

CHRISTIANITY AND INTERNATIONAL LAW

PROOF

LAW AND CHRISTIANITY

Series Editor

John Witte, Jr. Emory University

Editorial Board

Nigel Biggar, University of Oxford
Marta Cartabia, Italian Constitutional Court / University of Milano-Bicocca
Sarah Coakley, University of Cambridge
Norman Doe, Cardiff University
Rafael Domingo, Emory University / University of Navarra
Brian Ferme, Marcianum, Venice
Richard W. Garnett, University of Notre Dame
Robert P. George, Princeton University
Mary Ann Glendon, Harvard University
Kent Greenawalt, Columbia University
Robin Griffith-Jones, Temple Church, London / King's College London
Gary S. Hauk, Emory University
R.H. Helmholz, University of Chicago
Mark Hill QC, Inner Temple, London / Cardiff University
Wolfgang Huber, Bishop Emeritus, United Protestant Church of Germany /
Universities of Heidelberg, Berlin, and Stellenbosch
Michael W. McConnell, Stanford University
John McGuckin, Union Theological Seminary
Mark A. Noll, University of Notre Dame
Jeremy Waldron, New York University
Michael Welker, University of Heidelberg

The Law and Christianity series publishes cutting-edge work on Catholic, Protestant, and Orthodox Christian contributions to public, private, penal, and procedural law and legal theory. The series aims to promote deep Christian reflection by leading scholars on the fundamentals of law and politics, to build further ecumenical legal understanding across Christian denominations, and to link and amplify the diverse and sometimes isolated Christian legal voices and visions at work in the academy. Works collected by the series include groundbreaking monographs, historical and thematic anthologies, and translations by leading scholars around the globe.

Books in the series

Christianity and Market Regulation:
Christianity and the Laws of Conscience:
Jeffrey B. Hammond and Helen M. Alvare

Infidels and Empires in a New World Order: Early Modern Spanish Contributions to International Legal Thought

David Lantigua

The Possibility of Religious Freedom: Early Natural Law and the Abrahamic Faiths

Karen Taliaferro

Catholic Social Teaching: A Volume of Scholarly Essays edited by Gerard Bradley and E. Christian Brugger

The Immortal Commonwealth: Covenant, Community, and Political Resistance in Early Reformed Thought

David P. Henreckson

Great Christian Jurists in American History edited by Daniel L. Dreisbach and Mark David Hall

Great Christian Jurists and Legal Collections in the First Millennium

Philip L. Reynolds

English Ecclesiastical Lawyers: A History of Their Life and Work

R. H. Helmholz

Law, Love and Freedom: From the Sacred to the Secular

Joshua Neoh

Great Christian Jurists in French History

Olivier Descamps and Rafael Domingo

Church Law in Modernity: Toward a Theory of Canon Law Between Nature and Culture

Judith Hahn

Common Law and Natural Law in America: From the Puritans to the Legal Realists

Andrew Forsyth

Care for the World: Laudato Si' and Catholic Social Thought in an Era of Climate Crisis edited by

Frank Pasquale

Church, State, and Family: Reconciling Traditional Teachings and Modern Liberties

John Witte, Jr.

Great Christian Jurists in Spanish History

Rafael Domingo and Javier Martínez-Torrón

Under Caesar's Sword: How Christians Respond to Persecution edited by Daniel Philpott and Timothy Samuel Shah

God and the Illegal Alien

Robert W. Heimbürger

Christianity and Family Law

John Witte, Jr. and Gary S. Hauk

Christianity and Natural Law

Norman Doe

Great Christian Jurists in English History edited by Mark Hill, QC and R. H. Helmholz

Agape, Justice, and Law edited by Robert F. Cochran, Jr and Zachary R. Calo

Calvin's Political Theology and the Public Engagement of the Church

Matthew J. Tuininga

God and the Secular Legal System

Rafael Domingo

How Marriage Became One of the Sacraments

Philip L. Reynolds

Christianity and Freedom (Volume I: Historical Perspectives, Volume II: Contemporary Perspectives) edited by Timothy Samuel Shah and Allen D. Hertzke

The Western Case for Monogamy Over Polygamy

John Witte, Jr.

The Distinctiveness of Religion in American Law

Kathleen A. Brady

Pope Benedict XVI's Legal Thought

Marta Cartabia and Andrea Simoncini

Christianity and International Law

Pamela Slotte and John D. Haskell

Christianity and International Law

AN INTRODUCTION

Edited by

PAMELA SLOTTE

Åbo Akademi University

JOHN D. HASKELL

University of Manchester



CAMBRIDGE
UNIVERSITY PRESS

CAMBRIDGE UNIVERSITY PRESS

University Printing House, Cambridge CB2 8BS, United Kingdom

One Liberty Plaza, 20th Floor, New York, NY 10006, USA

477 Williamstown Road, Port Melbourne, VIC 3207, Australia

314–321, 3rd Floor, Plot 3, Splendor Forum, Jasola District Centre,
New Delhi – 110025, India

79 Anson Road, #06–04/06, Singapore 079906

Cambridge University Press is part of the University of Cambridge.

It furthers the University's mission by disseminating knowledge in the pursuit of education, learning, and research at the highest international levels of excellence.

www.cambridge.org

Information on this title: www.cambridge.org/9781108474559

DOI: 10.1017/9781108565646

Pamela Slotte and John Haskell 2021

This publication is in copyright. Subject to statutory exception and to the provisions of relevant collective licensing agreements, no reproduction of any part may take place without the written permission of Cambridge University Press.

First published 2021

A catalogue record for this publication is available from the British Library.

Library of Congress Cataloging-in-Publication Data

NAMES: Slotte, Pamela, editor. | Haskell, John (John D.), editor.

TITLE: Christianity and international law : an introduction / edited by Pamela Slotte, University of Helsinki; John D. Haskell, University of Manchester.

DESCRIPTION: Cambridge, United Kingdom ; New York, NY : Cambridge University Press, 2021. | Series: Law and christianity | Includes bibliographical references and index.

IDENTIFIERS: LCCN 2020046676 (print) | LCCN 2020046677 (ebook) | ISBN 9781108474559 (hardback) | ISBN 9781108464970 (paperback) | ISBN 9781108565646 (ebook)

SUBJECTS: LCSH: International law – Religious aspects – Christianity. | Religion and law.

CLASSIFICATION: LCC KB265 .C47 2021 (print) | LCC KB265 (ebook) | DDC 262.9–dc23

LC record available at <https://lcn.loc.gov/2020046676>

LC ebook record available at <https://lcn.loc.gov/2020046677>

ISBN 978-1-108-47455-9 Hardback

ISBN 978-1-108-46497-0 Paperback

Cambridge University Press has no responsibility for the persistence or accuracy of URLs for external or third-party internet websites referred to in this publication and does not guarantee that any content on such websites is, or will remain, accurate or appropriate.

