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# The Evil of Lying and its Definition: Studies In Thomistic Realism

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### **The Evil of Lying and its Definition: Studies In Thomistic Realism**

In times of social crisis, moral reasoning about lying becomes more urgent. This is because the desire for justification for routine lying is suddenly needed, as hostile governments force citizens to swear allegiance to propositions or practices that violate their consciences. To safeguard their profession, their religion, or even their lives, people seek to avoid the threatened penalties by compromising with the aggressor. Their desire is to maintain a good conscience and avoid harm while giving their conscience's aggressor some indication of cooperation or acquiescence. Catholic moral theology, particularly in the Early Modern Period (1450-1700), offered reasoning about how to preserve the truth and one's life in the context of Elizabethan England. In the contemporary United States, health care workers in particular foresee the crisis of being required to participate in procedures that violate their consciences or to lie about them, or be forced to leave their professions. It is thus timely to re-consider the Catholic moral tradition, and St. Thomas Aquinas' thought on lying and the requirements of the truth.

In the first chapter of this thesis, I will review the theologian Paul Griffith's Augustinian argument in favor of the absolute prohibition on lying. His book is an exposition on the Augustinian heritage that most influenced the Church in her thinking

about lying.<sup>1</sup> Although Aquinas modifies Augustine's thought on the matter in important ways, he concurs that lies are absolutely prohibited in the light of faith and reason. This historical overview ends with a consideration of the papal condemnations of strict mental reservations, which are a type of lie. Although this should be conclusive for Catholic moral theologians, it is appropriate to explore the theological and philosophical reasoning for an absolute prohibition on lying and strict mental reservations, which are contrary to the goods of faith and human nature.

The second chapter of this thesis explores why lying is evil. This task requires an explanation of the relations of thought to reality, and the representation of thought in linguistic contexts. I argue that reality is the measure of thought, and that linguistic contexts, while only imposing a conventional rule, nonetheless constrain what may truthfully be said in definite circumstances. This analysis will implicitly suggest why lying is possible, namely because a speaker can refuse to be ruled by reality and by the rules of language in contexts.

The third chapter of this thesis explores two types of near lies: those which employ strict and broad mental reservations. I will argue that these forms of speech are materially different and have different tendencies; they are intentionally different, because they either aim at untruth or do not do so, respectively. Ultimately, I will maintain that lying and strict mental reservations, besides being proscribed by the Catholic moral tradition, are also inherently opposed to the truth and reality, and so should be rejected on the grounds of reason as well.

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<sup>1</sup> Paul J. Griffiths, *Lying: An Augustinian Theology of Duplicity* (Grand Rapids, MI: Brazos Press, 2004).

## Chapter One: Paul Griffith's Augustinian Argument Against Lying and Early Modern Developments

### I. Augustine and Aquinas on Lying

Sts. Augustine and Aquinas are at the heart of the Christian tradition on lying, and they agree on an absolute prohibition on lying. They agree that lying involves intentionally speaking *contra mentem*, but differ on whether lying also involves an intention to deceive.<sup>2</sup> Their arguments about lying's impermissibility are slightly different, and have been delineated accurately in recent articles.<sup>3</sup>

Paul J. Griffiths, in his recent text, *Lying: An Augustinian Theology of Duplicity*, offers a critical retrieval of Augustine's theological argument for the prohibition on all lying. Since Augustine's treatment of lying was occasional and unsystematic, Griffiths assembles Augustine's theological principles to create a systematic defense of Augustine's prohibition. It is of value to assess this account, so that it may be compared with the Thomistic approach which follows in chapters two and three of this thesis.

Griffiths situates his Augustinian argument against all lying in an account of the pathology of the will. This description of the origin of sin is not meant to describe Augustine's robust theory of original sin and its implications, but merely to expose the root of lying. Griffiths notes that for Augustine, sin is primarily concerned with desire

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<sup>2</sup> See Boniface Ramsey, "Two Traditions on Lying and Deception in the Ancient Church," *The Thomist* 49 (1985): 504-33. Aquinas does not think that the intention to deceive is a necessary part of the definition (ST II-II, q. 110, a. 1, ad 3).

<sup>3</sup> See Joseph Boyle, "The Absolute Prohibition of Lying and the Origins of the Casuistry of Mental Reservation: Augustinian Arguments and Thomistic Developments," *American Journal of Jurisprudence* 44 (1999): 43-65. And Thomas Petri, O.P. and Michael A. Wahl, "Live Action and Planned Parenthood: A New Test Case for Lying," *Nova et Vetera*, English Edition 10 (2012): 437-62.

and the will, and not reason.<sup>4</sup> Augustine holds that pride is the beginning of sin, and is a rejoicing in oneself apart from God.<sup>5</sup> Sin is a privation of goodness in the will, and man has a tendency to nothingness, because he is created *ex nihilo*.<sup>6</sup> Augustine recalls the Pear Tree Incident in *Confessions*, Book 2, as a sin which most bore this mark. Griffiths writes: “the only thing that entices him is the evil of his action (he is *malus gratis*, evil for nothing, freely evil), and this is the fundamental and endlessly difficult fact about sin.”<sup>7</sup>

Aquinas’ thought about sin and its origin shares these basic patristic bases about the disorder of the will. But in Griffiths’ reading, Augustine has quite a different view of the remedy for sin. Griffiths holds that for Augustine, adoration and worship is the primary cure for sin.<sup>8</sup> By implication, speech is then a gift given primarily for praise and adoration of God. *Mendacium* is thus the antithesis to *adoratio*, because it misappropriates words and denies their origin and orientation as gifts for God.<sup>9</sup>

Griffiths contends that though Aquinas is in accord with Augustine on the ban on lying, Augustine’s position is more radical in certain respects. First, Griffiths says that Augustine’s ban on lying is total, while Aquinas seems to permit lying to save the innocent.<sup>10</sup> Similarly, he notes that Aquinas seems to permit dissimulation, while

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<sup>4</sup> Paul J. Griffiths, 56.

<sup>5</sup> *Ibid.*, 59.

<sup>6</sup> *Ibid.*, 61.

<sup>7</sup> *Ibid.*, 68.

<sup>8</sup> *Ibid.*, 64.

<sup>9</sup> *Ibid.*, 85.

<sup>10</sup> *Ibid.*, 230. Lawrence Dewan, O.P., concurs, maintaining that lying to protect an innocent is a venial sin for Thomas Aquinas, and that one is not bound to avoid all venial sins: “St. Thomas, Lying, and Venial Sin,” *The Thomist* 61 (1997): 279-99. But this interpretation implies that Aquinas taught that one can directly intend to commit a venial sin with impunity, which is not supported by any text from Aquinas.

Augustine rejects it.<sup>11</sup> Griffiths observes that Aquinas treats the problem of lying in a section of the *Secunda Secundae* of the *Summa Theologiae* concerned with justice, while Augustine treats it as a separate topic in two essays. He then criticizes Aquinas for what he takes to be an inconsistency in treating lying as a “*secundum se*” evil.<sup>12</sup> He writes:

If the lie-as-such is sinful, the sense in which and the extent to which it is sinful will remain the same for all lies. To say that a particular lie’s mortality or veniality depends upon its topic is to say that no lie is intrinsically mortal—for if it were, no change of topic could make it cease to be so.<sup>13</sup>

## II. A Response to Griffiths

Although Griffiths’s Augustinian defense of the ban on lying is impressive in some respects, his reading of Aquinas needs correction. First, Griffiths assumes that Aquinas teaches that venial lies are permissible. But though Lawrence Dewan argues this, there is no text in Aquinas that says that venial lies or sins are simply permitted, and he maintains that all lies are sins. Second, Aquinas accepts the distinction of the three types of lies, i.e., malicious, officious, and jocose, from Augustine. It is difficult to see how these lies are distinguished morally on any other basis than gravity of evil, as Aquinas distinguishes them. And it is unclear why Augustine would distinguish the types of lies if they were all of the same gravity of evil.

Griffiths appears to be conflating *per se* evils with mortal sins. And while typically, one can distinguish intrinsically evil acts from an agent’s intention by pointing

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<sup>11</sup> Paul J. Griffiths, 179.

<sup>12</sup> *Ibid.*, 180.

