvaux and William Woodford, OFM,” *Revue de l’université d’Ottawa* 48 (1978): 170–78.
70. Luca Bianchi, *Censure et liberté intellectuelle à L’Université de Paris (XIII–XIV siècles)* (Paris: Les Belles Lettres, 1999), 78–83.
71. *De veritate sacrae scripturae* 1.14, ed. Rudolof Buddensieg, 3 vols. (London: Wyclif Society, 1905–1907), 1:356.
72. “Petrus Ioannis Olivi, Epistola ad Fratrem R,” ed. Cynthia Kilmer and Elsa Marmursztejn; revised, introduced, and annotated by Sylvain Piron, *Archivum Franciscanum Historicum* 91 (1998): 33–64; text, pp. 45–64.
73. “Petrus Ioannis Olivi, Epistola ad Fratrem R,” 47.
74. “Petrus Ioannis Olivi, Epistola ad Fratrem R,” 47–60 *passim*.
75. “Petrus Ioannis Olivi, Epistola ad Fratrem R,” 48.
76. “Petrus Ioannis Olivi, Epistola ad Fratrem R,” 56.
77. François-Xavier Putallaz, *Insolente Liberté: Controverses et condamnations au XIIe siècle* (Paris: Éditions du Cerf, 1995), 127–62.
78. Stève Bobillier, *L’éthique de Pierre Jean Olivi: Liberté, personne et conscience* (Paris: J. Vrin, 2020), 81–82.
79. Michael Szlachta, “Peter John Olivi, Free Will, and the Threefold Aspectus,” *Recherches de Théologie et Philosophie Médiévales* 85 (2018): 285–307.
80. Véronique Decaix, “*Stimulus affectionis*: Sur la conscience morale chez Pierre de Jean Olivi,” in *Peter of John Olivi: Construction of the Human Person*, ed. Stève Bobillier and Ryan Thornton (Grottaferrata: Editiones Collegii S. Bonaventurae, 2021), 205–33.
81. “Petrus Ioannis Olivi, Epistola ad Fratrem R,” 61–62.
82. “‘Littera septem sigillorum’ contra doctrinam Petri Iohannis Olivi edita,” ed. P. G. Fussenegger, *Archivum Franciscanum Historicum* 47 (1954): 45–53.
83. David Burr, *Olivi and Franciscan Poverty: the Origins of the Usus Pauper Controversy* (Philadelphia: University of Pennsylvania Press, 1989), 87–90.
84. “Fr. Petri Ioannis Olivi, O.F.M., ‘Tria Scripta sui ipsius Apologetica,’ Responsio II, 374–78, ed. D. Laberge, ‘Fr. Petri Ioannis Olivi, O.F.M. tria scripta sui ipsius apologetica annorum 1283 et 1285,’ *Archivum Franciscanum historicum* 28 (1935–1936).
85. “Fr. Petri Ioannis Olivi, O.F.M., Tria Scripta sui ipsius Apologetica,” Responsio I, 128–29.
86. “Fr. Petri Ioannis Olivi, O.F.M., Tria Scripta sui ipsius Apologetica,” Responsio II, 398.

87. “Fr. Petri Ioannis Olivi, O.F.M, *Tria Scripta sui ipsius Apologetica*,” *Responsio* II, 132.
88. “Fr. Petri Ioannis Olivi, O.F.M, “*Tria Scripta sui ipsius Apologetica*,” *Responsio* II, 133–34. See also David Burr, “Olivi and the Limits of Intellectual Freedom,” in *Contemporary Reflections on the Medieval Christian Tradition*, ed. G. H. Shriver (Durham, NC: Duke University Press, 1974), 185–99.
89. Burr, *Olivi and Franciscan Poverty*, 106–8.
90. *Tractatus de quantitate* 3; *Opera Theologica* 10:69. See also Ian Christopher Levy, “Authentic Tradition and the Right to Dissent: William of Ockham and the Eucharist,” *American Catholic Philosophical Quarterly* 86 (2012): 457–85.
91. *Tractatus de quantitate* 3; *Opera Theologica* 10:69–70.
92. *Tractatus de quantitate* 3; *Opera Theologica* 10:70–71.
93. *Tractatus de corpore Christi* 1; *Opera Theologica* 10:90.
94. *Tractatus de corpore Christi* 2; *Opera Theologica* 10:91–92. See Innocent IV, *Apparatus in quinque libros Decretalium* (Frankfurt: 1570), 2r. For Lateran IV c. 1; *De fide catholica*; Tanner 1:230–31. Cf. *Firmiter* X. 1. 1. c. 1; Friedberg 2:5–6.
95. *Tractatus de corpore Christi* 37; *Opera Theologica* 10:206–10. See the canon *Quotiens fidei*, C. 24, q. 1, c. 12; Friedberg 1:970; and what may be a reference to *Vas electionis*, Extrav. comm. 5.3.2; Friedberg 2:1290–91.
96. *Tractatus de corpore Christi* 37; *Opera Theologica* 10:210–13.
97. J. Koch, “Neue Aktenstücke zu dem gegen Wilhelm Ockham in Avignon gefürten Prozess,” *Recherches de Théologie ancienne et médiévales* 7–8 (1935–36): 353–80; 8:79–93; 8:168–97; and C. K. Brampton. “Personalities and the Process Against Ockham at Avignon, 1324–26,” *Franciscan Studies* 26 (1966): 4–25. For an overview of Ockham’s life and writings, including these matters, see William Courtenay, “The Academic and Intellectual Worlds of Ockham,” in *The Cambridge Companion to Ockham*, 17–30.
98. See CUP 3:486 for Denifle’s analysis.
99. CUP 3:491–96; no. 1559.
100. Gregory Moule, *Corporate Jurisdiction, Academic Heresy, and Fraternal Correction at the University of Paris* (Leiden: Brill, 2016), 200–41.
101. Letter 6, To the Masters of Navarre (Bruges, May–September 1400), ed. Glorieux 2:38–42; McGuire, *Early Works*, 188–91.
102. *Collectio iudiciorum de novis erroribus*, 3 vols., ed. Charles de Plessis d’Argentré (Paris: Lambert Coffine, 1724–1736), 1:75–76. See also Moule, *Corporate Jurisdiction*, 205–36.
103. *Collectio iudiciorum de novis erroribus*, 1:77
104. *Tractatus de ecclesiae autoritate prooemium*; Dupin 2:925.
105. *Collectio iudiciorum de novis erroribus*, 1:78.
106. *Collectio iudiciorum de novis erroribus*, 1:79
107. *Collectio iudiciorum de novis erroribus*, 1:81.

108. *Collectio judiciorum de novis erroribus*, 1:80. For the Lateran IV determination see c. 2 *De errore Abbatis Ioachim*; Tanner 1:231–33; and the relevant passage in Peter Lombard *Sententiae in IV libris distinctae* 1. 5, c. 1 (15); ed. Brady, 1:81. On the beatific vision response see CUP 2:429–433; nos. 981–82.

109. *Tractatus de ecclesiae autoritate* 3.1; Dupin 2:950.

CHAPTER 3: THE RIGHT TO DISPUTE

1. Quodlibet 12, q. 6; in *Les Philosophes Belges*, vol. 5, ed. J. Hoffmans (Louvain: L'Institut supérieur de philosophie, 1932), 105–8. See Gregory the Great's *Homily on Ezekiel* 1.7.5; CCSL 142:82.

2. Quodlibet 7, q. 18; in *Les Philosophes Belges*, vol. 3, ed. M de Wulf and J. Hoffmans (Louvain: Institut Supérieur de Philosophie de Université, 1914), 402–5.

3. CUP 1:543–55, no. 473

4. Quodlibet 12, q. 5; in *Les Philosophes Belges*, vol. 5:100–5, at pp. 100–101.

5. Quodlibet 12, q. 5, 102. See also Roland Hissette, “L'implication de Thomas D'Aquin dans les censures parisiennes de 1277,” *Recherches de Théologie et Philosophie Médiévales* 64 (1997): 3–31.

6. Quodlibet 12, q. 5; in *Les Philosophes Belges*, vol. 5:103.

7. Quodlibet 12, q. 5; in *Les Philosophes Belges*, vol. 5:103–14.

8. J.M.M.H. Thijssen, “1277 Revisited: A New Interpretation of the Doctrinal Investigations of Thomas Aquinas and Giles of Rome,” *Vivarium* 35 (1997): 72–101.

9. Quodlibet 10, q. 16; *Henrici de Gandavo Opera Omnia* 14, ed. R. Macken (Leuven: Leuven University Press, 1981), 304–7. See Gregory the Great's *Homily on Ezekiel* 1.7.5 CCSL 142:82; and Augustine's *Contra epistolam Parmeniani* 3.2.13; PL 43:92.

10. *Exiit qui seminat*, VI 5.12.3; Friedberg 2:1109–21

11. Roberto Lambertini, “Political Quodlibeta,” in *Theological Quodlibeta in the Middle Ages: The Thirteenth Century*, ed. Christopher Schabel (Leiden: Brill, 2006), 439–74.

12. Quodlibet 12, q. 19; *Henrici de Gandavo Opera Omnia* 16, ed. J. Decorte (Leuven University Press, 1987), 96–97.

13. Quodlibet 12, q. 20; in *Les Philosophes Belges*, vol. 5:155–65.

14. CUP 1:592–93, no. 508. See also P. Glorieux, “Prélates français contre religieux mendiants: Autor de le bulle ‘Ad fructus uberes’ (1281–1290),” *Revue d'histoire de l'Église de France* 11 (1925): 309–31.

15. For an informative overview of this controversy see Ian Wei, “The Masters of Theology at the University of Paris in the Late Thirteenth and Early Fourteenth Centuries: An Authority Beyond the Schools,” *Bulletin of the John Rylands Library* 75 (1993): 37–64.

16. Quodlibet 4, q. 13; in *Les Philosophes Belges*, vol. 2, ed. M. de Wulf and A. Pelzer (Louvain: L'Institut supérieur de philosophie, 1904), 274–76.

17. Quodlibet 3, q. 10; in *Les Philosophes Belges*, 2:218.

18. For context and analysis see John Marrone, “The Absolute and the Ordained Powers of the Pope: An Unedited Text of Henry of Ghent,” *Mediaeval Studies* 36 (1974): 7–27, the text is given on pp. 23–27. Cf. *Si papa*, D. 40, c. 6; Friedberg 1:146; and *Corpus juris canonici emendatum et notis illustratum*, 1:259–60.

19. Henryk Anzulewicz, “Zur Kontroverse un das Mendikantprivileg: Ein Ältester Bericht über das Pariser Nationalkonzil von 1290,” *AHDLM* 60 (1993): 281–91, esp. pp. 286–91. Anonymous commentator: “*Ecce quam valida et firma sunt nostrorum magistrorum dicta. Decem annis sunt fabricata et per dictum unius cardinalis sunt concussa.*”

20. Quodlibet 15, q. 15; *Henrici de Gandavo Opera Omnia* 20, ed. G. Etzkorn and G. A. Wilson (Leuven: Leuven University Press, 2007), 147.

21. Quodlibet 15, q. 15; *Opera Omnia* 20:147–49.

22. Quodlibet 15, q. 15; *Opera Omnia* 20:150–53.

23. Juhana Tiovanen and Heikki Haara, “On the Conflict between the Common Good and the Individual Good,” in *Common Good and Self-Interest in Medieval and Early Modern Philosophy*, ed. H. Haara and J. Toivanen (New York: Springer, 2024), 1–14, quote at p. 3. See also M. S. Kempshall, *The Common Good in Late Medieval Political Thought* (Oxford: Oxford University Press, 1999), 179–203.

24. *De potestate regia et papali* 22, ed. Fritz Bleienstein (Stuttgart: Ernst Klett Verlag, 1969), 192–93. See also Gianluca Briguglia, “*Inquirere Veritatem*: Osservazione sui Prologhi dei Trattati Politici di Giovanni di Parigi, Egidio Romano, Giacomo da Viterbo,” *Il Pensiero Politico* 40 (2007): 3–20.

25. *Bullarium Franciscanum*, 7 vols. (Rome: Vatican, 1759–68; 1898–1904; 1929–49), 6:25–42, no. 51. See Irene Bueno, *Defining Heresy: Inquisition, Theology, and Papal Policy in the Time of Jacques Fournier* (Leiden: Brill, 2015), 252–54; and John Moorman, *A History of the Franciscan Order* (Oxford: Clarendon Press, 1968), 326–28.

26. *Tractatus contra Benedictum* 4.4; *Opera Politica*, 4 vols., ed. H. S. Offler et al. (Manchester: Manchester University Press, 1940–1974), 3:253.

27. *Tractatus contra Benedictum* 4.1; *Opera Politica* 3:243–44.

28. *Tractatus contra Benedictum* 4.2; *Opera Politica* 3:244–45.

29. *Tractatus contra Benedictum* 4.7; *Opera Politica* 3:256–57.

30. *Breviloquium de Principatu Tyrannico*, prologus; *Opera Politica* 4:97–98.

31. *Breviloquium de Principatu Tyrannico* 1.1; *Opera Politica* 4:98–99. See the canon *Nemini est*, C. 17, q. 4, c. 30; Friedberg 1:823; and *Corpus juris canonici emendatum et notis illustratum*. Gregorii XIII. pont. max. iussu editum, 3 parts in 4 vols. (Rome, 1582), 1:1577.

32. *Breviloquium de Principatu Tyrannico* 1.2; *Opera Politica* 4:99–100. Cf. *Peter Lombard Sententiae in IV libris distinctae* 1. 2, c. 1 (4); ed. Ignatius Brady, 2 vols. (Grottaferrata: Editiones Collegii S. Bonaventurae, 1981), 1:61–62. See also the canon *Si quis suadante*, C. 17, q. 4, d.p.c. 29; Friedberg 1:822–23.

33. *Breviloquium de Principatu Tyrannico* 1.2; *Opera Politica* 4:100.

34. *Breviloquium de Principatu Tyrannico* 1.3; *Opera Politica* 4:101.

35. *Breviloquium de Principatu Tyrannico* 1.4; *Opera Politica* 4:102.
36. *Breviloquium de Principatu Tyrannico* 1.5; *Opera Politica* 4:103–4.
37. *Breviloquium de Principatu Tyrannico* 1.6; *Opera Politica* 4:104.
38. *Breviloquium de Principatu Tyrannico* 1.7; *Opera Politica* 4:105–6.
39. *Breviloquium de Principatu Tyrannico* 1.8; *Opera Politica* 4:106–7.
40. *Breviloquium de Principatu Tyrannico* 1.11; *Opera Politica* 4:109–10.
41. *De veritate sacrae scripturae* 13, ed. Rudolof Buddensieg, 3 vols. (London: Wyclif Society, 1905–1907), 1:316–18.
42. *De veritate sacrae scripturae* 11, 1:262–64. See *Nemini est*, C. 17, q. 4, c. 30; Friedberg 1:823.
43. *Consilium pacis: de unione ac reformatione ecclesiae* 13; Dupin 2:823.
44. *Apparuit gratia Dei*, in *Oeuvres Complètes de Jean Gerson*, 10 vols., ed. P. Glorieux (Paris: Desclée, 1960–73), 5:63–90, p. 72.
45. *Erreurs de Jean Gorrel*, ed. Glorieux 10:32–34.
46. CUP 4:165–67, no. 1868. For *Vas electionis* see Denzinger, 921–24; and Extrav. comm. 5.3.2; Friedberg 2:1290–91. For Lateran IV c. 21, *Omnis utriusque sexus*; ed. Tanner, 1:245. See also Ludwig Hödl, “The Quodlibeta of John of Pouilly and the Philosophical and Theological Debates at Paris 1307–1312,” in *Theological Quodlibeta in the Middle Ages: The Fourteenth Century*, ed. Chris Schabel (Leiden: Brill, 2007), 199–229.
47. *Contra bullam Regnans in excelsis*, ed. Glorieux, 10:34–39. See also the discussion by Brian Patrick McGuire, *Jean Gerson and the Last Medieval Reformation* (University Park, PA: Penn State University Press, 2005), 209–13.
48. WA Br 1, Letter 58, p. 139, and Letter 87, p. 190. See Jared Wicks, “Reactions to Luther: The First Year (1518),” *Catholic Historical Review* 69 (1983): 521–62. That Luther had very early on insisted upon his right as a master of theology to dispute theological matters publicly according to the customs of the university, see Peter Classen, “Zur Geschichte der ‘Akademischen Freiheit,’ Vornehmlich im Mittelalter,” *Historische Zeitschrift* 232 (1981): 529–53.

CHAPTER 4: FROM THE INTERIOR TO THE EXTERIOR FORUM

1. Colin Morris, *The Discovery of the Individual 1050–1200* (New York: Harper & Row, 1972).
2. Giles Constable, *The Reformation of the Twelfth Century* (Cambridge: Cambridge University Press, 1996), 293.
3. See Norman Tanner, “Pastoral Care: The Fourth Lateran Council of 1215,” in *A History of Pastoral Care*, ed. G. R. Evans (London: Cassell, 2000), 112–25.
4. C. 9; *Decrees of the Ecumenical Councils*, 2 vols. ed. Norman Tanner (London: Sheed & Ward, 1990), 1:239–40.
5. C. 27; Tanner, 1:248.
6. C. 21; Tanner, 1:245.
7. Alexander Murray, “Confession before 1215,” *Transactions of the Royal Historical Society* 3 (1993): 51–81, quote at p. 65.

8. Atria Larson, "Papal Councils and the Development of Lay Penance in the Long Twelfth Century," *Cristianesimo nella storia* 39 (2018): 323–69. On the problem of feigned penance see Peter Godman, *Paradoxes of Conscience in the High Middle Ages* (Cambridge: Cambridge University Press, 2009).
9. Karen Wagner, "Cum Aliquis Venerit Ad Sacerdotem: Penitential Experience in the Central Middle Ages," in *A New History of Penance*, ed. Abigail Firey (Leiden: Brill, 2008), 201–18, quote at p. 210.
10. Peter Biller, "Confession in the Middle Ages: Introduction," in *Handling Sin: Confession in the Middle Ages*, ed. Peter Biller and Alastair Minnis (York: York Medieval Press, 1998), 1–33, quote at p. 8.
11. Leonard Boyle, "The 'Oculus Sacerdotis' and Some Other Works of William of Pagula," in *Transactions of the Royal Historical Society* 5 (1955), 81–110; and Andrew Reeves, "Teaching Confession in Thirteenth-Century England: Priests and Laity," in *A Companion to Priesthood in the Middle Ages*, ed. Greg Peters and C. Colt Anderson (Leiden: Brill, 2016), 252–80.
12. C. 21 *Omnis utriusque sexus*, Tanner, 1:245. On the reception of this decree by both canonists and theologians see Pierre-Marie Gy, "Le précepte de la confession annuelle et La nécessité de la confession," *Revue des Sciences philosophiques et théologiques* 63 (1979): 529–47.
13. Joseph Goering, "The Internal Forum and the Literature of Penance and Confession," *Traditio* 59 (2004): 175–227, quote at p. 178. Goering himself notes that "*forum internum*" is a post-Tridentine term that references what medieval authors called the penitential forum or forum of conscience (*forum poenitentialis/consentiae*).
14. Pierre Michaud-Quantin, "Les Méthodes de la Pastorale du XIII au XIV Siècle," in *Miscellanea Mediaevalia* 7 (Berlin: De Gruyter, 1970), 76–91.
15. Robert Swanson, "Apostolic Successors: Priests and Priesthood, Bishops and Episcopacy in Medieval Western Europe," in *A Companion to Priesthood in the Middle Ages*, 4–42, quote at p. 26.
16. M.-D. Chenu, *L'éveil de la conscience dans la civilisation médiévale* (Paris: J. Vrin, 1969), 25–27.
17. Jean Longère, "Quelques *Summae de Poenitentiae* à la fin du XII et au Début du XIII Siècle," in *La Piété Populaire au Moyen Age* (Paris: Bibliothèque Nationale, 1977), 45–58.
18. Alexander Murray, "Counseling in Medieval Confession," in *Handling Sin: Confession in the Middle Ages*, 63–77.
19. Leonard Boyle, "The Summa for Confessors as a Genre, and Its Religious Intent," in *The Pursuit of Holiness in Later Medieval and Renaissance Religion*, ed. C. Trinkhaus and H. Oberman (Leiden: Brill, 1974), 126–30, quote at p. 129.
20. See Peter von Moos, "'Occulta Cordis': Contrôle de Soi et Confession au Moyen Age: 1. Formes du Silence," *Médiévales* 29 (1995): 131–40; and especially Moos, 'Occulta Cordis': Contrôle de Soi et Confession au Moyen Age (suite),

Médiévales 30 (1996): 117–37; similarly Susan Kramer, *Sin, Interiority, and Selfhood in the Twelfth-Century West* (Toronto: Pontifical Academy of Medieval Studies, 2015), 18–21.

