Somewhere in Northern France in the early twelfth century, there was a monk who lived in a hermitage with another monk. While his companion was away running errands, he would often fornicate with a lady friend -- a certain nun from a highborn family. One day the illicit lovers were sitting outside the cell, passing the time, when they saw the other monk returning from a distance. The nun couldn’t have escaped without being seen had her lover not shown incredible presence of mind. He turned her into a monstrous dog, and she ran away home – or so Abbot Guibert of Nogent relates in his memoirs.

Most members of the clergy were not practiced magicians, however, and their peccadillos tended to give rise to scandal. In our culture, the term scandal is often applied to revelations of inappropriate behavior among public figures, often with titillating and entertaining results. Who, for example, didn’t extract a perverse degree of schadenfreude at the unfortunate exhibitionism of Anthony Weiner and his internet stud photos? But scandal in the Middle Ages was understood somewhat differently. The term comes from the Greek meaning “to trip up” or “to cause another to stumble.” To scandalize was to bring about another’s fall by provoking them to sin. There were heavy sanctions against scandal in the bible. Christ, himself, had warned that anyone scandalizing one of his “little ones” was better cast into an ocean with a millstone around his neck (Matt. 18.6).

So scandal was a sin. But a sin of a special order since it concerned the corruption of your neighbor. It is completely possible that the person who created the scandal in the
first place wasn’t doing anything sinful. But that action somehow inspired sin in another. For example, imagine that a child was choking on something, and her mother performed the Heimlic maneuver to save her life. A neighbor looking in the window, however, thought she was abusing the child and, rather than calling the authorities, was corrupted by the bad example and began beating her own child. In such an instance, the first mother, though not sinning, was still scandalizing, however. But in this instance it was passive scandal, inspiring sin in another. If, however, someone was pretending to beat a child, knowing full well that the neighbor would interpret thus, and perhaps begin beating her own. Then the first mother be guilty of an active scandal, which as mortal sin that could damn me to hell.

This theory of scandal was destined to have profound consequences for what was deemed acceptable for a Christian and how unacceptable behavior was to be disciplined. The present study focuses on the way in which the fear of scandal shaped the penitential system: that is, the system of confession and penance that was developed in response to the biblical injunction to “confess your sins one to another” (James 5.16). It particularly emphasizes the way in which the heightened fear of scandal among the clergy fostered the toleration of hidden sin over open scandal. Sadly, the same fear will determine that the most dreadful crimes, such as abuse of minors, be suppressed altogether. The early church had a system of public penance. It could only be performed once in a person’s lifetime and only for the most grievous sins like homicide, adultery, apostasy – sins that had created a public scandal. The penitent, dressed in sackcloth and ashes, would confess his sin to the Christian community at large, with tears and lamentation, outside the church. He was barred from entering the church and receiving communion
until formally reconciled by the bishop, which could take years.³ If this sounds like a rather grim and humiliating sentence, it is noteworthy that not everyone thought so. According to Augustine, both pagans and presumably some Christians (to whom he refers as heretics) who were highly critical of the church’s penitential policy arguing that some sins which do not admit penance should be allowed and that orthodoxy was providing a safe haven for sinners. Augustine argued, however, that the church had to be merciful on this score or sinners who despair.⁴

Whether one sides with Augustine or the heretics, penance was nevertheless a spectacle of penance with pedagogic potential. Public humiliation rendered the penitent a living exemplum, which would act as a powerful deterrent from sin; yet, it could also be the source of scandal if performed by a person of consequence. For instance, when in the fourth century Theodosius the Great was made to do penance for the massacre at Thessalonica at the behest of St. Ambrose, it was possible that some people were scandalized to the extent that they could no longer regard this sinner as emperor.

The situation becomes more fraught when the positions are reversed and it is the bishop who is the occasion for scandal. Should he be treated like everyone else and do penance? Or would such a publication of wrongdoing by a member of the higher clergy, or any member of the clergy, be damaging for his office and scandalize the body of the faithful? Clearly this latter position was considered more compelling since it was established very early on that no one who had ever done public penance could take holy orders.⁵ But as the clergy progressively distinguished itself from the laity, the public
penitent’s bar to holy orders developed into a prohibition against anyone in holy orders from doing public penance, which is a very different proposition.

The bar against priests doing penance seems to have arisen in the course of the fourth century with the struggle against a group called the Donatists. These North African schismatics believed that priests who had succumbed during the time of the persecutions, whether by handing over holy books or full scale apostasy, were no longer priests, that their sacraments were invalid, and that they should be made to do public penance. The opposition, which would eventually be recognized as the orthodox or catholic church, found this appalling. St. Optatus (writing ca. 384) rails against the Donatists: “You have found boys; you have wounded them with penance so that none could be ordained…. You have found deacons, presbyters, bishops; you have made them laics; acknowledge that you have ruined their souls.” The clerics in question were “lived on after this as human beings, but as priests who held God’s honours they were killed by you.” And Optatus argued vociferously that priests were exempt from human judgment: “You shall not touch, [God] says, my anointed ones…. God has reserved his own property for his own judgment.”

St. Augustine would add his very powerful voice to the fight against the Donatists, arguing that the sin of a priest in no way undermines his ministry: “Therefore, if a bad man offer sacrifice to God, and a good man receive it at his hands, the sacrifice is to each man of such character as he himself has shown himself to be, since we find it also written that ‘unto the pure all things are pure. (Tit. 1.15).’” It was during this controversy that Pope Siricius first articulated the prohibition against clerics doing penance: “Just as it is not conceded to a cleric to do penance, so also after penance and
reconciliation it is not permitted for any layman to obtain the honor of the clergy; because although they are purified of all the contagion of sin, they ought not to be the instruments of bearing the sacraments, who were earlier vessels of sin.”\textsuperscript{10} Note that Siricius adeptly puts the innovative prohibition against priests doing penance before the tradition that public penitents are barred from the priesthood, as if the authentic tradition were the innovation. This papal decree leaves the priest, who is a sinful, but secret, vessel of sin, in a terrible bind. If he does public penance, he would become infamous – which essentially meant loss of his good name and any legal standing -- and hence deposed from office.\textsuperscript{11} And this had very serious implications since in the early church and well into the Middle Ages, there was virtually no distinction between being suspended or deposed from office and being degraded from the priesthood. So it made good sense to keep any flagrant sins a secret. But without penance, how could the sinful cleric be saved? In the mid fifth century, Pope Leo I, somewhat ironically, writing to a bishop who wanted to resign because he was tired of dealing with scandals, would reiterate the ban on a cleric doing public penance, but would also point to a solution for the dilemma presented by the sinful cleric: “It is not customary in the Church for men ordained to the dignity of the priesthood or diaconate to receive the remedy of penance by the laying on of hands once they have committed some crime. This procedure has undoubtedly come down from apostolic times, according to that which is written: ‘If a priest sins, who will pray for him?’ Hence, those who have fallen must seek out a private retreat in order to obtain the mercy of God.”\textsuperscript{12}

