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## 9. ‘Better to let scandal arise than to relinquish the truth’: the cases of conscience of the masters of Paris in the thirteenth century

*Emily Corran*

This volume addresses the ways in which institutions ‘did or did not constrain, enable and inflect the substantive thinking of individuals’ (see the introduction to this volume, p. 25). A number of the chapters explore this theme by identifying ways in which scholastic authors developed their own position within the boundaries imposed by institutional loyalties. Fitzpatrick’s and Linde’s chapters in this volume, for example, show how, at the turn of the thirteenth and fourteenth centuries, scholastic debate simultaneously pushed forward intellectual arguments and defined the parameters of disputes between Dominicans, Franciscans and the secular clergy. In contrast, quodlibets dealing with cases of conscience, the subject of this chapter, are something of an exceptional case in scholastic thought: moral quodlibets usually did not correspond directly to the syllabus organized around commentaries on the *Sentences* and they addressed questions which were not in the strictest sense theological, but which related to pastoral care. This chapter argues that responses to moral quodlibets should be understood neither as personal responses to a controversy, nor as attempts to carve out a position in a debate between rival ‘schools’. Rather, they are best explained as interventions within a separate genre of penitential thought and have a close relationship with manuals for confessors. In penitential manuals, the imperative on the author was less to devise appropriate responses to open questions and more to offer practical advice on how one should act. This was no less true of the moral quodlibets answered by theology masters. When masters gave responses within this genre, they found themselves constrained and enabled by institutions, but in a rather different way from when they answered questions in other kinds of theology.

The practice of quodlibets first appeared in the 1230s and came to be a biannual event which took place in Advent and Lent and in which the audience, made up of students, masters and the general public, were invited

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to pose any question they liked for debate. On the first day arguments were proposed for and against; and on the second occasion the regent master gave a resolution.<sup>1</sup> Almost from the beginning practical moral problems were among the questions addressed in quodlibets;<sup>2</sup> and especially from the 1250s onwards moral dilemmas ('cases of conscience') became a frequent feature. These questions have been a fertile source for intellectual historians. Palémon Glorieux pointed out the importance of quodlibets for accurately tracking the progression of arguments over time: quodlibets tend not to represent a theologian's most detailed treatment of a subject, but they are repetitive (we often have records of several quodlibets given by a master over several years) and can be precisely dated, thus allowing the historian to demonstrate the chronology of an argument.<sup>3</sup> More specifically on moral questions, Elsa Marmursztejn and Ian Wei have argued that these quodlibets mark a transformation in the university masters' authority.<sup>4</sup> From the 1260s onwards theology masters answered questions on the ethical duties of a theology master, including questions on the morality of choosing university disputation over active pastoral care, the formation of future prelates and the proper lifestyle of a master. Their responses to these questions set out a vision of university masters as sources of moral authority and advice for the rest of the clergy, as well as possessors of what Alain Boureau has called 'a vocation for judging all things'.<sup>5</sup> Many moral quodlibets deliver penitential verdicts on commercial transactions, questions of Church and state, oaths, vows and war, to name but a few examples. On this basis, Marmursztejn goes so far as to speak of the theology masters in Paris as a new form of normative

<sup>1</sup> P. Glorieux, *La Littérature quodlibétique de 1260 à 1320* (2 vols, Kain and Paris, 1925–35), i. 18–20; J. F. Wippel 'Quodlibetal questions, chiefly in the theology faculties', in *Les Questions disputées et les questions quodlibétiques dans les facultés de théologie, de droit et de médecine*, ed. B. C. Bazàn et al. (Typologie des sources du Moyen Âge occidental, xlv–xlv, Turnhout, 1985), pp. 153–222; a passage on procedure and format is at pp. 158–62; J. Hamesse, 'Theological *quaestiones quodlibetales*', in *Theological Quodlibeta in the Middle Ages: the Thirteenth Century*, ed. C. Schabel (Brill's Companions to the Christian Tradition, Leiden, 2006), pp. 17–48.

<sup>2</sup> Gueric of Saint-Quentin answered a few questions on moral dilemma in his 5th and 6th quodlibets, which took place between 1233 and 1242 (Glorieux, *La Littérature quodlibétique*, ii. 109–11).

<sup>3</sup> Glorieux, *La Littérature quodlibétique*, i. 66, 70–5.

<sup>4</sup> I. P. Wei, *Intellectual Culture in Medieval Paris: Theologians and the University, c.1100–1330* (Cambridge, 2012), pp. 174–9; E. Marmursztejn, *L'autorité des maîtres: Scolastique, normes et société au XIII<sup>e</sup> siècle* (Paris, 2007), pp. 21–82.

<sup>5</sup> A. Boureau, 'Intellectuals in the middle ages, 1957–95', in *The Work of Jacques le Goff and the Challenges of Medieval History*, ed. M. Rubin (Woodbridge, 1997), pp. 145–55, at p. 155.

power alongside the secular clergy and lay authorities.<sup>6</sup> A larger argument about the masters of Paris during the turn of the thirteenth and fourteenth centuries notes the increasing frequency with which the French monarchy and the papacy relied on Paris masters to deliver judgements on contested questions of doctrine and jurisdiction. One could cite William of Mâcon's and Simon of Beaulieu's use of arguments developed in the university of Paris during the secular-mendicant controversy in the 1280s, or Philip the Fair's appeal to the university during the trial of the Templars. The rise in 'normative' quodlibets coincided, then, with a wider acknowledgement of the Paris masters' intellectual authority.<sup>7</sup>

This chapter describes the influence of penitential thought on the masters' moral quodlibets, with particular reference to questions involving the sin of scandal (of which more below). The debt to penitential writings in these university debates adds important nuance to our understanding of the masters' authority, since the significant innovation in moral thought was going on in the pastoral writings of this period, rather than in the theology faculty. When Paris masters were asked moral questions, as often as not the same question had already been addressed in a confessors' manual and the master would rarely answer a question in a different way from the penitential text. Even when the question posed was entirely specific to the university, the Paris masters would answer along lines similar to questions already treated in penitential literature.