<sup>13</sup> *Ibid.*

to unintended evil acts, it seems as though a lie cannot be separated from an intention to lie. That is, both Augustine and Aquinas take a lie to be deliberately speaking *contra mentem*, and not merely speaking falsely, since one may inadvertently speak falsely, believing it to be true. But though a lie is an intentional commission of a *per se* evil, it does not necessarily follow that all are equally mortal sins, because a mortal sin requires more than a mere intention to commit an intrinsic evil.<sup>14</sup> Ignorance and coercion are obvious factors that may prevent such a sin from being mortal. And we will see in chapter three how intentions distinguish the type and gravity of lies.

Second, Griffiths' Augustinian defense depreciates natural reason. That is, his notion that language is primarily for *adoratio* seems to neglect its use for the simple communication of truth in ordinary affairs. He reflects on lying in light of the Holy Trinity and the Incarnation, but as dogmas of faith, these references do not help one see why lying is known to be evil by natural reason. In addition, Griffiths maintains that avoiding lying requires grace and regular worship.<sup>15</sup> And though perfect consistency in avoiding lying may require grace, it seems to exaggerate the need for grace by only giving reasons against lying from revelation.

I will show in the next chapter that Aquinas offers an argument against lying that is more judicious to reason than Griffiths'. And while Griffiths does well to seek to reclaim Augustinian terms on the problem of lying, it is essential at this historical juncture also to reclaim Thomistic terms and methods, as Jacques Maritain did in the

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<sup>14</sup> "For a sin to be mortal, three conditions must together be met: 'Mortal sin is sin whose object is grave matter and which is also committed with full knowledge and deliberate consent'" (CCC 1857).

<sup>15</sup> Paul J. Griffiths, 225.

last century. But before this, it is important to relate the critical historical context in which these Thomistic terms were further refined and received ecclesiastical sanction or reprobation, depending on the case. This critical historical context is the rise of casuistry, which will particularly inform the third chapter of this thesis—on mental reservations.

### **III. Early Modern Developments on Lying and the Papal Condemnations**

Although Augustine and Aquinas concur on the absolute prohibition on lying, the Catholic theological tradition has developed its understanding of the problem through the history of persecution in the sixteenth century and the development of casuistry.<sup>16</sup> In their historical work, *The Abuse of Casuistry*, Albert R. Jonsen and Stephen Toulmin show that moral reasoning about lying developed considerably in the early modern period, and centered around the problem of a priest's defense of the seal of confession.<sup>17</sup>

Although the Medieval Summists were partial and scattered in their treatments of the lying problem, Dominico Soto gave an influential set of lectures on the topic in 1552. Soto said that equivocation and ambiguity outside the law may certainly be employed in the case of a priest asked about a confession. There the priest may say, "I do not know," with the "unexpressed qualification, 'in a way I can state publicly.'" But

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<sup>16</sup> Joseph Boyle notes that Raymond of Penafort initiated the tradition of casuistry on lying, while dealing with the case of Abraham's deception about Sarah, in "The Absolute Prohibition of Lying and the Origins of the Casuistry of Mental Reservation: Augustinian Arguments and Thomistic Developments," 63.

<sup>17</sup> Albert R. Jonsen and Stephen Toulmin, *The Abuse of Casuistry* (Berkeley: University of California Press, 1988), 199.



he held that one cannot employ “more elaborate forms of restriction.”<sup>18</sup> He affirms that death is better than using an illegitimate equivocation. He and his contemporaries had in mind Augustine’s view “that human speech was always to be understood as spoken before God.”<sup>19</sup> The canonist Navarrus makes an argument that though the hearer does not understand the utterance with its intended meaning, God does. Thus God does not judge it a lie, though it deceives the hearer.

This was the beginning of the defense of mental reservations/restrictions. This practice was considered an option for priests when asked about confession, but not generally. The Jesuit Juan Azor said that one could only employ a mental reservation in the priest case, or when one is responding to an unjust judge.<sup>20</sup> If no injustice is presented, one could not prevaricate in this way.

Later casuists tend to approve of equivocation, where a term with multiple senses can be used with the expectation that it will be interpreted wrongly. But its permissibility depended on the duties of the questioner (e.g. lawful judge) or questioned (e.g. priest).<sup>21</sup> Mental restrictions depended less on linguistic usage and more on the qualifications in the speaker’s mind. Soto seemed to excuse broad restrictions. The problem with broad restrictions is that they tend not to succeed in

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<sup>18</sup> Ibid., 200.

<sup>19</sup> Ibid.

<sup>20</sup> Ibid., 201.

<sup>21</sup> Ibid., 202.

misleading.<sup>22</sup> The question of strict restrictions came to the fore in the English persecution.

The Jesuit Henry Garnet published a pamphlet in 1595 that argued that it was permissible to deny that a priest was in the “house” by means of a mental reservation, e.g., the neighbor’s “house,” as long as God understood the strict restriction in mind.<sup>23</sup> Garnet distinguishes this type of equivocation, i.e., on “house” from strict reservation, or deceptive prevarication. Garnet excuses the second type with the confessional example, but applies it generally. The Jesuits Paul Laymann and John De Lugo call this a simple lie.<sup>24</sup> Garnet’s argument depends on the questioners being unjust and asking wicked questions. So his endorsement of strict reservation is not terribly lax. His notion is that the question or oath is an unjust one to impose on the hearer. Answering the oath on its own terms would be an injustice, he argues. Being silent would seem to assent. So, one may only deny.<sup>25</sup> Robert Persons, his companion, agreed that equivocation was licit. But Persons said one could not equivocate on the Oath of Allegiance because it explicitly had one swear not to equivocate.

Over a period of about thirty years, the Navarrus/Garnet argument for mental reservations became quite influential. The Englishman Robert Sanderson said a royalist cannot simply take an anti-royalist oath without sinning. But if one interprets the oath

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<sup>22</sup> Ibid.

<sup>23</sup> Ibid., 208.

<sup>24</sup> Ibid., 209.

<sup>25</sup> Ibid., 210.

not to be anti-royalist by equivocating on its language, then one can take it.<sup>26</sup> Thirty years after the Navarrus/Garnet interpretation was developed, the Jesuits repudiated it, while still holding that an unjust judge has no claim to one's truth.<sup>27</sup>

So the accepted practice moved from Augustine's rigorous position to broad reservation/equivocation for priests. Augustine did not relax the prohibition on lying based on the authority or rights of the speaker or interrogator. But the Jesuits offered cases where the prohibition could have exceptions, at least allowing priests to use broad reservations or equivocation. But this was an unstable conclusion, since broad reservations/equivocations were easily seen through. So the desire for greater laxity on mental reservations grew. However, the paradigm case remained that of a priest, who shared the truth only with God, and an unjust questioner.<sup>28</sup>

Hostile legal proceedings in England kept the doctrine of mental reservations on firm ground. But using mental restrictions in inquiries between private parties led it to fall apart.<sup>29</sup> The Holy Office condemned three casuist positions on lying in 1679, on strict reservation, regular equivocations for earthly possessions, and taking oaths with mental restrictions.<sup>30</sup> These were drawn from the writing of the Jesuit canonists Sanchez and Lessius.

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<sup>26</sup> Ibid., 212.

<sup>27</sup> Ibid., 211.

<sup>28</sup> Ibid., 213.

<sup>29</sup> Ibid., 214.

<sup>30</sup> Pope Innocent XI, *Condemnation of Laxist Doctrine* (1679), DS #1176-1178, in *The Abuse of Casuistry*, Jonsen and Toulmin, 384.

The first condemnation, against strict mental reservations, is against swearing that one did not do something that one did, understanding within himself something else which he did not do, or with some added truth.<sup>31</sup> The second condemnation is against the justification of lying in order to protect some earthly good, including the body.<sup>32</sup> The third condemnation is of mental reservations when taking oaths. Apparently, the justification for strict mental reservations in this case is that the one requiring the oath has no right to the truth.<sup>33</sup> In sum, these papal condemnations explicitly rule out strict mental reservations and proscribe lies justified by claims to protect one's life and to ward off unjust aggressors. Contemporary Catholic moralists tend not to advert to these official church teachings.

These condemnations brought the Church back to Soto's position: rare equivocations and broad reservations when one needed to answer. The strict reservations controversy did lasting damage to the reputation of theological casuistry and of the Jesuits.