Leo was the first to propose that the priest do penance privately. In addition, he added scriptural ballast to the prohibition on a priest doing public penance. The text that
Leo used to make his point – “If a priest sins, who shall pray for him?” -- is definitely peculiar, however. The Donatists first used it to argue that a priest’s purity was integral to the efficacy of the sacrament: “If the people shall sin, the priest shall pray for them: but if the priest shall sin, who will pray for him?” Leo had appropriated this text to make the exact opposite point. Moreover, this text would be reiterated in every major canon law collection of the Middle Ages, including Gratian’s twelfth-century *Decretum*, which remained in effect until the Code of Canon law was introduced in 1917.13

The fact that the text in question is severely bowdlerized didn’t seem to bother anyone.14 The biblical passage that comes closest occurs in 1 Sam. 2:25:15 “If one man shall sin against another, God may be appeased on his behalf: but if a man shall sin against the Lord, who shall pray for him?” The Donatist substitution of “priest” for “man” was a rather opportunistic way to invalidate the consecration of a sinful priest. But the fact that orthodoxy kept the Donatist change but subverted the meaning seems more opportunistic still. The definitive restatement of the interdict on a cleric doing public penance, and recommendation for private penance, was in the Pseudo-Isidorean or False Decretals, a set of ninth century forgeries which conveniently invented a canon attributed to the fourth century council of Gangra.16

In fact, there was some scriptural justification for private penance. In the gospel according to St. Matthew, Christ had said: “If thy brother shall offend against thee, go, rebuke between thee and him alone” (Matt. 18.15). Augustine deployed this passage to argue that if the sin was secret, it should be corrected in secret reasoning “Where the evil happens, there should it die.”17 Otherwise you are not a corrector, but a betrayer. He adduced the example of the newly married Joseph, who upon discovering that Mary was
pregnant, did not want to expose her shame to others. Augustine’s remarks would become intrinsic to the clerical concept of fraternal correction, which, animated by charity, minimized the degree of exposure and humiliation.18

This kind of forbearance would be corroborated by the ascetical tradition of the desert fathers. These prototypical monks lived as solitaries in the deserts of Egypt and Syria primarily between the fourth and sixth centuries, usually under the spiritual direction of an esteemed elder. The spiritual legacy of these desert heroes was, by and large, conveyed in collections of rather gnomic utterances which circulated throughout the medieval period. A number of these exempla exhibit a marked laissez-faire attitude with respect to the sins of others. This is particularly true for, Abba Poemen, who was nicknamed ‘The Shepherd’ – presumably in reference to his influence over the spiritual development of his adherents: “A brother questioned Abba Poemen, saying, ‘If I see my brother committing a sin, is it right to conceal it?’ The old man said to him, ‘At the very moment when we hide our brother’s fault, God hides our own and at the moment when we reveal our brother’s fault, God reveals ours too.’” Poemen also warns against the mandate to ‘give witness of that which your eyes have seen’ (Prov. 25.8), arguing “‘even if you have touched it with your hands, do not give witness.’” He supports his caution with the anecdote of a monk who thought he saw his brother fornicating with a woman. He kicked them and shouted at them until he realized that he was molesting a sheaf of corn. The audience is also encouraged to treat themselves with such passionate forbearance. Apparently whenever Abba Paphnutius revealed his sinful thoughts to his spiritual elders, he always received the same counsel: “‘Wherever you go, do not judge yourself and you will be at peace.’” The desert fathers were not ordained. So presumably,
such counsels of leniency applied to everybody: there was no special warrant for the priesthood.\textsuperscript{19}

The flipside to the contention that private sins be corrected privately was Augustine’s conviction that public sins needed to be corrected publicly – a sentiment that was widely shared and eventually mandated by a Carolingian Council in 813.\textsuperscript{20} If a member of the clergy was caught in flagrant scandal, he should, allegedly, be degraded – a ritual undressing modeled on the court martial. Perhaps the most infamous example of this scandalous ritual occurred in 897 when Pope Stephen VII had his predecessor, Formosus, declared a heretic. A stickler for due process, Stephen insisted on digging Formosus up and putting him on trial. Having little to say in his own defense, Formosus was then degraded from Pope, to bishop, to priest, to deacon – each demotion being symbolized by the removal of a garment. Reduced to a mere layperson, the fingers of benediction were cut off and the cadaver was thrown in the Tiber.\textsuperscript{21}

But such instances were rare because of the impediments placed in the way of bringing a cleric to justice. And these difficulties were increased exponentially with the appearance of the ninth-century False Decretals, forged by a group of clerics in Northern France but attributed to the mysterious Isidore Mercator. Pseudo-Isidore was of the opinion that charges of malfeasance against the priesthood went against apostolic tradition, especially in the case of a bishop. The launching of any accusation thus “should be made a matter of great difficulty”; and Pseudo-Isidore does what he can to ensure that it is.\textsuperscript{22} An errant bishop should first be corrected privately by the subordinate clergy, probably members of his household that he would have ordained. He only comes to trial if he proves incorrigible.\textsuperscript{23} Furthermore, it required 72 witnesses to convict a bishop, up
to 12 judges of the bishop’s choice, and there still remained the possibility of an appeal to Rome. No one of an inferior clerical office could accuse a bishop, and certainly no layperson could. The accuser who doesn’t carry his point, risked the loss of his property. Priests, as well as their supporters, conspiring against bishops were to be degraded and pronounced infamous. The bishop’s special status is enacted symbolically: he is elevated on a throne in his cathedral, indicating that “the power of inspection and judging, and the authority to loose and bind are given them by the Lord.”