This has implications for understanding Parisian intellectual culture, but also for one branch of scholastic thought. In these quodlibets we can see part of a larger intellectual development, namely the creation of a discipline of scholarly moral advice which would eventually beget the casuistry of the seventeenth century. Casuistry – an academic discipline of moral questions for confessors – did not exist by that name or as a recognized genre in the thirteenth century. However, in quodlibets like these and in similar genres, including canon law and confessors' manuals, we can see that there were common conventions for addressing moral problems which had the qualities of a distinct genre by this time. Hence moral quodlibets are important in the development of an institution, in the sense of a lasting common practice. Theology masters did not explicitly acknowledge they were participating in an institution of this kind when they responded to casuistical quodlibets, but they participated in a style of reasoning held in common among themselves and the authors of penitential thought more generally.

<sup>6</sup> Marmursztejn, *L'autorité des maîtres*, p. 265.

<sup>7</sup> R. W. Southern, 'The changing role of universities in medieval Europe', *Hist. Research*, lx (1987), 133–46; A. Destemberg, *L'honneur des universitaires au Moyen Âge. Étude d'imaginaire social* (Paris, 2015).

## Scandal

The medieval concept of scandal does not map directly onto the modern meaning. The word itself comes from the Greek for a ‘trap’ or ‘snare’ and its moral-theological meaning derived primarily from Gregory the Great’s sixth-century homily on Ezekiel which said that a person in authority should not lead others into sin, even if his words or actions are not inherently sinful.<sup>8</sup> Scandal, as it came to be understood, was the fault of leading other people to sin through one’s own words or actions, or bringing disrepute to the Church.<sup>9</sup> A famous medieval case of scandal taken from Gratian’s *Decretum* involved a priest who openly kept a concubine. As well as the sin of clerical marriage, he was guilty of scandal, because his actions would cause his parish to lose faith in the holiness of the clergy.<sup>10</sup> The term scandal appears quite often in judicial judgements in ecclesiastical courts of the late middle ages.<sup>11</sup> It was a way of determining whether a crime should be dealt with in a public court or was a private matter of conscience.<sup>12</sup> If, for example, a priest has had an affair about which nobody knows, the canon-law court would say that it would cause scandal if the crime became known: it would damage the souls of the people in the community, therefore the priest should do penance in private. On the other hand, if there is a notorious crime – for example, someone has punched a priest in public with many witnesses – then this has to be dealt with in a public procedure, because it will cause scandal to the many if it appeared that the crime had gone unpunished.<sup>13</sup>

As well as this legal definition, the concept of scandal was the subject of a theological and penitential debate about the relative importance of public harm and personal integrity in moral dilemmas. Gratian discussed

<sup>8</sup> Thomas Aquinas, *Summa theologia*, in *Opera omnia iussu Leonis XIII*, iv–xii (Rome 1886–1906), IIa–IIae, q. 43, a. 1; Hostiensis [Henry of Susa], *Summa Aurea* (5 vols, Venice, 1574), i. col. 165 (Tit. *De renunciatione*, no. 9). On scandal see R. H. Helmholz, ‘Scandalum in the medieval canon law and in the English ecclesiastical courts’, *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Kanonistische Abteilung*, xcvi (2010), 258–74; A. Fossier, “Propter vitandum scandalum”: histoire d’une catégorie juridique (XIIe–XVe siècle), *Mélanges de l’École française de Rome. Moyen Âge*, cxxi (2009), 317–48; C. Nemo-Pekelman, ‘Scandale et vérité dans la doctrine canonique médiévale (xiiie–xiiiie siècles)’, *Revue historique de droit français et étranger*, lxxxv (2007), 491–504.

<sup>9</sup> Nemo-Pekelman, ‘Scandale et vérité’, p. 492.

<sup>10</sup> *Decretum Gratiani*, dist. 33, c. 5. in E. Friedberg (ed.), *Corpus Iuris Canonici* (2 vols, Leipzig, 1879–81; repr. 1959), i. cols. 123–4; cf. Nemo-Pekelman, ‘Scandale et vérité’, p. 495.

<sup>11</sup> Helmholz, ‘Scandalum’, pp. 263–8.

<sup>12</sup> A. Fossier, *Le bureau des âmes. Écritures et pratiques administratives de la Pénitencerie apostolique (XIIIe–XIVe siècle)* (Rome, 2018), ch. 8.

<sup>13</sup> Helmholz, ‘Scandalum’, pp. 264–7.

these matters to a certain extent, but it was Peter the Chanter, a master of the Paris schools at the end of the twelfth century, who made the subject interesting. It is not surprising that Peter the Chanter was the first to deepen the discussion about scandal in his *Summa de sacramentis et animae consiliis*, since the point of this treatise, unlike his more popular preaching manual, the *Verbum abbreviatum*, was to move quickly through the obvious and well-known teaching on penitential matters in order to dwell on the more difficult problems. In the case of scandal, Peter the Chanter talks briefly about the canon law cases in which a priest commits crimes, such as simony and fornication, and causes scandal in the community, but moves quickly on to a subtler set of problems.<sup>14</sup> These concern actions which are not inherently sinful but nevertheless cause suspicions among the general public which could lead them into scandal and sin. The formula he offers to solve these problems are the three truths: one should always avoid scandal, unless it endangers a truth of life, justice or doctrine.<sup>15</sup>