21. Pierre Michaud-Quantin, *Sommes de casuistique et manuels de confession au moyen âge* (Montreal: Librairie Dominicaine, 1962), 16–17.

22. *Liber poenitentialis* 1.2–3, 2 vols., ed. Jean Longère (Louvain: Éditions Nauwelaerts, 1965), 2:25–26. In likening the priest to a physician Alan was drawing upon a long-established tradition. See Nicole Bériou, “La confession dans les écrits théologiques et pastoraux du XIII^e siècle: médication de l’âme ou démarche judiciaire,” in *Laveu: Antiquité et Moyen Âge* (Rome: École Française de Rome, 1986), 261–82.

23. *Summa de arte praedicatoria* c. 31; PL 210:172.

24. *Liber poenitentialis* 2.1, 2:45–46. On the penitent’s scrutiny of conscience (*scrutari angulos conscientiae*) see also 4.1, 2:161.

25. Murray, “Counseling in Medieval Confession,” 66.

26. *Liber poenitentialis* 2.2, 2:46.

27. *Liber poenitentialis* 2.3, 2:47.

28. *Summa Aurea* 4.10.1, 7 vols., ed. Jean Ribailier (Grottaferrata: Editiones Collegii S. Bonaventurae, 1980–1987), 6:243–44.

29. Samuel Klumpenhouwer, “John of Kent and Medieval Pastoral Care,” *Logos* 24 (2021): 130–44, quotes at pp. 133 and 140.

30. Jonathan Hughes, “The Administration of Confession in the Diocese of York in the Fourteenth Century,” in *Studies in Clergy and Ministry in Medieval England*, ed. David Smith (York: University of York, 1991), 87–163, quote at p. 121.

31. F.A.C. Mantello and Joseph Goering, “Robert Grosseteste’s *Quoniam Cogitatio*: A Treatise on Confession,” *Traditio* 67 (2012): 341–84, quote at p. 343.

32. See the prolegomena for Flamborough’s *Liber Poenitentialis*, ed. J. J. Francis Firth (Toronto: Pontifical Institute of Mediaeval Studies, 1971), 1–20; and Michaud-Quantin, *Sommes de casuistique et manuels de confession au moyen âge*, 21.

33. Flamborough, *Liber Poenitentialis* 1.3, 56–57.

34. Joseph Goering and Pierre Payer, “The ‘Summa Penitentie Fratrum Predicatorum,’” *Mediaeval Studies* 55 (1993): 1–50, at pp. 26–27. See also Leonard Boyle, “The *Summa Confessorum* of John of Freiburg and the Popularization of the Moral Teaching of St. Thomas and Some of His Contemporaries,” in *St. Thomas Aquinas 1274–1974: Commemorative Studies* (Toronto: Pontifical Institute for Mediaeval Studies, 1974), 245–68.

35. Thomas Brogl, “Yeglichs Nâch Sîn Vermugen: Johannes Nider’s Idea of Conscience,” in *Between Creativity and Norm-Making: Tensions in the Early Modern Era*, ed. Sigrid Müller (Leiden: Brill, 2012), 61–76; and Sven Grosse, *Heilungswissenschaft und Scrupulositas im späten Mittelalter: Studien zu Johannes Gerson und Gattungen der Frömmigkeitstheologie seiner Zeit* (Tübingen: J.C.B Mohr, 1994).

36. *Consolatorium timoratae conscientiae* 3.16 (Cologne: Johann Schilling, 1473), unpaginated.
37. *De arte audiendi confessiones*, in *Oeuvres Complètes de Jean Gerson*, 10 vols., ed. P. Glorieux (Paris: Desclée, 1960–73), 8:10.
38. *Contre conscience trop scrupuleuse*, ed. Glorieux 7:140–42.
39. *Scito te ipsum*, c. 69, *Petri Abaelardi Opera Theologica*, vol. 4, ed. Rainer M. Ilgner, *Corpus Christianorum Continuatio Mediaevalis*, 190 (Turnhout: Brepols, 2001), 4:69–70.
40. Bertrand Kurtscheid, *A History of the Seal of Confession*, trans. F. A. Marks (London: Herder, 1927), 95–103. Kurtscheid presents a wealth of primary source material to which I am indebted.
41. *Sacerdos ante*, D. 6 de pen. d.p.c. 1; Friedberg 1:1244.
42. *Corpus juris canonici emendatum et notis illustratum*, Gregorii XIII. pont. max. iussu editum, 3 parts in 4 vols. (Rome, 1582), 1:2373–74.
43. Atria Larson, “Lateran IV’s Decree on Confession, Gratian’s *De Penitentia*, Confession to One’s *Sacerdos Proprius*: A Re-Evaluation of *Omnis Utriusque* in Its Canonistic Context,” *Catholic Historical Review* 104 (2018): 415–37.
44. D. 6 de pen. d.p.c. 2; Friedberg 1:1244.
45. *Corpus juris canonici emendatum et notis illustratum*, 1:2375.
46. Michaud-Quantin, *Sommes de casuistique et manuels de confession au moyen age*, 21.
47. Thomas de Chobham, *Summa confessorum*, a. 5, d. 1, q. 15a; ed. F. Broomfield (Louvain: Éditions Nauwelaerts, 1968), 221–22.
48. *Summa confessorum*, a. 6, d. 1, q. 5a; 257.
49. *Summa confessorum*, a. 6, d. 1, q. 5a; 257–58.
50. *Summa de paenitentia*, 3.34.62, ed. Xavierio Ochea and Aloisio Diez (Rome: Commentarium pro Religione, 1976), 866–67.
51. Pierre-Marie Gy, “Le Précept de la Confession Annuelle (Latran IV c. 21) et la Détection des Hérétiques: S. Bonaventure et S. Thomas contre S. Raymond de Peñafort,” *Revue des Sciences philosophiques et théologiques* 58 (1974): 444–450.
52. *Sententiae* 4.21. p.2, a. 2, q. 1; *Opera Omnia*. 10 vols. (Quaracchi: Ex Typographia Collegii S. Bonaventurae, 1882–1902), 4:563–67.
53. *Sententiae* 4. d. 21. q. 3, a. 1; *Opera Omnia* 10:596–98. See Bernard of Clairvaux, *De Praecepto et dispensatione* 2.5, in *S. Bernardi opera*, ed. Jean Leclercq, C. H. Talbot, H. M. Rochais, 8 vols. (Rome: Editiones Cistercienses, 1957–1977), 3:257.
54. *Ordinatio* 4.21.2; *Opera Omnia*, 21 vols., ed. C. Balić et al. (Vatican City: Typis Polygottis Vaticanis, 1950–2015), 13:257–60. There is a translation of this conclusion in *Duns Scotus on Will and Morality*, ed. Alan Wolter and Willam Frank (Washington D.C.: Catholic University Press, 1997), 323–24. On Scotus’s life and career see Richard Cross, *Duns Scotus* (Oxford: Oxford University Press, 1999), 3–6.
55. *Ordinatio* 4.21.2; *Opera Omnia* 13:263.

56. *Summa theologiae* 4. q. 19, m. 2, a. 1 (Cologne: Sumptibus Ioannis Gymnici, sub Monocerote, 1622), 599.
57. *Sententiae* 4. d. 18, q. 2, art. 2; *Opera Omnia* 10:536.
58. 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 Iustiniani promulgatis, Romae 12–17 novembris 1934*, 4 vols (Rome: Pontificium Institutum utriusque iuris, 1935–37), 3:227–46.
59. Wolfgang Müller, “The Internal Forum of the Later Middle Ages: A Modern Myth?,” *Law and History Review* 33 (2015): 887–913.
60. *Erubescant*, D. 32, c. 11; Friedberg 1:120.
61. *Corpus juris canonici emendatum et notis illustratum*, 1:213.
62. *Tua nos duxit*, X 5.3.34; Friedberg 2:763.
63. Jacques Chiffolleau, “Ecclesia De Occultis Non Iudicat? L’Eglise, Le Secret, L’Occulte du XIIe au XVe Siècle,” *Micrologus* 16 (2006): 359–481, at pp. 376–80.
64. *Duae sunt leges*, C. 19, q. 2. c. 2; Friedberg 1:839–40.
65. *Corpus juris canonici emendatum et notis illustratum*, 1:607.
66. Constable, *The Reformation of the Twelfth Century*, 261–62.
67. Kenneth Pennington, “*Lex Naturalis* and *Ius Naturale*,” in *Crossing Boundaries at Medieval Universities*, ed. Spencer Young (Leiden: Brill, 2011), 227–53, quote at p. 232.
68. Richard Helmholz, “Natural Human Rights: The Perspective of the *Ius Commune*,” *Catholic University Law Review* 52 (2002–2003): 301–25.
69. Brian Tierney, *The Idea of Natural Rights: Studies on Natural Rights, Natural Law, and Church Law 1150–1625* (Grand Rapids, MI: Eerdmans, 1997), 14–77.
70. Charles Reid, “The Canonistic Contribution to the Western Rights Tradition: An Historical Inquiry,” *Boston College Law Review* 33 (1991): 37–92.
71. *Deus omniptens*, C. 2, q. 1, d.a.c. 20; Friedberg 1:448–49.
72. Kenneth Pennington, “The Jurisprudence of Procedure,” in *The History of Courts and Procedure on Medieval Canon Law*, ed. Wilfried Hartmann and Kenneth Pennington (Washington, D.C.: Catholic University of America, 2016), 125–59, quote at p. 139.
73. Kenneth Pennington, “Innocent until Proven Guilty: The Origins of a Legal Maxim,” *The Jurist* 63 (2003): 106–24.
74. *Corpus juris canonici emendatum et notis illustratum*, 3:226–32, esp. 230–31. Cf. Extrav. comm. 2.3; Friedberg 2:1255–56.
75. *Summa theologiae* 2.2. q. 67, a. 2; *Opera Omnia*, 34 vols., ed. S. E. Freté and P. Maré (Paris: Vivès, 1871–80), 3:547–48.
76. *Summa theologiae* 2.2. q. 69, a. 1; *Opera Omnia* 3:555–56.
77. Henry Ansgar Kelly, “Oath-Taking in Inquisitions,” *Bulletin of Medieval Canon Law* 35 (2018): 215–41.

78. *De vita spirituali animae*, ed. Glorieux, 3:158–59.

79. Lateran IV, c. 18, *De iudicio sanguinis*; Tanner 1:244.

80. Peter Baldwin, “The Intellectual Preparation for the Canon of 1215 Against Ordeals,” *Speculum* 36 (1961): 613–36. See also Jeffrey Wayno, “Rethinking the Fourth Lateran Council of 1215,” *Speculum* 93 (2018): 611–37.

81. James Brundage, *Medieval Canon Law* (London: Longman, 1995), 142–43; and Richard Fraher, “IV Lateran’s Revolution in Criminal Procedure: The Birth of *Inquisitio*, the End of Ordeals, and Innocent III’s Vision of Ecclesiastical Politics,” in *Studia in Honorem Eminentissimi Cardinalis Alphonsi M. Stickler*, ed. Rosalio Lara (Rome: LAS, 1992), 97–111.

82. Lateran IV, c. 8, *De inquisitionibus*; Tanner, 1:237–39, and X 5.1.24; Friedberg 2:745–47.

83. Joanna Carraway Vitello, *Public Justice and the Criminal Trial in Late Medieval Italy: Reggio Emilia in the Visconti Age* (Leiden: Brill, 2016), 88–113.

84. *Summa de Paenitentia*, 3.31.4, 715–16.

85. *Summa de Paenitentia*, 3.31.5, 717–18.

86. *Summa de Paenitentia*, 3.31.6, 718–19.

87. Julien Thery, “*Fama*: l’opinion publique comme preuve judiciaire aperçu sur la révolution médiévale de l’inquisitoire (xii–xiv siècle),” in *La preuve en justice de l’Antiquité à nos jours*, ed. Bruno Lemesle (Rennes: Presses Universitaires de Rennes, 2003), 119–47.

88. *Summa de Paenitentia*, 3.30.11, 712–13.

89. Brundage, *Medieval Canon Law*, 144–47.

90. Richard Fraher, “Conviction According to Conscience: Medieval Jurists’ Debate Concerning Judicial Discretion and the Law of Proof,” *Maurer Law and History Review* 7 (1989): 23–88, at p. 50.

91. Clem. 5. 11. 2; Friedberg 2:1200. See also Brundage, *Medieval Canon Law*, 139–40; and Pennington, “Innocent until Proven Guilty,” 24–29.

92. Lateran IV c. 38, *De scribendis actis*; Tanner 1:252.

93. James Brundage, “Full and Partial Proof in Classical Canonical Procedure,” *The Jurist* 67 (2007): 58–71, quote at p. 59.

94. *Literas tuas*, X 2.13.13; Friedberg 2:286–88. See also Alexander Murray, “Excommunication and Conscience in the Middle Ages,” in *Conscience and Authority in the Medieval Church* (Oxford: Oxford University Press, 2015), 163–97.

95. *Inquisitione tuae respondentes*, X 5.39.44; Friedberg 2:908.

96. *Corpus juris canonici emendatum et notis illustratum*, 2:1916.

97. Quoted in Chiffolleau, “*‘Ecclesia De Occultis Non Iudicat?’*” 474. Cf. X 5.39.44; Friedberg 2:908.

98. *Sententiae* 4. d. 38 q. 2, a.4; *Opera Omnia* 11:220. Cf. Peter Lombard *Sententiae in IV libris distinctae* 4. 38. c. 3 (216), ed. Ignatius Brady, 2 vols. (Grottaferata: Editiones Collegii S. Bonaventurae, 1971–81), 2:482–83. For helpful analysis see Justin Anderson, “Is it Better to Die Excommunicated than Act against One’s

Conscience? What Aquinas Famously (Never) Said on Conscience and Church Authority,” *Ephemerides Theologiae Lovanienses* 95 (2019): 567–93.

99. *Summa theologiae supplementum* 3, q. 45, a. 4; *Opera Omnia* 6:70–71. See also Anderson, “Is it Better to Die Excommunicated than Act against One’s Conscience?,” 572–73.

100. *Summa de Paenitentia*, 1.9.13, 374–77. Cf. *Biblia sacra cum Glossa ordinaria novisque additionibus*, 6:177–78. See also *Literas tuas*, X 2.13.13; Friedberg 2:286–88; and *Iudicet* C. 3 q. 7 c. 4; Friedberg 1:527.

101. *De haereticis*, X 5.7.1–16; Friedberg 2: 778–90.

102. *Tractatus contra Iohannem* 33; in *Opera Politica* ed. H. S. Offler et al. 4 vols. (Manchester: Manchester University Press, 1940–1974), 3:127–28.

103. 1 *Dialogus* 4.15, ed. John Kilcullen and John Scott (Oxford: British Academy, 2020), 160–61. For the Ephesus decree see Denzinger, *Enchiridion Symbolorum*, 252–63.

104. A. S. McGrade, *The Political Thought of William of Ockham* (Cambridge: Cambridge University Press, 1974), 48–67, quote at p. 53. See also Takashi Shogimen, “From Disobedience to Toleration: William of Ockham and the Medieval Discourse on Fraternal Correction,” *Journal of Ecclesiastical History* 52 (2001): 599–622.

105. 1 *Dialogus* 4.23, 174–75.

106. 1 *Dialogus* 4.17, 163–65.

107. 1 *Dialogus* 4.23, 174–77.

108. 1 *Dialogus* 4.21, 169–72.

109. *De protestatione circa materiam fidei*, ed. Glorieux 6:155–57.

110. *De protestatione circa materiam fidei*, ed. Glorieux 6:157.

111. *De protestatione circa materiam fidei*, ed. Glorieux 6:162–63. See *Dixit Apostolus*, C. 24 q. 3 c. 29; Friedberg 1:998.

112. *De protestatione circa materiam fidei*, ed. Glorieux 6:160.

113. *De protestatione circa materiam fidei*, ed. Glorieux 6:161.

114. *Considerationes XII de pertinacia*, ed. Glorieux 6:165–67. See *Qui in ecclesia*, C. 24 q. 3 c. 31; Friedberg 1:998.

115. *De necessaria communione laicorum sub utraque specie*, ed. Glorieux 10:59.

116. Vilém Herold, “Jan Hus: a Heretic, a Saint, or a Reformer?,” *Communio Viatorum* 45 (2003): 5–23.

117. *Tractatus de ecclesia*, ed. S. Harrison Thomson (Boulder: University of Colorado Press, 1956).

118. Denzinger, *Enchiridion Symbolorum*, 1201–30. See error 25 (1225); and for the forty-five Wycliffite errors, Denzinger, 1151–95.

119. Thomas Fudge, *The Trial of Jan Hus: Medieval Heresy and Criminal Procedure* (Oxford: Oxford University Press, 2013), 238–95.

120. Václav Novotný, *M. Jana Husi, Korrespondence a dokumenty* (Prague: 1920), Letter 48, pp. 139–41; Matthew Spinka, *The Letters of Jan Hus* (Manchester: University of Manchester Press, 1972), Letter 26, pp. 77–78.

121. Novotny, Letter 138, pp. 285–86; Spinka, Letter 80, pp. 176–77.
122. Novotny, Letter 140, pp. 292–94; Spinka, Letter 82, pp. 180–81.
123. Novotny, Letter 155, pp. 322–24; Spinka, Letter 93, pp. 198–99.
124. Novotny, Letter 162, p. 333; Spinka, Letter 98, p. 206.
125. Novotny, Letter 163, pp. 334–35; Spinka, Letter 99, p. 207.
126. Novotny, Letter 143, pp. 296–99; Spinka, Letter 85, pp. 183–85.
127. Novotny, Letter 145, pp. 299–302; Spinka Letter 86, pp. 185–87.
128. Novotny, Letter 150, pp. 312–14; Spinka, Letter 89, pp. 193–194.
129. Novotny, Letter 46, pp. 129–133; Matthew Spinka, *John Hus at the Council of Constance* (New York: Columbia University Press, 1965), 237–40; and Novotny, Letter 136, pp. 281–83; Spinka, *John Hus at the Council of Constance*, 269–70.
130. Fudge, *The Trial of Jan Hus*, 206.
131. Sabastián Provvidente, “Hus’s Trial in Constance: *Disputatio Aut Inquisitio*,” in *A Companion to Jan Hus*, ed. Frantisek Smahel (Leiden: Brill, 2015), 254–88.
132. *Petri de Mladoniowicz relatio de Magistro Johanne Hus*, ed. Václav Novotny, *Fontes Rerum Bohemicarum* (Prague: 1932), 8:25–120. See the translation provided in Spinka, *John Hus at the Council of Constance*.
133. Phillip Haberkern, *Patron Saint and Prophet: Jan Hus in the Bohemian and German Reformations* (Oxford: Oxford University Press, 2016), 26–29.
134. *Petri de Mladoniowicz relatio de Magistro Johanne Hus*, ed. Novotny, 8:72–82; Spinka, *John Hus at the Council of Constance*, 163–81.
135. *Petri de Mladoniowicz relatio de Magistro Johanne Hus*, ed. Novotny, 8:83–110; Spinka, *John Hus at the Council of Constance*, 213–23.
136. *Petri de Mladoniowicz relatio de Magistro Johanne Hus*, ed. Novotny, 8:111–20; Spinka, *John Hus at the Council of Constance*, 224–34.
137. Jiri Kejř, *De Causa Johannes Hus und der Prozessrecht der Kirche* (Regensburg: Friedrich Pustet, 2005), 162–65.
138. K. B. McFarlane, *John Wycliffe and the Beginnings of English Nonconformity* (New York: MacMillan, 1953), 187.
139. See Fudge, *The Trial of Jan Hus*, 238–95.
140. Thomas Morrissey, “‘More Easily and More Securely’: Legal Procedure and Due Process at the Council of Constance,” in *Popes, Teachers, and Canon Law in the Middle Ages*, ed. James Ross Sweeney and Stanley Chodorow (Ithaca, NY: Cornell University Press, 1989), 234–47.