Pseudo-Isidore’s sense of episcopal privilege is well expressed with a warning from Ecclesiasticus, “Whoso casts a stone on high, it will fall upon his own head (Eccles. 27.17-30).” Many canons from the False Decretals found their way into Gratian’s Decretum and hence modern canon law, shaping procedure to this day.

So the preferred way to expiate clerical sin, and still remain a cleric, was through private auricular confession, preferably to a priest, who would assign penance. In the seventh century, a genre known as the penitentials emerged to help clerics hear confession and discern the appropriate penance for a given sin. The penitentials have often been compared to codes of law used by the barbarian successor states established after the fall of Rome, and with good reason. Both genres enlisted tariffs, adjusted by rank, that were rather mechanically meted out for different sins or crimes. For instance, the penitential of Cummean ordains: “A presbyter or deacon who commits natural fornication, having previous taken the vow of a monk, shall do penance for seven years.” But “if [the culprit] is a monk of inferior status, he shall do penance for three years.”

The rationale behind the different penalties was often opaque, and the penalties themselves wildly inconsistent. For instance, Cummean assigns the same penance to
someone who has sex with a beast and someone who wants to commit fornication but doesn’t have the opportunity. Both receive a year.  

But one position most penitentials did uphold was that clerics who were apprehended in fornication or adultery would be deposed from office. Furthermore, the severe penance assigned suggests that one category of fornication was considered especially horrific. The following canon first appears not in a penitential but in the seventh- century rule of the Visigothic abbot, Fructuosus of Braga.  

Any monk who seduces children or youths, or is apprehended in a kiss, or gazing longingly, or any other filthy scenario, once clearly proven through the most trustworthy accusers and witnesses, should be publicly beaten, his tonsure removed, and made to stand in the open, shaved bald, enduring contemptuous opprobrium, with his face smeared with the spit of all, while sustaining the insults of all. He should be imprisoned, bound in iron chains and tormented in anguish for six months; for three more years through each and every week he should be sustained on only the smallest amount of barley bread, not to be consumed until the evening. Then, in the custody of a spiritual man, he should do manual labor on the farm, segregated. He should engage in continuous prayer; subjected to vigils, tears and, with humility, ask for pardon with penitential laments. He will walk in the monastery always in the care and solicitude of two spiritual brothers, with no extensive private conversation or counsel with the young.  

This was certainly not the first text condemning child abuse. In 307, the Council of Elvira ordained that anyone convicted of seducing boys could not receive communion on his deathbed – a penalty that implied there was no atonement for this sin. But the Visigothic
canon specified monks. It was destined to become influential for centuries, circulating in penitential materials and entering into canon law. In the early ninth century, it was included in the concordance of religious rules compiled by monastic reformer, Benedict of Aniane. A couple of centuries later it appears in Regino of Prüm’s influential manual written at a bishop’s behest that consisted largely of extracts from penitentials. Regino introduced two important changes, however: the potential offenders were not just monks, but now secular clerics as well and the canon picked up the added luster of a misattribution to St. Basil the Great. From Regino the now Pseudo-Basilian passage entered the canonical collections of Burchard of Worms, writing around the millennium, and, a century later, Ivo of Chartres. In both collections, it was buttressed by a number of other canons generally treating the abuse of minors, such as Elvira. Yet neither the pseudo-Basilian canon nor any of the other related texts made it into Gratian’s collection, even though Burchard and Ivo were his major sources. Why not?

The fact that this canon was ultimately dropped seems to be reflective of the church’s increasing apprehension of scandal. Both Ivo and Gratian were writing in the wake of the Gregorian reform -- a movement beginning in the mid eleventh century that would change the face of the church forever. The reformers wanted to purify the clergy from secular corruption. One of the most important vehicles for achieving this purpose was to enforce clerical celibacy – a policy which met with considerable resistance since clerical marriage, though frowned upon in reforming circles, was the common lot of the average parish priest. But now their marriages were pronounced both invalid and scandalous, and their children, bastards. The most ardent advocate for clerical celibacy was the Italian monk-cum-cardinal Peter Damian, who wrote a number of treatises
attacking clerical wives. But Damian was a zealot who was not content simply to have an unmarried clergy: he wanted a pure one. So in 1049 he wrote the *Book of Gomorrah* – a work denouncing same sex relations, which he claimed were rife throughout the clergy, and addressing it to the first of the reforming popes, Leo IX. In his conclusion, Damian begged Leo to take action by deposing the guilty parties.\(^{38}\) One of his most authoritative proofs for condemning same sex relations is the Pseudo-Basilean canon regarding child abuse, which he cites in full, commenting: “Here the sodomite should seriously consider whether he is worthy to serve in any ecclesiastical office, since this sacred authority judges him to be deserving of such ignominious and degrading treatment.” He notes that if a kiss merits such a severe penalty, how much more ignoble is actual intercourse between males. “Therefore, since Basil commands that he who is guilty of this sin must undergo severe public penance, and Siricius forbids a penitent to enter the clerical state, it evidently follows that whoever is sullied with the ugly filth of homosexual vice is unworthy of service in ecclesiastical offices.”\(^{39}\)

Damian was clearly more concerned with homosexual activity than with the abuse of children, and shrewdly chose this example because its punishment was so spectacular. But his issue was clerical purity, not protecting minors. From this perspective, *The Book of Gomorrah* is on a continuum with his stance on clerical marriage. Most indictments of clerical marriages, including Damian’s, blamed the women, depicting clerical wives as devils’ concubines who preyed upon an innocent priesthood. Contemporaneous councils even declared that clerical wives become papal slaves.\(^{40}\) It was much easier, and ultimately less scandalous, to stigmatize outsiders – women who were by definition not members of the clergy – than break ranks and go after clerics, even if this meant ignoring
widespread child abuse. Peter rightly anticipated that he would be attacked by his confreres for creating a scandal among the clergy. Moreover, the pope was having none of it. The reformers’ cause was clerical marriage. Period. Leo thanked Damian for his efforts; locked up the treatise; and saw to it that it never circulated.41