This historical excursus is important, because theologians and philosophers tend to treat the problem of mental reservations apart from this history and the official

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<sup>31</sup> *Enchiridion Symbolorum*, ed. Henricus Denzinger and Adolfus Schonmetzer (Barcelona: Herder, 1963), #1176: "*Si quis [iuret]. . .se non fecisse aliquid, quod revera fecit, intelligendo intra se aliquid aliud, quod non fecit. . .vel quodvis alius additum verum. . .*"

<sup>32</sup> *Ibid.*, #1177: "*Causa iusta utendi his amphibologiis est, quoties id necessarium aut utile est ad salutem corporis, honorem. . .*"

<sup>33</sup> *Ibid.*, #1178: "*Qui mediante commendatione vel munere ad magistratum vel officium publicum promotus est, poterit cum restrictione mentali praestare iuramentum, quod de mandato regis a similibus solet exigi, non habito respectu ad intentionem exigentis. . .*"

Church teaching on the matter.<sup>34</sup> As a tradition, Catholic moral thought does not approach perennial problems like lying apart from their historical antecedents. In light of this history and Church doctrine, I will offer a defense of broad mental reservations in the third chapter, which can be defined as a speech act where the meaning of the speaker's words are broadly connected with his intended sense, so that the true sense can be known. At the same time, I will argue against the permissibility of strict mental reservations, which are speech acts whose meaning is strictly reserved to the speaker, making the hearer's ability to interpret the statement correctly nearly impossible.

## Chapter Two: The Evil of Lying for Aquinas

In his Commentary on the Gospel of John, William of Alton, a Dominican contemporary of Thomas Aquinas, provides an intriguing interpretation of the "unforgiveable sin" of Matthew 12:31.<sup>35</sup> This is usually interpreted as a sin which fundamentally rejects God's mercy. But Alton gives another example of the unforgiveable sin in Pilate's question, "What is truth?" of John 18:38. Alton points out that the question is asked in the presence of the One who is Truth. Hence, Pilate's question represents a rank and complete denial of the truth itself.

This type of rejection of the truth is familiar to one who has shown another that his position is absurd or contradictory, and yet he still maintains it. Though it may be

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<sup>34</sup> See Janet Smith, "Fig Leaves and Falsehoods," *First Things* 214 (June-July, 2011): 45-49. And Christopher Kaczor, "In Defense of Live Action," *Public Discourse* (February 11, 2011), accessed April 7, 2013, [www.thepublicdiscourse.com/2011/02/2538](http://www.thepublicdiscourse.com/2011/02/2538). Hadley Arkes, "When Speaking Falsely is Right," *Public Discourse* (February 19, 2011), accessed April 7, 2013, <http://www.thepublicdiscourse.com/2011/02/2631/>.

<sup>35</sup> My thanks to Rev. Timothy Bellamah, O.P., for providing this reference from an unpublished manuscript.

forgivable, the ultimacy of this rejection is significant. Such a complete rejection would be apt to make a teacher despair of his task, if it were not fairly common. For the rejection indicates an unwillingness to learn, and a refusal to grow in truth and goodness. It is also the antithesis of wonder at reality. The intersection of the good, the true, and reality is a touchstone of St. Thomas's thought. Sin and evil are the consequences of departure from the transcendentals and the order established by God.<sup>36</sup> Through reference to Jacques Maritain's *St. Thomas and the Problem of Evil*, I will briefly treat St. Thomas's thought on the metaphysical origin of ethics and the problem of evil, and show how these doctrines contribute to the understanding of why lying is understood to be a *per se* evil.

### I. First moment of evil

In *St. Thomas and the Problem of Evil*, Maritain elaborates on an important, but relatively undeveloped doctrine of Aquinas on the origin of moral evil. In this doctrine, Aquinas makes an important advance on Augustine's thought on the problem. In *On Free Choice of the Will*, Augustine raises the problem that God would seem to be the cause of sins, since God created the souls from which they come.<sup>37</sup> Augustine locates the cause of moral evil solely in the human will. His notion that moral evil consists in a disorder of loves corresponds to Aquinas' later development. But Augustine does not specify sin's precise origin in the human will.

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<sup>36</sup> *ST I-II*, q. 75, a. 1, ad 3, trans. Friars of the English Dominican Province (Westminster, MD: Christian Classics, 1948, 1981), vol. 2, 928.

<sup>37</sup> Augustine of Hippo, *On Free Choice of the Will*, trans. Thomas Williams (Indianapolis: Hackett Publishing Company, 1993), 3.

Aquinas' doctrine describes a metaphysical moment of the human will that ontologically precedes an act of choice. In this metaphysical moment, one's will is posed with the choice to adhere to its proper rule or to decline to do so. Aquinas specifies what the will declines: ". . .the will in failing to apply the rule of reason or of the Divine law, is the cause of sin."<sup>38</sup> As the will proceeds to act, the intellect adverts to God's guidance in revelation or right reason and determines to act in accord with that order or not.

Aquinas describes this moment as "pre-existing" in the moral agent: ". . . evil never follows in the effect, unless some other evil pre-exists in the agent or in the matter. . ." <sup>39</sup> This pre-existing evil in the agent is a negation and deficiency in the will, and not yet a privation of a due good in an act. The will's negation is that of an interruption of the order which governs the person's good and the role of the appetible good in it. Here, the will has not yet committed to intending an end through a chosen moral object. Between mere willing (*simplex voluntas*) and the choice (*electio*) of means to one's end, there is a profoundly complex ontological process involving interplay between the will and intellect. And yet, the aspects of this unified process can be investigated, provided the parts are not mistaken for discrete acts.

In any moral act, the intellect is presented with an appetible good. Attaining that intended good and the means to it require the intellect's reasoning and the will's

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<sup>38</sup> ". . .voluntas sine adhibitione regulae rationis vel legis divinae, est causa peccati," *ST* I-II, q. 75, a. 1, ad 3, (Turin: Marietti, 1950), 347. trans. Friars of the English Dominican Province, (Westminster, MD: Christian Classics, 1948, 1981), vol. 2, 928.

<sup>39</sup> "*nunquam sequitur malum in effectu, nisi praeexistat aliquod aliud malum in agente vel materia. . .*" (*ST* I, q. 49, a. 1, ad 3), (Turin: Marietti, 1950), 249. trans. Friars of the English Dominican Province, vol. 1, 254.

movement. The first ontological, and not chronological, moment is for Aquinas the openness or closedness to divine guidance.<sup>40</sup> Maritain rightly takes this moment to be a condition of metaphysical freedom.<sup>41</sup> Why is this moment metaphysically required? When one proceeds to a choice of means, one needs to be guided by something. Maritain points out that Aquinas holds that God has the first initiative of any good act.<sup>42</sup> This guidance is either the order of reality as established and revealed by God or it is not. Maritain argues that “This moment of non-consideration of the rule is so to speak the spiritual element of sin.”<sup>43</sup>

It is not supposed that the moral agent consciously brings to mind this rule in every act. Maritain observes that “the faultiness of the will does not consist in not paying attention in act to the rule of reason or of divine law, but in this: --that without taking heed of the rule it proceeds to the act of choice.”<sup>44</sup> Thus, the habitual sinner, having once refused to obey its rule, would presumably have a virtual intention of continuing to neglect it, without being conscious of this neglect in subsequent acts.<sup>45</sup> At the same time, studied ignorance or culpable negligence of a particular moral rule would be conscious departures from the divinely-established order. Each aspect of the process of moral action is helped by a relevant virtue, thus Aquinas sees the virtue of truthfulness (*veritas*) as critical to the *habitus* of truth-telling.

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<sup>40</sup> By implication of n. 38 *supra*.

<sup>41</sup> Jacques Maritain, *St. Thomas and the Problem of Evil* (Milwaukee, WI: Marquette University Press, 1942), 27.

<sup>42</sup> *Ibid.*, 37.

<sup>43</sup> *Ibid.*, 32.

<sup>44</sup> *Ibid.*, 28.

<sup>45</sup> Austin Fagothey, S.J., describes the virtual intention as one that was “once made and continues to influence the act now being done, but is not present to the person’s consciousness at the moment of performing the act” *Right and Reason*, 2<sup>nd</sup> ed. (Rockford, IL: Tan Books, 2000), 99.