CHAPTER 5: TO SWEAR, CORRECT, AND OBEY

1. Jean Gaudemet, “*Le serment dans le droit canonique médiéval*,” in *Le Serment*, 2 vols, ed. Raymond Vertier (Paris: Editions du CNRS, 1991), 2:63–75. See these canons in Friedberg 1:861–89.
2. For further analysis see Riccardo Saccenti, “Beyond the Positive Law: The Oath and Vow as a Theological Matter Between the 12th and Early 13th Centuries,”

in *The Summa Halensis: Doctrines and Debates*, ed. Lydia Schumacher (Berlin: De Gruyter, 2020), 251–73.

3. Alain Boureau, “Vows, Debt, and Pontifical Control of Exchanges in the Early Thirteenth Century,” trans. S. Baddeley, *Annales. Histoire, Sciences Sociales* 67 (2012): 301–36, quotes at pp. 313 and 315. See also Alain Boureau, *Le Désir Dicté: Histoire du vœu religieux dans l’Occident médiéval* (Paris: Belles Lettres, 2014).

4. C. 22, q. 1 cc. 1–6; Friedberg 1:861–62.

5. *Animadvertendum*, C. 22, q. 2 d.p.c. 2; Friedberg 1:867.

6. *Summa confessorum*, a. 7, d. 11, q. 9a; ed. F. Broomfield (Louvain: Éditions Nauwelaerts, 1968), 548–49.

7. *Si publicis*, C. 22, q. 4 d. ante c. 1; Friedberg 1:875.

8. C. 22, q. 4 passim; Friedberg 1:875–79.

9. *Summa de Paenitentia*, 1.9.18; ed. Xavierio Ochea and Aloisio Diez (Rome: Commentarium pro Religione, 1976), 379.

10. *Sententiae in IV libris distinctae* 4.38, c. 1; ed. Ignatius Brady, 2 vols. (Grottaferrata: Editiones Collegii S. Bonaventurae, 1971–81), 2:478.

11. *Sententiae* 4. d. 38, q. 1, a. 1; *Opera Omnia*, 34 vols., ed. S. E. Fretté and P. Maré (Paris: Vivès, 1871–80), 11:194.

12. *Summa confessorum*, a. 7, d. 12, q. 2a; 559.

13. *Summa confessorum*, a. 7, d. 12, q. 4a; 560–61.

14. *Summa confessorum*, a. 7, d. 12, q. 9a; 564.

15. Kenneth Pennington, “Torture and Fear: Enemies of Justice,” *Rivista Internazionale di Diritto Comune* 19 (2008): 203–42, at p. 208. See also the broader analysis of fear and coercion by Stephan Kuttner, *Kanonistische Schuldlehre von Gratian bis auf Die Dekretalen Gregors. IX* (Vatican City: Biblioteca Apostolica Vaticana, 1935), 299–313.

16. Commenting on C. 22, q. 5, c. 1; *Rufinus von Bologna: Summa Decretorum*, ed. Heinrich Singer (Paderborn: 1902; reprint, Aalen, 1963), 399–402, esp. 400–401.

17. *Quodlibet* 4, q. 4, pp. 193–96; edited in Denise Cornet, “Les éléments historiques des IV^e et VI^e ‘Quodlibets’ de Gérard d’Abbeville,” *Mélanges d’archéologie et d’histoire* 58 (1941–46): 178–205. *Qui exigit*, C. 22, q. 5 c. 6; Friedberg 1:884; *Corpus juris canonici emendatum et notis illustratum*, Gregorii XIII. pont. max. iussu editum, 3 parts in 4 vols. (Rome, 1582), 1:1689; and *Animadvertendum*, C. 22, q. 2, c. 2; Friedberg 1:867; and *Per venerabilem*, X 4.17.13; Friedberg 2:714–16.

18. *Summa confessorum*, a. 7, d. 11, q. 9a; 556–57.

19. *Summa confessorum*, a. 7, d. 11, q. 9a; 556.

20. *Summa confessorum*, a. 7, d. 11, q. 9a; 556. Thomas does not indicate the decretal, but perhaps he has in mind Alexander III’s *Cum locum*, X 4.1.14; Friedberg 2:666; of which more below.

21. *Institutum est*, C. 27, q. 2 d.p.c. 39; Friedberg 1:1074.

22. On the divergence between the schools of Bologna and Paris, see Philip Reynolds, “The Regional Origins of Theories about Marital Consent and

Consummation During the Twelfth Century,” in *Regional Variations in Matrimonial Law and Custom in Europe 1150–1600*, ed. Mia Kupiola (Leiden: Brill 2011), 43–75. See also Irven Resnick, “Marriage in Medieval Culture: Consent Theory and the Case of Joseph and Mary,” *Church History* 69 (2000): 350–71.

23. *Matrimonium*, C. 27, q. 2 c. 1; Friedberg 1:1063.

24. *Corpus juris canonici emendatum et notis illustratum*, 1:1988.

25. *Lotharius*, C. 31 q. 2 d.p.c. 4; Friedberg 1:1114.

26. *Si verum*, C. 31 q. 2 c. 1; Friedberg 1:1113.

27. *De neptis*, C. 31 q. 2 c. 3; Friedberg 1:1113–14.

28. See the analysis provided by Charles Reid, “The Priesthood and the Sacrament of Marriage,” in *A Companion to Priesthood in the Middle Ages*, ed. Greg Peters and C. Colt Anderson (Leiden: Brill, 2016), 217–51, esp. 242–47, and *Power Over the Body, Equality in the Family: Right and Domestic Relations in Medieval Canon Law* (Grand Rapids, MI: Eerdmans, 2004), 25–68; John T. Noonan, “The Power to Choose,” *Viator* 4 (1973): 419–34.

29. *Sententiae in IV libris distinctae* 4.29.1.4, ed. Brady, 2:436–37. For the Roman civil law see Digest 23.1.7, 11–12.

30. Charles Donahue assigns Alexander III a principal role in establishing ecclesiastical policy on marital consent through his decretals: *Law, Marriage and Society in the Later Middle Ages: Arguments About Marriage in Five Courts* (Cambridge: Cambridge University Press, 2007), 14–45. Whereas Anne Duggan contends that Alexander III never established a legislative policy on marriage as such but responded to cases as they were sent to him by the bishops. See her, “The Effect of Alexander III’s ‘Rules on the Formation of Marriage’ in Angevin England,” in *Anglo-Norman Studies 33: Proceedings of the Battle Conference*, ed. C. P. Lewis (Woodbridge, NY: Boydell, 2011), 1–22. See also Constance Rousseau, “Innocent III: A Lawyer Pope and His Consensual ‘Policy’ of Marriage? A Reconsideration,” *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte* 107 (2021): 172–218, who finds it was Innocent III who established a papal policy on the principal role of present consent in effecting a valid marriage. Cf. Anders Winroth, “Marital Consent in Gratian’s Decretum,” in *Readers, Texts, and Compilers in the Earlier Middle Ages*, ed. Martin Brett, and Kathleen Cushing (Burlington, VT: Ashgate, 2009), 111–21.

31. *Veniens*, X 4.1.15; Friedberg 666–67; *Corpus juris canonici emendatum et notis illustratum*, 2:1430.

32. *De illis qui*, X 4.2.9; Friedberg 2:676.

33. *Cum locum*, X 4.1.14; Friedberg 2:666; *Corpus juris canonici emendatum et notis illustratum*, 2:1429.

34. *Ex literis*, X 4.2.11; Friedberg 2:676–77.

35. *Consultationi tuae*, X 4.1.28; Friedberg 2:671.

36. *Gemma*, X 4.1.29; Friedberg 2:671–72. See the comprehensive study by John T. Noonan Jr, “The Steady Man: Process and Policy in the Courts of the Roman Curia,” *California Law Review* 58 (1970): 628–700.

37. *Sententiae* 4.29. q. 1, a. 3; *Opera Omnia*, 11:104–5. Cf. *Cum locum*, X 4.1.14; Friedberg 2:666.
38. *Sententiae* 4.29. q. 1, a. 4; *Opera Omnia* 11: 105–6.
39. *Sententiae* 4.29. q. 1, a. 3; *Opera Omnia* 11:104–5.
40. Richard Helmholz, *The Spirit of Classical Canon Law* (Athens: University of Georgia Press, 1996), 237–40.
41. Richard Helmholz, “Baptism in the Medieval Canon Law,” *Rechtsgeschichte* 21 (2013): 118–27, quote at p. 126.
42. *De Iudeis*, D. 45, c. 5; Friedberg 1:161–62.
43. *Corpus juris canonici emendatum et notis illustratum*, 1:287. Cf. *Cum locum*, X 4.1.14; Friedberg 2:666.
44. Transcribed and translated by Jessie Sherwood, “Coacta voluntas est voluntas: Baptism and Return in Canon Law,” *Medieval Encounters* 28 (2022): 447–84, at p. 474. The MSS include Admont Stiftsbibliothek 7, fol. 61v; and Vat. lat. 2280, fol. 44r. See also Kenneth Pennington, “Gratian and the Jews,” *Bulletin of Medieval Canon Law* 31 (2014): 111–24. For a broader discussion see Marcia Colish, *Faith, Fiction and Force in Medieval Baptismal Debates* (Washington, D.C.: Catholic University of America Press, 2014).
45. *Sicut Iudaei*, X 5.6.9 Friedberg 2:774.
46. *Corpus juris canonici emendatum et notis illustratum*, 2:1660.
47. *Maiores ecclesiae*, X 3.42.3 Friedberg 2:644–46.
48. *Summa de poenitentia* 1.4.2; 309–10.
49. *Summa decretorum* C. 28, q. 1, c. 11. See Walter Pakter, *Medieval Canon Law and the Jews* (Ebelsbach: Verlag Rolf Gremer, 1988), 321–31, at p. 323. Cf. *Corpus juris canonici emendatum et notis illustratum*, 1:2035.
50. For an analysis of the scholastic debates see Elsa Marmursztejn, *Les Baptême Forcé des Enfants Juifs: Question scholastique, enjeu politique, échos contemporaines* (Paris: Belles Lettres, 2016), 49–94.
51. ST 3. q. 68, a. 10; *Opera Omnia* 5:386.
52. ST 2.2. q. 10, a. 8; *Opera Omnia* 3:139–41.
53. Eric D’Arcy, *Conscience and its Rights to Freedom* (New York: Sheed and Ward, 1961), 166.
54. Charles Taylor, *A Secular Age* (Cambridge, MA: Harvard University Press, 2007), 42.
55. Rainer Forst, *Toleration in Conflict: Past and Present* (Cambridge: Cambridge University Press, 2013), 93.
56. *Biblia sacra cum Glossa ordinaria novisque additionibus* 6 vols. (Venice: 1603), 5:305–6.
57. Lyrā’s *Postilla super totam Bibliam*; in *Biblia sacra cum Glossa ordinaria novisque additionibus*, 5:305–6.
58. *Si peccaverit*, C. 2, q. 1, c. 19; Friedberg 1:447–48.
59. *Francis of Assisi: Early Documents*, 3 vols., ed. Regis Armstrong, Wayne Hellmann, and William Short (New York: New City Press, 2001), 1:105.

60. *Summa confessorum*, a. 6, d. 5, q. 5a; 317–19.
61. *Sermo* 8; CCCM 82a:92–93.
62. *Glossa in quatuor libros Sententiarum Petri Lombardi* 4.19, 4 vols. (Quaracchi: Collegium S. Bonaventurae, 1951–57), 4:342–46.
63. *Summa thologiae* 2.2.33, a. 1; *Opera Omnia* 3:327–28.
64. *Summa thologiae* 2.2.33, a. 3; *Opera Omnia* 3:331–33. Cf. *Tam sacerdotes*, C. 24, q. 3, c. 14; Friedberg 1:994.
65. *Summa thologiae* 2.2.33, a. 4; *Opera Omnia* 3:33–334.
66. *Sermo* 58, in *Iohannis Wyclif Sermones*, ed. Johann Loserth, 4 vols. (London: Wyclif Society, 1887–90), 4:450–60, at p. 453.
67. *Sermo* 58, 4:460.
68. *Sermo* 58, 4:454.
69. *Sermo* 58, 4:455.
70. *Sermo* 58, 4:456.
71. *Sermo* 58, 4:459.
72. *Sermo* 58, 4:453.
73. *De ecclesia* 9, ed. Johann Loserth (London: Wyclif Society, 1886), 68–69.
74. *De ecclesia* 19; 180.
75. *De ecclesia* 21; 205.
76. *De ecclesia* 10; 74.
77. *De ecclesia* 21; 197.
78. *De ecclesia* 22; 215–16.
79. *De correptione proximi*, in *Oeuvres Complètes de Jean Gerson*, 10 vols., ed. P. Glorieux (Paris: Desclée, 1960–73), 9:171–73.
80. Letter 2, perhaps to Pierre d'Ailly (Bruges, February 1400), ed. Glorieux 2:20–23; Brian Patrick McGuire, *Jean Gerson: Early Works* (New York: Paulist Press, 1998), 161–62.
81. *Biblia sacra cum Glossa ordinaria novisque additionibus*, 6:30.
82. *Nuper a nobis*, X 5.39.29; Friedberg 2:900–901.
83. *Omnes ecclesiae*, C. 17, q. 4, c. 5; Friedberg 1:816.
84. *Quantae presumptionis*, X 5.39.37; Friedberg 2:909.
85. *Error cui non resistitur*, D. 83, c.3; Friedberg 1:293.
86. P. D. Clarke “Peter the Chanter, Innocent III and Theological Views on Collective Guilt and Punishment,” *Journal of Ecclesiastical History* 52 (2001): 1–20. See also Charles Lefebvre, “Gratian et les origens de la dénonciation évangélique,” *Studia Gratiana* 4 (1956): 231–50.
87. *Corpus juris canonici emendatum et notis illustratum*, 1:533
88. *Quia quaesitum*, X 1.29.1; Friedberg 2:158.
89. *Corpus juris canonici emendatum et notis illustratum*, 2:327. See *Qui aliorum*, C. 24, q. 3 c. 32; Friedberg 1:999; and *Qui consensit*, C. 11, q. 3 c. 100; Friedberg 1:671.

90. *De officio regis* 4, ed. Alfred Pollard and Charles Sayle (London: Wyclif Society, 1887), 68. See also Fiona Somerset, “Before and after Wyclif: Consent to Another’s Sin in Medieval Europe,” in *Europe after Wyclif*, ed. J. Patrick Hornbeck and Michael Van Dussen (New York: Fordham University Press, 2016), 135–72.
91. *Sermo* 48, 1:321–23.
92. *Sermo* 48, 1:323–24.
93. *De Praecepto et Dispensatione* in *S. Bernadi opera*, 8 vols., ed. Jean Leclercq, C. H. Talbot, and H. M. Rochais (Rome: Editiones Cistercienses, 1957–1977), 3:253–94; *On Precept and Dispensation*, in *The Works of Bernard of Clairvaux* vol. 1 (*Treatises I*), intro. Jean Leclercq, trans. Conrad Greenia (Spencer, MA: Cistercian Publications, 1970), 73–150.
94. Introduction, *On Precept and Dispensation*, 76.
95. *Epistola* 7.17; PL 182:103, quoted in the introduction to *On Precept and Dispensation*, 90.
96. *De praecepto et dispensatione* 4.9; *Opera Omnia* 3:259–60, trans. 111–12.
97. *De praecepto et dispensatione* 4.10; *Opera Omnia* 3:260–261, trans. 112–13.
98. *De praecepto et dispensatione* 5.11; *Opera Omnia* 3:261, trans. 113.
99. *Francis of Assisi: Early Documents*, 1:105.
100. Quodlibet 10, q. 5.10; *Opera Omnia* 15:577–78. Cf. *De praecepto et dispensatione* 5.11; *Opera Omnia*, 3:261
101. *Summa theologiae* 2.2. q. 33, a. 7; *Opera Omnia* 3:337–39.
102. Quodlibet 1. q. 8.16; *Opera Omnia* 15:372–73.
103. Quodlibet 1, q. 33; *Henrici de Gandavo Opera Omnia* 5, ed. R. Macken (Leiden: Brill, 1979), 191–93.
104. Quodlibet 9, q. 27; *Henrici de Gandavo Opera Omnia* 13, ed. R. Macken (Leuven: University Press, 1983), 311–13.
105. Quodlibet 4, q. 20; in *Les Philosophes Belges*, vol. 2, ed. M. de Wulf and A. Pelzer (Louvain: L’Institut supérieur de philosophie, 1904), 350–51.
106. Quodlibet 12, q. 12; in *Les Philosophes Belges*, vol. 5, ed. J. Hoffmans (Louvain: L’Institut supérieur de philosophie, 1932), 121–24.
107. Gilbert Ouy, “Gerson and the Celestines: A Critical Edition,” in *Reform and Renewal in the Middle Ages and the Renaissance: Studies in Honor of Louis Pascoe*, S. J., ed. Thomas Izbicki and Christopher Bellitto (Leiden: Brill, 2000), 113–40; See also Robert Shaw, *The Celestine Monks of France, c. 1350–1450: Observant Reform in the Age of Schism, Council and War* (Amsterdam: Amsterdam University Press, 2018), 117–34.
108. Brian Patrick McGuire, “In Search of Jean Gerson: Chronology of his Life and Works,” in *A Companion to Jean Gerson*, ed. Brian Patrick McGuire (Leiden: Brill, 2006/2011), 1–39, quote at p. 36.
109. “Gerson and the Celestines: A Critical Edition,” q. 44, p. 124.
110. “Gerson and the Celestines: A Critical Edition,” q. 67, p. 129.
111. “Gerson and the Celestines: A Critical Edition,” q. 49, p. 125.

112. “Gerson and the Celestines: A Critical Edition,” q. 49, p. 125.

113. “Gerson and the Celestines: A Critical Edition,” q. 50, p. 126.

CHAPTER 6: PAPAL POWER AND THE RELIGIOUS LIFE

1. Jean Rivière, “*In partem sollicitudinis*: Evolution d’une formule pontificale,” *Revue des sciences religieuses* 5 (1925): 210–31. See Leo’s Epist. 16.1; PL 54:671; and Innocent III’s *Sermo* 2; PL 217:658.

2. Denzinger, *Enchiridion Symbolorum*, 861.

3. *Biblia sacra cum Glossa ordinaria novisque additionibus*, 6 vols. (Venice, 1603), 5:280–81.