Ivo of Chartres, writing some 45 years later include the Pseudo-Basilian canon, as mentioned above. But, though sympathetic to reform, the French bishop was far removed from the action in Rome. The essential collections that were written during the reform were of Italian provenance and written in collusion with the reformers; they all suppressed the canon about clerical abuse of minors.42 And so Gratian, hailing from Bologna, also omitted the offensive canon. Nor did he include the parallel prohibition from Elvira.43

Gratian did, however, incorporate another of Ivo’s canons which treated child abuse obliquely. It was a passage from Ambrose’s treatise On Abraham attempting to justify why Lot was prepared to offer his daughters up to the lascivious people of Sodom and Gomorrah as a substitute for the travellers he was sheltering in his house whom they wished to “know” – i.e., to violate sexually. “Lot offered the chastity of his daughters for, although the impurity [of the gesture] was shameful, nevertheless it was less shameful to have sex according to nature than against nature.”44 Ivo had cushioned this grim pronouncement by surrounding it with four passages questioning Lot’s right to prostitute his daughters in this way.45 Since Gratian chooses not to include these canons, this equivocation is also absent. The import of the canon is further blunted by the fact of its inclusion in a section on marriage, promoting “normative” versus “unnatural” marital relations.46
If the omission of these canons alluding to child abuse was due to the church’s heightened sensitivity to scandal, one has to acknowledge that there was a good reason for this sensitivity. The church reform had succeeded beyond the wildest dreams of its advocates, effecting a major elevation of the priesthood. And their newly mandated purity was representative of this elevation. According to Robert of Flamborough’s assessment of clerical garb, the priest was the walking symbol of his chaste vocation: the white alb represented purity of the soul; his belt, chastity. The bishop wore three tunics: the white linen tunic signified purity; the silk tunic -- the work of worms, which were believed to be generated spontaneously without coitus -- represented chastity and humility; the third was the color of hyacinth, indicating airy serenity. 47 One of Peter Damian’s arguments for clerical celibacy had been that Christ would permit only a virgin to handle his virginal body during mass. The image of the priest handling Christ was realized concretely as the symbolic understanding of the eucharist finally yielded to a belief in the real presence of Christ in the sacrament of the altar. This was formalized in the doctrine of transubstantiation at the 4th Lateran Council, called by Innocent III in 1215. And this miraculous change, from bread to flesh, was effected by the priests’ words of consecration. This made priests a source of adulation in their own right: Francis of Assisi, whose rule had been authorized by Innocent III, referred to priests as “little Christs.” In other words, the further the priest rose in status, the further he had to fall.

Innocent III understood the price of sacerdotal aggrandizement. In a sermon addressed to priests he argues that a venial sin for a layperson was often a mortal for a cleric; that “the layman asks, why not commit adultery, when the priest fornicates? Why not commit usury, when the priest is a usurer?” 48 But if the pastor’s sins were, in fact,
the source of such great scandal, might it not be more charitable for these sin to remain concealed? The brilliant Peter Abelard, writing in the 1130s, had thought so. This position is rather at odds with Abelard’s theory of sin, which, he argued, resided in the intention. Abelard posited the basic neutrality of outer acts in the eyes of God. Even so, Abelard knew that mere mortals could only judge, and be corrupted by, what was manifest. So a secret sinner should keep his offense secret, lest he corrupt others. By the same token, the malefactor who creates a public scandal must be publicly chastised in proportion to the degree of scandal, even if he were innocent in the higher tribunal of intentionality.\textsuperscript{49} But Abelard recognized that this disjunction between the inner person and his outer deeds could lend itself to cynical abuse. Hence in a satiric poem for his son, Astrolabe, he counsels: if you can’t be chaste, be careful.\textsuperscript{50} (Had Abelard but heeded his own advice he might have had more children.)

When Abelard maintained that it was more charitable for someone to conceal his or her sins he was speaking generally. But others would apply this modus operandi particularly to the clergy. Hence the twelfth-century biblical \textit{glossa ordinaria} interpreted Christ’s warning against scandal as pertaining to “whomever has a type of sanctity” arguing it would be better for him to keep up appearances than risk his holy office being undermined, potentially bringing others to ruin. “For if he alone falls it is more tolerable since he alone suffers the punishment.”\textsuperscript{51} Elsewhere the glossator suggests that if scandal is suppressed, the offender’s ultimate punishment would be proportionately less.

Presumably the person who concealed his sin would make amends through private confession and penance. Abelard would have reduced the shame factor exponentially with his emphasis on contrition of the heart, which was apparent to God.
alone, but all that really mattered. From Abelard’s perspective, God, as the reader of heart and reins (Ps. 7.9), did not require a person to confess his or her offense out loud, let alone to a priest. The influential *Sentences* of Peter Lombard, written some twenty years later, successfully challenged this position, insisting on oral confession to a priest. To make this point, however, the Lombard relied heavily on yet another forgery – this time the Pseudo-Augustinian treatise *On True and False Penance.*

Over the course of the twelfth century, auricular confession, progressively spread to the laity as a sacrament essential to salvation. This trend that would be consolidated by the Fourth Lateran Council, which required every layperson to confess once a year or be excommunicated *ipsos facto.* From the latter half of the twelfth on, there was a surge in pastoral literature – including sophisticated confessors’ manuals, which were intended to supplant the much discredited penitentials. These new manuals reflected the revolution, spearheaded by Abelard, to locate sin in the interior, with intention, as opposed to the exterior, with action. But this orientation actually complicated the work of private confession which had, after all, been invented to bridge some of the distance between a sinful priest’s inner and outer personae, if only by privately admitting to sinful actions. From Abelard’s perspective, another step was required to distinguish what were seemingly sinful actions from actual sin, which resided in the intention and was only accessible to God.

The new penitential manuals are representative of the kind of casuistry, again pioneered by Abelard, that had come to dominate the schools: a kind of “what if” theology, as it were. The hypothetical questions that were posed render the dynamics and internal logic of auricular confession, particularly the exchange between confessor and
penitent, much more clearly than the penitentials of the early Middle Ages; the process also casts into relief the vast difference between both the purpose and the effect of public penance and the new confessional practices. What particularly interests me is that, however humiliating public penance might have been, it connected the individual with his or her sinful actions – actions which the penitent was forced to claim as his or her own, and for which he or she must atone before reentering the community. As such, it was a ritual of integration – both an affirmation of the unity of an individual and his or her sinful actions and marking the penitent’s exclusion from and reentry into the community. Private confession could be seen as working to the opposite purpose because, by its very nature, it dissociates the person from his or her sin by encouraging concealment from the outer world. The same dissociation between outward appearance and inward intent is implicit in the concept of scandal – especially passive scandal, in which you could scandalize unawares. And it is no surprise that these manuals contain the first extensive considerations of scandal, and its earliest treatments as a free-standing sin.