For Piero and J/AL/E

PROOF

PROOF

Contents

<i>List of Tables</i>	<i>page</i> xii
<i>Notes on Contributors</i>	xiii
<i>Acknowledgments</i>	xvii
1 Christianity and International Law: An Introduction <i>John D. Haskell and Pamela Slotte</i>	1
2 The Byzantine Commonwealth and the Emerging Features of a Law of Nations in the First Millennium <i>Peter Petkoff</i>	17
3 Christianity and the Birth of Ambassadorial Deontology: Some Historical Notes <i>Tiziana Faitini and Dante Fedele</i>	41
4 Formation and Refiguration of the Canon Law on Trade with Infidels (c.1200–c.1600) <i>Stefan Stantchev</i>	59
5 God, Sovereignty, and the Morality of Intervention outside Europe <i>David M. Lantigua</i>	91
6 The Significance of Christian Charity to International Law <i>Jennifer L. Beard</i>	115
7 Hugo Grotius: On Freedom of the Seas and Human Nature <i>Roland Boer</i>	139

8	<i>Ius gentium et naturae</i>: The Human Conscience and Early Modern International Law <i>Janne E. Nijman</i>	153
9	Legalizing Anti-Semitism? The Legacy of Savigny’s Roman(tic) Law <i>Reut Yael Paz</i>	177
10	Missionary Knowledge and the Empirical Foundations of Modern International Legal Thought <i>Jedidiah J. Kroncke</i>	199
11	Standards for a Righteous and Civilized World: Religion and America’s Emergence as a Global Power <i>Andrew Preston</i>	223
12	International Protestantism and Its Changing Religious Freedoms <i>Udi Greenberg</i>	246
13	Beyond the Freedom of Worship: The Contested Meaning of Religious Freedom in International Human Rights Law and Politics, 1945–1967 <i>Linde Lindkvist</i>	263
14	Process Theology and a Pluralistic Foundation for Human Rights <i>Mark C. Modak-Truran</i>	281
15	Christianity and Human Rights Law: Orthodox Perspectives <i>Elena Namli</i>	317
16	Conquest, Sacred Sites, and “Religion” in a Time of Crisis <i>Nathaniel Berman</i>	337
17	Constantine’s Legacy: Preserving Empire While Undermining International Law <i>Craig Mousin</i>	366

Contents

xi

18	Hopelessly Practicing Law: Asylum Seekers, Advocates, and Hostile Jurisdictions	
	<i>Silas W. Allard</i>	395
19	The Hidden Theology of International Legal Positivism	
	<i>Akbar Rasulov</i>	415
	<i>Select Bibliography</i>	461
	<i>Index</i>	508

PROOF

3

Christianity and the Birth of Ambassadorial Deontology: Some Historical Notes

Tiziana Faitini and Dante Fedele*

3.1 INTRODUCTION

Embassy lies at the heart of Christianity. Recall the archangel Gabriel, sent as God's messenger to Mary in the village of Nazareth. This event alone, described in Luke's Gospel (1:26–37) and represented in lively pictures and sculptures innumerable times, is enough to remind us of the long historical connection between Christianity and diplomacy. And so it is no surprise that, as a specific literature on the ambassador began to develop in early modern Europe, the analogy between diplomats and angels was very frequently used. The roots of this analogy can be traced back to the writings of the Jewish thinker Philo of Alexandria († c. AD 50), and to the biblical *Letter to the Hebrews* (1:14), traditionally credited to Paul. It was from the late Middle Ages onward, however, that the analogy really gained currency, in parallel with the development of diplomatic theory and practice. In 1214, Pope Innocent III called legates who had been sent to Southern France to pacify the region troubled by the Albigensian heresy, the “angels of peace and faith.” In about 1230, the French theologian and bishop of Paris William of Auvergne used the example of the ambassadors dispatched by Italian communes to illustrate, in his *De universo creaturarum*, the role played by angels in carrying out God's orders. Some years later, in his *Liber de doctrina tacendi et dicendi*, the Italian judge Albertano da Brescia instructed ambassadors on how to address their recipient drawing on the text of “Hail Mary” and the episode of the Annunciation. During the period between the late fifteenth and the mid-seventeenth century, the analogy became commonplace in the literature on

* Although this chapter is a common work, Sections 3.1 and 3.4 were jointly written, Section 3.2 is by Tiziana Faitini and Section 3.3 by Dante Fedele. This chapter is part of a project of Tiziana Faitini, which has received funding from the European Union's Horizon 2020 research and innovation programme under Marie Skłodowska-Curie grant agreement No. 665958.

the ambassador that was spreading across Europe; its purpose was usually to confer dignity to the ambassadorial office through its direct comparison with an ideal figure of the Christian tradition.¹

Angels, though, were not the only characters in Christian history invoked to this end. In his *De legationibus libri quinque* (1548), the German Catholic jurist and theologian Konrad Braun (who would later represent the archbishop of Mainz at the Council of Trent) went even further, mentioning the prophets, the apostles, and even Jesus Christ (defined as the Father's ambassador). This approach was especially popular among subsequent Catholic authors, like the Polish Krzysztof Warszewicki, the Spanish Juan Antonio de Vera y Zuñiga and Christoval de Benavente y Benavides, the Italians Gasparo Bragaccia and Anastasio Germonio, and the Flemish Frederik van Marselaer.²

This endeavor to dignify the ambassador's office by comparing it to the offices performed by the angels, the prophets, the apostles, and Christ is but one aspect of the multifaceted relationship between Christianity and diplomacy through history. Other (more practical) aspects include the "right of chapel" and the "right of asylum." The right of chapel allowed for the practice of the ambassador's own religion, or rather that of his principal, within the host state, and to guarantee his fellow nationals access to the embassy chapel, if not always to his coreligionists among local citizens. The right of asylum extended to the premises of the mission as well as ecclesiastical buildings. The "right of chapel" in particular proved to be an effective tool in the accommodation of religious dissent in early modern Europe, and both of these rights lie at the origins of the idea of the extraterritoriality of diplomatic premises.³

¹ See Dante Fedele, *Naissance de la diplomatie moderne (XIII^e–XVII^e siècles): L'ambassadeur au croisement du droit, de l'éthique et de la politique* (Baden-Baden: Nomos Verlag & Zürich: Dike Verlag, 2017), 546–53; and Daniel Ménager, *L'ange et l'ambassadeur: Diplomatie et théologie à la Renaissance* (Paris: Garnier, 2013).

² See Conradus Brunus, "De legationibus libri quinque," in Conradus Brunus, *Opera tria [...] De legationibus libri quinque [...] De caeremoniis libri sex [...] De imaginibus liber unus [...]* (Moguntiae apud S. Victorem: Ex officina Francisci Behem, 1548), dedicatory letter [unpaged], ch. 1.5, 11–12, who referred – among other passages – to John 8:29, 12:44–5, 12:49, 14:31, and 20:21; Rom. 10:15; and Gal. 1:12. Further references, made by later authors, included 2 Cor. 5:20 (where Paul says "pro Christo ergo legationem fungimur"): on this passage, see Anthony Bash, *Ambassadors for Christ: An Exploration of Ambassadorial Language in the New Testament* (Tübingen: J. C. B. Mohr, 1997), 87–116; and Lactantius, *Divinarum institutionum* IV.25 (where Christ is defined as God's "legatus et nuntius"). See Fedele, *Naissance*, 225–6.