4. *In Evangelium Matthaei* in *Opera Omnia*, 38 vols., ed. E. Borgnet, (Paris: 1890–99), 20:640–42.

5. *In Evangelium Matthaei* in *Opera Omnia*, 34 vols., ed. S. E. Fretté and P. Maré (Paris: Vivès, 1871–80), 19:473–75.

6. John A. Watt, *The Theory of Papal Monarchy in the Thirteenth Century: The Contribution of the Canonists* (New York: Fordham University Press, 1965), 75–105.

7. *Sermo* 2; PL 217:657–58.

8. J.A. Watt, “The Use of the Term ‘Plenitudo Potestatis’ by Hostiensis,” *Proceedings of the Second International Congress of Medieval Canon Law*, ed. S. Kuttner and J. Ryan (Vatican City: 1965), 161–87.

9. Kenneth Pennington, *Popes and Bishops: The Papal Monarchy in the Twelfth and Thirteenth Centuries* (Philadelphia: University of Pennsylvania Press, 1984), 65–70.

10. *Sunt quidam dicentes*, C. 25, q. 1, c. 6; Friedberg 1:1008.

11. Brian Tierney, “Pope and Council: Some New Decretist Texts,” *Mediaeval Studies* 19 (1957): 197–218, 200–202 and 210–11. Tierney provides a comprehensive overview of the canonists’ commentary in this vein, along with a substantial appendix comprising transcriptions of relevant texts. I offer a concise selection.

12. *Corpus juris canonici emendatum et notis illustratum*, Gregorii XIII. pont. max. iussu editum, 3 parts in 4 vols. (Rome, 1582), 1:1898–99.

13. *Anastasius*, D. 19. c. 9; Friedberg 1:64.

14. *Corpus juris canonici emendatum et notis illustratum*, 1:111.

15. Brian Tierney, “Pope and Council: Some New Decretist Texts,” 203–8, 218.

16. *A recta fide ergo*, C. 24, q. 1, c. 9. Friedberg 1:969; *Corpus juris canonici emendatum et notis illustratum*, 1:1834–35.

17. *Si papa*, D. 40 c. 6; Friedberg 1:146; *Corpus juris canonici emendatum et notis illustratum*, 1:259–60.

18. *Ideo permittente*, C. 25 q. 1 c. 16; Friedberg 1:1010.

19. C. 25, q.1 d.p.c. 16; Friedberg 1:1011.

20. J. Brys, *De Dispensatione in Iure Canonico* (Bruges: Beyaert, 1925), 74–79.

21. Brys, *De Dispensatione in Iure Canonico*, 138–41. See *Requiritis*, C. 1 q. 7 c. 5; Friedberg 1:430; *Corpus juris canonici emendatum et notis illustratum*, 1:793–94.
22. *Sunt quidam dicentes*, C. 25 q. 1 c. 6; Friedberg 1:1008.
23. *Corpus juris canonici emendatum et notis illustratum*, 1:1899; See *Lector*, D. 34 c. 18; Friedberg 1:130; and *Iuratos*, C. 15 q. 6 c. 5; Friedberg 1:756.
24. *Quanto Personam*, X 1.7.3; Friedberg 2:98–100.
25. Pennington, *Popes and Bishops*, 13–42.
26. *Summa de Paenitentia*, 1.8.3; 341–43.
27. Walter Ullmann, *Medieval Papalism: The Political Theories of the Medieval Canonists* (London: Methuen, 1949), 50–55.
28. John Hackett, “The State of the Church: A Concept of the Medieval Canonists,” *The Jurist* 23 (1963): 259–90.
29. *Per venerabilem*, X 4.17.13; Friedberg 2:714–16.
30. Agostino Bagliani, “De fratrum nostrorum consilio: La Plenitudo Potestatis del Papa ha Bisogno di Consigli,” in *Consilium: Teorie et Pratiche del Consigliare nella cultura medievale*, ed. C. Casagrande, C. Criscani, and S. Vecchio (Florence: SISMEI, 2004), 181–94.
31. Brys, *De Dispensatione in Iure Canonico*, 211–26.
32. *Quodlibet* 4. q. 8 a. 13; *Opera Omnia* 15:440–41.
33. *Cum ad monasterium*, X 3.35.6; Friedberg 2:599–600.
34. *Corpus juris canonici emendatum et notis illustratum*, 2:1297.
35. *Summa theologiae* 2.2, q. 88, a. 10; *Opera Omnia* 4:57–58.
36. *Summa theologiae* 2.2, q. 88, a. 11; *Opera Omnia* 4:58–60. Thomas is likely referencing the jurists canvased in the gloss on *Cum ad monasterium*, X 3.35.6; Friedberg 2:599–600; *Corpus juris canonici emendatum et notis illustratum*, 2:1297.
37. *Quodlibet* 4, q. 13; ed. Denise Cornet, “Les éléments historiques des IVE et VIe ‘Quodlibets’ de Gérard d’Abbeville,” *Mélanges d’archéologie et d’histoire* 58 (1941): 178–205, 199–201. See the canon *Cum ad monasterium*, X 3.35.6; Friedberg 2:599–600; Bernard of Clairvaux’s *De praecepto et dispensatione* 2.5; *Opera* 3:257; and his *De consideratione* 3.4.18; *Opera* 3:445–46.
38. *Francis of Assisi: Early Documents*, 1:99–106.
39. *Historia Occidentalis* 32, ed. John Frederick Hinnebusch (Fribourg: University Press of Freiburg, 1972), 158–61, trans. in *Francis of Assisi: Early Documents*, 1:582.
40. *Francis of Assisi: Early Documents*, 1:565–69.
41. For an excellent analysis of the order’s earliest days see Michael Cusato, *Francis of Assisi: His Life, Vision, and Companions* (London: Reaktion, 2023), and “Francis and the Franciscan Movement (1181/2–1226),” in *Cambridge Companion to Francis of Assisi*, ed. Michael Robson (Cambridge: Cambridge University Press, 2011), 17–33. More broadly Michael Robson, *The Franciscans in the Middle Ages* (Woodbridge, NY: Boydell, 2006); and the classic study by Malcolm Lambert, *Franciscan Poverty: The Doctrine of the Absolute Poverty of Christ and the Apostles*

in the *Franciscan Order, 1210–1323* (London: SPCK, 1961). See too the eclectic essay collection, *Poverty, Eschatology and the Medieval Church*, ed. Michael Cusato and Dabney Park (Leiden: Brill, 2023).

42. See the classic study of Yves Congar, “Aspects ecclésiologiques de la querelle entre mendiants et séculars,” *Archives d’histoire doctrinale et littéraire du Moyen Age* 28 (1961): 35–151.

43. *De Perfectione Evangelica* q. 2, a. 2; *Opera Omnia*. 10 vols. (Quaracchi: Ex Typographia Collegii S. Bonaventurae, 1882–1902), 5:141–55.

44. *Tractatus Pauperis*, c. 16, ad 28, in *Fratris Johannis Pecham: Tractatus Tres de paupertate*, ed. C. L. Kingsford, A. G. Little, and F. Tocco (Aberdeen Typis Academicis, 1910), 82–83.

45. *Exiit qui seminat*, VI 5.12.3; Friedberg 2:1109–21.

46. *Francis of Assisi: Early Documents*, 1:126–127.

47. *Expositio super regulam*, prologus, in *Hugh of Digne’s Rule Commentary*, ed. David Flood (Grottaferrata: Editiones Collegii S. Bonaventurae, 1979), 55–87, see 91–92.

48. *Expositio super regulam* 1; 93–98.

49. *Expositio super regulam* 6; 145–46, 164–65. That remaining truly poor was not so simple, see Antonio Rigon, “Mendicant Orders and the Reality of Economic Life in Italy in the Middle Ages,” in *The Origin, Development, and Refinement of Medieval Religious Mendicancies*, ed. Donald Prudlo (Leiden: Brill, 2011), 241–75.

50. *De finibus paupertatis*, ed. Claudia Florovsky in *Archivum Franciscanum Historicum* 5 (1912): 277–90.

51. David Burr, *Olivi and Franciscan Poverty: the Origins of the Usus Pauper Controversy* (Philadelphia: University of Pennsylvania Press, 1989), 43.

52. *Quaestio de usu paupere*, ed. David Burr (Perth: University of W. Australia Press, 1992), 3. For a lucid discussion of Olivi’s role in the *usus pauper* controversy see also Burr, *The Spiritual Franciscans: From Protest to Persecution in the Century After Saint Francis* (University Park: Penn State University Press, 2001), 43–65.

53. *Quaestio de usu paupere*, 14–15.

54. *Quaestio de usu paupere*, 29–30.

55. *Quaestio de usu paupere*, 32.

56. *Quaestio de usu paupere*, 71–72.

57. David Flood, “Poverty as Virtue, Poverty as Warning and Peter John Olivi,” in *Pierre de Jean Olivi (1248–1298): Pensée scolastique, dissidence spirituelle et société*, ed. Alain Boureau and Sylvain Piron (Paris: Librairie Philosophique J. Vrin, 1999), 157–72.

58. *Tractatus de usu paupere*, ed. David Burr (Perth: University of W. Australia Press, 1992), 89.

59. *Legenda maior*, prologus; *Opera Omnia* 8:504.

60. *Apologia pauperum* 11.15; *Opera Omnia* 8:315.

61. *Lectura super Apocalypsim*, ed. Warren Lewis (Saint Bonaventure, NY: Franciscan Institute Publications, 2015). See also the accompanying volume, *Peter John Olivi: Commentary on the Apocalypse*, trans., notes, and introduction by Warren Lewis (Saint Bonaventure, NY: Franciscan Institute Publications, 2017).

62. *Lectura* 6, 81, 307–8, trans., 226–29.

63. *Lectura* 6, 82, 308–9, trans., 230.

64. *Lectura* 7, 13, 336, trans., 244–45.

65. *Lectura* 7, 23, 339, trans., 248.

66. *Lectura* 7, 24, 339–40, trans., 248.

67. *Lectura* 7, 32, 342, trans., 250.

68. *Quaestio de oboedientia evangelica*, in *Peter of John Olivi on the Bible*, ed. David Flood and Gedeon Gál (Saint Bonaventure, NY: Franciscan Institute Publications, 1997), 367–404, 376.

69. *Quaestio de oboedientia evangelica*, 381.

70. *Quaestio de oboedientia evangelica*, 384–86.

71. *Quaestio de oboedientia evangelica*, 388–90. For the gloss on Matt 3:13, see *Biblia sacra cum Glossa ordinaria novisque additionibus*, 5:77.

72. *Quaestio de oboedientia evangelica*, 401. Cf. chapter 10 of the rule in *Francis of Assisi: Early Documents*, 1:105; and also, *Error cui non resistitur*, D. 83, c.3; Friedberg 1:293.

73. *Quaestio de votis dispensandis*, in *Quaestiones de Romano Pontifice*, ed. Marco Bartoli (Grottaferrata: Editiones Collegii S. Bonaventurae, 2002), 121–70.

74. *Quaestio de votis dispensandis*, 121.

75. *Quaestio de votis dispensandis*, 125.

76. *Quaestio de votis dispensandis*, 126.

77. *Quaestio de votis dispensandis*, 132–34; Cf. *Francis of Assisi: Early Documents*, 1:101.

78. *Quaestio de votis dispensandis*, 143.

79. *Quaestio de votis dispensandis*, 144.

80. *Quaestio de votis dispensandis*, 144.

81. *Quaestio de votis dispensandis*, 145–46.

82. *Quaestio de votis dispensandis*, 149.

83. *Quaestio de votis dispensandis*, 155.

84. *Quaestio de votis dispensandis*, 157.

85. *Quaestio de votis dispensandis*, 154.

86. P. Livarius Oliger, “Petri Iohannis Olivi De Renunciacione Papae,” *Archivum Franciscanum Historicum* 11 (1918): 340–73, 351–52.

87. Oliger, “Petri Iohannis Olivi De Renunciacione Papae,” 353.

88. Oliger, “Petri Iohannis Olivi De Renunciacione Papae,” 361–62.

89. Oliger, “Petri Iohannis Olivi De Renunciacione Papae,” 360.

90. Oliger, “Petri Iohannis Olivi De Renunciacione Papae,” 366–67.

91. Oliger, “Petri Iohannis Olivi De Renunciacione Papae,” 368.

92. *Quaestio de infallibilitate Romani pontificis*, in “Una questione inedita dell’Olivi sull’ infallibilità del papa,” *Rivista di storia della chiesa in Italia* 3, ed. Michele Maccarrone (1949): 309–43, 325–26; Cf. *Anastasius*, D. 19, c. 9; Friedberg 1:64.
93. *Quaestio de infallibilitate Romani pontificis*, 330.
94. *Quaestio de infallibilitate Romani pontificis*, 331.
95. *Quaestio de infallibilitate Romani pontificis*, 328–29. Cf. *Multis*, D. 17 c. 5; Friedberg 1:51–52; *Maiores causae*, X 3.42.3; Friedberg 2:644–46; and *In sede*, C. 24, q. 1, c. 11; Friedberg 1:969.
96. *Quaestio de infallibilitate Romani pontificis*, 331.
97. For these texts see: PL 215:28; PL 217:658; and PL 217:778.
98. *Quaestio de infallibilitate Romani pontificis*, 337–38.
99. *Quaestio de infallibilitate Romani pontificis*, 338–40.
100. *Quaestio de infallibilitate Romani pontificis*, 342–43. Cf. *Audivimus*, C. 24, q. 1, d.p.c. 4; Friedberg 1:967–68; *Corpus juris canonici emendatum et notis illustratum*, 1:829–30.
101. *Solitae*, X 1.33.6; Friedberg 2:196–98.
102. *Cum ad Monasterium*, X 3.35.6; Friedberg 2:599–600.
103. Quodlibet 1, q. 18, ed. Stefano Defraia, *Quodlibeta Quinque* (Grottaferrata: Editiones Collegii S. Bonaventurae, 2002), 64–75; Cf. *De universalissima potestate papae*, in *Quaestiones de Romano Pontifice* 171–79. Cf. Bernard’s *De consideratione* 3.4.18; *Opera* 3:445; and *Sunt quidam dicentes*, C. 25 q. 1 c. 6; Friedberg 1:1008.
104. *Quaestio de perfectione evangelica* 16, edited in David Burr and David Flood, “Peter Olivi: On Poverty and Revenue,” *Franciscan Studies* 40 (1980): 18–58.
105. *Quaestio de perfectione evangelica* 16; 57–58.
106. Marco Bartoli, “Olivi et le Pouvoir du Pape,” in *Pierre de Jean Olivi (1248–1298): Pensée scolastique, dissidence spirituelle et société*, 173–91, 186.
107. *Circa materiam de usu paupere*, in “Super Tribus Sceleribus,” ed. A. Heysee *Archivum Franciscanum Historicum* 10 (1917): 103–74, 116–22. See also Burr, *Spiritual Franciscans*, 261–77; and Charles Davis, *Ubertino da Casale and His Conception of “Altissima Paupertas”* (Spoleto: Centro italiano di studi sull’alto Medioevo, 1984).
108. *Circa materiam de usu paupere*, 123–25.
109. *Circa materiam de usu paupere*, 129–32.
110. *Circa materiam de usu paupere*, 150–51.
111. *Declaratio*, in *Archiv für Literatur- und Kirchengeschichte des Mittelalters*, ed. Heinrich Denifle and Franz Ehrle, 7 vols. (Berlin: Weidmannsche Buchhandlung, 1885–1900), 3:162–95.
112. *Sanctitas vestra*, ed. Denifle and Ehrle, 3:56–67.
113. *Sanctitas vestra*, ed. Denifle and Ehrle, 3:67–83.
114. *Sanctitas vestra*, ed. Denifle and Ehrle, 3:83–87.
115. *Declaratio*, ed. Denifle and Ehrle, 3:162–71.
116. *Sanctitas vestra*, ed. Denifle and Ehrle, 3:54–56.

117. Clem. 5.11.1; Friedberg 2:1193–1200.
118. Extrav. Jo. XXII 14.1; Friedberg 2:1220–24.
119. Patrick Nold, “Pope John XXII, the Franciscan Order, and its *Rule*,” in *Cambridge Companion to Francis of Assisi*, 258–72, and “Two Views of John XXII as a Heretical Pope,” in *Defenders and Critics of Franciscan Life: Essays in Honor of John V. Fleming*, ed. Michael Cusato and G. Geltner (Leiden: Brill, 2009), 139–58; See also Malcolm Lambert, “The Franciscan Crisis under John XXII,” *Franciscan Studies* 32 (1972): 123–43.
120. Burr, *Olivi and Franciscan Poverty*, ix–x.

CHAPTER 7: CHRISTIANS MAY CORRECT THE POPE

1. *De potestate regia et papali* 22, ed. Fritz Bleienstein (Stuttgart: Ernst Klett Verlag, 1969), 193–94.
2. *Quia nonnunquam*, in *Nicolaus Minorita: Chronica*, ed. Gedeon Gál and David Flood (Saint Bonaventure, NY: Franciscan Institute Publications, 1996), 64–66. In fact, John XXII frequently appointed expert commissions to review a variety of topics; on this see Isabel Iribarren, “Black Magic to Heresy: A Doctrinal Leap in the Pontificate of John XXII,” *Church History* 76 (2007): 32–60.
3. *Declaratio Magistrorum et Baccalariorum de Paupertate Christi et Apostolorum*, in *Nicolaus Minorita: Chronica*, 71–82.
4. *Declaratio Magistrorum et Baccalariorum de Paupertate Christi et Apostolorum*, 71.
5. *Declaratio Magistrorum et Baccalariorum de Paupertate Christi et Apostolorum*, 72.
6. *Declaratio Magistrorum et Baccalariorum de Paupertate Christi et Apostolorum*, 75–76.
7. *Declaratio Magistrorum et Baccalariorum de Paupertate Christi et Apostolorum*, 76–77.
8. *Ad conditorem canonum*, in *Nicolaus Minorita: Chronica*, 118–27.
9. *Ad conditorem canonum*, 118–20.
10. *Ad conditorem canonum*, 120–21. For Gerard of Abbeville’s argument see his *Contra Adversarium Perfectionis Christianae*, ed. P. S. Classen, in *Archivum Franciscanum Historicum* 31–32 (1938–39): 276–329; 89–200.
11. *Ad conditorem canonum*, 124. See also *Quia vir reprobis*, in *Nicolaus Minorita: Chronica*, 582–83.
12. *Appellatio Bonagratiae de Pergamo*, in *Nicolaus Minorita: Chronica*, 89–117.
13. *Appellatio Bonagratiae de Pergamo*, 89–92. For the bull *Non sine multa cordis amaritudine*, see *Bullarium Franciscanum*, 7 vols. (Rome: Vatican, 1759–68; 1898–1904; 1929–49), 2:165–66, no. 244.
14. *Appellatio Bonagratiae de Pergamo*, 94–95. These arguments are reminiscent of those made already in the thirteenth century by Saint Bonaventure in his *Apolo-gia pauperum* 11.7–9, *Opera Omnia*. 10 vols. (Quaracchi: Ex Typographia Collegii S. Bonaventurae, 1882–1902), 8:312–13.

