

THE DOCTRINE OF MENTAL RESERVATION

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1. In the course of gathering evidence through discovery and depositions in cases related to clergy sexual abuse, clerics occasionally appeal to the church doctrine of “mental reservation” as a defense to justify not telling the truth. Some have claimed that “mental reservation” is a legitimate doctrine used by the church for centuries.
2. Mental reservation is the name applied to a doctrine which has grown out of the common Catholic teaching about lying. It is commonly but erroneously believed that it is a legitimate justification for lying when the person subjectively decided the conditions to do so are present.
3. **The Traditional Catholic moral teaching on Lying.** According to the common Catholic teaching it is never allowable to tell a lie, not even to save human life. A lie is something intrinsically evil, which means that it is never justified.. However, the traditional doctrine also says that people under an obligation to keep secrets faithfully, and sometimes the easiest way of fulfilling that duty is to say what is false, or to tell a lie. Ethics and morality scholars or many religions, both ancient and modern, have accepted this position. They admit the acceptability of the doctrine of necessary lying and maintain that when there is a conflict between justice and telling the truth it is justice that should prevail. The common Catholic teaching has formulated the theory of mental reservation as a means by which the claims of both justice and veracity can be satisfied.
4. **The Doctrine of Wide Mental Reservation.** The doctrine was tentatively considered by St. Raymond of Penafort, the Spanish Dominican Canon Lawyer who was also one of the earliest authors on casuistry. In his "Summa de poenitentia" (1235) Raymund quotes the saying of St. Augustine that a man must not slay his own soul by lying in order to preserve the life of another, and that it would be a most perilous doctrine to admit that we may do a lesser evil to prevent another doing a greater. Raymond held that most of the learned scholars of the law taught this but he also admitted that others held that a lie could and should be told when a man's life was at stake. Then he adds:

I believe, as at present advised, that when one is asked by murderers bent on taking the life of someone hiding in the house whether he is in, no answer should be given; and if this betrays him, his death will be imputable to the

murderers, not to the other's silence. Or he may use an equivocal expression, and say 'He is not at home,' or something like that. And this can be defended by a great number of instances found in the Old Testament. Or he may say simply that he is not there, and if his conscience tells him that he ought to say that, then he will not speak against his conscience, nor will he sin. Nor is St. Augustine really opposed to any of these methods.

5. **Equivocation.** Such expressions as "He is not at home" are called *equivocations*, and when there was good reason for using them their lawfulness was admitted by all. If the person inquired for was really at home, but did not wish to see the visitor, the meaning of the phrase "He is not at home" was restricted by the mind of the speaker to this sense, "He is not at home for you, or to see you." Hence equivocations and amphibologies came to be called mental restrictions or reservations. It was commonly admitted that an equivocal expression need not necessarily be used when the words of the speaker receive a special meaning from the circumstances in which he is placed, or from the position which he holds. Thus, if a confessor is asked about sins made known to him in confession, he should answer "I do not know," and such words as those when used by a priest mean "I do not know apart from confession," or "I do not know as man," or "I have no knowledge of the matter which I can communicate."
6. All reputable moral theologians and canon lawyers in the Catholic tradition agree that when there is good reason, such expressions as the above may be used, and that they are not lies. Those who hear them may understand them in a sense which is not true, but their self-deception may be permitted by the speaker for a good reason. If there is no good reason to the contrary, veracity requires all to speak frankly and openly in such a way as to be understood by those who are addressed. A sin is committed if mental reservations are used without just cause, or in cases when the questioner has a right to the naked truth.
7. **The Doctrine of Strict Mental Reservation.** In the sixteenth century there was a further development of this commonly received doctrine. Martin Aspilcueta, commonly known as the "Doctor Navarrus," was one of the primary authors of the strict interpretation of mental reservation. He was consulted on a case of what is known as "simulation" in canonical circles. The substance was as follows:

Titius, who privately said to a woman 'I take thee for my wife' without the intention of marrying her, answered the judge who asked him whether he had

said those words that he did not say them, understanding mentally that he did not say them with the intention of marrying the woman.

8. Martin was asked whether Titius told a lie, whether he had committed perjury, or whether he committed any sin at all. He drew up an elaborate opinion on the case and dedicated it to the reigning pontiff, Gregory XII. He maintained that Titius neither lied, nor committed perjury, nor any sin whatever, *on the supposition that he had a good reason for answering as he did.*
9. This theory became known as the ***doctrine of strict mental reservation***, to distinguish it from wide mental reservation. In the strict mental reservation the speaker mentally adds some qualification to the words which he utters, and the words together with the mental qualification make a true statement in accordance with fact. On the other hand, in a wide mental reservation, the qualification comes from the ambiguity of the words themselves, or from the circumstances of time, place, or person in which they are uttered.
10. The opinion of Navarrus was received as probable by some of his contemporary theologians including the prominent Tomas de Sanchez. Sanchez, a Jesuit, formulated it in clear and distinct terms, and added the weight of his authority on the side of the defenders. Laymann, however, another Jesuit theologian of equal or greater weight, rejected the doctrine, as did the Dominican Soto, and others. Laymann shows at considerable length that such reservations are lies. For that man tells a lie who makes use of words which are false with the intention of deceiving another. And this is what is done when a strict mental reservation is made use of. The words uttered do not express the truth as known to the speaker. They are at variance with it and therefore they constitute a lie.
11. The opinion of Navarrus on strict mental reservation was freely debated in the theology schools for some years. It was, however, condemned as formulated by Sanchez by Pope Innocent XI on March 2, 1679. After this condemnation by the Holy See no Catholic theologian has defended the lawfulness of strict mental reservations.
12. Under the present circumstances some claim that it is morally justifiable to lie in order to protect the reputation of the institutional Church. The lie generally is formulated in either an active form such as denying that a person has sexually abused children, or in a passive form, such as failing to inform a pastor or a parish that an assigned priest or cleric is a

known abuser. In either case and under any guise there never fulfills even the most remote circumstances for applying mental reservation. The concept of the “good of the Church” never allows for enabling sexual abuse or covering for sexual abuse since the “church” is hardly limited to the clerics or the hierarchy but includes the abused and the lay faithful susceptible to abuse.

13. In short, *mental reservation* is an unacceptable and unapproved doctrine that some appeal to in order to justify lying.
- 14, The concept of *mental reservation* is not and never has been included in Canon Law. It has never been officially approved by Catholic Church authority but has been debated in years past by the scholars of the law and of moral theology.,