³ See Benjamin J. Kaplan, "Diplomacy and Domestic Devotion: Embassy Chapels and the Toleration of Religious Dissent in Early Modern Europe," *Journal of Early Modern History* 6, no. 4 (2002): 341–61; Dante Fedele, "Religious Freedom and Diplomacy," in *The Wiley-Blackwell Encyclopedia of Diplomacy*, ed. Gordon Martel, 4 vols. (Hoboken, NJ: Wiley-Blackwell, 2018), vol. 4, 1597–1610; and Dante Fedele, "'Templorum praerogativae cum Legatorum domibus communicabantur.' Il tempio nel dibattito sull'inviolabilità della sede

This chapter approaches the connection between Christianity and diplomacy from another viewpoint, exploring the historical formation of ambassadorial deontology in the late Middle Ages. The word “deontology” was coined by Jeremy Bentham at the beginning of the nineteenth century, and its “retro-active” application is, of course, anachronistic. Nonetheless, deontology is useful in that it theorizes duties – and moral duties in particular. And, from the middle Ages onwards, a theory on the duties of the ambassadors, deeply rooted in the Christian tradition of thought on the duties and offices of ecclesiastical ministers, undoubtedly begins to take shape. After a brief survey of this tradition of thought and some notes on the polysemic concept of *officium* (which can be translated as “duty,” “service,” or “office”), the chapter will focus on two jurists, Lucas de Penna († c. 1390) and Bernard de Rosier (1400–75), who played important roles in modeling the public figure of the ambassador and his professional, moral, and juridical duties. Lucas and Bernard were the first authors to deal explicitly with the ambassador’s qualities and behavior, raising questions that were discussed extensively in early modern literature on the ambassador. Their texts, informed by their active participation in political life, built on the legacy of the abovementioned Christian tradition in defining the office of the ambassador, and drew upon the Bible, theological works, and canon law. Analysis of these texts thus provides an important fresh perspective on the contribution made by Christianity to the early shaping of a figure who was to become a leading actor on the stage of international law.

This analysis of the office of the ambassador will also reveal much about the broader issue of the intertwining of theological and juridical theory and practice: two dimensions whose constant, but very nuanced, historical interplay cannot be explained as a purely linear process of either secularization or spiritualization⁴. The example of the historical semantic stratification of *officium* is, in this regard, extremely significant. What follows will demonstrate that *officium* was originally a moral and juridical Roman concept, before becoming an institutional and moral linchpin of the medieval Christian church. During the late Middle Ages and the early modern period, the concept of *officium* elaborated within the ecclesiastical and religious hierarchies of the medieval church was used to moralize society as a whole, and also became a crucial element of the emerging statal bureaucracy. Both the concept

diplomatica nella prima età moderna,” in *La territorializzazione del sacro: Valenza teologico-politica del tempio*, ed. Tiziana Faitini (Brescia: Morcelliana, 2016), 195–222.

⁴ Henning Ottmann, “Politische Theologie als Begriffsgeschichte: Oder: Wie man die politischen Begriffe der Neuzeit politisch-theologisch erklären kann,” in *Der Begriff der Politik: Bedingungen und Gründe politischen Handelns*, ed. Volker Gerhardt (Stuttgart: Metzler, 1990), 169–88; Michele Nicoletti and Luigi Sartori, *Teologia politica* (Bologna: EDB, 1991).

itself and the practice of officeholding to which it had given birth were fundamental to the early development of the administrative apparatus of the modern state and to modern political rationality⁵ – not to mention the shaping of the deontological rules for rulers, public officials, and professionals.⁶ An intriguing commingling of elements from both the classical and the Christian traditions seems thus to lie at the very foundations of the modern state. Our investigation of the ambassador and his duties will, we hope, include insights into these complex historical processes and their implications.

3.2 OFFICIUM: REFLECTING ON DUTIES AND ROLES IN THE LATIN AND CHRISTIAN TRADITION

The concept of *officium* was first introduced in Latin by Cicero in the first century BC. The Roman statesman and writer devoted his treatise *De officiis*⁷ to the exploration of this concept, and the *decorum* and *convenientia* of human actions intrinsic to it: that personal actions must be seemly and convenient to the situation and the persona (a term which meant both an individual person and a role) who is carrying them out. A clear connection among duty, status, and role can already be discerned here in relation to both individual and public roles. The *officium*, connected to the duty to probity in the management of others' affairs, whether as a public official or in one's private transactions, also entered the Roman law. By the end of the third century, however, the term mainly referred to the duty and tasks connected with a public office or the fulfillment of a function of public interest (which were also called *munus publicum* or, in some cases, *ministerium*).⁸ Some specific juridical texts – the books *de officio* – on the duties and functions of imperial officials began to

⁵ The impact of the classical and ecclesiastical tradition of the *officia* on the building of the modern state, from the Middle Ages onwards, has been explored from several points of view. In addition to the classic Ernst H. Kantorowicz, *The King's Two Bodies: A Study in Medieval Political Theology* (Princeton: Princeton University Press, 2016; orig. publ. 1957), see Udo Wolter, "The *Officium* in Medieval Ecclesiastical Law as a Prototype of Modern Administration," in *Legislation and Justice*, ed. Antonio Padoa-Schioppa (Oxford: Oxford University Press, 1997), 17–36, with further references.

⁶ See Tiziana Faitini, "Shaping the Profession: Some Thoughts on Office, Duty, and the Moral Problematisation of Professional Activities in the Counter-Reformation," *Journal of Early Modern Christianity* 7, no. 1; see also Michael Stolleis, "Grundzüge der Beamtenethik (1550–1650)," in Michael Stolleis, *Staat und Staatsräson in der frühen Neuzeit: Studien zur Geschichte des öffentlichen Rechts* (Frankfurt am Main: Suhrkamp, 1990), 197–231.

⁷ Cicero, *De officiis*, trans. Walter Miller (Cambridge, MA: Harvard University Press, 1913).

⁸ See Francesco Grelle, "Le categorie dell'amministrazione tardoantica: *officia, munera, honores*," in *Società romana e impero tardoantico. I. Istituzioni ceti economie*, ed. Andrea Giardina (Roma: Laterza, 1986), 37–56.

circulate, and⁹ parts of these texts eventually found their way into the first book of the *Digest*. The books *de officio* collected instructions of various kinds, centered on the person of the magistrate or whichever body held authority over the juridical institution in question. They were probably compiled in order to provide various jurisdictions with regulations of immediate interest, and commonly included brief references to the official's moral integrity. In the Roman context, *officium* thus referred to a concrete duty rooted in an actor's social position, and translated explicitly into a worldly function.