The confessors’ manuals are also expressive regarding the new set of vocational pressures produced by both the clergy’s hard-won ascendancy and their responsibilities as confessors. This becomes especially apparent in the work of the Parisian theologian Peter the Chanter (d. 1197), whose practical theology did much to provide the groundwork for Lateran IV. In his *Summa on the Sacraments and Counseling of the Soul*, not only does Peter provide the first detailed discussion of scandal, but peppers it with exempla bespeaking his sensitivity to the balancing act between inner and outer that a confessor was required to perform. He begins his exploration of scandal by a casuistic
consideration of whether it was a mortal sin. Supposing (writes Peter), that he, as a priest, performed an inessential act, such as walking around at leisure, and someone saw him and said: “Look at the priest playing,” and was scandalized. Did Peter sin mortally? The answer, the exact opposite of the intentionality of sin, is not encouraging: “If I pursue an unnecessary work and accidentally kill a man, I am guilty of homicide. By the same token, if I pursue an unnecessary task and cause someone to be scandalized, accidentally killing his soul, I am guilty of scandal.” In essence, any non-essential act that has the potential for scandal should be abandoned, otherwise you sin mortally. Thus in order to avoid scandalizing “We ought to abstain from all things licit which are able to be omitted provided we preserve the truth of life, doctrine and justice.” This criterion of the three truths was destined to become the gold standard for licit scandal.

Peter proceeds to explicate this standard through various examples reflecting contemporary concerns. Because the twelfth century had witnessed the rise of cities and commerce, it also experienced the predictable backlash against wealth in the form of popular movements attempting to live the life of the apostles in voluntary poverty. So Peter was responding to the widespread critique of the church’s excessive worldliness when he evokes a hypothetical a prelate who has scandalized the people by his splendid clothes, fine horses, and lawyers especially trained in coercing the laity. In this instance, however, Peter argues that the prelate was justified in his opulence and should not put aside these effects for fear of jeopardizing the truth of justice. For if he dressed meanly, acted in a dejected manner, and didn’t have a legal retinue to punish delinquents, things would go to hell in a hand basket and the people would be at risk. Later Peter goes so far as to speculate that, even if the prelate went overboard on the bling, he was actually
deserving of merit – provided his motivations were fueled by a desire to uphold his dignity and render his subordinates more obedient.  

Although especially focused on questions concerning private confession, Peter retained a conventional view of its limits. If someone had scandalized the populace, he was required to do penance publicly. Again his examples are adduced from the clergy. Supposing that the priest defied a king for a noble cause, and everyone was aware of it, but then, out of fear, the priest perjured himself, denying his good deed. Was he required to do public penance? Or what about a bishop who was widely known for simony, but wished to repent? Neither could satisfy God without placating the scandalized people first. This required public penance and resignation from office.

Such matters of appearance and perception are treated under the rubric scandal. None seem irresolvable. But the situation becomes much more fraught when Peter turns to the process of confession, and the ominous manner in which scandal manifests itself in this context. For although scandal requires an audience, it need only be an audience of one. And confession, of course, meets this requirement. Sometimes, out of charity, the penitent might need to consider his confession as a potential source of scandal to the priest. Supposing the penitent had murdered the nephew of his confessor. How should this affect his confession? Perhaps the details of the crime should be waived lest the confessor fall into a murderous rage? There were also systemic problems arising from cadre of professional celibates required to hear the confessions of a sexually active laity. Hence “If anyone has a simple priest who would be easily corrupted if he were to make new discoveries in sin, particularly in the 1000 different ways of having sex, should one should confess the sins as well as their circumstances to him?” Peter thought not.
The problems confronting the confessor are even more baffling. Supposing he is consistently scandalized by the beauty of a certain woman. Christ had advised that if your eye scandalized you, you should pluck it out. By analogy, could he send her, as the offending eye, on a pilgrimage so that he didn’t have to look at her and be scandalized? And if he does, is she, the offending eye, obliged to obey – even though she would incur expenses that she could ill afford? Peter doesn’t answer this directly, only saying that “it is better to lose material substance than a good conscience.”

The most perplexing problems revolve around how clerics deal with one another’s sin. For instance, the principle of fraternal correction requires monastic brethren to denounce the other, in charity, for any offenses he observes. It is possible, however, that errant monk was only guilty of a trifling offense and would be scandalized by the denunciation. Moreover, if his punishment was too severe, this would undermine the truth of justice. In such instances, it would be preferable to remain quiet, though Peter acknowledges the risk that the sinning monk might go from bad to worse offenses. What if someone of good reputation was about to be elected to a position in the church, whom the priest had learned through confession was really a rake or even a heretic? Supposing the electors wished to consult the confessor. Should he refuse to give counsel, despite knowing that the person in question would do a great deal of harm to the souls of his subordinates? Moreover, if he were to hint that the candidate isn’t suitable, doesn’t this compromise the secrecy of the confession as well as damage the penitent’s reputation? Or what about if a bishop learns through confession that his CFO (camerarius) is a sensualist and a fornicator? Can he remove him from office without arousing sinister speculation? Yet, by keeping such a scoundrel in office the bishop is
risking infamy and the ruin of many.⁶⁴

Despite the palpable risks, Peter determines that the confessor is required to hold his peace. He is not allowed to avail himself of the kind of cryptic comments that Christ routinely made, like “one of you will betray me.” Nor can he use generalizations like “our priests are worse than our deacons,” as heavy handed hints. Making faces is also explicitly ruled out. Basically, no disclosures are licit. What Peter is butting up against is the celebrated seal of confession. Significantly, no one had heard of such of thing until the eleventh-century, when penalties were first applied for revealing a confession.⁶⁵ But in Peter’s time there seems to have been some permeability to the seal. So it comes as a relief when Peter concludes that the priest must remain silent “except when a faithful soul is endangered.” In such an instance, “hinting or revealing is not so much an uncovering of a confession as [attending to] the care of souls.”⁶⁶