15. *Appellatio Bonagratiae de Pergamo*, 95–97.
16. *Appellatio Bonagratiae de Pergamo*, 99–101.
17. *Appellatio Bonagratiae de Pergamo*, 102–3.
18. *Appellatio Bonagratiae de Pergamo*, 108–9.
19. *Appellatio Bonagratiae de Pergamo*, 110. Cf. again Bonaventure, *Apologia pauperum* 11.7; *Opera Omnia* 8:312.
20. *Opus nonaginta dierum* 61, *Opera Politica*, 4 vols., ed. H. S. Offler et al. (Manchester: Manchester University Press, 1940–1974), 2:558–63.
21. *Opus nonaginta dierum* 65, *Opera Politica* 2:573–80. See also Brian Tierney, *Liberty and Law: The Idea of Permissive Natural Law, 1100–1800* (Washington, D.C.: Catholic University of America, 2014), 95–121. Cf. *Ius naturale*, D. 1, c. 7; Friedberg 1:2.
22. *Cum inter nonnullos*, in *Nicolaus Minorita: Chronica*, 128–29. In his 1329 bull *Quia vir reprobis*, a very substantial work of biblical exegesis, John similarly insisted that Scripture proves that Jesus Christ had not forfeited dominion in this world; in *Nicolaus Minorita: Chronica*, 553–613; See also Melanie Brunner, “Pope John XXII and the Michaelists: The Scriptural Title of Evangelical Poverty in *Quia vir reprobis*,” *Church History and Religious Culture* 94 (2014): 197–226.
23. *Appellatio de Sachsenhausen*, in *Nicolaus Minorita: Chronica*, 130–58.
24. *Appellatio de Sachsenhausen*, 130–31.
25. *Appellatio de Sachsenhausen*, 143–44.
26. *Appellatio de Sachsenhausen*, 144–45.
27. *Appellatio de Sachsenhausen*, 146–48; Cf. the gloss on Matt 16:19, *Biblia sacra cum Glossa ordinaria novisque additionibus*, 6 vols. (Venice: 1603), 5:280–81.
28. *Appellatio de Sachsenhausen*, 149.
29. *Quia quorundam mentes*, in *Nicolaus Minorita: Chronica*, 159–71, 160–61.
30. The classic study is Brian Tierney’s *Origins of Papal Infallibility: 1150–1350* (Leiden: Brill, 1972).
31. Brian Tierney, “Infallibility and the Medieval Canonists: A Discussion with Alfons Stickler,” *Catholic Historical Review* 61 (1975): 265–73, quote at 265.
32. James Heft, *John XXII and Papal Teaching Authority* (Lewiston, NY: Edwin Mellen Press, 1986), 167–92. See also Thomas Turley, “Infallibilists in the Curia of Pope John XXII,” *Journal of Medieval History* 1 (1975): 71–101.
33. *Littera Excusatoria Michaelis de Caesena*, in *Nicolaus Minorita: Chronica*, 1996), 207–11.
34. *Appellatio in forma maiore*, in *Nicolaus Minorita: Chronica*, 406–13. Cf. *Dicimus omnino*, C. 24, q. 1, c. 31; Friedberg 1:977; *Audivimus*, C. 24, q. 1, d.p.c. 4; Friedberg 1:967–68; *Achiatus non est*, C. 24, q. 1, c. 1; Friedberg 1:966; *Corpus juris canonici emendatum et notis illustratum*, Gregorii XIII. pont. max. iussu editum, 3 parts in 4 vols. (Rome: 1582), 1:1828; and *Error cui non resistitur*, D. 83, c.3; Friedberg 1:293.
35. Christian Trottman, *La vision béatifique: Des disputes scolastiques à sa définition par Benoît XII* (Rome: École française de Rome, 1995), 417–70. For the text

of *Sol oriens mundo* see *Bullarium Franciscanum* 5:111–14, no. 257 at 113. See also Melanie Brunner, “Poverty and Charity: Pope John XXII and the Canonization of Louis of Anjou,” *Franciscan Studies* 69 (2011): 231–56; and Marco Guida, “La lettera di canonizzazione *Sol oriens* di Giovanni XXII,” in *Da Ludovico d’Angiò a san Ludovico di Tolosa: I testi e le immagini*, eds. T. D’Urso, A. Saggese, and D. Solvi (Spoleto: Fondazione Centro Italiano di Studi Sull’Alto Medioevo, 2017), 321–53.

36. This sermon is edited by Marc Dykmans, *Les Sermons de Jean XXII sur la vision béatifique* (Rome: Presses de l’Université Grégorienne, 1973), 85–99, esp. 93–96. For Bernard of Clairvaux’s sermon see: *S. Bernardi opera*, ed. Jean Leclercq, C. H. Talbot, H. M. Rochais, 8 vols. (Rome: Editiones Cistercienses, 1957–1977), 5:354–56.

37. James Heft, *John XXII and Papal Teaching Authority* (Lewiston, NY: Edwin Mellen Press, 1986), 1–5.

38. Isabel Iribarren, “Consensus et Dissidence à la Cour Papale D’Avignon: Le Cas de la Controverse sur la Vision Béatifique,” *Revue des sciences religieuses* 82 (2008): 107–26, and “Ockham and the Avignon Papacy: The Controversy with John XXII, Benedict XII and Clement VI,” in *A Companion to the Responses to Ockham*, ed. Christian Rode (Leiden: Brill 2016), 334–64, esp. 352–58.

39. *Collectio judiciorum de novis erroribus, Opera Iohannes Gerson*, ed. L. E. Dupin, 5 vols. (Antwerp: Sumptibus Societatis, 1706), 1:80.

40. CUP 2:429, no. 981.

41. CUP 2:432–433, no. 982.

42. CUP 2:440–441, no. 987.

43. *Acta Benedicti XII*, ed. Aloysius Tautau (Rome: Typis Polyglottis, 1958), 10–13. For further context see Christian Trottman, “Benedict XII and the Beatific Vision,” in *Pope Benedict XII (1334–1342): The Guardian of Orthodoxy*, ed. Irene Bueno (Amsterdam: Amsterdam University Press, 2018), 81–106.

44. *Epistola ad Fratres Minores; Opera Politica* 3:6–17.

45. *Tractatus contra Iohannem*, prologue; *Opera Politica* 3:29.

46. *Tractatus contra Iohannem* 1; *Opera Politica* 3:30–34.

47. *Tractatus contra Iohannem* 2; *Opera Politica* 3:34–37.

48. *Tractatus contra Iohannem* 37; *Opera Politica* 3:134–35.

49. *Tractatus contra Iohannem* 18; *Opera Politica* 3:78–79.

50. *Tractatus contra Iohannem* 38; *Opera Politica* 3:139. See *His qui*, C. 26, q. 6, c. 10; Friedberg 1:1038; *Corpus juris canonici emendatum et notis illustratum*, 1:1945.

51. *Tractatus contra Iohannem* 3; *Opera Politica* 3:37–43. See *Error cui non resistitur*, D. 83, c.3; Friedberg 1:293; and *Ostendit*, C. 23, q. 3, c. 11; Friedberg 1:898.

52. *Tractatus contra Iohannem* 9; *Opera Politica* 3:52–53. Cf. Gratian’s comments: C. 1, q. 4, c. 12, *pars* 4; Friedberg 1:422.

53. *Tractatus contra Iohannem* 13; *Opera Politica* 3:61–62.

54. CUP 2:434–436, no. 983.

55. *Tractatus contra Iohannem* 14; *Opera Politica* 3:62–63.

56. *Tractatus contra Iohannem* 14; *Opera Politica* 3:63.

57. *Tractatus contra Iohannem* 15; *Opera Politica* 3:72–74.

58. Irene Bueno, “Jacques Fournier and the Poverty Controversy: New Evidence from a Neglected Gospel Commentary,” *Journal of Ecclesiastical History* 73 (2022): 737–64.

59. *Tractatus contra Benedictum* 1.17; *Opera Politica* 3:213.

60. *Tractatus contra Benedictum* 1.1; *Opera Politica* 3:167–69. *Qui aliorum*, C. 24, q. 3, c. 32; Friedberg 1:999; *Corpus juris canonici emendatum et notis illustratum*, 1:1888; and *Error cui non resistitur*, D. 83, c.3; Friedberg 1:293.

61. 1 *Dialogus* 6.37–39; British Academy, online August 2021 edition, 100–103. Cf. Ambrose *De officiis* 1.36; *Non in inferenda*, C. 23, q. 3, c. 7; Friedberg 1:897–98.

62. 1 *Dialogus* 6.50; British Academy, online August 2021 edition, 144–47. See Cicero, *De officiis* 1.23, *On Obligations*, trans. P. G. Walsh (Oxford: Oxford University Press, 2000), 10. See also Takashi Shogimen, *Ockham and Political Discourse in the Late Middle Ages* (Cambridge: Cambridge University Press, 2007), 140–43; Cf. *Pasce*, D. 86, c. 21; Friedberg 1:302; and *Si culpa*, X 5.36.9; Friedberg 2:880.

63. 1 *Dialogus* 6.50, British Academy, online August 2021 edition, 148–53.

64. Thomas Connolly, *Appeals: An Historical Synopsis and Commentary* (Washington D.C.: Catholic University of America, 1932), 40–49. Cf. C. 2, q. 6 cc. 1–41; Friedberg 1:466–83.

65. 1 *Dialogus* 6.45, British Academy, online August 2021 edition, 128–37.

66. 1 *Dialogus* 6.48, British Academy, online August 2021 edition, 142–43.

67. 1 *Dialogus* 6.49, British Academy, online August 2021 edition, 143–44.

68. *An Princeps* 6; *Opera Politica* 1:253–54.

69. *Octo Quaestiones de Potestate Papae* 3.4; *Opera Politica* 1:105–9. Cf. VI 6.5.12; Friedberg 2:1122.

70. *Breviloquium de Principatu Tyrannico* 2.24; *Opera Politica* 4:160–61. Cf. *Cum tanto sint*, X 1.4.11; Friedberg 2:41; See Janet Coleman, “Ockham’s Right Reason and the Genesis of the Political as ‘Absolutist,’” *History of Political Thought* 20 (1999): 35–64, quote at 52.

71. Shogimen, *Ockham and Political Discourse in the Late Middle Ages*, 246–62. See also Roberto Lambertini, “Old Wine in New Wineskins: William of Ockham and the Common Good in Context,” in *Common Good and Self-Interest in Medieval and Early Modern Philosophy*, ed. H. Haara and J. Toivanen (New York: Springer, 2024), 131–48.

72. *An Princeps* 2; *Opera Politica* 1:236.

73. *Breviloquium de Principatu Tyrannico* 2.6; *Opera Politica* 4:121–22.

74. *Breviloquium de Principatu Tyrannico* 2.20; *Opera Politica* 4:153.

75. *Breviloquium de Principatu Tyrannico* 2.9; *Opera Politica* 4:127.

76. 3 *Dialogus*, 1.1.9, ed. J. Kilcullen, J. Scott, J. Ballweg, and V. Leppin (Oxford: British Academy, 2011), 141.

77. 3 *Dialogus*, 1.1.9; 143.

78. 3 *Dialogus*, 1.1.9; 143–44.

79. 1 *Dialogus* 6.47; British Academy, online, August 2021 edition, 138–42.

80. *Biblia sacra cum Glossa ordinaria novisque additionibus*, 6:1273.

81. *Summa theologiae* 1.2, q. 106; *Opera Omnia*, 34 vols., ed. S. E. Fretté and P. Maré (Paris: Vivès, 1871–80), 3:1–6.

82. *Summa theologiae* 1.2, q. 107; *Opera Omnia* 3:6–11.

83. *Breviloquium de Principatu Tyrannico* 2.17; *Opera Politica* 4:146–48.

84. 3 Dialogus, 1.1.7; 136–37; Cf. *Duae sunt leges*, C. 19, q. 2. c. 2; Friedberg 1:839–40.

85. 3 Dialogus, 1.1.5; 130–33.

86. See the insightful study by Bénédicte Sère, *Les débats d'opinion à l'heure du Grand Schisme: ecclésiologie et politique* (Turnhout: Brepols, 2016), specifically 206–7. See also Kenneth Capalbo, “Politia Christiana: The Ecclesiology of Alvarus Pelagius,” *Franciscan Studies* 46 (1986): 317–27, 322; Brian Tierney, *Foundations of the Conciliar Theory: The Contribution of the Medieval Canonists from Gratian to the Great Schism*, revised edition (Leiden: Brill, 1988), 135, n. 39; and John A. Watt, *The Theory of Papal Monarchy in the Thirteenth Century: The Contribution of the Canonists* (New York: Fordham University Press, 1965), 110, n. 5.

87. *Tractatus de ecclesiae* 3.4, Dupin vol. 2:959–60; Cf. *Biblia sacra cum Glossa ordinaria novisque additionibus*, 6:479–80; and *Si papa*, D. 40 c. 6; *Corpus juris canonici emendatum et notis illustratum*, 1:259–60.

88. *De necessitate reformationis ecclesiae in capite et membris* 1, Dupin vol. 2: 885–86. D’Ailly cites no texts regarding the supposed impeccability of the pope, so it is not clear which canonists he has in mind. This may be a theologian’s summation of an otherwise more nuanced position of the jurists. For the gloss on Matt 16:19 see *Biblia sacra cum Glossa ordinaria novisque additionibus*, 5:280–81.

89. *Tractatus de ecclesiae* 3.4, Dupin vol. 2:957–59.

90. *Tractatus de ecclesiae* 3.1, Dupin vol. 2:949.

91. *Tractatus de ecclesiae* 3.4, Dupin vol. 2:959. Cf. *Cum ex illo*, X 1.7.1; Friedberg: 2:96–97; *Corpus juris canonici emendatum et notis illustratum*, 2:211; and *Si ea destruerem*, C. 25, q. 2, c. 4; Friedberg 1:1013.

92. *De civili dominio* 2.11, ed. R. L. Poole and Johann Loserth, 4 vols. (London: Wyclif Society, 1885/1900–1904), 120. On Wyclif’s theories of grace-based dominion generally see Stephen Lahey, *Philosophy and Politics in the Thought of John Wyclif* (Cambridge: Cambridge University Press, 2003).

93. *De civili dominio* 2.11; 121. Cf. the gloss on *Si papa*, D. 40, c. 6; Friedberg 1:146; *Corpus juris canonici emendatum et notis illustratum*, 1:259–60.

94. *De civili dominio* 2.11; 121.

95. *De potestate papae* 10, ed. Johann Loserth (London: Wyclif Society, 1907), 263–65.

96. *Sermo* 43, in *Iohannis Wyclif Sermones*, ed. Johann Loserth 4 vols. (London: Wyclif Society, 1887–1890), 2:311.

97. *De ordine christiano* 5, in *Opera Minora*, ed. Johann Loserth (London: Wyclif Society, 1910), 138.

98. Letter 128 in *Roberti Grosseteste Episcopi Quondam Lincolniensis Epistolae*, ed. H. R. Luard (London: Longman, Green, Longman, and Roberts, 1861), 432–37, quote at 433; See Brian Tierney, “Grosseteste and the Theory of Papal Sovereignty,” *Journal of Ecclesiastical History* 6 (1955): 1–17.

99. *De ecclesia* 2, ed. Johann Loserth (London: Wyclif Society, 1886), 32.

100. *De ecclesia* 19; 177.

101. *De ecclesia* 19; 179.

102. *De substraccione obediencie*, ed. Howard Kaminsky (Cambridge, MA: Medieval Academy Books, 1984), 162.

103. *De substraccione obediencie*, 116–18. Cf. *Tam sacerdotes*, C. 24, q. 3, c. 14 Friedberg 1:994.

104. *De substraccione obediencie*, 94. Cf. *De officiis* 1.36; *Non in inferenda*, C. 23, q. 3, c. 7; Friedberg 1:897–98.

105. *De substraccione obediencie*, 97. Cf. *Cum non ab homine*, X 2.1.10; Friedberg 2:242; *Error cui non resistitur*, D. 83, c.3; Friedberg 1:293; and *Consentire*, D. 83 c. 5; Friedberg 1:294.

106. Sère, *Les débats d'opinion à l'heure du Grand Schisme: ecclésiologie et politique*, 171–97.

107. *De substraccione obediencie*, 89.

108. *De substraccione obediencie*, 130.

109. *De substraccione obediencie*, 127.

110. *De substraccione obediencie*, 156.

111. *De substraccione obediencie*, 164. Cf. *Si petrus*, C. 8. q. 1. c. 1; Friedberg 1:590; *Corpus juris canonici emendatum et notis illustratum*, 1:1120.

112. *De substraccione obediencie*, 90–91. Cf. *Sunt quidam dicentes*, C. 25 q. 1 c. 6; Friedberg 1:1008; *Ne Romani*, Clem 1.3.2; Friedberg 2:1135–36; *Si papa*, D. 40, c. 6; *Corpus juris canonici emendatum et notis illustratum*, 1:259–60; Bernard of Clairvaux, *De consideratione* 4.7.23, *Opera* 3:465–66.

113. *De substraccione obediencie*, 118.

114. *De substraccione obediencie*, 114.

115. *De substraccione obediencie*, 104.

116. *De substraccione obediencie*, 105. Cf. Gregory the Great, *Homily on Ezekiel* 1.7.5 CCSL 142:82; and *Violatores*, C. 25 q. 1. c. 5; Friedberg 1:1008.

117. *De substraccione obediencie*, 101. Cf. *Literas tuas*, X 2.13.13; Friedberg 2:286–88; and *Inquisitione tuae respondentis*, X 5.39.44; Friedberg 2:908.

118. *Libellus articulorum contra Petrum de Luna*, in *Oeuvres Complètes de Jean Gerson*, 10 vols., ed. P. Glorieux (Paris: Desclée, 1960–73), 6:267.

119. *Libellus articulorum contra Petrum de Luna*, ed. Glorieux, 6:273–74.

120. *An liceat in causis fidei a papa appellare*, ed. Glorieux 6:283–90, esp. 284. See also *De vita spirituali animae*, ed. Glorieux, 3:162.

121. *Apparuit gratia Dei*, ed. Glorieux 5:63–90, esp. 71–72.

122. *Ambulate dum lucem habetis*, ed. Glorieux 5:39–50, esp. 44–45.

123. *De potestate ecclesiastica*, ed. Glorieux, 6:210–50, esp. 211.

124. *De potestate ecclesiastica*, ed. Glorieux, 6:228.

125. G. H. M. Posthumus Meyjes, *Jean Gerson: Apostle of Unity* (Leiden: Brill, 1999), 269–92.

126. *De potestate ecclesiastica*, ed. Glorieux, 6:232.

127. *De potestate ecclesiastica*, ed. Glorieux, 6:233.

128. *Biblia sacra cum Glossa ordinaria novisque additionibus*, 5:1188; and 5:1335.

For further analysis of the various ways this text was employed see Bénédict Sère, “Bonus Pastor animam suam dat pro vobis (Jn 10, 11): Le thème du Bon Pasteur au coeur des débats du Grand Schisme,” in *Apprendre, produire, se conduire: le modèle au Moyen Age* (Paris: Sorbonne, 2015), 117–31.

129. *De iurisdictione spirituali*, ed. Glorieux 3:1.

130. *De iurisdictione spirituali*, ed. Glorieux 3:2–3.

131. *Tractatus de unitate ecclesiae*, ed. Glorieux, 6:143.

132. *Tractatus de unitate ecclesiae*, ed. Glorieux, 6:138.

133. *De vita spirituali animae*, ed. Glorieux, 3:153.

CONCLUSION

1. Luther lays these principles out at some length in his 1521 *De votis monasticis Martini Lutheri iudicium*; WA 8:573–669. For further analysis see Michael G. Baylor, *Action and Person: Conscience in Late Scholasticism and the Young Luther* (Leiden: Brill, 1977), 209–72; and George Forell, “Luther and Conscience,” in *Encounters with Luther*, ed. Eric Gritsch (Gettysburg, PA: Institute for Luther Studies, 1980), 218–26.

2. John Henry Newman, *A Letter Addressed to the Duke of Norfolk* (London: Longman, Green, and Co., 1900; reprint: Aeterna Press, 2015). Here I follow the reprint pagination.