It is upon this legacy that the Christian tradition built its own analysis *de officiis*. In this tradition, worldly functions and ministries were regarded as duties which expressed a transcendent moral imperative; the combination of moral and institutional aspects in the concept of *officium* thus became even more overt. The first of these works was a treatise written at the end of the fourth century by Ambrose, archbishop of Milan and Doctor of the Church, whose *De officiis* is explicitly modeled on that of Cicero.¹⁰ Ambrose deals with the same issues as Cicero, but, addressing the honest Christian, rearticulates them in the light of the Gospels; the fundamental values, examples used, authorities cited, and responses given all differ from those of his model.

Ambrose's main theme is clear: the *officium* is that which is owed to the community, according to one's own position and role within it. The body, a crucial metaphor for the conceptualization of *officium*, is used to refer to mankind and the community of the Church. This trope had been used before by some ancient authors and was introduced into the Christian vocabulary with Paul's use of the image of the Church as Jesus's mystical body (1 Cor. 12:6–30).¹¹ Ambrose remarks that no one member of the body can “claim the function (*officia*) of any other” without “going against nature”; at the same time, all members “are necessary to the body”. Similarly, within the social or ecclesiastic body, each member, in its own particular way, has to assist the others in a reciprocal service (“*mutuo ministerio*”): “if one fails in its duty (*officio suo*), the rest are impeded.”¹² The image of the body implies hierarchical

⁹ See Aldo Dell'Oro, *I libri de officio nella giurisprudenza romana* (Milano: Giuffrè, 1960).

¹⁰ On Cicero's impact on Christian thought, see Norman E. Nelson, “Cicero's *De Officiis* in Christian Thought 300–1300,” in *Essays and Studies in English and Comparative Literature* (Ann Arbor: University of Michigan Press, 1933), 59–160.

¹¹ For an overview on the organicistic metaphor, see Anton-Hermann Chroust, “The Corporate Idea and the Body Politic in the Middle Ages,” *Review of Politics* 9, no. 4 (1947): 423–52; and the classic Henri de Lubac, *Corpus Mysticum: The Eucharist and the Church in the Middle Ages*, trans. Gemma Simmonds, Richard Price, and Christopher Stephens (London: SCM-Notre Dame University Press, 2006).

¹² Ambrosius Mediolanensis, *De officiis*, trans. Ivor J. Davidson (Oxford: Oxford University Press, 2002), III.3.17–19, 363–5.

differentiation between its parts but also respect and interdependence. Since each member has a particular duty and function, which cannot be fulfilled by any other, any impairment affects the body as a whole. In these lines, Ambrose anticipates further political elaborations on this metaphor – one of the most influential of which was John of Salisbury's *Policraticus* (twelfth century).¹³ Throughout the Middle Ages, these elaborations provided rulers (and all the various members of society) with instructions on the duties and conduct appropriate to them, and must in fact be understood as central to the history of the deontology of public officials.

At the beginning of the seventh century, another archbishop, the Spanish Isidore of Seville, composed a book entitled *De officiis ecclesiasticis*. Isidore directly addressed the clergy and their function as ministers of the ecclesiastic body and his approach was very specifically ecclesiastic and liturgical. He depicts the sacred order of the clergy according to a precise, hierarchical order of perfection; each ecclesiastic ministry ("*ministerium ecclesiae*")¹⁴ is minutely described, from the priest to the lecturer to the married person, from the bishop to the penitent to the catechumen (who was not yet a member of the Christian community). For each of these figures, their biblical origins, particular liturgical tasks, and required moral qualities are outlined. Each *officium* is defined by its combination of these elements, and is an administrative role precisely positioned in the ecclesiastic community, which implies a vocation and requires the person in question to behave in a certain way and to possess certain qualities.

Following in Isidore's footsteps, the writings on ecclesiologic – and particularly liturgical – *officia* were widely developed in the late Middle Ages.¹⁵ The most important treatise – because of both its comprehensiveness and its popularity – is probably the *Rationale divinarum officiorum*, written by William Durand at the end of the thirteenth century. Its definition of *officium* encapsulates all of the earlier tradition and epitomizes what the *officium* had become by that time:

The *officium*, according to Isidore, is an action proper or appropriate to each person (*proprius vel congruus actus uniuscuiusque persone*) according to the traditions and laws of their polity or profession (*secundum mores et leges*

¹³ On John of Salisbury's important text, centered on the notion of *officium*, see Frédérique Lachaud, *L'éthique du pouvoir au Moyen-Âge: L'office dans la culture politique (Angleterre, vers 1150-vers 1330)* (Paris: Garnier, 2010).

¹⁴ See Isidorus Hispalensis, *De officiis ecclesiasticis*, ed. Christopher M. Lawson (Turnhout: Brepols, 1989), II, 5, 56.

¹⁵ See Cyrille Vogel, *Medieval Liturgy: An Introduction to the Sources* (Washington, DC: The Pastoral Press, 1986), 13–16.

civitatis vel institute professionis). The *officia* of monks, priests, hermits, etc. are all different. . . . Everybody should carry out their own *officium*, or, according to Isidore, “each person should do those things that are detrimental (*officere*) to nobody but are of benefit to all.”¹⁶

Although these lines are from a liturgical treatise, *officium* is clearly not meant only as a liturgical service: one’s *officium* belongs to a (public or individual) person and is a set of actions determined by membership of an institutionalized community, whether a city or one of the various religious professions that made up the ecclesiastic community. An *officium*, moreover, has to be oriented to the common good. As this definition reveals, although the concept of *officium* originated and was extensively elaborated in the textual tradition touched upon, its scope was much wider. Indeed, canon law and theology were to make the concept central to the division of tasks and states of life within the Christian community and the body politic as a whole – and to the evaluation of the performance of those tasks and the fulfillment of those states, carried out by the sacrament of confession (which the Fourth Lateran Council in 1215 decreed that all Christians had to annually make).

A relevant example of this approach can be found in Thomas Aquinas’s masterwork, the *Summa theologiae*. The concluding section of its second part includes an analysis of the conditions and states of life (both lay and secular) and of their corresponding *officia*. In Aquinas, *officium* has to do with the need for differentiated actions within the community and, in some regards, is very close to the concept of the ministry (*ministerium*), valid in both ecclesiological and liturgical terms. It expresses a person’s duty to embody, for the common good, the role of which they are the repository and which responds to the needs of others and society as a whole. For this reason, “offices (*officia*) differ properly in respect of acts that are referred to others; thus a teacher is said to have an office, and so is a judge, and so forth.”¹⁷ And if the *officia* of judges and teachers are different, their virtues and sins must also differ. The penitential literature that flourished in the same period, thanks to the activity of the Mendicant orders and the concrete development of the practice of the confession, made this fact plainly evident: the analysis (and evaluation) of duties gradually extended to the whole society, in accordance with a broader

¹⁶ Guillelmus Durandus, *Rationale divinarum officiorum*, ed. Anselme Davril and Timothy M. Thibodeau, 3 vols. (Turnhout: Brepols, 1995–2000), V.II.1, vol. 2, 14 (our translation).