One such case is a woman who forms the pious intention not to marry, to avoid the company of men and to observe a fast. These actions are good in themselves, but if they cause her neighbours to think she is a Cathar, then that might lead to scandal. A woman who causes scandal in this way, says the Chanter, should either enter a convent or agree to marry (an action which is not in itself sinful). Marrying would not ruin a 'truth of life', which is to say, it would not be sinful; and so the woman should choose this course of action so that scandal can be avoided.<sup>16</sup> In a second dilemma, the Chanter quotes the case of a prelate who keeps fine horses, wears precious ornaments and employs a number of lawyers and jurists in order to regulate his diocese. This causes scandal among his subjects because they see him spending money on this instead of helping the poor. However, in this case it is better to allow the people to be scandalized because if the prelate wore cheap clothes, or appeared lowly and contemptible, or had no one to punish wrongdoers in his diocese, this would prevent the truth of justice, by which the Chanter means he would be unable to exercise justice in his diocese.<sup>17</sup>

Peter the Chanter's teaching was influential on his immediate circle of students. For example, Robert of Courson also had cases on scandal in his *Summa*: should a preacher declare truths which will offend the audience and cause scandal? Should a judge give a verdict on a foreign poor man's case

<sup>14</sup> Petrus Cantor, *Summa de sacramentis et animae consiliis*, ed. J.-A. Dugauquier (Analecta mediaevalia Namurcensia, iv, vii, xi, xvi, xxi, 3 vols in 5, Louvain, 1954-67), iii, pt. 2a, pp. 372-81 (§ 318-21) (hereafter Chanter, *Summa*).

<sup>15</sup> Chanter, *Summa*, iii, pt. 2a, pp. 376-7 (§ 319). See also pp. 204-5 above.

<sup>16</sup> Chanter, *Summa*, iii, pt. 2a, p. 376 (§ 319).

<sup>17</sup> Chanter, *Summa*, iii, pt. 2a, pp. 376-7 (§ 319). See also pp. 204-5 above.

if he risks angering the local rich men, or should he instead find an excuse to delay the case to avoid scandal? If two men have been promised the same benefice, should the benefactor worry about causing one of the men scandal when he is inevitably disappointed?<sup>18</sup> Peter the Chanter's teaching was significant for its content – he was the first to introduce the idea of the three truths, as far as we know – but it was no less important because of its innovative methodology. His thought was unremittingly ordered towards practical courses of action, rather than theoretical completeness. These cases are as much about how to apply the rules in particular cases as they are about establishing ethical principles.<sup>19</sup> This kind of reasoning about what a person should do is very unusual for a scholastic enquiry. Riccardo Quinto gave a definition of scholasticism as a specialized way of reading texts which strives to resolve logical contradictions in order to find the truth.<sup>20</sup> This works in most cases but it was not Peter the Chanter's method: when he answered these problems, he did not refer to an apparent contradiction between texts, but instead an apparent contradiction between moral imperatives in a practical situation. The Chanter's methodology was, therefore, an exceptionally empirical pocket of scholastic thought.

### *Scandal in penitential literature*

Peter the Chanter's and Robert of Courson's distinctively practical approach had a fairly limited influence among the next generation of theologians; and within the university the case-of-conscience method appeared to be in danger of falling into disuse in the second quarter of the thirteenth century. The big names of the following generation – Stephen Langton, Geoffrey of Poitiers, William of Auvergne – focused their teaching on the more theoretical aspects of theology rather than the practical issues involved in moral dilemmas.<sup>21</sup> Nevertheless, the Chanter's legal-theological approach, the distinctively practical way of addressing problems, did also appear in confessors' manuals and pastoral literature during these years. Significantly, penitential writing had a wider diffusion outside the university, such that it could claim to be a more influential kind of normative writing. This meant that when theology masters later answered questions on scandal in quodlibets, they were conscious of a popular precedent in the pastoral tradition, particularly confessors' manuals such as Raymond of Peñafort's

<sup>18</sup> Robert of Courson, *Summa* (Paris, BNF, MS. lat. 14524, fos. 87rb–88rb (§ 25.4, 7, 12)).

<sup>19</sup> Cf. John Sabapathy's chapter in this volume, which draws a distinction between coherent and consistent thinking.

<sup>20</sup> R. Quinto, '*Scholastica: storia di un concetto*' (Padua, 2001), p. 416.

<sup>21</sup> E. Corran, *Lying and Perjury in Medieval Practical Thought: a Study in the History of Casuistry* (Oxford, 2018), pp. 88–90.

*Summa de casibus* (1225/1227, revised 1235–6) or John of Freiburg's *Summa confessorum* (1297–8).

Like the late twelfth-century theology masters, confessors' manuals continued to use many aspects of case-based practical ethics. Raymond of Peñafort included a series of practical dilemmas in each chapter of his *Summa de casibus* with the intention they should demonstrate to a confessor how to deal with ambiguous sins. Raymond had a pragmatic, case-by-case approach: he quotes the rule about avoiding scandal except in cases of a truth of life, doctrine and justice. If a religious man finds himself the subject of suspicion, even though he has a clean conscience he is morally obliged to try to explain his intentions in order to prevent any chance of scandal. He should try to convince people of his good intentions; and only if they are determined to find fault with his behaviour should he stop trying to explain himself to them.<sup>22</sup> If a multitude are in a state of sin – for example, a crowd persistently refusing to pay tithes or taking part in duels and tournaments – should the bishop excommunicate them all if they refuse to be corrected?<sup>23</sup> Raymond suggests that if the crowd know they are in the wrong but refuse to stop, the bishop should pass over the matter in silence in order to avoid a schism. Instead, he should send written threats and try to win back the wiser, more powerful sinners and so break down the resistance gently. If, on the other hand, they refuse to acknowledge they are sinning, then the bishop should treat them more severely.<sup>24</sup> As in Peter the Chanter's cases, the question is what to do in extraordinary circumstances and how to weigh principle against pragmatic effect.

The inclusion of cases on scandal in the *Summa de casibus* meant that these ideas became widespread and accessible. Raymond of Peñafort's manual was dispersed across Christendom and remained in use throughout the middle ages, which ensured that the subject remained in the clerical vocabulary. There was the beginning of a consensus about what scandal is and how a cleric in a position of responsibility should either avoid it or allow it to happen, something which would not have been the case if Peter the Chanter alone had been interested in the theological implications of scandal. All this is significant. There was a type of thought which was quite specialized and dedicated to solving a certain kind of moral problem. It appeared in areas of intellectual writing which were particularly concerned with confession and clerical duties and had influence beyond the university.