Although the will is ultimately responsible for turning away from divine wisdom and right reason, it may be occasioned by other internal causes, or by external causes through internal causes. Aquinas states:

Now, as state above, none can move the will inwardly save God alone, who cannot be a cause of sin. . . . Hence it follows that nothing external can be a cause of sin, except by moving the reason, as a man or devil by enticing to sin; or by moving the sensitive appetite, as certain external sensibles move it.<sup>46</sup>

Thus, Aquinas maintains that the will is fundamental to sinning, though it depends on the intellect's presentation of an illicit good to the will. But he allows that the good desired in sinning may be occasioned by ignorance of the intellect, or a disordered passion or weakness of the appetites.

## II. The *ens reale/ens rationis* distinction

While elaborating Aquinas' explanation for the origin of moral evil, Maritain makes a telling statement that moves the ethical discussion into the metaphysical. He notes that in introducing the non-consideration of its rule, the will "has introduced the condition which will cause the texture of being to give way. . .such an act will bear in itself the teeth-marks of nothingness."<sup>47</sup> This remark about damage to the texture of being recalls Maritain's concern with the empirical sciences in his day and his desire to renew the philosophy of nature.

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<sup>46</sup> "*Voluntatem autem, ut supra dictum est, interius movere non potest nisi Deus; qui non potest esse causa peccati. . . . Unde relinquitur quod nihil exterius potest esse causa peccati, nisi vel inquantum movet rationem, sicut homo vel daemon persuadens peccatum; vel sicut movens appetitum sensitivum, sicut aliqua sensibilia exteriora movent appetitum sensitivum*" *Summa theologiae*, I-II, q. 75, a. 3 (Turin: Marietti, 1950), 349. English: vol. 2, 928.

<sup>47</sup> Jacques Maritain, *St. Thomas and the Problem of Evil*, 33.

The decision to forego reference to the philosophy of nature, and hence of the empirically real, is analogous to the will's departure from its proper rule before it proceeds to act. There is nothing yet sinful in such an abstraction, cf. mathematical abstractions, provided one does not proceed to act as though the abstraction suffices for reality itself. Considering something solely as an *ens rationis* is not yet metaphysically culpable, but it does lack the full reality of the real being, through which it has any reality. Idealistic physical science is not then on this analogy akin to nihilism, but it is critically severed from real being.

Maritain discusses the real relation and distinction between a thought and its object. He points out that adequation in Thomistic epistemology has nothing to do "with a copy or material transfer." Adequation is between the being of a thing and the "being affirmed by the mind" in the act of judgment.<sup>48</sup> Maritain holds that Descartes' mistake was taking the object to be in thought, and "not as an intelligible entity rendered present to the mind through an immaterial form."<sup>49</sup> In reality, the object retains its integral nature in the world, while the knower may have a concept that has an ontological relation to it. The Cartesian mistake of subsuming the real object by the object known eviscerates the object's nature. Beings of reason in the mind need be referred to real objects to be conceived adequately. Without such a reference real beings are made beings of reason, when one divorces the relation of reason (*ratio*) from the object's integral nature.

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<sup>48</sup> Jacques Maritain, *The Degrees of Knowledge*, trans. Gerald B. Phelan (New York: Charles Scribner's Sons, 1959), 88.

<sup>49</sup> *Ibid.*, 128.

This relation of knowing can be seen also in the moral object. Steven A. Long shows that within the moral object there is the relation of reason (*ratio*), which makes an act choiceworthy, and the act itself in its integral nature.<sup>50</sup> Here ontological adequation can be thought of between the attractive aspect of the moral object and its integral nature. Applied to truth-telling, one can distinguish a verbal construal of the state of affairs, the intellectual grasp of the state of affairs being verbally construed, and the state of affairs itself. Though the state of affairs itself has its real being in reality and is the ultimate reference to reality for the verbal and intellectual construals, it is clear that the latter two referents each admit of “inadequation,” deliberate or not, commensurate to the agent's intellectual and linguistic abilities.<sup>51</sup> That is, one can choose to characterize a state of affairs in a multitude of ways, as one conceives specific aspects of a relevant concept in contrast to others, and further asserts that concept in a selective way.

### III. The relation of word-*ratio*-thing

Having surveyed St. Thomas' thought on the origin of moral evil and Maritain's exposition on an analogous metaphysical sin, we can detect its implications in language by looking at the metaphysical elements of an assertion. Aquinas makes this connection in his “Treatise on the Angels” in the *Summa Theologiae*. In reply to the objection that demons are perverse because of falsehood in the intellect, St. Thomas replies that their

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<sup>50</sup> Steven A. Long, *The Teleological Grammar of the Moral Act* (Naples, FL: Sapientia Press, 2007), 12.

<sup>51</sup> Julius A. Dorszynski, *Catholic Teaching about the Morality of Falsehood* (Washington, DC: Catholic University of America Press, 1948), 73. Dorszynski denies that the faculty of speech is only for communicating ideas and judgments of the speaker's mind. He says adequation is normally a good, but sometimes it is inappropriate, e.g., when a secret needs to be concealed.

perversity is instead in not being subject to divine wisdom.<sup>52</sup> Analogously, when the human intellect is not subject to the divine order and will, it enters into error.

Ordinarily, an assertion is represented by a combination of signs or words, which refer to *rationes*/concepts, through which a thing (*res*) or state of affairs is known.<sup>53</sup> One's judgment of a thing's real existence and what it actually is present the condition for error. That is, we may misidentify an object. The use of speech adds another occasion for error in that an assertion may refer more or less to a concept in its linguistic context. But again, an assertion need have some relation to a concept, else mistaken terms for concepts would be impossible, e.g., when one errs in speaking a foreign language. The relation of a being and its thought has an ontological basis, while thoughts and speech have only a conventional relation. This means that assertions have two real relations—to the real beings that are signified and to their signification in a linguistic context.

Applied to truth-telling, one can distinguish a verbal construal of the state of affairs, the intellectual grasp of the state of affairs being verbally construed, and the state of affairs itself. The state of affairs itself has its being in reality and is the ultimate reference for the verbal and intellectual construals. And it is clear that the latter two admit of "inadequation," deliberate or not, depending upon the agent's intellectual and

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<sup>52</sup> "*Daemones vero, per voluntatem perversam subducentes intellectum a divina sapientia, absolute interdum de rebus iudicant secundum naturalem conditionem.*" *ST I*, q. 58, a. 5 (Turin: Marietti, 1950), 285, English: vol. 1, 291.

<sup>53</sup> John P. O'Callaghan points out that "mere" beings of reason, like unicorns, have no real referent. *Thomist Realism and the Linguistic Turn: Toward a More Perfect Form of Existence* (Notre Dame: University of Notre Dame Press, 2003), 192. Prepositions and other purely linguistic terms also have no apparent conceptual referent.

linguistic abilities.<sup>54</sup> That is, one can choose to characterize a state of affairs in a multitude of ways, as one conceives specific aspects of a relevant *ratio*/concept in contrast to others and asserts that selected aspect.

The derangement of a verbal construal of the *ratio*, or concept relevant to a state of affairs, is difficult to assess. Besides the many *rationes* relevant to states of affairs, the relation of an assertion to its *rationes* involves manifold contextual elements, including the assertion's meaning in the language itself, in its present circumstances, and its asymmetrical sense in the mind of the speaker versus the hearer. But again, some common reference must be possible, else successful communication would not be possible. And although the linguistic order is only conventionally related to the *rationes* through which things are known, this order becomes normative when one proceeds to speak. That is, the social nature of language establishes inter-subjective norms of vocabulary, syntax, and grammar, respective of places, times, and cultures.