¹⁷ Thomas Aquinas, *Summa theologiae*, trans. Fathers of the English Dominican Province, modified trans. (New York: Benzinger Bros, 1947), Iia-IIae, q. 183 art. 3 ad 2, <https://dhspriority.org/thomas/summa>. See Marie-Dominique Chenu, “*Officium*. Théologiens et canonistes,” in *Études d’histoire du droit canonique dédiées à Gabriel Le Bras*, 2 vols. (Paris: Sirey, 1965), vol. 2, 835–9.

spectrum of different social and professional categories that took the lay, ecclesiastical, and religious states into account.

In the process of this long development, the moral and social order found an element of structure in the concept of *officium*, which served as a basis for a division of tasks arranged for the good of the entire body politic. In other words, the *officia* concerned the actions which a specific state or profession (lay or religious) required to be effective. The concept and its corresponding practices draw together the moral and the institutional. Within this semantic and actual context, the medieval jurists' conceptualization of the public official – and the ambassador in particular – can be more easily understood.

3.3 EARLY MODELS OF THE AMBASSADOR AND HIS *OFFICIUM*: LUCAS DE PENNA AND BERNARD DE ROSIER

These elaborations on the concept of *officium* (with their juridical, institutional, and moral implications) and the careful problematization of the function of each member of the body politic were to be vital to the conceptualization of the ambassador's function in late medieval legal scholarship. At that time, diplomacy was far from being the organized and theoretically grounded practice we know today. During the twelfth century, the Central and Northern Italian communes had developed a web of diplomatic relations – of which the Lombard League which defeated Emperor Frederick Barbarossa in 1176 is probably the most famous. However, diplomacy was not seen as a career, and did not involve living abroad on a permanent basis. Ambassadors were citizens temporarily entrusted with a commission to carry out a particular mission, which normally consisted of negotiating a treaty or giving a speech. The rules governing these missions were only partly stipulated in local legislation, which showed little interest in this office. It was left to the legal scholars – who were not only university professors but people actively involved in public life, and often sent on diplomatic missions themselves – to lay out the foundations of diplomatic theory. They did this within the context of their expositions on the Roman law texts that Emperor Justinian had collected in the sixth century and that – having been rediscovered in the eleventh century – were studied in Bologna and other medieval universities. These texts did not, however, dedicate any sections specifically to the ambassador. Even the sections *de legato* (i.e., on legates) in the *Digest* and the *Code* concerned internal agents charged with connecting the cities and provinces of the Empire to its center, rather than interstate ambassadors. This meant that jurists, as well as drawing on the few passages related to diplomatic agents, extended – through frequent recourse to analogical reasoning – a number of

rules established in other legal areas to the ambassador. From the late twelfth century on, they referred to the embassy as an *officium* and *munus publicum*, emphasizing the office's public character and elaborating on its material and institutional aspects: the ambassador's appointment, the nature and content of the documents with which he had to be provided, his duty to respect his mandate scrupulously, his right to a salary or reimbursement for the expenses and damages incurred during his mission, his immunities and privileges, and the problem of any potential conflicts of personal interest with his diplomatic mission.¹⁸

The personal qualities, specific duties, and actual behavior of the ambassador himself were also fundamental issues, but the Roman law texts made no mention of these aspects and neither, initially, did legal scholars. In fact, Lucas de Penna's commentary on the *Tres libri Codicis*,¹⁹ written in the second half of the fourteenth century, was the first text to explore these deontological questions, and can be considered the first explicit treatment of ambassadorial deontology.

3.3.1 Lucas de Penna's Commentary on the *Tres libri*

Born in Penne, in Abruzzo, at the beginning of the fourteenth century, Lucas studied law in Naples and held public office in Naples and Central Italy before moving to Avignon as papal secretary, whence he returned in 1377 with the papal Curia. He does not seem to have ever taught at university, but his commentary has all the appearance of a scholarly work and reveals the great breadth of his culture, both legal and extralegal. Of particular interest, however, are some unusual characteristics of the section *de legato* (*Cod.* 10.65) – found nowhere else in the late-medieval legal literature. Before turning to the actual comment on Justinian's text, Lucas analyses the ambassador's qualities and behavior, first setting out a list of twenty qualities (*qualitates*) that an ambassador should possess, then another list of twenty precautions (*cautelae*) that he should observe. This discussion, which has no direct connection to the Roman law texts collected in this section of the *Code*, draws heavily upon classical literature (Cicero in particular) and on the Bible and the precepts for

¹⁸ See Donald E. Queller, *The Office of Ambassador in the Middle Ages* (Princeton: Princeton University Press, 1967); and Fedele, *Naissance*, 13–280.

¹⁹ That is, the last three books of Justinian's *Codex*, which, in the Middle Ages, circulated separately from the other nine books and were included in the last volume of the *Corpus iuris civilis*, called *Volumen*. Here we rely on Dante Fedele, "The Status of Ambassadors in Lucas de Penna's Commentary on the *Tres Libri*," *Tijdschrift voor Rechtsgeschiedenis* 84, no. 1–2 (2016): 165–92.

the clergy laid down in the theological and canonical literature. This highly innovative approach enabled Lucas to adopt principles developed for other offices, which had already been elaborated within the Church, to create a basis upon which to discuss the necessary qualities, training, and ethics for an ambassador in the carrying out of his *officium*.

Lucas appropriates the definition of the embassy as an *officium* already formulated by previous jurists and tries to clarify its specific features. He considers this *officium* to entail the “establishing of friendship, alliance and peace” between the sender and the recipient of a mission. Here we find our first example of Lucas’s use of Christian and biblical sources: the definition is based on the words of the constitution *Ego Ludovicus* (collected in Gratian’s *Decretum* of c.1140), in which Emperor Louis the Pious invited Pope Pascal I to send him *legati*. Lucas also recalls the first book of *Maccabees*, which mentions the ambassadors that Jonathan sent to Bacchides “to make peace.”²⁰

Lucas also quotes the Bible and the *Decretum* when pointing out that, for any ambassador to be listened to with favor by his recipient, it was necessary for the latter to hold him in esteem. In support of his view, Lucas borrows the words of the *Song of Songs* (2:10), “my beloved speaketh to me,” and cites a canon in the *Decretum* which, arguing that nobody should be forced into monastic life, stated that “what [someone] does not love he easily despises.”²¹ He then goes on to mention two other canons taken from Gregory the Great concerning bishops and magistrates: they both point out that the intercessor who displeases the person to whom he is sent provokes the latter’s anger rather than helping to settle the dispute.²² The latter references in particular help to reinforce the idea that, when choosing an ambassador, it was necessary to take the intended recipient’s opinion of him into account, lest the mission be compromised. These canons were frequently alluded to in the literature of the subsequent century.²³

Lucas believed that nobility was another ambassadorial prerequisite, particularly that nobility won through wisdom; he refers again to the Bible, and to the book of *Wisdom*, arguing that, among all noble things, this quality is the noblest.²⁴ At the beginning of his comment on this section, Lucas observed that ambassadors should be chosen among jurists and men of great eloquence,

²⁰ Lucas de Penna, *Commentaria in tres posteriores libros Codicis Iustiniani* (Lugduni: Apud Ioannam Jacobi Iuntae F., 1582), ad *Cod.* 10.65, 313a, n. 9–10; c. 30 § 1, d. 63; and 1 *Maccabees* 9.70 (the Bible is always quoted in the Douay Rheims Version, based on the Latin Vulgate).