<sup>22</sup> Raymond of Peñafort, *Summa de poenitentia et matrimonio cum glossis Ioannis de Friburgo* (Rome, 1603; repr. Farnborough, 1967), p. 355 (iii.30.3).

<sup>23</sup> Raymond of Peñafort, *Summa de poenitentia et matrimonio*, pp. 355–6 (iii.30.4), with details from William of Rennes's *Apparatus*.

<sup>24</sup> Raymond of Peñafort, *Summa de poenitentia et matrimonio*, pp. 355–6 (iii.30.4).

*The university of Paris and pastoral care*

With this background in mind, we can turn to questions of scandal in quodlibets in Paris.<sup>25</sup> We can see that the quodlibets approach moral problems in the same way as these earlier pastoral writings and writings in the circle of Peter the Chanter. They answer practical, moral dilemmas which are particularly relevant to responsible churchmen; and, like the confessors' manuals, there was a preference for difficult circumstances. The debt to the earlier pastoral writings was so important that the theology master often simply restated or paraphrased teachings which had already been developed in confessors' manuals.

The answers elicited by such questions appear problematic for an intellectual historian in that they often say very little which is really new. Quodlibets are often described in the secondary literature as sparring grounds: occasions when masters could work out their positions on controversial matters and position themselves against other schools of thought.<sup>26</sup> This does not apply to moral problems. Many of the questions on practical, moral decisions in fact seem remarkably safe and do nothing to improve on the pastoral manuals they quote. For example, there is a collection of practical quodlibets containing the determinations by a number of different masters which was donated to the Sorbonne by Bishop Nicholas of Bar. One master determined on a question which appears in both Raymond's *Summa* and Hostiensis's chapter on penitence in the *Summa aurea*: a wife has a child in adultery and brings it up as her husband's first son. Is she obliged to admit the deception to her husband? The quodlibet simply restates Raymond of Peñafort's solution.<sup>27</sup> The same collection includes standard questions on the duty to reveal the truth under oath and the morality of saving a life by lying, again with no real originality in the responses.

It is not in itself surprising that some quodlibets were not innovative: the masters could not control the choice of questions and could not have provided a new answer on every possible topic. Yet, these moral quodlibets also had a function which was rather distinct from that of their more controversial metaphysical or ecclesiological counterparts. These were real-life problems: what was required was simply good advice rather than novelty. A philosophical opinion ceases to be relevant once everyone has conceded it to be true; not so a moral opinion, since people can be repeatedly or

<sup>25</sup> The following section draws on arguments in Corran, *Lying and Perjury*, pp. 119–23.

<sup>26</sup> Glorieux, *La littérature quodlibétique*, i. 63–6.

<sup>27</sup> Iohannes de Murro, Quodlibet 1.4: 'Queritur si constante matrimonio mulier ex adulterio suscipiat filium, vir suus credat esse suum et mulier in confessione dicat sacerdoti sic esse, utrum sacerdos debeat ei dicere quod filium illum repellat a se et quod dicat talis non debet esse heres?' (BNF, MS. lat. 15850, fo. 23va).

continuously troubled by essentially the same dilemmas. Masters were being asked to provide reassurance as much as a contribution to a debate. This can be seen in a quodlibet by Berthaud of Saint Denis, who was asked whether it was sinful to dissimulate instead of carrying out fraternal correction because of scandal.<sup>28</sup> The situation he had in mind was the following: a responsible superior knows he ought to correct a subordinate but is worried what the man's reaction to correction will be. Berthaud gave advice similar to that of William of Rennes in his *Apparatus*: if a prelate and those below him fail to correct their brothers for reasons of negligence, they are culpable; but if they omit or hide the correction for justified prudential reasons, their actions are praiseworthy.<sup>29</sup> However, with a well-chosen quotation from Augustine, Berthaud fleshes out the recommendation. He warns that a prelate might be afraid his reproaches will be met with anger; he may fear that the subject he corrects will either abuse him to his face or complain behind his back.<sup>30</sup> The prelate should dismiss all such fears: as Augustine says, it often happens that the person being corrected is initially upset and disputes the criticism but, when he considers the matter again quietly, realizes his own error and changes his actions.<sup>31</sup>

The answer is conventional in that it restates well-worn pastoral teaching. No one was going to disagree. It seems fair to conclude that Berthaud simply meant to strengthen the resolve of his audience, which certainly included people who would be called upon to make such decisions. The response is best seen in the context of the culture discussed above of consulting theologians, especially in the university of Paris, as experts in matters of spiritual jurisdiction and pastoral care.<sup>32</sup> It is Berthaud's wisdom and authority, rather than his dialectic prowess, which were sought. He took the question to refer not to hypothetical principles but to a concrete decision involving personalities and predictable reactions. This was the

<sup>28</sup> Berthaud of Saint Denis, Quodlibet 1.8 (BNF, MS. lat. 14726, fo. 174rb, edited in Corran, *Lying and Perjury*): 'Utrum aliquis propter scandalum dissimulans a correptione fraterna peccet dissimulando?' (pp. 172–7).

<sup>29</sup> 'Credo autem quod peccant Episcopi, et inferiores praelati, ad quos pertinet huiusmodi admonitionem facere: (inferiores enim eam possunt facere, etiam si sint simplices sacerdotes, curati tamen; cum constitutio illa non specificet, quod ab episcopo sit facienda) si per negligentiam, aut alias corrupta intentione omittant eam facere; si autem ex iusta causa omittant, quia forte vident ibi multorum stragem iacere, vel aliud simile, non peccant' (cf. William of Rennes's *Apparatus* to Raymond of Peñafort, *Summa de poenitentia et matrimonio*, p. 360 (iii.30.9), at v. 'Suspenditur').