#### **IV. *Contra mentem* as the lie's definition**

Having seen the ontological elements of an assertion, the grounds for Augustine's and Aquinas' notion that the lie is an intentional speaking of something *contra mentem* are evident. The lie begins in the intellect's presentation of a difficult good to the will. Intending this good and deliberating about means to it, the intellect discovers an insuperable or at least significant obstacle to attaining it through truthful

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<sup>54</sup> Julius A. Dorszynski, 73. Dorszynski denies that the faculty of speech is only for communicating ideas and judgments of the speaker's mind. He says adequation is normally a good, but sometimes it is inappropriate, e.g., when a secret needs to be concealed.

communication.<sup>55</sup> In lying, the truthful order of reality is itself the obstacle to the will's end. The appetible good, known through a phantasm, is typically known by complementary aspects. The context of communication delimits the relevant aspects of *rationes* involved. A lie assumes a false *ratio*, or aspect thereof, that presents itself as *contra mentem* namely of the truthful mental *ratio*. The lie begins in the false judgment of the thing and a *ratio*. When one knowingly proceeds to assert this false judgment in pursuit of a difficult good, one lies.<sup>56</sup> It is the choice of a false assertion and proceeding to assert it that satisfies the definition of the lie. The reason for its essential evil involves something more.

A lie is typified by its compositeness and its analogous, hylomorphic structure. It is composite because it is used as a means to another end, except in the case of the pathological liar.<sup>57</sup> Its hylomorphic structure is seen in St. Thomas' relation of an instrumental act to an intrinsic end. He writes that "one sin is also the formal cause of another: because in the act of fornication committed for the purpose of theft, the former is material while the latter is formal."<sup>58</sup> In this way, we can see how the lie is related to the difficult good sought. At the same time, the lie itself must have a form/matter structure, as the agent's intention is formal to the matter of the assertion chosen. He writes in the same article of the *Summa*: "A sin has matter, not of which but

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<sup>55</sup> The jocose lie seems less to fit this description of a typical deceptive lie, unless perhaps the good sought is esteem or friendship which only seems possible through a jocose lie.

<sup>56</sup> This condition distinguishes actors from liars: the actor neither asserts nor subverts the truthful order for the sake of a difficult good.

<sup>57</sup> The "pathological liar" may be a euphemism for a malicious liar, who wills lying for its own sake.

<sup>58</sup> ". . . unum peccatum sit formalis causa alterius: in actu enim fornicationis quae propter furtum committitur, est quidem fornicatio sicut materia, furtum vero sicut formale." *ST I-II*, q. 75, a. 4 (Turin: Marietti, 1950), 349. English: vol. 2, 930.

about which it is, and it has its form from its end.”<sup>59</sup> From this we can see that the lie has an intelligible form/matter structure, and may be *per se* evil even if the end sought is otherwise good.

Aquinas elaborates on this as follows: “Now a lie is evil in respect of its genus, since it is an action bearing on undue matter. For, as words are naturally signs of intellectual acts, it is unnatural and undue for anyone to signify by words something that is not in his mind.”<sup>60</sup> From the doctrine of the origin of moral evil described above, we can see that choosing the unnatural and undue assertion is preceded by the choice of a *ratio* or aspect of it that is inadequate to the context. The undue assertion must presuppose a deranged *ratio*, deranged from the true order of reality, else the assertion would be rejected as incompatible with the lying intention. A lie is thus *contra mentem*, and its evil derives from having departed from the ontological norm. The evil is in choosing a false *ratio* against the true one held in mind for the purpose of assertion, and this presumes that the reality of the true *ratio* has been negated.

Joseph Boyle says that for Aquinas what is undue is an assertion’s voluntary falsity, and the matter is the mere assertion.<sup>61</sup> But for Aquinas, the assertion itself has its *ratio* and a form/matter structure. The matter of the assertion is its propositional content and its form is its *ratio*, or intelligible structure, which specifies its ends. That is,

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<sup>59</sup> “*Materiam autem habet peccatum non ex qua, sed circa quam. Formam autem habet ex fine.*” ST I-II, q. 75, a. 4, ad 1 (Turin: Marietti, 1950), 349. English: vol. 2, 930.

<sup>60</sup> “*Mendacium autem est malum ex genere. Est enim actus cadens super indebitam materiam: cum enim voces sint signa naturaliter intellectuum, innaturale est et indebitum quod aliquis voce significet id quod non habet in mente.*” ST II-II, q. 110, a. 3 (Turin: Marietti, 1950), 554. English: vol. 3, 1660.

<sup>61</sup> Joseph Boyle, 61.

each intelligible assertion is choiceworthy on the basis of which ends it is apt to be directed to by the will. Thus, the matter of the moral object (*finis operis*) cannot simply be assimilated into the agent's intention (*finis operantis*). The agent's intention references the intentions of the act, and their correspondence determines the fittingness of the particular act. To fall on undue matter is to will a false *ratio* that has been dislodged from its proper order so as to deceive. That is, one can imagine words that will serve one's purpose, but they may be lying words in a certain context. This would make them undue matter. The will's departure from its rule is formal to the matter of the deranged concept. Intending the difficult good, the will then intends that good through the matter of the concept.

Apart from this, the assertion itself is ordered or not to a plan to attain that good within its context. When the person intent on lying unwittingly speaks a true statement, the intent alone deranges the matter. In this case, the assertion involves both an intentional and unintentional derangement from the order of reality. The speaker intentionally deranges the known *ratio* from its true place in the order of reality, but then through a misapprehension of that reality unintentionally asserts something in accord with it. And such a true statement, coinciding with ontological and linguistic orders, will be less likely to have deleterious consequences. But the agent has still lied, even though he has not successfully chosen a lying assertion.



This case of a lie with no adverse consequences explains why Aquinas states that “neither does any effect belong to the species of its cause.”<sup>62</sup> The evil of the lie is found in an analysis of the moral object, and not essentially in its effects. For this reason, Germain Grisez’s account of the lie’s evil consisting in its direct opposition to the basic goods of self-integration, authenticity and solidarity in the community misses the mark.<sup>63</sup> A lie’s effect on basic goods is inessential to the evil of the lie. This is not to say that more ultimate evil intentions of the agent and accidents like scandal may not increase the gravity of a lie’s evil.<sup>64</sup> The definition of a lie is that it is essentially speaking an assertion *contra mentem*, but its evil is found in the will’s intentional departure from the normative order of reality in pursuit of a difficult good, fashioning creation according to the agent’s own lights.

Within this context, one can see what deliberately concealed speech like euphemisms involves. In euphemistic assertion, one chooses an assertion related to a *ratio* that adequately conveys the relevant concept, though without the potentially problematic associations that another assertion might carry. This is different from equivocal communication, where one chooses an assertion which does not adequately convey the sense of the relevant concept as it is determined by context and usage.

## V. Conclusion

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<sup>62</sup> “. . . sicut nec aliquis effectus pertinet ad speciem suae causae.” *ST* II-II, q. 110, a. 1, ad 3, (Turin: Marietti, 1950), 552. English: vol. 3, 1658.

<sup>63</sup> Germain Grisez, *Living a Christian Life, The Way of the Lord Jesus* (Quincy, IL: Franciscan Press, 1993), vol. 2, 405.

<sup>64</sup> Aquinas notes that if a lie is intentionally opposed to God, religion or neighbor, it will be a mortal sin. In addition, a lie that is otherwise a venial sin can become mortal if it is done in scandalous circumstances, *ST* II-II, q. 110, a. 4.

In this chapter, I have considered Aquinas' doctrine on the origin of moral evil. Aquinas sees a metaphysical moment of the will's departure from its proper rule as first condition for a morally evil act. The will's movement away from the order of being is analogous to a confusion in metaphysics between beings of reason and real beings that Maritain and Yves Simon challenged in their renewal of the philosophy of nature. Further, it was shown that assertoric speech involves the triadic structure of word-*ratio-res*, which is normative for truth-telling. The intentional dimensions of Aquinas' and Augustine's definition of a lie as essentially speaking an assertion *contra mentem* were shown. And it was shown that the lie's evil stems from the agent's choice of consciously false concepts, departing from the normative order of reality so as to obtain a difficult good, fashioning creation in one's own image. And although we can surely trust in God's mercy and forgiveness after we confess when we lie, and are called to extend that mercy to those who lie to us, a precise notion of the evil of the lie helps prevent presumption of that mercy, and enables us to better live in the truth.

### Chapter 3: Lying's Definition and the Limits of Lying

Having shown why lying is *per se* evil, it is fitting to consider its definition. And in this process, we will delineate speech that is licit, but near lying. The problem of the definition of near lies has received little attention. And this neglect is curious, as in practice "white lies" and subtle deceptions are given greater defense and justification than blatant lies. This chapter presumes that a lie is morally significant, and that it involves voluntarily asserting as true what one knows to be false, or vice versa, with the

customary contextual qualifiers. It considers assertions that are at the limit of lying, and how such are delineated as lies or non-lies by their intentional structure. Consider this exchange:

“You lied to me.”