3. *A Letter Addressed to the Duke of Norfolk*, 42.

4. *A Letter Addressed to the Duke of Norfolk*, 41–42.

5. *A Letter Addressed to the Duke of Norfolk*, 44–45.

6. *A Letter Addressed to the Duke of Norfolk*, 50.

BIBLIOGRAPHY

PRIMARY SOURCES: GENERAL WORKS

- Biblia sacra cum Glossa ordinaria novisque additionibus*. 6 vols. Venice, 1603.
- Bullarium Franciscanum*. 7 vols. Rome: Vatican, 1759–68; 1898–1904; 1929–49.
- Chartularium Universitatis Parisiensis*. 4 vols. Edited by Henry Denifle. Paris: 1889–1897; reprint, Cambridge: Cambridge University Press, 2014.
- Corpus Christianorum. Continuatio Mediaevalis*. Turnhout: Brepols, 1971–.
- Corpus Christianorum. Series Latina*. Turnhout: Brepols, 1953–.
- Corpus iuris canonici*. 2 vols. Edited by Emil Friedberg. Leipzig: 1879; reprint, Graz: Akademische Druck- u. Verlagsanstalt, 1960.
- Corpus iuris canonici emendatum et notis illustratum*. Gregorii XIII. pont. max. iussu editum. 3 parts in 4 vols. Rome, 1582.
- Decrees of the Ecumenical Councils*. 2 vols. Edited by Norman Tanner. Washington, D.C.: Georgetown University Press, 1990.
- Enchiridion Symbolorum*. 36th edition. Edited by Henry Denzinger and Adolf Schönmetzer. Rome: Herder, 1976.
- Fasciculi Zizaniorum Magistri Johannis Wyclif cum Tritico*. Edited by W. W. Shirley. London: Longman, Brown, Green, Longman, and Roberts, 1858.
- Francis of Assisi: Early Documents*. 3 vols. Edited by Regis Armstrong, Wayne Hellmann, and William Short. New York: New City Press, 2001.
- Nicolaus Minorita: Chronica*. Edited by Gedeon Gál and David Flood. Saint Bonaventure, NY: Franciscan Institute Publications, 1996.
- Patrologia Latina Cursus Completus. Series Latina*. Edited by J. P. Migne. Paris, 1844–.
- D. Martin Luthers Werke (Weimarer Ausgabe)*. 136 vols. Weimar: Hermann Böhlau, 1883–2009.

PRIMARY SOURCES: INDIVIDUAL AUTHORS

- Abelard, Peter. *Peter Abelard's Ethics*. Edited and translated by David Luscombe. Oxford: Oxford University Press, 1971.
- . *Scito te ipsum*. In *Petri Abaelardi Opera Theologica*, vol. 4. Edited by Rainer M. Ilgner. CCCM 190. Turnhout: Brepols, 2001.
- Acta Benedicti XII*. Edited by Aloysius Tautau. Rome: Typis Polyglottis Vaticanis, 1958.
- Alan of Lille, *Liber poenitentialis*. 2 vols. Edited by Jean Longère. Louvain: Éditions Nauwelaerts, 1965.
- Alexander of Hales. *Alexandri Alensis Angli Summa Theologiae: Pars Quarta*. Cologne: Sumptibus Ioannis Gymnici, sub Monocerote, 1622.

- . *Glossa in quatuor libros Sententiarum Petri Lombardi*. 4 vols. Quaracchi: Collegium S. Bonaventurae, 1951–1957.
- Aquinas, Thomas. *Opera Omnia*. 34 vols. Edited by S. E. Frettté and P. Maré. Paris: Vivès, 1871–1880.
- . *Opuscula Theologica*. 2 vols. Edited by R. Verardo. Turin and Rome: Marietti, 1954.
- Auriol, Peter. *Peter Aureoli Scriptum super Primum Sententiarum*. Edited by Eligius Buytaert. Saint Bonaventure, NY: Franciscan Institute Publications, 1952.
- Bacon, Roger. *Rogeri Bacon Opera quaedam hactenus inedita*. Edited by J. S. Brewer. London: Longman, Green, Longman, and Roberts, 1859.
- Bernard of Clairvaux. *De Praecepto et Dispensatione*. In *S. Bernardi opera*. 8 vols. Edited by Jean Leclercq, C. H. Talbot, H. M. Rochais. Rome: Editiones Cistercienses, 1957–1977.
- . *On Precept and Dispensation*. In *The Works of Bernard of Clairvaux*, vol. 1 (*Treatises I*). Introduction by Jean Leclercq. Translated by Conrad Greenia. Spencer, MA: Cistercian Publications, 1970.
- Bonaventure. *Opera Omnia*. 10 vols. Quaracchi: Ex Typographia Collegii S. Bonaventurae, 1882–1902.
- Cicero, *De officiis; On Obligations*. Translated by P. G. Walsh. Oxford: Oxford University Press, 2000.
- D'Ailly, Pierre. *Collectio judiciorum de novis erroribus*. 3 vols. Edited by Charles de Plessis d'Argentré. Paris: Lambert Coffine, 1724–1736.
- . Various works contained in: *Johannes Gerson Opera Omnia*. 5 vols. Edited by L. E. Dupin. Antwerp: Sumptibus Societatis, 1706.
- Duns Scotus. *Opera Omnia*. 21 vols. Edited by C. Balić et al. Vatican City: Typis Polyglottis Vaticanis, 1950–2015.
- Gerson, Jean. *Oeuvres Complètes de Jean Gerson*. 10 vols. Edited by P. Glorieux. Paris: Desclée, 1960–1973.
- Godfrey of Fontaines. *Quodlibetal Quaestiones*. In *Les Philosophes Belges*. Edited by Maurice de Wulf, Auguste Pelzer, and Jean Hoffmans. Louvain: L'Institut supérieur de philosophie, 1904–1937.
- Grosseteste, Robert. *Roberti Grosseteste Episcopi Quondam Lincolniensis Epistolae*. Edited by H. R. Luard. London: Longman, Green, Longman, and Roberts, 1861.
- Henry of Ghent. *Henrici de Gandavo Opera Omnia*. Edited by R. Macken et al. Leiden/Leuven: Leuven University Press, 1979–.
- Holcot, Robert. *Quattuor Libros Sententiarum*. Lyons: 1518; reprint, Frankfurt: Minerva GMBH, 1967.
- . *Robert Holcot O.P. und die Akademischen Auseinandersetzungen an der Universität Oxford 1330–1332*. Edited by Fritz Hoffmann. Münster: Aschendorff, 1993.
- Hugh of Digne. *De finibus paupertatis*. In *Archivum Franciscanum Historicum* 5. Edited by Claudia Florovsky (1912): 277–90.

- . *Expositio super regulam. Hugh of Digne's Rule Commentary*. Edited by David Flood. Grottaferrata: Editiones Collegii S. Bonaventurae, 1979.
- Hus, Jan. *The Letters of Jan Hus*. Edited by Matthew Spinka. Manchester: University of Manchester Press, 1972.
- . *Magistri Johannis Hus Tractatus de ecclesia*. Edited by S. Harrison Thomson. Boulder: University of Colorado Press, 1956.
- . *M. Jana Husi, Korrespondence a dokumenty*. Edited by Václav Novotný. Prague: 1920.
- Jacques de Vitry. *Historia Occidentalis*. Edited by John Frederick Hinnebusch. Fribourg: University Press of Fribourg, 1972.
- John of Paris. *De potestate regia et papali*. Edited by Fritz Bleienstein. Stuttgart: Ernst Klett Verlag, 1969.
- Langton, Stephen. *Selected Sermons of Stephen Langton*. Edited by Phyllis B. Roberts. Toronto: Pontifical Institute of Mediaeval Studies, 1980.
- Newman, John Henry. *A Letter Addressed to the Duke of Norfolk*. London: Longman, Green, and Co., 1900; reprint: Aeterna Press, 2015.
- Nicholas of Lyra. *Postilla super totam Bibliam*. Printed in *Biblia sacra cum Glossa ordinaria novisque additionibus*. 6 vols. Venice, 1603.
- Nider, Johannes. *Consolatorium timoratae conscientiae*. Cologne: Johann Schilling, 1473.
- Pecham, John. *Fratrís Johannis Pecham: Tractatus Tres de paupertate*. Edited by C. L. Kingsford, A. G. Little, and F. Tocco. Aberdeen: Typis Academicis, 1910.
- Peter John Olivi. *Circa materiam de usu paupere*. In A. Heysee, "Super Tribus Sceleribus." *Archivum Franciscanum Historicum* 10 (1917): 103–74.
- . D. Laberge, "Fr. Petri Ioannis Olivi, O.F.M. tria scripta sui ipsius apologetica annorum 1283 et 1285." *Archivum Franciscanum Historicum* 28 (1935) 115–55, 374–407, 595–608; 29 (1936) 98–141, 366–87.
- . *De universalissima potestate papae*. In *Quaestiones de Romano Pontifice*. Edited by Marco Bartoli, 171–79. Grottaferrata: Editiones Collegii S. Bonaventurae, 2002.
- . *Lectura super Apocalypsim*. Edited by Warren Lewis. Saint Bonaventure, NY: Franciscan Institute Publications, 2015.
- . P. G. Fussenegger. "Littera septem sigillorum' contra doctrinam Petri Iohannis Olivi edita." *Archivum Franciscanum Historicum* 47 (1954): 45–53.
- . P. Livarius Oligier. "Petri Iohannis Olivi De Reuniciatione Papae," *Archivum Franciscanum Historicum* 11 (1918): 340–73.
- . *Peter of John Olivi: Commentary on the Apocalypse*. Translation, notes, and Introduction by Warren Lewis. Saint Bonaventure, NY: Franciscan Institute Publications, 2017.
- . *Peter of John Olivi on the Bible*. Edited by David Flood and Gedeon Gál. Saint Bonaventure, NY: Franciscan Institute Publications, 1997.

- . “Petrus Ioannis Olivi, Epistola ad Fratrem R.” Edited by Cynthia Kilmer and Elisa Marmursztejn. Revised, introduced, and annotated by Sylvain Piron. *Archivum Franciscanum Historicum* 91 (1998): 33–64.
- . *Quaestio de infallibilitate Romani pontificis*. Edited by Michele Maccarrone, in “Una questione inedita dell’Olivi sull’ infallibilità del papa.” *Rivista di storia della chiesa in Italia* 3 (1949): 309–43.
- . *Quaestio de perfectione evangelica* 16. In “Peter Olivi: On Poverty and Revenue.” Edited by David Burr and David Flood. *Franciscan Studies* 40 (1980): 18–58.
- . *Quaestio de usu paupere*. Edited by David Burr. Perth: University of W. Australia Press, 1992.
- . *Quaestio de votis dispensandis*. In *Quaestiones de Romano Pontifice*. Edited by Marco Bartoli, 121–70. Grottaferrata: Editiones Collegii S. Bonaventurae, 2002.
- . Quodlibet 1, q. 18. In *Quodlibeta Qunique*. Edited by Stefano Defraia, 64–75. Grottaferrata: Editiones Collegii S. Bonaventurae, 2002.
- Peter Lombard. *Sententiae in IV libris distinctae*. 2 vols. Edited by Ignatius Brady. Grottaferrata: Editiones Collegii S. Bonaventurae, 1981.
- Peter of Mladoňovice. *John Hus at the Council of Constance*. Translated by Matthew Spinka. New York: Columbia University Press, 1965.
- . *Petri de Mladoniowicz relatio de Magistro Johanne Hus*. Edited by Václav Novotný. *Fontes Rerum Bohemicarum*. Prague: 1932.
- Peter the Chanter. *Verbum abbreviatum*. Edited by M. Boutry. CCCM 196. Turnhout: Brepols, 2004.
- Raymond of Peñafort. *Summa de Paenitentia*. Edited by Xavierio Ochea and Aloisio Diez. Rome: Commentarium pro Religione, 1976.
- Robert of Flamborough. *Liber Poenitentialis*. Edited by J. J. Francis Firth. Toronto: Pontifical Institute of Mediaeval Studies, 1971.
- Robert of Melun. *Oeuvres de Robert de Melun*. 4 vols. Edited by Raymond M. Martin. Louvain: Spicilegium Sacrum Lovaniense, 1932–1952.
- Simon de Cramaud. *De substraccione obediencie*. Edited by Howard Kaminsky. Cambridge, MA: Medieval Academy Books, 1984.
- Thomas de Chobham. *Summa confessorum*. Edited by F. Broomfield. Louvain: Éditions Nauwelaerts, 1968.
- Ubertino da Casale. *Circa materiam de usu paupere*. In “Ubertino de Casale opusculum ‘Super Tribus Sceleribus.’” Edited by A. Heysee. *Archivum Franciscanum Historicum* 10 (1917): 103–74.
- . *Declaratio*. In *Archiv für Literatur-und Kirchengeschichte des Mittelalters*. 7 vols. Edited by Heinrich Denifle and Franz Ehrle, 3:162–96. Berlin: Weidmannsche Buchhandlung, 1885–1900.
- . *Sanctitas Vestra*. In *Archiv für Literatur-und Kirchengeschichte des Mittelalters*. 7 vols. Edited by Heinrich Denifle and Franz Ehrle, 3:51–89. Berlin: Weidmannsche Buchhandlung, 1885–1900.

- William of Auxerre. *Summa Aurea*. 7 vols. Edited by Jean Ribailier. Grottaferrata: Editiones Collegii S. Bonaventurae, 1980–1987.
- William of Ockham. 1 Dialogus 1–5. Edited by John Kilcullen and John Scott. Oxford: British Academy, 2020.
- . 1 Dialogus 6. Edited by George Knysh. British Academy, online edition. August 2021.
- . 3 Dialogus. Edited by J. Kilcullen, J. Scott, J. Ballweg, and V. Leppin. Oxford: British Academy, 2011.
- . *Opera Politica*. 4 vols. Edited by H. S. Offler et al. Manchester: Manchester University Press, 1940–1974.
- . *Opera Theologica*. 10 vols. Edited by Gedeon Gál et al. Saint Bonaventure, NY: Franciscan Institute Publications, 1967–1986.
- Wyclif, John. *De civili dominio*. 4 vols. Edited by Reginald Lane Poole and Johann Loserth. London: Wyclif Society, 1885/1900–1904.
- . *De ecclesia*. Edited by Johann Loserth. London: Wyclif Society, 1886.
- . *De potestate papae*. Edited by Johann Loserth. London: Wyclif Society, 1907.
- . *De veritate sacrae scripturae*. 3 vols. Edited by Rudolf Buddensieg. London: Wyclif Society, 1905–1907.
- . *Iohannis Wyclif Sermones*. 4 vols. Edited by Johann Loserth. London: Wyclif Society, 1887–1890.

SECONDARY SOURCES

- Adams, Marilyn McCord. “The Structure of Ockham’s Moral Thought.” *Franciscan Studies* 46 (1986): 1–35.
- Bagliani, Agostino. “De fratrum nostrorum consilio: La Plenitudo Potestatis del Papa ha Bisogno di Consigli.” In *Consilium: Teorie et Pratiche del Consigliare nella cultura medievale*. Edited by C. Casagrande, C. Criscani, and S. Vecchio, 181–94. Florence: SISMEI, 2004.
- Bainton, Roland. *Martin Luther: Here I Stand*. New York: Abingdon-Cokesbury, 1950.
- Baldwin, Peter. “The Intellectual Preparation for the Canon of 1215 Against Ordeals.” *Speculum* 36 (1961): 613–36.
- . *Masters, Princes, and Merchants: The Social Views of Peter the Chanter and His Circle*. 2 vols. Princeton, NJ: Princeton University Press, 1970.
- Bartoli, Marco. “Olivi et le Pouvoir du Pape.” In *Pierre de Jean Olivi (1248–1298): Pensée scolastique, dissidence spirituelle et société*. Edited by Alain Boureau et Sylvain Piron, 173–91. Paris: Librairie Philosophique J. Vrin, 1999.
- Baylor, Michael. *Action and Person: Conscience in Late Scholasticism and the Young Luther*. Leiden: Brill, 1977.
- Bazàn, B. C. “Les Questions Disputées Principalement dans Les Facultés de Théologie.” In *Les Questions Disputées et Les Questions Quodlibétiques dans Les*

- Facultés de Théologie, de Droit et de Médecine*. Edited by B. C. Bazàn, G. Franzen, D. Jacquart, and J. Wippel, 21–149. Turnhout: Brepols, 1985.
- Bériou, Nicole. “La confession dans les écrits théologiques et pastoraux du XIIIe siècle: médication de l’ame ou démarche judiciaire.” In *Laveu: Antiquité et Moyen Age*. Rome: École Française de Rome, 1986.
- Bianchi, Luca. *Censure et liberté intellectuelle à L’Université de Paris (XIII-XIV siècles)*. Paris: Les Belles Lettres, 1999.
- . “Censure, Liberté et Progrès à L’Université de Paris au XIII Siècle.” *Archives d’histoire doctrinale et littéraire du Moyen Age* 63 (1996): 45–93.
- Biller, Peter. “Confession in the Middle Ages: Introduction.” In *Handling Sin: Confession in the Middle Ages*. Edited by Peter Biller and Alastair Minnis, 1–33. York: York Medieval Press, 1998.
- Bobillier, Stève. *Léthique de Pierre Jean Olivi: Liberté, personne et conscience*. Paris: J. Vrin, 2020.
- Boureau, Alain. “Intellectuals in the Middle Ages, 1957–95.” In *The Work of Jacques Le Goff and the Challenges of Medieval History*. Edited by Miri Rubin, 145–55. Suffolk: Boydell Press, 1997.
- . *Le Désir Dicté: Histoire du voeu religieux dans l’Occident médiévale*. Paris: Belles Lettres, 2014.
- . “Vows, Debt, and Pontifical Control of Exchanges in the Early Thirteenth Century.” Translated by S. Baddeley in *Annales. Histoire, Sciences Sociales* 67 (2012): 301–36.
- Boyle, Leonard. “The ‘Oculus Sacerdotis’ and Some Other Works of William of Pagula.” *Transactions of the Royal Historical Society* 5 (1955): 81–110.
- . “The Quodlibets of St. Thomas and Pastoral Care.” *The Thomist* 38 (1974): 232–56.
- . “The *Summa Confessorum* of John of Freiburg and the Popularization of the Moral Teaching of St. Thomas and Some of His Contemporaries.” In *St. Thomas Aquinas 1274–1974, Commemorative Studies*. Toronto: Pontifical Institute for Mediaeval Studies, 1974.
- . “The *Summa* for Confessors as a Genre, and Its Religious Intent.” In *The Pursuit of Holiness in Later Medieval and Renaissance Religion*. Edited by Charles Trinkhaus and Heiko Oberman, 126–30. Leiden: Brill, 1974.
- Brampton, C. K. “Personalities and the Process against Ockham at Avignon, 1324–26.” *Franciscan Studies* 26 (1966): 4–25.
- Briguglia, Gianluca. “*Inquirere Veritatem*: Osservazione sui Prologhi dei Trattati Politici di Giovanni di Parigi, Egidio Romano, Giacomo da Viterbo.” *Il Pensiero Politico* 40 (2007): 3–20.
- Brogl, Thomas. “Țeglich’s Nāch Sīn Vermugen: Johannes Nider’s Idea of Conscience.” In *Between Creativity and Norm-Making: Tensions in the Early Modern Era*. Edited by Sigrid Müller, 61–76. Leiden: Brill, 2012.
- Brundage, James. “Full and Partial Proof in Classical Canonical Procedure.” *The Jurist* 67 (2007): 58–71.