<sup>30</sup> Berthaud of Saint Denis, Quodlibet 1.8, in Corran, *Lying and Perjury*, p. 174 [§ 5].

<sup>31</sup> Berthaud of Saint Denis, Quodlibet 1.8, in Corran, *Lying and Perjury*, p. 174 [§ 6].

<sup>32</sup> This was a culture the masters of Paris actively fostered themselves (Wei, *Intellectual Culture in Medieval Paris*, pp. 174–9; Marmursztejn, *L'autorité des maîtres*, pp. 21–82).

way in which masters habitually dealt with pastoral quodlibets: here they participated in a discipline devoted to procedure in practical decision-making. The intellectual work involved was somewhat distinct from the theologian's usual bread and butter. By the late thirteenth century, when these quodlibets took place, the answer to the various categories of dilemma, including scandal, had become fairly conventional and established.

### *A theology master's duty to avoid scandal*

The rest of this chapter concerns the quodlibets on scandal which touched particularly on a master's duty to teach in the light of official bans on certain subjects. A number of moral quodlibets asked questions about whether a master should run the risk of causing scandal to his audience by teaching on doctrine which had been forbidden by a local bishop. By virtue of coming very close to the bone for the masters who answered these questions and of being bound up with some specific events, these are the questions on scandal which most closely affected the masters who commented on these problems. As such, they are a revealing final example of the form of moral teaching which masters offered in quodlibets.

During the final quarter of the thirteenth century there was a growing fear among responsible ecclesiastics that disputation might not always lead smoothly to a clear solution. It had become apparent that contentious papal privileges had generated fruitless argument. A council of masters in Paris in December 1286 forbade masters from answering any 'provocative question' (*quaestio litigiosa*) and Godfrey of Fontaines ascribed the decision to a desire to stem the tide of argument about mendicant confession.<sup>33</sup> Fear of theological error consequent on irresponsible use of philosophical texts motivated a number of condemnations of doctrine. Most notably, the bishop of Paris, Étienne Tempier, banned a series of philosophical propositions in 1271 and more extensively in 1277, with automatic excommunication for those who taught them.<sup>34</sup> There were condemnations in Oxford in 1277, 1280 and 1282 to 1283; London in 1286; and Paris in 1314 and 1316–17.<sup>35</sup>

These events had various practical and moral implications for the theology masters, depending on which side they found themselves in institutional and doctrinal disputes. Some masters were stung because they chose to continue discussing a matter they had been warned off: Jean de Pouilly's teachings

<sup>33</sup> Godfrey of Fontaines, Quodlibet 4, q. 13, in Godfrey of Fontaines, *Les quatre premiers quodlibets de Godefroid de Fontaines*, ed. M. de Wulf and A. Pelzer (Louvain, 1904), p. 276. This quodlibet is the only source for this council.

<sup>34</sup> There is an extensive bibliography on this subject, the seminal study being R. Hissette, *Enquête sur les 219 articles condamnés à Paris le 7 mars 1277* (Louvain, 1977).

<sup>35</sup> Southern, 'Changing role of universities', p. 139.

on the mendicant privilege were condemned at Avignon in 1321; theology masters had been told to stop discussing the privilege in 1290 by the then papal legate Benedict Gaetani.<sup>36</sup> Others, like John Peckham and Peter John Olivi, accused their rivals of deliberately using superfluous and misleading arguments in the face of authoritative pronouncements to the contrary. Still others were asked questions on condemned articles or forbidden legislation and so had to choose whether to perpetuate stale quarrels and to defy a prohibition.<sup>37</sup> Henry of Ghent recounts a situation in which the papal legate positively told him to teach a contentious doctrine – the plurality of forms – without publicly condemning the opposing view (Henry was himself unsure about this doctrine).<sup>38</sup> Luca Bianchi has described the hostile atmosphere of censure and self-censure which followed the 1277 condemnations and in which many masters refused to answer sensitive questions.<sup>39</sup> Given this range of experience and agendas, one might expect a number of different perspectives on the ethics of teaching a contentious doctrine and the question of disguising one's true views. Quodlibets asked whether a master should respond to litigious questions, whether he was morally obliged to teach the whole truth, or whether he could refuse to teach a truth he knew to be beneficial.<sup>40</sup> However, a detailed look at the cases shows that the masters were not tempted to advocate either widespread concealment or defiantly 'free speech'. They universally applied the same moderate set of teachings taken from the casuistical tradition on scandal.

The consensus about the ethical duties of a theology master turned on weighing the possible benefit of a lesson against any likely harm it could

<sup>36</sup> On both of these cases, Southern, 'Changing role of universities', pp. 135–7.

<sup>37</sup> See Henry of Ghent's comments to questions on angels in P. Porro, 'Doing theology (and philosophy) in the first person: Henry of Ghent's *Quodlibeta*', in Schabel, *Theological Quodlibeta*, pp. 171–231, at p. 194.

<sup>38</sup> L. Hödl, 'Neue Nachrichten über die Pariser Verurteilungen der tomasischen Formlehre', *Scholastik*, xxxix (1964), 178–96, at pp. 183–5.

<sup>39</sup> L. Bianchi, *Il vescovo e i filosofi: La condanna parigina del 1277 e l'evoluzione dell'aristotelismo scolastico* (Bergamo, 1990), pp. 31–5.