“No, I didn’t. What I said was true in a sense.”

This kind of conversation points to the problem of near lying, where disputed interpretations of assertions can leave each person convinced that he is right and that the other is either a liar or unsophisticated in his interpretation. Such slight misleadings and insincere remarks are often taken to be the heart of tactfulness. They are the typical means of escaping regretted promises. And perhaps their sheer constancy in daily life is enough to give up hope that they could be reined in. Ought they to be?

In this chapter, I will give an account of the limits of near lying in the case of two types of near lies: broad and strict mental reservations. I will specify the intentional dimension of a traditional definition of lying, i.e., “speaking contrary to one’s mind.” By employing Jacques Maritain’s account of knowing in the *Degrees of Knowledge*, I will propose an intentional, mental difference in the speech acts employed in strict and broad reservations. And I will show how double-effect reasoning resolves the permissibility of two types of near lies.

An older, casuist tradition has identified strict and broad mental reservations, meaning reservations of the full scope of one’s knowledge about a matter in speech. Thus, one may speak an assertion which reveals the truth of a matter partially, while

reserving what would make it a full and obvious disclosure. This domain of subtle speech includes amphiboly, implications, and diversions. Just as these manners of speaking are fashioned by the speaker according to their expected reception, the speaker formulates the strict or broad reservation according to what he judges the hearer to be capable of understanding, or deserving to know. But in this type of speech, the hearer's difficulty in understanding an assertion is not viewed as a potential obstacle to communication, but presents an opportunity that guides the speaker's choice of an assertion. The judgment of whether the hearer deserves to know the information originally prompts the speaker to consider the use of subtilizing speech.

### I. Lying's Contexts

Linguistic context significantly delimits the range of possible meanings of particular words and assertions, e.g., the relevant sense of homophones is normally unproblematic in practice. But there remains in everyday conversation amphibolous and ambiguous terms with which one can conceal one's meaning. Linguistic contexts are formed by speakers' prevailing presumptions of what may be said under the circumstances.<sup>65</sup> For example, Augustine considers the case of a skeptical friend, who assumes that the speaker is always lying. If the speaker wishes to communicate a truth to the friend, the speaker has to say the opposite of what he means. Here the speaker is

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<sup>65</sup> Nicholas Rescher, *Presumption and the Practices of Tentative Cognition* (Cambridge: Cambridge University Press, 2006), 113-4. Rescher explains how a presumption of normalcy makes non-reporting of extraordinary relevant events a form of deception. He also argues in this text that we have a presumption that others are truth-tellers until our presumption is defeated. Alternatively, Mary Motherhill suggests that we presume that others are liars and develop defense strategies in view of this: "Some Questions About Truthfulness and Lying," *Social Research* 63 (1996): 913.

duplicitous, but has no intention to deceive.<sup>66</sup> Augustine does not consider this a lie, since it does not include an intention to deceive. And Aquinas would also likely not consider this lying, since the speaker and friend understand each other, albeit through an elaborate language game.

In addition to the linguistic context, lying requires reference to the act's moral context. While a traditional argument for the wrongness of lying is that it erodes mutual trust in society, certain lying problems presuppose that mutual trust is fundamentally lacking. Benedict Guevin, O.S.B., maintains that in the context of a Nazi interrogating someone who is hiding Jews, human speech is not occurring.<sup>67</sup> Thus, a pre-condition for lying is not fulfilled, and the innocent person can intentional speak falsely (*falsiloquium*) without lying. It seems undeniable that the application of force or other modifiers of voluntariness at least have bearing on a lie's culpability.

The moral status of lying also depends on one's presuppositions about speech. Aquinas considers lying in the context of the virtue of veracity, which is a part of justice.<sup>68</sup> This virtue imposes a moral debt on the agent, "to present truthful speech to his neighbor."<sup>69</sup> Augustine's position is even more contextualized by Christian beliefs, holding that lying shatters the image of the Triune God in which we are made.<sup>70</sup> It is thus understood that speech involves linguistic and moral contexts. These often have

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<sup>66</sup> Augustine, *De Mendacio* 4.4, trans. Carlo Carena et al., *Sant'Agostino: Morale e Ascetismo Cristiano*, Opere di Sant'Agostino 7/2 (Rome: Citta Nuova Editrice, 2001), 314-8. Cited in Paul J. Griffiths, *Lying: An Augustinian Theology of Duplicity*, 28.

<sup>67</sup> Benedict M. Guevin, O.S.B., "When a Lie is Not a Lie: The Importance of Ethical Context," *Thomist* 66 (2002): 273.

<sup>68</sup> Thomas Aquinas, *Summa Theologiae*, II-II, q. 109-13.

<sup>69</sup> Julius A. Dorszynski, 82.

<sup>70</sup> Paul J. Griffiths, 17.

crucial bearing on an assertion's truth-value. Guevin's arguments about lying's contexts bear on a lie's culpability. However, it is difficult to see how the duty to speak the truth is not only negated, requiring silence, but inverted, allowing performative contradictions to this duty.

## II. Identifying Near Lies

There is ample perennial and current literature on the questions of the wrongness, types, and degrees of gravity of lies. In addition, whether a lie should be prohibited without exception, or tolerated in exceptional cases continues to be debated.<sup>71</sup> The question of what a lie violates, e.g., a semantic breach, rationality, hearer's rights,<sup>72</sup> relates to distinguishing the types of near lying. As the previous chapter showed, I do assume Augustine and Aquinas' position that a lie is inherently wrong, and that its wrongness can be found in the speaker without regard to the hearer's rights. The hearer's rights argument has much to commend it, and I believe that the discussion below is also relevant to that position, since it delineates degrees of force in deceptive speech. I will write about assertions to distinguish mental reservations and lying.<sup>73</sup> And what I argue about near lying in assertions will largely be true for other forms of truth-relevant communication. Presuming the evil of lying, it is of

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<sup>71</sup> Alasdair MacIntyre, "Truthfulness, Lies, and Moral Philosophers: What Can We Learn from Kant and Mill," in *The Tanner Lectures on Human Values* 16, ed. Grethe B. Peterson (Salt Lake City: University of Utah Press, 1995), 307-61.

<sup>72</sup> *Ibid.*, 311, 314.

<sup>73</sup> These authors concur that the assertion of an opinion is essential to the definition of a lie: Roderick M. Chisholm and Thomas D. Feehan, "The Intent to Deceive," *Journal of Philosophy* 74 (1977): 149. Also, Mary Motherhill, 922.

benefit to consider assertions that are at its limit, and how such are delineated as lies or non-lies by their intentional structure.

In the consideration of the morality of an act, Aquinas first considers the object of the act, or the act itself. One may consider that a speech act's object is represented in a word or more extended expression, referring to a concept, which in turn typically represents a real object or state of affairs.<sup>74</sup> The relation between a being's real existence and its thought present the condition for error. There is a unity in reality between the thought or concept of the thing and the thing itself, else error would be impossible. We may add that the speech act presents another occasion for error in that an assertion may refer more or less to a concept in its context. But again, an assertion need have some relation to a concept, else mistaken terms for concepts, e.g., seen particularly when one errs in speaking a foreign language, would be impossible. The relation of a being and its thought has an objective basis grounded in reality, while thoughts and speech have only a conventional relation. I present this sketch of the being-thought-language relation without pretending that this is a simple problem. I maintain only that there is a relation that is not ultimately inscrutable.

The derangement of a verbal construal of the *ratio*, as discussed in the last chapter, is profoundly difficult to assess. Besides the typical multiplication of concepts involved in the characterization of a state of affairs, the relation of a speech act to its referent involves manifold contextual elements, including the speech act's meaning in the language itself, in its present context, and in its asymmetrical sense in the mind of

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<sup>74</sup> Admittedly, prepositions and other purely linguistic terms have no apparent conceptual referent.

the speaker versus his hearer. But again, some common reference must be possible, else successful speech would not be possible. Alexander Pruss recognizes the importance of the linguistic context in truth-telling in a recent article in *The Thomist*.<sup>75</sup> But he gives these too much weight and ends in inappropriately deranging the speech act from its referents.