²¹ Lucas de Penna, *Commentaria*, ad *Cod.* 10.65, 312a, n. 3; and c. 4, C. 20, q. 3.

²² See dictum ante c. 1, d. 49 (from Gregory the Great’s *Regula pastoralis*) and c. 5, C. 3, q. 7 (from his *Moralia in Iob*).

²³ See Fedele, *Naissance*, 635 n. 19.

²⁴ Lucas de Penna, *Commentaria*, ad *Cod.* 10.65, 314b, n. 20.

remarking that the best way to acquire eloquence is to “imbibe” the Holy Scripture.²⁵ Cicero’s *De oratore* is quoted extensively in Lucas’s discussion of the ambassador’s training, but the Old Testament, the philosopher Boethius, and the *Decretum* are also cited, to support the claim that true eloquence is grounded in wisdom, which mainly consists in the knowledge of philosophy and divine law.²⁶ Lucas also suggests – in passing – that an ambassador should be able to speak the language of his recipient in order to avoid the use of interpreters. Although brief, this reference is nevertheless noteworthy because the issue – despite its great practical relevance – was otherwise to be ignored in the literature on the ambassador until well into the sixteenth century. Even more intriguingly, Lucas bases his argument on a rule of the Fourth Lateran Council (1215) regarding bishops. As the Roman Church expanded into the Orient after the Crusades, organizational problems had been raised by the coexistence within the same diocese of communities with different languages, customs, and rites; the Council had therefore granted bishops permission to nominate auxiliaries, or even a vicar, who could cater to this diversity by celebrating the divine offices and administering the sacraments. Drawing on this conciliar rule, Lucas exhorts the ambassador to learn different foreign languages in order to be able to dispense with interpreters and carry out his mission “by himself.”²⁷

The discussion of the virtues necessary to an ambassador is conducted with constant reference to the Bible, and particularly to *Proverbs*: “as the cold of snow in the time of harvest, so is a faithful messenger to him that sent him, for he refresheth his soul,” while “to trust to an unfaithful man in the time of trouble, is like a rotten tooth, and wary foot.”²⁸ Stressing the need for the ambassador to be diligent in carrying out his mission, Lucas again cites *Proverbs*: “as vinegar to the teeth, and smoke to the eyes, so is the sluggard to them that sent him.”²⁹ He also mentions three canons from the *Decretum* in which bishops are exhorted to be zealous and solicitous in fulfilling the task with which they have been entrusted.³⁰ Lucas then extrapolates to the ambassador the qualities – listed in

²⁵ Lucas de Penna, *Commentaria*, ad *Cod.* 10.65, 311b, n. 1, with reference to c. 7, d. 37.

²⁶ Lucas de Penna, *Commentaria*, ad *Cod.* 10.65, 312a–312b, nn. 5–7.

²⁷ Lucas de Penna, *Commentaria*, ad *Cod.* 10.65, 316a, n. 24, and c. 14, X 1.31 (which reproduces canon 9 of the Fourth Lateran Council). On this canon, see Orazio Condorelli, “*Unum corpus, diversa capita*”: *Modelli di organizzazione e cura pastorale per una varietà ecclesiarum (secoli XI-XIV)* (Rome: Il Cigno Galileo Galilei, 2002), 22–45.

²⁸ Lucas de Penna, *Commentaria*, ad *Cod.* 10.65, 312a n. 4; the quotations are taken from Prov. 25:13 and 25:19.

²⁹ Lucas de Penna, *Commentaria*, ad *Cod.* 10.65, 315a n. 21, with quotation of Prov. 10:26.

³⁰ Lucas de Penna, *Commentaria*, ad *Cod.* 10.65, 315a n. 21, with reference to c. 1 and 2, d. 84, and c. 6, d. 83.

the second book of *Maccabees* – of the former high priest Onias, a “good and virtuous man, modest in his look, gentle in his manners, and graceful in his speech, and who from a child was exercised in virtues.”³¹ The most interesting passage, however, is one in which Lucas closely examines the issue of the ambassador’s attire, gestures, and gait. He first states that an ambassador must be decorous in his dress and demeanor, in order to properly manifest the gravity of his office (“*ut . . . probet debitum suae legationis officium*”). Here, again, Lucas refers to Gratian’s *Decretum*, which reported a canon from the so-called Fourth Council of Carthage according to which a cleric had to demonstrate his profession through his dress and demeanor (“*clericus professionem suam et habitu et incessu probet*”). The extension of this principle from the *clerici professio* to the *legationis officium* is explicit here. After reporting this canon, Lucas (as Gratian had also done) then quotes a passage from Augustine in which the latter says that a man’s outward bearing manifests his inner qualities.³² Next, Lucas adapts some excerpts from *De institutione novitiorum*, written by Hugh of Saint Victor in the first half of the twelfth century, to the figure of the ambassador. Conceived for the education of the novices in the community of Saint Victor, this text is primarily concerned with the notion of *disciplina* (how to walk, gesture, speak, eat, drink, and dress) and the idea of harmony between the internal and the external.³³ Lucas focuses in particular on a passage in which Hugh examines some inappropriate behaviors, associating each with a specific defect of the soul, and urging the ambassador to control his outward conduct. He also cites other passages on the need to moderate one’s facial expressions and gestures in order not to subvert the *officia* of the members of one’s body³⁴. Such behavioral precepts and deontological rules were to become very common in the literature on ambassadors and courtiers of the early modern period, a body of work which – drawing on a wide variety of sources – molded European civility. We must not forget, however, that the origins of these precepts and rules can be traced back to medieval monastic and clerical texts, to which *De institutione novitiorum* was seminal.³⁵

³¹ Lucas de Penna, *Commentaria*, ad *Cod.* 10.65, 316a n. 26, with quotation of 2 Macc. 15:12.

³² Lucas de Penna, *Commentaria*, ad *Cod.* 10.65, 315a n. 22, with reference to c. 8, d. 41 and Gratian’s *dictum*.

³³ See Hugh of Saint Victor, “De institutione novitiorum,” in *L’œuvre de Hugues de Saint-Victor*, ed. Hugh B. Feiss and Patrice Sicard (Turnhout: Brepols, 1997). See Jean-Claude Schmitt, *La raison des gestes dans l’Occident médiéval* (Paris: Gallimard, 1990), 173–207.

³⁴ Lucas de Penna, *Commentaria*, ad *Cod.* 10.65, 315a n. 22, who draws on Hugh of Saint Victor, *De institutione novitiorum*, 58, 70, 72 and 74.

³⁵ Dilwyn Knox, “Disciplina: The Monastic and Clerical Origins of European Civility,” in *Renaissance Society and Culture*, ed. Ronald G. Musto and John Monfasani (New York: Italica, 1991), 107–36.