- . *Law, Sex, and Christian Society in Medieval Europe*. Chicago: University of Chicago Press, 1987.
- . *Medieval Canon Law*. London: Longman, 1995.
- Brunner, Melanie. "Pope John XXII and the Michaelists: The Scriptural Title of Evangelical Poverty in *Quia vir reprobus*." *Church History and Religious Culture* 94 (2014): 197–226.
- . "Poverty and Charity: Pope John XXII and the Canonization of Louis of Anjou." *Franciscan Studies* 69 (2011): 231–56.
- Brys, J. *De Dispensatione in Iure Canonico*. Bruges: Beyaert, 1925.
- Bueno, Irene. *Defining Heresy: Inquisition, Theology, and Papal Policy in the Time of Jacques Fournier*. Leiden: Brill, 2015.
- . "Jacques Fournier and the Poverty Controversy: New Evidence from a Neglected Gospel Commentary." *Journal of Ecclesiastical History* 73 (2022): 737–64.
- Burr, David. *Olivi and Franciscan Poverty: The Origins of the Usus Pauper Controversy*. Philadelphia: University of Pennsylvania Press, 1989.
- . "Olivi and the Limits of Intellectual Freedom." In *Contemporary Reflections on the Medieval Christian Tradition*. Edited by G. H. Shriver, 185–99. Durham, NC: Duke University Press, 1974.
- . *The Spiritual Franciscans: From Protest to Persecution in the Century after Saint Francis*. University Park: Penn State University Press, 2001.
- Capalbo, Kenneth. "Politia Christiana: The Ecclesiology of Alvarus Pelagius." *Franciscan Studies* 46 (1986): 317–27.
- Chenu, M.-D. *L'éveil de la conscience dans la civilisation médiévale*. Paris: J. Vrin, 1969.
- Chiffolleau, Jacques. "'Ecclesia De Occultis Non Iudicat'? L'Eglise, Le Secret, L'Occulte du XIIe au XVe Siècle." *Micrologus* 16 (2006): 359–481.
- Clarke, P. D. "Peter the Chanter, Innocent III and Theological Views on Collective Guilt and Punishment." *Journal of Ecclesiastical History* 52 (2001): 1–20.
- Classen, Peter. "Zur Geschichte der 'Akademischen Freiheit' Vornehmlich im Mittelalter." *Historische Zeitschrift* 232 (1981): 529–53.
- Colish, Marcia. *Faith, Fiction and Force in Medieval Baptismal Debates*. Washington, D.C.: Catholic University of America Press, 2014.
- . "Synderesis and Conscience: Stoicism in Its Medieval Transformations." In *From Knowledge to Beatitude: St. Victor, Twelfth-Century Scholars, and Beyond*. Edited by E. Ann Matter and Lesley Smith, 229–46. Notre Dame, IN: Notre Dame University Press, 2013.
- Congar, Yves. "Aspects ecclésiologiques de la querelle entre mendiants et séculiers." *Archives d'histoire doctrinale et littéraire du Moyen Age* 28 (1961): 35–151.
- . "Bref historique des formes du 'Magistère' et de ses relations avec les docteurs." *Revue des Sciences philosophiques et théologiques* 60 (1976): 98–112.

- Connolly, Thomas. *Appeals: An Historical Synopsis and Commentary*. Washington D.C.: Catholic University of America Press, 1932.
- Constable, Giles. *The Reformation of the Twelfth Century*. Cambridge: Cambridge University Press, 1996.
- Corran, Emily. "‘Better to Let Scandal Arise than to Relinquish the Truth’: The Cases of Conscience of the Masters of Paris in the Thirteenth Century." In *Individuals and Institutions in Medieval Scholasticism*. Edited by Antonia Fitzpatrick and John Sabapathy, 217–34. London: Institute of Historical Research, 2020.
- Courtenay, William. "The Academic and Intellectual Worlds of Ockham." In *The Cambridge Companion to Ockham*. Edited by Paul Vincent Spade, 17–30. Cambridge: Cambridge University Press, 1999.
- . "Inquiry and Inquisition: Academic Freedom in Medieval Universities." *Church History* 58 (1989): 168–81.
- . "Magisterial Authority, Philosophical Identity, and the Growth of Marian Devotion: The Seals of the Parisian Masters, 1190–1308." *Speculum* 91 (2016): 63–114.
- Cross, Richard. *Duns Scotus*. Oxford: Oxford University Press, 1999.
- Cusato, Michael. "Francis and the Franciscan Movement (1181/2–1226)." In *Cambridge Companion to Francis of Assisi*. Edited by Michael Robson, 17–33. Cambridge: Cambridge University Press, 2011.
- . *Francis of Assisi: His Life, Vision, and Companions*. London: Reaktion, 2023.
- Cusato, Michael, and Dabney Park, eds. *Poverty, Eschatology and the Medieval Church*. Leiden: Brill 2023.
- D’Arcy, Eric. *Conscience and Its Rights to Freedom*. New York: Sheed and Ward, 1961.
- Davis, Charles. *Ubertino da Casale and his Conception of “Altissima Paupertas.”* Spoleto: Centro Italiano di Studi Sull’Alto Medioevo, 1984.
- Decaix, Véronique. "Stimulus affectionis: Sur la conscience morale chez Pierre de Jean Olivi." In *Peter of John Olivi: Construction of the Human Person*. Edited by Stève Bobillier and Ryan Thornton, 205–33. Grottaferrata: Editiones Collegii S. Bonaventurae, 2021.
- Denifle, Henry. "Quel livre servait de base à l’enseignement des maitres en théologie dans l’Université de Paris?" *Revue Thomiste* 2 (1894): 149–61.
- Destemberg, Antoine. *L’honneur des universitaires au Moyen Age*. Paris: Presses Universitaires de France, 2015.
- Donahue, Charles. *Law, Marriage and Society in the Later Middle Ages: Arguments about Marriage in Five Courts*. Cambridge: Cambridge University Press, 2007.
- Dougherty, M. V. *Moral Dilemmas in Medieval Thought: From Gratian to Aquinas*. Cambridge: Cambridge University Press, 2011.
- Duggan, Anne. "The Effect of Alexander III’s ‘Rules on the Formation of Marriage’ in Angevin England." In *Anglo-Norman Studies 33: Proceedings of the Battle Conference*. Edited by C. P. Lewis, 1–22. Suffolk: Boydell, 2011.

- Dykman, Marc. *Les Sermons de Jean XXII sur la vision béatifique*. Rome: Presses de l'Université Grégorienne, 1973.
- Eldridge, L. "Changing Concepts of Church Authority in the Later Fourteenth Century: Peter Ceffons of Clairvaux and William Woodford, OFM." *Revue de l'université d'Ottawa* 48 (1978): 170–78.
- Eardley, Peter. "Conscience and the Foundations of Morality in Ockham's Meta-ethics." *Recherches de Théologie et Philosophie Médiévales* 80 (2013): 77–108.
- Flahiff, G. B. "Ecclesiastical Censorship of Books in the Twelfth Century." *Mediaeval Studies* 4 (1942): 1–22.
- Flood, David. "Poverty as Virtue, Poverty as Warning and Peter John Olivi." In *Piere de Jean Olivi (1248–1298): Pensée Scolastique, Dissidence Spirituelle et Société*. Edited by Alain Boureau et Sylvain Piron, 157–72. Paris: Librairie Philosophique J. Vrin, 1999.
- Forell, George. "Luther and Conscience." In *Encounters with Luther*. Edited by Eric Gritsch, 218–26. Gettysburg, PA: Institute for Luther Studies, 1980.
- Forst, Rainer. *Toleration in Conflict: Past and Present*. Cambridge: Cambridge University Press, 2013.
- Fraher, Richard. "IV Lateran's Revolution in Criminal Procedure: The Birth of *Inquisitio*, the End of Ordeals, and Innocent III's Vision of Ecclesiastical Politics." In *Studia in Honorem Eminentissimi Cardinalis Alphonsi M. Stickler*. Edited by Rosalio Lara, 97–111. Rome: LAS, 1992.
- . "Conviction According to Conscience: Medieval Jurists' Debate Concerning Judicial Discretion and the Law of Proof." *Maurer Law and History Review* 7 (1989): 23–88.
- Fudge, Thomas. *The Trial of Jan Hus: Medieval Heresy and Criminal Procedure*. Oxford: Oxford University Press, 2013.
- Gabriel, Astrik. "The Ideal Master of the Medieval University." *Catholic Historical Review* 60 (1974): 1–40.
- Gadamer, Hans-Georg. *Truth and Method*. Revised edition. Translated by Joel Weinsheimer and Donald Marshall. New York: Continuum, 2004.
- Gaudemet, Jean. "Le serment dans le droit canonique médiéval." In *Le Serment*. 2 vols. Edited by Raymond Vertier, 2:63–75. Paris: Editions du CNRS, 1991.
- Ghosh, Kantik. "'And so it is licly to men': Probabilism and Hermeneutics in Wycliffite Discourse." *Review of English Studies* 70 (2019): 418–36.
- Giordanengo, Gérard. "Résistances intellectuelles autor de la Décretale *Super Speculam* (1219)." In *Histoire et Société: Melanges offerts à Georges Duby*, 141–55. Aix-en-Provence: Publications de l'Université de Provence, 1992.
- Glorieux, P. "Les Quodlibets de Gervais du Mont-Saint-Éloi." *Recherches de Théologie Ancienne et Médiévale* 20 (1953): 129–34.
- Goering, Joseph. "The Internal Forum and the Literature of Penance and Confession." *Traditio* 59 (2004): 175–227.
- Goering, Joseph, and Pierre Payer. "The 'Summa Penitentiae Fratrum Predicatorum.'" *Mediaeval Studies* 55 (1993): 1–50.

- Godman, Peter. *Paradoxes of Conscience in the High Middle Ages*. Cambridge: Cambridge University Press, 2009.
- . *The Silent Masters: Latin Literature and Its Censors in the High Middle Ages*. Princeton, NJ: Princeton University Press, 2000.
- Guida, Marco. "La lettera di canonizzazione *Sol oriens* di Giovanni XXII." In *Da Ludovico d'Angiò a san Ludovico di Tolosa: I testi e le immagini*. Edited by T. D'Urso, A. Saggese, and D. Solvi, 321–53. Spoleto: Fondazione Centro Italiano di Studi Sull'Alto Medioevo, 2017.
- Grellard, Christoph. *La possibilità dell'errore: Pensare la tolleranza nel Medioevo*. Rome: Aracne, 2020.
- Grosse, Sven. *Heilungsgewissheit und Scrupulositas im späten Mittelalter: Studien zu Johannes Gerson und Gattungen der Frömmigkeitstheologie seiner Zeit*. Tübingen: J. C. B Mohr, 1994.
- Grundmann, Herbert. "Sacerdotium-Regnum-Studium: Zur Wertung der Wissenschaft im 13. Jahrhundert." *Archiv für Kulturgeschichte* 34 (1951–52): 5–21.
- Gryson, Roger. "L'autorité des docteurs dans l'Église ancienne et médiévale." *Revue Théologique de Louvain* 13 (1982): 63–73.
- Gy, Pierre-Marie. "Le précepte de la confession annuelle et La nécessité de la confession." *Revue des sciences philosophiques et théologiques* 63 (1979): 529–47.
- Haberkern, Phillip. *Patron Saint and Prophet: Jan Hus in the Bohemian and German Reformations*. Oxford: Oxford University Press, 2016.
- Hackett, John. "The State of the Church: A Concept of the Medieval Canonists." *The Jurist* 23 (1963): 259–90.
- Hamesse, Jacqueline. "Theological Quaestiones Quodlibetales." In *Theological Quodlibeta in the Middle Ages: The Thirteenth Century*. Edited by Christopher Schabel, 17–48. Leiden: Brill, 2006.
- Heft, James. *John XXII and Papal Teaching Authority*. Lewiston, NY: Edwin Mellen Press, 1986.
- Helmholz, Richard. "Baptism in the Medieval Canon Law." *Rechtsgeschichte* 21 (2013): 118–27.
- . "Natural Human Rights: The Perspective of the *Ius Commune*." *Catholic University Law Review* 52 (2002–2003): 301–25.
- . *The Spirit of Classical Canon Law*. Athens: University of Georgia Press, 1996.
- Herold, Vilém. "Jan Hus: a Heretic, a Saint, or a Reformer?" *Communio Viatorum* 45 (2003): 5–23.
- Hissette, Roland. "L'implication de Thomas D'Aquin dans les censures parisiennes de 1277." *Recherches de Théologie et Philosophie Médiévales* 64 (1997): 3–31.
- Hobbins, Daniel. *Authorship and Publicity Before Print: Jean Gerson and the Transformation of Late Medieval Reading*. Philadelphia: University of Pennsylvania Press, 2009.
- Hödl, Ludwig. "The Quodlibeta of John of Pouilly and the Philosophical and Theological Debates at Paris 1307–1312." In *Theological Quodlibeta in the Middle*

- Ages: The Fourteenth Century*. Edited by Chris Schabel, 199–229. Leiden: Brill, 2007.
- Hughes, Jonathan. "The Administration of Confession in the Diocese of York in the Fourteenth Century." In *Studies in Clergy and Ministry in Medieval England*. Edited by David Smith, 87–163. York: University of York Press, 1991.
- Iribarren, Isabel. "Black Magic to Heresy: A Doctrinal Leap in the Pontificate of John XXII." *Church History* 76 (2007): 32–60.
- . "Consensus et Dissidence à la Cour Papale D'Avignon: Le Cas de la Controverse sur la Vision Béatifique." *Revue des sciences religieuses* 82 (2008): 107–26.
- . "'The Eyes of the Church': William of Ockham and John XXII on the Theologians' Doctrinal Authority." *American Catholic Philosophical Quarterly* 86 (2012): 487–506.
- . "Ockham and the Avignon Papacy: The Controversy with John XXII, Benedict XII and Clement VI." In *A Companion to the Responses to Ockham*. Edited by Christian Rode, 334–64. Leiden: Brill, 2016.
- Johnson, Timothy. "Preaching Precedes Theology: Roger Bacon on the Failure of Mendicant Education." *Franciscan Studies* 68 (2010): 83–95.
- Kantola, Ilkka. *Probability and Moral Uncertainty in the Late Medieval and Early Modern Times*. Helsinki: Luther-Agricola-Society, 1994.
- King, Peter. "Ockham's Ethical Theory." In *The Cambridge Companion to Ockham*. Edited by Paul Vincent Spade, 227–44. Cambridge: Cambridge University Press, 1999.
- Kejr, Jiri. *De Causa Johannes Hus und der Prozessrecht der Kirche*. Regensburg: Friedrich Pustet, 2005.
- Kelly, Henry Ansgar. *Inquisitions and Other Trial Procedures in the Medieval West*. Aldershot: Ashgate, 2001.
- . "Oath-Taking in Inquisitions." *Bulletin of Medieval Canon Law* 35 (2018): 215–41.
- Kempshall, M. S. *The Common Good in Late Medieval Political Thought*. Oxford: Oxford University Press, 1999.
- Klumpenhouwer, Samuel. "John of Kent and Medieval Pastoral Care." *Logos* 24 (2021): 130–44.
- Koch, J. "Neue Aktenstücke zu dem gegen Wilhelm Ockham in Avignon geführten Prozess." *Recherches de Théologie Ancienne et Médiévale* 7–8 (1935–36): 7:353–80; 8:79–93; 8:168–97.
- Kramer, Susan. *Sin, Interiority, and Selfhood in the Twelfth-Century West*. Toronto: Pontifical Academy of Medieval Studies, 2015.
- Kurtscheid, Betrand. *A History of the Seal of Confession*. Translated by F. A. Marks. London: Herder, 1927.
- Kuttner, Stephan. "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 Iustiniani promulgatis, Romae 12–17 novembris 1934.* 4 vols. Rome: Pontificium Institutum utriusque iuris, 1935–37.
- . *Kanonistische Schuldlehre von Gratian bis auf Die Dekretalen Gregors. IX.* Vatican City: Biblioteca Apostolica Vaticana, 1935.
- Lahey, Stephen. *Philosophy and Politics in the Thought of John Wyclif.* Cambridge: Cambridge University Press, 2003.
- Lambert, Malcolm. “The Franciscan Crisis under John XXII.” *Franciscan Studies* 32 (1972): 123–43.
- . *Franciscan Poverty: The Doctrine of the Absolute Poverty of Christ and the Apostles in the Franciscan Order, 1210–1323.* London: SPCK, 1961.
- Lambertini, Roberto. “Old Wine in New Wineskins: William of Ockham and the Common Good in Context.” In *Common Good and Self-Interest in Medieval and Early Modern Philosophy.* Edited by H. Haara and J. Toivanen, 131–48. New York: Springer, 2024.
- . “Political Quodlibeta.” In *Theological Quodlibeta in the Middle Ages: The Thirteenth Century.* Edited by Christopher Schabel, 439–74. Leiden: Brill, 2006.
- Langston, Douglas. “The Spark of Conscience: Bonaventure’s View of Conscience and Synderesis.” *Franciscan Studies* 53 (1993): 79–95.
- Larson, Atria. “Lateran IV’s Decree on Confession, Gratian’s *De Penitentia*, Confession to One’s *Sacerdos Proprius*: A Re-Evaluation of *Omnis Utriusque* in Its Canonistic Context.” *Catholic Historical Review* 104 (2018): 415–37.
- . “Papal Councils and the Development of Lay Penance in the Long Twelfth Century.” *Cristianesimo nella storia* 39 (2018): 323–69.
- Leclercq, Jean. “L’idéal du Théologien au Moyen Age.” *Revue des sciences religieuses* 21 (1947): 121–48.
- . “Le Magistère du Prédicateur au XII Siècle.” *Archives d’histoire doctrinale et littéraire du Moyen Age* 15 (1946): 105–47.
- Lefebvre, Charles. “Gratian et les origens de la dénonciation évangélique.” *Studia Gratiana* 4 (1956): 231–50.
- Levy, Ian Christopher. “Authentic Tradition and the Right to Dissent: William of Ockham and the Eucharist.” *American Catholic Philosophical Quarterly* 86 (2012): 457–85.
- . “The Gospels and the Papacy in the Late Middle Ages.” In *Producing Christian Culture: Medieval Exegesis and Its Interpretative Genres.* Edited by G. Gasper, F. Watson, and M. Crawford, 192–210. London: Taylor & Francis, 2017.
- . *Holy Scripture and the Quest for Authority at the End of the Middle Ages.* Notre Dame, IN: University of Notre Dame Press, 2012.
- . *Introducing Medieval Biblical Interpretation: The Senses of Scripture in Pre-modern Biblical Exegesis.* Grand Rapids, MI: Baker Academic Press, 2018.
- . *John Wyclif’s Theology of the Eucharist in Its Medieval Context.* Milwaukee, WI: Marquette University Press, 2015.
- . “The Leipzig Disputation: Masters of the Sacred Pages and the Authority of Scripture.” In *Luther at Leipzig.* Edited by M. Mattox, J. Mumme, and R. Serina, 115–44. Leiden: Brill, 2019.