Peter died in 1197. Eighteen years later, Lateran IV will remove this degree of flexibility, however, threatening the priest who revealed a confession with degradation and imprisonment. And this emphasis is reflected in the work of thirteenth-century scholastics, who were fascinated by exploring the limits of the seal. Henry of Ghent, a secular master at the University of Paris, dedicated a series of quodlibetal questions to this problem.⁶⁷ One is especially poignant. An abbot knows through confession that one of his monks, who has the care of souls is a corruptor of his parishioners. Is he bound to recall him? On the one hand, Henry cites Lateran IV’s prohibition against revealing confessions; on the other hand, he argues that if the abbot remains silent he is complicit with evil. The seal wins, of course, but at the cost of fragmenting the confessor into three, possibly four, personae. Even if the abbot were ordered to speak the truth to his superior,
he can and should remain silent since as a man, he knows nothing personally about the confession. He only knows about the man’s sins in his capacity as confessor, where he does not know as a man, but as God. By the same token, he cannot move the evil pastor on the basis of what he knows as God. If he were to act he would have to base it on what he knows in his everyday persona as abbot -- a public minister of God, but still only a man. Henry does, however, introduce another persona that provides a bridge between the priest’s roles as God and man: that of \textit{secretarius}, or confidential clerk, of God. It is in the capacity of \textit{secretarius} that he can form the private intention of moving the monk, and then leave it to abbot, as public minister, to do the deed. But circumstances have to be just right.

In the public eye, the [abbot] must have a reason and opportunity for moving him without scandal or suspicion…. Even if there was the slightest possibility that someone else, aware of the deed, would be scandalized, he can’t be moved – even though it would be for the best…. But if [the abbot] does not have the reason or opportunity for moving him, and some scandal or suspicion arose on account of some crime [the monk committed], then the abbot would then be able to move him. Yet he should in no way attempt to get rid of him [without these pretexts] because bad deeds should never be committed in the hopes that they will turn out well. Rather, in this case the business should be committed to God, with the firm conviction that [God] would not permit evil things to be done by the man, unless it was somehow just for those evil things to occur and God, who is so powerful, knew how to ordain those [evil] things to good. So, in as much as it is possible, we should harmonize our will with the divine will…desiring in general
what he desires in particular… [so that] what he desires, we desire in this matter – nevertheless, not abandoning the desire that God not desire [these evil things] to happen. 68

By the high Middle Ages, the fear of scandal had placed the clergy in an intolerable position, requiring simulation, even dissociative behavior, on multiple levels. This came to pass in stages, over centuries. First, there was the fight against Donatism, which succeeded in separating the sanctity of the sacerdotal office from the sinful man, arguing that a priest’s mortal sin does not undermine his ministry. This victory coincided with a ban on public penance for the clergy, which meant that the sinful cleric had a choice between being publicly degraded or dissembling. Then the Gregorian Reform elevated the clergy by enforcing celibacy – staging a scandal that would disinherit clerical wives and their offspring, and suppressing the scandal of the abuse of minors.

The growing complexity of the penitential forum contributed to these problems. The identification of sin with the interior person encouraged a disjunction between action and intention. It was, in theory, possible for a priest guilty of a truly terrible crime, like murder or child abuse, to believe his intentions were pure. The spread of auricular confession augmented sacerdotal prestige, assimilating the confessor with God. Its imposition on the laity further extended sacerdotal power into the most intimate reaches of their lives. But this came at a cost. For although private confession was introduced as a mechanism for saving the cleric’s reputation, along with his soul, it may have often worked to the opposite effect. The sins of the laity would be a constant reminder of the sacrifice that the clergy had been compelled to make. They would be tempted, and many would fall. And the laity paid the price. In the early modern period clerical seduction in
confession, a crime known as solicitation, had become so widespread, and was considered so grievous, that the Inquisition was employed to bring the malefactors to justice. Meanwhile, the honest priest was expected to endure the excruciating process of hearing the confessions of brethren who routinely abused their power, with details concerning the evil they wrought. But in the capacity of confessor, the good priest was compelled to see only as God, not man, and was paralyzed.

The medieval church’s fear of scandal created a perfect storm for a corruption that was protected by an aura of sanctity, carefully cultivated over the centuries, and invulnerable to true reform. And the worst of it was that the good priests knew. I will conclude with the comments of William of Auvergne, who was bishop of Paris a decade after Lateran IV.

Who can judge how many souls fall through the negligence or malice of one prelate?... It seems that the bishops should be ordered to work for the liberation of the church by removing the prelate, who… is the ruin of so many souls…. But how difficult, and often impossible, it is to live up to this counsel…. He who does not see this is blind. Not much has changed.


5 Lea, History of Auricular Confession, 1:38-9. By the same token, no one who was infamous could receive orders. Infamy was generally understood as the commission of a notorious crime. In other words, it spoke more to the question of reputation and the loss of one’s good name than its impact on others. See Robert of Flamborough’s definition, Liber poenitentialis c. 161, ed. J.J. Firth (Toronto: Pontifical Institute, 1971), p. 159. For a juridical overview, see Francesco Migliorino, Fama e infamia: Problemi dell società medioeval nel pensiero giuridico nei secoli XII e XIII (Catania: Editrice Giannotta, 1985); Edward Peters, “Wounded Names: The Medieval Doctrine of Infamy,” in Law in Medieval Life and Thought, ed. Edward B. King and Susan J. Ridyard (Sewanee: The Press of the University of the South, 1990), pp. 43-89.