Another virtue highly valued by Lucas was “discretion” (or “discernment”) – the patristic and monastic roots of which have been extensively studied by François Dingjan.³⁶ Lucas focuses in particular on the correct use of words, describing what appears to be a speaking technique for diplomats. He states that “an ambassador must be discreet in everything and learned, following the example of priests” and that he must be able to adapt to different situations and interlocutors and to recognize that the differences between people mean – as Augustin averred and the *Decretum* reported – that each person needs a different remedy.³⁷ Numerous references to the Bible, canon law, and classic literature are then made to support the argument that ambassadors need to adapt their style to every audience or occasion. This also necessarily implies the ability to be silent, since (in Gregory the Great’s words) “he who knows how to remain silent when appropriate, knows how to talk opportunely,” while (in those of the *Ecclesiastes*) “a fool multiplies words.”³⁸

Lucas’s text is not simply an amalgam of references that would have been familiar to his contemporaries (although Lucas appears to be the first jurist to use them so extensively); rather, they are part of a discursive strategy that presented principles and precepts taken from authoritative sources and intended as a contribution to the definition of the ambassadorial office, teasing out its moral and intellectual qualities, and establishing precise rules of conduct. Remembering that Lucas’s discussion of these issues is the first of its kind in the late Middle Ages, let us now turn our attention to a short treatise in the following century by the Languedoc canonist Bernard de Rosier, who was the next author to address the topic.

3.3.2 Bernard de Rosier’s *Ambaxiatorum brevilogus*

Unlike Lucas de Penna’s, Rosier’s career embraced both university teaching and public (especially ecclesiastical) office. Born in 1400, in July 1427 he joined Cardinal Pierre de Foix as the secretary of the mission to Aragon which led to the abdication of the antipope Clement VIII and the end of the Western Schism. Rosier wrote an account of this mission, and subsequently a treatise on the office of papal legate; and in 1435–6, during another

³⁶ François Dingjan O.S.B., *Discretio: Les origines patristiques et monastiques de la doctrine sur la prudence chez Thomas d’Aquin* (Assen: Van Gorcum & Comp. N.V. – Dr. H. J. Prakke & H. M. G. Prakke, 1967).

³⁷ Lucas de Penna, *Commentaria*, ad Cod. 10.65, 313a–313b n. 11, with reference to d. 38 *per totum* (regarding the example of priests), and to c. 1, § 4, C. 14, q. 6 (for Augustine’s letter 153).

³⁸ Lucas de Penna, *Commentaria*, ad Cod. 65, 317b n. 27 (with a quotation from Gregory the Great’s *Moralia in Job*) and 318b n. 30 (with a quotation from Eccles. 5:2 and 10:14).

mission in Castile, he composed the *Ambaxiatorum brevilogus*.³⁹ This text remained in manuscript form for centuries, until finally being edited in 1906 by Vladimir E. Hrabar, a Russian historian of international law.⁴⁰ Although largely unknown and thus not particularly influential, this text is still well worth studying as it is “the first textbook of diplomatic practice written in Western Europe.”⁴¹ Unlike Lucas’s commentary, the *Brevilogus* is not a work of scholarship. It includes very few references to other texts and no doctrinal discussion; instead, the text directly addresses ambassadors, to whom the author offers practical advice and precepts of conduct. Although implicit, the theological and canonical background to these precepts is indisputable.

After listing the virtues that a diplomat must possess, Rosier considers the rank and authority of ambassadors and their principals and the reasons behind the sending of embassies, going on to detail the phases of a mission, from preparation to homecoming. He emphasizes the public nature of the ambassador’s office, using the expressions *officium publicum* and *public[a] person[a]*,⁴² and repeatedly points out that ambassadors, although they are sent to individual rulers to deal with specific matters, actually realize the “common good” on behalf not just of a single country but of the “universal commonwealth” or the “whole world.”⁴³ The ancient and Christian concept of *officium*, with its implications for the entire body politic, is implicitly leant upon in these lines. In Rosier’s view, it is precisely because ambassadors work for “public utility” that they enjoy inviolability and the other privileges established by “public authority” and warranted by “both laws” (that is, civil and canon law). Those who hinder them are said to hinder the “public good.”⁴⁴

³⁹ After teaching canon law at the University of Toulouse, Rosier was appointed to the bishopric and in 1452 became archbishop of Toulouse, an office he held until his death, in 1475. See Dante Fedele, “Rosier, Bernard de (1400–1475),” in *The Wiley-Blackwell Encyclopedia of Diplomacy*, ed. Gordon Martel, 4 vols. (Hoboken, NJ: Wiley-Blackwell, 2018), vol. 4, 1654–8.

⁴⁰ Bernardus de Rosergio, “Ambaxiatorum Brevilogus,” in *De legatis et legationibus tractatus varii*, ed. Vladimir E. Hrabar (Dorpat: C. Mattiesen, 1906), 3–28.

⁴¹ Garrett Mattingly, *Renaissance Diplomacy* (Boston: Houghton Mifflin Company, 1955), 28 (see chs. 3 and 4 for a summary of the *Brevilogus*).

⁴² Bernardus de Rosergio, “Ambaxiatorum Brevilogus,” ch. 6, p. 7, and ch. 24, p. 24, and Prohemium, p. 3.

⁴³ Bernardus de Rosergio, “Ambaxiatorum Brevilogus,” ch. 6, p. 8 (“Constat et enim ambaxiatores comunibus utilitatibus insistere, per eos rei publice universe comoda plurima provenire, licet ad singulos et pro particularibus negocijs particulariter transmittantur”) and ch. 30, p. 28 (“Ambaxiatorum officium quantum rei publice et toti orbi sit utile, evidencia facti manifeste demonstrat”).

⁴⁴ Bernardus de Rosergio, “Ambaxiatorum Brevilogus,” ch. 26 and ch. 27, p. 26. See Riccardo Fubini, “L’ambasciatore nel XV secolo: due trattati e una biografia (Bernard de Rosier, Ermolao Barbaro, Vespasiano da Bisticci),” *Mélanges de l’École française de Rome: Moyen-Âge* 108, no. 2 (1996): 649–51.