<sup>40</sup> Quodlibets on this subject not discussed here include: Gerard of Abbeville, Quodlibet 10, q. 3, 'Utrum arguenda non arguere sit peccatum?' (BNF, MS. lat. 16405, fo. 80ra–rb); Henry of Ghent, *Opera omnia*, ed. R. Macken et al. (multiple vols, Leuven, 1979–), xvi. 91–3 (Quodlibet 12, q. 16, xvi: 'Utrum scholastice docens falsum ex sinistra affectione motus peccet mortaliter?'); Servais of Mont Saint Éloi, Quodlibet 1, q. 55, 'Queritur de peccato magistri in theologia disputantis de quolibet, qui renuit accipere questionem sibi propositam quia tangit aliquos quos timet offendere, peccet in hoc mortaliter?' (BNF, MS. lat. 15350, fo. 281rb); Hervaeus Natalis, Quodlibet 2, q. 16, 'Utrum magister in theologia tractans questiones curiosas et dimittens utiles non peccat mortaliter?' (Hervaeus Natalis, *Quodlibeta* (Venice, 1513; repr. Ridgewood, N.J., 1966), fo. 65v).

cause. Richard of Mediavilla's 1296 quodlibet was typical.<sup>41</sup> He was asked whether a master must accept a question which will bring ill will on him, given that the question is a useful one to know. In his response Richard was studiously bland. A master was guilty of mortal sin if he refused to answer a question with a bearing on true faith and morals, especially if he thought he could avert scandal by answering the question. He only sinned venially if he refused a question which could be beneficial to his audience, but which had no bearing on faith. He acted well if he refused to answer a question which would cause no benefit to faith if he answered it, but probably would cause argument, scandal and bad judgements. Such a solution could offend no one. It affirmed the theology masters' vocation for explaining unclear questions of faith yet conceded that it might be permissible to refuse a question on occasion. It admitted the social nature of the judgement: if teaching on a matter would only lead people into further sin, then it was permissible to suppress the truth. The answer thus allowed pragmatic obedience to condemnations and prohibitions on given articles. Which questions exactly should be refused was left diplomatically undetermined; it was up to the individual to judge which topics were more harmful than beneficial.

This opinion was echoed on all sides of various disputes. Henry of Ghent, for example, had been vocally in favour of the theology masters' right to dispute the mendicant privilege. He was one of the theologians who formulated the 219 condemned articles in 1277.<sup>42</sup> When he was asked in 1286 whether a master sins mortally if in public he does not answer a question to which he knows the answer, he follows the same casuistical precedents.<sup>43</sup> He prefaces his response with a restatement of the law of scandal: scandal should always be avoided unless a truth of life, justice or doctrine is endangered. He describes the moral character of a master in terms of a duty towards teaching the truth.<sup>44</sup> A teacher must only assume his office in order to help the ignorant (*propter imperitos*).<sup>45</sup> He describes in detail the sin which is involved in teaching falsehood, or in failing to

<sup>41</sup> Richard de Mediavilla, *Quodlibet III*, ed. and trans. A. Boureau (Paris, 2017) pp. 298–303 (q. 23), commentary at p. lxxv. Glorieux gives the date 1286 (*La littérature quodlibétique*, i. 270–1).

<sup>42</sup> Henry of Ghent, *Opera omnia*, vi. 67 (Quodlibet 2, q. 9).

<sup>43</sup> Henry of Ghent, *Opera omnia*, xiv. 304–7 (Quodlibet 10, q. 16: 'Utrum doctor sive magister determinans quaestiones vel exponens scripturas publice peccet mortaliter non explicando veritatem quam novit?'); discussion in Marmusztejn, *L'Autorité des maîtres*, p. 60.

<sup>44</sup> Henry of Ghent, *Opera omnia*, xiv. 306 (Quodlibet 10, q. 16, ll. 44–5).

<sup>45</sup> Henry of Ghent, *Opera omnia*, xiv. 306 (Quodlibet 10, q. 16, ll. 42–4).

explain difficult matters of faith to the people.<sup>46</sup> This would be equivalent to failing to point out a hidden precipice to an unsuspecting traveller who is in danger of falling to his death. However, when he came to the decision on whether to teach a truth which might harm those listening, he was no less pragmatic than Mediavilla: one must be willing to hide the truth in order to save a soul.<sup>47</sup>

When Henry was later asked, either in Advent 1291 or Lent 1292, 'whether the power of prelates should be disputed by masters', the question was even more topical.<sup>48</sup> The year before, Cardinal Benedict Gaetani had rebuked the Parisian masters for doing just this when the university masters had criticized Martin IV's privilege allowing Franciscans to hear confession without seeking the permission of the local bishop. Gaetani responded astringently that masters had no right to criticize the privilege and denied them any role in deciding matters of doctrine or Church government.<sup>49</sup> Henry of Ghent himself had been prominent among the masters who had wished to amend the legislation; it was his feathers which were ruffled by Gaetani's rudeness. He is reported to have complained about the contradiction that masters who disputed the word of God should not be permitted to discuss the pope. Gaetani reportedly suspended Henry from teaching (although, clearly, he was teaching again the following year).<sup>50</sup> This is the background to his quodlibetical question in 1291/2. It is a work of rhetoric meant as self-justification against his opponents. However, what is controversial in his answer lies in its implications, not what it overtly concludes about the moral dilemma. Once again he argues for a prudent, subtle approach to disputing difficult questions and concealing harmful truths.

Henry starts by establishing his own *bona fides*. Those who dispute the power of prelates with a view to diminishing their jurisdiction are completely in the wrong; they are like those philosophers who tried to reduce the power of God and Christ with their Averroistic arguments.<sup>51</sup> The comparison is self-interested: Henry of Ghent had himself been among the group of theologians under Étienne Tempier who had drawn up the list of condemned Averroist doctrines in 1277. Henry is, therefore, reminding

<sup>46</sup> Henry of Ghent, *Opera omnia*, xiv. 306 (Quodlibet 10, q. 16, ll. 49–60).

<sup>47</sup> Henry of Ghent, *Opera omnia*, xiv. 306 (Quodlibet 10, q. 16, ll. 61–9).

<sup>48</sup> Henry of Ghent, *Opera omnia*, xx. 147–54 (Quodlibet 15, q. 15; 'Utrum licitum sit magistris disputare de potestate praelatorum?'; cf. Marmursztejn, *L'autorité des maîtres*, pp. 71–3; Wei, *Intellectual Culture in Medieval Paris*, pp. 181–2).