7 Optatus, Against the Donatists 2.25, p. 55.

8 Optatus, Against the Donatists 2.25, p. 56.

9 Augustine, In Answer to the Letters of Petilian, the Donatist c. 106, 240, LNPNFC, 1st. ser. 4:493.


11 See n. 4, above.


13 I have indicated in brackets which authorities cite Leo and which Siricius. Dionysius Exiguus, Collectio decretorum pontificum romanorum , PL 67:237 (Siricius); Crisnus Africanus, Brevarium canonicum PL 88: 852 (Leo); 636 (Siricius); Pope Zachary, Ep. 8, To Pippin, Mayor of the Palace, c. 4, PL 89: 935 (Leo); Isidorus Mercator, Collectio decretalium (The False Decretals), PL 130: 682 (Siricius); Regino of Prüm, De
ecclesiasticis disciplinis c. 312, PL 132: 254 (Leo); Burchard of Worms, Libri decretorum 19.71, PL 140:999; 19.49, PL 140: 994 (Leo and Siricius); Anselm of Lucca, Collectanea, PL 149:480 (Siricius); Ivo of Chartres, Decretum c. 67, PL 161: 459 (Leo); c. 63, PL 161: 876 (Siricius); Gratian, Dist. 50 c. 67 (cites both Leo and Siricius). “Si sacerdos” is also cited in De poen. Dist. 1 c. 59, but in the context of whether secret penance and satisfaction is possible without oral confession. Also see Bernold of Constance, De vitanda excommunicatorum communione, de reconciliation lapsorum. Et de conciliorum, canonum, decretorum, decretalium, ipsorumque pontificum romanorum auctoritate liber PL 148:1192-93 (Leo).

14 It was noted by the sixteenth-century editor of the Editio Romana, however. See the notes for c. 67.
15 = 1st book of Kings in the Latin Vulgate.
16 Dist. 82, c. 34, col. 292.
17 Augustine, Serm. 82, cc. 7-8, PL 38: 510-11.
18 This sermon was cited in Gratian C. 2 q. 1 c. 19. His immediate source was Ans. 11.26*. Fraternal correction will figure large in the rule of St. Augustine, which would be later adopted by the Dominicans. See Aquinas’s treatment in Summa Theologica 2a2ae q. 33.
On the immense influence of these documents, see the exhaustive study by Horst Fuhrmann, Einfluss und Verbreitung der pseudoisidorischen Fälschungen, MGH Schriften, vols. 24, 1-3 (Stuttgart: Anton Hiersemann, 1972-74). For their influence in Gratian, see 2:563-85; in the 1917 codex, 1:34-8.
23 Fabian, Ep. 2, c. 2.
26 Zephyrinus, Ep. 2.
29 Pontianus, Ep. 2. The False Decretals were also solicitous of simple priests who “are not to be molested, but honored.” They cannot be arraigned or constrained by wicked lay people or “men of evil life” (Pontianus, Ep. 1; on accusers, also see Fabian, Ep. 1;
Lay people bringing charges against a priest must not only be lawfully married, but with an exchange of dowry and a priest’s blessing – which probably places them in the upper eschalon of society. Both accusers or witnesses also have to be above suspicion, untainted by any relationship, friendship, or feudal ties (Callistitus, Ep. 2, c. 5). Yet a conflicting decree maintains that only other members of the clergy can accuse. God has chosen “to reserve their cases to themselves”; hence those who injure priests through accusations “are marked with the stains of infamy, and go down into the pit” unless absolved by sacerdotal authority (Fabian, Ep. 2, c. 2). Moreover, priests who have in some way lapsed into sin are re-admitted to office, “after a proper satisfaction for their error” (Callistus, Ep. 2, c. 6). The overall bias of our perspicacious forger is summarized by a citation from Deuteronomy: “It is contained in the ancient law, that whoever has not given obedience to the priests should either be stoned outside the camp by the people, or with his neck beneath the sword should expiate his presumption by his blood” (Deut. 17; Anterus). The nebulous category of doctor (teacher) was also surrounded by heavy sanctions. He needn’t answer to an illiterate or any accuser “unless he be one who is trustworthy and recognized by law, and who leads also a life and conversation free of reproach” (Callistus, Ep. 1, c. 2).


Penitential of Cummean 2.6, 11, in *Medieval Handbooks of Penance*, pp. 103, 104.

See, for example, Penitential of Theodore 9.1, in *Medieval Handbooks of Penance*, p. 192. This canon was repeated in many collections, where it was often expanded to include perjury and theft. Cf. Burchard, *Libri Decretorum* 17.39, PL 140: 926. Gratian also repeats this (Dist. 81 c. 12), wrongly attributing it to the Canon of the Apostles. It was, in fact, the Council of Tribur (895) that added theft and perjury.

Fructuosus of Braga, *Regula monachorum* c. 16, PL 87:1107.

Benedict of Anian, *De Concordia regularum* PL 103:1000; Regino of Prüm, *De ecclesiasticis disciplinis* PL 132:334.* chs?


39 Ep. 31, The Book of Gomorrah c. 38-40, in The Letters of Peter Damian, Letters of Peter Damian, pp. 49-52. A later letter to the pope, which maintains he is innocent against false charges, is probably fall out from the treatise (Ep. 33, Ibid., 2:56-8).
40 On the antifeminist initiative of Damian and the reformers at large, see Dyan Elliott, Fallen Bodies: Pollution, Sexuality, and Demonology in the Middle Ages (Philadelphia: University of Pennsylvania Press, 1999), pp. 81-106.
41 At the end of his treatise, Damian anticipates that he will be accused of scandalizing the faithful (Ep. 31, Book of Gomorrah cc. 71-4).
42 In Collection in Seventy-Four Titles, considered to be a kind of reform manual, the section “On the Cleanness of Priests and the Continence of the Clergy” only has canons prohibiting clerical marriage and listing the women who are acceptable in a priest’s household (tit. 21, 170-73, pp. 164-66). Note, however, that the False Decretals does have a canon one against corruptors of boys (Isidorus Mercator, Collectio decretalium PL 130:414).
43 Ivo of Chartres, Decretum 9.109, PL 161:686. John Boswell suggests that, in its stead, he introduces a statute from Roman law that includes girls and women. So the question of clerical child abuse, particularly same sex, is even more muted (De poen. 3.1.15; John Boswell, Christianity, Social Tolerance, and Homosexuality: Gay People in Western Europe from the Beginning of the Christian Era to the Fourteenth Century (Chicago: University of Chicago Press, 1980), p. 226. Boswell interprets this change as part of the gay friendly atmosphere of the church in this period.
46 This tendency to cast all sex, good or bad, into a heterosexual mold is also apparent in a question dealing explicitly with the sexual discipline of the clergy (Dist. 31-34; also see Dist. 51 c.7, Dist. 82 c. 2-4). There are four entire distinctiones dedicated to the issue of clerical marriage and concubinage, with a total of 74 canons. Moreover, in a distinctio that is explicitly concerned with disciplining the unchaste clergy, nineteen canons specifically forbid relations with women, while the remaining four use the gender and age neutral term “fornication.” Dist. 81 cc. 10-11, 16, 17, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33. The four that stigmatize fornication are Dist. 81 c. 12-13, 15, 18. Cf. Dist. 82 c. 5, which also only talks about procedure against fornication. Gratian’s tendency to overlook clerical same-sex relations will be addressed in a decree at Lateran III (c. 11, 1179), addressed to both clergy and laity. It was included in the Decretales (X.5.31.4). See James Brundage, Law, Church, and Christian Society, pp. 398-401 (on homosexuality), and pp. 401-405 (on clerical marriage). Note among the new confessors manuals that arose in the twelfth century, discussed below, only Bartholomew of Exeter (d. 1184) and Robert of Flamborough (writing between 1208 and 1213) include this canon (Penitential c. 69, in Bartholomew of Exeter: Bishop and Canonist, ed. Adrian Morey (London: Cambridge University Press, 1937), p. 236; Robert of Flamborough, Liber poenitentialis 5.274, pp. 230-31). The Gregorian Reformers had a dim view of penitentials, which is very clear in the remarks of Damian. He justifies the introduction of
his text, which is quasi-penitential, on the basis of its Pseudo-Basilean provenance (Ep. 31, cc. 26-37, pp. 20-28). Neither Bartholomew nor Robert shared this prejudice. Note that while Robert was a monk at Saint-Victor in Paris, he seems to have used Bartholomew extensively. Bartholomew seems to have taught in Paris, perhaps in Abelard’s circle, before returning to England (see Morey, Bartholomew of Exeter, pp. 4-5).