In his article, "Lying and Speaking Your Interlocutor's Language," Pruss points out that the use of a language involves anticipating the hearer's understanding of the terms that one uses. He thus adverts to the Nazi at the door who demands to know if one is hiding Jews. When the Nazi asks if one has Jews, one can expect that by "Jew" the Nazi means a disease, or subhuman form of life. Anticipating the Nazi's understanding, the one who is hiding Jews, believing them to be human beings, can truthfully reply, "No, I am not hiding Jews." Pruss is at least consistent in saying that to answer "Yes," to the Nazi would thereby be a lie. This solution has two problems. It is at least clear that the person hiding the Jews has deranged the speech act from the relevant reference in this context. To admit this does not dignify the Nazi's possible understanding, but merely acknowledges that the speech act refers to the really existing Jews, albeit through an inadequate concept. If the Jews were beings of reason, Pruss' solution might stand. But their real being excludes the idealization this subterfuge requires. Pruss' solution fails on a second count as it is a signal example of the strict reservation, which I will show to be tantamount to a lie on intentional grounds. But first, there is need to define the act of lying.

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<sup>75</sup> Alexander Pruss, "Lying and Speaking Your Interlocutor's Language," *The Thomist* 63 (1999): 439-53.



### III. Definition of a lie in general

Though the speech act is the basis of the moral act of truth-telling, it requires further specification in terms of the end or intention of the speaker. This is obvious in view of the fact that speaking a falsehood alone does not amount to a lie, as one might inculpably speak a falsehood that one thought was true. One might also employ words that are materially true, but intend to lie with them. The classical casuist John Rickaby, S.J., holds that the speaker's assertion alone is of no moral consequence, as all depends on the speaker's intention. He defines a lie as an assertion spoken which is at odds with what one has in mind.<sup>76</sup> Thus, a lie can be spoken where the assertion is in fact true, unbeknownst to the speaker. The "contrary to one's mind" definition requires elaboration.

Experienced speakers of a language tend to be aware of the multiple meanings of terms. That a term connotes a broader range of meanings than one normally intends does not normally paralyze a speaker, who foresees that he might be misunderstood. Because the connotation of terms cannot be tailored to one's intended sense in an assertion, it shows that speaking partially "contrary to one's mind" is often inevitable. Language is an imperfect bearer of thought. In this way, Rickaby's definition is too broad, and would have one lying most of the time.

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<sup>76</sup> Joseph Rickaby, S.J., *Moral Philosophy: Ethics, Deontology, and Natural Law* (New York: Longmans, Green, and Co., 1923), 226. Dorszynski maintains that all Catholic moralists admit that the definition need include "speech contrary to one's mind," 9.

In another way, the definition is too narrow. One could employ the strictest of mental reservations in a speech act, and maintain that there is a tenuous relation between the sense he understood and the assertion. Therefore, there is no disparity between his mind and speech to qualify as a lie. Clearly, the intentional dimension of a lie or near lie need be specified more precisely than the definition of speaking contrary to one's mind.

#### IV. Intentional structure of mental reservations

In an assertion the speaker expresses an opinion that the hearer believes him to maintain truthfully. In intending remotely to persuade, or apprise the hearer of information, the speaker chooses proximately the appropriate words for this remote end. Being thirsty, the speaker may say, "I'm thirsty," intending to convey a need to the hearer. The speaker expects that these words will produce a characteristic disposition in the hearer. The speaker may thus further intend the effect of the hearer's getting her a glass of water. In all, the speaker chooses the words that are the means to the informing, the act of informing itself, and intends the desired effect which follows from them.

Moral analysis of an assertion of propositions itself is inconclusive without reference to the intention or purpose for which it was used. If an intention can be seen to guide the choice of one's words in view of one's intended goal and foreseen effects, then it would seem to be here that a lie or near lie is conceived. The intentional process would then be roughly as follows:

1. One intends a certain goal or end.
2. One sees that the goal is difficult enough so as to require the choice of a concealed or deceptive means.<sup>77</sup>
3. One's intention guides the choice of an assertion that reserves or obscures the truth of one's intention from a small to a complete degree, foreseeing expected interpretations of its sense.

The intended and solely foreseen interpretations of one's assertion guide the intention in its formation of an assertion. I assume that there is a distinction between the intended and solely foreseen, and that this marks a morally significant difference.<sup>78</sup>

One may be responsible for foreseen effects of one's speech acts, but this need not be the case. If this distinction is not meaningful, then one would be responsible for all foreseen misinterpretations of one's speech. Then a speaker would need to be constantly annotating his speech to clarify his sense. Since this task would use speech, it would engender more terms to clarify. One would be left continually clarifying against possible misinterpretations, and unable to move forward with speech. Instead, we confidently use terms with multiple meanings and leave clarifications for when a misinterpretation occurs.

The intended and solely foreseen distinction seems to be dispensable in obvious truth-telling or lying. If our person hiding the Jews were to reply, "Yes, I am hiding Jews,"

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<sup>77</sup> An implicit condition of permissible near lying is that the hearer has no right to the truth that he seeks. But a definition of lying that depends entirely on construing the hearer's right to the truth is insufficient. If this were the only condition required to allow one to deceive, then all intentional speaking of falsehood would be permissible provided one has such a disqualified hearer. Clearly, even if the hearer has no right to the truth that he seeks, the hearer does not thereby incur the penalty of being told falsehoods, nor would the speaker be exempt from the duty not to tell deliberate falsehoods.

<sup>78</sup> T.A. Cavanaugh, *Double-Effect Reasoning* (Oxford: Oxford University Press, 2006). This text gives a philosophical argument for the reality of this distinction, and its moral relevance.

the foreseen interpretation would seem to follow readily from the intended sense. But it should be said that the speaker who answers affirmatively may intend to speak truthfully without intending to betray his hidden Jews. This may be a foreseen effect of one's assertion, but it does not follow that the speaker intends this. This is a distinction about moral agency. But since the agent foresees a disastrous effect of his plain truth-telling, he might consider employing some degree of reservation of his intention. The complete mental reservation of one's thought and intentional speaking of a falsehood, would be a lie.

The plain lie response, "No, I have no Jews," when one knows that one has Jews on the premises, would presumably lead to an interpretation at odds with what the speaker knows. It could lead to the consequence of the hiding Jews being spared. But those who regard a lie as morally wrong under any circumstances would want to avoid this option if possible. A desire to avoid the plain lie if possible or absolutely, but also to avoid the foreseen consequence of the Jews being apprehended, would lead the speaker to choose words that partially reserve his intention. Having identified the clear lie and the plainly true assertion, we can consider speech that employs mental reservations and examine its intentional structures.

One could imagine replying to the Nazi's question, "Do you have any Jews in there?" With: "I have no Jews," construing "have" as "in my personal possession," or "in my pocket."<sup>79</sup> It is true that there are senses of "have" in which the person does not

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<sup>79</sup> Julius Dorszynski, 24. On the Nazi pursuer problem, the *Decretum Gratiani*, c. 22, q. 2, c. 14 advises silence or careful equivocation, e.g., "*non est hic*," meaning, "he does not eat here."

have Jews. Also, one could reply, "Juice? I hate juice. I would never have any in the house." The first statement equivocates on the sense of a term, while the other substitutes a decoy term, and thus modifies the object rather than the intention. I will argue that both of these responses employ strict mental reservations and are tantamount to lies.

As was stated above, the use of strict mental reservations involves speech acts whose meaning is strictly reserved to the speaker because it is removed from the context, thus making the hearer's ability to interpret the statement correctly nearly impossible. A strict reservation can be identified by its inherent, intentional structure. One who uses a strict reservation foresees at least two interpretations, e.g., an admission of having Jews, and a denial of this. Should the person communicate that he has Jews (in his pocket), which he does not believe, he would have spoken a falsehood. His not having Jews in his pocket is at least something he believes to be true. He foresees both of these interpretations or effects of his assertion. He intends the Nazi to take him to be denying that he is hiding Jews, and foresees but does not intend that the Nazi intuit the special sense of "have" meant in his statement, which would intimate that they are had in another manner. Why is this?