<sup>49</sup> Southern, 'Changing role of universities', p. 136.

<sup>50</sup> H. Finke, *Aus den Tagen Bonifaz VIII: Funde und Forschungen* (Münster, 1902), Quellen, pp. iii–vii.

<sup>51</sup> Henry of Ghent, *Opera omnia*, xx. 148–9 (Quodlibet 15, q. 15, ll. 26–53).

those present that he has in the past been a defender of the bishop's power over errant philosophers. No one could accuse him of arguing doctrine merely for the sake of pride or secular curiosity.

Disputing prelates' power in order simply to know better what those powers are and in order to judge when it is right to obey them is, on the other hand, entirely licit and beneficial, according to Henry.<sup>52</sup> He does not mean that matters agreed by universal councils should be dragged back into doubt. Rather, prelates should be happy for those matters to be disputed which need it, since they will then know exactly which powers they can exercise and which they should not. Subjects will know when they should obey their prelates and when they should, rather, disobey.<sup>53</sup> Henry quotes Bernard of Clairvaux and St Matthew to show that subjects must judge when to obey their superiors.<sup>54</sup> He concludes that if a prelate is seen to discourage disputation of any of his powers, the validity of that power will be held suspect: he compares such a prelate to Mohammed, who, aware of the shakiness of his own doctrine, banned his followers from disputing his law.<sup>55</sup> All this contrives to make a prelate who denies masters' right to dispute Church legislation (as Benedict Gaetani had seemed to do) look petty and insecure.

Henry certainly criticizes prelates who try to control discussion of the truth; the response was an apology for the free intellectual activity of university masters. However, what Henry concretely says about the moral dilemma of whether always to reveal the truth does not venture into any unexpected territory. Boiled down, his argument is that a master should not dispute powers if his intentions are evil, but should do so if he means to serve the Church and foresees that his comments will be useful. Henry makes the conventional provisos: if a question has reached the point at which further disputation is unhelpful, masters should withhold their comments. This is the case for Nicholas III's constitution on the Franciscan rule.<sup>56</sup> There is no advantage to be gained from disputing a truth which no one doubts. The Talmud, for example, was only produced when Jewish law was placed in doubt through the influence of Christianity and philosophy.<sup>57</sup> It is not the moral teaching itself but its application in a particular case which is the source of controversy. Henry objected to Benedict Gaetani telling the masters what they should and should not dispute, but his view

<sup>52</sup> Henry of Ghent, *Opera omnia*, xx. 150 (Quodlibet 15, q. 15, ll. 87–90).

<sup>53</sup> Henry of Ghent, *Opera omnia*, xx. 150–1 (Quodlibet 15, q. 15, ll. 91–109).

<sup>54</sup> Henry of Ghent, *Opera omnia*, xx. 151–2 (Quodlibet 15, q. 15, ll. 110–23).

<sup>55</sup> Henry of Ghent, *Opera omnia*, xx. 152–3 (Quodlibet 15, q. 15, ll. 139–42).

<sup>56</sup> Henry of Ghent, *Opera omnia*, xx. 153 (Quodlibet 15, q. 15, ll. 144–51).

<sup>57</sup> Henry of Ghent, *Opera omnia*, xx. 153–4 (Quodlibet 15, q. 15, ll. 151–66).

on dissimulation was nuanced: he neither argued for bringing out the truth at all costs, nor denied that dissimulation, even a prelate's ban on disputing forbidden articles, could sometimes be advisable.

By contrast, Godfrey of Fontaines' allegiances were different. He appears largely to have supported masters who gave opinions on the mendicant privilege. He praises those who chose to give an opinion in spite of the ruling by Paris masters against further disputation; those who refused to answer on the question, he says, 'may be excused to some extent'.<sup>58</sup> More significantly, he disapproved of the bishop of Paris's condemnations of 1277. Later in life he would criticize them as an impediment to students' progress, a cause of scandal among those studying and an obstruction of good doctrine.<sup>59</sup> In his seventh quodlibet, in 1290, Godfrey answers a question on whether a theology master should teach an article of doctrine which he believes to be true if the same article has been condemned by the local bishop.<sup>60</sup> More than Henry of Ghent or Richard of Mediavilla, Godfrey's personal circumstances led him to consider defying authority more concretely and we can detect a current of disapproval against bishops.

It is clear from the outset that Godfrey was talking exclusively about Étienne's condemnations. He concedes initially that a master should avoid publicly affirming the condemned articles, but should remain silent about both the false doctrine approved by the bishop and the condemned true doctrine.<sup>61</sup> However, when Godfrey went on to criticize the bishop who passed such legislation, his audience knew to whom he was referring. If a bishop publicly excommunicates anyone who professes a condemned opinion which is actually true, or which can be asserted as true by a probable opinion, his condemnation would be mistaken.<sup>62</sup> It is not for an individual to disobey the condemnation – that would break the bond of obedience – but he must urge the prelate to revoke his decision.<sup>63</sup> If the question is one necessary to salvation, on the other hand, and the master knows he is right

<sup>58</sup> 'aliquo modo possunt excusari' (Godfrey of Fontaines, Quodlibet 4, q. 13, in de Wulf and Pelzer, *Quatre premiers quodlibets*, p. 276).

<sup>59</sup> Godfrey of Fontaines, Quodlibet 12, q. 5, in *Les quodlibets onze-quatorze*, ed. J. Hoffmans (Louvain, 1932), pp. 100–5.

<sup>60</sup> Godfrey of Fontaines, Quodlibet 7, q. 18, in *Les quodlibet cinq, six et sept*, ed. M. de Wulf and J. Hoffmans (Louvain, 1914), pp. 402–5; cf. Marmursztejn, *L'autorité des maîtres*, pp. 69–71; Wei, *Intellectual Culture in Medieval Paris*, pp. 179–81.

<sup>61</sup> Godfrey of Fontaines, Quodlibet 7, q. 18, in de Wulf and Hoffmans, *Quodlibet cinq, six et sept*, p. 403.