- Lobrichon, Guy. "The Early Schools, c. 900–1100." In *New Cambridge History of the Bible*. 4 vols. Edited by James Carleton Paget et al., 2:536–54. Cambridge: Cambridge University Press, 2013.
- Lohse, Bernhard. "Conscience and Authority in Luther." In *Luther and the Dawn of the Modern Era*. Edited by Heiko Oberman, 158–83. Leiden: Brill, 1974.
- . "Luthers Selbsteinschätzung." In *Martin Luther: "Reformator und Vater im Glauben"*. Edited by Peter Manns, 118–32. Stuttgart: Franz Steiner Verlag, 1985.
- Longère, Jean. "Quelques *Summae de Poenitentiae* à la fin du XII et au Début du XIII Siècle." In *La Piété Populaire au Moyen Âge*, 45–58. Paris: Bibliothèque Nationale, 1977.
- Lottin, Odon. "La nature de la conscience morale: Les premières spéculations au Moyen Âge." *Ephemerides Theologicae Lovaniensis* 9 (1932): 252–83.
- . "La valeur normative de la conscience morale." *Ephemerides Theologicae Lovaniensis* 9 (1932): 409–31.
- Luscombe, David. *The School of Peter Abelard: The Influence of Abelard's Thought in the Early Scholastic Period*. Cambridge: Cambridge University Press, 1969.
- . "The School of Peter Abelard Revisited." *Vivarium* 30 (1992): 127–38.
- Mäkinen, Virpi. "Moral Psychological Aspects in William of Ockham's Theory of Natural Rights." *American Catholic Philosophical Quarterly* 86 (2012): 507–25.
- Mandonnet, Père. "Chronologie des Questions Disputées de Saint Thomas D'Aquin." *Revue Thomiste* 23 (1928): 266–87.
- Mantello, F. A. C., and Joseph Goering. "Robert Grosseteste's *Quoniam Cogitatio*: A Treatise on Confession." *Traditio* 67 (2012): 341–84.
- Marenbon, John. *The Philosophy of Peter Abelard*. Cambridge: Cambridge University Press, 1997.
- Marmursztejn, Elsa. "A Normative Power in the Making: Theological *Quodlibeta* and the Authority of Masters at Paris at the End of the Thirteenth Century." In *Theological Quodlibeta in the Middle Ages: The Thirteenth Century*. Edited by Christopher Schabel, 345–402. Leiden: Brill, 2006.
- . *L'Autorité des Maîtres: Scolastique, normes et société au XIII siècle*. Paris: Les Belles Lettres, 2018.
- . *Les Baptême Forcé des Enfants Juifs: Question scholastique, enjeu politique, échos contemporains*. Paris: Belles Lettres, 2016.
- McGrade, A. S. "The Ontology and Scope of Human Rights: Forward with Ockham." *American Catholic Philosophical Quarterly* 86 (2012): 527–38.
- . *The Political Thought of William of Ockham*. Cambridge: Cambridge University Press, 1974.
- Metaxas, Eric. *Martin Luther: The Man Who Rediscovered God and Changed the World*. New York: Viking, 2017.
- McFarlane, K. B. *John Wycliffe and the Beginnings of English Nonconformity*. New York: MacMillan, 1953.
- Metzger, Stephen. *Gerard of Abbeville, Secular Master, on Knowledge, Wisdom and Contemplation*. 2 vols. Leiden: Brill, 2017.

- Mews, Constant. "The Council of Sens (1141): Abelard, Bernard, and the Fear of Social Upheaval." *Speculum* 77 (2002): 342–82.
- Meyjes, G. H. M. Posthumus. *Jean Gerson: Apostle of Unity*. Leiden: Brill, 1999.
- Moore, R. I. *The Formation of a Persecuting Society: Power and Deviance in Western Europe, 950–1250*. London: Blackwell, 2001.
- Moorman, John. *A History of the Franciscan Order*. Oxford: Clarendon Press, 1968.
- Moos, Peter von. "'Occulta Cordis': Contrôle de Soi et Confession au Moyen Âge: 1. Formes du Silence." *Médiévales* 29 (1995): 131–40.
- . "'Occulta Cordis': Contrôle de Soi et Confession au Moyen Âge (suite)." *Médiévales* 30 (1996): 117–37.
- Morris, Colin. *The Discovery of the Individual 1050–1200*. New York: Harper & Row, 1972.
- Moule, Gregory. *Corporate Jurisdiction, Academic Heresy, and Fraternal Correction at the University of Paris*. Leiden: Brill, 2016.
- Morrissey, Thomas. "'More Easily and More Securely': Legal Procedure and Due Process at the Council of Constance." In *Popes, Teachers, and Canon Law in the Middle Ages*. Edited by James Ross Sweeney and Stanley Chodorow, 234–47. Ithaca, NY: Cornell University Press, 1989.
- Murray, Alexander. "Confession before 1215." *Transactions of the Royal Historical Society* 3 (1993): 51–81.
- . "Counseling in Medieval Confession." In *Handling Sin: Confession in the Middle Ages*. Edited by Peter Biller and Alastair Minnis, 63–77. York: York Medieval Press, 1998.
- . "Excommunication and Conscience in the Middle Ages." In *Conscience and Authority in the Medieval Church*, 163–97. Oxford: Oxford University Press, 2015.
- . *Excommunication and Conscience in the Middle Ages*. London: University of London Press, 1991.
- McGinn, Bernard. *The Mystical Thought of Meister Eckhart: The Man from Whom God Hid Nothing*. New York: Crossroad, 2001.
- McGuire, Brian Patrick. "In Search of Jean Gerson: Chronology of His Life and Works." In *A Companion to Jean Gerson*. Edited by Brian Patrick McGuire, 1–39. Leiden: Brill, 2006/2011.
- . *Jean Gerson and the Last Medieval Reformation*. University Park: Penn State University Press, 2005.
- . *Jean Gerson: Early Works*. New York: Paulist Press, 1998.
- Michaud-Quantin, Pierre. "Les Méthodes de la Pastorale du XIII au XIV Siècle." In *Miscellanea Mediaevalia* 7, 76–91. Berlin: De Gruyter, 1970.
- . *Sommes de casuistique et manuels de confession au moyen âge*. Montreal: Librairie Dominicaine, 1962.
- Müller, Wolfgang. "The Internal Forum of the Later Middle Ages: A Modern Myth?" *Law and History Review* 33 (2015): 887–913.

- Nevitt, Turner, and Brian Davies, eds. *Thomas Aquinas's Quodlibetal Questions*. Oxford: Oxford University Press, 2020.
- Nold, Patrick. "Pope John XXII, the Franciscan Order, and its Rule." In *Cambridge Companion to Francis of Assisi*. Edited by Michael Robson, 258–72. Cambridge: Cambridge University Press, 2011.
- . "Two Views of John XXII as a Heretical Pope." In *Defenders and Critics of Franciscan Life: Essays in Honor of John V. Fleming*. Edited by Michael Cusato and G. Geltner, 139–58. Leiden: Brill, 2009.
- Noonan, John T. "The Power to Choose." *Viator* 4 (1973): 419–34.
- . "The Steady Man: Process and Policy in the Courts of the Roman Curia." *California Law Review* 58 (1970): 628–700.
- Novikoff, Alex. *The Medieval Culture of Disputation: Pedagogy, Practice, and Performance*. Philadelphia: University of Pennsylvania, 2013.
- Oberman, Heiko. *Luther: Man Between God and the Devil*. New York: Doubleday, 1992.
- Ouy, Gilbert. "Gerson and the Celestines: A Critical Edition." In *Reform and Renewal in the Middle Ages and the Renaissance: Studies in Honor of Louis Pascoe, S. J.* Edited by Thomas Izbicki and Christopher Bellitto, 113–40. Leiden: Brill, 2000.
- Pakter, Walter. *Medieval Canon Law and the Jews*. Ebelsbach: Verlag Rolf Gremer, 1988.
- Pennington, Kenneth. "Due Process, Community, and the Prince in the Evolution of the *Ordo Iudiciarius*." *Rivista internazionale di diritto comune* 9 (1998): 9–47.
- . "Gratian and the Jews." *Bulletin of Medieval Canon Law* 31 (2014): 111–24.
- . "Innocent until Proven Guilty: The Origins of a Legal Maxim." *The Jurist* 63 (2003): 106–24.
- . "The Jurisprudence of Procedure." In *The History of Courts and Procedure on Medieval Canon Law*. Edited by Wilfried Hartmann and Kenneth Pennington, 125–59. Washington, D.C.: Catholic University of America Press, 2016.
- . "Lex Naturalis and Ius Naturale." In *Crossing Boundaries at Medieval Universities*. Edited by Spencer Young, 227–53. Leiden: Brill, 2011.
- . *Popes and Bishops: The Papal Monarchy in the Twelfth and Thirteenth Centuries*. Philadelphia: University of Pennsylvania Press, 1984.
- . "Torture and Fear: Enemies of Justice." *Rivista internazionale di diritto comune* 19 (2008): 203–42.
- Porter, Jean. "Responsibility, Passion, and Sin: A Reassessment of Abelard's Ethics." *Journal of Religious Ethics* 28 (2000): 367–94.
- Potts, Timothy. *Conscience in Medieval Philosophy*. Cambridge: Cambridge University Press, 1980.
- Power, Amanda. *Roger Bacon and the Defense of Christendom*. Cambridge: Cambridge University Press, 2013.
- Provvidente, Sebastián. "Hus's Trial in Constance: *Disputatio Aut Inquisitio*." In *A Companion to Jan Hus*. Edited by Frantisek Smahel, 254–88. Leiden: Brill, 2015.

- Prügl, Thomas. "Medieval Biblical *Principia* as Reflections on the Nature of Theology." In *What is 'Theology' in the Middle Ages?* Edited by Mikołaj Olszewski, 253–75. Münster: Aschendorff Medien-und Verlagshaus, 2007.
- Putallaz, François-Xavier. *Insolente Liberté: Controverses et condamnations au XIIe siècle*. Paris: Éditions du Cerf, 1995.
- Reeves, Andrew. "Teaching Confession in Thirteenth-Century England: Priests and Laity." In *A Companion to Priesthood in the Middle Ages*. Edited by Greg Peters and C. Colt Anderson, 252–80. Leiden: Brill, 2016.
- Reid, Charles. "The Canonistic Contribution to the Western Rights Tradition: An Historical Inquiry." *Boston College Law Review* 33 (1991): 37–92.
- . *Power over the Body, Equality in the Family: Right and Domestic Relations in Medieval Canon Law*. Grand Rapids, MI: Eerdmans, 2004.
- . "The Priesthood and the Sacrament of Marriage." In *A Companion to Priesthood in the Middle Ages*. Edited by Greg Peters and C. Colt Anderson, 217–51. Leiden: Brill, 2016.
- Resnick, Irven. "Marriage in Medieval Culture: Consent Theory and the Case of Joseph and Mary." *Church History* 69 (2000): 350–71.
- Reynolds, Philip. "The Regional Origins of Theories About Marital Consent and Consummation During the Twelfth Century." In *Regional Variations in Matrimonial Law and Custom in Europe 1150–1600*. Edited by Mia Kupiola, 43–75. Leiden: Brill, 2011.
- Riché, Pierre. "Les conditions de la production littéraire: maîtres et écoles." *Mittel-lateinische Jahrbuch* 25/26 (1989/90): 413–22.
- Rigon, Antonio. "Mendicant Orders and the Reality of Economic Life in Italy in the Middle Ages." In *The Origin, Development, and Refinement of Medieval Religious Mendicancies*. Edited by Donald Prudlo, 241–75. Leiden: Brill, 2011.
- Rivière, Jean. "In partem sollicitudinis: Evolution d'une formule pontificale." *Revue des sciences religieuses* 5 (1925): 210–31.
- Robson, Michael. *The Franciscans in the Middle Ages*. Suffolk: Boydell, 2006.
- Rousseau, Constance. "Innocent III: A Lawyer Pope and His Consensual 'Policy' of Marriage? A Reconsideration." *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte* 107 (2021): 172–218.
- Saccetti, Riccardo. "Beyond the Positive Law: The Oath and Vow as a Theological Matter Between the 12th and Early 13th Centuries." In *The Summa Halensis: Doctrines and Debates*. Edited by Lydia Schumacher, 251–73. Berlin: De Gruyter, 2020.
- Schabel, Chris. "The Early Career of Gerard of Abbeville." *Vivarium* 55 (2017): 340–59.
- Sère, Bénédicte. "Bonus Pastor animam suam dat pro vobis (Jn 10, 11): Le thème du Bon Pasteur au coeur des débats du Grand Schisme." In *Apprendre, produire, se conduire: le modèle au Moyen Age*, 117–31. Paris: Sorbonne, 2015.

- . *Les débats d'opinion à l'heure du Grand Schisme: ecclésiologie et politique*. Turnhout: Brepols, 2016.
- Shaw, Robert. *The Celestine Monks of France, c. 1350–1450: Observant Reform in the Age of Schism, Council and War*. Amsterdam: Amsterdam University Press, 2018.
- Schuessler, Rudolf. *The Debate on Probable Opinions in the Scholastic Tradition*. Leiden: Brill, 2019.
- Sherwood, Jessie. "Coacta voluntas est voluntas: Baptism and Return in Canon Law." *Medieval Encounters* 28 (2022): 447–84.
- Shogimen, Takashi. "From Disobedience to Toleration: William of Ockham and the Medieval Discourse on Fraternal Correction." *Journal of Ecclesiastical History* 52 (2001): 599–622.
- . *Ockham and Political Discourse in the Late Middle Ages*. Cambridge: Cambridge University Press, 2007.
- Smith, Randall B. *Aquinas, Bonaventure, and the Scholastic Culture of Medieval Paris: Preaching, Prologues, and Biblical Commentary*. Cambridge: Cambridge University Press, 2021.
- Solère, Jean-Luc. "Le droit à l'erreur: contrainte extérieure et obligation de conscience dans la pensée chrétienne." In *Le Penseur, La Violence, La Religion*. Edited by Alain Dierkens, 137–49. Bruxelles: Editions de l'Université de Bruxelles, 1996.
- Somerset, Fiona. "Before and after Wyclif: Consent to Another's Sin in Medieval Europe." In *Europe after Wyclif*. Edited by J. Patrick Hornbeck and Michael Van Dussen, 135–172. New York: Fordham University Press, 2016.
- Spatz, Nancy. *Principia: A Study and Edition of Inception Speeches Delivered Before the Faculty of Theology at the University of Paris CA. 1180–1286*. PhD Dissertation, Cornell University, 1992.
- Swanson, Robert. "Apostolic Successors: Priests and Priesthood, Bishops and Episcopacy in Medieval Western Europe." In *A Companion to Priesthood in the Middle Ages*. Edited by Greg Peters and C. Colt Anderson, 4–42. Leiden: Brill, 2016.
- Szlachta, Michael. "Peter John Olivi, Free Will, and the Threefold Aspectus." *Recherches de Théologie et Philosophie Médiévales* 85 (2018): 285–307.
- Tanner, Norman. "Pastoral Care: The Fourth Lateran Council of 1215." In *A History of Pastoral Care*. Edited by G. R. Evans, 112–25. London: Cassell, 2000.
- Taylor, Charles. *A Secular Age*. Cambridge, MA: Harvard University Press, 2007.
- . *Modern Social Imaginaries*. Durham, NC: Duke University Press, 2004.
- Thery, Julien. "Fama: l'opinion publique comme preuve judiciaire aperçu sur la révolution médiévale de l'inquisitoire (xii-xiv siècle)." In *La preuve en justice de l'Antiquité à nos jours*. Edited by Bruno Lemesle, 119–47. Rennes: Presses Universitaires de Rennes, 2003.

- Thijssen, J. M. M. H. "1277 Revisited: A New Interpretation of the Doctrinal Investigations of Thomas Aquinas and Giles of Rome." *Vivarium* 35 (1997): 72–101.
- . *Censure and Heresy at the University of Paris: 1200–1400*. Philadelphia: University of Pennsylvania Press, 1998.
- Tierney, Brian. *Foundations of the Conciliar Theory: The Contribution of the Medieval Canonists from Gratian to the Great Schism*. Revised edition. Leiden: Brill, 1988.
- . *The Idea of Natural Rights: Studies on Natural Rights, Natural Law and Church Law: 1150–1625*. Atlanta, GA: Scholars Press, 1997.
- . "Infallibility and the Medieval Canonists: A Discussion with Alfons Stickler." *Catholic Historical Review* 61 (1975): 265–73.
- . *Liberty and Law: The Idea of Permissive Natural Law, 1100–1800*. Washington, D.C.: Catholic University of America Press, 2014.
- . *Origins of Papal Infallibility: 1150–1350*. Leiden: Brill, 1972.
- . "Pope and Council: Some New Decretist Texts." *Mediaeval Studies* 19 (1957): 197–218.
- Torrell, Jean-Pierre. *Saint Thomas Aquinas: The Person and His Work*. 2 vols. Revised edition. Translated by Robert Royal. Washington, D.C.: Catholic University of America Press, 1996/2005.
- Trottmann, Christian. "Benedict XII and the Beatific Vision." In *Pope Benedict XII (1334–1342): The Guardian of Orthodoxy*. Edited by Irene Bueno, 81–106. Amsterdam: Amsterdam University Press, 2018.
- . *La vision béatifique: Des disputes scolastiques à sa définition par Benoît XII*. Rome: École française de Rome, 1995.
- Ullmann, Walter. *Medieval Papalism: The Political Theories of the Medieval Canonists*. London: Methuen & Co., 1949.
- Verbaal, Wim. "The Council of Sens Reconsidered: Masters, Monk, or Judges?" *Church History* 74 (2005): 460–93.
- Vitello, Joanna Carraway. *Public Justice and the Criminal Trial in Late Medieval Italy: Reggio Emilia in the Visconti Age*. Leiden: Brill, 2016.
- Wagner, Karen. "Cum Aliquis Venerit Ad Sacerdotem: Penitential Experience in the Central Middle Ages." In *A New History of Penance*. Edited by Abigail Firey, 201–18. Leiden: Brill, 2008.
- Watt, John A. *The Theory of Papal Monarchy in the Thirteenth Century: The Contribution of the Canonists*. New York: Fordham University Press, 1965.
- . "The Use of the Term 'Plenitudo Potestatis' by Hostiensis." In *Proceedings of the Second International Congress of Medieval Canon Law*. Edited by S. Kuttner and J. Ryan, 161–87. Vatican City: S. Congregatio de Seminariis et Studiorum Universitatibus, 1965.
- Wayno, Jeffrey. "Rethinking the Fourth Lateran Council of 1215." *Speculum* 93 (2018): 611–37.
- Wei, Ian. *Intellectual Culture in Medieval Paris: Theologians and the University, c. 1100–1330*. Cambridge: Cambridge University Press, 2012.

- . “The Masters of Theology at the University of Paris in the Late Thirteenth and Early Fourteenth Centuries: An Authority Beyond the Schools.” *Bulletin of the John Rylands Library* 75 (1993): 37–64.
- Weijers, Olga. *Terminologie des universités au XIII siècle*. Rome: Edizioni dell’Ateneo, 1987.
- Whitford, David. “Martin Luther and the Reformation: A Reflection on the Five-Hundredth Anniversary.” *Horizons* 44 (2017): 137–47.
- Wicks, Jared. “Reactions to Luther: The First Year (1518).” *Catholic Historical Review* 69 (1983): 521–62.
- Wilken, Robert Louis. *Liberty in the Things of God: The Christian Origins of Religious Freedom*. New Haven, CT: Yale University Press, 2019.
- Winroth, Anders. “Marital Consent in Gratian’s Decretum.” In *Readers, Texts, and Compilers in the Earlier Middle Ages*. Edited by Martin Brett and Kathleen Cushing, 111–21. Burlington, VT: Ashgate, 2009.
- Wippel, John F. “The Quodlibetal Question as a Distinctive Literary Genre.” In *Les Genres littéraires dans les sources théologiques et philosophiques médiévales: définition, critique et exploitation*. Actes du Colloque international de Louvain-la-Neuve, 25–27 mai 1981, 67–84. Louvain-la Neuve: Université catholique de Louvain, 1982.
- Wolter, Alan, and Willam Frank, eds. *Duns Scotus on Will and Morality*. Washington D.C.: Catholic University of America Press, 1997.
- Young, Spencer E. *Scholarly Community at the Early University of Paris: Theologians, Education and Society, 1215–1248*. Cambridge: Cambridge University Press, 2014.

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