Among the ambassador's intellectual virtues, Rosier – perhaps even more than Lucas de Penna – attaches crucial importance to “discretion,” which is the focus of much of this work, well worth reading for the insight it provides into the wider framework that underpins his deontological approach.⁴⁵ Rosier explains, for example, that, after his first formal address to his recipient, an ambassador must listen carefully to the latter's reply, and then behave “prudently” during the subsequent discussion. He should wait to be questioned rather than talking first. If he realizes that a question is intended to make him reveal an aspect of the matter which it would be imprudent to divulge or is intended to deceive, he should at the same time not give full explanations, nor completely fail to answer the question (or delay his answer to another day). Throughout his mission, an ambassador must adapt his attitude to the present circumstances and people, and do what is expedient “according to the right judgement of reason,” knowing that “in the things of this world . . . discretion is extremely necessary to advance from opposite positions” towards an agreement. Rosier states that awareness of how to proceed in this way is greatly enhanced by direct knowledge of many various peoples and of men's conditions and affairs, acquired through personal experience in various places and at the courts of great men. Through such experience – we read in one of the rare quotes included in the *Brevilogus* – ambassadors will become “wise as serpents and simple as doves.”⁴⁶ Interestingly, this excerpt from Matthew's Gospel is used in several passages of Gratian's *Decretum* in reference to priests, monks, and, more generally, all men, making the point that, possessing the candor of the dove, they will not intrigue against others, and, possessing the guile of the snake, they will know how to escape the traps of their enemies.⁴⁷

Of interest, too, is the fact that, according to Rosier, discretion can sometimes entail recourse to dissimulation. Although he does not actually use this term, he warns “discreet ambassadors” to ensure that – whatever they might be obliged to listen to – they always answer cautiously and gently, never lose their temper, and never raise their voices or behave insolently. If a negotiation concludes favorably, they should be open in their happiness and great delight. If, on the other hand, a negotiation does not lead to the desired result, they should not therefore refuse any

⁴⁵ As well as the passages cited in the next notes, see Bernardus de Rosergio, “Ambaxiatorum Brevilogus,” ch. 2, p. 5; ch. 13, p. 13; ch. 15, p. 15; ch. 16, p. 16.

⁴⁶ Bernardus de Rosergio, “Ambaxiatorum Brevilogus,” ch. 14, pp. 14–15, with implicit quotation of Matthew 10.16. Rosier insists on the importance of experience also *ibid.*, ch. 2, p. 5; ch. 10, p. 11; ch. 18, pp. 18–19; and ch. 30, p. 28.

⁴⁷ See c. 2, d. 36 (for priests); c. 13, C. 6, q. 1 (for all men); and c. 5, C. 16, q. 1 (for monks).

agreement, unless they have clear instructions in this regard; and, even in these circumstances, they should act with consideration and modesty, and never reveal their passions to their counterpart.⁴⁸ However, the quote from Matthew's Gospel and the many references to the "public utility" of embassies reveal that dissimulation was subject to strict limitations. The indications on this question attest to Rosier's responsiveness to actual practice and his original contribution to political and moral thought. Although theological reflection on the lawfulness of the use of lies, simulation, and dissimulation was already ample in his time,⁴⁹ in the political literature the issue would be seriously examined only in the next two centuries, when the snake and the dove – although they did not disappear completely – were largely replaced by the lion (representing strength) and the fox (representing cunning).⁵⁰

Unlike later authors who admitted recourse to deception in pursuit of political goals, Rosier placed his treatment of discretion within a strongly defined moral and ontological hierarchy, based on the twin concepts of (*debitus*) *ordo* and (*debitus*) *modus*.⁵¹ The elaboration of the ethical guidelines he proposes for the ambassadors is thus clearly based on a much wider, theologically inspired framework. "Due order" is, in fact, the stable foundation of not only diplomatic action but all things, since Thomas Aquinas corresponding to the hierarchy of beings and the correct relation between them, and its negation not just the absence of order but evil and sin. As Rosier puts it, following the "due order" means putting the fear of God first, preferring heavenly goods to those of the world and the perpetual over the transient; only by respecting this hierarchy is it possible to act properly. Complementary to the "due order" is the *debitus modus*, which refers to the dynamism of action in this world. *Modus* is the manner in which any act should be carried out, and what makes that act what it truly is. Consequently, pursuing high things with cowardice, grave things lightly, sweet things brutally, things of little account pompously, great things carelessly, joyful things with sadness, sad things with hilarity, secret

⁴⁸ See Bernardus de Rosergio, "Ambaxiatorum Brevilogus," ch. 15, pp. 15–16; ch. 19, p. 19; and ch. 20, p. 20.

⁴⁹ See Lucien Godefroy, "Mensonge," in *Dictionnaire de théologie catholique: contenant l'exposé des doctrines de la théologie catholique, leurs preuves et leur histoire*, ed. Alfred Vacant et al. (Paris: Letouzey et Anxé, 1903–72), t. X, col. 555–69.

⁵⁰ See Michael Stolleis, "Löwe und Fuchs: Eine politische Maxime im Frühabsolutismus," in Michael Stolleis, *Staat und Staatsräson in der frühen Neuzeit: Studien zur Geschichte des öffentlichen Rechts* (Frankfurt am Main: Suhrkamp, 1990), 21–36.

⁵¹ See Bernardus de Rosergio, "Ambaxiatorum Brevilogus," ch. 7, pp. 8–9. We wish to thank Andrea Robiglio (KU Leuven) for his help in the interpretation of this passage.

things openly, and evident things secretly . . . all this is to overlook the *debitus modus*. Since the latter is always related to circumstances, Rosier explains, it cannot be adequately described in writing, only learnt through discretion (“*circumspsecta hominis discrecio prudens*”), which enables men to act appropriately, in all places, at all times, with everyone. Echoes of Cicero and the scholastics reverberate in this moral exhortation aimed at inspiring the ambassador and guiding him through his daily practice of diplomacy.

3.4 CONCLUSION

This overview indicates that Christian thought on the duties (and the corresponding ecclesiastical practice) intermingled with classical ideas on the (public or individual) roles to shape the actual figures of public officials in late medieval European society. As many scholars have shown, the exercise of judicial and executive functions – crucial to the formation of the modern state and its bureaucracy – was profoundly influenced by this combination. Lucas de Penna’s and Bernard de Rosier’s speculations indicate that this was also true of diplomatic functions. The relation between the first modeling of the status of ambassadors and the Latin notion of *officium* is evident, as is the use of Christian sources. The Bible, canon law, and the theological literature provided rules and principles upon which to model that status, all in the absence of specific references in Roman law and before humanism led to the rediscovery of the classical authors. From the mid-sixteenth century on, ancient history also provided abundant material, which, alongside and sometimes in lieu of Christian doctrine, greatly contributed to shaping the status of ambassadors in the early modern period. Throughout this period, the literature on the ambassador increasingly debated the moral aspects of the office and gave detailed practical guidelines. Before then, however, the Christian literature had proved a vital source for the elaboration of ambassadorial deontology, providing the necessary material and conceptual tools for the first investigations of this subject.

RECOMMENDED READING

- Bash, Anthony. *Ambassadors for Christ: An Exploration of Ambassadorial Language in the New Testament*. Tübingen: J.C.B. Mohr, 1997.
- Faitini, Tiziana. “Shaping the Profession: Some Thoughts on Office, Duty, and the Moral Problematisation of Professional Activities in the Counter-Reformation.” *Journal of Early Modern Christianity* 7, no. 1, <https://doi.org/10.1515/jemc-2020-2017>.

- Fedele, Dante. *Naissance de la diplomatie moderne (XIII e–XVII e siècles): L'ambassadeur au croisement du droit, de l'éthique et de la politique*. Baden-Baden: Nomos – Dike, 2017.
- Kantorowicz, Ernst H. *The King's Two Bodies: A Study in Medieval Political Theology*. Princeton: Princeton University Press, 1997.
- Ménager, Daniel. *L'ange et l'ambassadeur: Diplomatie et théologie à la Renaissance*. Paris: Garnier, 2013.