By the "denial of Jews on the premises" interpretation, the person hopes to spare the potential victims. The "admission of Jews on the premises" sense is thus concealed by a strict mental reservation. It can be called strict because the hearer's likelihood of interpreting the assertion in the true sense is so narrow as to be

impossible. The only relation of the statement to a true sense is one wholly irrelevant to the context. This is a lie because though it aims at a reasonable end, and says words that are materially true in a sense, it is by means of conveying a sense known to be false as true that the protector seeks his goal. This is intentionally speaking *contra mentem*, which makes it a lie.

The speaker intends the Nazi to interpret the expression falsely and does not solely foresee it. This therefore is the morally relevant intention of the act, and it is an intention that depends upon a sense of the statement that is *contra mentem*. He may bear a true sense of the statement in mind while speaking, e.g., “no Jews in the pocket,” but he expressly does not intend that this interpretation be understood. The true interpretation may be foreseen as a scenario in which his plan backfires, but this worry does not inform the act so as to make his intended interpretation true.

#### V. Strict versus broad mental reservations

In a consequentialist view, mental reservations can be seen as lies because all aim at deception. But the intention to deceive cannot be a part of the definition of lying. This is because otherwise lawful acts can include an intention to deceive. Catholic moralists have not seen broad mental reservations as illicit, e.g., diversions, etc. And the effect of being deceived is different from that of being lied to. This can be seen in the case of playing a gambit in chess, versus stealing the opponent’s pieces when he is not looking. One may be harmed in a sense by deception, but this is different from the harm of a lie.

Is one then left only to lie or tell the blunt truth? I would now like to suggest that a broad reservation may be admissible. Instead of meeting the question directly, the person opts for an expression with more indefinite interpretive prospects. He replies, "Hiding Jews would be quite a nuisance," or "Wouldn't hiding Jews be a great crime?" These diversionary responses no doubt have poorer prospects for warding off the unjust aggressor. However, they are certainly not lies, and may repel the unjust aggressor, especially if the speaker appears to be cooperating.

The broad reservation differs from a strict reservation in its inherent, intentional structure. That is, it is a type of speech act that has an inherent tendency different from strict mental reservations. The broad mental reservation's banality admits of many interpretations. One may foresee that the Nazi will interpret the statement to mean that there are no Jews on the premises. One may hope that the Nazi takes this interpretation. But by choosing this assertion with its distinctive intentional structure, the speaker manifests that he does not assert a false sense. He communicates a truth ably through this assertion, and intends its vague truth.

The broad reservation includes an intention to deceive the hearer. But the speaker does not intend his goal through intending that a false interpretation be given to his statement. Though he fears the consequences of the interpretation that he is diverting or merely temporizing, he gives a statement open to this interpretation. Thus, he intends to respond to the question truthfully, but leaves the hearer to make an erroneous interpretation. The critical difference between the broad reservation and the

strict reservation is that the broad reservation is based on an assertion, whose meaning is fixed by the conversation's context, which is *sicut mentem* of the speaker.

Alternatively, a strict reservation is *contra mentem* of the speaker, because the relevant sense of the locution, fixed by the context, is contrary to his mind.

It may seem strange to speak of the broad reservation as an intentional communication of a true interpretation, when one obscures it by using terms that admit of other possible interpretations. But one can intend clandestinely, just as one intends timidly, boldly, etc. The broad reservation obscures an intention by crowding the true interpretation with other possible interpretations. It does not however slant towards a false interpretation. This is characteristic of the strict reservation. Such slanting towards a specific, false interpretation can happen in many ways. Athanasius was pursued by those who wanted to kill him but did not know his face. They asked, "Have you seen Athanasius?" He replied "He is not far." This would arguably be a broad reservation. But Athanasius pointed his finger in another direction, and his broad reservation became strict.

Jonathan E. Adler points out an important difference between the speaker and hearer in the cases of lying and lawful deception. The strict reservation and lie typically employ the speaker's inferences and leave little for the hearer to determine.

Alternatively, merely implying or deceiving leave the hearer to make the significant inferences.<sup>80</sup> Thus, if the hearer later discovers that he was deceived, he sees that he is

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<sup>80</sup> Jonathan E. Adler, "Lying, Deceiving or Falsely Implicating," *Journal of Philosophy* 94 (1997): 450.



to blame for having made such inferences, and does not regard the speaker to be wholly at fault.

Even if a strict reservation or lie were justified under some circumstances, it is morally advantageous to be aware of the less forceful means of repelling an unjust aggressor, if one accepts the principle *moderamen inculpatae tutelae*, i.e., “one must use only that amount of force that suffices to repel effectively the unjust aggressor.”<sup>81</sup> These might be ranked from the least forceful to the most as: silence, evasion, broad reservations, and only then untruths.

Why would one prefer the strict reservation to a less forceful means? We can see that the person's prospects for frustrating the Nazi's course are improved by its use. The assertion, “I have no Jews,” leads the hearer to a sense that is *contra mentem* of the speaker, and greatly minimizes the prospects of the hearer determining the “true” interpretation. And in general, we can see that a strict reservation is a reasonable temptation, as it permits more means to one's end, allowing one to express one's intention in more disguised and favorable terms. But the strict reservation opens these possibilities only by manipulating others' expectations, and teaching hearers to doubt one's words.<sup>82</sup>

This can also be said about broad reservations to a more limited extent. Adler points out that deception [e.g., strict reservations] can be a greater moral and social

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<sup>81</sup> Julius A. Dorszynski, 90. Lawrence Dewan, O.P. holds that lies to protect the innocent are venial sins which may be committed under these circumstances, see n. 7 *supra*.

<sup>82</sup> Thomas Petri, O.P. and Michael A. Wahl, 436, point out that venial lies contribute to the moral disfigurement of the speaker.

threat than even lying, because the deceiver cannot be caught red-handed, as a liar can be once his lie is discovered.<sup>83</sup> It can be argued that broad mental reservations are likewise problematic because they often do not come to mind in time, or are detected by a sharp listener, or are impossible for an unlearned person.<sup>84</sup> This is true, but when a social threat like Nazism arises, teachers can identify amphibolies and broad reservations for replies to predictable questions, and teach them to the less learned.

## V. Conclusion

In this chapter, I have offered an argument about the limits of near lying based on the intentional structure of two types of near lies. This account gives grounds for why a strict reservation should be considered a lie, and why a broad reservation should not be. Instead of relying on intuitive examples about their difference, I have shown that they incorporate different intentional structures. This account offers greater precision over previous treatments of near lying. At the same time, it acknowledges the complexity of our intentions and expectations of the effects of assertions. This account makes sense of why promise-breaking or lying defended on the grounds that what one said was “true in a sense,” evades the meanings of words and the confidences of those who depend on them.

Thesis conclusion

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<sup>83</sup> Jonathan E. Adler, 442.

<sup>84</sup> Julius A. Dorszynski, 31.

In this thesis, we have examined Paul Griffith's retrieval of St. Augustine's thinking about lying. I offered some criticisms of his treatment, and suggested that St. Thomas Aquinas offers a more compelling account on the issue. I surveyed a critical historical period where the distinctions on types of deceptive speech were delineated. I noted that this period concluded with papal condemnations of lying and the use of strict mental reservations. This data from the tradition should inform Catholic moral theology when approaching the problem of lying.

In the second chapter, I gave a brief exposition of Aquinas' thought on the relationship between thought, reality and speech. I argued that reality and language impose rules on what may truthfully be said or thought. A moral agent can think and will contrary to these rules, but only by sacrificing the truth.

In the third chapter, I re-examined the definition of a lie as speech that is *contra mentem* of the speaker. I argued that this is ultimately the correct definition of lying, and that deception, though it is a normal consequence of lying, is not part of its definition. I then considered two types of near lies: speech employing strict and broad mental reservations. I argued that strict mental reservations are ultimately speaking *contra mentem*, since the sense that is relevant to the context is contrary to what the speaker knows. Alternatively, broad mental reservations rely on ambiguous assertions whose sense in the linguistic context agrees with what the speaker knows, although the hearer may have difficulty discerning it.

In conclusion, the Church may be entering into an age where the temptations to sacrifice the truth for the sake of protecting property, and even life become great. But the Catholic moral tradition should continue to inform the Church about the responsibility to remain faithful to the truth unto death, for Jesus said, “I am the way and the truth and the life” (John 14:6).