48 Innocent III, Sermones de diversis, Serm. 1, in, Between God and Man: Six Sermons on the Priestly Office, trans. Corinne J. Vause and Frank C. Gardiner (Washington D.C.: Catholic University Press, 2004), pp. 9, 10. This sermon was preached at the biannual Roman synod, but cannot be dated precisely.
49 Peter Abelard’s Ethics, ed. and trans. D. E. Luscombe (Oxford: Clarendon, 1971), pp. 43-5. Abelard does acknowledge, however, that the secret sinner could be worse than one who sins openly and scandalizes and corrupts man since, in the recesses of his heart, the secret sinner could harbor equal or greater contempt for God. Also see his Sic et Non where he asks if it was better to sin secretly or in the open (q. 149 [Chicago: University of Chicago Press, 1976], pp. Since Sic et Non was basically written as an exercise book for his students, this question remains unresolved. Cf. Alan of Lille’s rationale for why his Liber poenitentialis imposes more for outer sins like lust, homicide etc. than for inner sins like jealousy, pride and humility, arguing that inner sins are just sins against God while outer sins are against God and one’s neighbor (3.3, 2:128-9).
50 “Si nequeas caste, ne spernas vivere caute,” Abelard, Carmen ad Astralabium Filium, as cited by see Peter Dronke, Poetic Individuality in the Middle Ages (Oxford 1970), pp. 147-148), p. 149.
51 Glos. ord., Matt. 16.23, ad v. Quia autem scandalis, 5:300; cf. Luke 17.1, ad v. Si lapis molaris etc et proiectatur in mare, 5:925, which also implies that the person’s punishment would be easier.
52 Peter Lombard, Sentences 4.17.3.4; 4.17.3-4, trans. Giulio Silano (Toronto: Pontifical Institute, 2010), 4:100, 102-3. The Lombard still leaves open the possibility of a confession to a layperson if a priest was unavailable, but this fell by the wayside in the thirteenth century. Gratian, in contrast, was rather equivocal on the subject, citing an immense number of authorities but rendering two rather contradictory conclusions (De poen. Dist. 1 c. 30 dpc; Dist. 1 c. 37 dpc. See Lea, History of Auricular Confession, 2:208-9.
54 On Peter’s life, see John W. Baldwin, Masters, Princes, and Merchants: The Social Views of Peter the Chanter and His Circle (Princeton, N.J: Princeton University Press, 1970),1:3-11. Peter’s Summa is incomplete and arranged by others. Baldwin says that the questions he addresses were based on disputations throughout his career. The compilation probably began after 1191 and progressed until death intervened six years later (Baldwin, Masters, Princes, and Merchants, 1:13-14).
57 Peter the Chanter, *Summa de sacramentis* c. 319, 3, 2a:377.
58 Peter the Chanter, *Summa de sacramentis* c. 320, 3, 2a:380.
59 Peter the Chanter, *Summa de sacramentis* c. 320, 3, 2a:378. He doesn’t say this explicitly in the first case but it is implied by his conclusion.
60 Peter the Chanter, *Summa de sacramentis* c. 134, 2:310.
61 Peter the Chanter, *Summa de sacramentis* c. 116, 2:216.
62 Peter the Chanter, *Summa de sacramentis* c. 319, 3, 2a:376.
63 Peter the Chanter, *Summa de sacramentis* c. 133, 2:293-4. Cf. the similar instance of two candidates under consideration: the confessor knows that the ostensibly less literate candidate is an honest man, while the well-born literate one is a great sinner. If the confessor is consulted, should he remain silent or counsel them to elect the less distinguished candidate. But the confessor fears that he is, in fact, disclosing the secrets of confession since he is diminishing the one man’s reputation. As in the above case, Peter recommends neutrality (Peter the Chanter, *Summa de sacramentis* c. 133, 2:294).
64 Ibid. 2:302.
66 Ibid. 2:296-97; 2:304-5. Also the parallel problems raised by Robert of Courson, a student of Peter’s, over a thoroughly corrupt prelate and “a demon in the cloiser” who confess (V.L. Kennedy, ed., “Robert of Courson on Penance,” *Mediaeval Studies* 7 (1945): 315-17 (c. 9).
70 William of Auvergne, *De sacramento poenitentiae* c. 20, in *Opera omnia* (Paris: A. Pralard, 1674; reprt. Frankfurt am Main: Minerva, 1964), 1:505. As Richard Fraher suggests, the inquisitional procedure was introduced at Lateran IV to cut through some of the obstacles standing in the way of prosecuting clerics (Fraher, “Preventing Crime in the High Middle Ages,” pp. 222-29). Clearly this procedural innovation had not sufficiently addressed the problem, at least from William’s perspective.