<sup>62</sup> Godfrey of Fontaines, Quodlibet 7, q. 18, in de Wulf and Hoffmans, *Quodlibet cinq, six et sept*, pp. 403–4.

<sup>63</sup> Godfrey of Fontaines, Quodlibet 7, q. 18, in de Wulf and Hoffmans, *Quodlibet cinq, six et sept*, p. 404.

and the condemnation wrong, he must disobey the bishop openly. The sting in the tail is when Godfrey finally asserts that even if the master only believes himself to be right, but is actually mistaken, he must still teach what he thinks despite the excommunication.<sup>64</sup> It is more important to follow one's own conscience (even an erroneous one) than to hold back for fear of punishment.

Despite the belligerent asides, however, the casuistical judgements remain the same. Godfrey concludes, like the others, that it is a question of balancing ultimate harm to those listening against the advantage of teaching. An inconsequent truth should not be endorsed at the expense of the order of the Church and a teaching necessary to salvation should be included whatever the consequences. These masters disagreed bitterly over theological doctrines to which the moral dilemma referred; they took up intransigent opposing stances on the mendicants' privileges, the Franciscan vow and Thomistic propositions. Yet they were in accord when it came to the parameters of the moral dilemmas: they agreed it was a pragmatic decision and concurred on which circumstances were pertinent. They never deviated from the principles of scandal established in pastoral literature. In short, their use of casuistry was straightforward, even on occasions when the comments surrounding the practical advice were rather barbed.

Moral arguments about scandal were a feature of several of the major controversies which would affect the Paris theology faculty in the late thirteenth century. Masters did not advocate dissimulation as a response to censures on philosophical positions, nor did they argue for telling the truth at all costs. On the contrary, these responses say remarkably little because of their emphasis on the necessity of making a personal judgement in the circumstances. The casuistry of scandal itself was not affected by the prohibitions or mutual blame. Some masters did defend their choice to conceal articles of philosophy, or to remain silent about legislation with which they did not agree, but they did not develop the casuistry for the purpose: they remained faithful to the principal of avoiding scandal except in cases of a truth of life, doctrine or justice. The moral reasoning was already well-established in its own right: it advised masters on how to make their decisions as individuals in remarkably neutral terms while the larger intellectual quarrels and institutional conflicts played out.

### *Conclusion*

All this points to some conclusions about the conventions and expectations surrounding moral quodlibets in the thirteenth century. In the responses

<sup>64</sup> Godfrey of Fontaines, *Quodlibet* 7, q. 18, in de Wulf and Hoffmans, *Quodlibet cinq, six et sept*, pp. 404–5.

discussed here, there is a clear distinction between the masters' theological positions and their ethical reasoning. The former are, in each case, a personal set of judgements about doctrine: each theologian mentioned here had his own view on the big, controversial questions. At the same time they all took an interest in the procedure for deciding how a master should teach responsibly and agreed on all the important aspects: which considerations were pertinent to questions of scandal; to whom the teacher's responsibilities were owed; when and on what subjects he should hold disputations. The masters who answered these questions were aware, in short, that a special kind of answer was required in questions of moral conscience. They were asked to engage with casuistical conventions in these cases, which foregrounded circumstantial deliberation and personal judgement.

The term casuistry was not coined until the seventeenth century as a term of disparagement for Catholic – and particularly Jesuit – rules of confession. Nevertheless, the 'thought style' which came to be known as casuistry was fully in existence by the end of the thirteenth century. Thought about cases of conscience spread from one genre of scholarly discussion to another during the period: from theology masters and canon lawyers to penitential authors and back to theology masters. In terms of methodology, the late thirteenth-century masters' approach to questions of scandal had more in common with penitential manuals than it did with their answers to the more abstract branches of theology. Considerable original thought about the resolution of moral thought had appeared in the work of authors such as Peter the Chanter and Raymond of Peñafort; when the theology masters came to address the same problems, they were more interested in applying this thought helpfully to their own problems than in developing new arguments.

These conclusions nuance our understanding of the university masters' authority. Marmursztejn talked about theology masters claiming an extra basis of authority and 'intellectual jurisdiction'. The findings here suggest this was a more specific kind of jurisdiction than previously acknowledged. Masters engaged in an institution of counsel of conscience (*consilium animae*) when answering these questions. These were problems which constantly reappeared in life, but for which there was a standard means for arriving at an answer – and the masters simply restated this means and pointed out the possibilities for circumstantial variation.

This discovery has implications for scholasticism as a discipline. Traditional definitions of scholasticism, particularly Riccardo Quinto's, have emphasized factors such as scientific interest in knowledge for its own sake, the use of reason and in particular the analysis of texts for contradictions. Casuistry has some features of traditional scholastic method: it focuses

on contradictions; it is in a question-and-answer form. Yet, practical situations, not texts, are at its centre. Theology masters do cite relevant texts in their casuistic problems but their answers often lie in reconciling the circumstances of the case rather than the words of an authority. Cases of conscience permit us, therefore, to broaden the definition of scholasticism to include practical pastoral enquiry and to acknowledge that scholastic method could accommodate a degree of empirical thought.

A final comment should be made about casuistry as an institution. In the late twelfth century, school masters like Peter the Chanter perceived the need for practical solutions to conflicts of duty involving the danger of scandal. He forged procedures on how to make moral decisions which, by the late thirteenth century, were second nature, thanks to a widely-diffused penitential literature. University masters answering quodlibets on scandal dispensed their advice not primarily as great speculators but in their additional role as pastoral counsellors. It was characteristic of this style of reasoning that it was stable and explicit in stating a method for moral choice, but left it entirely to the individual to decide in a particular case, allowing room for personal adjustment. Because of this agreement in method across the genres, thirteenth-century casuistry, including the moral quodlibets of the theology masters, deserves recognition as an institution in its own right, in the sense of a lasting common practice.